**Questionnaire**

**Report to the General Assembly on torture-free trade: examining the feasibility, scope and parameters for possible common international standards**

**1.** What are the regional and/or national instuments or policies guiding your country for the regulation of trade in goods used for a) capital punishment b) torture or other cruel, inhuman or degrading treatment or punishment? Please provide examples. Which government department/agency is responsible for monitoring the implementation of such regulations/policies, if any?

**Answer**: The subject matter is set forth in the European Union Regulation (EU) 2019/125, of 16 January 2019, concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment. This legal instrument is directly applicable in the Portuguese legal order. At national level penalties are foreseen on article 97-A of  the General Regime of Tax Infractions (RGIT), established on Law 15/2001 of 5 June.

**2.** Have there been any investigations, prosecutions and/or convictions for breaches of national regulations on the trade in goods indicated in paragraph 8 of the introduction to this questionnaire? If so, please provide details.

**Answer**: No notice about investigations, prosecutions and conviction regarding the breach of applicable legislation on the trade of goods.

**3.** Do you agree with the proposed categorization of goods used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment indicated in paragraph 8 of the introduction to this questionnaire (see above)? If not, which categories would you propose?

**Answer:** Yes. However, the possibility to update the goods, where needed, should be foreseen.

**4.** Please indicate whether you believe there should be an exhaustive list of goods under each category. If yes, should there be a mechanism for regular updating of the lists under each category?

**Answer:** An exhaustive list of goods under each category seems to be a good measure, togheter with a mechanism allowing for updating the lists under each category.

**5.** Should the proposed common international standards prohibit trade in goods which have no practical use other than for the purpose of capital punishment or torture or other cruel, inhuman or degrading treatment or punishment? If not, please provide further explanations.

**Answer:** Yes.

**6.** Should the proposed common international standards provide for strict control of trade in goods that could be used for the purpose of torture or other cruel, inhuman or degrading treatment or punishment and goods that could be used for the purpose of capital punishment? If not, please provide justification.

**Answer:** Yes.

**7**. What types of activities linked to "import, export and transfer" should the proposed common international standards regulate? Please consider activities such as transit, promotion, technical assistance and training, brokering, sharing technology, manufacturing, production and commercial marketing, among others. Please also provide an explanation for why these activities should be regulated or not.

**Answer:** Common international standards should include activities, at least, as transit, brokering services, training, trade fairs and advertising, as already foreseen in EU Regulation 2019/125, of 16 January 2019.

**8.** Please indicate which risk assessment mechanisms and criteria should be considered for the import, export and transfer of a) goods that could be used for the purpose of torture or other cruel, inhuman or degrading treatment or punishment and b) goods that could be used for the purpose of capital punishment. Please consider, inter alia, the criteria for preventing diversion to third countries.

**Answer:** The risk assessment mechanism and risk criteria to be applied on import, export or transit movements of this type of goods, prospectively to be used for torture or other cruel treatment, has to be very similar to the ones used for any other type of goods subject to prohibition or restrictions, targeting:

* the risk of miss description to the group of goods that are exclusive for this purpose and have no other usability;
* the risk of diversion of end usage or destiny to the group of goods that, although might be used for inflict torture or other cruel treatment, have a dual use not related to torture.

**9.** Please indicate what you consider to be the most suitable type of international instrument to establish common international standards for regulating goods used for capital punishment or torture or other cruel, inhuman or degrading treatment or punishment. Please provide further explanation.

**Answer:** The most suitable type of international instrument to establish common international standards for regulating goods used for capital punishment or torture or other cruel, inhuman or degrading treatment or punishment seems to be a convention. A legal instrument like this will be equally applicable at global (UN) level and biding to all States.