

STANDARD OPERATING PROCEDURE
ON
LAW ENFORCEMENT COOPERATION TO COMBAT
TRAFFICKING IN PERSONS
BETWEEN
THE GOVERNMENT OF THE KINGDOM OF CAMBODIA
AND
THE GOVERNMENT OF THE KINGDOM OF THAILAND

1. OBJECTIVES

This Standard Operating Procedure (SOP) is established to act as a guideline for cooperation in handling trafficking in persons cases between law enforcement agencies of both parties – as in this SOP to achieve the following objectives:

- To ensure that the investigation, suppression and prosecution of trafficking in persons cases are timely and effective;
- To rescue the victims and to ensure that the victims receive proper remedies in accordance with the law;
- To ensure that the victims or witnesses or the alleged offender receive appropriate legal protection under the criminal justice system. The rights of alleged offenders should be taken into consideration under certain circumstances;
- To strengthen and expand continuous cooperation between the Parties and information sharing in regard to cases of trafficking in persons;
- To develop and strengthen the knowledge and techniques of trafficking in persons investigations and interrogation.
- To establish a sustainable network of counter/anti trafficking-in-persons law enforcement agencies between the Parties.

2. CENTRAL COOPERATION CENTER

The Parties agree to establish or assign a Central Cooperation Center for collaboration as stated in this SOP between the Parties and their internal agencies. The structure for designated officials and communication channels is referred to in Annex 1.

3. COMPETENT OFFICIALS

Competent officials are government officials from the Parties' Anti-Trafficking in Persons agencies with designated authority to handle trafficking in persons cases as referred to in Annex 2.

4. VICTIM IDENTIFICATION

The victim identification process plays an important role to ensure that victims receive protection, and gain access to assistance in a timely manner. Victims who fail to receive appropriate and timely access to necessary assistance and protection may hesitate to and feel insecure in providing legal cooperation to law enforcement officials during prosecution. Therefore:

1. The Parties shall provide well-trained officials to conduct victim screening processes, and to provide protection and assistance as required, with special consideration for victims who are women and children

2. In case an individual is suspected to be a victim of trafficking, this individual shall be treated as a victim until the screening process has been finalized. During the screening process, this individual shall not be detained, repatriated or deported and shall receive necessary protection and support, including physical and mental health care.

3. In the case that the age of a suspected victim cannot be determined, but there is a reasonable ground to believe that the suspected victim is a child, special measures for children must be applied throughout the process, until the age determination has been finalized.

4. A suspected victim shall be immediately provided with relevant information, including their rights. In the case that suspected victims have urgent needs, these should be met before further legal proceedings can move forward.

5. Any information provided to the suspected victim shall be clearly expressed and given in a language that he or she can understand, so that the suspected victim understands the objectives of the process.

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6. A risk assessment shall be conducted as soon as possible. If required, safety measures for harm prevention must be immediately executed.

7. Prior to the victim screening process, an assessment shall be conducted to ensure that the suspected victim, especially women and children, can communicate with officials in a clear and effective manner, and to determine whether an interpreter should be provided. In the case that the suspected victim refuses to use an interpreter, they should sign a document in a language that they understand which explicitly states that they waive their right to an interpreter.

8. In the event that it is necessary to recruit an interpreter that is not registered to a governmental agency, the recruitment must be undertaken with due care in order to prevent any risk to the safety of the suspected victim.

Any person found together with or travelling with a suspected victim should not act as an interpreter, even if such a person claims to be a friend or a family member of the suspected victim.

9. Prior to an interview, the suspected victim must be informed about the roles and duties of the interpreter, including the suspected victim's right to terminate the designated interpreter's services at any time.

The interpreter should be aware of his or her duties during interviews and also post-interview. The interpreter should have prior experience in interpretation or have received appropriate training.

10. During the interview in a victim screening process, the definitions as in Article No. 2 of the Memorandum of Understanding (MOU)¹ shall be applied.

11. In case a person is returned from one Party, and subsequently identified as a victim of trafficking by the competent official of the receiving Party, the competent official of the receiving Party must notify the other Party of its findings and evidence accordingly. Following this, the offender shall be brought into legal proceedings.

12. Competent officials of the destination country shall contact and inform the suspected victim's Embassy to notify them about the case and to share relevant information about the case, taken into account the rights and benefits of the victim.

¹ Memorandum of Understanding (MOU) between the Government of the Kingdom of Cambodia and the Government of the Kingdom of Thailand on bilateral cooperation for eliminating trafficking in persons and protecting victims of trafficking (2014).

13. Necessary information may be given in either spoken or written form to the victim

13.1 If the victim does not wish to cooperate with law enforcement officials, he or she must be informed of the following:

- Risk assessment information;
- Repatriation information;
- Assistance and relevant conditions information.

13.2 If the victim agrees to cooperate with law enforcement officials, he or she must be informed of the following:

- Right to temporary stay in the destination country;
- Investigation and evidence collection procedures;
- Judicial procedures and right to claim for compensation;
- Process to testify and non-confrontational testimony;
- Witness protection and assistance;
- Other types of assistances and relevant conditions.

5. CRIMINAL PROCEDURES

1a. Should the victim agree to cooperate with law enforcement officials, the interview will start when it is determined that the victim is willing to be interviewed and capable of receiving clear information about the interview process.

The official conducting the interview should be of the same gender as the victim.

1b. The investigation and collection of evidence proceedings shall proceed even if the victim is unwilling to cooperate with law enforcement officials in accordance with the Parties' domestic law.

2. Preparing the victim before the witness hearing

Prior to the hearing date, competent officials must explain to the victim the judicial procedures, steps, and the role of the victim in court. An official and/or authorized legal representative should be arranged to support the victims/witnesses throughout the judicial proceedings.

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3. Assistance during the hearings

Competent officials must ensure victim's security and safety, and also mitigate any possible psychological trauma that may occur to the victim during the witness hearing.

In case the victim is a child, special measures for children must be strictly applied, under the best interest determination principle.

Both Parties' competent officials must discuss and plan appropriately, in the event that a witness of one Party must testify in the other Party's court or in the event of any special measures being applied for witness hearing, including witness hearing through video conference procedures.

4. Assistance after the hearings

When the alleged offender has been released or bailed, competent officials must immediately notify the victim and witnesses. A risk assessment must be conducted, and safety measures must be provided to the victim, witnesses and his or her family after the hearings.

5. Compensation claims

The victim must, in a common or understandable language, be fully informed about his or her right to claim for compensation and about other legal remedies, including a free-of-charge service in claiming and exercising his or her rights as well as receiving full compensation as per the court's judgment.

6. INVESTIGATION INFORMATION SHARING

1. Exchanges of information concerning trafficking in persons cases between the Parties leads to more effective judicial proceedings. Therefore, the competent officials of both Parties must regularly share information regarding victims, alleged offenders, members of networks of trafficking, and patterns of trafficking in persons. Also, updated proceedings shall be brought to the attention of other Party's competent officials periodically. Exchanges of information shall be confidential.

2. Meetings shall be held regularly for the purpose of updating information in relation to trafficking in persons cases and to promote mutual understanding of law and judicial procedures between the Parties.

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7. INTERNATIONAL COOPERATION

1. In case the trafficking offences are transnational in nature, the competent officials of both Parties shall discuss the collaboration guidelines of the investigation, both officially and unofficially. If official cooperation is required, the competent officials must swiftly act in accordance with national legislation or the Parties' agreements/MOU or any agreements/MOU that both Parties are members of.

2. In case the alleged offender is found in the other Party's territory where the offender is a citizen of that Party, and such an offender cannot be extradited due to national legislation, the competent officials of that Party shall make best efforts to take legal action against such an offender within their country. During this process, the Parties can exchange information and evidence with relevant stakeholders in accordance with Bilateral and Multilateral Agreement and/or MOUs that both Parties' are members of.

3. Exchanges of information between the Parties related to the SOP implementation, including but not limited to meetings, seminars and workshops concerning anti-trafficking cooperation, shall be hosted alternately by the Parties on an annual basis and on an ad hoc basis when necessary.

8. EXPENSES

Any expenses incurred under this SOP that occur in each Party's territory shall be borne by that Party unless there is any law or other agreement between the Parties which stipulates otherwise.

9. AMENDMENT OF SOP

The Parties agree to further discuss any amendment of this SOP or its Annexes as per the request of either Party.

10. SETTLEMENT OF DISPUTES

Any dispute arising from the implementation of this SOP shall be settled amicably through consultation or negotiation between the Parties.

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11. EFFECTIVE DATE

This SOP is made in English language and shall take effect as a guideline for all stakeholders responsible for combatting trafficking in persons between law enforcement authorities in the Parties on the date of the last signature by both Parties. Done in duplicate in the English language.

12. FINAL PROVISION

Any of the Parties may request to terminate enforcement of this Standard Operating Procedure at any time by notifying the other party in writing through a diplomatic channel. Such termination shall take effect within a period of 90 days after the other party receives a written notice.

FOR

THE GOVERNMENT OF THE KINGDOM
OF CAMBODIA

Her Excellency Chou Bun Eng

Secretary of State of the Ministry of Interior
and Permanent Vice Chairperson of
the National Committee for Counter Trafficking

Signed at Bangkok, Thailand

Date 25 August 2022

FOR

THE GOVERNMENT OF THE
KINGDOM OF THAILAND

Ms. Ramrung Worawat

Deputy Permanent Secretary
Ministry of Social Development
and Human Security

Signed at Bangkok, Thailand

Date 25 August 2022