

**WORKSHOP GUIDING QUESTIONS**

**Identifying Priorities and Challenges in Implementation of the *ASEAN Convention against Trafficking in Persons, especially Women and Children* (ACTIP) and the *ASEAN Plan of Action against Trafficking in Persons, especially Women and Children* (APA)**

For further reference, each section of questions below notes the relevant articles of the ACTIP, sections of the APA, and chapters of the *Regional Review on the Laws, Policies and Practices within ASEAN relating to the Identification, Management and Treatment of Victims of Trafficking, especially Women and Children* (hereafter “*Regional Review*”).

Select the most accurate response in the middle column and provide further details on the response in the “Comments” section, if needed.

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| **I. Definition and Criminalization of Trafficking in Persons, including Law Enforcement**  ***(Reference:* ACTIP *Articles 2, 5-9, 16-17; APA C. Law Enforcement and Prosecution of Crimes of Trafficking in Persons; and* Regional Review *Chapters 1-4, 8)*** | | | |
| **Q1:** | **Does the national legal definition of “trafficking in persons” (TIP) correspond to that set out in ACTIP?** | Yes No Partially  *(if you select “no” or “partially”, please provide further details in the Comments section)* | *Comments:* |
| **Q2:** | **Is there a separate legal definition for trafficking in children whereby (i) “child” shall mean any person under the age of eighteen years and (ii) the “means” element of the offence is not part of that definition?** | Yes No Partially  *(if you select “no” or “partially”, please provide further details in the Comments section)* | *Comments:* |
| **Q3:** | **Does the anti-TIP law provide adequate definitions of relevant terms to enable understanding and application of the law (e.g. “organized criminal group”, transnational crime”, “public official”, “proceeds of crime”, “freezing/seizure/confiscation”)?** | Yes No Partially  *(if you select “no” or “partially”, please provide further details in the Comments section)* | *Comments:* |
| **Q4:** | **Does the anti-TIP law set out trafficking in persons as a serious crime punishable by a maximum deprivation of liberty of at least four years or more?** | Yes No Partially  *(if you select “no” or “partially”, please provide further details in the Comments section)* | *Comments:* |
| **Q5:** | **Does the relevant law criminalize attempting, participating, organizing or directing other persons to commit trafficking in persons offences?** | Yes No Partially  *(if you select “no” or “partially”, please provide further details in the Comments section)* | *Comments:* |
| **Q6:** | **Does the relevant law ensure liability of all categories of perpetrators of TIP, including legal persons and entities?** | Yes No Partially  *(if you select “no” or “partially”, please provide further details in the Comments section)* | *Comments:* |
| **Q7:** | **Does the relevant law criminalize laundering of proceeds of crime related to TIP?** | Yes No Partially  *(if you select “no” or “partially”, please provide further details in the Comments section)* | *Comments:* |
| **Q8:** | **Is TIP a predicate offense for application of legislation relating to laundering of proceeds of crime?** | Yes No Partially  *(if you select “no” or “partially”, please provide further details in the Comments section)* | *Comments:* |
| **Q9:** | **Does the relevant law enable confiscation and seizure of property, equipment and other instrumentalities used or income or other benefits derived from proceeds of trafficking in persons?** | Yes No Partially  *(if you select “no” or “partially”, please provide further details in the Comments section)* | *Comments:* |
| **Q10:** | **Does the relevant law criminalize the bribery of public officials and other forms of corruption in relation to trafficking in persons?** | Yes No Partially  *(if you select “no” or “partially”, please provide further details in the Comments section)* | *Comments:* |
| **Q11:** | **Does the anti-TIP law or other legislation criminalize the obstruction of justice?** | Yes No Partially  *(if you select “no” or “partially”, please provide further details in the Comments section)* | *Comments:* |
| **Q12:** | **Does the anti-TIP law or other legislation establish a sufficient statute of limitations period in which to commence proceedings for any offence covered by ACTIP and a longer period where the alleged offender has evaded justice?** | Yes No Partially  *(if you select “no” or “partially”, please provide further details in the Comments section)* | *Comments:* |
| **Q13:** | **Does the anti-TIP law or other legislation provide for the possibility of higher penalties where the offence involves: serious injury or death; a victim who is vulnerable; more than one victim; or the offence exposed the victim to a life-threatening situation (including HIV/AIDS); or where the crime was committed as part of an organised criminal group where the offender has been convicted for the similar offences; and where the offence was committed by a public official in the performance of his or her duties?** | Yes No Partially  *(if you select “no” or “partially”, please provide further details in the Comments section)* | *Comments:* |
| **Q14:** | **Does the relevant law enable the State to establish its jurisdiction over a sufficiently broad range of trafficking situations involving its territory, citizens and interests?** | Yes No Partially  *(if you select “no” or “partially”, please provide further details in the Comments section)* | *Comments:* |
| **Q15:** | **Has the State adopted measures to ensure that competent authorities dealing with TIP cases are equipped with appropriate skills or knowledge?** **Has the state, where appropriate, designated specialised units or authorities for this purpose?** | Yes No Partially  *(if you select “no” or “partially”, please provide further details in the Comments section)* | *Comments:* |
| **Q16:** | **Has the State provided or strengthened training programmes for relevant officials in the prevention of and fight against TIP, with focus on methods used to prevent trafficking, investigate and prosecute traffickers, and protect victims and their families?** | Yes No Partially  *(if you select “no” or “partially”, please provide further details in the Comments section)* | *Comments:* |
| **Q17:** | **Has the State taken all necessary steps to preserve the integrity of the criminal justice process including through protecting victims and witnesses from intimidation and harassment, and punishing perpetrators of such acts?** | Yes No Partially  *(if you select “no” or “partially”, please provide further details in the Comments section)* | *Comments:* |
|  | **List the key priorities in ratification and implementation of ACTIP in the area of definition and criminalization of trafficking in persons, including law enforcement:**  **1.**  **2.**  **3.**  **List the key challenges in ratification and implementation of ACTIP** **in the area of definition and criminalization of trafficking in persons, including law enforcement:**  **1.**  **2.**  **3.** | | |
| **II. Protection, Repatriation and Return of Victims of Trafficking in Persons**  ***(Reference:* ACTIP *Articles 14-15;* APA *B. Protection of Victims, Section h; and* RegionalReview *Chapters 1-7)*** | | | |
| **Q18:** | **Has the State, where appropriate in collaboration with relevant victim assistance non-governmental organizations (NGOs), established guidelines or procedures for the proper identification of victims of trafficking in persons?** | Yes No Partially  *(if you select “no” or “partially”, please provide further details in the Comments section)* | *Comments:* |
| **Q19:** | **Has the State adopted any legislative or other measures permitting victims of TIP to remain in their territory, temporarily or permanently? Does the State encourage the victim of trafficking to voluntarily enter / remain in the receiving country in order to cooperate in the prosecution process?** | Yes No Partially  *(if you select “no” or “partially”, please provide further details in the Comments section)* | *Comments:* |
| **Q20:** | **Does the State ensure that *physical safety* is provided for victims of trafficking while they are in its territory and does the law protect the *privacy and identity* of victims of TIP?** | Yes No Partially  *(if you select “no” or “partially”, please provide further details in the Comments section)* | *Comments:* |
| **Q21:** | **Does the anti-TIP law or other legislation stipulate that victims of TIP will not be held criminally or administratively liable for unlawful acts committed by them, if such acts are directly related to their being trafficked?** | Yes No Partially  *(if you select “no” or “partially”, please provide further details in the Comments section)* | *Comments:* |
| **Q22:** | **Are official procedures in place and being used to effectively communicate information to victims of TIP regarding the protection, assistance and support to which they are entitled under domestic laws and ACTIP?** | Yes No Partially  *(if you select “no” or “partially”, please provide further details in the Comments section)* | *Comments:* |
| **Q23:** | **Are the following forms of care and support available to victims of TIP, either from state-operated service providers or in cooperation with NGOs: appropriate housing; counseling; information, including on victims’ legal rights, in a language victims can understand; employment, education and training opportunities?** | Yes No Partially  *(if you select “no” or “partially”, please provide further details in the Comments section)* | *Comments:* |
| **Q24:** | **Are there official procedures in place intended to ensure that application of victim protection provisions account for the age, gender and other special needs of victims of TIP?** | Yes No Partially  *(if you select “no” or “partially”, please provide further details in the Comments section)* | *Comments:* |
| **Q25:** | **Does the legal framework offer victims of trafficking the possibility of obtaining compensation for damage suffered?** | Yes No Partially  *(if you select “no” or “partially”, please provide further details in the Comments section)* | *Comments:* |
| **Q26:** | **Has the State established a special fund to support the care and assistance for victims of TIP?** | Yes No Partially  *(if you select “no” or “partially”, please provide further details in the Comments section)* | *Comments:* |
| **Q27:** | **Are the legal frameworks and mechanisms, procedures and practices in place to facilitate the “safe and preferably voluntary” return of victims to their country of origin?** | Yes No Partially  *(if you select “no” or “partially”, please provide further details in the Comments section)* | *Comments:* |
| **Q28:** | **Are there established legal frameworks and mechanisms, procedures and practices to verify nationality of and issue necessary travel documents to foreign victims of trafficking without documentation?** | Yes No Partially  *(if you select “no” or “partially”, please provide further details in the Comments section)* | *Comments:* |
| **Q29:** | **Are there legislative or other official measures to (i) support repatriation of foreign victims and (ii) if necessary, involve relevant national or international institutions and NGOs?** | Yes No Partially  *(if you select “no” or “partially”, please provide further details in the Comments section)* | *Comments:* |
|  | **List the key priorities in ratification and implementation of ACTIP in the area of protection, repatriation and return of victims of trafficking in persons:**  **1.**  **2.**  **3.**  **List the key challenges in ratification and implementation of ACTIP in the area of protection, repatriation and return of victims of trafficking in person:**  **1.**  **2.**  **3.** | | |
| **III. Prevention of Trafficking**  ***(Reference:* ACTIP *Article 11;* APA *A. Prevention of Trafficking in Persons, Sections e and f; and* Regional Review *Chapter 8)*** | | | |
| **Q30:** | **Has the State (where appropriate working with civil society) established policies, programs or other measures to prevent trafficking?** | Yes No Partially  *(if you select “no” or “partially”, please provide further details in the Comments section)* | *Comments:* |
| **Q31:** | **Has the State taken measures to address the factors that make persons (especially women and children) vulnerable to trafficking (e.g. poverty alleviation, improving access to education, etc.)?** | Yes No Partially  *(if you select “no” or “partially”, please provide further details in the Comments section)* | *Comments:* |
| **Q32:** | **Has the State taken measures to discourage the demand that fosters exploitation related to trafficking?** | Yes No Partially  *(if you select “no” or “partially”, please provide further details in the Comments section)* | *Comments:* |
| **Q33:** | **Has the State taken / participated in measures to enable free and legal movement of people, and to disseminate accurate information on immigration requirements and conditions regarding legal entry into, exit from, and stay in the country?** | Yes No Partially  *(if you select “no” or “partially”, please provide further details in the Comments section)* | *Comments:* |
|  | **List the key priorities in ratification and implementation of ACTIP in the area of prevention of trafficking:**  **1.**  **2.**  **3.**  **List the key challenges in ratification and implementation of ACTIP in the area of prevention of trafficking:**  **1.**  **2.**  **3.** | | |
| **IV. International Cooperation (including Coordinating Structures, Regional Coordination and Partnership)**  ***(Reference:* ACTIP *Articles 10-14, 16, 18-22, 23;* APA *A. Prevention of Trafficking in Persons, B. Protection of Victims, C. Law Enforcement and Prosecution of Crimes of Trafficking in Persons, D. Regional and International Cooperation and Coordination*; and Regional Review *Chapter 8)*** | | | |
| **Q34:** | **Are there procedures in place to ensure that States that have established or are intending to establish jurisdiction over the same case consult one another to coordinate their actions?** | Yes No Partially  *(if you select “no” or “partially”, please provide further details in the Comments section)* | *Comments:* |
| **Q35:** | **Are agreements or procedures in place to ensure that the State recognizes the identification, by another ASEAN Member State, of a person as a victim of trafficking?** | Yes No Partially  *(if you select “no” or “partially”, please provide further details in the Comments section)* | *Comments:* |
| **Q36:** | **Are laws, policies and practices in place that enable the widest measure of mutual legal assistance in criminal investigation or criminal proceedings in relation to TIP offences?** | Yes No Partially  *(if you select “no” or “partially”, please provide further details in the Comments section)* | *Comments:* |
| **Q37:** | **Has the state included TIP offences in its bilateral extradition treaties or can other instruments, such as the ACTIP, provide the legal basis for extradition of TIP offences if there is no extradition treaty? Does it agree to prosecute nationals who cannot be legally extradited?** | Yes No Partially  *(if you select “no” or “partially”, please provide further details in the Comments section)* | *Comments:* |
| **Q38:** | **Are the State’s law enforcement agencies cooperating with the law enforcement agencies of other AMS with regard to the exchange of information and intelligence and the coordination of enforcement actions in TIP cases?** | Yes No Partially  *(if you select “no” or “partially”, please provide further details in the Comments section)* | *Comments:* |
| **Q39:** | **Is there sufficient legal basis (including through treaties and agreements with other States) to enable effective international cooperation with respect to confiscation and return of assets in TIP cases?** | Yes No Partially  *(if you select “no” or “partially”, please provide further details in the Comments section)* | *Comments:* |
| **Q40:** | **Is the State able to return confiscated assets to another State upon request in order that the requesting State can use those assets to compensate / assist victims or return such proceeds their legitimate owners?** | Yes No Partially  *(if you select “no” or “partially”, please provide further details in the Comments section)* | *Comments:* |
|  | **List the key priorities in ratification and implementation of ACTIP in the area of international cooperation (including coordinating structures, regional coordination and partnership):**  **1.**  **2.**  **3.**  **List the key challenges in ratification and implementation of ACTIP** **in the area of international cooperation (including coordinating structures, regional coordination and partnership):**  **1.**  **2.**  **3.** | | |