

## **TERMS OF REFERENCE OF THE ASEAN SENIOR OFFICIALS MEETING ON TRANSNATIONAL CRIME**

### **I. BACKGROUND**

1. The ASEAN Senior Officials Meeting on Transnational Crime (SOMTC) convened pursuant to the adoption of the ASEAN Plan of Action to Combat Transnational Crime by the Second ASEAN Ministerial Meeting on Transnational Crime (2<sup>nd</sup> AMMTC) held in Yangon, Myanmar on 21-23 June 1999. The first SOMTC Meeting was subsequently held in Bangkok, Thailand on 28-30 March 2001.
2. The 18<sup>th</sup> SOMTC in Putrajaya, Malaysia on 25-26 September 2018 recognised that the current modality of SOMTC was only reflected in the ASEAN Plan of Action to Combat Transnational Crime adopted in 1999 and there was an increasing need for SOMTC to further streamline its work process for better coordination and cooperation through the establishment of a specific TOR.

### **II. SCOPE OF APPLICATION**

3. This is in line with the High-Level Task Force (HLTF) on Strengthening the ASEAN Secretariat and Reviewing the ASEAN Organs' findings which were adopted at the 25<sup>th</sup> ASEAN Summit in Nay Pyi Taw, Myanmar on 12 November 2014 that encouraged ASEAN Sectoral Ministerial Bodies and subsidiary bodies under their purview to review/develop their TOR to stay relevant and ensure better coordination, coherence and progress.
4. The following TOR outlines the principles, role and mandate, areas of cooperation and Voluntary Lead Shepherds, modalities, engagements with external parties, financial arrangements, reporting mechanism and supporting mechanisms of SOMTC.

### **III. PRINCIPLES**

5. State Parties shall carry out their obligations under this TOR in a manner consistent with the ASEAN Charter, including the principles of sovereign equality and territorial integrity of States and that of non-intervention in the domestic affairs of other States:
  - a. States shall promote territorial integrity and no part of any State shall be reduced or diminished in the conduct of such activities that fall under SOMTC's purview;
  - b. States shall exercise non-intervention in domestic affairs in pursuit of just and long-lasting relations between the ASEAN Member States and<sup>i</sup>; and

- c. Nothing in this TOR entitles a State Party to undertake in the territory of another State the exercise of jurisdiction and performance of functions that are reserved exclusively for the authorities of that other State by its domestic law, without the participation, control and the express approval by the receiving State.
6. It shall be presumed that regardless of their designation, acts and inputs by authorised and official representatives sent by the ASEAN Member States and invited States shall be deemed as that of the State being represented. It shall be the sole responsibility of the State concerned to ensure its proper representation in all the official SOMTC meetings and functions.
7. States shall promote the principle of equality as members of ASEAN or as an invited State.

#### **IV. ROLE AND MANDATE**

8. SOMTC shall serve as an institutional framework to assist the AMMTC and shall be responsible for the preparations for the AMMTC, the implementation, monitoring and coordination of decisions made by the AMMTC, and any other tasks assigned by the AMMTC.
9. SOMTC shall initiate, plan, coordinate and execute strategies, programmes and activities in preventing and combating existing and emerging transnational crimes; in strengthening and improving cross-sectoral coordination; and in enhancing cooperation with ASEAN Dialogue Partners and relevant stakeholders.

#### **V. AREAS OF COOPERATION AND VOLUNTARY LEAD SHEPHERDS**

##### **6.1 Areas of Cooperation**

10. SOMTC shall cooperate closely across the ASEAN Member States to prevent and combat transnational crimes under the purview of the AMMTC and SOMTC that have been agreed upon.
11. SOMTC may expand its areas of cooperation to deal effectively with new transnational crimes where necessary and mutually agreed. The proposed transnational crime area should also be of major concern to the ASEAN Member States, to ensure SOMTC can channel its resources to the most pressing areas effectively.
12. SOMTC shall be guided by the ASEAN Plan of Action in Combating Transnational Crime and other relevant Plan of Action adopted by the AMMTC.

## **6.2 Voluntary Lead Shepherds**

13. Each area of cooperation under the purview of the AMMTC and SOMTC shall be led by the respective Voluntary Lead Shepherd from the ASEAN Member States. The ASEAN Member States may volunteer to lead one or more areas of cooperation under SOMTC with consensus from the ASEAN Member States.
14. The Voluntary Lead Shepherds shall assist SOMTC in managing each area of cooperation. This includes, but is not limited to, formulating the SOMTC Work Programme to Implement the ASEAN Plan of Action in Combating Transnational Crime and reporting the progress of each area of cooperation to SOMTC.
15. The Voluntary Lead Shepherds may propose to SOMTC to take the lead on cross-sectoral cooperation on issues that have been agreed upon by ASEAN. Upon the endorsement of SOMTC, the Voluntary Lead Shepherd shall take the lead on any cross-sectoral initiative on the issue and engage with relevant ASEAN External Partners, including International Organisations.
16. The rotation or transfer of Voluntary Lead Shepherds may be proposed by the ASEAN Member States for consideration of SOMTC, and shall be agreed upon by consensus by SOMTC and the AMMTC.

## **VI. MODALITIES**

### **7.1 Composition and Chairmanship**

17. SOMTC shall comprise Senior Officials responsible for combating transnational crime from each ASEAN Member State, to be also known as the SOMTC Leaders who preferably holding key positions in transnational crime agencies, and/or acting as national points of contact for related Treaties and International Instruments.
18. The SOMTC Chair shall be rotated annually following the cycle of the ASEAN Chairmanship, and in line with the Chairmanship of AMMTC.
19. The Chair shall perform the following duties:
  - a. Determine the venue and schedule of the SOMTC and Its Related Meetings;
  - b. Prepare and finalise the provisional agenda of the Meetings with solicited inputs from the ASEAN Member States;
  - c. Issue an invitation package for the Annual SOMTC and Its Related Meetings;
  - d. Chair the SOMTC Annual Meeting, including the SOMTC Leaders' Retreat;

- e. Compile all ASEAN Member States' presentations and/or remarks to be included in the Summary Report of the Meeting;
- f. Lead and/or assist as appropriate in the deliberation and implementation of any initiative, programme and activity of SOMTC;
- g. Coordinate with the Voluntary Lead Shepherds on the review of the implementation of the SOMTC Work Programme and to oversee the renewal of the SOMTC Work Programme every three years;
- h. Consolidate progress reports from all SOMTC Voluntary Lead Shepherds;
- i. Deliver SOMTC progress reports and recommendations on cooperation to address transnational crime to the AMMTC for notation and approval, as appropriate.

## **7.2 Convening of Meetings**

- 20. SOMTC shall be convened on an annual basis, prior to the convening of the AMMTC.
- 21. The SOMTC Annual Meeting may be held back-to-back with the SOMTC Consultations with Dialogue Partners as well as relevant SOMTC Working Group (WG) meetings, where appropriate.
- 22. A Preparatory SOMTC for the annual AMMTC shall be convened back-to-back with the AMMTC.
- 23. SOMTC, on the basis of consensus, may convene special or emergency meetings to address urgent and/or emerging transnational crime issues, which require timely action.
- 24. SOMTC shall be attended by SOMTC Leaders of all ASEAN Member States and representatives from the ASEAN Secretariat. In the event that the SOMTC-Leaders are unable to attend the Meeting, the SOMTC Leaders shall designate senior Representatives to represent the ASEAN Member States on their behalf.

## **VII. ENGAGEMENT WITH EXTERNAL PARTIES**

- 25. SOMTC cooperates and collaborates with Dialogue and/or Sectoral Dialogue Partners of ASEAN and relevant external parties for the purposes of preventing and combating transnational crime, or where deemed necessary.
- 26. SOMTC shall be guided by the principle of ASEAN centrality in the engagements with external parties.

## **8.1 SOMTC + Dialogue Partner Consultation**

27. The SOMTC Consultation with Dialogue Partners may be convened back-to-back with the SOMTC Annual Meeting, where appropriate.
28. The SOMTC + Dialogue Partner Consultation shall be co-chaired by the ASEAN Country Coordinator and its respective Dialogue Partner<sup>1</sup>.
29. The Co-Chairs of SOMTC + Dialogue Partner Consultation shall perform the following duties:
  - a. Coordinate with the SOMTC Chair on the convening of their respective Consultation at the sidelines of the SOMTC annual meeting. Upon confirmation from the Co-Chairs that the Consultation will take place, an official invitation for the respective Dialogue Partner to attend the Consultation shall be issued by the SOMTC Chair;
  - b. Prepare and finalise the provisional agenda of the respective Consultation, with solicited inputs from the ASEAN Member States. To this end, the provisional agenda shall be circulated to the ASEAN Member States at least three weeks before the meeting;
  - c. Co-chair the respective SOMTC Plus Consultation;
  - d. Work with the ASEAN Secretariat to prepare the draft Summary Report post-meeting and for the ASEAN Co-Chair to circulate it to the ASEAN Member States for inputs, finalisation and adoption six weeks after the meeting;
  - e. Compile all ASEAN Member States' presentations and/or remarks to be enclosed in the draft Summary Report of the Meeting; and
  - f. Lead and/or assist in the development and implementation of the work plan, projects and any other activities.
30. For ease of coordination, the ASEAN Secretariat has developed and maintained a directory of Dialogue Partners' Focal Points. The Dialogue Partners shall inform their respective ASEAN Co-Chairs and the ASEAN Secretariat should there be any change in their Focal Points.

## **8.2 SOMTC Open Session**

31. Engagement of external parties other than the ASEAN Dialogue Partners at the SOMTC Annual Meeting shall be governed by the Guidelines on Inviting External Parties' Participation in the Open Sessions of SOMTC.

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<sup>1</sup> Each ASEAN Member State is assigned a role as the Country Coordinator of the respective ASEAN Dialogue Partner. The role of Country Coordinator shall be rotated every three years in accordance with the Guidelines for ASEAN's External Relations, which is appended as **ANNEX A**.

**VIII. FINANCIAL ARRANGEMENTS**

32. The host of SOMTC and Its Related Meetings shall assume the cost of organising and hosting the Meetings.
33. Except for instances where the ASEAN Member State hosting SOMTC offers partial or full hospitality, each ASEAN Member States and/or invited Dialogue Partner shall be responsible for the full costs of subsistence, travel and accommodation of its delegates.

**IX. REPORTING MECHANISM**

34. SOMTC shall deliberate on and consolidate the outcomes and recommendations of all SOMTC WGs, Voluntary Lead Shepherds and the ASEAN Member States.
35. SOMTC shall provide annual progress reports on the implementation of its Work Programme to the AMMTC.

**X. SUPPORTING MECHANISMS**

**11.1 SOMTC Working Groups**

36. SOMTC may establish SOMTC WGs with a preliminary set of TOR on specific areas of cooperation under the SOMTC's purview that require in-depth discussion by subject matter experts. Each SOMTC WG shall develop its TOR, which shall be approved by SOMTC.
37. The SOMTC WGs shall prepare and deliver progress reports and outcomes of their Meeting to SOMTC at intervals to be determined by SOMTC for notation and/or consideration.
38. The establishment of a new SOMTC WG shall be proposed by the ASEAN Member States for consideration of SOMTC and approval by the AMMTC.
39. SOMTC may consider dissolving a SOMTC WG as mutually agreed upon by consensus.
40. The Composition, chairmanship, modality and reporting mechanism of the WG are to be determined by SOMTC and reflected in the TOR of the respective SOMTC WG.

**11.2 SOMTC Joint Working Group (JWG) with Dialogue Partner(s)**

41. A SOMTC JWG with relevant Dialogue Partner(s) may be proposed and considered at the respective SOMTC + Dialogue Partner Consultation. The set of considerations shall include the purpose and areas of cooperation of the respective JWG. The JWG may focus on certain areas of cooperation under SOMTC's purview that require further in-depth discussion by subject matters experts.

42. The SOMTC JWG with Dialogue Partner(s) shall be co-chaired by an ASEAN Member State and the relevant Dialogue Partner(s).
43. Other provisions will be governed by the TOR of the respective SOMTC JWG.
44. SOMTC and the respective Dialogue Partners may consider dissolving a JWG as mutually agreed upon by consensus.

### **11.3 The ASEAN Secretariat**

45. The ASEAN Secretariat shall assist the Chair/Co-Chair of SOMTC, the SOMTC WGs and Consultations through the provision of technical and secretarial support, advice and updates on ASEAN processes, practices and developments where necessary, and be the repository of all SOMTC documents as well as the directory of SOMTC and Dialogue Partners' Focal Points.

## **XI. AMENDMENTS**

46. This TOR shall be treated as a living document and may be reviewed and amended as deemed necessary, with the consensus of and in consultation with the ASEAN Member States.

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<sup>i</sup> "Invited States" shall mean any non-ASEAN Member State and International Organisation duly invited through ASEAN's formal channels for a specified engagement or function intended to pursue SOMTC's official agenda

## ASEAN EXTERNAL RELATIONS COORDINATORSHIP

July/August 2018 – July/August 2027

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### DIALOGUE PARTNERS

No.	Dialogue Partners	ASEAN Country Coordinator		
		2018-2021	2021-2024	2024-2027
1	Australia	Malaysia	Lao PDR	Indonesia
2	Canada	Myanmar	Malaysia	Lao PDR
3	China	Philippines	Myanmar	Malaysia
4	European Union	Singapore	Philippines	Myanmar
5	India	Thailand	Singapore	Philippines
6	Japan	Viet Nam	Thailand	Singapore
7	Republic of Korea	Brunei Darussalam	Viet Nam	Thailand
8	New Zealand	Cambodia	Brunei Darussalam	Viet Nam
9	Russia	Indonesia	Cambodia	Brunei Darussalam
10	United Kingdom		Brunei Darussalam	Viet Nam
11	United States	Lao PDR	Indonesia	Cambodia

### SECTORAL DIALOGUE PARTNERS

No.	Sectoral Dialogue Partners	Coordinator
1.	Norway	ASEAN Secretariat
2.	Pakistan	ASEAN Secretariat
3.	Switzerland	ASEAN Secretariat
4.	Turkey	ASEAN Secretariat

### DEVELOPMENT PARTNERS

No.	Development Partner	Coordinator
1	Chile	ASEAN Secretariat
2.	France	ASEAN Secretariat
3.	Germany	ASEAN Secretariat
4.	Italy	ASEAN Secretariat