1.       What are the regional and/or national instrument 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?

NZ does not have a specific standalone instrument to regulate the trade in goods used for capital punishment or torture or other cruel, inhuman or degrading treatment or punishment.  However insofar as, for instance, these goods comprise conventional arms or their related parts and ammunition, their export is controlled pursuant to the New Zealand Strategic Goods List (under the framework of our Customs and Excise legislation).  The export of some other goods broadly relevant to the subject matter of this questionnaire (such as technology which could be used to facilitate arrest) is also covered under other parts of the Strategic Goods List.  The possibility that any items on the Strategic Goods List could be used to perpetrate human rights abuses, such as torture, is a specific factor to be taken into account in the risk assessment which is required to be conducted before the authorisation of any export of such items.

Additional work is being undertaken at present in New Zealand to widen the scope of our catch-all controls to enable us to prevent transfers of any other item relevant to possible usage by the military, para-military or police in the context of torture.

Finally, we note that New Zealand does not produce or export any of the kind of chemicals that could be used for capital punishment or torture.

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.

No

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?

Yes

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?

An illustrative list could certainly be useful in providing general context but any listing that was said to be exhaustive would remove valuable flexibility (as often provided nationally by the practical ‘catch-all’ mechanism) to meet the intended end goals of this initiative.

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.

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.

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.

Our experience e.g. in the context of the negotiation of the Arms Trade Treaty suggests that we need to be realistic in terms of the controls we can expect states, especially small island ones, to implement on transnational activities such as transit and diversion.  Brokering is also a challenging issue.  It may accordingly be wiser to focus on activities more readily under complete national control – such as production, import and export.

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.

There are a wide range of existing assessment mechanisms and criteria that can usefully be drawn upon in the context of this initiative: there is no need to reinvent the wheel.  However, as noted above, diversion is a complex issue which it may be wise to steer clear of.

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

There are a range of instruments which could be used to begin a process of framing common international standards (such as a Political Declaration, or a set of model provisions annexed to a resolution adopted by the UNGA).   New Zealand is open to participating in further discussions on what kind of mechanisms could be used to establish common international standards for regulating goods used for capital punishment or torture or other cruel, inhumane or degrading treatment or punishment.