

ASEAN PLAN OF ACTION TO COMBAT TRANSNATIONAL CRIME

A. BACKGROUND

(a) The Mandate for ASEAN Cooperation In Combating Transnational Crime

One of the fundamental principles of the Association of Southeast Asian Nations (ASEAN) as enshrined in the Bangkok Declaration of 8 August 1967 was "strengthening the foundation for a prosperous and peaceful community of Southeast Asian Nations." ASEAN policies, plans, strategies and activities revolve around this principle. Transnational crime has the potential of eroding this central belief thereby affecting the political, economic and social well being of ASEAN. In recognizing the detrimental effects of transnational crime, ASEAN countries have taken concerted efforts to combat such crime since early 1970s.

ASEAN's initial efforts in combating transnational crime were focused on drug abuse and drug trafficking, the prevalent crime then, which affected the growth and vitality of ASEAN. With globalization, technological advancement and greater mobility of people and resources across national borders, transnational crime has become increasingly pervasive, diversified and organized. The region has to deal with many new forms of organized crimes that transcend national borders and political sovereignty such as terrorism, new types of drug abuse and trafficking, innovative forms of money laundering activities, arms smuggling, trafficking in women and children and piracy.

The resolve of ASEAN's Leaders in fighting illicit drugs, the prevalent transnational crime then, can be traced to the Declaration of ASEAN Concord of 24 February 1976. The ASEAN Leaders, in that landmark document, called for the "intensification of cooperation among member states as well as with the relevant international bodies in the prevention and eradication of the abuse of narcotics and the illegal trafficking of drugs."

Since then, all the ASEAN Summits have expressed concerns on narcotics abuse and illegal drug trafficking in the region. At the Fifth ASEAN Summit in December 1995 in Bangkok, the Leaders decided that "ASEAN shall further enhance cooperative efforts against drug abuse and illicit trafficking with special emphasis being given to demand reduction programs and information exchange and dissemination, with the aim of creating a drug-free ASEAN."

With transnational crime expanding in scope and becoming more organized, ASEAN's Leaders have called for a comprehensive and coordinated approach in combating crime at the regional level. At the First Informal Summit in November 1996, the ASEAN Leaders called upon the "relevant ASEAN bodies to study the possibility of regional cooperation on criminal matters, including extradition." At the Second Informal Summit in December 1997, they "resolved to take firm and stern measures to combat transnational crimes such as drug trafficking, trafficking in women and children as well as other transnational crime." The ASEAN Leaders also adopted the ASEAN Vision 2020 at the Second Informal Summit which, among others, envisioned the evolution of agreed rules of behavior and cooperative measures to deal with problems that can be met only on a regional scale, including drug trafficking, trafficking in women and children and other transnational crimes.

The ASEAN Foreign Ministers have also called for closer cooperation and coordinated actions on tackling transnational crime among ASEAN¹ countries- At the 29th ASEAN Ministerial Meeting (AMM) in Jakarta in July 1996, the Foreign Ministers recognized the need to focus attention on such crimes as narcotics trafficking, economic crimes, including money laundering, environmental crimes and illegal migration. They "share(d) the view that the management of such transnational issues are urgently called for so that they would not affect the long-term viability of ASEAN and its individual member nations." At the 30th AMM in Subang Jaya in July 1997, the Foreign Ministers "stressed the need for sustained cooperation in addressing transnational concerns including the fight against terrorism, trafficking of people, illicit drugs and

arms, piracy and communicable diseases." The Foreign Ministers, at the 31st AMM in Manila in July 1998 reiterated the need for enhancing regional efforts against transnational crimes, such as illicit drug trafficking, terrorism, money laundering, and trafficking in women and children. At the meeting, the Ministers also signed the Joint Declaration for a Drug-Free ASEAN to eradicate the production, processing, traffic and use of illicit drugs in Southeast Asia by the year 2020.

The ASEAN Finance Ministers echoed the sentiments of the ASEAN Leaders and the ASEAN Foreign Ministers on illicit drug trafficking when they signed the ASEAN Agreement on Customs at their inaugural meeting on 1 March 1997 in Phuket. The agreement, which apart from enhancing ASEAN cooperation in customs activities and expediting the early realization of AFTA, aims to strengthen cooperation in combating trafficking in narcotics and psychotropic substances, and will facilitate joint efforts in anti-smuggling and customs control.

(b) Other Significant Developments

Recognizing the urgency to tackle transnational crime from the regional dimension, the Philippines hosted the inaugural Meeting of the ASEAN Ministers of Interior/Home Affairs on Transnational Crime on 20 December 1997 in Manila. Apart from presenting an opportunity for the Interior and Home Ministers to exchange views on the transnational crime situation in ASEAN, the meeting also reflected on the detrimental impact of such on the Member Countries and the need for enhanced regional cooperation in fighting the crime. The highlight of the meeting was the signing of the ASEAN Declaration on Transnational Crime by the Ministers. The document reflected ASEAN's resolve in dealing with transnational crime and its intention to work together with the international community in combating transnational crime.

The Declaration also established the basic framework for regional cooperation on fighting transnational crime. Accordingly, the ASEAN Ministers Meeting on Transnational Crime was to convene once every two years to coordinate activities of relevant bodies such as the ASEAN Senior Officials on Drug Matters (ASOD) and the ASEAN Chiefs of National Police (ASEANAPOL). The Senior Officials Meeting Transnational Crime was to meet at least once in a year to assist the Ministers in accomplishing their task. The Declaration also outlined the following initiatives for regional cooperation on tackling transnational crime:

1. Hold discussions with a view to signing mutual legal assistance agreements, bilateral treaties, memorandum of understanding or other arrangements among Member Countries;
2. Consider the establishment of an ASEAN Centre on Combating Transnational Crime (ACTC), which will coordinate regional efforts against transnational crime through intelligence sharing, harmonization of policies and coordination of operations;
3. Convene a high-level ad-hoc Experts Group within one year to accomplish the following with the assistance of the ASEAN Secretariat:
 - a. ASEAN Plan of Action on Transnational Crime,
 - b. Institutional Framework for ASEAN Cooperation on Transnational Crime; and,
 - c. Feasibility study on the establishment of ACTC
4. Encourage Member Countries to consider assigning Police Attaches and/or Police Liaison Officers in each other's capital in order to facilitate cooperation for tackling transnational crime;
5. Encourage networking of the relevant national agencies or organizations in Member Countries dealing with transnational crime to further enhance information exchange and dissemination;
6. Expand the scope of Member Countries' efforts against transnational crime such as terrorism, illicit drug trafficking, arms smuggling, money laundering, traffic in person and piracy, and to request the ASEAN Secretary General to include these areas in the work programme of the ASEAN Secretariat.
7. Explore ways by which the Member Countries can work closer with relevant agencies and organizations in Dialogue Partner countries, other countries and international organizations, including the United Nations and its specialized agencies, Colombo Plan Bureau, INTERPOL and such other agencies, to combat transnational crime;

8. Cooperate and coordinate more closely with other ASEAN bodies such as the ASEAN Law Ministers and Attorneys-General, the ASEAN Chiefs of National Police, the ASEAN Finance Ministers, the Directors-General of Immigration and the Directors-General of Customs in the investigations, prosecution and rehabilitation of perpetrators of such crimes.

The ASEAN Member Countries also participated in the first Asian Regional Ministerial Meeting on Transnational Crime held on 23-25 March 1998 in Manila. The meeting was a follow-up to the Naples Political Declaration and Global Plan of Action Against Transnational Crime adopted at the World Ministerial Conference on Organized Transnational Crime held in Italy in November 1994.

The meeting culminated with the adoption of a Manila Declaration on the Prevention and Control of Transnational Crime. The declaration reflects the concerns of the participating countries, including ASEAN, on the increase and expansion of transnational crimes and outlines the approaches to be undertaken, both at the national and regional levels, in fighting transnational crime.

B. OBJECTIVES

(a) General Objectives

The general objective of the Action Plan is to encourage ASEAN Member Countries to expand their efforts in combating transnational crime at the national and bilateral levels to the regional level. As espoused in the ASEAN Declaration on Transnational Crime, the overall focus of ASEAN collaboration will be to strengthen regional commitment and capacity to combat transnational crimes which include terrorism, drug trafficking, arms smuggling, money laundering, trafficking in persons and piracy. This is in recognition of the fact that tackling transnational crime requires a concerted regional effort in view of its global dimension and pervasive nature. Besides, such efforts will assist in complementing and contributing to the national and bilateral efforts undertaken by Member Countries in combating such crime.

(b) Specific Objectives

The specific objectives of the Plan of Action are to urge the ASEAN Member Countries to:

1. Develop a more cohesive, regional strategy aimed at preventing, controlling and neutralizing transnational crime;
2. Foster regional cooperation at the investigative, prosecutorial, and judicial level as well as the rehabilitation of perpetrators;
3. Enhance coordination among ASEAN bodies dealing with transnational crime;
4. Strengthen regional capacities and capabilities to deal with sophisticated nature of transnational crime; and
5. Develop sub-regional and regional treaties on cooperation in criminal justice, including mutual legal assistance and extradition.

C. PROGRAMME OF ACTION/PRIORITIES

In order to achieve the general and specific objectives, ASEAN Member Countries are encouraged to:

Information Exchange

1. Improve the ASEANAPOL regional database so as to further facilitate sharing and analysis of critical intelligence information, such as wanted and arrested persons, "modus operandi", syndicates, and maritime offences;

2. Establish a regional repository to compile summaries of national laws of ASEAN Member Countries pertaining to transnational crime;
3. Conduct typology studies to determine trends and "modus operandi" of transnational crime in the ASEAN region;
4. Maximize the use of modern telecommunications technology in facilitating the exchange of data on, among others, criminals, methodologies, arrests, legal documents, requests for assistance, and ensure its restricted transmission;
5. Identify relevant contact persons in the policy, legal, law enforcement, and academic institutions of ASEAN Member Countries, and facilitate networking and lateral coordination among persons and agencies with similar functions;

Legal Matters

6. Work for the criminalization in ASEAN Member Countries of specific transnational crimes, such as illicit drug trafficking, money laundering, terrorism, piracy, arms smuggling and trafficking in persons;
7. Ensure the harmonization of relevant national policies among ASEAN Member Countries;
8. Develop multilateral or bilateral legal arrangements to facilitate apprehension, investigation, prosecution, and extradition, exchange of witnesses, sharing of evidence, inquiry, seizure and forfeiture of the proceeds of the crime in order to enhance mutual legal and administrative assistance among ASEAN Member Countries;
9. Study the possibility of creating a regional programme on witness protection;
10. Coordinate with the ASEAN Senior Law Officials Meeting on the implementation of the ASEAN Legal Information Network System;
11. Strengthen the mechanisms for effective protection of the integrity of travel documents and government control of the ingress/egress of transnational criminal personalities;
12. Seek to ratify and support existing international treaties or agreements designed to combat transnational crime.

Law Enforcement Matters

13. Appoint Police Attaché or Police Liaison Officers, whenever feasible, in the capitals of ASEAN Member Countries;
14. Develop programmes for joint tactical exercises and simulations;
15. Develop an exchange programme among ASEAN officials in the policy, legal, law enforcement and academic fields;
16. Implement measures to ensure the protection of judges, prosecutors, witnesses, and law enforcement officials and personnel from retaliation by transnational criminal organizations;
17. Enhance cooperation and coordination in law enforcement, intelligence sharing, and in preventing the illegal trafficking and use of explosives, firearms, and other deadly weapons, as well as nuclear, chemical and biological materials.

Training

18. Develop regional training programmes, and conduct regular conferences to enhance existing capabilities in investigation, intelligence, surveillance, detection and monitoring, and reporting.
19. Exchange "best practices" of relevant institutions in ASEAN Member Countries involved in the combat against transnational crime, including transfer of technologies.

Institutional Capacity-Building

20. Establish the ASEAN Centre for Combating Transnational Crime (ACTC).

21. Rationalize the institutional framework on ASEAN cooperation in transnational crime by making the ASEAN Ministerial Meeting on Transnational Crime the highest policy-making body, with a supervisory role and consultative relations with relevant ASEAN institutions involved in the combat against transnational crime;
22. Promote the efficient networking of relevant national agencies/organizations in ASEAN Member Countries by creating inter-agency committees/task forces to enhance information exchange and dissemination;
23. Strengthen institutional linkages with the various ASEAN mechanisms involved in combating transnational crime particularly the ASEAN Finance Ministers Meeting, ASEAN Finance Officials Meeting, ASEAN Senior Officials on Drug Matters, ASEAN Directors General of Customs, ASEAN Directors General for Immigration and ASEAN Chiefs of National Police.

Extra-Regional Cooperation

24. Seek technical assistance from ASEAN Dialogue Partners and relevant specialized agencies of the United Nations and other international organizations, particularly with regard to training and acquisition of equipment.
25. Enhance information exchange with ASEAN Dialogue Partner, regional organizations, relevant specialized agencies of the United Nations and other international organizations, particularly towards the sharing of critical information on the identities, movements and activities of known transnational criminal organizations.
26. Urge ASEAN Dialogue Partners not yet party to existing international treaties against organized transnational crime, in its various forms, to accede to such agreements.
27. Promote interest and support in the international community for ASEAN initiatives against transnational crime through the participation of ASEAN Member Countries and the ASEAN Secretariat in relevant international conferences.

D. INSTITUTIONAL FRAMEWORK FOR ASEAN COOPERATION ON COMBATING TRANSNATIONAL CRIME

To strengthen and coordinate ASEAN collaboration in combating transnational crime and implement the Plan of Action, ASEAN Member Countries agree to the establishment of the following framework:

(a) ASEAN Ministerial Meeting on Transnational Crime (AMMTC)

1. The ASEAN Ministerial Meeting on Transnational Crime shall be the highest policy making body on ASEAN cooperation in combating transnational crime. It shall also coordinate activities of the relevant bodies such as the ASOD, ASEANAPOL, ASEAN Directors-General of Customs, ASEAN Directors General of immigration and the Heads of Consular Affairs of the Ministries of Foreign Affairs;
2. It shall comprise ministerial level representatives of ASEAN Member Countries responsible for combating transnational crime and meet at least once in two years and informally in between when necessary
3. The Chairmanship of the AMMTC shall be rotated in alphabetical order among the ASEAN Member Countries:
4. The AMMTC shall approve the reports of the Senior Officials Meeting on Transnational Crime (SOMTC), and the reports of ASOD, ASEANAPOL, ASEAN Directors-General of Customs, and ASEAN Directors-General of Immigration on matters pertaining to transnational crime and the Heads of Consular Affairs of the ministries of Foreign Affairs; and
5. The AMMTC shall report to the ASEAN Summit through the ASEAN Ministerial Meeting (AMM).

(b) Senior Officials Meeting on Transnational Crime (SOMTC)

1. The Meeting of ASEAN Senior Officials on Transnational Crime shall be convened at least once a year and before the AMMTC, with the chairmanship of the SOMTC coinciding with the chairmanship of the AMMTC;
2. It shall implement policies and plans adopted by the ASEAN Ministerial Meeting on transnational Crime (AMMTC);
3. It shall develop five-year work programmes to implement the ASEAN Plan of Action on Transnational Crime;
4. It shall convene, as and when appropriate, ad-hoc working groups or task forces comprising experts to assist the SOMTC in carrying out its functions;
5. It shall promote cooperation and coordination with other ASEAN bodies dealing with transnational crime such as the ASEAN Senior Officials on Drug Matters (ASOD), the ASEAN Chiefs of National Police (ASEANAPOL), the ASEAN Directors-General of Customs and the ASEAN Directors-General of Immigration and the Heads of Consular Affairs of the Ministries of Foreign Affairs;
6. It shall seek measures to promote cooperation with international agencies dealing with transnational crime, including those of the ASEAN Dialogue Partners; and,
7. It shall designate a national focal point/agency who is able to coordinate cooperation on transnational crime at the regional level as well as nationally

(c) ASEAN Secretariat

1. It shall assist the SOMTC in initiating, planning and coordinating activities, strategies, programmes and projects to facilitate regional cooperation in combating transnational crime;
2. It shall assist SOMTC in formulating the Work Programme;
3. It shall assist in exploring ways by which SOMTC can work closer with relevant agencies and organizations in Dialogue Partner Countries, other countries and international organizations, including the LJM and its specialized agencies, Colombo Plan Bureau, Interpol and such agencies, to combat transnational crime;
And
4. It shall assist in mobilizing resources and seeking technical assistance from international agencies and ASEAN's Dialogue Partners.

E. FUNDING STRATEGIES

To implement priority projects under the ASEAN Plan of Action to Combat Transnational Crime, the SOMTC with the assistance of the ASEAN Secretariat shall:

1. Secure funding support for ASEAN programmes and projects to be implemented on a cost-sharing basis; and
2. Develop resource mobilization plans in order to obtain funding from the ASEAN Dialogue Partners, international funding agencies and other sources.