

ASEAN Plan of Action Against Trafficking in Persons, Especially Women and Children

I. Introduction

In line with the relevant ASEAN instruments and Roadmap for an ASEAN Community relating to trafficking in persons, there is a need to have strong international cooperation and a comprehensive regional approach to prevent, suppress, and punish trafficking in persons, especially women and children, in all forms of sexual, labour, and organ trafficking. This ASEAN Plan of Action, which complements the ASEAN Convention Against Trafficking in Persons, Especially Women and Children (ACTIP), aims to provide specific action plans within ASEAN Member States' domestic laws and policies, as well as relevant international obligations, to effectively address regional challenges common to all ASEAN Member States in the identified major concerns, to wit: (1) Prevention of trafficking in persons; (2) Protection of victims; (3) Law enforcement and prosecution of crimes of trafficking in persons; and (4) Regional and International cooperation and coordination.

In undertaking this ASEAN Plan of Action, ASEAN Member States are mindful of the equal rights and inherent human dignity of women, and men, as well as the rights of children, as reflected in the following international and regional instruments, among others:

1. Charter of the Association of Southeast Asian Nations ("ASEAN Charter");
2. United Nations Convention against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children;
3. Convention on the Rights of the Child;

4. Convention on the Elimination of All Forms of Discrimination Against Women;
5. United Nations Global Plan of Action to Combat Trafficking in Persons;
6. ASEAN Human Rights Declaration;
7. ASEAN Declaration Against Trafficking in Persons Particularly Women and Children adopted in 2004;
8. Criminal Justice Responses to Trafficking in Persons: Ending Impunity for Traffickers and Securing Justice for Victims in 2007 (“ASEAN Practitioner Guidelines”);
9. ASEAN Leaders’ Joint Statement in Enhancing Cooperation against Trafficking in Persons in South East Asia in 2011; and
10. ASEAN Plan of Action to Combat Transnational Crime.

II. Challenges

Based on the United Nations Convention Against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, there are generally three (3) types of trafficking in persons. These are sexual exploitation, labour exploitation and organ trafficking. In some ASEAN Member States, not all of these three types of trafficking are criminalised, while in some, no specific laws on trafficking in persons have been adopted.

While some ASEAN Member States are considered countries of destination, others are considered countries of origin and transit. Depending on whether they are origin, transit or destination countries, the challenges, national

priorities, and strategies of ASEAN Member States are different. Nonetheless, they share a common interest and commitment in preventing and combatting trafficking in persons.

Common challenges among the ASEAN Member States include:

1. Alleviating the factors that make persons, especially women and children vulnerable to trafficking in persons, such as organised crime, government corruption, poverty, different levels of social economic development, economic instability, inefficient law enforcement and legal systems, and discouraging the demand that fosters all forms of exploitation of persons especially women and children that leads to trafficking;
2. Having appropriate legislation to effectively combat trafficking in persons;
3. The need to enhance capabilities of frontline officers for early detection and prevention of movements of victims of trafficking from countries of origin, through transit countries, to countries of destination;
4. The proper identification of victims and provision of suitable protection to them;
5. The need to improve investigation and prosecution of traffickers, especially relating to complex trafficking in persons cases;
6. The need to enhance direct communication and coordination between and among competent authorities of ASEAN Member States; and
7. The lack of effective regional legal and other mechanisms to further international cooperation in combatting trafficking in persons.

III. Objective

The ASEAN Member States seek to effectively address these challenges so as to progressively prevent, suppress and punish all forms of trafficking in persons including the protection and assistance to victims of trafficking in the region and work towards an enhanced comprehensive and coordinated regional approach to achieve this objective.

IV. Action Plans

We, Member States of the ASEAN resolve to translate our political will into concrete actions by adopting a Plan of Action to:

1. Strengthen the rule of law and border control among ASEAN Member States;
2. Intensify efforts to prosecute trafficking in persons cases; and
3. Strengthen regional cooperation based on shared responsibilities to effectively address demand and supply that fosters all forms of trafficking in persons, especially women and children, that leads to trafficking.

A. Prevention of Trafficking in Persons

- a. Increase awareness campaigns to educate all levels of society on trafficking in persons and its linkage to violation of human rights, targeting those most at risk with effective involvement of mass media, relevant non-governmental organisations, private sectors, and community leaders;
- b. Continue capacity building of law enforcement, immigration, education, social welfare, labour and other relevant officials in the prevention of trafficking in persons, taking into account the need to respect human rights, child and gender-sensitive issues, and encourage cooperation,

where appropriate, with civil society, non-governmental organisations and other relevant organisations;

c. Put in place effective mechanisms and ensure their proper implementation to effectively prevent the movement of traffickers and victims of trafficking in persons through appropriate border control systems, issuance of identity papers and travel documents, and through measures that prevent counterfeiting, forgery or fraudulent use of identity papers and travel documents;

d. Enhance cross-border cooperation and sharing of intelligence and exchange of information to disrupt the operations of traffickers;

e. Adopt and implement appropriate labour laws or other mechanisms that promote and protect the interests and rights of workers to reduce their risk of being trafficked;

f. Adopt and ensure implementation of national action plans, where applicable, to identify and prioritise key policies and programmes aimed at preventing trafficking in persons, and strengthen the implementation and coordination and monitoring mechanisms of such plans;

g. Conduct or support research studies on relevant topics to be used by ASEAN Member States in combatting trafficking in persons and collect suitable data to enable analysis and better understanding of the nature and extent of trafficking in persons both nationally and regionally;

h. Develop national data collection systems in relation to trafficking in persons and methods of exchange of such data between and among ASEAN Member States with a view to developing a regional database for trafficking in persons;

i. Utilise existing regional guidelines as well as develop or strengthen national guidelines for the identification of victims of trafficking in persons, including applying appropriate and

non-discriminatory measures that help to identify victims of trafficking in persons among groups who are more susceptible to trafficking. The early detection of possible cases of trafficking in persons will allow swift responses to deter and prevent trafficking in persons and minimise the exploitation of victims;

j. Increase and support prevention efforts in each ASEAN Member State by focusing on discouraging both the demand and supply that fosters the exploitation of persons, especially women and children that leads to trafficking;

k. In the case of cross-border trafficking, to explore how the country of origin can implement intensive preventive measures in cooperation with the receiving country who can provide useful information gathered from the victim of trafficking; and

l. Strengthen prevention measures to discourage demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking, including to protect victims of trafficking in persons, especially women and children, from revictimisation.

B. Protection of Victims

a. Reaffirm that the promotion and protection of human rights for all victims of trafficking and effective measures to respond to trafficking in persons are complementary and mutually reinforcing;

b. In line with Article 14, Paragraph 10 of the ACTIP, continue development of appropriate care, protection and support for victims of trafficking in persons;

c. Provide specialised services to identified victims of trafficking in persons, consistent with the ACTIP and other relevant international instruments, including access to health services, such as for the purpose of prevention, treatment,

care and support services for HIV and AIDS and other blood-borne and communicable diseases for those victims of trafficking in persons that have been sexually exploited, taking into account the fact that trafficking in persons for the purposes of sexual exploitation has serious, immediate and long-term implications for health, including sexual and reproductive health;

d. Subject to domestic laws, rules, regulations and policies, and in appropriate cases, consider not holding victims of trafficking in persons criminally or administratively liable, for unlawful acts committed by them, if such acts are directly related to the acts of trafficking in persons;

e. Ensure that there are avenues for victims of trafficking in persons, with particular attention to child victims, to be provided with protection, assistance and services for the physical, psychological, social recovery and rehabilitation in cooperation with non-governmental organisations and other relevant organisations and sectors of civil society, where appropriate, such as the establishment of a network of service providers to provide for medical care, counselling, education and training opportunities, legal aid and translation services;

f. Develop and utilise an appropriate procedure for the rescue, protection, recovery, repatriation, and reintegration of the victim into his or her family and community, in accordance with domestic laws, with particular attention to child victims;

g. Ensure that domestic legal or administrative systems include measures to provide information to victims of trafficking in persons, in a language they understand, regarding their legal rights and the relevant court and administrative proceedings and facilitate their access to assistance in order to enable their views and concerns to be presented and considered at appropriate stages of such

proceedings against offenders in a manner not prejudicial to the rights of the defence, consistent with the ACTIP;

h. Recognise the important role of civil society organisations in each ASEAN Member State in providing assistance and empowerment to victims of trafficking in persons, helping them to seek redress and facilitating the care of and provision of appropriate services to victims, including close cooperation and coordination with law enforcement officials.

C. Law Enforcement and Prosecution of Crimes of Trafficking in Persons

a. Establish trafficking in persons as a criminal offence, consistent with Article 5 of the ACTIP;

b. Develop pro-active investigation methods and where appropriate, to conduct surveillance and other pro-active measures to gather evidence to establish a case to prosecute trafficking in persons cases even without the testimony of victims;

c. Enhance efforts to investigate alleged cases of trafficking in persons, strengthen the means to combat trafficking, prosecute the perpetrators, including through more systematic use of freezing assets for the purpose of eventual confiscation in accordance with the provisions of Article 17 of the ACTIP, and ensure that penalties are proportionate to the gravity of the crime;

d. Designate specialised prosecutors and establish prosecutorial specialised units that will handle trafficking in persons cases, where applicable;

e. Prosecute crimes of trafficking in persons that encompass all forms of exploitation and enact, enforce and strengthen legislation that criminalises all forms of trafficking in persons, especially women and children;

- f. Combat and prosecute organised criminal groups engaged in trafficking in persons, in accordance with domestic laws;
- g. Investigate, prosecute and punish corrupt public officials who engage in or facilitate trafficking in persons and promote a zero-tolerance policy against those corrupt officials consistent with the United Nations Convention against Corruption and the United Nations Convention against Transnational Organised Crime;
- h. Continue the development of suitable and effective protection mechanism for witnesses of trafficking in persons, where appropriate;
- i. Ensure the liability of all categories of perpetrators of trafficking in persons, including the liability of legal persons and entities as appropriate, in line with the ACTIP;
- j. Waive, to the extent possible under domestic laws, immigration fees to facilitate the entry and stay of the victim of trafficking in persons temporarily in the territory of an ASEAN Member State for purposes of testifying or otherwise cooperating in the prosecution of traffickers;
- k. Intensify capacity building, where appropriate, of law enforcers, prosecutors, judges, immigration officers, foreign service officers, labour inspectors, social welfare officers and other relevant personnel involved in combatting trafficking in persons;
- l. Strengthen the information-sharing, investigation and prosecution processes for cases of trafficking in persons, including the setting up of specialised enforcement teams, encouraging joint enforcement between domestic agencies and fast-tracking the investigation and prosecution of serious or aggravated cases, especially at the regional level.

D. Regional and International Cooperation and Coordination

- a. Strengthen the Heads of Specialist Units (HSU) mechanism within ASEAN;
- b. Utilise existing international mechanisms, including INTERPOL tools and resources such as INTERPOL database;
- c. Strengthen the coordination and cooperation among ASEAN Member States in combatting crimes that might be connected with trafficking in persons, including money laundering, corruption, smuggling of migrants and all forms of organised crime;
- d. Strengthen the operational cooperation between ASEAN Member States, in accordance with their domestic laws and bilateral or multilateral agreements, joint investigation teams to be put together by the concerned ASEAN Member States, where appropriate;
- e. Strengthen capacity building activities for the purposes of improving the preparation and receiving of requests relating to mutual legal assistance, extradition and cross-border law enforcement cooperation to prevent and combat trafficking in persons;
- f. Render to one another the widest possible measure of mutual legal assistance in criminal matters to prosecute and punish crimes of trafficking in persons in accordance with the Treaty on Mutual Legal Assistance in Criminal Matters and bilateral undertakings;
- g. Utilise international cooperation, including through mutual legal assistance in accordance with the provisions of the Treaty on Mutual Legal Assistance in Criminal Matters, and consistent with domestic laws and regulations of each ASEAN Member State, to ensure the effective investigation,

prosecution and confiscation of assets relating to trafficking in persons;

h. Strengthen and enhance collaboration and coordination among the ASEAN platforms dedicated to facilitating cooperation among ASEAN Member States in combating trafficking in persons, including the Senior Officials Meeting on Transnational Crime (SOMTC) Working Group on Trafficking in Persons and the HSU Meeting, taking into account the relevant work undertaken by other ASEAN Sectoral Bodies;

i. Promote mutually beneficial collaboration with ASEAN Dialogue Partners and other relevant international, regional and sub-regional organisations to combat trafficking in persons, including through the provision of technical and sustainable funding assistance by Dialogue Partners and relevant organisations aimed at strengthening the collective and individual capacities of ASEAN Member States in combatting all forms of trafficking in persons;

j. Enhance cooperation with relevant United Nations agencies and other international organisations on trafficking in persons to strengthen the region's capacity to effectively combat trafficking in persons and provide assistance to victims of trafficking in persons;

k. Improve capacity building as a very important component in combatting trafficking in persons and encourage and enhance coordination and coherence within ASEAN;

1. Identify focal points to facilitate communication, data sharing and exchange of information on trafficking in persons to strengthen prevention and protection policies and programmes among ASEAN Member States;
2. Promote cooperation and coordination among governmental institutions, civil society organisations,

private sector, media, and all relevant stakeholders, to strengthen prevention and protection policies and programmes;

I. Enhance and continue the development of regional guidelines, in light of national and bilateral guidelines, to combat trafficking in persons by strengthening coordination partnership, and international cooperation and implement effectively the relevant existing guidelines.

V. Implementation Mechanism

1. Endeavour to incorporate the relevant programmes and activities of this Plan of Action into the respective ASEAN Members States' national plans of action against trafficking in persons to ensure its success.

2. The SOMTC, supported by the SOMTC Working Group on Trafficking in Persons, will oversee the implementation of the ASEAN Plan of Action.
