**United nations convention against transnational organized crime review mechanism: Template civil society questionnaire**

(FIRST REVIEW CLUSTER-Criminalization and jurisdiction)

Introduction

The Review Mechanism of United Nations Convention against Transnational Organized Crime (UNTOC) is a peer review process, with one state being reviewed by two other states for the instruments (the Convention and its three Protocols) to which it is party. The mechanism is intended to assess how states are implementing UNTOC and the protocols to which they are party, and to identify what gaps exist in implementation that could be addressed through capacity building and technical assistance.

62 countries are to be reviewed over the next two years under the first review cluster - ‘Criminalization and Jurisdiction’. This cluster covers articles 2, 5, 6, 8, 9, 10, 15 and 23 of UNTOC; articles 3 and 5 of the Trafficking in Persons Protocol; articles 3, 5 and 6 of the Smuggling of Migrants Protocol; and articles 3, 5 and 8 of the Firearms Protocol. To assess their implementation of this cluster of provisions, states will use this [UNODC questionnaire.](https://www.unodc.org/documents/organized-crime/reviewmechanism/Self-assessment_questionnaire_for_the_United_Nations_Convention_against_Transnational_Organized_Crime_and_the_Protocols_thereto_Cluster_I.pdf)

The self-assessment phase, which should already be underway on all of these 62 countries, is one of the key opportunities for civil society to engage with the government as it prepares its responses to their questionnaire. Indeed, the Rules and Procedures of the Review Mechanism agreed by Member States set out a clearly defined role for civil society in the review process, and therefore the governments under review should consult with relevant stakeholders in the preparation of responses to the self-assessment questionnaire, including the private sector, non-governmental organizations, and academia.

Guidance

This **template civil society questionnaire** provides a framework for non-governmental individuals and groups to respond to the issues covered under the first review cluster, and to submit these inputs to the government under review and share them with other national and international stakeholders as required.

* **Part A** is for a general overview of civil society perceptions or analysis of the response to organized crime since the adoption of the UNTOC, with reference to the Cluster under review. This is primarily for dissemination to civil society and other interested partners, and can be submitted to GI-TOC on a voluntary basis, to inform their analysis of trends and findings from around the world vis-à-vis implementation of the UNTOC and its effects on efforts to prevent and counter TOC. **This part should only be shared with the State Party under review if you are sure it would be welcome**. There are politically sensitive points included, and it does not mirror the exact themes of the review mechanism, so in many cases submission of this part may not be welcomed by Member States, or could be counter-productive.
* **Part B** is a detailed analysis of the implementation of the Cluster under review.  **This part should be shared with the State Party under review**, and closely mirrors the detailed questions that states will have to answer. Therefore it should help states as they fill in their questionnaire. This can also be submitted to GI-TOC on a voluntary basis.

The States’ Self-Assessment Questionnaire is provided in case respondents would like to understand more what questions states themselves will respond to, so that civil society inputs can be tailored accordingly - [UNODC questionnaire.](https://www.unodc.org/documents/organized-crime/reviewmechanism/Self-assessment_questionnaire_for_the_United_Nations_Convention_against_Transnational_Organized_Crime_and_the_Protocols_thereto_Cluster_I.pdf)

The [text of the Convention and its Protocols](https://www.unodc.org/unodc/en/organized-crime/intro/UNTOC.html) should also be consulted in filling in this questionnaire, along with the UNODC *Legislative Guide for the United Nations Convention against Transnational Organized Crime and the Protocols thereto* <https://www.unodc.org/unodc/en/treaties/CTOC/legislative-guide.html#_Full_Version_1>

This completed questionnaire can be submitted to the focal point of the state party under review, shared with interested parties, and submitted to the GI-TOC on a voluntary basis (to ian.tennant@globalinitiative.net) . GI-TOC would, on a confidential basis, keep track of all submitted civil society questionnaires for the purposes of analysis of trends and findings around the world through the review mechanism.

**Questions on The Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition**

Country status

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| Background | Civil Society consultation questions (Respond in this column) |
| The Protocol has 120 parties. The ratification status page is here – <https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12-a&chapter=18&clang=_en>  | Is your country a party to the Protocol? Yes/No. **If no,** what reasons can you identify for why your country has not ratified this Protocol? What implications does this have for the fight against trafficking in firearms in your country?  |

PART A: General responses on the Protocol and its criminalization provisions

For submission to GI-TOC, dissemination to civil society, partners etc, and potentially to states parties in some cases.

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| Background | Civil Society consultation questions (Respond in this column) |
| According to the UNODC, “*the objective of the Protocol, which is the first legally binding instrument on small arms that has been adopted at the global level, is to promote, facilitate and strengthen cooperation among States Parties in order to prevent, combat and eradicate the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition. By ratifying the Protocol, States make a commitment to adopt a series of crime-control measures and implement in their domestic legal order three sets of normative provisions: the first one relates to the establishment of criminal offenses related to illegal manufacturing of, and trafficking in, firearms on the basis of the Protocol requirements and definitions; the second to a system of government authorizations or licensing intending to ensure legitimate manufacturing of, and trafficking in, firearms; and the third one to the marking and tracing of firearms.”*<https://www.unodc.org/unodc/en/organized-crime/intro/UNTOC.html> According to the GI-TOC report ‘The Global Illicit Economy’, 2021: *“Despite the 2014 Arms Trade Treaty, global arms trading is on the rise and many of these arms end up in the illicit trade. The UN’s High Representative for Disarmament Affairs said in 2020 there 'were approximately one billion small arms in circulation around the world,' being used by 'terrorists, parties to intra-State conflict, organized criminals and warring gangs.' Conflict zones and areas of instability act as bazaars for illicit arms trafficking by enabling access to previously restricted weapons through looted stockpiles and by increasing legal procurement in unstable conditions. (…) These arms markets are never contained to the conflict areas, increasing the risk of violence and instability regionally and circulating long after conflict is over. For instance, in El Salvador, assault rifles currently used by gangs are believed to be from the 1980–1992 civil war, while in the Balkans, criminal groups still use and trade weapons from the conflicts that ravaged the former Yugoslavia in the 1990s. The diversion of arms from domestic legal markets remains a key challenge. Most illegal and unregistered guns in Mexico, Guatemala, El Salvador and Honduras come from sellers in the US. In Mexico alone, the illegal trade generates a hundred million dollars in annual revenue for US gun makers. Seventy per cent of guns recovered by authorities in Mexico, for instance, were originally sold in the US, most of them in border states such as Texas, California and Arizona. A 2017 study found 60% of weapons illegally sold on the dark web come from the US.”*[*https://globalinitiative.net/wp-content/uploads/2021/03/The-Global-Illicit-Economy-GITOC-Low.pdf*](https://globalinitiative.net/wp-content/uploads/2021/03/The-Global-Illicit-Economy-GITOC-Low.pdf)SDG 16.4 commits UN Member States to “significantly reduce illicit financial and **arms flows**, strengthen the recovery and return of stolen assets and combat all forms of organized crime”<https://unstats.un.org/sdgs/indicators/indicators-list/>  | Since becoming a State Party to the Protocol in year 2\_\_\_\_\_, has trafficking in firearms in/from/to your country (a) expanded/become more prevalent, (b) decreased/become less prevalent, or (c) stayed the same? Please provide evidence and justification, including data and case studies where possible. Overall, do you think becoming a party to Protocol has (a) improved, (b) weakened or (c) has had minimal or zero effect on your country’s ability to prevent and counter the trafficking in firearms? Please explain your answer. Overall, as a state party to the Protocol, do you think your country is implementing the Protocol effectively? With regards to the provisions under review in this cycle (criminalization), do you think your country has criminalized offences sufficiently? Please provide evidence and justification, including data and examples where possible.Do you think that preventing and countering trafficking in firearms is a political priority in your country? Please explain. If trafficking in firearms is widespread in/from/to your country, why do you think transnational organized criminal groups are able to operate and succeed in trafficking firearms in/from/to your country (please tick all that apply)? * Poor/non-implementation of provisions of the Protocol
* Conflict
* Corruption/criminal infiltration/impunity
* Human rights abuses
* Lack of gender-sensitive responses by governments
* Poor relations with international partners
* Poverty/Inequality/Socio-economic conditions
* Lack of Rule of Law
* Lack of protection for victims and witnesses
* Low understanding of the nature of organized crime and how criminal groups work
* Resilience/power of criminal groups
* Weak civil society
* Weak government and institutions
* Heavy-handed/securitized state responses
* Restricted media and civil society
* Low political will/priority
* Private sector power
* Private sector profit
* Other: (please list here):

Please explain your answers: Has becoming a State Party to the Protocol (a) enhanced, (b) damaged or (c) made no difference your country’s efforts to achieve the SDG 16.4– i.e. to ‘significantly reduce …. Arms flows…”  |

PART B: Detailed responses

For submission to states parties and dissemination to civil society and other partners

Please respond to the following section if you have more detailed expertise and responses to offer with regard to the specific articles under review for the Protocol - ‘Criminalization’. This cluster covers articles 3, 5 and 8 of the Trafficking in Firearms Protocol

General Information

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| State Self-Assessment Questions (for reference) | Civil Society consultation questions (Respond in this column) |
| 67. States are invited to list other multilateral, regional or bilateral international firearms control regimes to which they are a party. | Please list the relevant firearms control regimes which your country is party to, as well as regimes they are planning to join, or have decided not to join, to your knowledge? Why is your country not party to some of these regimes? |

Article 3. Use of terms

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| State Self-Assessment Questions (for reference) | Civil Society consultation questions (Respond in this column) |
| 68. Does your country’s legal framework permit your country to implement the Firearms Protocol without adopting the specific definitions set forth in article 3 of the Firearms Protocol?69. Does your country’s legal framework include definitions for the following terms?(a) Firearms (art. 3, para. (a))(b) Parts and components of firearms (art. 3, para. (b))(c) Ammunition (art. 3, para. (c))(d) Tracing (art. 3, para. (f))(e) Other definitions relevant to the implementation of the Firearms Protocol (please cite them).(f) If the answer to any of the follow-up questions 69 (a) to (e) is “Yes”, please cite the relevant laws or regulations and definitions.**Text of Article 3: Use of terms**For the purposes of this Protocol:(a) **“Firearm”** shall mean any portable barrelled weapon that expels, is designed to expel or may be readily converted to expel a shot, bullet or projectile by the action of an explosive, excluding antique firearms or their replicas. Antique firearms and their replicas shall be defined in accordance with domestic law. In no case, however, shall antique firearms include firearms manufactured after 1899;(b) **“Parts and components”** shall mean any element or replacement element specifically designed for a firearm and essential to its operation, including a barrel, frame or receiver, slide or cylinder, bolt or breech block, and any device designed or adapted to diminish the sound caused by firing a firearm;(c) **“Ammunition”** shall mean the complete round or its components, including cartridge cases, primers, propellant powder, bullets or projectiles, that are used in a firearm, provided that those components are themselves subject to authorization in the respective State Party;(d) **“Illicit manufacturing”** shall mean the manufacturing or assembly of firearms, their parts and components or ammunition:(i) From parts and components illicitly trafficked;(ii) Without a licence or authorization from a competent authority of the State Party where the manufacture or assembly takes place; or(iii) Without marking the firearms at the time of manufacture, in accordance with article 8 of this Protocol; Licensing or authorization of the manufacture of parts and components shall be in accordance with domestic law;(e) **“Illicit trafficking”** shall mean the import, export, acquisition, sale, delivery, movement or transfer of firearms, their parts and components and ammunition from or across the territory of one State Party to that of another State Party if any one of the States Parties concerned does not authorize it in accordance with the terms of this Protocol or if the firearms are not marked in accordance with article 8 of this Protocol;(f) **“Tracing”** shall mean the systematic tracking of firearms and, where possible, their parts and components and ammunition from manufacturer to purchaser for the purpose of assisting the competent authorities of States Parties in detecting, investigating and analysing illicit manufacturing and illicit trafficking. | Does your country’s legal framework permit your country to implement the Protocol without adopting the definitions in article 3? Does the legal framework include definitions for the terms mentioned in state questionnaire 69 (a-e)?Are criminal justice practitioners aware of these definitions and do they understand them? Why or why not?’Are these definitions used effectively in practice? Why or why not? To what effect?Other comments:  |

Article 5. Criminalization

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| State Self-Assessment Questions (for reference) | Civil Society consultation questions (Respond in this column) |
| 70. Is the illicit manufacturing or assembly of firearms, their parts and components, and ammunition, when committed intentionally, a criminal offence under your country’s legal framework, according to article 5, paragraph 1 (a), in conjunction with article 3, paragraph (d)?71. Is the offence of illicit trafficking in firearms, their parts and components and ammunition, when committed intentionally, criminalized under your country’s legal framework, in accordance with article 5, paragraph 1 (b), in conjunction with article 3, paragraph (e), of the Firearms Protocol?72. If the answer to question 71 is “Yes” or “Yes, in part”, are any of the following actions included in the offence(s) of illicit trafficking established under your country’s legal framework (art. 5, para. 1 (b), in conjunction with art. 3, para. (e))?* Import
* Export
* Acquisition
* Sale
* Delivery
* Movement
* Transfer
* Other, if any

74. Is the act of falsifying or illicitly obliterating, removing or altering the marking(s) on firearms, when committed intentionally, criminalized under your country’s legal framework according to article 5, paragraph 1 (c), in conjunction with article 8 of the Firearms Protocol?75. Subject to the basic concepts of its legal system, does your country’s legal framework criminalize the following ancillary offences:– Attempting to commit any of the offences covered by article 5, paragraph 1 (art. 5, para. 2 (a))?– Participating as an accomplice in any of the offences covered by article 5, paragraph 1 (art. 5, para. 2 (a))?–Organizing, directing, aiding, abetting, facilitating or counselling the commission of any of the offences covered by article 5, paragraph 1 (art. 5, para. 2 (b))? 76. States are invited to provide any information on any additional criminal offences that may be established under their country’s legal framework to enforce the provisions of the Firearms Protocol (art. 34, para. 3, of the Convention, in conjunction with art. 1, para. 2, of the Firearms Protocol):-Acts related to the failure to keep records of firearms and, where appropriate and feasible, their parts and components and ammunition, and the falsification and destruction of such records, when committedintentionally (art. 7 of the Firearms Protocol)-Criminalization of acts of intentionally giving false or misleading information likely to unduly influence the issuance of the required licence or authorization for either the manufacture or assembly of firearms, their parts and components or ammunition or for actions referred to under article 3, paragraph (e), of the Firearms Protocol, including, when requested by law, end use or end user certificates Criminalization of acts related to the intentional falsification or misuse of documents for the purpose of achieving the issuance of the required licence or authorization for either the manufacture or assembly of firearms, their parts and components or ammunition or for actions referred to under article 3, paragraph (e), of the Firearms Protocol, including, when requested by law, end use or end user certificates-Criminalization of acts related to the intentional possession or use of fraudulent licences or authorizations in relation to the manufacture or assembly of firearms, their parts and components or ammunition or for actions referred to under article 3, paragraph (e), of the Firearms Protocol, including, when requested by law, fraudulent end use or end user certificates Criminalization of intentional acts related to the illicit reactivation of deactivated firearms, consistent with article 9, paragraphs (a) to (c), of the Firearms Protocol-Criminalization of the illicit brokering of firearms, their parts and components or ammunition and failure to provide required information about brokering activities (see also art. 15)-Other(s) (please specify)(a) Please explain and cite the applicable laws and regulations and/or other measures, including the applicable sanctions.**Text of Article 5: Criminalization**1. Each State Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences the following conduct, when committed intentionally:(a) **Illicit manufacturing** of firearms, their parts and components and ammunition;(b) **Illicit trafficking** in firearms, their parts and components and ammunition;(c) **Falsifying or illicitly obliterating, removing or altering the marking**(s)on firearms required by article 8 of this Protocol.2. Each State Party shall also adopt such legislative and other measuresas may be necessary to establish as criminal offences the following conduct:(a) Subject to the basic concepts of its legal system**, attempting to commit or participating as an accomplice** in an offence established in accordance with paragraph 1 of this article; and(b) **Organizing, directing, aiding, abetting, facilitating or counselling** the commission of an offence established in accordance with paragraph 1 of this article.**Text of Article 8: Marking of firearms**1. For the purpose of identifying and tracing each firearm, States Parties shall:(a) At the time of manufacture of each firearm, either require unique marking providing the name of the manufacturer, the country or place of manufacture and the serial number, or maintain any alternative unique user friendly marking with simple geometric symbols in combination with a numeric and/or alphanumeric code, permitting ready identification by all States of the country of manufacture;(b) Require appropriate simple marking on each imported firearm, permitting identification of the country of import and, where possible, the year of import and enabling the competent authorities of that country to trace the firearm, and a unique marking, if the firearm does not bear such a marking. The requirements of this subparagraph need not be applied to temporary imports of firearms for verifiable lawful purposes;(c) Ensure, at the time of transfer of a firearm from government stocks to permanent civilian use, the appropriate unique marking permitting identification by all States Parties of the transferring country.2. States Parties shall encourage the firearms manufacturing industry to develop measures against the removal or alteration of markings. | Does your country’s legal framework criminalize, in line with the Protocol, the illicit manufacturing or assembly of firearms, their parts and components, and ammunition? Does your State’s legal framework criminalise other firearms manufacturing and assembly related offences beyond what is captured in the Protocol? To what effect?Are criminal justice practitioners aware of these criminalisation provisions and do they understand them? Why or why not?’Are these provisions implemented effectively in practice? Why or why not? To what effect?Does your country’s legal framework criminalize, in line with the Protocol, illicit trafficking in firearms, their parts and components and ammunition? Does your State’s legal framework criminalise other firearms trafficking related offences beyond what is captured in the Protocol? To what effect?Are criminal justice practitioners aware of these criminalisation provisions and do they understand them? Why or why not?’Are these provisions implemented effectively in practice? Why or why not? To what effect?Other comments: |

Criminalization: cases and judgments

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| State Self-Assessment Questions (for reference) | Civil Society consultation questions (Respond in this column) |
| 77. If possible, provide examples, relevant cases or judgments of successful implementation and enforcement for each of the criminal offences reviewed above.  | Please provide any relevant information or case studies relating to the successful or unsuccessful implementation and enforcement for any of the above-mentioned crimes in your country |

Difficulties encountered

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| State Self-Assessment Questions (for reference) | Civil Society consultation questions (Respond in this column) |
| 78. Does your country encounter difficulties in implementing the provisions of the Firearms Protocol? 79. Has your country assessed the effectiveness of its measures against the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition? 80. Does your country have a national strategy or action plan to counter the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition or to implement relevant regional or international instruments in this field? 81. If your country’s domestic legal framework has not been adapted to the Protocol requirements, please specify what steps remain to be taken. (a) Are there any difficulties with regard to the adoption of new national legislation or the implementation of national legislation? If the answer is “Yes”, does any of the below apply?* Problems with the formulation of legislation
* Need for institutional reforms or the establishment of new institutions
* Need for further implementing legislation (laws, regulations, decrees, etc.)
* Difficulties encountered by practitioners in using legislation
* Lack of awareness
* Lack of inter-agency coordination
* Specificities of the legal framework
* Lack of technical knowledge and skills
* Limited or no cooperation from other States
* Limited resources for implementation
* Other issues (please specify)
 | Do you think that your country has encountered difficulties in implementing the provisions of the Protocol on Firearm?* Yes
* No

If yes, please provide examples. Does your country have a national strategy or action plan to counter the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition or to implement relevant regional or international instruments in this field?* Yes
* No

If yes, please cite the relevant strategy or action plan and describe whether you think the strategy or action plan is sufficient and implemented effectively. If your country’s domestic legal framework has not been adapted to the Protocol requirements, please specify what steps remain to be taken.Are there any difficulties with regard to the adoption of new national legislation or the implementation of national legislation? * Yes
* No

If yes, does any of the below apply?* Problems with the formulation of legislation
* Need for institutional reforms or the establishment of new institutions
* Need for further implementing legislation (laws, regulations, decrees, etc.)
* Difficulties encountered by practitioners in using legislation
* Lack of awareness
* Lack of inter-agency coordination
* Specificities of the legal framework
* Lack of technical knowledge and skills
* Limited or no cooperation from other States
* Limited resources for implementation
* Other issues (please specify)
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Need for technical assistance

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| State Self-Assessment Questions (for reference) | Civil Society consultation questions (Respond in this column) |
| 82. Does your country require technical assistance to overcome difficulties in implementing the Protocol? (a)  If the answer is “Yes”, please indicate the type of assistance required: * Assessment of criminal justice response to the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition and its links to other serious crimes
* Legal advice or legislative reforms and regulations
* Model legislation, regulations or agreements
* Establishment of competent authorities, national focal points or points of contacts on firearms
* Institution-building or the strengthening of existing institutions
* Development of strategies, policies or action plans
* Dissemination of good practices or lessons learned
* Capacity-building through the training of criminal justice practitioners and/or the training of trainers
* Prevention and awareness-raising
* On-site assistance by a mentor or relevant expert
* Border control and risk assessment
* Standard operating procedures
* Detection of illicit trafficking flows at border crossings, by postal services or by means of the Internet
* Information exchange
* Investigation and prosecution
* Measures to enhance regional and international cooperation
* Establishment or development of information technology infrastructure, such as record-keeping systems, digital templates and tools, databases or communication tools
* Collection and analysis of firearms trafficking data
* Other areas (please specify).

(b)  Technological assistance and equipment: * Marking
* Record-keeping systems
* Identification and tracing of firearms
* Transfer controls
* Collection campaigns
* Deactivation and destruction
* Stockpile management

(c) Is your country already receiving technical assistance in those areas?(i) If the answer is “Yes”, please specify the area of assistance and who is providing it. (d) Please describe practices in your country that you consider to be good practices in relation to the control of firearms and to prevent and combat the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, which might be of interest to other States in their efforts to implement the Firearms Protocol. (e) Please provide any other information that you believe is important to consider regarding aspects of, or difficulties in, the implementation of the Protocol other than those mentioned above.  | Do you think that your country requires technical assistance or other support or resources to overcome difficulties in implementing the Protocol?* Yes
* No

Please explain your answer:If yes, please indicate the type of assistance required:* Assessment of criminal justice response to the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition and its links to other serious crimes
* Legal advice or legislative reforms and regulations
* Model legislation, regulations or agreements
* Establishment of competent authorities, national focal points or points of contacts on firearms
* Institution-building or the strengthening of existing institutions
* Development of strategies, policies or action plans
* Dissemination of good practices or lessons learned
* Capacity-building through the training of criminal justice practitioners and/or the training of trainers
* Prevention and awareness-raising
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* Investigation and prosecution
* Measures to enhance regional and international cooperation
* Establishment or development of information technology infrastructure, such as record-keeping systems, digital templates and tools, databases or communication tools
* Collection and analysis of firearms trafficking data
* Other areas (please specify).
* (b)  Technological assistance and equipment:
* Marking
* Record-keeping systems
* Identification and tracing of firearms
* Transfer controls
* Collection campaigns
* Deactivation and destruction
* Stockpile management

Is your country already receiving technical assistance in those areas?* Yes
* No

If yes, please specify the area of assistance and who is providing it. And was it useful?Please describe practices in your country that you consider to be good practices in relation to the control of firearms and to prevent and combat the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, which might be of interest to other States in their efforts to implement the Firearms Protocol.Please provide any other information that you believe is important to consider regarding aspects of, or difficulties in, the implementation of the Protocol other than those mentioned above. |