

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE GOVERNMENT OF THE KINGDOM OF THAILAND
AND
THE GOVERNMENT OF THE KINGDOM OF CAMBODIA
ON
BILATERAL COOPERATION
FOR
ELIMINATING TRAFFICKING IN PERSONS
AND PROTECTING VICTIMS OF TRAFFICKING

**The Government of the Kingdom of Thailand and the
Government of the Kingdom of Cambodia (hereinafter referred to as the
“Parties”);**

HAVING SOUGHT to strengthen the bonds of friendship
between the two countries and to increase the bilateral cooperation on the
suppression of trafficking in persons;

RECOGNIZING that trafficking in persons is a gross
infringement of human rights and grievous trampling on the dignity of
human beings;

GRAVELY CONCERNED that trafficking in persons has
negative impact on individual physical, mental, emotional and moral
development and is detrimental to the social fabric and values of the
society;

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TAKING INTO ACCOUNT that transnational criminal groups and organizations are actively involved in trafficking in persons, especially children and women, and that such transnational organized crimes have affected not only Thailand and Cambodia but also the region and the global community at large;

CONFIRMING that the Parties share the common concern against transnational human trafficking as addressed in the Bangkok Declaration on Irregular Migration Deliberated in the International Symposium on Migration "Towards Regional Cooperation on Irregular/Undocumented Migration" held in Bangkok during 21-23 April 1999, and "Regional Ministerial Conference on People Smuggling, Trafficking in Persons and Related Transnational Crime" held in Bali of Indonesia during 26-28 February 2002, the ASEAN Declaration Against Trafficking in Persons Particularly Women and Children adopted in Vientiane of Lao PDR on 29 November 2004, the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers adopted in Cebu of Philippines on 13 January 2007, the Memorandum of Understanding on Cooperation against Trafficking in Person in the Greater Mekong Sub-Region approved in Yangon of Myanmar on 29 October 2004, the Joint Declaration on the Coordinated Mekong Ministerial Initiative against Trafficking approved in Beijing of China on 14 December 2007, the Guiding Principles for the Protection of Victims of Trafficking in the Greater Mekong Sub-region on 22 - 24 August 2007 and the 2nd COMMIT Joint Declaration in Hanoi of Viet Nam on 16 February 2012;

RECALLING the Agreed Minutes of the Third Meeting of the Joint Commission for the Bilateral Cooperation between the Kingdom of Cambodia and the Kingdom of Thailand, in Siem Reap Province of the Kingdom of Cambodia, during 31 January - 1 February 2000 with regards to the intensification of cooperation in suppression cross border trafficking in human beings, especially in women and children, the Agreed Minutes of

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the Meeting on Guidelines on Repatriation and Reintegration in Bangkok of the Kingdom of Thailand on 27-29 October 2005, Guidelines for Cooperation Between Cambodia and Thailand on the Criminal Justice Process of Trafficked Related Crimes in Siem Reap Province of the Kingdom of Cambodia on July 21, 2006, and the Agreed Minutes of the Fifth Ministerial Meeting on the Implementation of the Memorandum of Understanding on Cooperation in Employment of Workers between the Ministry of Labour, Vocational Training of the Kingdom of Cambodia and the Ministry of Labour of the Kingdom of Thailand in Siem Reap on January 24-26, 2012;

REFERRING to relevant provisions concerning trafficking in persons as stipulated in Universal Declaration of Human Rights, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime, the Convention on the Rights of the Child, the Optional Protocols on the Sale of Children, Child Prostitution and Child Pornography and on the Involvement of Children in Armed Conflict, ILO Convention No.182 Concerning the Elimination of the Worst Forms of Child Labour, ILO Convention No. 29 On Forced Labour, the Convention on the Elimination of All Forms of Discrimination against Women and other international human rights instruments to which both Parties are party;

CONVINCED that suppressing the crime of trafficking in persons through mutual cooperation in law enforcement and criminal procedures is an effective measure to ensure justice against human trafficking;

PLEDGING that the Parties shall faithfully cooperate to eliminate trafficking in persons, and to protect and assist them;

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HAVE AGREED as follows:

I- SCOPE OF THIS MEMORANDUM OF UNDERSTANDING

Article 1

This Memorandum of Understanding shall apply to trafficking in persons as defined in Article 2 of this Memorandum.

II- DEFINITION

Article 2

For the operational purpose of this memorandum,

- (a) "Trafficking in Persons" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of threat, use of force, or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;
- (b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;

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- (c) A child who has been recruited, transported, transferred, or harboured for the purpose of exploitation shall be considered “as a victim of trafficking” even if this does not involve any of the means set forth in subparagraph (a) of this article; and
- (d) “Child” shall mean any person under eighteen years of age.

III- PREVENTIVE MEASURES

Article 3

The Parties shall undertake necessary legal reforms and other appropriate measures to ensure that the legal frameworks in their respective jurisdictions conform with the Universal Declaration of Human Rights, the Protocol to Prevent, Suppress, and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, and other international and regional instruments concerning trafficking in persons to which both Parties are party.

Article 4

The Parties shall undertake educational and vocational training programs tailored for children, women and men to increase the opportunity for employment and hence reduce vulnerability to trafficking.

Article 5

Both Parties shall make best efforts to prevent trafficking in persons through the following preventive measures:

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- (a) Increase of social services and protection such as assistance in job searching and income generating and provision of medical care to persons vulnerable to trafficking;
- (b) Reform of educational and vocational training programs to improve their linkage with education and job opportunities; and
- (c) Enhancement of public awareness and understanding on the issue of safe migration and trafficking in persons, especially children and women including:
 - (i.) Disseminate information to the public on risk factors of migration and the danger and negative impacts of trafficking in persons;
 - (ii.) Support the development of community protection and surveillance networks, especially in high risk areas;
 - (iii.) Strengthen cooperation between the Parties and the private sectors to expand their role in the fight against trafficking in persons.

IV- PROTECTION OF TRAFFICKED PERSONS

Article 6

Trafficked persons shall be considered victims, not violators or offenders of the immigration law. Therefore,

- (a) Trafficked persons shall not be prosecuted for illegal entry to the country;
- (b) Trafficked persons shall not be detained in an immigration detention center during the times awaiting the official repatriation process, but shall be put under the care of the Ministry of Social Affairs, Veterans and Youth Rehabilitation (Cambodia) or the Department of Social Development and Welfare (Thailand), and

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shelter and protection shall be provided to the victims according to the policy of each state;

- (c) The relevant authorities shall ensure the security of trafficked persons and their families;
- (d) Victims shall be treated humanely and provided with opportunity to communicate with their immediate families where it is safe to do so throughout the process of protection and repatriation, and the judicial proceedings;
- (e) Victims, especially children, shall be provided rights based, age and gender sensitive services during the interim care, repatriation, reintegration and judicial processes; and
- (f) Children accompanying victims shall be entitled to the protection in accordance with the national laws of each Party.

Article 7

The Parties shall undertake appropriate measures, which may include legal reform and legal aid, to ensure the effective legal remedies to victims of trafficking as follows:

- (a) Victims may claim restitution of any undisputed personal properties and belongings that have been confiscated or obtained by relevant authorities at any stage of the legal process;
- (b) Proceeds of crime of trafficking shall be liable for confiscation and managed according to the laws of relevant country;
- (c) Victims may claim compensation and restitution from the offender of any damages caused by trafficking in persons;
- (d) Victims may claim payment for unpaid services from the offender;
- (e) Victims shall have access to the due process of law to claim for criminal justice, recovery of damages, and any other judicial remedies; and

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- (f) Victims shall be provided information and interpretive services from the intake process until reintegration.

Article 8

The relevant Governmental agencies in cooperation with appropriate non-governmental organizations, shall provide trafficked persons and their immediate family, if any, with gender sensitive safe shelter and health care, including psycho-social support, access to legal assistance, and other imperatives for their protection.

V- COOPERATION IN SUPPRESSION OF TRAFFICKING IN PERSONS

Article 9

The law enforcement agencies in both countries, especially at the border shall work in close cooperation to uncover domestic and cross border trafficking in persons.

Article 10

- (a) The law enforcement process shall be streamlined so as to combat crimes of trafficking in persons effectively;
- (b) The investigation and the prosecution of offenders and criminal syndicates in trafficking cases shall be intensified; and
- (c) The Parties shall undertake training programs unilaterally and bilaterally concerning prosecution, the applicable legislation and skills of victim identification, investigation and protection in trafficking cases for law enforcement personnel in line with international standards.

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Article 11

- (a) The Parties shall promote bilateral cooperation in the judicial procedure against trafficking, e.g., prosecution of transnational traffickers, extradition arrangement, mutual judicial assistance in the criminal procedures; and
- (b) The Parties shall afford one another the widest measure of mutual legal assistance in investigation, prosecution and judicial proceeding in relation to trafficking in persons, especially children and women including existing arrangement on extradition.

Article 12

The police, judicial police and other relevant authorities, as the case may be, in both countries shall cooperate in exchange of information concerning trafficking cases, e.g., trafficking routes, places of trafficking, identification of traffickers, networks of trafficking, means and methods of trafficking, and data on trafficking.

Article 13

- (a) Relevant ministries, agencies, organizations and mechanisms of the government and non-government bodies of both Parties shall cooperate in collecting information and evidence related to human trafficking cases.
- (b) For the informal cooperation in investigation, the information obtained in accordance with the above paragraph shall be duly delivered to the competent police office, immigration office, prosecutor's office, or other relevant authorities who takes legal action in the cases of trafficking in persons according to relevant roles and procedures of respective countries, e.g., searching for

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offenders, investigating in cases, and proceeding with any other judicial procedures.

- (c) Evidence to be used in courts of law shall be obtained through diplomatic channels according to the laws of both countries unless both countries enact a relevant bilateral or multilateral treaty that stipulates alternate procedures for mutual legal assistance in criminal matters.

Article 14

- (a) The police, judicial police and other appropriate authorities of the relevant state shall undertake necessary measures to secure the safety of victims, witnesses and their families during and after the judicial proceedings.
- (b) Relevant authorities shall provide necessary support to ensure that the victims participate to the fullest extent in any judicial proceedings with their informed consent and best interests.

VI- REPATRIATION

Article 15

- (a) Developing arrangement to facilitate the rapid victim identification and repatriation of trafficked persons
- (b) The authorities in charge of repatriation shall use the diplomatic channel of communication to inform the other Party of repatriation arrangements of trafficked persons, especially children and women in advance;
- (c) Repatriation of trafficked persons, especially children and women shall be arranged and conducted in their best interest with safety and dignity;

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- (d) Persons, especially children and women who have been identified as victims of trafficking, shall not be deported. Repatriation of victims will be undertaken in accordance with the above.

Article 16

- (a) Each Party shall establish a Working Group; each Working Group shall assign a Focal Point to cooperate on joint activities;
- (b) The Working Group shall be composed of the competent authorities of that Party and other relevant partners;
- (c) Each Working Group shall undertake the following duties:
 - (i.) to arrange repatriation of trafficked persons, especially children and women;
 - (ii.) to implement the arranged repatriation of trafficked persons, especially children and women;
 - (iii.) to provide security for trafficked persons, especially children and women in the repatriation process;
 - (iv.) to endeavour to closely monitor and follow the reintegration trafficking in persons ; and
 - (v.) to establish informational networks concerning the practice of trafficking in persons among the national and international law enforcement authorities and relevant civil society organizations.

VII- REINTEGRATION

Article 17

- (a) The Parties shall make all possible efforts towards the safe and effective integration of victims of trafficking into their families and communities, where appropriate, in order to restore their dignity and well-being.

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- (b) For this purpose, the Parties shall take appropriate gender sensitive measures with the best interest of the victims to attain the following objectives:
- (i.) Victims of trafficking shall not suffer any further, victimization, stigmatization or dramatization in the judicial procedure;
 - (ii.) Continuous social, medical, psychological and other necessary support shall be provided to persons who are victims of trafficking and their families, particularly to pregnant women, people with disabilities, and those who are infected with sexually transmitted diseases and/or HIV/AIDS;
 - (iii.) Persons who are victims of trafficking, shall not be discriminated or stigmatized socially; and
 - (iv.) Child victims of school age shall be ensured appropriate educational opportunities.

Article 18

The Parties, individually or jointly, shall provide the necessary training programs for the purpose of effective reintegration as follows:

- (a) The vocational training program for victims of trafficking to increase opportunities of alternative means of their livelihood;
- (b) Training programs to sensitize those working for victims of trafficking in regard to child development, child rights and child/gender issues in line with international standards; and
- (c) Training programs for service providers on monitoring and follow-up.

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VIII- JOINT TASK FORCE

Article 19

- (a) The Parties shall establish the Joint Task Force.
- (b) The Joint Task Force shall be comprised of competent representatives from both Parties;
- (c) The Joint Task Force shall be called for to meet as the need arises. The date and venue of the meeting of the Joint Task Force shall be agreed by both Parties.
- (d) The Joint Task Force shall assume the following responsibilities:
 - (i.) To develop joint action plan;
 - (ii.) To monitor the progress of the joint action plan annually and report to the Joint Commission for Bilateral Cooperation between Cambodia and Thailand at its meetings;
 - (iii.) To initiate establishment of strategies, implementing guidelines and other necessary framework to implement this Memorandum;
 - (iv.) To make recommendations towards further development of the mutual cooperation against trafficking in persons;
 - (v.) To encourage participation of and cooperation with development partners, the civil society and the private sector in countering trafficking in persons, especially children and women, sexual and labour exploitation and forced labour; and
 - (vi.) To review the implementation of this Memorandum of Understanding every 3 years.

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IX- FINAL PROVISION

Article 20

Parties shall endeavour to settle disputes concerning the interpretation or application of this Memorandum through negotiation.

This Memorandum of Understanding shall take effect on the date of signature by both Parties.

Article 21

Either Party may terminate this Memorandum of Understanding at any time by giving written notice to the other Party through diplomatic channels, and the termination shall be effective six months after the date of receipt of such notice.

Article 22

This Memorandum of Understanding may be amended upon the agreement of the Government of the Kingdom of Cambodia and the Government of the Kingdom of Thailand.

Article 23

This Memorandum of Understanding shall supersede the Memorandum of Understanding signed by the Government of the Kingdom of Cambodia and the Government of the Kingdom of Thailand on 31 May 2003, which shall be terminated upon the entry into force of this Memorandum of Understanding.

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Any activities or cooperative measures undertaken under the Memorandum of Understanding signed by the Government of the Kingdom of Cambodia and the Government of the Kingdom of Thailand on 31 May 2003 shall remain in effect and shall be construed as activities or cooperative measures undertaken under this Memorandum of Understanding.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this Memorandum of Understanding.

Done at Phnom Penh, on this 30th day of October 2014, in duplicate, in the Thai, Khmer, and English languages, all texts being equally authentic. In case of any divergence of interpretation, the English text shall prevail.

**FOR THE GOVERNMENT
OF THE KINGDOM OF
THAILAND**

Police General

Adul Sangsingkeo

**(Adul Sangsingkeo)
Minister of Social Development and
Human Security**

**FOR THE GOVERNMENT
OF THE KINGDOM OF
CAMBODIA**

H. Sam Heng

**(Mr. Ith Sam Heng)
Minister for Labour and
Vocational Training**