



one vision
one identity
one community

ASEAN Compendium on International Legal Cooperation on Trafficking in Persons Cases



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Foreword by Secretary-General of ASEAN

1. Trafficking in Persons (TIP) remains a key priority on ASEAN's agenda, as reflected in the wide range of initiatives and cooperation efforts undertaken across the region, including through collaboration with regional and international partners. ASEAN's commitment to sustaining the momentum of cooperation to combat TIP is reaffirmed in the ASEAN Political-Security Community (APSC) Strategic Plan, which underscores our collective resolve to align regional and national efforts to effectively prevent TIP, protect and support victims, enforce anti-trafficking and related laws, prosecute offenders, and enhance regional and international cooperation.
2. This commitment is grounded in ASEAN's recognition of TIP as one of the most serious and persistent transnational crimes confronting the region today. It is a crime that preys on vulnerability and undermines our shared vision of a safe, just, and inclusive community. As traffickers increasingly exploit technology and cross-border networks, effective international legal cooperation has become ever more essential to ensure that there are no safe havens for perpetrators.
3. The ASEAN Compendium on International Legal Cooperation in Trafficking in Persons Cases consolidates regional and institutional frameworks, good practices, case studies, and practical tools aimed at strengthening the capacity of ASEAN Member States to conduct effective cross-border investigations and prosecutions of trafficking cases. It also supports the implementation of the ASEAN Convention Against Trafficking in Persons, Especially Women and Children (ACTIP) and the ASEAN Multi-Sectoral Work Plan Against Trafficking in Persons 2023–2028 (Bohol TIP Work Plan 2.0). The Compendium stands as a testament to ASEAN's continued resolve to translate regional commitments into practical resources that reinforce both national and regional responses to TIP.
4. I commend SOMTC, particularly SOMTC-Philippines, in its role as the Voluntary Lead Shepherd for the TIP priority area, for spearheading this important initiative. I also wish to acknowledge the Australian Government, through the ASEAN-Australia Counter Trafficking (ASEAN-ACT), and the United Nations Office on Drugs and Crime (UNODC), for their steadfast partnership and support. My sincere appreciation also goes to the practitioners and experts whose contributions have ensured the Compendium's relevant, usefulness and utility to all ASEAN Member States.
5. I am pleased to present this Compendium as a practical resource for officers of relevant national agencies engaged in regional and international cooperation on TIP. It is my hope that this publication will further strengthen ASEAN's collective capacity, commitment and coordination in addressing TIP and related transnational crimes. Through sustained cooperation and shared commitment, ASEAN will continue to advance a victim-centred and rights-based approach in our collective fight against trafficking in persons.



H.E. Dr. Kao Kim Hourn

Secretary-General of ASEAN

Foreword by Senior Officials Meeting on Transnational Crime

Trafficking in persons (TIP) remains one of the most complex and persistent forms of transnational crime confronting our region. It undermines human dignity, exploits the most vulnerable, and challenges the integrity of our borders and institutions. The ASEAN Compendium on International Legal Cooperation on Trafficking in Persons Cases is a testament to the region's steadfast resolve to collectively combat this crime through stronger, more coherent, and coordinated action.

This Compendium serves as both a technical guide and a practical reference for practitioners engaged in cross-border cooperation. It consolidates valuable experiences, legal insights, and good practices from years of dialogue and collaboration among ASEAN Member States, partner organizations, and international institutions. In doing so, it enhances our shared capacity to pursue justice across jurisdictions while upholding human rights and the rule of law.

As the Voluntary Lead Shepherd on TIP under the ASEAN Senior Officials Meeting on Transnational Crime (SOMTC), the Philippines takes pride in supporting the development of this important resource. We acknowledge with gratitude the invaluable contributions of our SOMTC counterparts, the ASEAN Secretariat, the Australian Government-funded ASEAN-Australia Counter Trafficking (ASEAN-ACT) program, and the United Nations Office on Drugs and Crime (UNODC), whose technical expertise and unwavering partnership made this initiative possible.

May this Compendium serve as an enduring symbol of ASEAN's unity of purpose and shared commitment to a region that safeguards the rights and freedoms of every person, particularly those most at risk. Together let us continue to build a stronger ASEAN Community founded on cooperation, justice, and human dignity.



NESTOR B. SANARES

Undersecretary for Peace and Order
SOMTC-Leader Philippines

Foreword by United Nations Office on Drugs and Crime

Trafficking in persons remains one of the most complex and pressing transnational crimes confronting the ASEAN region. Despite the strong legal and institutional frameworks established through the ASEAN Convention against Trafficking in Persons, Especially Women and Children (ACTIP), which incorporates the same criminal provisions as contained in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, supplementing the United Nations Convention against Transnational Organized Crime (UNTOC), far too many traffickers continue to operate with impunity. Criminal networks expand their operations across borders and continents, diversify, and rely on advancement of digital technology to avoid detection and prosecution while inflicting a long-term harm on victims.

International legal instruments and international cooperation are the cornerstones of effective and coordinated efforts to prevent and combat transnational crime, including trafficking in persons. The ASEAN Senior Officials Meeting on Transnational Crime (SOMTC) has long recognised the importance of practical guidance to give effect to these commitments. SOMTC, under the leadership of the Philippines as the Voluntary Lead Shepherd for trafficking in persons, initiated the development of this supplementary ASEAN Compendium on International Legal Cooperation in Trafficking in Persons Cases (ASEAN ILC Compendium).

The ASEAN ILC Compendium highlights recent threats in the region with respect to evolving technology and methods used by criminal groups, new forms of exploitation, and the increased complexity and cross-border nature of this crime. To support practitioners to address many of these challenges, it compiles examples of good practices of cross border cooperation, and checklists for practitioners to initiate, engage and execute international requests for cooperation in trafficking in persons cases. In addition, it comprehensively addresses informal cooperation between law enforcement authorities and describes the two principal forms of formal cooperation, that is mutual legal assistance (MLA) and extradition. Lastly, the Compendium identifies the latest operational needs of law enforcement agencies and reflects on the human rights and gender sensitive considerations in handling human trafficking cases. The Compendium is the result of an extensive collaborative process. Between 2022 and 2025, more than 260 practitioners across ASEAN and beyond contributed their expertise and experience, ensuring that the Compendium reflects the realities faced by investigators, prosecutors, policymakers, and frontline actors. Regional forums and workshops provided further opportunities to test and refine its content, grounding its application firmly in practice and application.

The fight against trafficking in persons requires more than domestic response. It demands strong cooperation, partnerships, trust, and the political will to act across borders. This Compendium represents ASEAN's commitment to advancing those partnerships and to ensuring that traffickers are held accountable, victims are protected, and justice is served.

On behalf of the United Nations Office on Drugs and Crime (UNODC) Regional Office for Southeast Asia and the Pacific (ROSEAP), I extend my gratitude to SOMTC, ASEAN Member States, and the ASEAN-Australia Counter Trafficking program whose dedication and collaboration made this Compendium possible.

It is our hope that this resource will serve as both a practical guide and an enduring symbol of our shared determination to strengthen international legal cooperation and bring an end to trafficking in persons in our region.



Delphine Schantz

United Nations Office on Drugs and Crime
Regional Office for Southeast Asia and the Pacific

Foreword by Australian Government

Trafficking in persons is one of the region's most complex challenges. It crosses borders, exploits vulnerable people and erodes the rule of law. Addressing this challenge requires ASEAN Member States and partners to work hand-in-hand to coordinate and take effective action to protect victims, prosecute offenders, and dismantle the networks that enable trafficking to proliferate.

The ASEAN Compendium on International Legal Cooperation on Trafficking in Persons Cases is an important resource that strengthens ASEAN Member States' ability to combat human trafficking. The Compendium provides practical guidance to strengthen cooperation in investigating and prosecuting trafficking in persons. It includes an overview of legal frameworks, human rights and gender equality considerations and case studies; identifies the political, legal, institutional and practical barriers to cooperation; and offers concrete strategies to overcome these barriers.

Australia is proud to have supported ASEAN to develop this Compendium through the ASEAN–Australia Counter Trafficking program, in partnership with the United Nations Office on Drugs and Crime Regional Office for Southeast Asia and the Pacific. For more than two decades, we have worked alongside ASEAN to strengthen justice systems, protect victims, and uphold the rule of law.

We extend our gratitude to the ASEAN Senior Officials Meeting on Transnational Crime (SOMTC) and all those who contributed to this important initiative.



H.E. Tiffany McDonald
Australian Ambassador to ASEAN



H.E. Jane Duke
Australian Ambassador to Counter Modern Slavery, People Smuggling and Human Trafficking

Acknowledgement

The ASEAN Compendium on International Legal Cooperation on Trafficking in Persons Cases (ILC Compendium) has been developed by the ASEAN Senior Officials Meeting on Transnational Crime (SOMTC) with the generous support of the Australian Government through the ASEAN-Australia Counter Trafficking (ASEAN-ACT) program in partnership with the United Nations Office on Crime and Drugs Regional Office for Southeast Asia and the Pacific (UNODC ROSEAP).

The development of this ILC Compendium, including the updating of the country profiles and “How to MLA” represents a collective effort that would not have been possible without the dedication, expertise, and collaborative spirit of numerous individuals and institutions across the region.

SOMTC wishes to extend appreciation to representatives of central authorities and prosecutors of ASEAN Member States, as well as representatives of the ASEAN Senior Law Officials Meeting (ASLOM), ASEAN Senior Officials' Meeting of the Central Authorities on Mutual Legal Assistance in Criminal Matters (SOM-MLAT), and the ASEAN Secretariat for their substantive contribution in the development of this Compendium. Their candid discussions on the obstacles they encounter in pursuing international legal cooperation and willingness to engage in open and constructive dialogue has enriched this resource immeasurably. Completion of the Compendium was also made possible by the leadership of SOMTC Philippines as the SOMTC Voluntary Lead Shepherd on TIP.

SOMTC would like to acknowledge and thank Dr Marika McAdam, the consultant supporting the development of this Compendium. We are also grateful to Ms. Darlene Pajarito and Ms Jenny Doan from ASEAN-ACT and Dr. Rebecca Miller from UNODC ROSEAP for their technical and facilitative support throughout the process. ASEAN-ACT and UNODC ROSEAP would like to extend their appreciation to the many individuals across eleven countries who contributed their time to provide insights during the consultation process that informed the development of this Compendium.

This ILC Compendium stands as a testament to the strength of regional collaboration and the shared determination to strengthen international legal cooperation in the fight against trafficking in persons. It is our hope that it will serve as a practical tool for practitioners throughout ASEAN and contribute meaningfully to the protection of the victims and the prosecution of perpetrators across borders.

To all who are part of this endeavour with unwavering commitment to justice – we offer our heartfelt thanks.

Acronyms

ACTIP	ASEAN Convention against Trafficking in Persons, Especially Women and Children
AICHR	ASEAN Intergovernmental Commission on Human Rights
AMMTC	ASEAN Ministerial Meeting on Transnational Crime
ASEAN	Association of Southeast Asian Nations
ASEAN-ACT	ASEAN-Australia Counter Trafficking
ASEANAPOL	ASEAN Chiefs of National Police
ASEAN MLAT	ASEAN Mutual Legal Assistance Treaty
CSO	Civil Society Organisation
ERN	Emergency Response Network
EU	European Union
HSU	ASEAN Heads of Specialist Anti-Trafficking Units
ILC	International Legal Cooperation
IO	International Organisation
JIT	Joint Investigation Team
MLA	Mutual Legal Assistance
MOU	Memorandum of Understanding
NGO	Non-governmental Organisation
OHCHR	Office of the High Commissioner for Human Rights
SEAJust	South East Asia Justice Network
SEZ	Special Economic Zone
SOMTC	ASEAN Senior Officials Meeting on Transnational Crime
SOP	Standard Operating Procedure
TIP	Trafficking in Persons
UN	United Nations
UNCAC	United Nations Convention against Corruption
UNODC	United Nations Office on Drugs and Crime
UNTOC	United Nations Convention against Transnational Organized Crime

Glossary

Non-punishment principle	For the purpose of this Compendium, the non-punishment principle refers to the ASEAN-recognised principle in which each ASEAN Member State shall, subject to its 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. ¹
Public Official	For the purpose of this Compendium, a public official is (i) any person holding a legislative, executive, administrative or judicial office of a Party, whether appointed or elected, whether permanent or temporary, whether paid or unpaid, irrespective of that person's seniority; (ii) any other person who performs a public function, including for a public agency or public enterprise, or provides a public service, as defined in the domestic laws of a Party and as applied in the pertinent area of law of that Party; (iii) any other person defined as a "public official" in the domestic laws of that Party. ²
Trafficking in Persons	Trafficking in persons is defined in the United Nations Trafficking in Persons Protocol supplementing the UNTOC and the ASEAN Convention Against Trafficking in Persons, Especially Women and Children, as follows: (a) "Trafficking in persons" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or 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 the victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any means set forth in subparagraph (a) have been used; (c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered "trafficking in persons" even if this does not involve any of the means set forth in subparagraph (a) of this article. (d) "Child" shall mean any person under eighteen years of age.
Victim of trafficking in persons	For the purpose of this Compendium, a victim shall mean any natural person who is subject to an act of trafficking in persons as defined in the ASEAN Convention against Trafficking in Persons, Especially Women and children. ³

¹ Article 14(7), ASEAN Convention against Trafficking in Persons, Especially Women and Children (ACTIP)

² Article 2(i), ASEAN Convention against Trafficking in persons, Especially Women and Children (ACTIP)

³ Article 2(e), ASEAN Convention against Trafficking in Persons, Especially Women and Children (ACTIP)

Introduction

One of the purposes of the Association of Southeast Asian Nations (ASEAN) is effective response to all forms of threats, transnational crimes and transboundary challenges, in accordance with the principle of comprehensive security.⁴ Yet the ASEAN region remains a hotspot for transnational organised crime, including trafficking in persons (TIP) on an unprecedented scale.

Formal and informal mechanisms are in place to support cooperation among ASEAN Member States against this crime.⁵ Examples include the ASEAN Heads of Anti-Trafficking Specialist Units (HSU) under the ASEAN Senior Officials Meeting on Transnational Crime (SOMTC) Working Group on Trafficking in Persons (SOMTC WG TIP); the *ASEAN Convention against Trafficking in Persons, Especially Women and Children* (ACTIP); the *ASEAN Treaty on Mutual Legal Assistance in Criminal Matters* (ASEAN MLAT); the United Nations Convention against Transnational Organized Crime (UNTOC) and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Trafficking in Persons Protocol) thereto, which all ASEAN Member States are party to; and various bilateral agreements between countries.

Notwithstanding this robust framework, there are few examples of cooperative efforts by ASEAN Member States to bring transnational organised criminal groups to justice. The cooperation that does take place in relation to TIP often relates to rescue and repatriation of victims, but not the investigation and prosecution of their traffickers. The offenders who are brought to justice are often low-level actors whose apprehension does little to disrupt trafficking routes and trends, meaning powerful players in organised crime continue to enjoy impunity.

This ASEAN Compendium on International Legal Cooperation on Trafficking in Persons Cases (compendium) is focused on international cooperation in addressing TIP. It addresses informal cooperation between law enforcement authorities, and two forms of formal cooperation, being mutual legal assistance (MLA) and extradition. For each, a dedicated section sets out:

- The international, regional and bilateral legal framework
- Human rights and gender equality considerations
- Case studies and examples
- Good practice tips, and
- Checklists for understanding and strengthening cooperation.

A fourth and final section sets out challenges to international cooperation as a basis for identifying, exploring and discussing opportunities to address them.

This compendium draws on wide consultation with officials across ASEAN Member States and beyond. Between the inauguration of the project in April 2022 and October 2023, 67 consultation meetings involving 261 practitioners were conducted across 11 countries. Challenges of international cooperation were further discussed at a dedicated Regional Forum held in March 2024 and full drafts of the compendium were subsequently reviewed by SOMTC, central authorities and prosecutors from the ASEAN Member States, Timor-Leste and relevant ASEAN Sectoral Bodies at ASEAN regional workshops held in Bangkok in December 2024 and May 2025. The ASEAN-Australia Counter Trafficking program (ASEAN-ACT) and UNODC are grateful for the time and insights expert practitioners have given to this initiative.

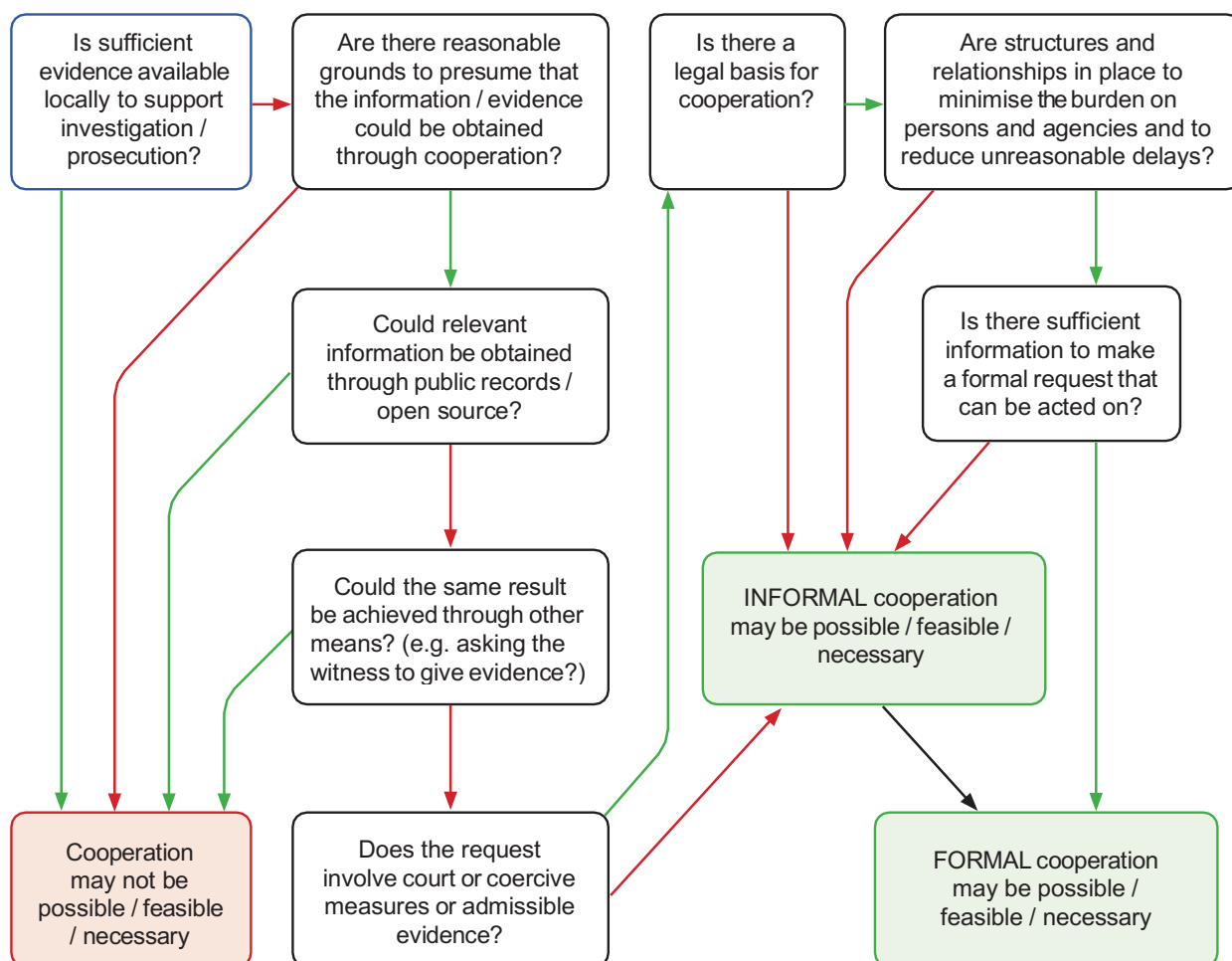
⁴ ASEAN Charter, Article 1(8).

⁵ The ASEAN region consists of the following ten Member States: Brunei Darussalam, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, the Philippines, Singapore, Thailand and Viet Nam.

Diagram: Whether and how to engage in ILC

Some TIP cases will not require international legal cooperation, while others may require multiple types of cooperation to be pursued in tandem. Decisions must be made early in investigations about whether to seek assistance and which form or forms of international cooperation are most appropriate to the situation.

Whether and how to engage in formal or informal cooperation in countering a transnational trafficking case



KEY: YES → NO →

Source: Developed on the basis of ASEAN Handbook on International Legal Cooperation in Trafficking in Persons Cases, pp.40, 6B.



1. Law enforcement (informal) cooperation

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Officials from one State can informally ask those in another State to share or obtain evidence that does not require a court order, without going through formal legal channels. This is known as informal, police-to-police, agency-to-agency, or law enforcement cooperation.

Examples of informal cooperation include taking voluntary statements and conducting interviews at the

request of another State, locating victims or providing publicly available records or government documents. Informal cooperation can be particularly useful between bordering countries and in relation to high-priority crime types, including trafficking in persons. It can also support formal cooperation including MLA and extradition.

Informal cooperation vs formal cooperation: Across ASEAN Member States, practitioners expressed the view that police-to-police cooperation is more efficient and therefore preferable to formal cooperation. For this reason, informal cooperation may be opted for in the first instance. Formal cooperation is vital to ensuring standards of confidentiality, due process, human rights and other requirements are adhered to and so that evidence obtained is admissible in court. While informal cooperation may be helpful to expedite and support formal cooperation, including MLA and extradition, it can never be a substitute for it.

Institutional frameworks for international cooperation: Informal cooperation relies on personal relationships and trust; this is both a strength and a liability.⁶ Rather than using formal procedures, police can simply reach out to each other. Institutional frameworks are in place to support informal cooperation in the region. For example, ASEAN maintains and disseminates a list of police focal points on trafficking in persons through the Heads of Specialist Units (HSU) under the SOMTC WG TIP, which serves as a mechanism for sharing information on TIP.

During consultations, INTERPOL and to a lesser extent, the ASEAN Chiefs of National Police (ASEANAPOL) were mentioned in some countries as useful for information exchange and police-to-police communication. However, few examples were offered of these mechanisms facilitating cooperation on human trafficking specifically (see case studies below at 1.3). The potential of ASEANAPOL to facilitate communication and contact between countries that lack bilateral agreements was raised at the ILC Workshop held in December 2024. Ultimately, irrespective of what mechanisms, if any, are used to facilitate informal cooperation, their success or failure depends on the individuals positioned to take action, and the initiative they take to do so.

1.1. Legal framework

International Law

The UNTOC and the Trafficking in Persons Protocol thereto, offer a basis for law enforcement cooperation against transnational organised crime in general, and TIP in particular. All ASEAN Member States are party to these instruments, though no examples were offered of their use during in-country consultations, pointing to opportunities and the need to build further understanding of how the UNTOC and the Trafficking in Persons Protocol can be used for mutual legal cooperation and other forms of cooperation.

Mutual law enforcement cooperation: Article 27 of the UNTOC requires States to closely cooperate in law enforcement activities against transnational organised crime. Through this provision, States have committed to cooperate, consistent with their domestic legal and administrative systems, to enhance the effectiveness of law enforcement action to combat offences covered by the UNTOC and its Protocols including the Trafficking in Persons Protocol. Under this article, States are to:

- Enhance and establish effective *channels of communication* on offences and their links with other criminal activities (article 27(1) (a)),⁷ and
- Cooperate in *conducting inquiries* with respect to the identity, whereabouts and activities of persons suspected of involvement in offences; movement of proceeds of crime or property; and the movement of property, equipment or other instrumentalities used in the commission of offences (article 27(1)(b))

⁶ Francis Pakes, *Comparative Criminal Justice* (4th edition, Routledge 2019) p.73. Pakes refers to the research of Peters, Vanderhallen and Nelen (2016), and points to their finding that Euro-regional police cooperation thrives on informal connections rather than organisational agreements, and that organisational frustrations are commonplace

⁷ The Association of Heads of Police of the Association of Southeast Asian Nations has been pointed to as a regional channel of law enforcement services. See *Practical implementation of article 27 of the United Nations Convention against Transnational Organized Crime* (law enforcement cooperation) UN Doc. CTOC/COP/WG.5/2023/2, 23 June 2023 [8]

- *Provide items or quantities of substances* for analytical or investigative purposes (article 27(1)(c))
- *Facilitate effective coordination* between their competent authorities, agencies and services and to promote the exchange of personnel and other experts, including posting of liaison officers (article 27(1)(d))
- *Exchange information* with States parties on specific means and methods used by organised criminal groups, including routes and conveyances and the use of false identities, altered or false documents or other means of concealing activities (article 27(1)(e))
- *Exchange information and coordinate administrative and other measures* for the purpose of early identification of offences (article 27(1)(f))
- Consider entering into or amending *bilateral or multilateral agreements* or arrangements on direct cooperation between law enforcement agencies, and using the Convention as the basis for mutual law enforcement cooperation where such treaties, agreements or arrangements do not exist (article 27(2))
- *Make full use of agreements or arrangements*, including international or regional organisations, to enhance cooperation between law enforcement agencies (article 27(2))
- Cooperate to respond to transnational organised crime committed through the use of *modern technology* (article 27(3)).

Joint investigations: Article 19 of UNTOC invites States to consider establishing joint investigative bodies in one or more States. In the absence of agreements or arrangements, joint investigations may be undertaken on a case-by-case basis, respecting the sovereignty of the State party in whose territory such investigations take place. Joint investigation may involve judicial and/or law enforcement authorities, but in practice, members of joint investigation teams or bodies are often law enforcement authorities carrying out investigation and operational activities.⁸ No examples were offered of joint investigations teams or bodies being established in relation to trafficking in persons on the basis of this provision.

Information exchange in relation to trafficking in persons: Article 10 of the Trafficking in Persons Protocol speaks specifically to cooperation of law enforcement, immigration or other relevant authorities through information exchange.

1. Law enforcement, immigration or other relevant authorities of States Parties shall, as appropriate, cooperate with one another by exchanging information, in accordance with their domestic law, to enable them to determine:
 - (a) Whether individuals crossing or attempting to cross an international border with travel documents belonging to other persons or without travel documents are perpetrators or victims of trafficking in persons;
 - (b) The types of travel document that individuals have used or attempted to use to cross an international border for the purpose of trafficking in persons; and
 - (c) The means and methods used by organised criminal groups for the purpose of trafficking in persons, including the recruitment and transportation of victims, routes and links between and among individuals and groups engaged in such trafficking, and possible measures for detecting them.

During in-country consultations, informal information exchange between States parties was mentioned, though the role of the Trafficking in Persons Protocol in supporting it was not.

Regional Law

ACTIP as a basis for information exchange and mutual law enforcement assistance: Article 20(1) of the ACTIP largely replicates article 27(1) of the UNTOC. As such, it requires States Parties to:

⁸ *Practical implementation of article 27 of the United Nations Convention against Transnational Organized Crime* (law enforcement cooperation) UN Doc. CTOC/COP/WG.5/2023/2, 23 June 2023 [39]

- Cooperate closely and establish as well as utilise existing *channels of communication* to facilitate secure and rapid information exchange (article 20(1)(a) to (c));
- Consider entering into or amending *bilateral or multilateral agreements* on direct cooperation, and using the ACTIP as a basis for mutual law enforcement cooperation in the absence of such agreements or arrangements (article 20(2) and (3))
- Cooperate across borders, by establishing and maintaining direct channels of communication and enhancing intelligence exchange and information sharing through establishing, developing and using appropriate databases (article 13(1)(a) and (b))
- Facilitate effective coordination and promote exchange of personnel and other experts, including posting of liaison officers (article 20(1)(d))

ACTIP identifies the SOMTC, supported by the SOMTC WG TIP, as the body responsible for coordinating anti-trafficking responses across the region.⁹

During consultations, ACTIP was explained in practice as being a basis for ASEAN-ACT-facilitated bilateral law enforcement meetings and a tool for advocacy by non-state actors such as ASEAN-ACT, but was not referred to as a basis for direct cooperation between law enforcement agencies.

ASEAN Plan of Action Against Trafficking in Persons, Especially Women and Children (ASEAN Plan of Action) as a basis for joint investigation teams: The ASEAN Plan of Action requests States to strengthen operational cooperation between ASEAN Member States in accordance with their domestic law and bilateral or multilateral agreements, including by putting together joint investigation teams of concerned ASEAN Member States where appropriate.¹⁰ During consultations, no examples were offered of joint investigation teams established relating to TIP. However, there have been several media and other reports of law enforcement agencies from different countries in the region and beyond, cooperating to rescue victims who have been trafficked into forced criminality in scamming compounds.¹¹

Bilateral Law

Domestic Law

Many bilateral agreements exist or are being drafted to strengthen cooperation. For example, Thailand has bilateral agreements with Cambodia (2005), Lao PDR (2017), Myanmar (2009), and Viet Nam (2008) on addressing TIP, all of which include references to cross-border cooperation in investigations and judicial processes. The Philippines National Police (PNP) and the Indonesian National Police (INP) signed an MOU in 2005 on preventing and combatting transnational organised crime and capacity building. It was renewed in 2011 and includes TIP. There is also a bilateral agreement between Indonesia and Cambodia that includes trafficking in persons cases.¹² Other examples also include a 2002 agreement on information exchange and establishment of communication procedures, including on trafficking in persons, between the Philippines, Indonesia and Malaysia. Almost no references were made to these or other bilateral instruments during in-country consultations carried out by ASEAN-ACT and UNODC for the purpose of informing this compendium.

In addition to counter-trafficking legislation, criminal procedure as well as human rights laws are relevant to police cooperation.

⁹ Article 24 paragraph 1 of ACTIP.

¹⁰ ASEAN Plan of Action, Plan D paragraph (d)

¹¹ See inter alia, *Operational Analysis: Online scams and human trafficking in South East Asia, Update 2 – From Regional to Global Threat* (6 July 2023, 2023/923/OEC/VCO/HTSM/SBA), on file with author.

¹² On the sidelines of the 17th ASEAN Ministerial Meeting on Transnational Crime (AMMTC) in 2023, Indonesia signed Memorandums of Understanding (MoUs) on transnational crime with Cambodia, Lao PDR, Malaysia, Singapore, Thailand and Viet Nam, <https://en.antaranews.com/news/291705/indonesia-six-asean-members-ink-mou-on-transnational-crime>.

1.2. Human rights and gender equality considerations

Cooperation in accordance with international human rights obligations: Both victims and offenders must be treated in accordance with a State's international human rights obligations. Human rights considerations are also critical for the gender-responsive, victim-centred approaches that ASEAN Member States have committed to take in their counter-trafficking efforts. These approaches require that the needs and concerns of victims are balanced against operational objectives. That balance also must be considered in any decisions made about whether and how law enforcement agencies should cooperate in trafficking in persons cases. States of origin, transit and destination for human trafficking who are parties to the Trafficking in Persons Protocol are required, as appropriate, to cooperate with one another by exchanging information, in accordance with their domestic law, to enable them to identify perpetrators or victims of human trafficking and the means and methods used by organised criminal groups for the purposes of human trafficking. Cooperative actions, whether through joint investigation or through the collection, disaggregation, exchange and analysis of information, data and intelligence, should be gender-responsive and uphold the right to privacy, safety, reputation and due process rights, among others, in accordance with a state's international human rights obligations.¹³ Significantly, any use of force in joint investigations should comply with the principles of necessity, legality and proportionality.

Human rights protection instrumental to cooperation: Violations of the human rights of victims and offenders reduce State capacity to cooperate against transnational trafficking. States may be reluctant to share information with other ASEAN Member States because they are concerned its use may violate human rights, including in relation to privacy and data collection and the accused person's right to a fair trial. In such cases, formal processes to allow assurances to be made may be preferred, resulting in delays and missed opportunities for informal cooperation. Approaches compliant with applicable international human rights law are therefore instrumental for effective cooperation. States that uphold applicable international human rights standards in counter-trafficking efforts make for more reliable partners; trust is built in criminal justice systems, and counterparts are more likely to share information, make requests and enter into joint arrangements.

Human rights risks in informal cooperation against trafficking: Risks to human rights arise in informal cooperation, where police or other law enforcers' capacity is insufficient to adhere to applicable international human rights standards and apply gender-responsive approaches. In the absence of common screening and referral approaches between ASEAN Member States, victims of transnational trafficking – including into scamming centres - are often not identified.¹⁴ Inconsistent understandings of human rights and human trafficking can result in misidentification and potential punishment of victims of trafficking while their traffickers go free, or result in the wrong people being treated as traffickers or otherwise punished.¹⁵ Where information shared across borders is not acted on, rights of victims are violated through prolonged exploitation, and trust between counterparts is damaged. Where information shared in relation to human trafficking is misused for other purposes that are detrimental to human rights (for instance, information shared for the purpose of supporting victim rescue is instead used to punish victims), States are at risk of violating the human rights of people they are obliged to protect, trust between States is damaged and incentive to further cooperate is diminished. Human rights violations can also result from how law enforcement officials treat victims, suspects and others they encounter in counter-trafficking investigations.

Partnerships with non-state actors: Partnerships including with non-state actors can support law enforcement responses to trafficking in persons that adhere to a State's applicable international human rights obligations.¹⁶ Examples include the involvement of non-governmental, civil society and other relevant organisations in capacity building in relation to human rights, child and gender-sensitive approaches (article 10(2), Trafficking in Persons Protocol). NGOs also play a role in supporting rights-

¹³ Gender Issue Paper (UNODC, 2022), pp.42-43. Cross reference to Chapter III. of Model Legislation Provisions (2021) relevant to law enforcement cooperation and joint investigations

¹⁴ Mr Sokcha Mom, Director, Legal Support for Children and Women (LSCW), Cambodia, speaking at ASEAN-ACT webinar 'Workers forced to scam online: trafficked or not?' 19 May 2023.

¹⁵ See for instance, *Implementation of the Non-Punishment Principle for Victims of Human Trafficking in ASEAN Member States* (ASEAN-ACT, 2021). Also see *Online Scam Operations and Trafficking into Forced Criminality in Southeast Asia: Recommendations for a Human Rights Response* (OHCHR, August 2023) 20-21.

¹⁶ The supportive roles of both ASEAN-ACT and UNODC were noted by some practitioners in this context.

based recovery and repatriation of victims and their representation in court, and facilitating contact between law enforcement and the people they may need to engage in ensuring adherence to applicable international human rights standards (see case study examples in section 1.3. below).

Consultation with a range of non-state actors in the development of counter-trafficking plans and policies can be beneficial to State efforts to adhere to applicable international human rights standards. Critically, it is States who have obligations in international law to respect, protect and fulfil human rights. Cooperation and consultation with non-state actors do not absolve or displace these obligations, though it may support States to fulfil them.

Consultation example: Malaysia NAPTIP 3.0

In 2021, the Malaysian government launched its [National Action Plan on Anti-Trafficking in Persons \(2021-2025\)](#), known as NAPTIP 3.0., was developed on the basis of widespread consultation with government agencies, non-governmental organisations, civil society organisations and international organisations, including both ASEAN- ACT and UNODC. Among its guiding principles are commitment to take a human rights-based and gender-responsive approach. In relation to international law enforcement cooperation NAPTIP 3.0 states that “Malaysia will continue to forge cooperation including supporting working groups, bilateral agreements and MOUs with other strategic foreign partners to enhance coordination efforts, particularly in judicial cooperation through mutual legal assistance and law enforcement cooperation through use of joint investigative teams or joint capacity building programmes, and in ensuring safe and fair migration.”¹⁷

Failure to act against trafficking may have implications on human rights: Under Article 9 of the Trafficking in Persons Protocol, States shall establish comprehensive policies, programmes and other measures to prevent and combat trafficking in persons, and to protect victims of trafficking in persons from revictimisation. In practical terms, this means law enforcement should, as appropriate, cooperate with one another by exchanging information, in accordance with their domestic law. Cross-border cooperation can also include human rights-based, victim-centred, trauma-informed and child-friendly rescues and repatriations of victims, and investigations of traffickers. Failure of police to take action upon receipt of credible information about trafficking within their territory, may amount to a failure to fulfil counter-trafficking obligations.

1.3. Case studies and examples

Some countries reported successful law enforcement cooperation within the region, while others noted more success with jurisdictions outside ASEAN. Indeed, cooperative action against trafficking within the region is sometimes instigated by countries outside of it who share information with authorities in ASEAN Member States about trafficking that is occurring within their countries. Several challenges were identified in informal cooperation, including language barriers and human rights risks, among others. These and other challenges are the subject of Part 4.

Transnational information sharing: Some practitioners expressed the view that information sharing with neighbouring countries would be useful but that they would not reach out directly to counterparts. Instead, practitioners would approach their central authority if they had information to share. This may be owing to a range of reasons from lack of understanding of processes and powers for information sharing and a preference to instead liaise with national partners rather than international partners. Deficiencies in information flows were noted. By way of example, countries outside the region inform immigration authorities of inbound travellers who pose a threat, but there is no ASEAN-wide system to communicate such information within the region. No tangible examples were offered of the HSU Process being used to share information.¹⁸ The 39th meeting of the ASEAN Heads of Specialist Anti-Trafficking Units (HSU) was held in Penang, Malaysia in February 2025, with 38 delegates from 10 ASEAN Member States attending, as well as representatives from the ASEAN Secretariat.

¹⁷ *National Action Plan on Trafficking in Persons (2021-2025)*, Malaysia, 2021, 27.

¹⁸ The revised Terms of Reference (TOR) of the HSU was endorsed ad-referendum on 20 March 2025.

The 2025-2026 work plan was discussed.¹⁹

Law enforcement cooperation to rescue victims of trafficking: There have been cases of police travelling to destination countries where their nationals are trafficked, and supporting police in those countries to carry out rescues. For instance, police have crossed borders to rescue victims trafficked into casinos, scamming centres, forced marriage or surrogacy. Effective operations may involve embassies and NGOs. However, there are also reports of countries not taking action to rescue victims, even when they informally receive information from other countries, including victims' countries of origin, as well as the situation and whereabouts of their citizens. In some cases, police noted that they cannot take action without a formal letter requesting them to do so. For instance, cooperation on trafficking cases with the National Police Criminal Investigation Unit (CID) of the Indonesian National Police must be carried out through an official letter from the Ministry of Foreign Affairs or the Coordinating Ministry for Political and Security Affairs.

Informal cooperation to rescue victims from scamming and gambling: People are being trafficked from around the world but particularly from the ASEAN region, into scam centres run by organised crime groups in Southeast Asia. Human trafficking into scamming has been detected in the region (and elsewhere) as far back as a decade ago, however, the phenomenon, particularly in Special Economic Zones (SEZs) across the region²⁰ has escalated for a range of reasons since the start of Covid-19 era to an unparalleled scale and gravity.²¹ ASEAN countries whose citizens are trafficked into these situations report mixed success in cooperating with government officials from destination countries. There have been joint operations that have successfully freed victims, but other times calls to rescue victims go unanswered or result in victims being moved rather than freed. ~~There have been occasions of police not carrying out rescues in SEZs unless they are paid to do so by third parties, including NGOs and family members of victims. In some cases, traffickers are not arrested but are paid to release victims. Even when victims are rescued by police, their traffickers may not be arrested. Corruption poses a significant challenge; there are reports of police not acting unless they are paid, or acting in concert with traffickers.~~

Cooperation to investigate transnational organised crime: Even where police in origin and destination countries cooperate to remove victims from trafficking situations, they may not work together to build evidence against traffickers and map the relationships between them. In the specific case of transnational trafficking into scamming centres, lack of cooperation from destination countries has reportedly hampered efforts to prosecute traffickers.²² No examples were provided of international cooperation to investigate transnational organised crime groups involved in human trafficking in the region.

Traffickers' ability to move large numbers of victims of forced criminality between countries in the region speaks to the transnational reach and power of transnational crime groups across the region, and the need for it to be confronted with similarly agile law enforcement cooperation.²³ However, there have been challenges in sharing information bilaterally and regionally, and the development of SOPs for law enforcement cooperation has been slow.²⁴ Where law enforcement officers are not willing or able to apply special investigative techniques or cooperate across borders to investigate traffickers, trafficking in persons is often not treated as serious organised crime but as a labour or migration issue. As a result, serious criminals evade justice while low-level actors who can be pursued with evidence available domestically are pursued in their stead.²⁵ There are also concerns that victims rather than their traffickers, are the subject of investigation and prosecution. Countries have informally cooperated to rescue large numbers of victims of trafficking for forced criminality from scamming facilities, but many are subsequently prosecuted for their involvement in scamming, contrary to the non-

¹⁹ <https://asean.bernama.com/news.php?id=2394786>

²⁰ Now referred to as 'Internet Gaming Licensees' (IGL).

²¹ See *Casinos, cyber fraud, and trafficking in persons for forced criminality in Southeast Asia: Policy Report* (UNODC ROSEAP, September 2023)

²² *Trafficking in Persons Report* (United States Department of State, June 2023), Viet Nam country report

²³ *Online Scam Operations and Trafficking into Forced Criminality in Southeast Asia: Recommendations for a Human Rights Response* (OHCHR, August 2023) 29

²⁴ *Trafficking in persons for forced criminality to commit online scams and fraud in the context of transnational organized crime in Southeast Asia: Policy Brief – Summary Overview* (UNODC ROSEAP, July 2023) 7

²⁵ In worst cases, victims of trafficking may be prosecuted for offences they have committed in the course of being trafficked, contrary to the non-punishment principle. See for instance: *Implementation of the Non-Punishment Principle for Victims of Human Trafficking in ASEAN Member States* (ASEAN-ACT, 2021)

punishment principle contained in ACTIP.²⁶

Role of non-state actors in supporting law enforcement cooperation: International organisations, NGOs and civil society groups can support transnational investigative cooperation. Examples that were raised in the context of consultations included NGOs bringing the plight of victims of trafficking to the attention of police or supporting law enforcement to cooperate with counterparts across borders (such as Chab Dai in Cambodia). The role of regional and international organisations was also noted. Specifically, the role of ASEAN-ACT and its predecessor programmes in supporting bilateral police-to-police dialogues between law enforcement officials on trafficking in persons (e.g. Thailand and the Philippines, Thailand and Cambodia; the Philippines and Malaysia) was cited as a good practice in providing opportunities for police counterparts to meet.²⁷ For operational cooperation, UNODC through the Criminal Network Disruption Global Programme (CRIMJUST) and SEAJust were noted as strengthening cooperative police efforts against trafficking. INTERPOL's International Child Sexual Exploitation (ISCE) image and video database was mentioned as a useful source, and its I-24/7 system was recommended as a secure platform for police communication.

Case study: Emergency Response Network (ERN)

In 2024, UNODC established the Emergency Response Network (ERN) to enhance informal cooperation and coordination across the region against transnational criminality, particularly in the context of human trafficking into forced criminality in scamming. The ERN serves as a platform for the timely exchange of information among law enforcement agencies from Cambodia, Indonesia, Lao PDR, Malaysia, the Philippines, Thailand and Viet Nam, with UNODC and Interpol playing supporting roles. The network is designed to dismantle scam compounds, identify and rescue victims, and bolster both domestic and regional investigations. It has been highly effective in facilitating information sharing, supporting the rescue of victims and promoting discussions among counterparts.²⁸

Case study: Brunei Darussalam authorities share information on potential trafficking

Vietnamese nationals illegally entered Brunei Darussalam via Malaysia, and went to the Vietnamese embassy to seek assistance. They claimed to have been forced to take part in sexual and drug-related activities in Malaysia. Authorities in Brunei Darussalam investigated them as both victims of trafficking and illegal immigrants, and protected as victims by being placed in shelters. Information about a potential syndicate running a massage parlour in Malaysia was provided by Brunei Darussalam authorities to Malaysia, for Malaysia's further investigation. Close cooperation was reported between authorities in Brunei Darussalam, Malaysia and Viet Nam.

Case study: Thai DSI and Dubai Police rescue 7 Thai women in Dubai

In May 2021, officials of the Thai Bureau of Human Trafficking Crime coordinated with Dubai Police's

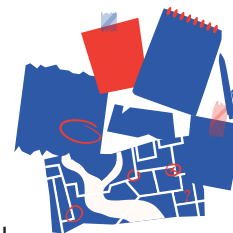
²⁶ Here it must be noted that concerns have been raised that many victims who have been rescued are subsequently prosecuted for their involvement in scamming, contrary to the non-punishment principle contained in ACTIP. See *inter alia*, *Online Scam Operations and Trafficking into Forced Criminality in Southeast Asia: Recommendations for a Human Rights Response* (OHCHR, August 2023) 20. The ASEAN Guideline on the Implementation of the Non-Punishment Principle for Protection of Victims of Trafficking in Persons was adopted and endorsed on 22 April 2025 and is available at <https://asean.org/book/asean-guideline-on-the-implementation-of-the-non-punishment-principle-for-protection-of-victims-of-trafficking-in-persons/>.

²⁷ **Thailand (RTP) and Philippines (PNP):** Ad-hoc support to respond to a request from Thailand counterparts to reach out to rescue three Thai nationals being held in the Philippines. In 2022, AACT hosted a bilateral between RTP and PNP in relation to the online scamming situation and trafficking of Thais to the Philippines. **Thailand (DSI) and Cambodia (CNP):** Agreement to normalize communication and cooperation in relation to trafficking into scamming and call centres. **Philippines (PNP) and Malaysia (RMP):** Agreement to continue to communicate; focal persons have stayed in contact with each other. Regional workshop with ASEANAPOL could not be implemented due to Myanmar's current leadership of ASEANAPOL.

²⁸ <https://www.unodc.org/roseap/en/2024/05/emergency-response-network/story.html>

Criminal Investigation Department (CID) in Dubai to rescue Thai women in a brothel in Dubai owned by a group of Chinese nationals and run by a Korean. The Bureau's officials requested the Royal Thai Consulate-General in Dubai to rescue the Thai women.²⁹

Case study: European Joint Investigation Teams (JITs) investigate organised crime involved in trafficking in persons



Eurojust has established several JITs to conduct criminal investigations of human trafficking and financial investigations in parallel to the trafficking investigations, on the basis of article 13 of the Mutual Assistance in Criminal Matters between the Member States of the European Union of 29 May 2000 (MLA 2000) and the Council Framework Decision of 13 June 2002 on joint investigation teams. Third countries have been engaged on the basis of JITs established with authorities in EU Member States or the United Nations Convention against Transnational Organized Crime.³⁰

In February 2023, joint action was taken by law enforcement authorities from Belgium, Germany, Poland and Spain, against an organised crime group involved in trafficking women from China for sexual exploitation in Europe. Coordinated efforts commenced in October 2020, with operational support from Europol and Eurojust. On 7 February 2023, 28 suspects were arrested and 34 searches carried out. €1.5 million in cash and 4 tonnes of €1 and €2 coins were seized.³¹

The ASEAN Convention on Mutual Legal Assistance does not contain any provision specific to JITs that is equivalent to article 13 of the EU MLA 2000 treaty. Furthermore, while one of the functions of ASEANAPOL is to facilitate and coordinate joint operations, it lacks a legal basis for supporting operational activities, equivalent to the Europol Model Agreement for setting up JITs.³² In the absence of a formal regional mechanism for judicial and law enforcement cooperation, ASEAN Member States are more likely to participate in JITs on an ad hoc basis. However, article 19 of the UNTOC – which all ASEAN Member States are party to – offers a basis for establishing JITs and through the ASEAN Plan of Action against Trafficking in Persons, Especially Women and Children, ASEAN Member States have resolved to put joint investigation teams for operational cooperation.³³ Notwithstanding these opportunities, no specific examples of JITs to investigate transnational trafficking in persons were offered during the consultations carried out for the purpose of this compendium.

Case study: Taiwan Province of China (PoC) cooperates with countries in Europe to disrupt scamming centres



Facts: Tsai Chia-wei and his associates established telecom scam operations in Croatia and Slovenia. By impersonating Chinese government officials and police they persuaded Chinese residents to wire money to their accounts. Tsai recruited young Taiwanese professionals to work at these premises, with promises of well-paid jobs in Europe.

Cooperation: Taiwan PoC's Criminal Investigation Bureau (CBI) cooperated with Croatian and Slovenian authorities to launch Operation Hammer in January 2018. Cooperation between CBI agents, judiciary and police officials resulted in arrests of more than 100 people including 97 Taiwanese and a few Croatians and Slovenians. Bureau agents and prosecutors also confiscated Tsai's assets from

²⁹ <https://www.dsi.go.th/en/Detail/a1fa155db1169a22dda78377c1b3654e>

³⁰ European Report on Trafficking in Human Beings: Best practice and issues in judicial cooperation (Eurojust, February 2021), pp.15-16

³¹ <https://www.eurojust.europa.eu/news/joint-action-against-human-trafficking-belgium-and-spain>

³² See <https://www.europol.europa.eu/cms/sites/default/files/documents/jit-2017-model-en.pdf>

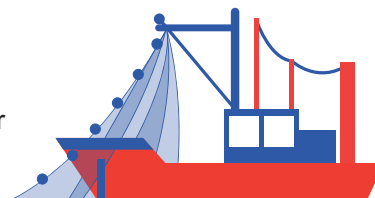
³³ See ASEAN Plan of Action against Trafficking in Persons, Especially Women and Children, Paragraph D(d).

Taiwanese and foreign bank accounts, as well as four properties and 24 luxury cars.

Outcome: In March 2019, the Miaoli District Court convicted Tsai of organised crime and fraud and sentenced to nine years and four months as well as three years of mandatory labour. His three main accomplices were also given sentences of between four years and two months to five years and six months. The court ruling noted that the scam badly damaged Taiwan PoC's international image.³⁴

Case study: Informal cooperation to prosecute trafficking into the fishing industry

Facts: In early 2015, Indonesian authorities became aware of Myanmar nationals being trafficked into slavery in the fishing industry. Hundreds were repatriated from Benjina, Indonesia, to Myanmar, after months or even years enslaved at sea.



Cooperation: More than 750 men were returned to Myanmar. Myanmar National Police interviewed most of the men and shared information with Indonesian authorities. Through informal cooperation between Myanmar's National Police and Indonesia's Victim and Witness Protection Agency (LPSK) potential victim-witnesses were brought from Myanmar to Indonesia to give evidence at trial of suspected traffickers. Of the hundreds of victims who were returned to Myanmar, 22 were located and brought to Indonesia to testify and given restitution. LPSK secured the support of an international organisation to fund the costs of bringing the victims to Indonesia, including transportation, subsistence and interpretation. During the trial, the victims were protected and provided accommodation in an LPSK shelter and hotel.

Outcome: Three Indonesian employees and five Thai boat captains were convicted of trafficking offences in March 2016. They were sentenced to three years imprisonment and ordered to pay a fine equivalent to USD\$12,250, and the five captains a total of \$67,000 in compensation to their crew members.³⁵

Case study: INTERPOL's Operation Storm Makers

Operation Storm Makers was held in March 2022 involving all but one ASEAN country, among several others outside the region.³⁶ Operation Storm Makers is reported to have triggered 121 arrests across 25 countries and prompted 193 investigations of trafficking in persons and smuggling of migrants. It reportedly resulted in the rescue of 80 victims of trafficking, including Malaysian victims trafficked into call centres in Cambodia, the rescue of 32 victims of trafficking in the Philippines, and the arrest of eight suspects on charges of trafficking, child exploitation and abuse. It also resulted in the interception of smuggled Vietnamese migrants enroute to Germany.³⁷ Notwithstanding that all but one ASEAN country took part in Operation Storm Makers, it was mentioned in only one in-country consultation.

³⁴ Source: <https://www.taipeitimes.com/News/taiwan/archives/2019/03/07/2003711005>

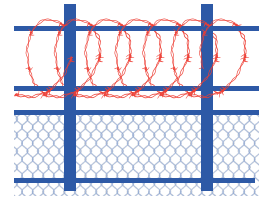
³⁵ Some experts and victims do not consider these punishments and penalties to be commensurate with serious nature of the crime. The Thai companies who owned the vessels were not prosecuted. Hundreds of victims could not be located after they returned to Myanmar.

³⁶ Australia, Bangladesh, Brunei Darussalam, Cambodia, China, France, Germany, Greece, India, Indonesia, Laos, Malaysia, Maldives, Myanmar, Pakistan, Philippines, Portugal, Qatar, Romania, Singapore, Spain, Turkey, UAE, UK, Viet Nam.

³⁷ <https://www.interpol.int/en/News-and-Events/News/2022/121-arrests-in-operation-against-migrant-smuggling-and-human-trafficking-INTERPOL#:~:text=Operation%20Storm%20Makers%20busts%20criminal,countries%2C%20prompting%20193%20new%20investigations.>

Case study: Multi-disciplinary cross-border cooperation

In April 2020, Bahrain convicted eight people, which included five women and two men from the Philippines, for trafficking two Filipino women. The Blas F Ople Policy Centre, the Philippines Inter-Agency Council against Trafficking (IACAT) Task Force on Trafficking of Overseas Filipino Workers (OFWs), under a partnership with the Global Fund to End Modern Slavery (GFEMS), with the Philippine Department of Foreign Affairs (DFA) supported the conviction by securing strong evidence from two victims who had returned to the Philippines. The victims, two Filipino women who had been working in Dubai were trafficked when they responded to a fraudulent job offer in Bahrain. Upon their arrival in Bahrain, the traffickers forced them into commercial sex for several months. The DFA used diplomatic channels to cooperate in the absence of a formal MLA treaty with Bahrain.³⁸



Case study: The Philippine Internet Crimes against Children Center (PICACC)

The Philippine Internet Crimes Against Children Center (PICACC) provides victim-centred approaches to the investigation of cybercrimes against children. The centre was inaugurated in February of 2019 to combat online sexual exploitation of children. It involves cooperation among local and international law enforcement, including the Philippine National Police's Women and Children Protection Center (PNP-WCPC), the National Bureau of Investigation - Human-Trafficking Division (NBI-AHTRAD), the Australian Federal Police (AFP), and the United Kingdom National Crime Agency (UK NCA); in partnership with non-government organisation, International Justice Mission (IJM). During consultations, Australia pointed to PICACC as a tool for cooperation.



Case study: The Philippines and Australia

Australian Border Force (ABF) carried out a search on the bags of an Australian man at Sydney Airport, returning from the Philippines. They found information about his intent to pay for the sexual abuse of children overseas. ABF alerted the Australian Federal Police, who shared the information with PNP and PICACC. In July 2023, authorities in the Philippines removed 16 children from four locations in Taguig and Nueva Vizcaya.³⁹

Case study: Informal cooperation between Thailand and Country X⁴⁰

Facts: The alleged victim, a man from Myanmar, was recruited to work in Malaysia. Enroute to Malaysia, he was detained by the suspects in a jungle camp near the Thai-Malaysia border. The defendant, a Thai male who controlled the camp with many gang members, called the family of the victim and demanded a ransom while he assaulted and threatened the victim. He also threatened to sell the victim to a fishing vessel if ransom was not paid. The family paid a ransom of around US\$2000 in exchange for the victim's freedom. The accused and other members of the gang were arrested. The accused, being the boss of a criminal gang and a local politician with influence and money to corrupt officials in the area, was charged with human trafficking, among other crimes. The victim was given humanitarian protection in Country X. All the witnesses in



³⁸ <https://gfems.org/uncategorized/philippines-partners-assist-bahrain-in-conviction-of-eight-traffickers-guilty-of-trafficking-two-ofws/>

³⁹ <https://www.abc.net.au/news/2023-07-05/international-investigation-rescues-children-from-abuse/102563598>

⁴⁰ Country has been anonymised to protect the victim-witness

the case had been threatened with death if they testified in the case, and there was no witness protection program in place.

Cooperation: The Kingdom of Thailand requested Country X to serve a subpoena to the victim to appear in a Thai court as a witness against the accused. Requests to adjourn the case were rejected and it was not deemed feasible for the formal MLA request to be fulfilled in time for the trial. Informal cooperation channels were used to liaise with the witness who agreed to testify. Thailand paid for the victim to travel to Thailand.

Outcome: The Court of First instance dismissed the case and acquitted the defendant but the Court of Appeal returned the case for trial. The Supreme Court convicted the defendant for human trafficking, as well as offences against liberty, immigration-related offences and weapon possession. He was sentenced to 22 years and 6 months imprisonment and ordered to pay compensation of US\$4200.

1.4. Good practice tips

Ten good practice tips for law enforcement cooperation:

1. Build internal capacity to cooperate
2. Establish interpersonal relationships to build cooperative capacity
3. Engage with liaison officers to support cooperation
4. Engage with NGOs to support cooperation
5. Provide feedback and share outcomes with counterparts
6. Handle evidence in accordance with applicable rules of evidence
7. Apply specialist investigative techniques to proactive investigations
8. Use ASEAN Practitioner Guidelines in law enforcement cooperation
9. Reduce formality of communication between law enforcement officials
10. Put frameworks and mechanisms in place to facilitate effective cooperation

[1] Build internal capacity to cooperate: Countries that coordinate effectively at the national level make for better international partners. Police should be equipped with sufficient information and autonomy to reach out to colleagues in different agencies. Secondments both within and between States can strengthen domestic coordination, knowledge-sharing, capacity building and relationships.

Case study: UK Joint International Crime Centre

In April 2023, the UK launched the Joint International Crime Centre (JICC). Hosted by the National Crime Agency, JICC consolidates and enhances the UK's capabilities around international law enforcement cooperation and coordination to respond to transnational crime. The JICC brings together the capabilities of the National Crime Agency's International Crime Bureau (UKICB) and policing's International Crime Coordination Centre (ICCC), and is integrated with its International Liaison Officer (ILO) network spanning more than 120 countries. The JICC takes a multi-agency approach to tackle organised crime.⁴¹

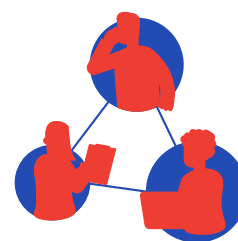
⁴¹ <https://nationalcrimeagency.gov.uk/news/joint-international-crime-centre-launches>

[2] Establish interpersonal relationships to build cooperative capacity: People who know and trust each other are more likely to cooperate. Police should build interpersonal relationships with counterparts in countries of relevance for counter-trafficking. Focal points should be appointed and counterparts kept informed of any staffing changes. Channels of coordination should be kept as informal as possible between police or law enforcement counterparts.

[3] Engage with liaison officers to support cooperation: Liaison officers can be effective conduits of police-to-police and border-to-border cooperation. Where they are ineffective, they can be single points of failure. But where they are effective, the relationships they build can facilitate cooperation between their host and their home countries. Local authorities can establish cooperation mechanisms to engage with foreign government embassies about suspected trafficking. Police attachés at embassies can liaise with local authorities in actions to rescue nationals and support victim assistance and protection.⁴² Airport liaison officers can prevent transnational trafficking by bringing information to border officials in countries of origin and transit. Liaison officers can also engage with prosecutors early in proceedings, where formal cooperation may be required. Countries outside ASEAN also post liaison officers in the region to support engagement with local authorities. Particularly where cooperating countries are far from each other, police based in embassies abroad can facilitate real-time communication and avoid barriers posed by time differences.

Case study: Eurojust

Eurojust is the European Union (EU) Agency for Criminal Justice Cooperation based in The Hague, the Netherlands. Through Eurojust, national judicial authorities work together to fight serious organised cross-border crime including human trafficking. Each EU member state second a National Member to create the College of Eurojust which is responsible for operational work.⁴³ On human trafficking, Eurojust:



- Gathers evidence and shares information to support national authorities to work together to build cases against suspects and identify links between jurisdictions or investigations, and decide on a prosecution strategy.
- Provides a forum to discuss, participate in and fund Joint Investigation Teams (JITs). It facilitates the issuing of European Arrest Warrants (EAWs) and European Investigation Orders (EIOs) and enables the issuing and execution of freezing and confiscation orders during criminal proceedings.
- Assists authorities to coordinate efforts to locate and protect victims across countries during criminal proceedings and common action days
- Helps countries to clarify requirements for hearing victims in accordance with different Member States legislation.

Eurojust advocates for early cooperation as part of the obligation to respect the rights of all victims of human trafficking, underlining that greater focus on victims leads to greater success in prosecuting traffickers.⁴⁴ Eurojust has cooperation agreements with third States outside of the EU, and a network of contact points worldwide to allow effective cooperation with non-EU States.⁴⁵

[4] Engage with NGOs to support cooperation: NGOs and civil society actors play a valuable role in supporting informal cooperation, whether by making introductions to key counterparts, locating and engaging with victims or witnesses, or providing victims and witnesses with support services to enable them to engage with authorities. Law enforcers should build relationships with NGOs while law and policy makers should support the work of NGOs by removing barriers to their work.

⁴² For instance, Indonesian National Police coordinate via their Ministry of Foreign Affairs presence in destination countries including Saudi Arabia, Malaysia, Cambodia, and Viet Nam.

⁴³ <https://www.eurojust.europa.eu/about-us/who-we-are>

⁴⁴ European Report on Trafficking in Human Beings: Best practice and issues in judicial cooperation (Eurojust, February 2021), p.22.

⁴⁵ <https://www.eurojust.europa.eu/crime-types-and-cases/crime-types/trafficking-human-beings>

Case study: NGO supports police to obtain witness statement across borders

In a case involving trafficking of persons for forced labour, authorities sought a statement from a witness in another country. An MLA request had been sent to that country, but no response was received. NGOs in both countries contacted the witness, who agreed to cooperate. With their assistance, the witness travelled to the border, where a police officer from the requesting country took a witness statement. The formal MLA request was withdrawn. This example shows how NGOs can support informal cooperation and avoid the need for formal cooperation.



[5] Provide feedback and share outcomes with counterparts: Feedback should be provided to colleagues in countries who have provided information or support to encourage their future cooperation. Practitioners who know the outcome of the information they have shared, including any problems or challenges encountered, are more likely to expend their efforts in the future.

[6] Handle evidence in accordance with rules of evidence: Police should handle information obtained through informal cooperation with care and confidentiality, and in accordance with their international human rights obligations. Evidence handled in accordance with rules of admissibility can be used in court. Where evidence is handled in ways that violate human rights, it may not be possible to use the evidence for judicial procedures in the event that formal processes are instigated.

[7] Apply specialist investigative techniques to proactive investigations: Proactive investigation may be necessary to obtain evidence. In complex transnational cases, investigations may need to involve multiple countries. For instance, combating transnational trafficking of victims into forced criminality for online scamming and gaming, and online sexual exploitation may require joint investigation teams cross-border evidence sharing. Thus far, the lack of proactive investigation, including financial investigation, is evident in the fact that large-scale trafficking of tens of thousands of people into slavery in the fishing industry and into SEZs was not brought to public attention through proactive efforts of police, but by media, NGOs and victims themselves. Use of investigative techniques including those set out in the UNTOC is an effective way of obtaining evidence to avoid over-reliance on victim testimony, and therefore ease the burdens of victim-witnesses in criminal justice procedures.

[8] Use ASEAN Practitioner Guidelines in law enforcement cooperation: The *Criminal Justice Responses to Trafficking in Persons: ASEAN Practitioner Guidelines* (ASEAN Practitioner Guidelines, 2007) offer guidance on operational coordination.⁴⁶ Among other measures, the Guidelines call for increased deployment of specialist investigator-prosecutor teams, use of specialist investigative techniques at the international level, and coordination of operational cooperation measures with the HSU Process, INTERPOL and joint meetings of ASEAN law enforcement agencies.

The 2018 *ASEAN Practitioner Guidelines on Criminal Justice Response to Trafficking in Persons* (ASEAN Practitioner Guidelines, 2018) add detail to the earlier guidance. They call practitioners to “utilise informal cooperation measures as a matter of routine” for purposes including rescue of victims, transnational trafficking intelligence, establishing evidence prior to MLA requests, and initiating joint, parallel or financial investigations.⁴⁷ Detailed guidance is offered on initiating such investigations, and agreeing on objectives, strategy, tactics and logistics of the investigation plan as well as the potential exchange of relevant practitioners.⁴⁸

Table: Analysis prior to initiating investigative cooperation with foreign counterparts.

Issue	Analysis
Goal	What are the intended objectives of the cooperation?

⁴⁶ As finalized by the ASEAN Ad-Hoc Working Group on Trafficking in Persons, 25 June 2007, Vientiane, Lao PDR; and endorsed by the 7th ASEAN Senior Officials Meeting on Transnational Crime, Vientiane, Lao PDR, 27 June 2007.

⁴⁷ 2018 ASEAN Practitioner Guidelines on Criminal Justice Response to Trafficking in Persons, 4A.1.

⁴⁸ 2018 ASEAN Practitioner Guidelines on Criminal Justice Response to Trafficking in Persons, 4A.4.

Issue	Analysis
Necessity	Is cooperation necessary to secure those objectives, or could they be achieved by other means?
Importance	How important to the investigation and or prosecution is the product of the proposed cooperation; could conviction for appropriate offences still be secured without it?
Modalities	What type of cooperation is required: informal, formal or both?
Viability	Is the proposed cooperation likely to occur within an acceptable timeframe? Is there a risk / likelihood that delays will have a negative impact on the conduct of the case and / or the situation of any victim-witnesses?
Applicable law	What are the legislative issues in the other State(s); the elements of proof; the predicate offences for financial investigation purposes; and the rules on admissibility of evidence and disclosure of sensitive material. If the result of the cooperation is intended to lead to the subsequent use of formal legal cooperation, is the legal framework in place to enable this?
Information	Is there sufficient accurate information available to form the basis of an informal request that the recipient can act upon?
Risk assessment	Does the proposed cooperation create risk to the safety or welfare of trafficked victims or third parties, or otherwise jeopardise any ongoing investigation?
Timeframe	Is the proposed action urgent and, if so, to what degree?
Counterpart	Which counterpart unit would be the most effective partner for the cooperation (e.g. specialist Anti-Trafficking Unit, Financial Investigation Unit, specialist prosecutor)?
Communications	Are there available secure communication channels for the cooperation and which ones are most suited to the proposed cooperation?

Source: 2018 ASEAN Practitioner Guidelines on Criminal Justice Response to Trafficking in Persons, 4A.5

The ASEAN Practitioner Guidelines offer extensive guidance on:

- collaborating in the development of victim and witness interview templates;
- collaborating with partners to bring relevant expertise to bear in investigation;
- direct and indirect communication channels;
- secure transfer of sensitive data and modalities for informal communications.

Notwithstanding the years that have passed since the 2007 and the 2018 ASEAN Practitioner Guidelines were released, only the Philippines raised the issue of their use in practice.⁴⁹ Stakeholders are encouraged to revisit the guidelines, determine whether they remain fit for purpose or not, and identify and address any barriers to their use in practice.

[9] Reduce formality of communication between law enforcement officials: While transnational criminals efficiently and effectively engage across borders, law enforcement officials often must follow rules and procedures, meaning they are not able to work as fast as traffickers. Stakeholders should consider how to make communication faster and easier including by reducing formality.⁵⁰

[10] Put frameworks and mechanisms in place to facilitate effective cooperation: Measures must be taken

⁴⁹ 2018 ASEAN Practitioner Guidelines on Criminal Justice Response to Trafficking in Persons, 4A.6-19.

⁵⁰ Ms Jatuporn Saenghiran, Director-General, Department of Trafficking in Persons Litigation, Office of the Attorney-General, Thailand, speaking at ASEAN-ACT webinar 'Workers forced to scam online: trafficked or not?' 19 May 2023.

at the national level, to ensure individual and institutional capability of law enforcement officials to cooperate effectively and easily with their counterparts bilaterally, regionally and transregionally.

1.5. Checklists for law enforcement cooperation

Operational checklist

Law enforcement agencies effectively cooperate bilaterally and regionally		☒
1. Specialist anti-trafficking units are staffed by trained and skilled individuals with legal, operational, and budgetary capacity to cooperate in the use of reactive and proactive investigative techniques within a broadly consistent legal and procedural framework		☐
2. Specialist anti-trafficking units of mutually affected countries provide prompt operational and judicial investigative support to each other in the conduct of transnational investigations		☐
3. Operational and judicial cooperation is conducted in accordance with treaty requirements and accepted investigative good practices		☐
4. There are established bilateral, regional and international networks of specialist unit personnel cooperating between mutually affected countries by sharing information and good practices, and advancing operational investigations		☐
5. Cooperating specialist units have a 24-hour secure communications capacity to manage the cooperation process within accepted good communications practices		☐
6. Legal and procedural framework permits and facilitates the conduct of joint investigations between national police forces		☐

Source: *Progress Report on Criminal Justice Response to Trafficking in Persons Cases (ASEAN, 2011)* pp.146-147

Self-assessment checklist for implementation of relevant UNTOC and Trafficking in Persons Protocol provisions

Joint investigations (article 19, UNTOC)		☒ / ☒
1. Has your country / competent authorities entered into a bilateral or multilateral agreement or arrangement whereby competent authorities can establish joint investigative bodies in relation to investigation, prosecution or judicial proceedings on trafficking in persons		☐
2. Where there is no agreement or arrangement, does your country permit joint investigations to be undertaken by agreement on a case-by-case basis?		☐
Law enforcement cooperation (article 27, UNTOC)		☒ / ☒
3. Have competent authorities of your country established or enhanced channels of communication with counterparts in other States parties to facilitate the secure and rapid exchange of information on trafficking in persons, including its links with other criminal activities (article 27(1)(a))?		☐
4. Has your country taken any measures to promote law enforcement cooperation with other States parties in conducting inquiries with respect to trafficking in persons, in particular relation to (article 27(1)(b)):		
a. The identity, whereabouts and activities of persons suspected of involvement in trafficking in persons or the location of other persons concerned?		☐
b. The movement of proceeds of crime or property derived from trafficking in persons?		☐
c. The movement of property, equipment or other instrumentalities used or intended for use in the commission of trafficking in persons?		☐
5. Has your country adopted any measures to provide necessary items for analytical or investigative purposes (article 27(1)(c))?		☐
6. Has your country adopted any measures to facilitate effective coordination with competent authorities, agencies and services of other States parties and promote the exchange of personnel; or the posting of liaison officers (article 27(1)(d))?		☐

7. Has your country adopted any measures to promote the exchange of information with other States parties on specific means and methods used by organised crime groups, including routes and conveyances and the use of false identities, altered or false documents or other means of concealing their activities (article 27(1)(e))?	☐
8. Has your country adopted any measures to promote the exchange of information and the coordination of administrative measures with other States parties for the purpose of early identification of trafficking in persons (article 27(1)(f))?	☐
9. Has your country entered into any bilateral or multilateral agreement or arrangement on direct cooperation between law enforcement agencies? (article 27(2))?	☐
Information sharing and exchange (article 10, Trafficking in Persons Protocol)	☒ /X
10. Do law enforcement, immigration or other relevant authorities of your country cooperate with other States parties' authorities by exchanging information to enable them to determine (article 10(1)):	☐
a. Whether individuals crossing or attempting to cross an international border with travel documents belonging to other persons or without travel documents are perpetrators of victims of trafficking in persons (article 10(1)(a))?	☐
b. The types of travel documents that individuals have used or attempted to use to cross an international border for the purpose of trafficking in persons (article 10(1)(b))?	☐
c. The means and methods used by organised criminal groups for the purpose of trafficking in persons, including the recruitment and transportation of victims, routes and links between and among individuals and groups engaged in such trafficking, and possible measures for detecting them (article 10(1)(c))?	☐
11. Has your country provided or strengthened training that focuses on methods used in the prevention of trafficking in persons, prosecuting the traffickers or protecting them from the traffickers, to the following officials (article 10(2))?	
a. Law enforcement	☐
b. Immigration	☐
c. Other relevant officials. Specify:	☐
12. Does the training above also take into account the need to consider human rights, child-sensitive issues and gender-sensitive issues (article 10(2))?	☐
13. Does the training referred to above encourage cooperation with non-governmental and other relevant organisations as well as civil society (article 10(2))?	☐
If yes, provide further information:	
14. Does your country comply with any restrictions placed on the use of information transmitted from another State party (article 10(3))?	☐
Provide further information:	
15. Does your country encounter any difficulties or challenges in implementing the above provisions?	☐
If yes, explain:	
16. What type of technical assistance, if any, does your country need to implement the Trafficking in Persons Protocol?	
(a) Assessment of criminal justice response to trafficking in persons	☐
(b) Legal advice or legislative drafting support	☐
(c) Model legislation, regulations or agreements	☐

(d) Development of strategies, policies or action plans	☐
(e) Good practices or lessons learnt	☐
(f) Capacity-building through training of criminal justice practitioners and / or training of trainers	☐
(g) Capacity-building through awareness-raising among the judiciary	☐
(h) On-site assistance by a relevant expert	☐
(i) Institution-building or the strengthening of existing institutions	☐
(j) Prevention and awareness raising	☐
(k) Technological assistance and equipment	☐

Provide specific information about technical assistance requirements:

Source: Adapted from Self-assessment questionnaire for the United Nations Convention against Transnational Organized Crime and the Protocols thereto – Cluster 1 and Cluster IV (UN Doc. CTOP/COP/2020/10)



2. Mutual Legal Assistance in Criminal Matters

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Mutual Legal Assistance (MLA) is a formal process by which States assist each other by collecting information and evidence for criminal investigations or prosecutions. MLA is also referred to as 'formal' or 'judicial' assistance and is usually used when compulsive or 'coercive' measures or court orders are required to obtain evidence to be admitted in court. Because MLA can be slow, it is generally avoided where the same result can be achieved through informal cooperation.

Examples of MLA in criminal matters include cooperation to: take evidence or statements; serve judicial documents; execute searches, seizures or freezing of assets; examine objects and sites; provide information, evidentiary items and expert evaluations; provide documents and records (including government, bank, financial, corporate or business records); identify or trace proceeds of crime, property, instrumentalities or other things for evidentiary purposes; facilitate voluntary appearance of persons; or other types of assistance. Clarifying as much information as possible in advance will assist the requested State to provide the assistance sought and expedite the process.

General requirements for MLA:

While each State has its own specific mandatory requirements for MLA requests, the following are general requirements that are commonly encountered:

Legal basis	Treaty based or non-treaty based, for instance reciprocity
Sufficiency of evidence	Sufficient information to support the request, depending on the legal basis of assistance. Treaties will determine the type of information required and its threshold to justify the request.
Dual Criminality	The alleged conduct is criminalised in both requesting and requested states. Therefore, trafficking in persons does not need to be called the same thing or be defined in the same way, so long the Requesting State describes the criminal conduct in a way the requested State can recognise in its law.⁵¹ Where the MLA request involves coercive measures or compulsory processes that require court orders (such as search, seizure, freeze orders or compelled testimony), the alleged conduct must be criminalised in both requesting and requested states. In such cases, trafficking in persons does not need to be called the same thing or be defined in the same way, so long the Requesting State describes the criminal conduct in a way the Requested State can recognise in its law.⁵²
Reciprocity	The requesting State assures the requested State it would be able to provide the same kind of assistance
Threshold	The offence is equally serious in both States
Speciality	The thing requested will only be used for the purpose it is requested for.

Refusal of MLA requests: There are a range of grounds upon which MLA requests can be legitimately refused. Each request should be assessed following careful consideration of its merits and whether there exist valid grounds for refusal.

⁵¹ ADB / OECD (2017) Mutual Legal Assistance in Asia and the Pacific: Experiences in 31 Jurisdictions, 20.

⁵² ADB / OECD (2017) Mutual Legal Assistance in Asia and the Pacific: Experiences in 31 Jurisdictions, 20.

Table: Examples on refusing MLA requests:

Evidentiary issues	The requested State considers the request to lack information about the elements of the offence; the request does not accord with the legal framework, for instance, to take coercive measures such as detention, search or seizure.
Practical issues	Appropriate information is not included in a request, or it is practically impossible to execute, for instance, where the request is for confiscation of goods or assets that are not in the jurisdiction. ⁵³
Lack of dual criminality	The offence at issue for the requesting State, is not a crime in the requested State, or where one country does not view legal persons as being subject to criminal liability. • UNTOC provides that States may decline assistance in the absence of dual criminality. However, it also provides that the requested State may, if appropriate, provide assistance at its discretion, even if dual criminality is not satisfied (article 18(9)) • ASEAN MLAT provides that assistance shall be refused if the dual criminality requirement is not met, but does not prohibit States from providing assistance if domestic law permits (article 3(1)(e))
Double jeopardy (<i>ne bis in idem</i>)	The request relates to a crime for which a person has already been tried and acquitted or punished. This principle of double jeopardy is a mandatory ground for refusal under ASEAN MLAT (article 3(1)(d)) and aligns with the human rights prohibition against a person being tried or punished for the same offence twice (article 14(7) ICCPR). ⁵⁴
Lack of reciprocity	Failure to assure reciprocity is a mandatory ground for refusal of assistance of the ASEAN MLAT (article 3(1)(g)).
Lack of speciality or use limitation	Many treaties provide that the use limitation may be waived by the requested State, but the ASEAN MLAT provides that assistance shall be refused if the requesting State does not undertake that the item requested will not be used in a matter other than the purpose it was requested for (article 3 (1)(h)).
Prohibited punishments	Domestic law of the requested State may require assistance to be refused when the offence at issue is punishable by the death penalty in the requesting State. In such cases, exceptions may be possible if the requesting State assures the requested State that the death penalty will not be imposed, or if imposed, will not be carried out. If no such assurance is provided, the request may be refused. ⁵⁵

Other grounds for refusal of assistance include public order concerns, interference with ongoing investigation or prosecution, and reasonable restrictions on how assistance may be used. Article 18(23) of the UNTOC, article 46(23) of the United Nations Convention against Corruption (UNCAC) and article 3(9) of the ASEAN MLAT all specify the need to provide reasons for refusal. It is also customary to do so. Consultation with counterparts can be useful to identify alternatives to refusing requests.

⁵³ In these cases, the time taken to consult can result in delays or inaction, with no response to requests received. ADB / OECD (2017) Mutual Legal Assistance in Asia and the Pacific: Experiences in 31 Jurisdictions, 19-20.

⁵⁴ Brunei Darussalam, Malaysia, Myanmar and Singapore are not party to the ICCPR.

⁵⁵ ADB / OECD (2017) Mutual Legal Assistance in Asia and the Pacific: Experiences in 31 Jurisdictions, 21.

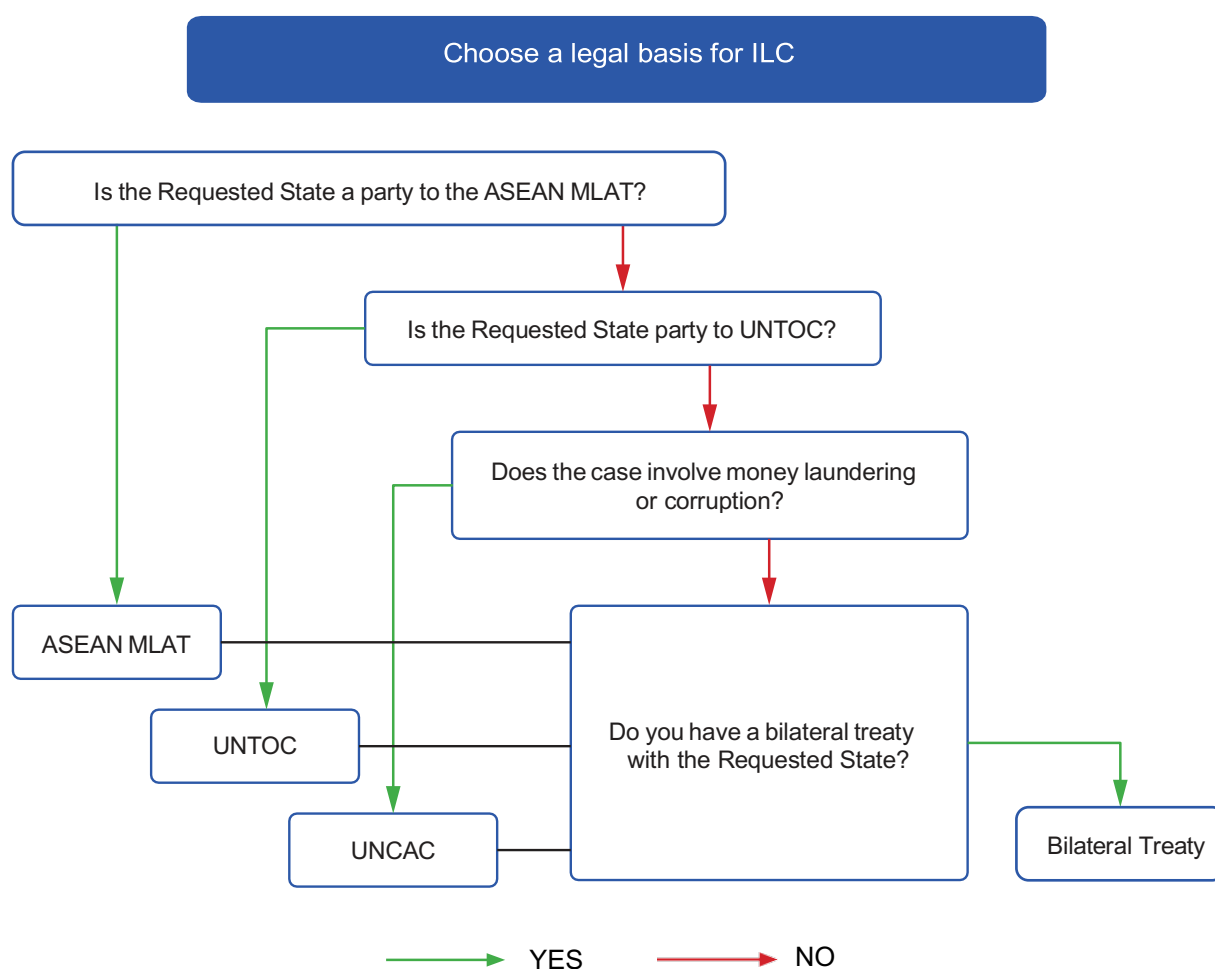
Who bears the cost of executing MLA?

The requested State bears the ordinary costs of fulfilling the request, but the requesting party will pay fees of counsel retained; expert witnesses; translation, interpretation and transcription; expenses associated with conveying persons to or from the requested State party; expenses associated with conveying custodial or escorting officers; and costs for establishing communication links (article 25, ASEAN MLAT). Where a requested state cannot afford to meet the ordinary costs of executing a request, the requesting State may need to contribute. Which State is to bear extraordinary costs is determined by the States in consultation with each other.



2.1. Legal framework

The legal basis for MLA may be international law, regional law, bilateral treaty, domestic law, reciprocity, or a combination of these. Practitioners must determine which legal basis is most appropriate in a given situation. Where they are in place, bilateral treaties are often preferred where they are tailored for the legal systems of specific jurisdictions, as opposed to the more generalised approach offered by multilateral treaties. Some treaties are specific to issues such as the UNTOC in relation to organised crime and the UNCAC in relation to corruption. Others are specific to States, such as the ASEAN MLAT for ASEAN Member States. The ACTIP is specific to both the issue of trafficking in persons, and the ASEAN region. All ASEAN Member States have treaties or national laws in place offering a legal basis for MLA in relation to trafficking in persons. Treaties *oblige* States to cooperate; where requests comply with the treaty, cooperation is not optional but required.⁵⁶



Source: Developed on the basis of the ASEAN Handbook on International Legal Cooperation in Trafficking in Persons Cases, pp.40, 68.

⁵⁶ ASEAN Handbook on International Legal Cooperation in Trafficking in Persons Cases (ASEAN-ACT / UNODC, 2018) 54

International Law

UNTOC as a basis for MLA: Article 18 of the UNTOC requires States parties to afford one another “the widest measure of mutual legal assistance in investigations, prosecution and judicial proceedings.” Article 18 is several pages long and is referred to as a ‘mini-MLA treaty’ that can be used by States parties as a basis for cooperation. It offers a detailed framework for MLA outlining its purpose (article 18(3)),⁵⁷ contents (article 18(15)), and grounds for refusal (article 18(21)).

Use in practice... In earlier research, UNODC analysed 104 cases in which the UNTOC had been used as a basis for cooperation. Only a handful of these involved TIP, none of which were from the ASEAN region.⁵⁸ UNTOC was reported in 2008 as being used as a basis for both mutual legal assistance by Cambodia, Indonesia, Malaysia, the Philippines and Thailand, albeit not in relation to TIP.⁵⁹

During consultations carried out for this compendium, practitioners explained that UNTOC is not used as a basis for cooperation because practitioners do not know how to use it, and instead rely on bilateral MLA agreements. Others stated it may be cited as a legal basis in incoming communications where there is no bilateral agreement. An example is a request from the Netherlands to the Philippines on the basis of the UNTOC, to question a witness to human trafficking into seafaring.⁶⁰ Otherwise, no case study examples were shared of UNTOC being used for MLA in the region. One practitioner explained that international law is only relevant when delivering presentations at international meetings, but is not used as a practical basis for cooperation.

The Trafficking in Persons Protocol as a basis for MLA: The Trafficking in Persons Protocol does not specifically address MLA, but the UNTOC, being its parent instrument, supports MLA against offences established by the Protocol.

Use in practice... No examples were provided of its use for cooperation in practice.

UN Convention against Corruption as a basis for MLA: In TIP cases involving corruption or money laundering, the UN Corruption Convention (UNCAC) can be used as an alternative instrument to the UNTOC as a basis for cooperation.

Use in practice... Though all ASEAN Member States are party to the UNCAC, no examples were offered of its use in practice to support MLA in response to TIP facilitated by corruption.

Regional Law

ASEAN MLAT as a basis for MLA against trafficking in persons: The ASEAN MLAT applies to criminal matters (article 1(1)), including TIP. The scope of assistance provided for in the ASEAN MLAT (article 1); grounds on which States *must* refuse assistance (article 3(1)) and discretionary grounds of refusal (article 3(2)) closely align with what is provided in article 18 of the UNTOC⁶¹ Like the UNTOC, ASEAN MLAT establishes procedural requirements for the form and content of requests, which except in urgent situations, are to be via Central Authorities (articles 6 and 7).

Use in practice... Practitioners referred to attempts to cooperate against trafficking in persons on the basis of ASEAN MLAT, but differences in laws (for instance, relating to issuing of a subpoena to a witness) were noted as a barrier.

⁵⁷ Taking evidence or statements; effecting service of judicial documents; executing searches and seizures, and freezing; examining objects and sites; providing information, evidentiary items and expert evaluations; providing originals or certified copies of relevant documents and records; including government, bank, financial corporate or business records; identifying or tracing proceedings of crime, property, instrumentalities or other things for evidentiary purposes; facilitating the voluntary appearance of persons in the Requesting State Party.

⁵⁸ Digest of Cases: International Cooperation in Criminal Matters Involving the United Nations Convention against Transnational Organized Crime as a Legal Basis (UNODC, 2021) 65.

⁵⁹ *Case Digest on International Cooperation in Criminal Matters involving the United Nations Convention Against Transnational Organized Crime as a Legal Basis* (United Nations, 2021), pp.65-66, 88.

⁶⁰ Source: UNODC, *ASEAN Handbook on International Legal Cooperation in Trafficking in Persons Cases* (UNODC / ASEAN-ACT, 2018) p.75.

⁶¹ Also see ASEAN Handbook on International Legal Cooperation in Trafficking in Persons Cases (ASEAN-ACT / UNODC, 2018) 74

The ACTIP as a basis for MLA against trafficking in persons: The ACTIP requires States parties to afford one another the widest measure of assistance in relation to TIP, in accordance with the ASEAN MLAT (article 18(1) and (2)). Additionally, ACTIP sets out that States parties:

- may further strengthen regional cooperation in the investigation and prosecution of trafficking in persons cases (article 12(d))
- are required to consider establishing coordinating structures in the fight against trafficking in persons, including enhancing cooperation under all areas of the Convention (article 23)
- may promote capacity building, including training, technical cooperation and the holding of regional coordination meetings (article 12(g))

Use in practice... It was noted in one country that ACTIP can be cited as a ground for an outgoing MLA request, but the general preference expressed is to rely on bilateral agreements and the ASEAN MLAT, rather than ACTIP. No examples were shared of the ACTIP being used as a basis for formal international cooperation.

Commonwealth Harare Scheme relating to Mutual Assistance in Criminal Matters:

Laws between the 56 countries that make up the Commonwealth are often aligned, easing international cooperation between them. In the ASEAN region, Brunei Darussalam, Malaysia and Singapore are Commonwealth members who can use the *Commonwealth Harare Scheme relating to Mutual Assistance in Criminal Matters* as a useful framework for MLA.

Use in practice... No examples were offered of the Commonwealth Harare Scheme being used in relation to trafficking in persons.

Bilateral Treaty

Bilateral agreements as a basis for MLA against trafficking in persons: ASEAN Member States have several bilateral treaties in place both within the region and beyond.

Table: Example of bilateral treaties of ASEAN Member States (non-exhaustive list)

Member State	Bilateral treaty (ASEAN)	Bilateral treaty (Non-ASEAN)
Brunei Darussalam	Malaysia; Reciprocal agreement on warrant of arrest with Singapore and Malaysia	Commonwealth Harare Scheme relating to Mutual Assistance in Criminal Matters within the Commonwealth.
Cambodia	Viet Nam (2016)	Korea (2021); Russia (2021); India – not yet entered into force but in discussion; Interest in MLA with Belarus, Turkey and Belgium
Indonesia	Viet Nam (2013)	Australia (1995); Republic of China (2000); Hong Kong (2008); South Korea (2002); India (2011); United Arab Emirates (2014); Iran (2016), Switzerland (2019); Russia (2019)
Lao PDR	Viet Nam (2020)	China (1999); Democratic People's Republic of Korea (2008) – also addresses extradition
Malaysia		Australia; Hong Kong SAR; People's Republic of China; Republic of India; Republic of Korea; Ukraine; United Kingdom and Northern Ireland; United States of America; Romania
Myanmar	Viet Nam (under consultation)]	India (2010) Russia (under consultation)

Member State	Bilateral treaty (ASEAN)	Bilateral treaty (Non-ASEAN)
		Belarus (under consultation)
Philippines		Australia (1993); China (2012); Hong Kong SAR (2004); South Korea; Spain (2018); Russia; Switzerland (2005); United Kingdom (2012); United States of America (1996); United Arab Emirates (2025) currently negotiating with Saudi Arabia
Singapore	Indonesia	Hong Kong SAR; India; United States (Drug Trafficking)
Thailand		Australia; Belgium; Canada; China; France; India; Republic of Korea; Norway; Peru; Poland; Sri Lanka; Ukraine; United Kingdom; USA.
Viet Nam	Cambodia (2016); Indonesia (2013); Lao PDR (2020)	Algeria; Australia; Belarus; Bulgaria; Cuba; Czech Republic; Democratic People's Republic of Korea (North Korea); France; Hungary; India; PR China; Poland; Republic of Korea (South Korea); Russia; Slovakia; Ukraine; United Kingdom; Spain; Mongolia; Taiwan Province of China (PoC).

Use in practice... Bilateral agreements were explained as preferable to regional or international instruments, given they can cater to specificities of relationships and issues. However, no tangible examples were offered of bilateral agreements being used to support MLA to address TIP. In some cases, the existence of a bilateral agreement or its ongoing negotiation was offered as an example of cooperation, notwithstanding the absence of action taken on their basis. One practitioner expressed the view that “bilateral agreements are just to show off but are not practical.”

Domestic Law

Domestic law gives effect to international and regional obligations and may be sufficient to support MLA without another agreement, where reciprocity is satisfied. However, reciprocity may not be a sufficient ground for all assistance requests. For instance, the Philippines has no MLA law, meaning that compulsory processes that must go through court, require a bilateral or multilateral treaty such as the UNTOC or the ASEAN MLAT.

Example – Malaysia’s Transnational Crimes Unit, Attorney General’s Chambers

In Malaysia, mutual assistance in criminal matters is governed by the Mutual Assistance in Criminal Matters Act 2002 [Act 621] of Malaysia (“MACMA”). In general, the Requesting State must fulfil the requirements under MACMA when making a request for mutual assistance in criminal matters to Malaysia.

Malaysia requires the minimum penalty for the offence to be provided by the Requesting State to ensure that a request made to Malaysia fulfils the threshold requirements of “serious offence” under section 2(1) of MACMA.

Further, PART III of MACMA provides for procedures and requirements that need to be complied with and fulfilled in dealing with or making a mutual assistance in criminal matters request to Malaysia. In other words, the provisions under PART III of MACMA lay down specific procedures and requirements for a specific type of assistance requested by the Requesting State.

In particular, section 19(1) of MACMA provides that a request for assistance in a criminal matter shall be made to the Attorney General. The Attorney General of Malaysia is being designated as the Central Authority under Article 4 of the ASEAN MLAT to make and receive requests pursuant to the ASEAN MLAT. Section 19(2) of MACMA provides that a request to Malaysia shall be made through the diplomatic channel. This is a mandatory requirement that has to be fulfilled before the Attorney General can consider a request made to Malaysia.

Member State	Central Authority	Legal Instrument
Brunei Darussalam	Attorney General's Chambers	<i>Mutual Assistance in Criminal Matters Order</i> 2005 (MACMO) <i>Criminal Asset Recovery Order</i> 2012 (CARO)
Cambodia	Ministry of Justice	<i>Law on Mutual Legal Assistance in Criminal Matters</i> (2020) 27 June 2020 <i>Law on Anti-Money Laundering and Combating the Financing of Terrorism</i>
Indonesia	Ministry of Law	<i>Law Concerning Mutual Legal Assistance in Criminal Matters</i> (Law No. 1 of 2006) Regulation of the Minister of Law and Human Rights of the Republic of Indonesia No. 12 of 2022 Concerning the Handling of Mutual Legal Assistance in Criminal Matters
Lao PDR	Office of the Supreme People's Prosecutor (OSPP)	<i>Law on Mutual Legal Assistance in Criminal Matters</i> (Law No. 88/NA, 12 November 2020 and promulgated 24 December 2020) <i>International Cooperation in Criminal Proceedings of the Law of Criminal Procedure</i> (2017) Articles 270-273 <i>Anti-Money Laundering and Counter Financing of Terrorism Law</i> 2024 (art 38-40)
Malaysia	Attorney General	<i>Mutual Assistance in Criminal Matters Act</i> 2002 [Act 621]
Myanmar	Ministry of Home Affairs	<i>Mutual Assistance in Criminal Matters Law</i> ([State Peace and Development Council] Law No. 4/2004) [The Mutual Assistance in Criminal Matters Rules] Reciprocity.
Philippines	Department of Justice (DOJ) through the Office of the Chief State Counsel (OCSC)	Notwithstanding the absence of an MLA law in the Philippines, there exist specific provisions on MLA in the Anti-Trafficking in Persons Act (RA 9208, as amended) and the Anti-Online Sexual Abuse or Exploitation of Children (OSAEC) and Anti-Child Sexual Abuse or Exploitation Materials (CSAEM) Act (RA No. 11930), and the Anti-Money Laundering Act of 2001 (RA No. 9160, as amended). Reciprocity.
Singapore	Attorney General's Chambers (AGC)	<i>Mutual Assistance in Criminal Matters Act</i> 2000 Reciprocity undertaking required where no MLA treaty.
Thailand	Attorney General	<i>Act on Mutual Assistance in Criminal Matters</i> BE 2535 (1992) amended by <i>Act on Mutual Assistance in Criminal Matters</i> (2nd version, BE 2559, 2016) Regulation of the Central Authority relating to Providing and Seeking Assistance under the Act on Mutual Assistance in Criminal Matters BE 2537 (1994)

Member State	Central Authority	Legal Instrument
		Reciprocity undertaking required where no MLA treaty exists.
Viet Nam	Supreme People's Procuracy	<i>Law on Mutual Legal Assistance</i> (Law No 08/2007/QH12) <i>Criminal Procedure Code</i> (2015) Can accept requests from countries with which there is no treaty in place. Must be received through MFA. <i>Draft Law on Mutual Legal Assistance</i> (2021) Currently drafting process being led by SPP to submit to the National Assembly in 2025. Would serve to have four areas led by different agencies (MLA in criminal matters by SPP, civil matters by MOJ, extradition and transfer of sentenced persons, MPA). Also, will give consideration to electronic MLA requests.

Reciprocity

Reciprocity is a customary principle by which the State making the request gives its assurance to the requested State, that it would comply with a similar request that the requested State may make of it in the future. Reciprocity is based on the notion of 'comity' being the idea that practice between States can be based on goodwill rather than strict rules. Statements of reciprocity are usefully added to all requests.

Use in practice... Practitioners in several ASEAN countries mentioned reciprocity as a basis for mutual legal assistance. However, no tangible examples were offered of reciprocity being used as a basis for mutual legal assistance in relation to trafficking in persons.

2.2. Human rights and gender equality considerations

Whether or not requests are made, refused or accepted, and how they are carried out, must accord with States' human rights obligations and their commitment to promote gender equality. Mutual legal assistance requests, procedures and outcomes must not violate human rights of victims, suspects or others. As with all counter-trafficking efforts, questions of whether and how States make, respond to and execute mutual legal assistance requests must be approached in ways that are victim-centred. The approach that ASEAN Member States take to MLA is guided by the international treaties to which they are party, as well as ASEAN laws and guidelines and their own domestic law. To strengthen their adherence to applicable international human rights standards in MLA, ASEAN Member States can take stock of their international and regional human rights obligations (see Annex A) and consider whether their legislative and policy frameworks, and operational approaches to the execution of MLA requests are in line with those minimum standards. Amendments and adjustments should be made as required to ensure adherence. While ASEAN Member States act in accordance with their own country context, some general considerations that may be relevant for their work are offered below.

Human rights and gender considerations in requesting MLA...

The obligation to cooperate against trafficking in persons is connected to States' human rights obligations. States that do not effectively cooperate, will not be able to protect the human rights of non-nationals in their jurisdiction or their citizens abroad including those who are accused or convicted of trafficking in persons.

ASEAN Member States have positive obligations to proactively protect victims.⁶² Delays in processing MLA requests can have human rights implications, where victims remain in exploitative, abusive or otherwise harmful situations, or in shelters for longer than necessary. Procedural delays in the execution of MLA requests can mean that victims are required to remain in foreign countries for extended periods of time in conditions that may interfere with their enjoyment of human rights as applicable in that ASEAN Member State. In one example provided, a slow MLA process meant that a victim remained in shelters for three years, transferred between shelters when the time limit at each was reached. Such situations speak to the need to review shelter detention policies, and also to expedite MLA requests as a component of an approach that takes the human rights of victims into consideration.⁶³ These realities highlight the need to sensitise practitioners who are involved in making, receiving and executing MLA requests to their human rights obligations and the detrimental human rights impacts that delays in their work can have on victims of trafficking.

Human rights and gender considerations in refusing MLA...

MLA requests may be refused on human rights grounds. Indeed, MLA requests must not infringe the human rights of the subject of the request or anyone else. Relevant rights may include, among others, rights to liberty and security; to life; to not be subject to torture or cruel, inhumane or degrading punishment; to equality before the law; to a fair and public hearing, legal representation and interpreters; the presumption of innocence; and the right not to be held guilty of retrospectively operative offences or penalties.⁶⁴ The principle of non-discrimination is also relevant. The ASEAN-MLAT provides that assistance shall be refused if "there are substantial grounds for believing that the request was made for the purpose of investigating, prosecuting, punishing or otherwise causing prejudice to a person on account of the person's race, religion, sex, ethnic origin, nationality or political opinions."⁶⁵

Refusal of assistance often relates to the nature of the punishment at issue. Most countries in the world have abolished the death penalty.⁶⁶ In many, domestic law may require that MLA requests be refused where the

⁶² For example, the ASEAN Convention Against Trafficking in Persons Especially Women and Children includes articles which provide for the protection of victims. These include articles which provide for the physical safety of victims (Art 14(5)), protection of privacy and identity (Art 14(6)), and protection against unnecessary detention or imprisonment (Art 14(8)).

⁶³ For more on this human rights issue, see *Freedom of movement for persons identified as victims of human trafficking: An analysis of law, policy and practice in the ASEAN region* (ASEAN-ACT, 2021), <https://www.aseanact.org/resources/shelterpractices/>

⁶⁴ See UDHR, articles 5 to 11; ICCPR articles 7, 9, 13 and 14; Convention against Torture, article 3; ASEAN Human Rights Declaration, articles 2, 11, 12, 14, 20.

⁶⁵ ASEAN MLAT article 3(1)(c). Please refer to other limitations provided under article 3 of ASEAN MLAT.

⁶⁶ As at September 2022, 144 States have abolished the death penalty. See <https://deathpenaltyinfo.org/policy-issues/international>. In the

offence at issue is punishable by death. This barrier to MLA may be overcome by the requesting State making assurances to the requested State that it will not impose or carry out the death penalty.⁶⁷ If no such assurance is provided, the request may be denied.⁶⁸ In practice, it may not be clear within the requesting country whether and how such assurances can be provided, which agency has the power to make an assurance, and how an assurance can and will be enforced. To avoid the effort required to navigate this process, attempts at MLA may simply be abandoned, avoiding some human rights issues but raising others

Human rights and gender considerations in executing MLA...

The execution of MLA raises human rights implications particularly for those accused and/or convicted of trafficking in persons. In MLA proceedings involving coercive measures, affected individuals have the following rights, subject to the State's domestic law:

- to be presumed innocent until proven guilty according to law;
- to be informed of the charges against them and the measures requested, except where providing such information is likely to frustrate requested measures;

International legal cooperation (ILC) is a tool to support the state prosecution, not the defence, raising potential risks to the right to fair trial. Defence lawyers do not have the same access to formal ILC processes that prosecutors do, but must instead obtain evidence on behalf of their clients, through letters rogatory or directly via courts. The defence may request the court for production of evidence and the court will make the prosecutor obtain it and provide the defence with a copy. Accordingly, the responsibility for upholding fair trial rights of accused persons rests heavily on the state prosecution. Human rights-based measures, such as access to legal representation and interpretation, are critical here. State authorities must continually examine whether defendants in trafficking trials are receiving a fair trial and the extent to which their right to a defence is upheld.



ASEAN region, in April 2023, Malaysia abolished the death penalty for many serious crimes. <https://www.ohchr.org/en/press-releases/2023/04/malaysia-un-experts-hail-parliamentary-decision-end-mandatory-death-penalty>.

⁶⁷ ADB / OECD (2017) *Mutual Legal Assistance in Asia and the Pacific: Experiences in 31 Jurisdictions*, 21.

⁶⁸ ADB / OECD (2017) *Mutual Legal Assistance in Asia and the Pacific: Experiences in 31 Jurisdictions*, 21.

Table: Examples of human rights-based and gender-responsive MLA

Mutual legal assistance	Human rights-based and gender-responsive approach
Taking evidence or statements	Law enforcement agents receive adequate training and consider contexts and characteristics of perpetrators
Executing searches and seizures	Searches and seizures are executed while there are no children present to avoid their revictimisation, and are conducted by personnel trained to take into account special needs of individuals
Providing information, evidence, expert evaluations, documents and records	Human rights and gender capacity, and the composition of experts are considered in choosing persons to carry out mutual legal assistance requests and evaluations
Identifying or tracing proceeds of crime, property or instrumentalities	Training is provided on human rights and gender responsiveness, to correctly identify who benefits from criminal activities
Facilitating appearance of witnesses	Technology is used to allow testimony to be given without endangering the human rights of the witness (balanced against the rights of the accused) and to enable witnesses with disabilities to testify. Support persons are present to prevent secondary victimization.

Source: Adapted from *Organized Crime and Gender: issues relating to the United Nations Convention against Transnational Organized Crime* (UNODC, 2022), p.39

2.3. Case studies and examples

Information about the extent to which MLA is used in relation to transnational trafficking in persons is incomplete and inconsistent. With some exceptions (captured below) the few examples that were provided, related to requests originating outside the ASEAN region. More requests are received by countries in the region than are made by them. None relate to the involvement of organised criminal groups in trafficking in persons notwithstanding its prevalence. Successful cooperation has been noted in respect to other organised crime types, but as one practitioner noted: “trafficking is unique.” The reasons why MLA poses particular challenges in counter-trafficking that are not encountered with respect to other crime types are discussed in Part 4.

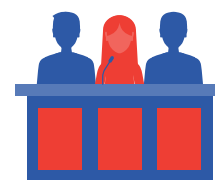
As part of this project, ASEAN Member States were invited to share insights into the number of MLA requests they have sent or received between 2017 and 2022, 2017 being the year the ACTIP entered into force. Very few cases were shared of MLA in particular relation to trafficking in persons cases.

Case study: Philippines requesting MLA from Indonesia

One of the most high-profile cases of mutual legal assistance between ASEAN Member States, is that of Mary Jane Veloso.

Facts: Ms. Veloso, an Overseas Filipino Worker, was convicted in Indonesia in 2010 for smuggling heroin into Indonesia. She was sentenced to death by firing squad. That verdict was upheld by the Supreme Court in 2015. She was granted a temporary reprieve when persons suspected of trafficking her to smuggle the drugs were arrested in the Philippines. The Philippines has requested Indonesia that the deposition of Ms. Veloso be taken in relation to the trial of people charged with trafficking her. Such a request to testify was granted by Indonesia. After spending nearly 15 years in an Indonesian prison, Mary Jane Veloso was officially returned to the Philippines in December 2024 to serve her sentence in the Philippines.

Cooperation challenges: Mutual legal assistance based on the ASEAN MLAT must be in line with



domestic laws. Philippine rules of admissibility require that Ms. Veloso's testimony be taken in a Philippine consular office by a supervising judge from the Philippines. Indonesia's domestic laws only allow a sentenced person's testimony to be taken in the territory of Indonesia by Indonesian Law Enforcement, but a testimony taken in these conditions would be inadmissible in the Philippines.

Case study: Thailand requesting MLA from Malaysia

Facts: The Migrant Workers Service Centre informed Thai government officials that two fishermen had fallen victim to forced labour on fishing vessels. Authorities investigated the case and identified the individuals as victims of trafficking on fishing vessels in Malaysian waters. The victims had managed to flee when the vessels were at port but were recaptured by the captain and forced back onto the vessel. They were later arrested, prosecuted and imprisoned by Malaysian authorities and later deported to Thailand where they filed complaints. A team was appointed to investigate the case, and sought assistance from Malaysia under the Treaty on Mutual Legal Assistance in Criminal Matters, B.E. 2535 (1992), to collect evidence.

Outcome: Cooperation between Thai authorities, civil society and Malaysian government authorities to provide information about the vessels and the victims resulted in convictions. The Thai court handed down sentences of 12 years imprisonment and required one of the offenders to pay the sum of 356,575 Thai Baht in compensation to the victims. The account of seized assets amounted to 7,720,720.35 Thai Baht.⁶⁹ It is not clear whether action was taken by the victims in relation to their wrongful punishment.



⁶⁹ This case study was not raised during consultations carried out in Thailand or Malaysia but is reported in *Trafficking in Persons Report Prosecution 2022* (prepared by Centre for Children Women Family Protection, Ant-Human Trafficking and Fisheries, Royal Thai Police), p.52.

Case study: Bahrain requesting MLA from the Philippines

The Kingdom of Bahrain sought assistance from the Philippines to locate and interview victims of trafficking. The request was made by the Attorney General's Office in Bahrain, to the Department of Justice in the Philippines on the basis of reciprocity. The Philippine National Bureau of Investigation (NBI) interviewed victims, forwarding affidavits to Bahrain in 2020.

Facts: The case involved two Philippine nationals recruited in Dubai and forced into prostitution in Bahrain in October 2018. They escaped 2 months later and were repatriated to the Philippines. A complaint affidavit by one of the victims was taken by the Office of the Undersecretary of Migrant Workers Affairs, Department of Foreign Affairs. It was submitted by the Philippine Ambassador to Bahrain to the Bahrain National Committee to Combat Trafficking in Persons, prompting an investigation in Bahrain.

Outcome: Eight accused persons, including a Bahraini police officer, were convicted of trafficking by the High Court of Bahrain, and sentenced to 7 years in prison and a fine equivalent to PHP 264,717. A deportation order was issued for the accused Filipinos after they completed their sentences. The Labour Market Regulatory Authority of Bahrain granted US\$3000 to each victim.⁷⁰

Case study: Philippines requesting MLA from USA

On the basis of a bilateral agreement between the USA and the Philippines on Mutual Legal Assistance in Criminal Matters, signed in Manila on November 13, 1994, the Philippines requested the USA to authorise a federal officer to testify as a witness for the prosecution of an alleged trafficker in the Philippines. The federal officer was to testify about the undercover operation he was involved in and provide documents prior to his testimony, via the attaché in Manila, including chat logs, screenshots, videos and images involving the accused and the victims.



Facts: The accused (being the mother of one of the victims), offered sexually-explicit online shows involving two children. She unknowingly communicated with an undercover agent in the United States from June 2016 to March 2017 and arranged to meet him and receive payment in exchange for providing minors for sexual activities. A meeting was scheduled at a hotel, and the accused and co-accused arrived with three minors (two girls aged 7 and 15, and a boy). After the undercover agent gave money to the two co-accused, they were arrested and charged with Qualified Trafficking in Persons before the Regional Trial Court of Taguig City.⁷¹

Outcome: One of the accused was convicted and sentenced to life imprisonment with a fine of 2 million pesos and payment of 500,000 and 100,000 pesos respectively as moral and exemplary damages. The other accused was acquitted.⁷²

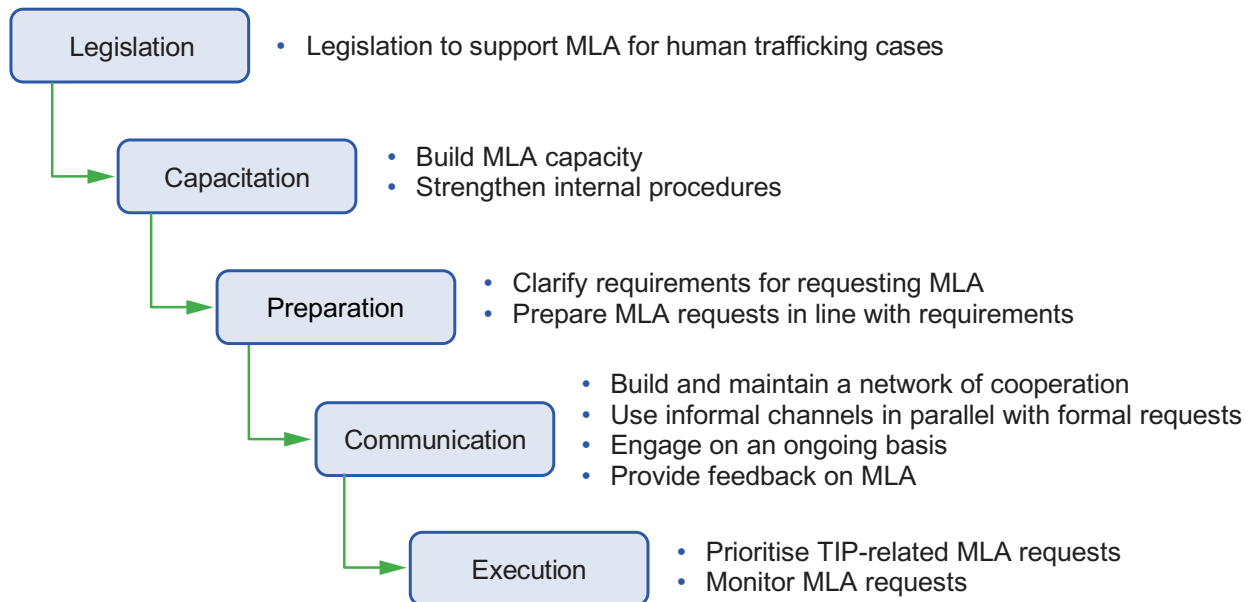
⁷⁰ See inter alia, <https://gfems.org/uncategorized/philippines-partners-assist-bahrain-in-conviction-of-eight-traffickers-guilty-of-trafficking-two-ofws/>

⁷¹ Section 4(a), in relation to Section 3(a) and (h), and Section 6(a) of Republic Act (R.A) No. 9208, as amended by R.A. No 10364.

⁷² People of the Philippines vs Danica D. Agustin and Mary Ann L Buan, Crime Case No 1180, 13 September 2021

2.4. Good practice tips

States should give high priority to MLA requests relating to trafficking in persons. Where possible, informal cooperation may be used to avoid time and labour-intensive formal MLA requests.⁷³ However, formal cooperation is necessary in some transnational trafficking in persons cases. Good practice tips are offered below in relation to legislation, capacity, preparation, communication and execution.



Legislation

Legislation support for MLA in trafficking in persons cases: Domestic law should support the provision of MLA for trafficking in persons and related offences. To that end, the following tips are offered for States to improve their domestic legislation to support international cooperation:

- Criminalise trafficking of persons in domestic legislation in accordance with the criminalisation provisions of the Trafficking in Persons Protocol and the ACTIP.
- Identify and analyse barriers to MLA that may exist in domestic law and amend legislation as appropriate
- Periodically review MLA laws to ensure they are effective and appropriate to address existing challenges and opportunities, including in relation to the use of technology to obtain witness testimony
- Adopt or amend laws as appropriate to allow assistance to be provided to other jurisdictions and to allow information obtained through direct law enforcement to be used in court proceedings.⁷⁴
- Ensure that bilateral MLA agreements are in place with countries of relevance for transnational trafficking in persons.
- Ensure that MLA laws are easily accessible online and in relevant languages to practitioners domestically and internationally
- Make clear guidance available, in relevant languages, on how MLA requests can be submitted and executed.

⁷³ By way of example, informal channels may be able to achieve non-coercive cooperation of witnesses, and judges may be willing to accept evidence from foreign jurisdictions without MLA where there is a formal letter or affidavit from a local authority.

⁷⁴ ADB / OECD (2017) Mutual Legal Assistance in Asia and the Pacific: Experiences in 31 Jurisdictions, pp.46-7

Good practice: Legislative amendment to support MLA

In Singapore, amendments made in 2014 to the *Mutual Assistance in Criminal Matters Act 2000* (MACMA) mean that dual criminality is no longer required for MLA for requests that do not involve coercive measures, attract penal sanctions for non-compliance or adversely affect the property rights of individuals. Even where a particular offence is not contained in the MACMA, the law includes a catch-all provision to permit assistance to any offence in a foreign jurisdiction that is a serious offence (of at least four years sentence) in Singaporean law, significantly reducing the risk of dual criminality posing a barrier to assistance under the MACMA.

Capacity

Build mutual legal assistance capacity: Law enforcers and prosecutors should understand that MLA is a possibility even when there is no treaty in place, and know how to initiate outgoing requests and respond to incoming requests. They also should know how to draft MLA requests, who within their jurisdiction to approach for support, and who to submit drafts to.

Given that few requests are sent and received, skills may need to be developed and maintained through regular practical training exercises to address domestic, bilateral, regional and international legal frameworks for MLA in both the requesting and receiving States. Training should address procedures for drafting, prioritising, transmitting, and executing requests and how to use relevant communication channels. ASEAN-ACT and UNODC ROSEAP can be approached to provide technical assistance to build capacity. Joint trainings between different stakeholders can be useful to improve capacities of each and align their understanding of how to cooperate in trafficking in persons cases.

Experiences and lessons learnt about MLA should be documented and disseminated or deposited at relevant mechanisms (for example, SOM-MLAT for ASEAN MLSAT) towards achieving consistent information within countries, and to ensure that lessons are not lost with staff turnover.

Vietnamese handbook mutual legal assistance in trafficking in persons cases

The Supreme People's Procuracy developed a *Handbook on criminal mutual legal assistance related to trafficking in persons cases* containing guidance on legal procedures and forms required to initiate MLA on trafficking cases. The resources are for law enforcement, the judiciary and consular officials and central and sub-national levels, and is available at the website of the [Supreme People's Procuracy of Viet Nam](#) and via [ASEAN-ACT](#).



Improve internal procedures: Internal procedures for sending and receiving MLA requests should be made as easy and efficient as possible, with consideration given to how bureaucratic steps can be removed or truncated. Responsibilities at various stages of the execution process can be delegated to expedite execution, and adequate resources must be allocated to process requests.⁷⁵

Guidelines and procedures may need to be put in place, including on:

- Prioritising incoming MLA requests based on their importance and urgency
- Submitting and receiving requests after office hours and during holidays
- Case management systems to monitor incoming and outgoing requests and assign responsibility for execution and accountability for non-execution.

Preparation

⁷⁵ ADB / OECD (2017) Mutual Legal Assistance in Asia and the Pacific: Experiences in 31 Jurisdictions, pp.46-7

Clarify requirements for requesting assistance and make them publicly available: Practitioners responsible for making requests should research the legal requirements of the requested country and ensure requests are as complete as possible before they are submitted. Central authorities should ensure that requirements, templates and model request letters are available on their websites, so that practitioners in other countries who may wish to submit requests can easily access them. Central authority websites should include information on:

- the legal frameworks
- treaties to which the State is party
- relevant laws and reciprocity
- legal and procedural requirements, including mandatory and discretionary grounds of refusal
- required forms, languages, sample templates, and contact information of relevant individuals at central and other relevant authorities.⁷⁶

The role of prosecutors in MLA

Prosecutors, together with investigators, generally initiate requests for MLA via their Central Authorities. They play a vital role in assisting the Central Authority in drafting letters of request, and should know timelines, dates, and precisely what is needed for evidence in court. Prosecutors need to continually communicate with Central Authorities and investigators, and with prosecutors in the requested State. Early communication between prosecutors in requesting and requested States can support prioritization and effective execution of requests, and enable any obstacles to MLA to be quickly identified and addressed.



Prepare MLA requests in line with requirements: The *2018 ASEAN Practitioner Guidelines on Criminal Justice Response to Trafficking in Persons*, state (at 4D.2) that practitioners should be encouraged to use the ASEAN MLAT templates published on the [website](#) of the Treaty Secretariat. These and other tools should be used to improve requests.⁷⁷

Collect and preserve electronic evidence of trafficking in ways that allow for MLA: As the use of technology in trafficking in persons cases increases (including in the context of trafficking into online sexual exploitation as well as into forced criminality for cyber-scramming and gambling), there is increased need to cooperate in relation to electronic evidence. Electronic evidence must be collected and protected in ways that are conducive to MLA, by meeting legal and procedural requirements in relevant countries.



UNODC provides [electronic evidence fiches](#) summarising national procedures and requirements to preserve and obtain electronic evidence held by foreign service providers including through MLA and informal assistance. There are fiches for many countries around the world, including in the ASEAN region for [Brunei Darussalam](#), [Cambodia](#), [Indonesia](#), [Lao PDR](#), [Malaysia](#), the [Philippines](#), [Thailand](#), and [Viet Nam](#). Many other resources are available, including for countries in [Europe](#).

Draft MLA requests clearly and with sufficient detail: MLA requests should not be too broad or vague, and should include supplementary information so requested authorities are given the legal basis, the facts, and relevant details necessary to take action without delay. Requests should avoid technical or specialist language, and be written in a language understood by the requested state. Translations should be of high quality to avoid confusion (for instance, between the terms ‘trafficking in persons’ and ‘smuggling of migrants’).



See checklist below at 2.5 on *Effective drafting of MLA request*

⁷⁶ ADB / OECD (2017) *Mutual Legal Assistance in Asia and the Pacific: Experiences in 31 Jurisdictions*, pp.46-7

⁷⁷ SOM-MLAT Working Group on the Model Template on MLA Request is currently developing the model templates for MLA Request under the ASEAN MLAT with the support from UNODC. The Model Templates are expected to ensure uniformity, simplicity, effectiveness, and smooth implementation of the ASEAN MLAT to assist AMS in requesting and rendering MLA under the ASEAN MLAT, <https://asean.org/3rd-senior-officials-meeting-of-the-central-authorities-on-mutual-legal-assistance-in-criminal-matters-9th-asean-senior-law-officials-meeting-working-group-on-asean-extradition-treaty-conven/>



ASEAN Treaty on Mutual Legal Assistance in Criminal Matters relevant forms, legislation and model checklists and forms are available at <https://asean.org/our-communities/asean-political-security-community/rules-based-people-oriented-people-centred/treaty-on-mutual-legal-assistance-in-criminal-matters/>



Attachment 3: Model Checklists and Forms for Good Practice in Requesting Mutual Legal Assistance, *Handbook on International Legal Cooperation in Trafficking in Persons Cases* (ASEAN-ACT / UNODC, 2018), pp.116 – 122



UNODC Mutual Legal Assistance Request Writer Tool
<https://www.unodc.org/mla/>

Communication

Build and maintain networks for MLA: Effective MLA is built on trust and communication. Where counterparts know and trust each other, they can easily communicate. Informal networks should be built, maintained and leveraged to support MLA, including through regular online and in-person meetings; attendance and active engagement of law enforcers and prosecutors who are active on transnational trafficking cases, meetings and conferences; and social events. Accordingly, the individuals who are likely to be directly involved in processing MLA requests should be prioritised to attend international events. Liaison officers can also be posted in embassies in countries with whom international cooperation is sought.

Educate foreign counterparts to understand the national legal system: Educating those who may need to cooperate on the relevant legal framework for doing so, is a useful measure to expedite cooperation. This can be achieved through regular meetings with relevant government counterparts, engagement in international and regional networks, and regular communication with and about internal central bodies.

Use informal cooperation in parallel to formal requests: Informal and direct communication should occur in parallel to formal requests. Central Authorities can be encouraged to consult with counterparts in requested and requesting countries prior to submission or refusal of requests for assistance. Communication between law enforcers and prosecutors in both countries can be useful for anticipating and addressing any shortcomings in requests before they are formally submitted, and to follow up after their submission. Putting MOUs in place between stakeholders and developing joint manuals and procedures can be useful for eliminating bureaucracy. Informally providing advance copies of formal requests allows law enforcers maximum time to prepare to execute requests when they are formally made. Informal cooperation networks can assist in determining the appropriate communication channels in foreign jurisdictions. Direct communication and information exchange between law enforcement authorities can be supported by both legal and informal channels (telephone, WhatsApp, Telegram, Line, Signal, email and other means), giving consideration to security and data protection issues.



The [South East Asia Justice Network](#) (SEAJust) is an informal platform for facilitating direct contact between central authorities for MLA in criminal matters, supported by UNODC and the ASEAN Mutual Legal Assistance Treaty Secretariat. All ASEAN Member States are members of SEAJust, which has proven a valuable platform for informal cooperation to support MLA both within ASEAN and elsewhere. SEAJust has nationally appointed contact points to informally communicate in relation to international cooperation in criminal matters. Membership of SEAJust is growing. As of 2025, SEAJust had 23 members across Southeast Asia and beyond⁷⁸ and had facilitated the resolution of over 300 MLA requests.⁷⁹ During consultations, examples were offered in two countries of SEAJust facilitating tangible communication with countries towards achieving informal

⁷⁸ The members of SEAJust are the nationally appointed contact points of 23 countries/territories, being: Australia, Brunei Darussalam, Cambodia, Canada, France, Hong Kong Special Administrative Region of P.R.C, Indonesia, Japan, Lao PDR, Macao Special Administrative Region of P.R.C., Malaysia, Maldives, Mongolia, Myanmar, The People's Republic of China, The Philippines, The Republic of Korea, Romania, Singapore, Thailand, Timor-Leste, The United States of America and Viet Nam.

⁷⁹ <https://www.unodc.org/roseap/en/SEAJust/index.html>

cooperation to support formal cooperation. Neither of these examples involved trafficking in persons cases.

Engage on an ongoing basis in relation to requests made and received: There should be close and quick communication between Central Authorities and prosecutors in trafficking cases involving MLA requests.⁸⁰ Requested States should promptly acknowledge receipt of requests and provide requesting States with updates.⁸¹ Regular meetings of relevant internal agencies should be held to discuss implementation of requests and Central Authorities should periodically review and update on the progress of requests between them.⁸² Requested States should also be informed if any assistance requested is no longer required, or if human rights or other issues arise.⁸³

Provide feedback on MLA requests: Feedback should be provided to countries that have cooperated through MLA, to inform them about the use made of their inputs. Recognising the time, efforts and inputs of counterparts builds trust and incentivizes future engagement.

Prioritise trafficking-related MLA request: Most countries do not have procedures in place for prioritising requests. Instead, central or executing authorities prioritise requests on an ad hoc or first-come-first-served basis, or on the basis of ease, or the political, economic, historic or other ties with the requesting State. High priority should be given to expediting requests related to serious organised crimes, such as trafficking in persons.⁸⁴ Efforts of law enforcement authorities to engage with central and executing authorities can support their prioritisation of requests.⁸⁵

Monitor the execution of MLA requests: Incoming and outgoing requests need to be monitored and followed up. It is good practice to bring central and executing authorities together to discuss outstanding requests. Databases to monitor execution of MLA requests vary significantly across ASEAN countries. Some are advanced and maintain statistics, track incomplete tasks and send reminders. Others are more basic, involving spreadsheets manually updated by staff when they have time to do so. Some countries in the region may not maintain a database, meaning requests may be overlooked. Regardless of whether manual systems, electronic databases or software packages are used, it is good practice to designate responsibility for managing and monitoring requests to specific people. As noted by ADB and OECD "...no spreadsheet or software system can replace individual accountability when it comes to ensuring that a request is followed through."⁸⁶

⁸⁰ 2018 Practitioner Guidelines on Criminal Justice Response to Trafficking in Persons, 4D.2

⁸¹ 2018 Practitioner Guidelines on Criminal Justice Response to Trafficking in Persons, 4D.4

⁸² By way of example, prosecutors in border areas between Lao PDR and Viet Nam reportedly communicate on the basis of bilateral MLA Treaty to transfer, receive and implement MLA requests, keeping their central authorities informed of progress.

⁸³ By way of example, it may be necessary to disclose the fact of an MLA request in connection with court proceedings, in which case the requesting States should be informed that confidentiality cannot be maintained.

⁸⁴ 2018 Practitioner Guidelines on Criminal Justice Response to Trafficking in Persons, 4D.1

⁸⁵ ADB / OECD (2017) Mutual Legal Assistance in Asia and the Pacific: Experiences in 31 Jurisdictions, 29-30.

⁸⁶ ADB / OECD (2017) Mutual Legal Assistance in Asia and the Pacific: Experiences in 31 Jurisdictions, 32.

2.5. Checklists for mutual legal assistance

Checklist for Mutual Legal Assistance in Trafficking in Persons cases

Legislation		☒
The national legal framework enables and supports mutual legal assistance in trafficking in persons and related cases		
1. Ratify bilateral, regional and international treaties that provide a legal basis for MLA in trafficking in persons cases		☐
2. Criminalize trafficking in persons in line with regional and international law, and ensure trafficking is punishable as a serious crime		☐
3. Ensure that trafficking and related offences fall within the scope of application of domestic laws regulating the provision of MLA, as well as bilateral and multilateral treaties to which the State is party		☐
4. Amend relevant laws and procedures to enable the state to provide the widest possible MLA necessary for the effective prosecution of trafficking in persons cases		☐
5. Amend national MLA legislation in support of the actions with respect to trafficking-related proceeds including: (i) tracing and identification (ii) freezing and seizing; (iii) confiscation; (iv) repatriation of proceeds		☐
Capacity		☒
Criminal justice officials and agencies have capacity to engage effectively in international legal cooperation including mutual legal assistance at national, bilateral, regional and international levels		
6. Train law enforcers, prosecutors, staff of Central Authority and other officials who are or may be involved in making or receiving MLA requests in trafficking in persons cases		☐
7. Ensure domestic MLA procedures are efficient, prioritise urgent and important requests, and allocate responsibilities		☐
Preparation		☒
8. Consider whether information can be obtained outside formal MLA processes (police, anti-corruption, financial intelligence, tax or customs)		☐
9. Gather all possible information on evidence or assistance sought (names, locations of evidence of witnesses, bank account information, other)		☐
10. If possible under local law, consult with counterparts in the State who assistance is to be requested from, to verify requirements for requests including evidentiary thresholds, procedural and language requirements, and appropriate authority to submit request to		☐
11. Consider the legal basis for the request, including multilateral MLATs (UNTOC, UNCAC, ACTIP, ASEAN MLAT), bilateral agreements, domestic law and reciprocity		☐
12. Use international tools and templates as a basis for preparing requests (e.g. ASEAN Treaty tools, ASEAN-ACT / UNODC tools, UNODC Mutual Legal Assistance Request Writer Tool)		☐
Communication		☒

Relationships of trust built between counterparts and channels of communication established, to support MLA

13. Use contact points in international organisations to facilitate direct informal contacts (e.g. ASEAN / SEAJust)	☐
14. Submit a copy of request early to anticipate and address potential shortcomings of a request before it is formally submitted	☐
15. If possible, use informal contacts with executing authorities to enable their follow up (informing central authority that this has been done).	☐
16. Promptly acknowledge receipt of requests, and communicate on an ongoing basis with stakeholders to review and update on progress and any risks or issues that emerge	☐
17. Provide feedback on MLA requests to inform counterparts of the use made of inputs	☐

Execution

18. Implement processes to prioritise and expedite trafficking in persons-related MLA requests	☐
19. Put measures in place to monitor execution of MLA requests, including timeliness and adherence to requirements and human rights and other commitments in executing (or refusing) requests	☐

Source: Adapted from *Mutual Legal Assistance in Asia and the Pacific: Experiences in 31 Jurisdictions* (ADB / OECD, 2017) pp.46-7 and *Progress Report on Criminal Justice Response to Trafficking in Persons Cases* (ASEAN, 2011) pp.146-147

Checklist: What to include in a letter of request for MLA

What to include in a letter of request for MLA:	☒
The legal basis for the request	☐
Mandatory procedural requirements	☐
The assistance required and the end-result sought	☐
The link between the assistance sought and the investigation or prosecution	☐
Assurances (e.g. reciprocity, confidentiality and human rights issues)	☐
Key personnel (investigators / prosecutors / judicial authorities)	☐
Statement of facts and Status of the case	☐
Prior contact (formal or informal) with any officials in relation to the case	☐
Time limitations and reasons for deadlines	☐
Request acknowledgement of receive	☐
Confidentiality (if required) and reasons confidentiality required	☐

For more detail, see: *ASEAN Handbook on International Legal Cooperation in Trafficking in Persons Cases* (ASEAN-ACT / UNODC, 2018) 92-93

Self-assessment checklist for implementation of relevant UNTOC provisions

Mutual legal assistance
(article 18, UNTOC)

☑ / ☒

1. In your country, is mutual legal assistance afforded by ☐

(a) Statute? ☐

(b) Treaty or other agreement or arrangement (multilateral or bilateral)? ☐

(c) Reciprocity or comity? ☐

2. Does your country apply provisions of article 18 of the Convention to provide MLA to other States with which it does not have other MLA treaties in force (article 18(7))? ☐

3. Has your country designated a central authority (article 18(13))?

If yes, provide Name / Address Contact details of Central Authority: ☐

4. Does your country afford MLA with respect to investigations, prosecutions and judicial proceedings in relation to trafficking in persons, for which a legal person may be held liable (article 18(2))? ☐

5. Which of the following types of mutual legal assistance does your country provide (article 18(3))? ☐

(a) Taking evidence or statements from persons ☐

(b) Effecting service of judicial documents ☐

(c) Executing searches and seizures and freezing ☐

(d) Examining objects and sites ☐

(e) Providing information, evidentiary items and expert evaluations ☐

(f) Providing originals or certified copies of relevant documents and records, including government, bank, financial, corporate or business records ☐

(g) Identifying or tracing proceeds of crime, property or instrumentalities or other things for evidentiary purposes ☐

(h) Facilitating the voluntary appearance of persons in the requesting State party ☐

(i) Any other type of assistance that is not contrary to your domestic law (specify below) ☐

6. Does your country permit hearings by videoconference at the request of another State party where it is not feasible or desirable for the witness or expert to appear in person before the judicial authorities of the foreign State (article 18(18))? ☐

7. Does your country decline to render MLA on the ground of absence of dual criminality (article 18(9))? ☐

8. Is bank secrecy a ground for refusal of a request for MLA under your domestic legal framework (article 18(8))? ☐

If yes, specify which circumstances:

-
- | | |
|---|--------------------------|
| 9. Are any of the following grounds for refusal of an MLA request provided applicable under your domestic legal framework (article 18(21)): | ☐ |
| (a) If the request is not made in conformity with the provisions of article 18(21) | ☐ |
| (b) If the execution of the request is considered likely to prejudice your State's sovereignty, security <i>order public</i> or other essential interests | ☐ |
| (c) If authorities would be prohibited by domestic law from carrying out the action requested with regard to any similar offence, had it been subject to investigation, prosecution or judicial proceedings under your State's jurisdiction | ☐ |
| (d) If it would be contrary to your State's legal system relating to MLA for the request to be granted | ☐ |
| (e) Are any other grounds of refusal provided in your domestic law? | |
-

If so, specify:

☐

11. Does your country refuse MLA requests on the solid ground that the offence is also considered to involve fiscal matters (article 18(22))?

☐

If so, specify the circumstances:

-
- | | |
|--|--------------------------|
| 12. Do your country's legal requirements for MLA requests require (article 18(15): | ☐ |
| The identity of the authority making the request | ☐ |
| The subject matter and nature of the investigation, prosecution or judicial proceeding to which the request relates and the name and functions of the authority conducting the investigation, prosecution or judicial proceeding | ☐ |
| A summary of the relevant facts, except in relation to requests for the purpose of service of judicial documents | ☐ |
| A description of the assistance sought and details of any particular procedure that the requesting State Party wishes to be followed | ☐ |
| Where possible, the identity, location and nationality of any person concerned | ☐ |
| The purpose for which the evidence, information or action is sought | ☐ |
-

13. Does your country have any additional requirements?

☐

If so, specify:

14. Has your country requested or received a request for additional information when it appeared necessary for the execution of a request in accordance with domestic law or when it can facilitate such an execution (article 18(6))?

☐

If yes, was the request relevant to trafficking in persons offences?

15. Does your country respond to reasonable requests by the requesting State party on the progress of handling of the request (article 18(24))?

☐

16. Is your country generally able to execute requests, in accordance with your State's laws, the requesting State's laws, and with the procedures specified in the request?

☐

If not, please specify why:

Source: Adapted from Self-assessment questionnaire for the United Nations Convention against Transnational Organized Crime and the Protocols thereto – Cluster 1

3. Extradition

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Extradition is a formal process in which one State asks another to return an accused or convicted person to stand trial or serve a sentence in the requesting State.

Extradition is an important tool for combating trafficking in persons as traffickers may commit offences in States different to their own, or in multiple States, and may move between places. To equip them to respond, States are obliged to:

- Ensure that trafficking-related offences are extraditable and consider extending jurisdiction to cover trafficking-related offences by or against their nationals.⁸⁷
- Give high priority to requests for extradition of persons involved in trafficking-related offences.⁸⁸

Dual criminality requirement: A condition for extradition is that the offence for which extradition is sought is punishable under the domestic law of both the requesting and the requested State. This is known as the dual criminality requirement. The dual criminality requirement is a human rights safeguard in so far as it allows a State to refuse a request that it would consider contrary to its values and the international law principle of legality.⁸⁹ In order to be extraditable, trafficking in persons must be criminalized in both the requesting and requested State.

Trafficking in persons is an extraditable offence in all ASEAN Member States, yet few practical examples could be identified of persons suspected of or known to be involved in human trafficking being extradited to or from the region.

Dual criminality and differing definitions of trafficking in persons

The fact that trafficking in persons may be defined differently in different States poses no barrier to extradition; what is important is that the conduct is criminalized under the laws of both States, regardless of how it is classified or described in law.⁹⁰ In the ASEAN region, the differences between criminalization provisions in domestic laws does not pose any barrier to extradition between them. All ASEAN Member States have united around an understanding of trafficking in persons as expressed in both the Trafficking in Persons Protocol and the ACTIP. Where the conduct described in those instruments is criminalized in domestic legislation, the dual criminality requirement is met.



Rule of speciality: The requesting State cannot take actions against the extradited person other than the action for which the extradition request was granted.⁹¹ This is known as the rule of speciality, which limits the State's power over the person surrendered to it through extradition. This rule benefits the requested State rather than the extradited person, but nonetheless can serve as a human rights safeguard against prosecution for political offences, and violations against principles such as dual criminality and double jeopardy.⁹²

Refusal to extradite: Extradition can be refused on several grounds, including human rights considerations set out below in section 3.2. When States refuse to extradite in transnational trafficking cases, the principle of 'extradite or prosecute' (*aut dedere aut judicare*) applies.⁹³ Many States, particularly civil law countries, may refuse to extradite their nationals. A key barrier to the extradition of members of transnational organised crime groups is their being granted citizenship in ASEAN countries.

Overcoming barriers to extradition: Before refusing to extradite traffickers and other transnational organised criminals, requested States should consult with the requesting State, to provide it with the opportunity to present

⁸⁷ ACTIP, Article 19; UNTOC, article 15; Trafficking in Persons Protocol, Article 5; UN Recommended Principles and Guidelines on Human Rights and Human Trafficking

⁸⁸ Article 16(8), UNTOC.

⁸⁹ Issue Paper Convention against Transnational Organized Crime and International Human Rights Law (UNODC, 2022), 50

⁹⁰ *Manual on Mutual Legal Assistance and Extradition* UNODC paragraph 102.

⁹¹ UNODC, *Manual on Mutual Legal Assistance and Extradition*, para 105. UNTOC articles 15(3) and 16(10).

⁹² Issue Paper Convention against Transnational Organized Crime and International Human Rights Law (UNODC, 2022), 54

⁹³ *Criminal Justice Responses to Trafficking in Persons: ASEAN Practitioner Guidelines*, as finalized by ASEAN Ad-Hoc Working Group on Trafficking in Persons, 25 June 2007, Vientiane, Lao PDR; and endorsed by the 7th ASEAN Senior Officials Meeting on Transnational Crime, Vientiane, Lao PDR, 27 June 2007.

opinions and provide relevant information.⁹⁴ The requesting State may be able to give assurances to the requested State that allow it to grant extradition. This good faith approach to overcoming barriers aligns with States' commitment to provide the widest measure of cooperation against trafficking in persons.

Alternatives to extradition: Where extradition is refused, other opportunities may be available to pursue justice, including the temporary surrender of a person on the condition that he or she be returned to serve the sentence in the requested State. The European Arrest Warrant in the European Union is an example of an expedited and simplified procedure that avoids lengthy extradition processes. In the ASEAN region, Singapore, Malaysia and Brunei Darussalam allow warrants to be issued and used in lieu of ordinary extradition processes.⁹⁵ Deportation or exclusion orders have less onerous procedural requirements and may be used as cheaper and quicker de facto forms of extradition. However, these cannot be used to avoid human rights obligations, including *non-refoulement*, which also apply to deportation and exclusion (see 3.2 below).

3.1. Legal framework

The legal basis for extradition may be international law, regional law, bilateral treaty, domestic law, or reciprocity. Each is discussed in turn below.

International Law

UNTOC as a legal basis for extradition: Article 16 of the United Nations Transnational Organized Crime Convention (UNTOC) requires States to make trafficking an extraditable offence in their national law and extradition treaties.⁹⁶ It encourages States to streamline extradition in respect of offences established in accordance with the UNTOC or its Protocols, including trafficking in persons (article 16(8)). As all ASEAN Member States are party to the UNTOC, they can rely on article 16 as a basis for extradition when there is no other bilateral or multilateral extradition treaty. Exceptions to this are Lao PDR, Malaysia and Singapore, who do not consider the UNTOC as a legal basis for extradition.⁹⁷

Refusing extradition: Several paragraphs of article 16 relate to grounds for refusing extradition requests, including at article 16(7), grounds set out in domestic law, or extradition treaties, including conditions relating to minimum penalty requirements for extradition. Accordingly, domestic law and any bilateral or regional extradition treaties must be referred to in determining possible grounds for refusing an extradition request.

When States refuse to extradite alleged traffickers, there are still options to pursue them in international law:

- **Extradite or prosecute:** Article 16(10) of UNTOC (and articles 10 and 19(4) of ACTIP) requires States that refuse extradition to submit the case to competent authorities to determine whether to proceed with prosecution. This is the principle of *aut dedere aut judicare* (extradite or prosecute).
- **Temporary surrender:** Article 16(11) allows for temporary surrender of a person on the condition that he or she will be returned to the requested State to serve their sentence. This is a useful tool where States are unwilling to extradite their nationals.
- **Enforce sentence:** Article 16(12) of UNTOC calls States that deny extradition on the grounds of nationality, to consider enforcing the sentence itself.

UN Convention against Corruption as a basis for extradition: In trafficking in persons cases involving corruption or money laundering, article 44 of the UNCAC can be used as an alternative instrument to the UNTOC as a basis for extradition. All ASEAN States are party to the UNCAC, however, Lao PDR, the

⁹⁴ UNTOC, Article 16(6).

⁹⁵ *ASEAN Handbook on International Legal Cooperation in Trafficking in Persons Cases* (ASEAN-ACT / UNODC, 2018) 188.

⁹⁶ Offences to which extradition obligations under the UNTOC apply include: participation in an organised crime group (article 5); money laundering (article 6); corruption (article 8); obstruction of justice (article 23), any other 'serious crime' (as defined by article 2(b)), offences established by the Protocols, including trafficking in persons, attempts, participating as an accomplice, and ordering or directing TIP offences (article 1(3)).

⁹⁷ Upon accession to the UNTOC, Lao PDR, Malaysia and Singapore submit reservations to Article 16(5)(a) to not consider the UNTOC a legal basis for cooperation on extradition with other States parties. Upon acceding to the Convention, Myanmar expressed reservations on Article 16 relating to extradition. However, it withdrew its reservation on 17 September 2012.

Philippines, Singapore and Viet Nam do not consider UNCAC a legal basis for extradition.

Use in practice... No examples were shared of these instruments being applied to request, refuse or execute extradition in counter-trafficking efforts in the ASEAN region.

Regional Law

The **ASEAN Convention against Trafficking in Persons, especially women and children (ACTIP)** provides for extradition for trafficking-related offences. Article 19 achieves three important things:

- Firstly, it requires States parties to include trafficking in persons-related offences as extraditable offences in any existing or future extradition treaty (article 19(1)).
- Secondly, it invites them to use ACTIP as a legal basis for extradition of trafficking-related offences where there is no extradition treaty (article 19(2)).
- Thirdly, where an alleged offender is not extradited because he or she is a national of the requested State, it obliges that State to submit the case without undue delay to its own authorities for prosecution (article 19(4)).

Use in practice... Notwithstanding the strong framework for extradition provided for by the ACTIP, no cases of its use in practice for the purpose of extradition were shared.

Negotiation of ASEAN Extradition Treaty

ASEAN Member States have been developing an *ASEAN Extradition Treaty* (“AET”) since 2018. The ASEAN Senior Law Officials Meeting (ASLOM) Working Group on the AET held its first meeting in Singapore in April 2021. Negotiations on the AET have substantially concluded, and ASEAN Member States are working towards signing the AET on the sidelines of the 13th ASEAN Law Ministers’ Meeting.



State practitioners report the preference to use bilateral agreements when they exist, rather than regional or international treaties as a basis for extradition. Bilateral treaties can cater to the specificities of issues and relationships between parties. Several ASEAN Member States have negotiated bilateral extradition treaties with partners in the region and beyond, that can be used in trafficking in persons cases.

Bilateral treaty

Member State	Bilateral treaty (ASEAN)	Bilateral treaty (Non-ASEAN)
Brunei Darussalam	Singapore Malaysia	
Cambodia	Lao (1999) Thailand Viet Nam	China Republic of Korea Russia France Working group currently looking into extradition with India.
Indonesia	Malaysia	Australia, PR China, Hong Kong SAR,

Member State	Bilateral treaty (ASEAN)	Bilateral treaty (Non-ASEAN)
	Philippines Singapore Thailand Viet Nam (2013)	Republic of Korea, Papua New Guinea, Republic of India, Republic of Iran, United Arab Emirates, Russian Federation (has been signed but not yet ratified)
Lao PDR	Cambodia (1999) Thailand (1999) Viet Nam (2024)	China (2002); Russian Federation (2015);
Malaysia	Brunei Darussalam Indonesia Singapore Thailand	
Myanmar	The Extradition Law 1997 (The Pyidaungsu Htuttaw Law No. 16, 2017)	-
The Philippines	Indonesia Thailand	Australia, Canada, China, Hong Kong-SAR, India, Republic of Korea, Russia, Spain, Switzerland, United Kingdom and United States Currently being negotiated with Saudi Arabia
Singapore	Reciprocal arrangements with Malaysia and Brunei Darussalam Indonesia	Hong Kong SAR, United States, Germany. Additionally, extradition arrangements with 40 declared Commonwealth territories under London Scheme for extradition within the Commonwealth.
Thailand	Cambodia Indonesia Lao PDR (1999) Malaysia Philippines	Bangladesh, Belgium, China, Hungary, Korea, Russia, United Kingdom, USA. Treaty relations also with several Commonwealth countries through Extradition Treaty with Great Britain and Siam 1911.
Viet Nam	Cambodia Indonesia (2013) Lao PDR (2024)	Algeria, Czech Republic, Slovakia Republic, Cuba, Hungary, Bulgaria, Poland, Russia, Ukraine, Belarus, PR China, North Korea, South Korea, India, United Kingdom, Australia, Spain, Mongolia, Kazakhstan, Taiwan Province of China (PoC), France

Use in practice... No examples were shared of extradition in trafficking in persons cases taking place on the basis of bilateral treaties.

Domestic Law

Extradition may be carried out on the basis of domestic law, even where there is no treaty in place between relevant countries.

Member State	Instrument	Key obligations and opportunities
Brunei Darussalam	Extradition Act, Chapter 294 Extradition Malaysia and Singapore Act, Chapter 154	
Cambodia		
Indonesia	Extradition Law No. 1 of 1979	Requirements for arrest by requesting state (arts 18–21); requirements for requesting extradition (art 22–24)
Lao PDR	Law on Extradition (2012)	
Malaysia	Extradition Act 1992 [Act 479]	
Myanmar	The Extradition Law (The Pyidaungsu Hluttaw Law No.16, 2017)	
The Philippines	Philippine Extradition Law (PD No. 1069 (1975) An amended bill on extradition law is pending at Congress	
Singapore	Extradition Act 1968	
Thailand	Extradition Act BE 2551 (2008)	
Viet Nam	N/A	Criminal Procedure Code (No 101/2015/QH13) and Penal Code

Use in practice... No examples were offered of extradition in trafficking in persons cases taking place on the basis of domestic legislation.

Reciprocity

Assurances of reciprocity are a valuable basis for extradition requests. Reciprocity is a customary principle by which the State making the request gives its assurance to the requested State, that it would comply with a similar request the requested State may make of it in future.

Use in practice... Reciprocity is reportedly common practice in the ASEAN region for responding to extradition requests where there is no other treaty basis. However, while practitioners in several ASEAN countries raised reciprocity, no examples of extradition of traffickers on this basis were provided.

3.2. Human rights and gender equality considerations

Extradition has implications for the human rights of victims, offenders and others. Extradition can serve human rights objectives when States use it to pursue traffickers in accordance with their obligations to achieve justice for victims in the form of compensation or restitution. Conversely, it can raise human rights risks, particularly for those being extradited, and can be refused on human rights grounds.⁹⁸

Refusing extradition on the basis of human rights or gender...

States may be reluctant to extradite their nationals, owing to concerns that foreign jurisdictions will not uphold their human rights. The provisions of the UNTOC discussed above (articles 16(10) to (12)) come into play here. Additionally, article 16(13) requires States to deny extradition requests that may result in unfair treatment, and article 16(14) guards against extradition that where there are substantial grounds for believing that the request has been made for the purpose of prosecuting or punishing a person on account of sex, race, religion, nationality, ethnic origin or political opinion, or where compliance with the request would cause prejudice to the person's position for any of these reasons.

Article 26 of the ICCPR – which some ASEAN Member States are party to – prohibits discrimination on 'any ground' such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Depending on the interpretation made, 'other status' can include disability, age, marital and family status, sexual orientation, gender identity and health status, place of residence and economic and social situation.⁹⁹ Article 26 of the ICCPR may also guard against the extradition of a person at risk of being discriminated against on the basis of grounds including gender, gender-identity, sexuality, or any intersectional identity traits.¹⁰⁰

Other human rights considerations

Information about the extent to which MLA is used in relation to transnational trafficking in persons is incomplete and inconsistent.

Non-refoulement: Extradition should be refused on the basis of *non-refoulement* (non-return). Non-refoulement is protected under international human rights and refugee law – as well as under customary law – meaning that even States not party to the Refugees Convention or the Convention against Torture must not return a person to a situation where they would be persecuted, or suffer torture or other cruel, inhuman or degrading treatment.

Corporal punishment: Some States may refuse extradition where there are reasonable grounds to conclude that the extradited person would be subject to torture or cruel, inhuman or degrading treatment or punishment. For some States, this may arise where the punishment includes corporal punishment.

Capital punishment: In some countries, trafficking in persons is a capital offence. The position taken by some countries is that extradition may be refused where the offence for which extradition is being sought carries the death penalty. For States that prohibit the death penalty this may require.

Consultation and assurances: Before an extradition request is refused, the requested State should consult with the requesting State to share opinions and provide relevant information towards finding a way for the extradition to be carried out in accordance with human rights norms and standards.¹⁰¹ In some cases, communication may overcome barriers and misunderstandings. Explanations may need to be offered to contextualise what is culturally normal in a given country.

⁹⁸ Issue Paper Convention against Transnational Organized Crime and International Human Rights Law (UNODC, 2022), 48

⁹⁹ See: Committee on Economic, Social and Cultural Rights, General Comment No. 20 (2009) (E/C.12/GC/20), paragraphs 27-35.

¹⁰⁰ Gender Issue Paper (2022), p.40

¹⁰¹ UNTOC, Article 16(6).

Example: Communication overcomes cultural misunderstanding

During consultations, an example was raised of extradition being refused by a Western country owing to concerns of prison conditions in the requesting country, where prisoners sleep on mattresses on the floor. The requesting State explained to the requested State that sleeping on mattresses on the floor is not only a prison practice, but something many people do in their own homes.

In other cases, extradition may be allowed if the requesting State makes assurances that the extradited person will be given a fair trial and be treated in accordance with international human rights obligations, or on the condition that the suspect, if convicted, will be returned to serve their sentence in the requested State.

Table: Giving assurances to overcome barriers to extradition

Barrier to extradition	Assurance from requesting State to overcome barrier
<i>The offence for which the extradition is sought, carries the death penalty</i>	Assurance that the death penalty will not be imposed on the person sought, or will not be carried out if it is imposed
<i>Concerns about treatment of extradited person</i>	Assurance that the person sought will not be subjected to cruel, inhuman or degrading treatment or punishment.
<i>Concerns about discrimination</i>	Assurance that the person sought will not be prosecuted or punished after surrender on the basis of sex, race, religion, nationality, ethnic origin or political opinion, or other ground contrary to the applicable human rights laws of the requested State
<i>The person sought has been convicted by the requesting State in absentia</i>	Assurance that upon surrender, the person sought will have the opportunity to have the case retried
<i>The person sought would be liable to be tried or sentenced by an extraordinary court or tribunal</i>	Assurance that the judgment will be passed by an independent and impartial court that is generally empowered under the rules of judicial administration to pronounce on criminal matters
<i>The person sought is a national of the requested State</i>	Temporary surrender of the person to be tried in the requesting country but serve their sentence in the requested country

Limitations of assurances: Requesting States may not be willing or able to make assurances. In one country, it was explained that whether or not assurances can be made or not is a matter of interpretation of domestic law, and that assurances cannot always be made in relation to prison conditions, the death penalty and life sentences. Even when assurances are made, the requested States may still opt not to extradite where there are substantial grounds for believing that there is a real risk of human rights violation.¹⁰² Diplomatic assurances have been found unreliable and ineffective to protect against torture and ill-treatment, particularly where assurances are sought from countries where such practices are common. Diplomatic assurances are also not binding, meaning there is no accountability if they are breached, leaving the person whose rights have been violated without legal recourse.¹⁰³

These considerations speak to the importance of systemically bringing criminal justice processes into line with international norms and standards. Efforts to mainstream human rights into criminal justice response, is not only in keeping with State obligations to do so, but also increases their cooperative capacity and their status as trusted partners against transnational crime.

¹⁰² In making this decision, article 3(2) of the International Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment requires States to take into account, "all relevant considerations, including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights."

¹⁰³ Conference of Parties to the United Nations Convention on Transnational Organized Crime, Working Group on International Cooperation, Discussion of Challenges faced in the course of Extradition Proceedings, UN Doc. CTOC/COP/WG.3/2018/2 (2018).

Where extradition is carried out...

Where extradition is carried out, States have human rights obligations to both victims and perpetrators. Lengthy procedures do not serve victims' interests in offenders being brought to justice, and defendants' interests in speedy trials. Accordingly, efficient and effective extradition is in line with State's human rights obligations. The requesting State is therefore required to provide all information needed to commence the extradition process within a certain period of time.¹⁰⁴

States must protect lives within their jurisdiction. As extradition proceedings can raise the public profile of trafficking cases, the safety of persons involved, including victims, witnesses, accused persons and their family members, may be jeopardized. Risk assessments need to be carried out, mitigation strategies put in place, and persons at risk informed of proceedings.¹⁰⁵

Provisional arrest of a person whose extradition is sought must conform with the right to liberty and freedom from arbitrary detention. Article 16 of UNTOC is one of the few provisions of that instrument that expressly includes human rights protection. Article 16(3) refers to due process rights and fairness of extradition proceedings for defendants in all stages of proceedings. In the case of detention for the purpose of extradition, the extradited person has the same rights as other persons deprived of their liberty in a domestic criminal case.¹⁰⁶ It is good practice for countries to extend the rights and guarantees that are applicable to defendants in their domestic law, to extradition proceedings.¹⁰⁷

Rights of extradited persons

Extradited individuals have the right to a fair trial, including at minimum, rights to:

- be considered equal before courts and tribunals
- receive a fair and public hearing by a competent, independent and impartial tribunal established by law
- be presumed innocent until proven guilty
- be informed promptly in a language they understand, of the charges against them
- adequate time and facilities for preparation of defence
- be tried without undue delay, and defend themselves in person or through assistance of a lawyer; and to be accorded criminal defence aid (in whole or in part), if they do not have sufficient means to pay
- to examine or have examined, the witnesses against him
- free assistance of an interpreter if he or she cannot understand or speak the language used in court
- not to be compelled to testify against himself or to confess guilt
- to have their age taken into account where they are juveniles
- their conviction being reviewed by a higher tribunal according to law
- compensation for miscarriage of justice,
- not be tried or punished for an offence they have already been convicted or acquitted of in accordance with laws and procedures of each country.¹⁰⁸

¹⁰⁴ Issue Paper Convention against Transnational Organized Crime and International Human Rights Law (UNODC, 2022), 53

¹⁰⁵ *ASEAN Handbook on International Legal Cooperation in Trafficking in Persons Cases* (ASEAN-ACT / UNODC, 2018) 157

¹⁰⁶ Outcome document of the sixteenth Congress of the International Penal Law Association, Budapest 5 to 11 September 1999, CTOC/COP/WG.3/2018/5, paras 15-16.

¹⁰⁷ Digest of Cases: International Cooperation in Criminal Matters Involving the United Nations Convention against Transnational Organized Crime as a Legal Basis (UNODC, 2021) 35.

¹⁰⁸ Article 14, ICCPR, and Outcome document of the sixteenth Congress of the International Penal Law Association, Budapest 5 to 11 September 1999, CTOC/COP/WG.3/2018/5, paras 15-16

3.3. Case studies and examples

International and regional law require that cases related to trafficking in persons be given high priority for extradition. However, there have been markedly few extraditions of traffickers. Extradition processes are cumbersome, complex and costly, but before those challenges can be encountered, investigations of trafficking-related crimes often do not progress beyond recruiters to obtain evidence that could support extradition of suspected traffickers. As a result, few traffickers – particularly those involved in organised crime - are brought to justice in the ASEAN region.

In 2021, UNODC published a digest of cases that have used the UNTOC as a basis for international cooperation in criminal matters. That resource reports that Cambodia used the UNTOC as a legal basis for extradition in 2008, and that the Philippines also relied on the UNTOC in 2010, along with bilateral agreements to extradite people to countries outside of the ASEAN region. It also reported that Bahrain, Malaysia, [and Taiwan Province of China (PoC)] have extradited to the Philippines.¹⁰⁹ However, none of these examples relate to trafficking in persons cases. For the purpose of informing this ILC compendium, ASEAN Member States were invited to share recent case studies or examples of extradition in relation to trafficking in persons cases, though none were provided. Examples that could be identified in open-source materials are provided in the case study box below.

Case study: Extradition in connection with discovery of mass graves

In 2015, mass graves of people presumed to be victims of trafficking from Myanmar were discovered along the borders shared between Thailand and Malaysia. In 2016, Malaysia requested that Bangladesh extradite a person suspected of trafficking in persons in connection to this discovery.¹¹⁰ The 2022 US State Department Trafficking in Persons Report, the Thai government also arrested and extradited three suspected traffickers to Malaysia in connection to this case. Also in 2022, Thailand made an extradition request to Malaysia, and in June 2023, Malaysia extradited four Thais to Thailand to face trafficking in persons charges in connection to the mass graves, following an extradition request made in 2017.¹¹¹

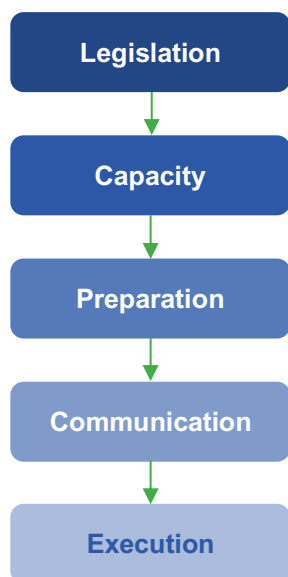


¹⁰⁹ *Digest of Cases: International Cooperation in Criminal Matters involving the United Nations Convention against Transnational Organized Crime as a Legal Basis* (UNODC, 2021) 66

¹¹⁰ ASEAN Handbook on International Legal Cooperation in Trafficking in Persons Cases (ASEAN-ACT / UNODC, 2018) 158.

¹¹¹ <https://www.abc.net.au/news/2023-06-23/malaysia-charges-thais-over-mass-graves/102518838>

3.4. Good practice tips



Legislation: Appropriate legislation is necessary for effective execution of extradition. The 2018 ASEAN Practitioner Guidelines note the ASEAN Extradition Treaty as an important step to end impunity for traffickers.¹¹² The Guidelines recommend that where possible, extra-territorial provisions be attached to trafficking in persons laws to remove safe havens for traffickers. They also call ASEAN Member States to review and harmonize their domestic law to ensure extradition provisions are able to function effectively, and to conclude and implement bilateral treaties.¹¹³ Importantly, the Guidelines recommend that where there is no bilateral treaty in place, alternative means such as the UNTOC or other instrument be considered as a basis for extradition.

Capacity: Law enforcers and prosecutors should know: how to initiate and respond to extradition requests; how to draft MLA requests; and who to submit drafts to. Capacity of practitioners should be built so they understand procedures to make and receive extradition requests and address challenges that arise. Irrespective of the crime time at issue, experiences of extradition should be documented and disseminated so that lessons are shared for the benefit of incoming staff and not lost with staff turnover. ASEAN-ACT and UNODC may be able to provide technical assistance to States that communicate their needs.

Preparation: The Requesting State must properly prepare to make a request, meaning the requested States should make their procedures and requirements for submitting, receiving and considering the request clear and accessible. Central Authorities should identify the appropriate legal framework for extradition, review laws and procedures of the country they are requesting extradition from, and the procedural or evidential requirements that must be complied with. Requests may need to be made through diplomatic channels directly or via Central Authorities.¹¹⁴

The Requesting State should anticipate barriers that may arise and the assurances it may need to make. Action should be taken early and in advance to identify who has authority to make assurances and the process for doing so.¹¹⁵ If no mechanism for assurance is in place, one should be put in place through domestic law or otherwise, to allocate legal authority and clarify the procedure for giving assurances.

Requests need to be drafted with sufficient detail and in compliance with procedural requirements of the requested State. To expedite the process, it is useful to share a draft of the request in advance of formal requests being made, so issues can be identified and addressed early. Requests should be submitted in the language specified in relevant domestic legislation or treaty.



Information about language requirements is also available in the UNODC [Competent National Authorities \(CNA\) Directory](#).

¹¹² Criminal Justice Responses to Trafficking in Persons: ASEAN Practitioner Guidelines, as finalized by ASEAN Ad-Hoc Working Group on Trafficking in Persons, 25 June 2007, Vientiane, Lao PDR; and endorsed by the 7th ASEAN Senior Officials Meeting on Transnational Crime, Vientiane, Lao PDR, 27 June 2007, Part Two, Section B.

¹¹³ Criminal Justice Responses to Trafficking in Persons: ASEAN Practitioner Guidelines, as finalized by ASEAN Ad-Hoc Working Group on Trafficking in Persons, 25 June 2007, Vientiane, Lao PDR; and endorsed by the 7th ASEAN Senior Officials Meeting on Transnational Crime, Vientiane, Lao PDR, 27 June 2007, Part Two, Section C.

¹¹⁴ ASEAN Handbook on International Legal Cooperation in Trafficking in Persons Cases (ASEAN-ACT / UNODC, 2018) 186

¹¹⁵ In some countries assurances may be made by sworn statements of judicial authorities, and in others the executive branch of government has legal authority to make assurances.

See checklist below in 3.5 on *Effective drafting of Extradition requests*.



General guidance on drafting effective requests is contained in the *ASEAN Handbook on International Legal Cooperation in Trafficking in Persons Cases* (ASEAN-ACT / UNODC, 2018) pp.183-186. This document also contains:

- A detailed checklist for outgoing extradition case work planning pp.192-193
- A checklist for the content of extradition requests at pp.194-196.

Communication: How requests should be provided to the requested State depends on the legal basis used, and whether the request is for a full order or for provisional arrest. Full order requests are usually transmitted through the Central Authority or diplomatic channels, while provisional arrest requests can be transmitted through INTERPOL or Central Authorities.¹¹⁶ Early, close and ongoing communication between central authorities, investigators and prosecutors internally, as well as between requesting and requested States, avoids misunderstandings and overcomes barriers to extradition.¹¹⁷



Central Authorities of relevant countries can be found on UNODC's Central National Authority database (<https://sherloc.unodc.org/cld/en/st/cna/CNA.html>).

Execution: The extradition process generally involves two phases. The person sought is firstly brought before court to determine whether conditions of extradition are met. If not, the person will be released. If they are met, the person will be held in custody or on bail to await extradition. The second phase generally involves the Requested State deciding whether the individual should be surrendered, taking into consideration legal, political, humanitarian and human rights considerations. Both decisions may be the subject of appeal by the person sought or by the requesting State.¹¹⁸ The laws of some countries (e.g. Brunei Darussalam, Malaysia and Singapore), allow for simplified procedures, in which a judge in the requested State simply endorses the original arrest warrant issued in the requesting State, or the person sought for extradition waives their right to an extradition hearing and consents to be surrendered to the requesting State.

Once the surrender of the person has been granted, the requested State should notify the requesting State so that arrangements can be made within the stipulated time frame. Travel authorisations need to be obtained, and travel and escort arrangements made. Permission of any transit country is needed, so the escorting officer has power and can seek assistance from local police if needed, and so the transit country has power to detain the person.¹¹⁹

¹¹⁶ ASEAN Handbook on International Legal Cooperation in Trafficking in Persons Cases (ASEAN-ACT / UNODC, 2018), p.186

¹¹⁷ ASEAN Handbook on International Legal Cooperation in Trafficking in Persons Cases (ASEAN-ACT / UNODC, 2018), p.18

¹¹⁸ ASEAN Handbook on International Legal Cooperation in Trafficking in Persons Cases (ASEAN-ACT / UNODC, 2018), p.187

¹¹⁹ ASEAN Handbook on International Legal Cooperation in Trafficking in Persons Cases (ASEAN-ACT / UNODC, 2018), p.190

3.5. Checklists for extradition

Self-assessment checklist for implementation of relevant UNTOC provisions

Extradition (article 16, UNTOC)		✓ / ✗
1. In your country, is extradition granted by:		
(a) Statute		☐
(b) Treaty or other agreement or arrangement (multilateral or bilateral)		
If yes, does your country use the UNTOC as a legal basis for extradition with other States parties to it (article 16(4))?		☐
(c) Reciprocity or comity?		
(d) Has the above information been communicated to the Secretary-General of the United Nations (article 16(5))?		☐
(e) If your answer to any (a), (b) or (c) above is 'no' has your country sought to conclude extradition treaties (article 16(5)(b))?		☐
2. Have the following offences been deemed extraditable offences in bilateral or multilateral treaties that your country has concluded (article 16(3))?		
(a) Participation in an organised criminal group (article 5)		☐
(b) Money laundering (article 6)		☐
(c) Corruption (article 8)		☐
(d) Obstruction of justice (article 23)		☐
(e) Trafficking in persons (article 3, Trafficking in Persons Protocol)		☐
3. If your country does not make extradition conditional on the existence of a treaty, are all those offences above recognized as extraditable?		
		☐
4. Does your domestic law provide grounds upon which your country may refuse extradition (article 16(7))?		
If so, specify:		☐
5. Is the dual criminality requirement established under your domestic law for granting an extradition request (article 16(1))?		
		☐
6. Does your country's legal framework provide for simplified and/or expedited evidentiary requirements in relation to trafficking in persons (article 16(8))?		
If yes, please provide information on proceedings available:		☐
7. Does your country refuse extradition request on the sole ground that the offence is also		
		☐

considered to involve fiscal matters (article 16(5))?

If yes, specify the circumstances for refusal:

8. If your country does not extradite on the sole ground that the offender is a national, does your legal framework establish jurisdiction over trafficking in persons, when committed by a national (article 15(3) and article 16(10))? ☐

9. If an alleged trafficker is present in your territory and your country does not extradite him or her, does your legal framework establish jurisdiction in the following circumstances (article 15(4))? ☐

(a) When committed in the territory of your State (article 15(1)(a))? ☐

(b) When committed on board a vessel flagged to your State or an aircraft registered to your State (article 15(1)(b))? ☐

(c) When committed against a national of your State (article 15(2)(a))? ☐

(d) When committed by a national or permanent resident of your State (article 15(2)(b))? ☐

(e) When the 'participation in an organised crime group' is committed outside the State with a view to the commission of serious crime within your State's territory (article 15(2)(c)(i))? ☐

(f) When 'money laundering' offences committed outside your State's territory are with a view to commission of an offence within your State's territory (article 15(2)(c)(ii))? ☐

10. Does your country's legal framework provide for conditional extradition or surrender (article 16(11))? ☐

10. If your country does not extradite a person because he or she is a national, does your legal framework permit, upon application of the requesting State, enforcing the sentence that has been imposed to the person sought under the domestic law of the requesting State (article 16(12))? ☐

If yes, explain the circumstances that your country could consider enforcing the sentence:

11. Before refusing extradition, does your country consult, where appropriate with the requesting State to provide it with ample opportunity to present its opinions and provide information relevant to its allegation (article 16(16))? ☐

Source: Adapted from Self-assessment questionnaire for the United Nations Convention against Transnational Organized Crime and the Protocols thereto – Cluster 1

Checklist: Effective drafting of Extradition requests

The letter of request includes: ☒

Information about the person wanted for extradition, the conduct and the relevant laws ☐

Sufficient evidence to meet evidential standard in treaty / domestic law (as much as can be securely provided, in compliance with formal requirements) ☐

Legal basis for the request ☐

Information on the status of proceedings ☐

Information relevant to bail / conditional release ☐

Assurances (e.g. that person will not be sentenced to life imprisonment or death penalty, or at risk of torture or inhumane treatment or punishment)	☐
Time limits and reasons for deadlines	☐

For more detail, see: *ASEAN Handbook on International Legal Cooperation in Trafficking in Persons Cases (ASEAN-ACT / UNODC, 2018)* pp.183-186, 192-196.

Checklist for extradition in trafficking in persons cases

The domestic legal framework enables and extradition in trafficking in persons and related cases	☒
The State has ratified those regional and international treaties that provide a legal basis for extradition in trafficking cases	☐
The offence of trafficking in persons and related offences fall within the scope of application of domestic laws regulating extradition, as well as bilateral and multilateral treaties to which the State is party	☐
The national legal framework enables and supports extradition in trafficking in persons and related cases	☒
The national legal framework enables and supports extradition in trafficking in persons and related cases	☐
The State has ratified those treaties that provide a legal basis for extradition in trafficking in persons cases	☐
The offence of trafficking and related offences are extraditable offences within relevant domestic laws as well as bilateral and multilateral treaties to which the State is party	☐
Relevant laws and procedures enable the State to proceed with the prosecution of cases in which extradition is legitimately refused	☐
National criminal justice agencies demonstrate a capacity to engage effectively in international legal cooperation including extradition	☒
Prosecutors, Central Authority lawyers and other officials who are or may be involved in making or receiving cooperation requests in trafficking cases have received training adequate to their responsibilities	☐
Specially designated prosecutors, Central Authority lawyers and other officials cooperate closely and meet regularly at the national level	☐
Requests for international legal cooperation are prioritised and expedited by the receiving State	☐
Human rights are respected in extradition processes including in relation to requests, procedures and outcomes	☐
Criminal justice officials and agencies engaged in international legal cooperation on trafficking in persons cases have capacity to cooperate with counterparts at bilateral, regional and international levels	☒
Specially designated prosecutors, Central Authority lawyers and other officials meet regularly with counterparts on a bilateral, regional and multilateral level to exchange information and good practices	☐
Direct and secure communications are established between the Central Authorities of the mutually affected States	☐

Source: *Progress Report on Criminal Justice Response to Trafficking in Persons Cases (ASEAN, 2011)* pp.146-147



His Excellency Romeo Benitez
Undersecretary for External, Legal and Legislative
Department of the Interior and Legal Affairs
Senior Officials Meeting on Transnational Crime (SOMTC)
Voluntary Lead Shepherd on Trafficking in Persons

4. Challenges to international legal cooperation

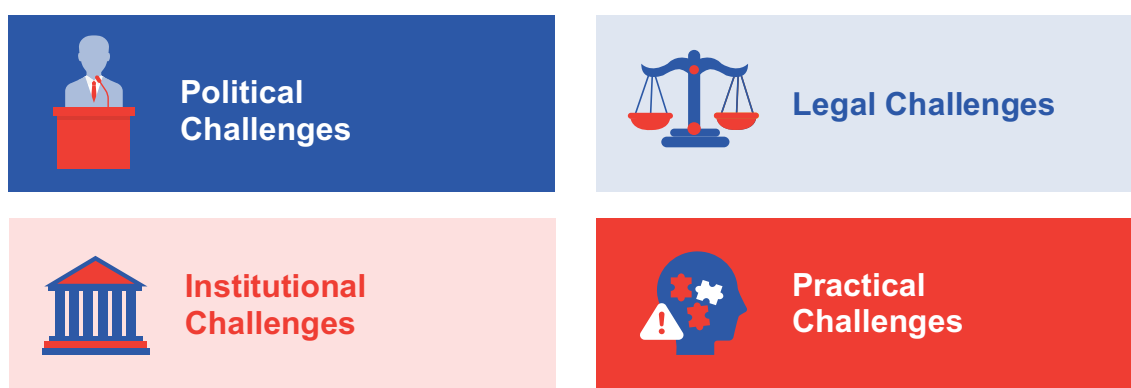
4.1. Political challenges	76
4.2. Legal challenges.....	80
4.3. Institutional challenges	84
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Notwithstanding the significant trafficking of people to, from and within the ASEAN region, few traffickers are brought to justice, and fewer still organised crime groups are disrupted. The impunity that traffickers enjoy is in large part a result of States not cooperating to investigate and prosecute them. International cooperation is

arguably declining, exactly when it needs to increase. While organised crime groups successfully cooperate and work collaboratively to advance their interests, States struggle to do likewise. Geopolitical uncertainties, conflicting policy paradigms and inconsistent capacities between States suggests a preference for unilateral over multilateral action.¹²⁰

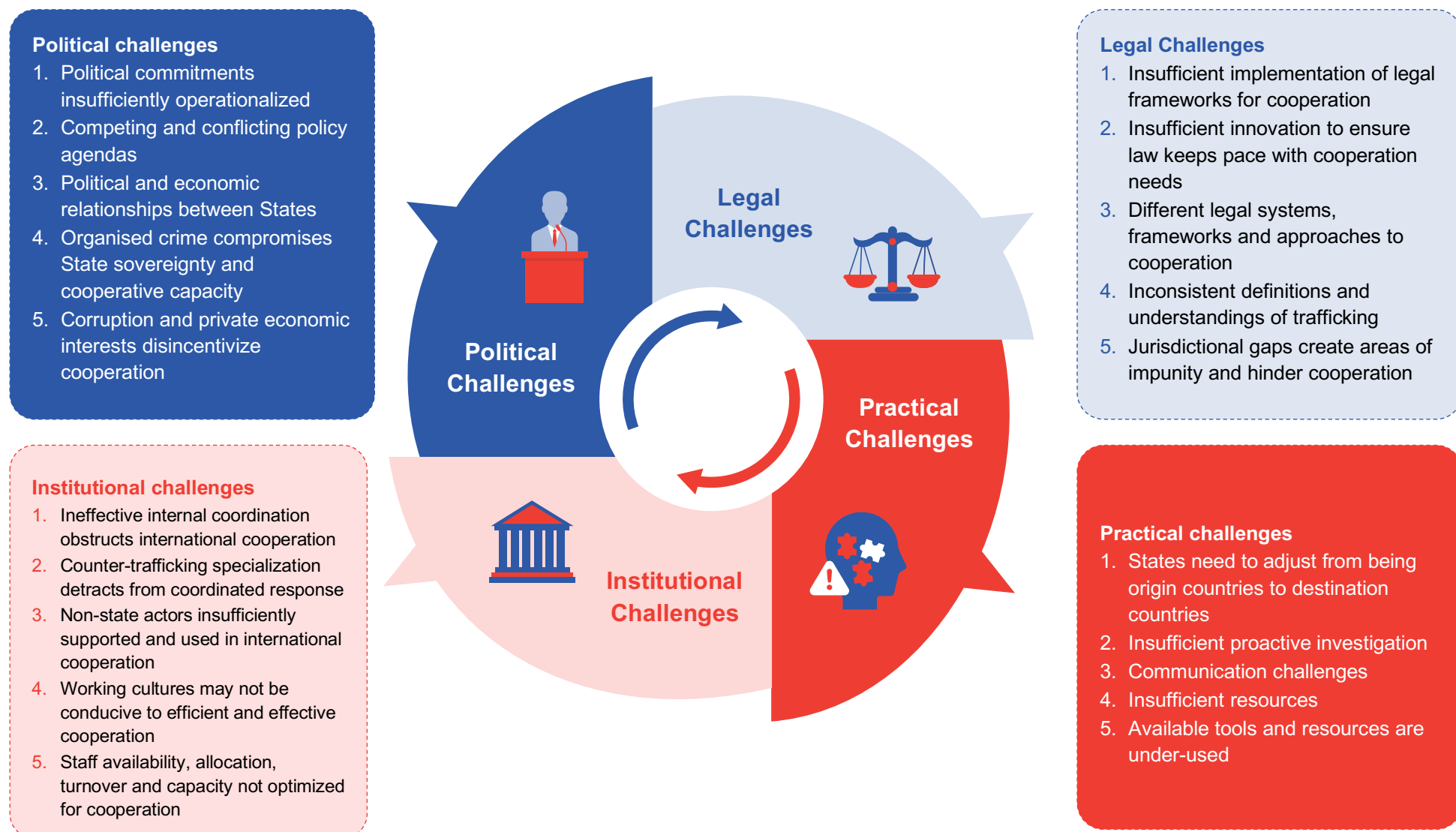
In short, the current approach is insufficient against the reality of TIP in the ASEAN region. If States continue to respond unilaterally, only pursuing the evidence available within their jurisdiction, they will continue to only prosecute low-level criminals and be unable to obtain evidence necessary to disrupt organised crime groups who are trafficking high numbers of people for high profit. States must urgently consider how they will change their approach to rise to the reality increased transnational organised crime and the shifting geopolitical landscape in which it takes place.

This section unpacks challenges that have been identified as determinative to insufficient cooperation. These challenges, which also present themselves as opportunities, have been arranged into four categories, with five specific challenges set out against each. Questions for consideration are offered to support practitioners to identify and discuss opportunities to overcome identified challenges.



¹²⁰ Webinar: The future of international cooperation against transnational organized crime (Global Initiative against Transnational Organized Crime and International Centre for Criminal Law Reform, 13 January 2022)

Diagram: *Snapshot of challenges to international cooperation*



Challenges and potential responses to challenges

The challenges of international cooperation in criminal matters differ across ASEAN Member States and change over time. Solutions to those challenges are for ASEAN Member States to determine as appropriate to their own country context. The box below proposes some general responses that ASEAN Member States could consider and adapt as appropriate to the specific challenges they face.

Political challenges	Potential responses to challenges
1. Political commitments insufficiently operationalised 2. Competing and conflicting policy agendas 3. Political and economic relationship between States 4. Organised crime compromises State sovereignty 5. Corruption and private economic interests disincentivise cooperation	1. Develop and apply monitoring, evaluation and learning frameworks to implement political commitments in practice 2. Identify and raise awareness of how political and policy agendas detract from or incentivize international cooperation against trafficking 3. Engage with other States on areas of common interest in relation to combating transnational organised crime including trafficking 4. Approach international cooperation as a manifestation of State sovereignty rather than a threat to it 5. Prioritise efforts to combat corruption (including through implementation of the UNCAC) to strengthen cooperative capacity against trafficking in persons
Legal challenges	Potential responses to challenges
1. Insufficient implementation of legal frameworks for cooperation 2. Insufficient innovation to ensure law keeps pace with cooperation needs 3. Different legal systems, frameworks and approaches to cooperation 4. Inconsistent definitions and understandings of trafficking 5. Jurisdictional gaps create areas of impunity and hinder cooperation	1. Promote implementation of existing international, regional, bilateral and domestic instruments 2. Seek cooperation from other States and non-state actors to strengthen technological and technical capacity to cooperate international 3. Harmonize domestic legislation in line with international and regional treaties that the State is party to 4. Harmonize domestic understanding of trafficking in persons in line with international and regional definitions 5. Strengthen understanding of criminal justice practitioners of territorial jurisdiction and rules relating to law enforcement
Institutional challenges	Potential responses to challenges
1. Ineffective internal coordination obstructs international cooperation 2. Counter-trafficking specialisation detracts from coordinated response	1. Identify and address inefficiencies in internal cooperation and communication between counter-trafficking agencies at the domestic level 2. Ensure that criminal justice capacity to address trafficking in persons is integrated with wider response to combat transnational organised crime

- | | |
|--|---|
| <ol style="list-style-type: none"> Non-state actors insufficiently supported and used in international cooperation Working cultures may not be conducive to efficient and effective cooperation Staff availability, allocation, turnover and capacity not optimized for cooperation | <ol style="list-style-type: none"> Explore opportunities for non-state actors to support State efforts to cooperate against trafficking in persons and identify opportunities to support them in that work Identify how the working cultures and hierarchies of different criminal justice agencies contribute to or detract from cooperative capacity Determine whether staff profiles, working hours, capacities and mandates are sufficient to support international cooperation against trafficking in persons |
|--|---|

Practical challenges

Potential responses to challenges

- | | |
|--|--|
| <ol style="list-style-type: none"> States need to adjust from being origin countries to destination countries Insufficient proactive investigation Communication challenges Insufficient resources Available tools and resources under-used | <ol style="list-style-type: none"> Identify how counter-trafficking response can be calibrated to more effectively respond to inbound transnational trafficking in persons Prioritise proactive investigation of transnational organised crime groups involved in trafficking in persons Identify linguistic, technical and technological and other skills needed for international cooperation, and recruit staff with required profile and/or build capacity of existing staff Allocate sufficient and sustainable financial, human and other resources required for effective international cooperation against trafficking Disseminate, socialize and utilize existing tools to strengthen international cooperation against trafficking in persons and develop additional tools as needed. |
|--|--|



4.1. Political challenges

1. Political commitment insufficiently operationalized

ASEAN Member States have made political commitments to cooperate against TIP through their accession to international and regional instruments, and through strong political statements made.¹²¹ On the 10th of May 2023, at the 42nd ASEAN Summit, ASEAN leaders adopted a *Declaration on Combating Trafficking in Persons Caused by the Abuse of Technology*, affirming the need to cooperate more effectively using existing instruments such as the ACTIP and the ASEAN Treaty on Mutual Legal Assistance and tasked relevant ASEAN Sectorial Bodies to “mobilise resources and modalities and develop strategies against criminal use of technology in TIP.”¹²²

However, there are challenges in relation to how these political commitments trickle down to mobilize operational action. The [ASEAN Multi-Sectorial Work Plan against Trafficking in Persons 2023-2028](#) (Bohol TIP Work Plan 2.0), adopted on 21 August 2023 may offer an opportunity to translate political commitments into

¹²¹ Political commitments could be found in various regional instruments, such as but not limited to, the [Labuan Bajo Declaration on Advancing Law Enforcement Cooperation in Combating Transnational Crime](#) (2023), the [ASEAN Declaration on Strengthening Cooperation in Protecting and Assisting Witnesses and Victims of Transnational Crime](#) (2023), the [Vientiane Declaration on Enhancing Law Enforcement Cooperation against Online Job Scams](#) (2024), and the [Bangkok Digital Declaration](#) (2025).

¹²² https://asean.org/wp-content/uploads/2023/05/06-ASEAN-Leaders-Declaration-on-Combating-TIP-Caused-by-the-Abuse-of-Technology_adopted.pdf

operational action. Bohol TIP Work Plan 2.0 sets as a priority outcome that ‘ASEAN Member States more effectively cooperate to investigate, prosecute and adjudicate TIP and related offences. It sets out activities and programmes to improve the effectiveness of rendering mutual legal assistance and extradition between ASEAN Member States under ASEAN MLAT and ACTIP and through bilateral and multilateral MLATs and other instruments. The work plan also specifies the number of MLA and extradition requests made and fulfilled as indicators of achievement. The Bohol TIP Work Plan 2.0 is accompanied by a Monitoring, Evaluation, Reporting and Learning (MERL) framework for reporting on implementation, adopted on 28 September 2024. Additionally, the appointment of national ACTIP representative (NAR) may also result in more effective and accountable implementation. Such monitoring, evaluation, reporting and learning frameworks could be constructively adapted and applied at the domestic level to ensure that political commitments made to cooperate against TIP are effectively implemented in practice.

2. Competing and conflicting political agendas

Even in States that have strong political commitments to combat trafficking in persons, the other issues on their political agendas may be prioritised, which, in turn, hinders their ability to cooperation against transnational trafficking. By way of example, States’ political agendas to combat issues such as drug-related crimes and to fight illegal migration, can have impacts on trafficking in persons where victims of trafficking in persons are identified as drug offenders or illegal migrants rather than as victims of trafficking. Sensitivities around human rights may disincline them from engaging meaningfully with other States, owing to concerns that deficiencies in State practice will be exposed to foreign counterparts. At the same time, other States may therefore be deterred from cooperating with them owing to concerns victims of trafficking will be harmed, or because of human rights considerations more broadly. Concern has also been raised about increased risks of both formal and informal cooperation in the absence of human rights safeguards. Accordingly, adherence to human rights norms and standards are not only in line with State commitments to adhere to applicable international human rights standards and to take victim-centred approaches, but strategically are also instrumental to States’ ability to cooperate with the international community against issues of mutual concern. States could take steps to identify the ways that various political and policy agendas can both detract from and also incentivize international cooperation against trafficking in persons.

3. Political and economic relationships between States

The political, economic cultural and social relationships between States impact on their incentive and ability to cooperate. States may be reticent to confront trafficking to or from countries they have important economic and political relationships with, while on the other hand, those relationships may facilitate cooperation such that requests for assistance are prioritised and expedited on the basis of strong ties. Diplomatic relationships within the region have been leveraged to powerful effect by leaders in ASEAN countries on behalf of their citizens trafficked to countries elsewhere in the region. States outside the region have significantly shaped counter-trafficking priorities and efforts within it. This influence has been achieved in different ways:

Information shared between ASEAN Member States

Case Example

The Philippines Bureau of Immigration received information from Indonesia that former Mayor Alice Guo had been arrested in Indonesia.¹²³ According to Justice Secretary Jesus Crispin B. Remulla, the arrest of Alice Guo is a testament to the tireless efforts of the law enforcement agencies and the strength of international cooperation in bringing fugitives to justice.¹²⁴ The extradition brings an end to a months-long manhunt for Alice Guo, the primary subject of a Senate investigation into online gaming and scam operations.¹²⁵

¹²³ <https://immigration.gov.ph/alice-guo-arrested-in-indonesia/>

¹²⁴ <https://www.aljazeera.com/news/2024/9/4/former-philippines-mayor-accused-of-china-crime-links-arrested-in-indonesia>

¹²⁵ <https://thediplomat.com/2024/09/indonesia-deports-fugitive-philippine-mayor-accused-of-involvement-in-cyberscams/>

Third countries share information and initiate action by ASEAN Member States: There are several instances of cooperative action being initiated outside the ASEAN region, when information or intelligence is shared, resulting in actions taken to protect victims in the region. Indeed, it was reported that within the region, most trafficking investigations involving cybercrime – including online sexual exploitation of children – are reactive based on information received from jurisdictions outside the region. No examples were shared by ASEAN Member States initiate cooperative counter-trafficking actions with Member States outside the region.

Information shared by other countries

Case Example

The Australian Federal Police-led Australian Centre to Counter Child Exploitation referred child abuse material to Indonesian police, leading to the arrest of a suspect in Kupang, Indonesia, and the rescue of a six-year-old alleged victim.¹²⁶

Monitoring and evaluation by third countries influence cooperation in ASEAN: Finally, States outside of the region have significant influence on counter-trafficking and cooperation in response to it, through reporting on counter-trafficking efforts within the region. Most notably, the US State Department annual trafficking in persons report was mentioned in almost every country. The tier ranking system and its financial implications are of key interest to State officials across the region, and significantly influence the policies they set.

International cooperation criteria of the US State Department

The US State Department uses the following criteria to consider international cooperation in compiling its annual trafficking in persons report:

- (3) ...effective bilateral, multilateral, or regional information sharing and cooperation arrangements with other countries...
- (4) Whether the government of the country cooperates with other governments in the investigation and prosecution of severe forms of trafficking in persons and has entered into bilateral, multilateral, or regional law enforcement cooperation and coordination arrangements with other countries.
- (5) Whether the government of the country extradites persons charged with acts of severe forms of trafficking in persons on substantially the same terms and to substantially the same extent as persons charged with other serious crimes (or, to the extent such extradition would be inconsistent with the laws of such country or with international agreements to which the country is a party, whether the government is taking all appropriate measures to modify or replace such laws and treaties so as to permit such extradition).

Further, the US State Department recommends that in monitoring their efforts against trafficking in persons, States should consider whether any cases that were unsuccessful would have benefited from international cooperation, and if so, why that international cooperation did not happen.

4. Organised crime compromises State sovereignty and cooperative capacity

State sovereignty is paramount in international law and regional law, and is emphasised both in the UNTOC and as one of four general principles in ACTIP (article 4). State sovereignty can result in unwillingness of States to cooperate as part of a region.

¹²⁶ https://www.abc.net.au/news/2025-03-14/afp-report-arrest-indonesian-policeman-alleged-sexual-violence/105041740?utm_source=chatgpt.com

However, notwithstanding the importance of sovereignty, many States in the ASEAN region have ceded their enforcement jurisdiction to a significant degree in Special Economic Zones (SEZs). It was explained that law enforcement officers may not feel as though they are able to enter an SEZ, owing to their perception that it is essentially ‘foreign’ rather than their own territory.¹²⁷ Management offices, task forces or committees established to manage those zones often do not include law enforcement authorities, and may even require police to seek permission before entering SEZs. In one country, it was explained that those bodies would contact police if they became aware of criminal activities occurring in the SEZs, but that no such reports have been made. The encroachment of organised crime onto State sovereignty is evident in corruption of law enforcement officials involved in trafficking people into SEZs.¹²⁸ This situation severely undermines the capacity of States in whose jurisdiction the crimes occur in, from cooperating with other States.

5. Corruption and private economic interests disincentivise cooperation

Corruption is one of, if not the single biggest threats to efforts to cooperate against transnational trafficking in persons.¹²⁹ Trafficking could not occur in the ASEAN region to the extent it does, without corruption to perpetrate it, profit from it, and interfere with efforts to address it.¹³⁰ Law enforcers may be vulnerable to corruption, being underpaid to carry out their duties; the reality for some is that they may even have to use private funds and resources to conduct their anti-trafficking work.¹³¹ Many have legitimate fears for their lives and safety and of their families if they investigate the role of corruption in facilitating trafficking in persons, or if they refuse to participate in it.¹³²

Notwithstanding involvement of high-level public and private figures in trafficking in persons, there are few investigations or prosecutions of corruption in trafficking in persons and the role it plays in building criminal networks including among public officials. These factors reduce the capacity of the States in which it occurs to cooperate with others against organised crime. The significant role that corruption plays in undermining State sovereignty highlights that increased effort to combat corruption is a critical component of the fight against organised crime including trafficking in persons. To this end, decision-makers should be sensitised to how corruption detracts from State capacity to counter serious and organised crime.

At the 23rd ASEAN Senior Officials Meeting on Transnational Crime (SOMTC) in June 2023, Indonesian National Police Chief General Listyo Sigit Prabowo highlighted the need for international cooperation to overcome bureaucratic hurdles in confronting transnational trafficking, and not only consist of information exchange but also improved law enforcement cooperative actions to arrest perpetrators, even when perpetrators are police officials.¹³³

Questions for discussion about political challenges:

¹²⁷ Also see for instance, Mr Nathan Paul Southern, Specialist, Global Initiative against Transnational Organized Crime (GI-TOC), speaking at ASEAN-ACT webinar ‘Workers forced to scam online: trafficked or not?’ 19 May 2023.

¹²⁸ Mr Nathan Paul Southern, Specialist, Global Initiative against Transnational Organized Crime (GI-TOC), speaking at ASEAN-ACT webinar ‘Workers forced to scam online: trafficked or not?’ 19 May 2023.

¹²⁹ UNODC and the Bali Process RSO have hosted a series of roundtable discussions in the ASEAN region in 2022 and 2023 on the role of corruption in trafficking in persons and smuggling of migrants.

¹³⁰ See for instance, *Corruption as a Facilitator of Smuggling of Migrants and Trafficking in Persons in the Bali Process Region with a focus on Southeast Asia* (Bali Process Regional Support Office and UNODC, 2021). Also see, by way of example, the sexual exploitation of distressed Philippine overseas foreign workers by three embassy officials in Kuwait, Syria and Jordan in 2013, including prostitution of distressed workers at the shelter: <https://www.gulf-times.com/story/356694/Lawmaker-claims-overseas-workers-face-abuse-by-gov>; <https://www.rappler.com/nation/31556-embassy-officials-prostitution-overseas-filipino-workers/> among countless other examples of the role of corruption in trafficking in persons. The 2022 United States Trafficking in Persons Report also notes that Vietnamese officials in Saudi Arabia are being investigated for facilitating forced labour of their own nationals in that country.

¹³¹ US Trafficking in Persons Report (US State Department, June 2023) Cambodia country report

¹³² For example, Police Major General Paween Pongsirin uncovered high-level corruption in his investigations of trafficking of Rohingya migrants in Thailand and Malaysia, and was forced to leave his country and seek asylum abroad.

¹³³ <https://en.antaranews.com/news/285807/indonesia-raises-human-trafficking-issue-at-23rd-asean-somtc>

1. How can political commitment be incentivized and operationalized?
2. How can various political agendas of States be reconciled to ensure that counter-trafficking cooperative capacity is not hindered?
3. How can political and economic relationships between States be strategically leveraged and calibrated to more effectively serve cooperation agendas of ASEAN Member States?
4. How can State sovereignty be guarded against transnational crime?
5. How can public and private institutions be made more resilient against corruption by traffickers?



4.2. Legal challenges

1. Insufficient implementation of legal frameworks for cooperation

States may not feel obliged to assist States in the absence of a treaty, or treaties may be in place but not given sufficient effect by domestic law. Not all countries allow for reciprocity as a basis for providing assistance. In those that do, courts may not enforce decisions of foreign courts in the absence of a treaty. There are several international and regional instruments that can be used to support international cooperation against trafficking in persons in the ASEAN region. However, these are not being used to their potential. The UNTOC, Trafficking in Persons Protocol and the ACTIP are viewed by some State officials as advocacy tools by ASEAN-ACT, UNODC and other non-state actors, but not as practical tools for cooperative action by the States party to them who may not know how to do so.

The underuse of international and regional instruments may in part relate to their transposition into bilateral instruments and domestic law, but these too are underutilised. Bilateral instruments are expressed as preferred in theory but under-resourced in practice. In terms of domestic law, it is insufficient to transpose international and regional law without also actively socialising and implementing it. One country in the region has no MLA law, and in those that do, frontline practitioners may have little familiarity with them. Particularly where MLA laws are relatively new (for instance, Cambodia and Lao PDR have only had MLA laws in place since 2020), few practitioners have experience using them. ASEAN Member States that have successfully cooperated with other States in the region could explore how to achieve similar success in relation to trafficking in persons, including by making any necessary amendments to relevant legislation.



2. Insufficient innovation to ensure law keeps pace with cooperation needs

The technology used by respondents is uneven. There is a need to strengthen domestic legislation to capture new and emerging forms of technology required to transmit and execute requests (including through electronic channels), and to gather evidence (for instance through video testimony). Countries that lag behind such technology may struggle to effectively cooperate. Use of technology by traffickers makes electronic evidence critical in bringing them to justice. However, countries have different definitions of what constitutes electronic evidence and different procedures and capacities to collect and preserve it. Significant electronic evidence is lost in cases against traffickers, where investigators lack knowledge about procedures to collect it in ways that can be used for MLA, and prosecutors and judges lack sufficient knowledge about procedures governing e-evidence within their own jurisdiction and with other countries.¹³⁴ Overcoming these barriers – including through building capacity to gather and handle electronic evidence of trafficking in persons – is urgent to address fast-evolving forms of trafficking by organised crime groups particularly into online sexual exploitation and forced criminality in sextortion and cyber-scramming.¹³⁵

3. Different legal systems, frameworks and approaches to cooperation

Differences in legal systems were cited across ASEAN countries as posing challenges to both formal and informal (police-to-police) cooperation. Within the ASEAN region, are common law, civil law, Islamic law and mixed legal systems, resulting in different weights given to legislation versus court decisions, and different evidentiary standards. In the civil law system, extradition decisions may be solely for courts to make, whereas common law systems may involve both the judiciary and the executive branches of government.¹³⁶ There are also differences in how investigations are carried out; investigators may be reticent to reach out to prosecutors

¹³⁴ Ms Ianina Lipara, Cooperation, European Judicial Network (EJN) Secretariat; Mr Jin. Hee Lee, Deputy Director, Prosecution, International Criminal Affairs Division, Ministry of Justice, Republic of Korea, Mr Puvadet Prommakrit, International Affairs Department, Office of the Attorney General of Thailand, and Ms Suloshani Vijendran Vellupillair, Prosecutor, Malaysia speaking at CCPCJ Side Event to launch a new UNODC Tool for international cooperation in criminal matters, the Electronic Fiches Webinar on 23 May 2023.

¹³⁵ See *inter alia*, *Trapped in Deceit: Responding to the Trafficking of Persons Fuelling the Expansion of Southeast Asia's Online Scam Centres Policy Brief* (Bali Process Regional Support Office, April 2023); *Trafficking in persons for forced criminality to commit online scams and fraud in the context of transnational organized crime in Southeast Asia: Policy Brief* (UNODC, July 2023); *Organized crime in the Mekong* (Global Initiative against Transnational Organized Crime, August 2023); *Online Scam Operations and Trafficking into Forced Criminality in Southeast Asia: Recommendations for a Human Rights Response* (OHCHR, August 2023); *Casinos, cyber fraud, and trafficking in persons for forced criminality in Southeast Asia: Policy Report* (UNODC ROSEAP, September 2023)

¹³⁶ *ASEAN Handbook on International Legal Cooperation in Trafficking in Persons Cases* (ASEAN-ACT, UNODC, 2018), 182 referring to *Handbook on Mutual Legal Cooperation in Trafficking in Persons Cases* (UNODC, 2012).

in countries where investigations are prosecutor-led. An example was offered of an attempt to cooperate on the basis of the ASEAN MLAT, which was hampered by different approaches in domestic law to issuing subpoenas to witnesses. Another example is the plight of Mary Jane Veloso (see case study above at 2.3), in which different approaches to what constitutes trafficking in persons and different procedural requirements have hampered cooperation between Indonesia and the Philippines.

Differences in the legal frameworks governing international cooperation can challenge incoming and outgoing requests for assistance. Differences can relate to the legal basis for MLA (and whether a treaty is self-executing or not); the grounds on which MLA can be refused (including human rights grounds); the legal requirements for types of information sought or prohibitions on particular types of information (such as bank records); how the information that is shared is protected, and its use at trial. There are also different requirements relating to the form requests must take, the language they must be in, and who they must be made to (whether a central authority or via diplomatic channels).¹³⁷

Different approaches to trafficking in persons also hamper cooperation. While all ASEAN Member States have committed to coordinating their counter-trafficking efforts by implementing the Trafficking in Persons Protocol and the ACTIP, approaches remain fragmented in the ASEAN region and no mechanism has been established to monitor implementation of the ACTIP, beyond a Monitoring, Evaluation, Reporting and Learning (MERL) Framework for the ASEAN Multi-Sectoral Work Plan against Trafficking in Persons 2023-2028 (Bohol TIP Work Plan 2.0), which is to be reviewed annually by the SOMTC Working Group on TIP.¹³⁸

Different approaches to human rights also pose barriers to cooperation. Relative standards for what are considered acceptable and unacceptable in the treatment of human beings, can be relevant to international cooperation, for instance, in willingness to have joint investigation teams, and to accept human rights assurances in extradition. Countries outside the ASEAN region may be reluctant to cooperate with countries, owing to concerns that human rights violations may result. Concerns relate to privacy and data protection standards; the consequences of information being shared; and human rights risks to persons subject to cooperation arrangements. An example offered was concern that victims of trafficking into forced criminality may be misidentified as perpetrators and face punishment than being protected as victims. As noted above, differences in views on the death penalty may also pose barriers to cooperation. Countries that have prohibited capital punishment, may not make enquiries of a country that would sentence convicted traffickers to death.

4. Inconsistent definitions and understandings of trafficking

ASEAN Member States have agreed to define trafficking in persons in line with the Trafficking Protocol and the ACTIP. Yet different understandings continue to challenge cooperation. Inconsistent understandings between origin and destination countries about whether someone is a victim of trafficking can pose a barrier to informal cooperation to rescuing them. What may be considered trafficking in one country, may be viewed as a labour or immigration issue in another. Trafficking into forced marriage may be considered broker-arranged marriage rather than serious crime. Whether a person is an adult or child may also have implications for whether a situation is treated as trafficking in persons or as something else. The relativity of what is considered exploitative can also result in inconsistent views of what constitutes trafficking in persons, whereby officials in a destination country consider that a person is being exploited, while officials in origin countries view the situation as a normal way of financially supporting families at home, or conversely, a situation may be misidentified as one of trafficking from the ASEAN region that proves instead to be a highly organised cases of abuse of immigration and victim protection mechanisms to facilitate migrant smuggling.

Different terms have been used to describe the same phenomenon: cyber-dependent or cyber-enabled, technology-facilitated or technology-enabled trafficking into cyber-slavery or forced criminality have all been used. Even within one country, police, prosecutors, judges and others may disagree on whether a situation is trafficking in persons, smuggling of migrants, illegal recruitment or labour exploitation. These divergent understandings obstruct joint action and underscore the need for practitioners to proactively and urgently overcome semantic differences to achieve action. As one individual aptly noted during the consultation: “Whether it’s called trafficking in persons, cybercrime or online sexual exploitation of children, I will still try to

¹³⁷ ADB / OECD (2017) *Mutual Legal Assistance in Asia and the Pacific: Experiences in 31 Jurisdictions*, 12-14.

¹³⁸ *Monitoring, Evaluation, Reporting and Learning (MERL) Framework for the ASEAN Multi-Sectoral Work Plan against Trafficking in Persons 2023 – 2028 (Bohol TIP Work Plan 2.0) Adopted ad referendum on 28 September 2024.*

help. We are police.”

5. Jurisdictional gaps create impunity and hinder cooperation

Article 10(5) of ACTIP calls for coordination where more than one State has jurisdiction. Several considerations are relevant in determining which State is more suited to prosecute a case when more than one is in a position to assert jurisdiction.¹³⁹ However, the key challenge does not relate to how States coordinate where their jurisdiction overlaps, but in their failure to exercise jurisdiction at all.

Some erroneous understandings of jurisdiction were expressed by criminal justice practitioners during consultations, including:

- that where perpetrators and their victims are foreigners, the crime is not the responsibility of domestic criminal justice responders¹⁴⁰
- that a citizen convicted for trafficking abroad would not be considered a criminal in his or her own country, and that
- law enforcement officials do not have jurisdiction in Special Economic Zones (as mentioned above in political challenges)

These misunderstandings play into the hands of organised crime groups and explain why criminals who are sought outside the region are able to treat the ASEAN region as a safe haven. These confusions about territorial jurisdiction (and questions of extra-territorial territorial jurisdiction in relation to trafficking in persons on board foreign-flagged fishing vessels) must be confronted as a matter of priority to address enforcement gaps.

Table: Rules of jurisdiction

Location of trafficking offence	Rule	Principle / Source
Offence committed in the territory of the State or on board a vessel flying its flag or aircraft registered under its law	State is <i>required</i> to exercise jurisdiction	Territoriality principle. Article 15(1) UNTOC Article 10(1) ACTIP
Offence committed outside the territorial jurisdiction of the state against one of its nationals	State <i>may</i> exercise jurisdiction	Passive personality principle. Article 15(2)(a) UNTOC Article 10(2)(a) ACTIP
Offence committed outside territorial jurisdiction of the State by one of its nationals	State <i>may</i> exercise jurisdiction	Nationality principle. Article 15(2)(b) UNTOC Article 10(2)(b) ACTIP
Offence committed outside territorial jurisdiction but linked to serious crimes and money laundering planned to be conducted in territory of the State	State <i>may</i> exercise jurisdiction	Article 15(2)(c) UNTOC Article 10(2)(c) ACTIP
Offender is present in its territory and the State does not extradite the offender solely on the grounds of nationality	State <i>shall</i> establish jurisdiction	Extradite or prosecute principle. Article 15(3) UNTOC Article 10(3) ACTIP

Questions for discussion about legal challenges:

¹³⁹ For instance, nationality, location of witnesses, applicable legal framework, availability of resources, local of offenders. Article 21, UNTOC provides that where several jurisdictions are involved, States Parties are to consider transferring the case to wherever the interests of the proper administration of justice can be best served to concentrate the prosecution. Also see *ASEAN Handbook on International Legal Cooperation in Trafficking in Persons Cases* (ASEAN-ACT, UNODC, 2018), 44.

¹⁴⁰ *Trafficking in persons for forced criminality to commit online scams and fraud in the context of transnational organized crime in Southeast Asia: Policy Brief – Summary Overview* (UNODC ROSEAP, July 2023) 7

1. How can existing international and legal frameworks for international cooperation against trafficking in persons be better implemented?
2. What legal changes are needed at the domestic level to ensure that cooperative capacity keeps pace with existing challenges of transnational trafficking?
3. What specific challenges arise from different legal systems in the region and how can they be overcome in practice?
4. How can understanding what constitutes trafficking in persons be better harmonized in the region in line with existing international and regional definitions?
5. How can State officials be better equipped to understand and exercise their jurisdiction against trafficking in persons?



4.3. Institutional challenges

1. Ineffective internal coordination obstructs international cooperation

Effective internal coordination is critical for effective international coordination. If authorities are unable to efficiently coordinate within their own country, they are unlikely to be able to coordinate with counterparts along transnational trafficking routes. Capacity to coordinate at the domestic level varies widely between and within countries. Practitioners in some agencies can act quickly, while others must navigate complex layers of bureaucracy before they can act.¹⁴¹ Lack of coordination can also lead to duplication of effort or work at cross-purposes. Ineffective internal coordination may mean information and resources including budget allocations, do not get to the agency that can most effectively respond.

Law enforcement agencies within one country may compete rather than cooperate with each other. Multiple actors may have jurisdiction in a given trafficking in persons case. For instance, in Thailand both DSI and RTP have counter-trafficking responsibilities. In Indonesia, trafficking in the fishing industry may be addressed by the fisheries sector and the INP. In Cambodia, trafficking into scamming centres may fall within the remit of both cybercrime authorities and counter-trafficking authorities. In the Philippines, both NBI and PNP have counter-trafficking jurisdiction, with different divisions of PNP (Women and Child Protection Centre and the Anti-Cybercrime Group) having overlapping responsibilities to address trafficking-related phenomena. Trafficking of persons into forced criminality in cyber-scamming may involve legislation related to fraud, scamming, cybercrime, labour, immigration as well as human trafficking.¹⁴² These internal complexities may mean actors outside the relevant country do not know who to cooperate with or may need to liaise with multiple stakeholders in a given country who may or may not coordinate with each other.

¹⁴¹ This challenge relates also to the different work cultures in countries discussed below.

¹⁴² Mr Sokcha Mom, Director, Legal Support for Children and Women (LSCW), Cambodia, speaking at ASEAN-ACT webinar 'Workers forced to scam online: trafficked or not?' 19 May 2023.

Examples: Examples offered of ineffective internal cooperation included that of a senior official being investigated by both the corruption unit and the anti-money laundering unit, who did not share information with each other. Another example was offered in which maritime authorities had become aware of a vessel containing potentially trafficked victims, soon to dock in their territory. They were not able to phone local police to inform them, because internal protocols required that a letter be written to police at the central level, for the central police to convey on to local police. Meanwhile, the vessel made landfall and its passengers dispersed.

2. Counter-trafficking specialization detracts from coordinated response

Many countries have created coordination bodies at cabinet or ministerial level established with a view to achieving a whole-of-government approach to trafficking in persons, and to support coordination between central and sub-national or local governments.¹⁴³ These may comprise working groups, task forces, committees, and sub-committees, which may further be replicated at provincial or local levels. While these central bodies may be removed from operational response, they still may impact it. In practice criminal justice respondents responsible for taking action against trafficking, may defer and refer to coordinating bodies on the assumption that those bodies are leading action against trafficking in persons. The resulting confusion about who is responsible for what, can mean that no one is responsible. It can also mean that international cooperation is centralized, but not operationalized.

Centralization of effort through specialized counter-trafficking response may have also reduced capacity to respond to poly-criminality in transnational organised crime. Transnational organised criminals in the ASEAN region are involved in multiple crime types beyond trafficking in persons, including smuggling of migrants, drug production and trafficking, smuggling, online scamming, cybercrime, money laundering, terrorism, wildlife and forestry crimes, and corruption, among others. Where human trafficking is approached in isolation from these other organised crime types, the linkages between them and the criminal actors involved are often overlooked. The result is that counter-trafficking response is diluted and siloed from comprehensive efforts to tackle organised crime, so that relevant expertise is not brought to bear and the international cooperation required to address transnational crime, may not occur between the appropriate agencies or may not occur at all.

Consideration needs to be given to how criminal justice capacity can address the different dimensions of organised crime, including by achieving targeted response to trafficking in persons by time-bound or objective bound-task forces, including in cooperation with other States and international stakeholders.

National interagency coordination bodies in ASEAN Member States

<i>Brunei Darussalam</i>	National Committee of Anti-Trafficking in Persons
<i>Cambodia</i>	National Committee for Counter Trafficking (NCCT)
<i>Indonesia</i>	Directorate of Women and Children Protection and Trafficking in Persons under the Criminal Investigation Department (CID) of the Indonesian National Police (INP)
<i>Lao PDR</i>	National Committee on Anti-Trafficking in Persons (NCATIP);
<i>Malaysia</i>	Council for Anti-Trafficking in Persons and Anti-Smuggling of Migrants (MAPO)
<i>Myanmar</i>	Central Body for the Suppression of Trafficking in Persons (CBTIP)
<i>Philippines</i>	Inter-Agency Council against Trafficking (IACAT)
<i>Singapore</i>	Interagency Task Force on Trafficking in Persons
<i>Thailand</i>	Anti-Trafficking in Persons Committee (ATP Committee)
<i>Viet Nam</i>	National Steering Committee on Crime Prevention and Suppression (NSC)

3. Non-state actors insufficiently supported and used in international cooperation

Civil society actors play a central role in countering transnational trafficking. On the one hand there can be

¹⁴³ US Trafficking in Persons Report (US State Department, June 2023), p.13.

over-reliance on civil society organisations to address trafficking in persons in lieu of States directly fulfilling their obligations. But on the other hand, the environment in which civil society actors operate can be overly restrictive, with laws and regulations stifling their capacity. State actors may not trust non-state actors. An example was offered of NGOs coaching people to present themselves as having been trafficked, potentially resulting in misused resources to make MLA requests in situations that prove not to be trafficking. At the same time, States may rely on non-state actors to bring their attention to situations of trafficking that they themselves have not identified, and to assist and protect victims where States lack sufficient capacity to do so. State authorities may rely on civil society representatives to serve as witnesses and even support international cooperation through their cross-border networks. In both scenarios, the importance of States building effective relationships with non-state actors and supporting their work is evident.

The **media** plays a vital role in bringing transnational trafficking in persons cases to light and catalysing international cooperation in response to it. Indeed, the media uncovered more about trafficking into cyber-scramming in the ASEAN region than was revealed through the proactive investigative efforts of law enforcement authorities. However, the media is often treated with distrust or even disdain; in some cases, independent outlets or individuals have been discredited and prohibited from doing vital work needed to understand trafficking in persons.¹⁴⁴ In worst cases, the safety of journalists is compromised owing to the important work they do to report on trafficking in persons and other transnational organised crime.¹⁴⁵ Some of the most significant, severe and large-scale cases of transnational trafficking in the region (for instance into the fishing industry and into forced criminality in online scamming and gaming) have not been instigated by the proactive efforts of States in whose territory the crime is occurring, but as result of international pressure exerted following media reports. Determining whether cooperation can be incentivised without that impetus, requires robust understanding of whether the lack of proactive action in the absence of external pressures is owing to a lack of capacity, international or combination of these and other factors.

4. Working cultures may not be conducive to efficient and effective cooperation

Different approaches to criminal justice work: Significant variance of work cultures was evident across countries throughout the consultations, that may impact on whether and how international cooperation occurs. Differences in capacities and approaches between ASEAN Member States were cited as a challenge to cooperation between them. There are also differences within countries and even within agencies; staff Central Authorities may have studied abroad in different countries within the ASEAN region or elsewhere, bringing different approaches to their work home. Inconsistencies across the region could be addressed by countries in the region partnering, mentoring, training and otherwise supporting their counterparts. However, training and technical assistance generally comes from outside the ASEAN region rather than within it. Different approaches, values and attitudes about the role of criminal justice practitioners also impacts international cooperation. These differ not only between countries but also within them, resulting in a complex mix of collaboration and competition. Within a country, law enforcement agencies may compete for rewards offered to incentivise action, meaning that whether requests for assistance are responded to or not, may be less a matter of the urgency of the trafficking situation, than the incentives in place to prioritise it.

Different management approaches and hierarchies within agencies: In carrying out consultations for this project it was evident that there was sometimes discomfort to meet in the absence of senior staff. It is not clear whether this discomfort stems from inability or insecurity of mid-level officials to engage on issues within their remit in the absence of their superiors, or whether superiors lack faith in the abilities of their subordinates to speak to issues. Given that meetings to talk about international cooperation could often not occur in the absence of senior staff, questions may be constructively asked about how actual international cooperation can take place if capabilities and authority are not diffused beyond select individuals. In some cases, practitioners are of course empowered by their superiors to cooperate with counterparts, but in others, senior staff may serve as gatekeepers to cooperative action, and therefore as single points of failure or success. As one practitioner noted: “Perpetrators act fast with the phone but we need permission to talk to the other side.”

Formality may hamper informal cooperation: Informal cooperation is well-recognized as necessary for effective response to transnational organised crime, both in its own right and to support formal cooperation.

¹⁴⁴ For instance, the Voice of Democracy (VOD) – which was a vital source on reporting on trafficking into forced criminality in online scamming and gaming, had its licence revoked in Cambodia in February 2023.

¹⁴⁵ ASEAN-ACT is currently conducting a study into the role of media in counter-trafficking.

However, even informal processes in the ASEAN region often become formal. Institutional procedures, complex structures and hierarchies within institutions can mean senior staff are involved in cooperation in lieu of the mid-level personnel whose involvement may be necessary to achieve operational outcomes. These hierarchical structures within institutions can mean that foreign counterparts must build relationships up chains of command in order to facilitate effective international cooperation, lest their counterparts are unable to overcome barriers to operationalise requests.

Building trust across cultures is critical to international cooperation: The point was frequently made that cooperation requires trust to be built between countries. Where trust is lacking, there is reticence to cooperate. Concerns were raised that requests for information will be misused as ‘fishing expeditions’ to look into other issues, though no examples of this were provided. Cultural differences can be determinative of whether cooperation happens or not, with discomfort in working across cultures, procedures and systems, resulting in preference to work unilaterally. Cultural barriers were also raised in reference to people from outside the region investing in efforts to engage with it. In this respect it was explained that officials from outside the region attempting to build relationships within it, cannot rely only on participation at official events but must also engage socially.

Opportunities to promote cooperative relationships often missed: Forums such as those provided by third parties (including ASEAN-ACT and UNODC) to attend conferences, meetings, workshops and other events were noted as playing an important role in building trust with counterparts across countries. However, they were also explained as missed opportunities. Senior staff at high-level meetings may not necessarily have the counter-trafficking capacity and practical experience that their subordinates do. They may not be well-placed to contribute, and often do not report back to their colleagues on what was gained there. As a result, there may be no tangible, practical benefit from their attendance.

5. Staff availability, allocation, turnover and capacity not optimized for cooperation

Availability of staff: It is good practice in ILC to implement protocols and procedures to ensure that responses can be addressed after working hours as well as during weekends and public holidays. These issues were not discussed during consultations, so it is not known which hours personnel can be reached for counter-trafficking related cooperation. In some countries, there are expectations of 8 hour working days and overtime hours as needed. Elsewhere there may not be core hours and staff may not be reachable for a range of reasons. Officials may be supplementing their government income with private work.

Allocation of staff: Notwithstanding challenges related to staffing shortages, in several countries, consultation meetings carried out for this ILC project were attended by several people within a single agency, even though only one or two actively participated. The availability of multiple staff to attend meetings in a passive or observational capacity in lieu of carrying out active duties (such as proactively responding to urgent trafficking cases), raises questions about how activities are prioritised and how resources and responsibilities are allocated. Understanding the cultural issues at play in shaping the dynamics of who is tasked to do what, would be useful in understanding the challenges associated with cooperating to address transnational trafficking in persons and other transnational organised crimes. These dynamics may also be relevant to the design of and delivery of future projects by UNODC, ASEAN-ACT and others, to guard against taking scarce human resources away from urgent issues. These considerations take place against the reality that demands on human resources are likely to increase, as rising transnational crime makes ILC more necessary. As the number of requests increases, already-limited human resources to respond to MLA requests will be further stretched. Time required to execute requests (obtain court orders, translate documents, locate witnesses and evidence, and communicate) may also be insufficient to keep pace with incoming requests, and delay their execution.¹⁴⁶

Staff turnover can impact cooperative relationships: Turnover of staff was cited as a challenge to cooperative capacity. Some government officials rotate once or twice a year, meaning the trainings they receive are not impactful. Those with strong capacity, experience, and cooperation networks, may be transferred to other departments following promotions or changes in government. Handover processes may be deficient to transfer networks and capacities. On the other hand, efforts to capacitate upcoming staff, including for instance through the mentoring of junior staff to facilitate knowledge transfer can effectively address transition

¹⁴⁶ ADB / OECD (2017) *Mutual Legal Assistance in Asia and the Pacific: Experiences in 31 Jurisdictions*, 17-18.

challenges. Where relationships are built between individuals rather than between institutions, staff turnover can mean institutional memory and trust built with national and international counterparts is lost. These considerations should bear on how the impact, scalability and sustainability of international cooperation capacity building investment is measured.

Attitudes to roles and responsibilities of individuals who must cooperate: Whether cooperation happens or not ultimately depends on the individuals involved and the extent to which they are empowered and capacitated to respond. Relevant factors in this regard include egos, interests and personalities of individuals in positions of power and responsibility. Irrespective of the informal and formal channels in place, positive, proactive and flexible attitudes are required. If responsible officers want to overcome obstacles, they will find a way to do so. If they do not, they will not.

Questions for discussion about institutional challenges:

1. How can internal coordination be strengthened in support of international coordination?
2. What role should inter-agency counter-trafficking bodies play in supporting operational response, or conversely, how should operational objectives inform the work of interagency bodies?
3. How can relationships with and the role of non-state actors such as civil society and independent media outlets be strengthened in support of international cooperation against trafficking in persons?
4. How do work cultures of relevant State agencies impact on whether and how they cooperate with each other, and how can those cultures be strengthened for more effective cooperation?
5. How can staff be better managed to support international cooperation?



4.4. Practical challenges

1. States need to adjust from being origin countries to destination countries

Significant challenges have emerged in attempts to cooperate with countries of destination for trafficking in persons, that were previously countries of origin. Cambodia, Lao PDR, Myanmar, and the Philippines are now recognised as key countries of destination for transnational trafficking, though their former posture was from an origin country perspective. Their response must evolve to lead on cooperative action to combat transnational trafficking in persons within their territory. In some countries, resistance to recognising this reality has meant that foreign victims are not identified and assisted, and perpetrators continue to take advantage of capacity gaps to operate with impunity. Victim support agencies involved in supporting their own nationals following their repatriation may be ill-equipped to identify and assist foreign victims within the country. There is often frustration or even resentment in these destination countries that countries of origin may request rescue of their citizens but not provide food, translation, accommodation or other support, notwithstanding the expectation that their own nationals be assisted and protected by the countries they are trafficked to.

2. Insufficient proactive investigation

Lack of attention to transnational organised crime: Notwithstanding that the legal frameworks to address trafficking in persons relate to transnational organised crime, trafficking in persons is often approached as a labour or migration issue.¹⁴⁷ There is an erroneous view among some criminal justice practitioners that legal migration and the presence of employment contracts indicate that a situation is not trafficking. These veils of legality can thwart identification where investigators simply check documentation to exclude the possibility that trafficking has occurred. The flip side to this is that situations of illegal migration and non-documentation are conflated with trafficking. Bias against 'illegal workers' who are considered partly to blame for their situations

¹⁴⁷ Also see Marija Jovanovic, *International Law and Regional Norm Smuggling: How the EU and ASEAN Redefined the Global Regime on Human Trafficking*, *The American Journal of Comparative Law*, Vol. XX [2021], 1-35 in which the author asserts that ASEAN approaches trafficking in persons through a migration management framework.

can hamper response. In some cases, victims are considered to be disgruntled employees simply seeking to change employer, rather than victims of serious crime. Encounters with victims may therefore not progress to their formal identification and protection as victims of serious transnational organised crime, and there may be no investigation of the transnational organised criminals involved that would necessitate international cooperation.

Lack of proactive investigation to build cases against organised criminal groups: Practitioners may have heard of the UNTOC but not know how to apply it in practice in responding to transnational organised crime. Criminal justice practitioners may lack capacity to apply special investigative techniques to collect evidence to build cases against transnational traffickers, and not carry out parallel financial investigations as part of their investigative strategy. This level of investigation is vital given the use of money laundering and crypto currencies by organised criminals, including those who traffic people into scamming compounds. However, where investigations are only reactive and do not progress to investigate networks involved, only low-level actors are brought to justice on the basis of evidence available within a jurisdiction, and proceeds of crime may not be confiscated. For instance, in an analysis of 435 TIP decisions finalised in Indonesia between 2019 and 2021, none were shared that involve defendants with any link to transnational organised crime.¹⁴⁸ As a result, the involvement of transnational organised crime in trafficking of people in the ASEAN region is often not investigated accounting for the low level of international cooperation that occurs in responding to it.

Example: Trafficking of Indonesians into illegal, unregulated and unreported (IUU) fishing (including shark finning and trading of endangered species) in waters near Samoa on Chinese flagged-fishing vessels, have resulted in cooperation for repatriation of victims, and the prosecution of Indonesian recruiters but not the prosecution of Chinese exploiters, even in situations where victims have died and their bodies dumped at sea.¹⁴⁹

Overreliance on victim testimony: Failure to carry out proactive investigation to find corroborative evidence (including abroad) hampers case progress. Overreliance on victim testimony is a key barrier. Investigations may cease when a victim does not provide sufficient information; even traffickers' use of nicknames can end efforts to identify suspects. Where victims or traffickers move across borders, cases may end at the borders. Even where there is strong indication of involvement of organised crime, cases may not be pursued where victims are not cooperative, notwithstanding that victims are anyway unlikely to know much about their traffickers.¹⁵⁰ Instead of proactively and cooperatively investigating cases, authorities may instead keep victims for prolonged periods in shelters to obtain their testimony.¹⁵¹ Insufficient care of victims and witnesses and insufficient coordination between the prosecuting country and the country where a victim or witness has been returned, can mean testimonies are lost to the prosecutorial process. Alternative approaches can overcome these barriers, including the use of victim-statements taken before a victim is repatriated to his or her country so that victims do not need to return to testify, and obtaining alternative evidence through proactive investigation. In this respect it must however be noted that even where evidence is obtained through ILC, its evidentiary weight may be limited to authenticity and due execution of documents. Accordingly, notwithstanding the submission of documents pursuant to ILC, the cooperation of witnesses remains imperative in successful prosecution of trafficking cases.

Investigation and prosecution of victims rather than traffickers: While there is reticence to exercise enforcement jurisdiction to pursue powerful perpetrators of serious organised crime, there is evidently less hesitation to take action against victims. Owing to the absence of victim identification mechanisms or their ineffective implementation, authorities may not screen victims of trafficking, who instead of being referred through referral mechanisms may be criminalized. Discrepancies between domestic laws and the application of the non-punishment principle may mean that in practice, a person may be identified as a victim in one jurisdiction but a perpetrator in another, notwithstanding the ACTIP and bilateral agreements that seek to

¹⁴⁸ Leisha Lister and Cate Sumner, Senior Advisors to ASEAN-ACT, *Indonesian Trafficking in Persons Cases: An Analysis of 2019-2021 Court Decisions* (ASEAN-ACT, March 2023)

¹⁴⁹ See for instance Indonesian District Court Decision Number 123/Pid.Sus/2020 BN BPs February 3, 2021, William Gozaly Alias Willy and PEMALANG District Court Decision Number 155/Pid.Sus/2020/PN Pml dated 18 January 2021, Defendant: Joni Kasiyanto Alias Joni. Also see: <https://www.theguardian.com/environment/2020/jul/07/hold-on-brother-final-days-of-doomed-crew-on-chinese-shark-finning-boat>, https://hrm.or.jp/eng/wp-content/uploads/2020/07/Briefing_on_Longxing629.pdf; <https://www.scmp.com/week-asia/article/3084015/indonesian-fishermen-who-died-chinese-boat-faced-abuse-21-hour-days>

¹⁵⁰ Reportedly, courts may also look only to victim testimony rather than at additional evidence, and victims may recant their statements.

¹⁵¹ See for instance: Freedom of movement for persons identified as victims of human trafficking: An analysis of law, policy and practice in the ASEAN region' (ASEAN-ACT, 2021), <https://www.aseanact.org/resources/shelterpractices/>

harmonize the approach taken by ASEAN Member States. The non-punishment principle is important in grappling with industrial-scale trafficking into forced criminality, including to participate in cyber-scamming and gambling in SEZs or in IUU fishing, drug trafficking and other crimes. The prosecution of victims may be contrary to applicable international human rights law, may detract scarce criminal resources from confronting criminals who are profiting from them, and may make States less attractive partners for international cooperation. Accordingly, regional response to counter-trafficking would benefit from a harmonized approach to the interpretation and application of the non-punishment principle by ASEAN Member States.¹⁵²

3. Communication challenges

Language requirements for formal assistance requests: Practitioners in many countries raised language as a challenge in executing formal assistance requests. It is good practice to first prepare requests in the language of the requesting State, before professionally translating the original into English and/or the language of the requested State.¹⁵³ Staff at some Central Authorities may speak English but be less able to read and write it. The fact that tools and templates for drafting MLA requests are often in English can mean authorities are not able to use them. Central Authorities may be required to translate outgoing requests into English and incoming requests from English into local languages for executing authorities, but may lack sufficient budget to provide official, legally certified translations. Where requests received in English and local languages are not high-quality translations, clarifications may need to be sought but personnel in the requested States may lack language skills and confidence to seek clarification from the requesting States.

Computer literacy to support international legal cooperation: In some countries, practitioners use email and smart phone apps to communicate. In other countries, fax machines are still used. Government officials may even use personal rather than professional email addresses to communicate, raising concerns about security of communication of sensitive information for those wishing to liaise with them. Understanding communication preferences and technical abilities would be useful towards ensuring that countries can safely and compatibly communicate with each other.

Requests for assistance may be insufficient: In several countries, practitioners explained that requests submitted in the wrong way to the wrong place, can cause delays of months or even years, and may mean that evidence obtained through MLA is inadmissible. The time and effort required to identify, understand, and reconcile different procedural requirements, can discourage attempts to cooperate in the first place. The result, as raised earlier, is that international cooperation is avoided, and evidence available within the country is relied on to prosecute low-level offenders or recruiters, while traffickers and exploiters higher up the chain evade justice.

Insufficient communication about requests for assistance: It is good practice to confirm receipt of requests and communicate to requesting authorities on their progress, and reasons why requests are delayed or cannot be executed. However, some practitioners reported receiving no communication from requested States. When no response is received, States may submit another response causing further delays, or simply stop pursuing necessary evidence. These challenges point to the need for central, investigative and prosecuting authorities within States to closely and effectively cooperate.¹⁵⁴ They also reiterate the importance of supporting informal cooperation in parallel to formal requests.

Communication challenges in informal cooperation: Police at the central or capital level note that communication is easily conducted in English via WhatsApp, email, and phone, but that the same may not be true in more remote areas. In some cases, investigating officers may not be allowed to informally liaise with the requesting State, meaning clarifications are sought through time-consuming formal processes. Central authorities may be required to provide language support to assist their criminal justice practitioners cooperate informally with counterparts in other countries.

4. Insufficient resources

Insufficient financial resources: Investment of resources has not kept pace with the growing scale and scope

¹⁵² For more on the interpretation and application of the non-punishment provision, see *ASEAN Guideline on the Implementation of the Non-Punishment Principle for Protection of Victims of Trafficking in Persons* (ASEAN-ACT and ASEAN, 2025).

¹⁵³ ADB / OECD (2017) *Mutual Legal Assistance in Asia and the Pacific: Experiences in 31 Jurisdictions*, 14-15.

¹⁵⁴ ADB / OECD (2017) *Mutual Legal Assistance in Asia and the Pacific: Experiences in 31 Jurisdictions*, 15-17.

of counter-trafficking by transnational organised crime. Notably, as countries of origin have shifted rapidly into destination countries, States have found themselves under-resourced to protect and assist large volumes of rescued victims. As a result, there are insufficient resources to respond to and execute cooperation requests. Resource deficiencies pose barriers even to investigations of domestic trafficking. Governments often rely on NGOs to provide operational assistance, to provide rescued persons with food, medicine, shelter and other support. Challenges were also raised around the cost of travelling to relevant locations, interpretation, translation, overtime work and equipment required. Similarly, significant delays may result where there are insufficient funds in a requesting State to cover the cost of travel for a witness to testify in person. There was no discussion about how foreign investment in the region can be strategically leveraged to increase investment in criminal justice capacity to cooperate against trafficking in persons.

Insufficient human resources and capacity: Staffing was raised as a challenge in several countries, with Central Authorities noting insufficient staff to respond to incoming requests. The countries unable to effectively respond to requests for cooperation have generally not made outgoing requests, owing to lack of familiarity of both competent and executing authorities with how to initiate ILC processes. In some countries it was reported that criminal justice practitioners overly-rely on Central Authorities to do the bulk of the work. This challenge speaks to the need to increase capacity not only of Central Authorities but also of police, prosecutors and judges, beyond the central level into regional and remote areas including in border regions, where some of the most large-scale complex transnational trafficking in persons occurs.

Insufficient capacity to cooperate in relation to digital evidence: Cybercrimes cross borders, yet computer literacy and cyber-capabilities among investigators is insufficient to cooperate across borders in investigating, prosecuting, and adjudicating them. While the UNTOC provides no guidance on how to collect, use and exchange digital evidence, it provides a framework for states to develop frameworks and include digital evidence.¹⁵⁵ Such processes often necessitate international cooperation owing to the complexities of gathering evidence across jurisdictions in cyberspace. ILC tools and mechanisms have not kept pace with advances in how criminal investigations develop; MLA requests for transfer of evidence remain too slow to act before digital data is moved, tampered with or deleted, and efforts to confiscate and freeze criminal assets generally must be linked to an offence, which criminal justice practitioners may lack capacity to investigate and secure evidence of.¹⁵⁶ These challenges must be urgently confronted in light of people being trafficked from around the world who are forced to commit crimes against people globally. The need to increase capacity of criminal justice practitioners to gather, freeze and confiscate digital evidence was also stressed. ASEAN Member States could consider modifying their training and capacity building activities to enhance criminal justice capacity to cooperate internationally in relation to digital evidence.

Insufficient technological resources and capacity for effective ILC: While proactive and creative approaches can achieve cooperation even in low-tech contexts, computers, secure or weak bandwidth and network connections, and so on, may be insufficient to effectively execute ILC requests, particularly outside of capital cities. Some existing systems for tracking incoming and outgoing requests are rudimentary; in at least one country efforts are only now underway to enter requests into an electronic spreadsheet. Where there is no information management system or basic database in place to manage information, it is difficult if not impossible to monitor and evaluate progress.

5. Available tools and resources under-used

During consultations it became clear that tools that have been developed by ASEAN-ACT (and its predecessor programs) and UNODC are not widely used. In some cases, they are not available in local languages. These include ASEAN Handbooks on International Legal Cooperation and UNODC's Mutual Legal Assistance request writer tool. In most cases, practitioners had not heard of them. This reality may be related to the point above regarding staff turnover, but also may relate to deficiencies in disseminating and socialising resources. The 2010 ASEAN Handbook on International Legal Cooperation was noted in three countries as a reference used,

¹⁵⁵ Webinar: *The future of international cooperation against transnational organized crime* (Global Initiative against Transnational Organized Crime and International Centre for Criminal Law Reform, 13 January 2022). Also see *ASEAN Handbook on International Legal Cooperation in Trafficking in Persons Cases* (ASEAN-ACT / UNODC, 2018), pp.95-96: Basic tips for investigators and prosecutors for requesting electronic / digital evidence from foreign jurisdictions.

¹⁵⁶ Yvon Dandurand and Jessica Jahn, Global Initiative against Transnational Organized Crime (2021) *The Future of International Cooperation against Transnational Organized Crime*, p.5.

notably by individuals who had provided inputs during their development. UNODC's Competent National Authority (CNA) Directory was mentioned in one country, and UNODC's model laws were also mentioned in one country as a basis for drafting domestic legislation. Neither the 2007 nor the 2018 ASEAN Practitioner Guidelines were mentioned.

Notwithstanding the array of ILC tools that are freely and publicly available, several practitioners called for additional tools to be created. Such tools should be short, distributed in local languages, and in hard copy so as to be accessible by practitioners who are not able to use electronic versions. It was further suggested that international and regional tools be localised to national contexts by counter-trafficking Central Authorities. General counter-trafficking tools were also requested to clarify what trafficking in persons is and what is not. It is not clear why any additional resources that were created in line with these requests would be used by practitioners where previous tools have not been.¹⁵⁷

Questions for discussion about practical challenges:

1. What efforts are needed to address trafficking both from and into the country?
2. How to build capacity to proactively investigate transnational trafficking?
3. What communication barriers exist and how can they be overcome?
4. What financial, human, technological or other resources are required to strengthen ability of agencies to cooperate internationally?
5. Why don't practitioners use available tools to support ILC? How can existing and emerging tools be better disseminated and contextualized to their context?

¹⁵⁷ Requests were also made for study tours, though it could not be explained what the practical purpose of such tours would be, nor what impact previous study tours have had on response.

ANNEX A: Treaties tables

Country	UNTOC	TIP	SOM	UNCAC	A-MLAT	ACTIP
Brunei Darussalam	25 Mar 2008 a	30 Mar 2020 a	-	2 Dec 2008	29 Nov 2004	21 Nov 2015
Cambodia	12 Dec 2005	2 Jul 2007	12 Dec 2005	5 Sep 2007 a	29 Nov 2004	21 Nov 2015
Indonesia	20 Apr 2009	28 Sep 2009	28 Sep 2009	19 Sep 2006	29 Nov 2004	21 Nov 2015
Lao PDR	26 Sep 2003 a	26 Sep 2003 a	26 Sep 2003 a	25 Sep 2009	29 Nov 2004	21 Nov 2015
Malaysia	24 Sep 2004	26 Feb 2009 a	-	24 Sep 2008	29 Nov 2004	21 Nov 2015
Myanmar	30 Mar 2004 a	30 Mar 2004a	30 Mar 2004 a	20 Dec 2012	17 Jan 2006	21 Nov 2015
Philippines	28 May 2002	28 May 2002	28 May 2002	8 Nov 2006	29 Nov 2004	21 Nov 2015
Singapore	28 Aug 2007	28 Sep 2015a	-	6 Nov 2009	29 Nov 2004	21 Nov 2015
Thailand	17 Oct 2013	17 Oct 2013	-	1 Mar 2011	17 Jan 2006	21 Nov 2015
Viet Nam	8 Jun 2012	8 Jun 2012a	-	19 Aug 2009	29 Nov 2004	21 Nov 2015

Country	ICCPR	ICESCR	ICERD	CEDAW	CRC	ICRPD
Brunei Darussalam	-	-	-	Sig: - R/A 2006	Sig: - R/A: 1995	Sig 2007 R/A 2016
Cambodia	Sig 1980 R/A: 1992	Sig 1980 R/A: 1992	Sig 1966 R/A: 1983	Sig 1980 R/A: 1992	Sig: - R/A: 1992	Sig: 2007 R/A: 2012
Indonesia	Sig – R/A: 2006	Sig – R/A: 2006	Sig – R/A 1999	Sig 1980 R/A: 1984	Sig 1990 R/A 1990	Sig 2007 R/A 2011
Lao PDR	Sig 2000 R/A 2009	Sig 2000 R/A 2007	Sig – R/A 1974	Sig 1980 R/A 1981	Sig – R/A 1991	Sig 2008 R/A 2009
Malaysia	-	-	-	Sig – R/A 1995	Sig - R/A 1995	Sig 2008 R/A 2010
Myanmar	-	Sig 2015 R/A 2017	-	Sig – R/A 1997	Sig – R/A 1991	Sig – R/A 2011
Philippines	1966 1986	Sig 1966 R/A 1974	Sig 1966 R/A 1967	Sig 1980 R/A 1981	Sig 1990 R/A 1990	Sig 2007 R/A 2008
Singapore	-	-	Sig 2015 R/A 2017	Sig – R/A 1995	Sig – R/A 1995	Sig 2012 R/A 2013
Thailand	Sig – R/A 1996	Sig – R/A 1999	Sig - R/A 2003	Sig - R/A 1985	Sig - R/A 1992	Sig 2007 R/A 2008
Viet Nam	Sig - R/A 1982	Sig – R/A 1982	Sig – N/A 1992	Sig 1980 R/A 1982	Sig 1990 R/A 1990	Sig 2007 R/A 2015

Country	CAT	Opp rot DP	Refugees 1951	Refugees 1967	AHRD
Brunei	Sig 2015	-	-	-	2012

Darussalam	R/A: N/A				
Cambodia	Sig: - R/A: 1992	-	Oct 1992 a	Oct 1992 a	2012
Indonesia	Sig 1985 R/A 1998	-	-	-	2012
Lao PDR	Sig 2010 R/A 2012	-	-	-	2012
Malaysia	-	-	-	-	2012
Myanmar	-	-	-	-	2012
Philippines	Sig - R/A 1986	Sig 2006 R/A 2007	Jul 1981 a	Jul 1981 a	2012
Singapore		-	-	-	2012
Thailand	Sig – R/A 2007	-	-	-	2012
Viet Nam	Sig 2013 R/A 2015	-	-	-	2012

a – accession

Fundamental ILO Conventions on Forced Labour (and related Recommendations)

Country	C029 (1930)	P029 (2014)	C105 (1957)	R035 (1930)	R203 (2014)
Brunei Darussalam	-	-	-		
Cambodia	24 Feb 1969	-	23 Aug 1999		
Indonesia	12 Jun 1950	-	07 Jun 1999		
Lao PDR	23 Jan 1964	-	-		
Malaysia	11 Nov 1957	21 Mar 2022	13 Oct 1958*		
Myanmar	04 Mar 1955	-	-		
Philippines	15 Jul 2005	-	17 Nov 1960		
Singapore	25 Oct 1965	-	25 Oct 1965**		
Thailand	26 Feb 1969	04 Jun 2018	2 Dec 1969		
Viet Nam	05 Mar 2007	-	14 Jul 2020		

*Not in force: denounced on 10 Jan 1990

**Not in force: denounced on 19 Apr 1979

[**C029** - Forced Labour Convention, 1930 \(No. 29\)](#)

[**P029** - Protocol of 2014 to the Forced Labour Convention, 1930](#)

[**C105** - Abolition of Forced Labour Convention, 1957 \(No. 105\)](#)

[**R035** - Forced Labour \(Indirect Compulsion\) Recommendation, 1930 \(No. 35\)](#)

[**R203** - Forced Labour \(Supplementary Measures\) Recommendation, 2014 \(No. 203\)](#)

Fundamental ILO Conventions on Child Labour (and related Recommendations)

Country	C138 (1930)	R146 (1973)	C182 (1999)	R190 (1999)
Brunei Darussalam	23 Apr 1980 (min age: 16)		-	
Cambodia	23 Aug 1999 (min age: 14)		14 Mar 2006	
Indonesia	07 Jun 1999 (min age: 15)		28 Mar 2000	
Lao PDR	13 Jun 2005 (min age: 14)		13 Jun 2006	
Malaysia	09 Sep 1997 (min age: 15)		10 Nov 2000	
Myanmar	08 Jun 2020 (min age: 14)		18 Dec 2013	
Philippines	04 Jun 1998 (min age: 15)		28 Nov 2000	
Singapore	07 Nov 2005 (min age: 15)		14 Jun 2001	
Thailand	11 May 2004 (min age 15)		16 Feb 2001	
Viet Nam	24 Jun 2003 (min age: 15)		19 Dec 2000	

C138 - [Minimum Age Convention, 1973 \(No. 138\)](#)

R146 - [Minimum Age Recommendation, 1973 \(No. 146\)](#)

C182 - [Worst Forms of Child Labour Convention, 1999 \(No. 182\)](#)

R190 - [Worst Forms of Child Labour Recommendation, 1999 \(No. 190\)](#)

ANNEX B: Domestic trafficking in persons provisions

Instrument	Criminalization / definition of trafficking in persons
BRUNEI DARUSSALAM	

Anti-Trafficking in Persons Act, Chapter 230

People trafficking

5. (1) Any person who recruits, transports, transfers, harbours or receives any person or persons for the purpose of exploitation by one or more of the following means - (a) abduction; (b) abuse of power or of a position of vulnerability; (c) deception; (d) fraud; (e) the giving or receiving of payments or benefits to achieve the consent of a person having control over another person; (f) threat; (g) use of force or other forms of coercion, is guilty of an offence and liable on conviction to a fine not exceeding \$1,000,000 and not less than \$10,000 in respect of each trafficked person, imprisonment for a term of not less than 4 years but not exceeding 30 years and whipping

(2) Where the recruitment, transportation, transfer, harbouring or receipt under subsection (1) for the purpose of exploitation is in respect of a child, it shall be considered trafficking in persons even if it does not involve any of the means referred to subsection (1), the person is guilty of an offence and liable on conviction to a fine not exceeding \$1,000,000 and not less than \$10,000 in respect of each trafficked child, imprisonment for a term of not less than 4 years but not exceeding 30 years and whipping with not less than 5 strokes. **(3)** Where any of the following aggravating circumstances are present during the commission of an offence under this section - (a) the offence involves serious injury or death of the trafficked person or another person, including death as a result of suicide; (b) the offence involves a trafficked person who is particularly vulnerable such as a person who is unable to fully take care of or protect himself because of a physical or mental disability or condition; (c) the offence exposed the trafficked person to a life-threatening illness, including Human Immunodeficiency Virus (HIV) and Acquired Immune Deficiency Syndrome (AIDS); (d) the offence involves more than one trafficked person; (e) the offence was committed as part of the activity of an organised criminal group; (f) the offender has been previously convicted for an offence against this Order or any regulations made thereunder; (g) the offence was committed by a public servant in the performance of his public duties; (h) the offender used drugs, weapons or medication in the commission of the offence; (i) the offender used a child as an accomplice or participant in the offence; (j) the offender used or threatened to use any form of violence against the trafficked person or his family; (h) the offender confiscated, destroyed or attempted to destroy the travel or identity documents of the trafficked person, the offender is liable on conviction to a fine not exceeding \$1,000,000 and not less than \$10,000 for each trafficked person, imprisonment for a term of not less than 4 years but not exceeding 30 years and whipping with not less than 5 strokes.

Sexual trafficking

6. Any person who, with the intention of inducing another person to enter into an engagement to provide sexual services, deceives that other person about - (a) the fact that the engagement will involve the provision of sexual services; (b) the nature of sexual services to be provided; (c) the extent to which the person will be free to cease providing sexual services; (d) if there is or will be a debt owed or claimed to be owed by the person in connection with the engagement, the quantum, or the existence, of the debt owed or claimed to be owed; (e) the fact that the engagement will involve debt bondage or the confiscation of the person's travel documents, is guilty of an offence and liable on conviction to a fine not exceeding \$1,000,000, imprisonment for a term of not less than 4 years but not exceeding 30 years and whipping with not less than 5 strokes.

Exploitation of trafficked person

7. Any person who - (a) engages in; or (b) profits from, the exploitation of a trafficked person is guilty of an offence and liable on conviction to a fine not exceeding \$1,000,000, imprisonment for a term of not less than 4 years but not exceeding 30 years and whipping.

Trafficked person in transit

8. Any person who brings in transit a trafficked person through Brunei Darussalam by land, sea or air, or otherwise arranges or facilitates such act is guilty of an offence and liable on conviction to a fine not exceeding \$1,000,000, imprisonment for a term of not less than 4 years but not exceeding 30 years and whipping

Consent of trafficked person irrelevant

9. For the purposes of sections 5(j), 5(2), 5(3), 6, 7 and 8, it shall not be a defence if the trafficked person has consented to people trafficking

CAMBODIA

Law on Suppression of Human Trafficking and Sexual Exploitation 2008

The objective of the Law expressed in article 1 as being to suppress acts of human trafficking and sexual exploitation and to implement the Trafficking in Persons Protocol and other international instruments or agreements Cambodia has ratified or signed with regard to human trafficking. However, the term human trafficking is not mentioned in any other substantive provision.

Chapter 2. The Act of Selling/Buying or Exchanging a Person

Article 8. Definition of unlawful removal

The act of unlawful removal in this law shall mean to:

1. remove a person from his/her current place of residence to a place under the actor's or a third person's control by means of force, threat, deception, abuse of power, or enticement, or

2. without legal authority or any other legal justification to do so, take a minor or a person under general custody or curatorship or legal custody away from the legal custody of the parents, care taker or guardian.

Article 9. Unlawful removal, inter alia, of Minor

Article 9: Unlawful Removal, inter alia, of Minor

A person who unlawfully removes a minor or a person under general custody or

curatorship or legal custody shall be punished with imprisonment from 2 to 5 years.

The punishment for the offence stipulated in this article shall be remitted or mitigated when all of the following conditions are met:

- 1. The person taken under custody, being not less than fifteen (15) years of age, voluntarily gives genuine consent to the criminal act;*
- 2. None of the means stipulated in subparagraph 1 of Article 8 of this law is used; and*
- 3. The offender does not have any intent to commit an offense.*

The prosecution for the offence stipulated in this article may be commenced only upon the filing of a complaint from the parent, custodian/care taker or lawful guardian concerned unless any of the means stipulated in subparagraph 1 of Article 8 of this law is used.

Article 10. Unlawful Removal with Purpose

A person who unlawfully removes another for the purpose of profit making, sexual aggression, production of pornography, marriage against will of the victim, adoption or any form of exploitation shall be punished with imprisonment from 7 years to 15 years.

The offence stipulated in this article shall be punished with imprisonment from 15 to 20 years when:

- the victim is a minor,*
- the offence is committed by a public official who abuses his/her authority over the victim,*
- the offence is committed by an organised group.*

The terms “any form of exploitation” in this Article and Articles 12, 15, 17, and 19 of this law shall include the exploitation of the prostitution of others, pornography, commercial sex act, forced labour or services, slavery or practices similar to slavery, debt bondage, involuntary servitude, child labour or the removal of organs.

The consent of the victim to any of the intended purposes set forth in paragraph 1 of this article shall be irrelevant where any of the means set forth in subparagraph 1 of Article 8 of this law is used.

This shall apply to the offences stipulated in Articles 15, 17, and 19 of this law as well.

Article 11: Unlawful Removal for Cross-border Transfer

A person who unlawfully removes another for the purpose of delivering or transferring that person to outside of the Kingdom of Cambodia shall be punished with imprisonment from 7 to 15 years.

A person who unlawfully removes another in a country outside of the Kingdom of Cambodia for the purpose of delivering or transferring that person to another country shall be punished the same as set out in the above-stated paragraph 1.

The offence stipulated in this article shall be punished with imprisonment from 15 to 20 years when:

- the victim is a minor,*
 - the offence is committed by a public official who abuses his/her authority over the*
-

victim,

- the offence is committed by an organised group.

Article 12: Unlawful Recruitment for Exploitation

The act of unlawful recruitment in this law shall mean to induce, hire or employ a person to engage in any form of exploitation with the use of deception, abuse of power, confinement, force, threat or any coercive means.

A person who unlawfully recruits another shall be punished with imprisonment from 7 to 15 years.

The offence stipulated in this article shall be punished with imprisonment from 15 to 20 years when:

- the victim is a minor,

- the offence is committed by a public official who abuses his/her authority over the victim,

- the offence is committed by an organised group.

Article 13: Definition of the Act of Selling, Buying or Exchanging a Person

Article 14: The Act of Selling, Buying or Exchanging a Person

Article 15: The Act of Selling, Buying or Exchanging a Person with Purpose

Article 16: The Act of Selling, Buying or Exchanging a Person for Cross-border Transfer

Article 17: Transportation with Purpose

Article 18: Cross-border Transportation (The Act of Bringing a Person Cross-border)

Article 19: Receipt of a Person with Purpose

Article 20: Receipt of a Person for the Purpose of Assisting the Offender

INDONESIA

Law of the Republic of
Indonesia Number 21
Year 2007, The
Eradication of the
Criminal Act of
Trafficking in Persons

Article 1

(1) Trafficking in Persons shall mean the recruitment, transportation, harbouring, sending, transfer, or receipt of a person by means of threat or use of force, abduction, incarceration, fraud, deception, the abuse of power or a position of vulnerability, debt bondage or the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, whether committed within the country or cross border, for the purpose of exploitation or which causes the exploitation of a person.

Article 2

(1) Anyone who recruits, transports, harbours, sends, transfers, or receives a person through the threat of force, use of force, abduction, incarceration, fraud, deception, abuse of authority or position of vulnerability, debt bondage or the giving of payment or benefit despite the giving of consent by another individual having charge over the person, for the purpose of exploiting the person within the territory of the Republic of Indonesia shall be punishable by a prison sentence of a minimum period of 3 (three)

years and a maximum of 15 (fifteen) years and a fine amounting to a minimum of Rp120,000,000.00 (one hundred and twenty million rupiah) and a maximum of Rp600,000,000.00 (six hundred million rupiah). (2) If the act as described in paragraph (1) results in a person being exploited, the offender is subject to the same punishment as provided under paragraph (1).

Article 3

Anyone who brings another person into the territory of the Republic of Indonesia with the intention to exploit such person within the said territory or in another country shall be punishable by a prison sentence of a minimum period of 3 (three) years and a maximum of 15 (fifteen) years and a fine amounting to a minimum of Rp120,000,000.00 (one hundred and twenty million rupiah) and a maximum of Rp600,000,000.00 (six hundred million rupiah).

Article 4

Anyone who takes an Indonesian citizen outside the territory of the Republic of Indonesia with the intention to exploit such person outside the said territory shall be punishable by a prison sentence of a minimum period of 3 (three) years and a maximum of 15 (fifteen) years and a fine amounting to a minimum of Rp120,000,000.00 (one hundred and twenty million rupiah) and a maximum of Rp600,000,000.00 (six hundred million rupiah).

Plus many more criminalization provisions...

LAO PDR

The Law on Anti-Trafficking in Persons 2015

(Same definition in Article 215 of the Penal Code 2017)

Article 2 Trafficking in Persons

Trafficking in persons shall mean recruitment, abduction, movement, transportation or transfer, harbouring or receipt of persons, by means of persuasion, recommending, deception, payment or giving benefit, inducement, incitement or abuse of power, the use of threat or other forms of coercion, debt bondage, concealed child adoption, concealed engagement, concealed marriage, pregnancy for other, forced bagging, producing, showing and publishing pornographic materials or by other forms for the labour exploitation, sexual exploitation, slavery, prostitution, involuntary prostitution, removal of organs for purpose of trade and other forms of unlawful conducts contradicting to the national fine culture and traditions or for other purposes to gain benefits.

MALAYSIA

Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007 (As amended 2022)

Amendments came into effect 22 February 2022, to widen the definition of TIP by removing 'coercion'. Amendments also increased sentences and introduced whipping for

Section 2

"trafficking in persons" means all actions of recruiting, conveying, transferring, acquiring, maintaining, harbouring, providing or receiving, a person, for the purpose of exploitation, by the following means:

- (a) threat or use of force or other forms of coercion;*
- (b) abduction;*
- (c) fraud;*
- (d) deception;*
- (e) abuse of power;*
- (f) abuse of the position of vulnerability of a person to an act of trafficking in persons;*
or

aggravated offences.	<i>(g) the giving or receiving of payments or benefits to obtain the consent of a person having control over the trafficked person</i>
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Penal Code 2008

Buying or disposing of any person as a slave

370. Whoever imports, exports, removes, buys, sells or disposes of any person as a slave, or accepts, receives or detains against his will any person as a slave, shall be punished with imprisonment for a term which may extend to seven years, and shall also be liable to fine.

Habitual dealing in slaves

371. Whoever habitually imports, exports, removes, buys, sells, traffics, or deals in slaves, shall be punished with imprisonment for a term which may extend to twenty years, and shall also be liable to fine.

Exploiting any person for purposes of prostitution

372.

(1) Whoever—

(a) sells, lets for hire or otherwise disposes of, or procures, buys or hires or otherwise obtains possession of, any person with such intention that the person is to be employed or used for the purpose of prostitution or of having sexual intercourse with any other person, either within or outside Malaysia, or knowing or having reason to believe that the person will be so employed or used;

(b) by or under any false pretence, false representation, or fraudulent or deceitful means made or used, either within or outside Malaysia, brings or assists in bringing into, or takes out or assists in taking out of, Malaysia, any person with such intention that the person is to be employed or used for the purpose of prostitution or of having sexual intercourse with any other person, either within or outside Malaysia, or knowing or having reason to believe that the person will be so employed or used;

(c) receives or harbours any person—

(i) who has been sold, let for hire or otherwise disposed of, or who has been procured, purchased, hired or otherwise obtained possession of in the circumstances as set out in paragraph (a); or

(ii) who has been brought into or taken out of Malaysia in the circumstances as set out in paragraph (b),

knowing or having reason to believe that the person is to be employed or used for the purpose of prostitution or of having sexual intercourse with any other person, either within or outside Malaysia, and with intent to aid such purpose;

(d) wrongfully restrains any person in any place with such intention that the person will be used or employed for the purpose of prostitution or of having sexual intercourse with any other person;

(e) by means of any advertisement or other notice published in any manner or displayed in any place for prostitution service or a service which a reasonable person would understand it to be a prostitution service, offers any person for the purpose of prostitution or seeks information for that purpose or accepts such advertisement or notice for publication or display;

(f) acts as an intermediary on behalf of another or exercises control or influence over the movements of another in such a manner as to show that the person is aiding or abetting or controlling the prostitution of that other, shall be punished with imprisonment for a term which may extend to fifteen years and with whipping, and

shall also be liable to fine.

(2) For the purpose of paragraph (1)(d), it shall be presumed until the contrary is proved that a person wrongfully restrains a person if he—

(a) withholds from that person wearing apparel or any other property belonging to that person or wearing apparel commonly or last used by that person;

(b) threatens that person to whom wearing apparel or any other property has been let or hired out or supplied to with legal proceedings if he takes away such wearing apparel or property;

(c) threatens that person with legal proceedings for the recovery of any debt or alleged debt or uses any other threat whatsoever; or

(d) without any lawful authority, detains that person's identity card issued under the law relating to national registration or that person's passport.

(3) In this section and in sections 372A and 372B, "prostitution" means the act of a person offering that person's body for sexual gratification for hire whether in money or in kind; and "prostitute" shall be construed accordingly.

MYANMAR

The Prevention and
Suppression of
Trafficking in Persons
Law

(State Administration
Council Law No.
41/2022)

(3)(b) **Trafficking in Persons** means recruitment, transportation, transfer, sale, purchase, lending, hiring, harbouring or receipt of persons by any person after using any of the following means for the purpose of exploitation of another person with or without his or her consent:

(1) threat, use of force or other form of coercion;

(2) abduction;

(3) fraud;

(4) deception;

(5) abuse of power or authority;

(6) abuse of a position of vulnerability;

(7) giving or receiving of money, property or any other benefits to obtain the consent of a person having control over or influence on him/her;

Exception: The recruitment, transportation, transfer, sale, purchase, lending, hiring, harbouring or receipt of a child for exploitation shall be considered as trafficking in persons whether any of the means set forth in subsection (b) is used.

(c) **Exploitation** includes forced prostitution or other forms of sexual exploitation, forced labour or service, slavery or servitude or debt bondage, forced marriage, forced begging, surrogate pregnancy, adoption fraud for any benefit, or removal and sale of organs from the body or abuse of organs of any other persons in any other ways, and direct or indirect receipt of, or agreement to receipt of money, property or any other benefits from any of the aforesaid exploitation.

PHILIPPINES

RA 11862 (2022)
amending RA 10364,
(Expanded Anti-

Section 3(a) Trafficking in Persons – refers to the recruitment, obtaining, hiring, providing, offering, transportation, transfer, maintaining, harbouring, or receipt of persons with or without the victim's consent or knowledge, within or across national

Trafficking in Persons Act of 2012) and RA 9208 ((Anti-trafficking in Persons Act of 2003)

borders by means of threat, or use of force, or other forms of coercion, abduction, fraud, deception, abuse of power or of position, taking advantage of the vulnerability of the person, or, 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 which includes at a minimum, the exploitation or the prostitution of others, or the engagement of others for the production or distribution, or both, of materials that depict child sexual abuse or exploitation, or other forms of sexual exploitation, forced labour or services, slavery, servitude or the removal or sale of organs.

"The recruitment, transportation, transfer, harbouring, adoption or receipt of a child for the purpose of exploitation or when the adoption is induced by any form of consideration for exploitative purposes shall also be considered as 'trafficking in persons' even if it does not involve any of the means set forth in the preceding paragraph.

SINGAPORE

Prevention of Human Trafficking Act 2014

Trafficking in persons

3.—(1) Any person who recruits, transports, transfers, harbours or receives an individual (other than a child) by means of — (a) the threat or use of force, or any other form of coercion; (b) abduction; (c) fraud or deception; (d) the abuse of power; (e) the abuse of the position of vulnerability of the individual; or

(f) the giving to, or the receipt by, another person having control over that individual of any money or other benefit to secure that other person's consent, for the purpose of the exploitation (whether in Singapore or elsewhere) of the individual shall be guilty of an offence. (2) Any person who recruits, transports, transfers, harbours or receives a child for the purpose of the exploitation (whether in Singapore or elsewhere) of the child shall be guilty of an offence. (3) In determining whether an offence has been committed under this section, the following is irrelevant: (a) in the case where the alleged victim of the offence is a child, whether the child, or the child's parent or guardian, consented to the actual or intended exploitation; (b) in any other case, whether the alleged victim of the offence consented to the actual or intended exploitation. (4) For the purposes of subsection (1) or (2), it does not matter whether the act of trafficking in persons described in that subsection is done partly in and partly outside Singapore provided that the act, if done wholly in Singapore, would constitute an offence under that subsection.

Children and Young Persons Act 1993

Unlawful transfer of possession, custody or control of child or young person

16.—(1) Every person who takes any part in any transaction the object or one of the objects of which is to transfer or confer, wholly or partly, temporarily or permanently, the possession, custody or control of a child or young person for any valuable consideration shall be guilty of an offence and shall be liable on conviction to imprisonment for a term not exceeding 4 years.

(2) Every person who, without lawful authority or excuse, harbours or has in his or her possession, custody or control any child or young person with respect to whom the temporary or permanent possession, custody or control has been transferred or conferred for valuable consideration by any other person within or outside Singapore shall be guilty of an offence and shall be liable on conviction to a fine not

exceeding \$10,000 or to imprisonment for a term not exceeding 5 years or to both. (3) It is a defence in any prosecution under this section to prove that the transfer took place in contemplation of or pursuant to a bona fide marriage or adoption and that at least one of the natural parents of the child or young person or the legal guardian of the child or young person, was a consenting party to the marriage or to the adoption by the adopting party, and had expressly consented to the marriage or adoption. (4) In this section, “legal guardian”, in relation to a child or young person, means a person lawfully appointed by deed or will or by the order of a competent court to be the guardian of that child or young person.
Importation of child or young person by false pretences 17. Any person who, by or under any false pretence, false representations or fraudulent or deceitful means made or used either within or outside Singapore, brings or assists in bringing any child or young person into Singapore shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 5 years or to both.

THAILAND

Anti-Human Trafficking Act BE 2551 (2008) amended BE 2562 (2019)

Section 4. The provisions of section 6 of the Anti-Human Trafficking Act B.E. 2551 as amended by the Anti-Human Trafficking Act (No. 3) B.E. 2560 shall be repealed and replaced by the followings:

“Section 6. Any person who, for the purpose of exploitation, commits any of the following acts: (1) procuring, buying, selling, vending, bringing from or sending to, detaining or confining, harbouring, or receipt of any person, by means of threat or use of force, abduction, fraud, deception, abuse of power, or giving money or benefits to a guardian or caretaker of the person to achieve the consent of the guardian or caretaker of such person to allow the offender to exploit the person under his or her control; or

(2) procuring, buying, selling, vending, bringing from or sending to, detaining or confining, harbouring, or receipt of a child;

If such act aims for exploitation of persons, such person commits an offence of human trafficking.

The exploitation under paragraph one means the exploitation of prostitution, the production or distribution of pornographic materials, the exploitation of other forms of sexual acts, slavery or practices similar to slavery, exploitation of begging, removal of organs for commercial purposes, forced labour or services under section 6/1, or any other similar forcible extortion regardless of such person’s consent.”

VIET NAM

2015 Penal Code, No. 100/2015/QH13

Article 150. Human Trafficking

1. Any person who uses violence, threatens to use violence, deceives or employs other tricks to commit any of the following acts shall face a penalty of 05 – 10

years' imprisonment:

- (a) Transferring or receiving human people for transfer for money, property, or other financial interests;
 - (b) Transferring or receiving human people for sexual slavery, coercive labour, taking body parts, or for other inhuman purposes;
 - (c) Recruiting transporting, harbouring other people for the commission of any of the acts specified in Point a or Point b of this Clause.
2. This offence committed in any of the following cases shall carry a penalty of 08 – 15 years' imprisonment:
- (a) The offence is committed by an organised group;
 - (b) The offence is committed by despicable motives;
 - (c) The victim suffers from 110% to 45% mental and behavioural disability because of the offence;
 - (d) The offence results in 31% physical disability or more of the victim, except for the case specified in Point b Clause 3 of this Article;
 - (e) The offence is committed against 02 – 05 people;
 - (f) The offence has been committed more than once.
3. This offence committed in any of the following cases shall carry a penalty of 12 – 20 years' imprisonment:
- (a) The offence is committed in a professional manner;
 - (b) The victim's body part has been taken;
 - (c) The victim suffers from 46% mental and behavioural disability or above because of the offence;
 - (d) The offence results in the death or suicide of the victim;
 - (dd) The offence is committed against 06 or more people;
 - (e) Dangerous recidivism;
4. The offender may also be liable to a fine of from VND 20,000,000 to VND 100,000,000, be put under mandatory supervision, prohibited from residence for 01 – 05 years, or have all or part of his/her property confiscated.

Article 151. Trafficking of a person under 16

1. A person who commits any of the following acts shall face a penalty of 07 – 12 years' imprisonment:
- (a) Transferring or receiving a person under 16 for transfer of money, property, or other financial interests, except for humanitarian purposes;
 - (b) Transferring or receiving a person under 16 for sexual slavery, coercive labour, taking body parts, or for other inhuman purposes;
 - (c) Recruiting, transporting, harbouring a person under 16 for the commission of any of the acts specified in Point a or Point b of this Clause.
2. This offence committed in any of the following cases shall carry a penalty of 12 – 20 years' imprisonment:
- (a) The offence involves abuse of the offender's position of power;
-

-
- (b) The offender commits the offence by taking advantage of child adoption;
 - (c) The offence is committed against 02 – 05 people;
 - (d) The offence is committed more than once;
 - (e) The offence is committed by despicable motives;
 - (f) the victim suffers from 11% - 45% mental and behavioural disability because of the offence
 - (g) The offence results in 31% physical disability or more of the victim, except for the case specified in Point d Clause 3 of this Article.
3. This offence committed in any of the following cases shall carry a penalty of 18 – 20 years' imprisonment or life imprisonment:
- (a) The offence is committed by an organised groups;
 - (b) The offence is committed in a professional manner;
 - (c) The victim suffers from 46% mental and behavioural disability or above because of the offence;
 - (d) The victim's body part has been taken;
 - (dd) The offence results in the death or suicide of the victim;
 - (e) The offence is committed against 06 or more people;
 - (f) Dangerous recidivism.
4. The offender may also be liable to a fine of from VND 50,000,000 to VND 200,00,000 be prohibited from holding certain positions or doing certain works for 01 – 05 years, be put under mandatory supervision for 01 – 05 years, or have all or part of his/her property confiscated.
- (a) The offence is committed against a person from whom the offender is responsible for providing care;
 - (aa) The victim is taken across the border out of Viet Nam;
-

ANNEX C: Who's who in counter-trafficking in the ASEAN region

Stakeholder	Description
ASEAN mechanisms	
ASEAN Secretariat	The ASEAN Secretariat shall provide the support for supervising and coordinating the implementation of ACTIP and assist the SOMTC in all matters relating thereto. ¹⁵⁸ It is mandated by the ASEAN Plan of Action to Combat Transnational Crime (Section DI) to 1. assist the SOMTC in initiating, planning and coordinating activities, strategies, programmes and projects to facilitate regional cooperation in combating transnational organised crime, 2. Assist SOMTC in formulating the work programme and 3. assist in exploring ways SOMTC can work closer with relevant agencies and organisations in dialogue partner countries, and international organisations to combat transnational crime, and 4. Assist in mobilizing resources and seeking technical assistance from international agencies.
ASEAN Ministerial Meeting on Transnational Crime (AMMTC)	According to the ASEAN Plan of Action to Combat Transnational Crime (Section D(a)), the AMMTC is the highest policy-making body on ASEAN cooperation in combating and preventing transnational crime, including border management in ASEAN.¹⁵⁹ The AMMTC facilitates and promotes cooperation and coordination within ASEAN in preventing and combating existing and emerging transnational crime; strengthen and improve cross-sectoral coordination including information sharing on transnational crime issues with relevant ASEAN sectoral bodies/Organs/Entities and enhance cooperation with ASEAN partners and other relevant external parties. It is comprised of ministerial level representatives of ASEAN Member States responsible for combating transnational crime and meets annually, and at any times as for any urgent and/or emerging transnational crime issues. The AMMTC approves reports of the SOMTC and others on matters pertaining to transnational crime, and reports to the ASEAN Summit. The Chair of AMMCT rotates alphabetically. There are ten working priority areas under the AMMTC, with Member State Voluntary Lead Shepherds, namely smuggling of migrants (Malaysia), money laundering (Malaysia), sea piracy (Malaysia), arms smuggling (Cambodia), illicit trafficking of wildlife and timber (Thailand), drugs (Thailand), terrorism (Indonesia), cybercrime (Singapore), international economic crime (Singapore), and TIP (Philippines). The AMMTC has been used to raise human trafficking issues. For instance, the trafficking of ASEAN citizens into scamming centres was raised at the 18th AMMTC in August 2024 through the adoption of Vientiane Declaration on Enhancing Law Enforcement Cooperation Against Online Job Scams.

¹⁵⁸ Article 24 (2) of ACTIP.

¹⁵⁹ <https://asean.org/wp-content/uploads/2024/09/05.-Updated-TOR-of-AMMTC-adopted.pdf>

ASEAN Senior Officials Meeting on Transnational Crime (SOMTC)	The SOMTC supported by the SOMTC Working Group on Trafficking in Persons, is identified in the ACTIP as the body responsible for co-ordinating anti-trafficking action. The SOMTC is responsible for promoting, monitoring, reviewing and reporting on effective implementation of ACTIP (ACTIP, Article 24). The SOMTC developed the ASEAN Cross-Sectoral Work Plan on Trafficking in Persons or Bohol Trafficking in Persons Work Plan 2017 – 2020 to harmonize regional counter-trafficking activities. After a three-year gap between the first and the second Work Plan, the ASEAN Multi-Sectorial Work Plan against Trafficking in Persons 2023-2028 (Bohol TIP Work Plan 2.0) was adopted on 21 August 2023.¹⁶⁰ ASEANAPOL is not mentioned in Bohol TIP Work Plan 2.0, as it is not an ASEAN Sectoral Body but an Entity Associated with ASEAN. The pillar on Prevention does not mention crime prevention but approaches prevention through a vulnerability and migration framework. Its pillar concerning law enforcement and prosecution emphasizes building capacity to apply victim-centred and rights-based approaches, but does not refer to strengthening proactive investigation. It does set as a priority outcome ‘ASEAN Member States more effectively cooperate to investigate, prosecute and adjudicate TIP and related offences. Its regional and international cooperation and coordination pillar, refers to activities / programmes to improve the effectiveness of the rendering of mutual legal assistance and extradition between ASEAN Member States under ASEAN MLAT and ACTIP, and through bilateral and multilateral MLATs and other instruments, and specifies the number of MLA and extradition requests made and fulfilled as an indicator.
ASEAN Senior Officials Meeting on MLAT (SOM-MLAT)	SOM-MLAT is responsible for ensuring effective implementation of the ASEAN MLAT.
ASEAN Senior Law Officials Meeting (ASLOM)	The ASEAN Senior Law Officials Meeting (ASLOM) was established in 1985 reports its work to the ASEAN Law Ministers’ Meeting (ALAWMM). The ASLOM meets regularly every 12 months, while the ALAWMM holds its meeting every 24 months. Since 2005, ASLOM and ALAWMM have expanded its mandate to address all common matters pertaining to legal cooperation to support ASEAN integration initiatives in all ASEAN Member States. Initial legal cooperation of ASLOM and ALAWMM covers the following areas, namely exchange of legal materials, judicial cooperation; and legal education and legal research.¹⁶¹
ASEAN Heads of Specialist Anti-Trafficking Units (HSU Process)	The ASEAN Heads of Specialist Anti-Trafficking Units (HSU Process) was established in April 2004 and since February 2010 sits under the umbrella of the SOMTC Working Group on Trafficking in Persons. Its establishment was mandated by the ASEAN Declaration Against TIP, particularly Women and Children, the UN Convention on TOC and the UN Trafficking Protocol. In accordance with domestic laws and policies, the HSU, as an operational subsidiary mechanism of the SOMTC Working Group on TIP, shall ensure that the following mandates are achieved:

¹⁶⁰ In July 2022, SOMTC adopted the review of the Bohol Work Plan which noted that activities under regional and international cooperation had been addressed, although the review did not report on what counter-trafficking was achieved from the completed activities. The Bohol Work Plan was reported valuable by some AMS in bringing stakeholders together.

¹⁶¹ <https://asean.org/our-communities/asean-political-security-community/rules-based-people-oriented-people-centred/legal-matters-and-judicial-cooperation/>

- a. To focus on technical and operational activities on TIP-matters to ensure its relevancy with current developments in AMMTC mechanisms as well as avoid duplication of efforts with the SOMTC WG on TIP.
- b. To cooperate closely in an effort to combat TIP effectively, in order to secure justice for trafficked victims.

The amended TOR was endorsed ad-referendum by HSU on 20 March 2025.

ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC)	ACWC was established in 2009 and is comprised of representatives from ASEAN Member States. Its mandate includes the development of policies, programmes and innovative strategies to promote and protect the rights of women and children. It is tasked with upholding the rights contained in the Convention on the Elimination of Violence against Women (CEDAW) and the Convention on the Rights of the Child (CRC), which all 10 ASEAN Member States have ratified. ACWC published 'Regional Review on Laws, Policies and Practices within ASEAN Relating to the Identification, Management and Treatment of Victims of Trafficking especially Women and Children', 'The Gender Sensitive Guideline for Handling Women Victims of Trafficking in Persons' in 2016,¹⁶² and ASEAN Do No Harm Guide for Frontline Responders Safeguarding the rights of Victims of Trafficking in Persons in 2023.¹⁶³ The ACWC Work Plan 2021-2025 includes work on trafficking in persons, primarily in relation to victim care. ACWC is one of the key ASEAN bodies supporting implementation of the Bohol TIP Work Plan 2.0. It has delivered training and issued guidelines on the needs of trafficking victims, especially women and children.¹⁶⁴
The ASEAN Intergovernmental Commission on Human Rights (AICHR)	AICHR is the main human rights mechanism in ASEAN and is an important stakeholder in the Bohol TIP Work Plan 2.0. Its five-year work plan for 2021 to 2025 contains several initiatives relevant to trafficking in persons.¹⁶⁵ AICHR, together with SOMTC, published the ASEAN Guideline on the Implementation of the Non-Punishment Principle for Protection of Victims of Trafficking in Persons in 2025.¹⁶⁶
ASEAN Committee on the Implementation of the ASEAN Declaration for the Protection and Promotion of the Rights of Migrant Workers (ASEAN ACMW)	ACMW was established in 2007. It works with regional stakeholders in the governance of labour migration in the ASEAN region, and aims to protect and promote the rights of migrant workers against exploitation and mistreatment. Its 2018-2025 action plan includes several initiatives that support the implementation of the Bohol TIP Work Plan 2.0.¹⁶⁷
Council of ASEAN Chief Justices (CACJ)	CACJ provides a regular forum for chief justices to discuss and exchange views on common issues facing ASEAN judiciaries and facilitates cooperation and collaboration. The council also collaborate in capacity building of the judiciaries

¹⁶² Marija Jovanovic, *Comparison of Anti-Trafficking Legal Regimes and Actions in the Council of Europe and ASEAN: Realities, Frameworks and Possibilities for Collaboration* (COE, 2018) 24

¹⁶³ <https://acwc.asean.org/wp-content/uploads/2024/06/ASEAN-Do-No-Harm-Guide-Capacity-Enhancement-of-Frontline-Responders-in-Countering-Trafficking-Using-Victim-Centred-and-Gender-sensitive-Approaches.pdf>, developed with the support of ASEAN-ACT.

¹⁶⁴ Counter-trafficking in persons stakeholder mapping in south-east Asia: Partnerships to advance victim rights and equality and inclusion (ASEAN-Australia Counter Trafficking, June 2021) p6

¹⁶⁵ Counter-trafficking in persons stakeholder mapping in south-east Asia: Partnerships to advance victim rights and equality and inclusion (ASEAN-Australia Counter Trafficking, June 2021) p6

¹⁶⁶ <https://asean.org/book/asean-guideline-on-the-implementation-of-the-non-punishment-principle-for-protection-of-victims-of-trafficking-in-persons/>, developed with the support of ASEAN-ACT.

¹⁶⁷ Counter-trafficking in persons stakeholder mapping in south-east Asia: Partnerships to advance victim rights and equality and inclusion (ASEAN-Australia Counter Trafficking, June 2021) p6

in ASEAN, in particular in upholding the rule of law, in judicial education and in the area of court technology.¹⁶⁸

In its 11th CACJ Annual Meeting held in November 2024, the CACJ issued a Cebu Declaration approving among others, the Framework for a Judicial Knowledge Exchange on TIP Adjudication in ASEAN and its expansion.¹⁶⁹

Judicial cooperation networks

CRIMJUST	CRIMJUST is implemented as part of UNODC's Global Programme on Criminal Network Disruption (GPCD) of the Border Management Branch, in partnership with INTERPOL. It was launched in 2016 to reduce the impact of organised crime and related corruption on security and rule of law in countries and regions along illicit trafficking routes. Its third phase was launched in January 2023 to strengthen transnational investigations, criminal justice actions and criminal justice cooperation along illicit trafficking routes in Africa, Latin America and the Caribbean.
Eurojust	Eurojust is the European Union's Agency for Criminal Justice Cooperation based in The Hague, Netherlands. National judicial authorities work through Eurojust against serious organised cross-border crime including human trafficking. It coordinates the work of national authorities from EU member states as well as third countries, to investigate and prosecute transnational crime. Each EU member state seconds a National Member to create the College of Eurojust which is responsible for operational work. ¹⁷⁰ On trafficking in human beings specifically, Eurojust gathers evidence and shares information to support national authorities to work together to build cases against suspects and identify links between jurisdictions or investigations, and decide on a prosecution strategy. It also offers a forum to discuss, participate in and fund Joint Investigation Teams (JITs). It facilitates the issuing of European Arrest Warrants (EAWs) and European Investigation Orders (EIOs) and enables the issuing and execution of freezing and confiscation orders during criminal proceedings. Eurojust also helps authorities to coordinate efforts to locate and protect victims across countries during criminal proceedings and common action days, and helps countries to clarify requirements for hearing victims in accordance with different Member States legislation. Eurojust has cooperation agreements with third States outside of the EU, and a network of contact points worldwide to allow effective cooperation with non-EU States. ¹⁷¹
European Judicial Network (EJN)	The EJN is a network of national contact points for the facilitation of judicial cooperation in criminal matters established in 1998. Contact points assist with establishing direct contacts between competent authorities and by providing legal and practical information necessary to prepare an effective request for judicial cooperation or to improve judicial cooperation in general.
International Association of Prosecutors (IAP)	The IAP was established in 1995 in response to the growing threat of serious transnational crime. It is a global community of prosecutors committed to setting and raising standards of professional conduct and ethics for prosecutors worldwide, promoting the rule of law, fairness, impartiality and respect for human rights, and improving international cooperation to combat crime. During ILC consultations, the IAP Annual Conference was mentioned in one

¹⁶⁸ <https://cacj-ajp.org/cacj-activities/charter-and-rules/>

¹⁶⁹ <https://cacj-ajp.org/web/wp-content/uploads/2024/11/11th-CACJ-Meeting-2024-Cebu-Declaration.pdf>. Development of the Framework was supported by ASEAN-ACT in 2023-2024

¹⁷⁰ <https://www.eurojust.europa.eu/about-us/who-we-are>

¹⁷¹ <https://www.eurojust.europa.eu/crime-types-and-cases/crime-types/trafficking-human-beings>

	country as a useful mechanism for prosecutors to share best practice and support informal requests, as well as for capacity building. Though all ASEAN countries are members of the IAP, it was not otherwise mentioned.
Judicial Cooperation Network for Central Asia and Southern Caucasus (CASC)	CASC was established in 2014. It includes eight countries from Central Asia and Southern Caucasus: Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan.
Southeast Asia Justice Network (SEAJust) ¹⁷² UNODC-SEAJust@un.org	SEAJust was established by UNODC in April 2020 with the support of the Government of Japan and the ASEAN Mutual Legal Assistance Treaty Secretariat. All ASEAN Member States are members of SEAJust. Its objectives are to bring criminal justice practitioners together to strengthen regional cohesion and commitment to international cooperation, and to regularly meet to exchange information on MLA and offender treatment and rehabilitation. Since SEAJust began, it has facilitated around 20 transnational organised crime cases annually, almost 80% of which are trans-regional. It supports networking, and offers advice and support in drafting, sending and following up on MLA and extradition requests, and facilitates bilateral cooperation between them, as well as providing capacity building expertise. As a partner to the ILC project, SEAJust has delivered ILC training in ASEAN Member States. Additionally, ASEAN-ACT's International Law and Policy Advisor was given a place on the SEAJust plenary agenda in June 2022, to brief on the project and identified challenges. During those discussions, SEAJust members offered examples of international cooperation, the specific challenges of cooperating on trafficking in persons as opposed to other crime types, and how SEAJust might be leveraged to strengthen cooperation against human trafficking. SEAJust was mentioned in several countries during consultations, and examples were offered of SEAJust facilitating tangible communication with countries.

Police cooperation networks

ASEANAPOL ¹⁷³	ASEANAPOL exists to enhance cooperation between police in ASEAN countries to keep the ASEAN region safe. Its mission is "preventing and combating transnational crime through a greater nexus and creative policing collaboration." As part of its role to facilitate information and intelligence sharing and joint operations, Heads of Specialist Units maintain an up-to-date list of focal points within the region The 40th ASEANAPOL Conference was hosted by Cambodian National Police on the theme of 'Enhancing Harmonization to Ensure Regional Peace and Sustainable Stability' from 1 to 5 March 2022 in Phnom Penh. The 41st was held in October 2023 in Lao PDR. The 42nd Conference was held in Myanmar in October 2024.¹⁷⁴ During consultations, ASEANAPOL was mentioned as useful for informal cooperation in one country. Otherwise, no examples were shared of it playing a role to strengthen police cooperation against transnational trafficking, during in-country consultations. One participant of at the ILC workshop held in December 2024 pointed to the potential of ASEANAPOL to facilitate communication and
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¹⁷² <https://www.unodc.org/roseap/en/SEAJust/index.html>

¹⁷³ Contact: Level 13, Tower 2, Bank Rakyat Twin Tower, No. 33, Jalan Rakyat, 50470 Kuala Lumpur, Malaysia, Tel: +603 2260 2222; Fax +603 2260 2205, aseanapolsec@aseanapol.org

¹⁷⁴ <http://www.aseanapol.org/display/2024/10/29/42nd-aseanapol-conference-in-nay-pyi-taw-myanmar>

	contact between countries that lack bilateral agreements. Efforts in streamlining the works of ASEANAPOL and HSU Process have been made, including with recent participation of ASEANAPOL at the ASEAN Workshop on Strengthening Transnational Investigative Cooperation in April 2025.
Europol	Europol is the European Union Agency for Law Enforcement Cooperation which aims to improve effectiveness and cooperation of competent authorities in EU member states in preventing and combating serious forms of international organised crime, including trafficking in human beings. Europol uses mechanisms such as the European Arrest Warrant (EAW) to expedite arrest proceedings, and Joint Investigation Teams.¹⁷⁵ It also releases Organised Crime Threat Assessments (OCTA).
Interpol	Interpol is the largest international police organisation in the world. It is headquartered in Lyon, France. The role of Interpol is to assist law enforcement agencies in 196 member countries to combat transnational crime. Interpol aims to provide high-tech infrastructure of technical and operational support, including targeted training, expert investigative support, specialized databases and secure police communications channels. Interpol's vision is that every law enforcement professional can securely communicate, share and access police information whenever and wherever needed, ensuring the safety of the world's citizens.¹⁷⁶ During consultations, Interpol was mentioned as useful for informal cooperation through trainings and building networks, but preference was expressed for direct cooperation with counterparts instead of cooperation through Interpol NCBs.
Financial cooperation	
Asia/Pacific Group on Money Laundering	The Asia/Pacific Group on Money Laundering is an intergovernmental organisation consisting of 41 member jurisdictions. Its goal is to ensure that its members are effectively implementing international standards against money laundering, terrorist financing and proliferation financing related to weapons of mass destruction. The Asia/Pacific Group on Money Laundering (APG) is an Associate Member of FATF. The APG carries out Mutual Evaluations, most recently in Lao PDR from 12 September 2022 to 23 September 2022. The 2022 APG Annual Meeting was held in July in Kuala Lumpur, Malaysia. All ASEAN member states are members of the APG, though it was not mentioned in consultations.

¹⁷⁵ Francis Pakes, *Comparative Criminal Justice* (4th edition, Routledge 2019) p.77.

¹⁷⁶ www.interpol.int

Egmont Group of Financial Intelligence Units¹⁷⁷	The Egmont Group is an international organisation that facilitates cooperation and intelligence sharing between national financial intelligence units to investigate and prevent money laundering and terrorist financing. Within the Asia-Pacific Region, the Asia and Pacific Regional Group is comprised of FIUs from member jurisdictions of the Asia and Pacific Group on Money Laundering (APG). There are 28 FIU members of the APG, including Financial Intelligence Unit Brunei Darussalam (FIU, BDCB), Cambodia Financial Intelligence Unit (CAFIU), Indonesian Financial Transaction Reports and Analysis Centre (PPATK), Financial Intelligence Unit Malaysia (UPWBNM), Anti-Money Laundering Council Philippines (AMLC), Suspicious Transaction Reporting Office Singapore (STRO), Anti-Money Laundering Office Thailand (AMLO). In short, all ASEAN countries except for Lao PDR and Myanmar are members. During consultations, the Egmont Group was noted as a useful cooperation mechanism in two ASEAN Member States, though no examples of its use in relation to trafficking were raised.
Financial Action Task Force (FATF)	FATF is the global money laundering and terrorist financing watchdog. It has 37 State members and 2 regional organisations. Within the ASEAN region only Singapore and Malaysia are members. Indonesia is an observer. In 2018, FATF jointly published, with the Asia/Pacific Group on Money Laundering (APG) a report on Financial Flows from Human Trafficking. FATF was not raised during consultations.
Other	
ASEAN-Australia Counter Trafficking (ASEAN-ACT)	ASEAN-ACT is a ten-year program funded by the Australian government, to support ASEAN and ASEAN Member States to implement their obligations under the ACTIP. It commenced in 2018 and builds on Australia's longstanding partnership with ASEAN and ASEAN Member States since 2003. ASEAN-ACT collaborates with ASEAN Sectoral Bodies and ASEAN Member States and coordinates with ASEAN Secretariat to strengthen justice responses to trafficking, while advancing the rights of victims.
United Nations Office on Drugs and Crime Regional Office for Southeast Asia and the Pacific (UNODC ROSEAP)	UNODC is the key UN agency with the mandate to promote the rule of law, peace, and justice and to combat transnational organised crime. Its Regional Office in Bangkok has over 300 staff across Southeast Asia and the Pacific, including a Programme Offices in most ASEAN countries. UNODC ROSEAP provides technical leadership and support to governments, law enforcement agencies, criminal justice actors, and other related stakeholders in the implementation of the UNTOC and its Protocols.

¹⁷⁷ <https://egmontgroup.org>

Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime (Bali Process)

The Bali Process is a voluntary, non-binding and consultative mechanism launched in 2002. It has a dedicated Working Group on Trafficking in Persons, which like the Bali Process itself, is co-chaired by Australian and Indonesia. The 2023 Adelaide Strategy for Cooperation that emerged from the eight Ministerial Conference held in Adelaide, Australia on 10 February 2023 identifies 'law enforcement' as one of eight areas of cooperation. As part of its 'stakeholder engagement' an identified activity is to "Strengthen collaboration with regional organisations, including ASEAN, and relevant consultation initiatives, to foster cooperation and policy dialogue, and enhance regional coordination on training and capacity building with relevant institutions, including the Jakarta Centre for Law Enforcement Cooperation."

During consultations, three countries mentioned the Bali Process as a cooperative mechanism, but did not mention how practical or operational cooperation has resulted.

ANNEX D:

Consultation template

The United Nations Office on Drugs and Crime Regional Office for Southeast Asia and the Pacific (UNODC ROSEAP) and the ASEAN-Australia Counter Trafficking program (ASEAN-ACT) are jointly implementing a project on international legal cooperation to address trafficking in persons.

This project takes place in the lead up to the 10th anniversary of the ASEAN Convention against Trafficking in Persons, Especially Women and Children in 2025. The project will culminate in a Compendium of tools to support international legal cooperation on trafficking in persons cases.

The compendium will draw on case studies and insights from counter-trafficking experience in the region and beyond, capturing good practice, challenges and lessons learnt in informal (police-to-police) and formal (mutual legal assistance and extradition) legal cooperation.

Against this backdrop, we are seeking the support of ASEAN Member States through consultations with key stakeholders, like this one, in which we hope you will share your insights, views, experiences and recommendations. Throughout the project period (2022 to 2025), we also plan to host a series of roundtable meetings at various locations, where we hope your country will be represented.

The notes that I take on the basis of this discussion will be for my own use only, and will not be shared beyond the project team. We will not refer to your or your agency specifically in the compendium without your consent to do so.

Do you have any questions, before we proceed with this discussion?

Date / location	
Country	
Name	
Position / Agency	
Contact information	

Snapshot of questions

- *What is the role of your agency with respect to international legal cooperation on transnational organised crime (including but not limited to human trafficking)?*
- *Which countries (both within the ASEAN region and beyond) are priority countries for cooperation in addressing trafficking in persons and why?*
- *What role do international / regional and bilateral treaties and other mechanisms / tools play in facilitating international legal cooperation on transnational crime in general and human trafficking in particular?*
- *Do you have any case studies / examples to share of successful and unsuccessful international legal cooperation on transnational crime (including but not limited to human trafficking), with other ASEAN countries or any other countries?*
- *What best practices can you share, and what lessons have you learnt from your experiences in*

international legal cooperation on transnational organised crime (including but not limited to trafficking in persons)?

- *What recommendations / insights do you have on how UNODC and ASEAN-ACT can support efforts to improve international legal cooperation on transnational human trafficking in the ASEAN region and beyond?*

Part 1: Practical examples / case studies

Question 1: Since 2015, (about) how many requests for international cooperation has your country sent and received in relation to trafficking in persons cases?

- How does this number compare to requests for international cooperation in relation to other transnational organised crime types?
- Have any MLA requests sent or received been refused? On what grounds?

Question 2: Which countries are most relevant to you in your counter-trafficking efforts?

- Have you had any successes in cooperating with those countries? How? On what basis? What were the challenges?

Question 3: Can you describe any successful cooperation efforts with other countries, in responding to human trafficking since 2015?

- Why do you think cooperation was successful in these cases?

Question 4: Can you describe any unsuccessful cooperation efforts with other countries in responding to human trafficking since 2015?

- Why do you think cooperation was unsuccessful in these cases?

Part 2: Treaty and other mechanisms for cooperation

Question 5: What is the role of the *ASEAN Treaty on Mutual Legal Assistance in Criminal Matters* in supporting cooperation against trafficking in persons?

- Can you give examples of it being used as a basis for cooperation in any counter-trafficking case?

Question 6: What is the role of the *ASEAN Convention against Trafficking in Persons, Especially Women and Children*, in supporting cooperation against trafficking in persons?

- Can you give examples of it being used as a basis for cooperation in any counter-trafficking case?

Question 7: What is the role of the *UNTOC* and its supplementary *Protocol against Trafficking in Persons*, in supporting cooperation against trafficking in persons?

- Can you give examples of it being used these instruments as a basis for cooperation in any counter-trafficking case?

Question 8: Do you think these instruments are being used to their full potential? Why or why not? Are there any other instruments that are relevant?

Question 9: Can you give examples of using bilateral or sub-regional treaties as a basis for international cooperation against trafficking in persons?

Question 10: Can you provide any examples of non-treaty-based international cooperation against trafficking in persons that your country has been involved in (e.g. domestic law, reciprocity, judicial assistance (letters rogatory), other)

Question 11: Has your country ever posted or received Liaison Officers to facilitate international cooperation? If so, with what effect?

Part 3: ILC Tools

Question 12: Have you used the 2019 ASEAN Model Extradition Treaty 2019 as a basis for drafting bilateral extradition treaties?

- If so, what was your experience of it?

Question 13: The ASEAN-ACT predecessor programmes have developed Handbooks on ILC, first in 2010, followed by its update in 2018.

- Do you know of these tools? How, if at all, have you used them?

Question 14: UNODC has created an MLA Request Writer Tool and maintains a Competent National Authorities (CNA) Directory.

- Do you know of these tools? How, if at all, have you used them?

Question 15: Beyond those mentioned, are there any other tools that you use to support ILC? Are there any additional tools that you would need?

Part 4: General and final questions

Question 16: The purpose of the 2015 ASEAN Convention against Trafficking in Persons is to promote cooperation to prevent and combat trafficking in persons and to protect victims.

- What do you think have been the key counter-trafficking milestones in the region since the ACTIP entered into force in 2017?

Question 17: What do you think are the key barriers and challenges to international cooperation in trafficking in persons?

Question 18: What are the human rights risks, if any, in international cooperation in counter-trafficking cases?

Question 19: How do you think international cooperation against trafficking in persons can be strengthened?

- What are your recommendations for authorities in your own country and in others, and for partners like ASEAN-ACT and UNODC?

Question 20: Are there any other insights or recommendations you would like to share in relation to international legal cooperation on trafficking in persons?

