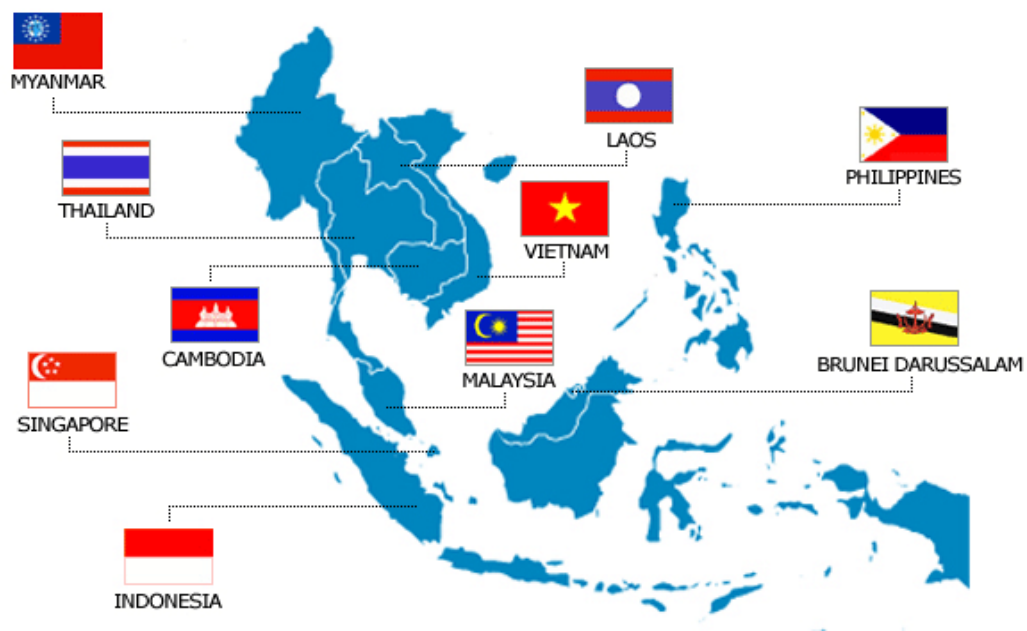


Australia-Asia Program to Combat Trafficking in Persons

Project Design Document

June 2012
Version 5.0 - Redacted



Map of ASEAN Member States

ACRONYMS AND ABBREVIATIONS

Acronym	Meaning
AAPTIP	Australia-Asia Program to Combat Trafficking in Persons
AFP	Australian Federal Police
AGD	Australian Attorney General's Department
AMMTC	ASEAN Ministerial Meeting on Transnational Crime
APEC	Asia Pacific Economic Cooperation
ARCPPT	Asia Regional Cooperation to Prevent People Trafficking
ARTIP	Asia Regional Trafficking in Persons Project
ASEAN	Association of South East Asian Nations
ASEC	Secretariat of the Association of South East Asian Nations
AusAID	Australian Agency for International Development
BOP	Basis of Payment
COMMIT	Coordinated Mekong Ministerial Initiative Against Human Trafficking
CPC	Country Program Coordinator
DFAT	Australian Department of Foreign Affairs and Trade
DPO	Disabled Peoples Organisations
EAS	East Asia Summit
GDP	Gross Domestic Product
HIV	Human Immunodeficiency Virus
HSU	Heads of Specialist Anti-Trafficking Units
ILO	International Labour Organisation
IMF	International Monetary Fund
INTERPOL	International Criminal Police Organisation
IOM	International Organisation for Migration
IQS	International Quality Standards
ISP	Implementing Service Provider
MLAT	Mutual Legal Assistance Treaty
MTV EF	Music Television Exit Foundation
NGO	Non Government Organisation
NMEO	National Monitoring and Evaluation Officer
ODA	Official Development Assistance
OM	Outcome Mapping
PAM	Partnership and Advocacy Manager
RBM	Results Based Management
RPSC	Regional Project Steering Committee
SOMTC	Senior Officials Meeting on Transnational Organised Crime
SOP	Standard Operating Procedures
SOS	Scope of Services
TAG	Technical Advisory Group
TIP WG	Trafficking in Persons Working Group
TRANGLE	Tripartite Action to Protect Migrants within and from the Greater Mekong Sub-Region from Labour Exploitation
TWG	Technical Working Groups
UNESCO	United Nations Educational, Scientific and Cultural Organisation
UNIAP	United Nations Inter-agency Project on Human Trafficking
UNICEF	United Nations International Children's Fund
UNODC	United Nations Office on Drugs and Crime
UNTOC	United Nations Convention against Transnational Organised Crime
UN Trafficking Protocol	United Nations Convention against Transnational Organised Crime
UNWOMEN	United Nations Entity for Gender Equality and the Empowerment of Women
USAID	United States Agency for International Development
VSA	Victim Support Agency

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EXECUTIVE SUMMARY

Introduction

Human trafficking is the criminal and illegal trading of human beings for the purpose of labour, sexual and other forms of exploitation. It is characterised by the movement or migration of an individual into a situation of exploitation or harm which results in that individual losing control over his or her situation. The crime of trafficking can occur within a country or across national borders. It is very much a global phenomenon, contravening fundamental human rights, denying basic and broadly accepted individual freedoms to women, men and children all over the world. Trafficking has wide economic, social and political impacts, and is *a development issue of real consequence* for South East Asia.

In addition to being a fundamental breach of human rights, trafficking has enormous *consequences for individuals, communities and governments*. Trafficked people have limited access to essential health, education, and welfare services which would improve their quality of life and enable social development. This includes an increased likelihood of HIV infection; potential for significant long-term effects on the mental health and well-being of trafficked victims, particularly children; and a greater likelihood of suffering from substance abuse, trauma and ill health over many years.

Trafficking *redirects the economic and social benefits* of legitimate migration from migrants, their families, their community and employers, to organised crime syndicates, and individual traffickers. Trafficking results in an irretrievable loss of human resources and reduction in revenues; and by removing access to remittances disproportionately impacts women, children and the elderly as the most common beneficiaries of those remittances.

As a criminal act, *trafficking undermines the rule of law*, which threatens national jurisdictions and undermines community confidence in the institutions of the state. The spread of organised crime, including trafficking, has become an important mechanism for unlawful redistribution of national wealth and it undermines and corrupts law enforcement efforts, slows economic growth, raises the cost of regional trade and disrupts the transition to a market economy.

Because of its wide range of development implications, diverse, but carefully integrated responses are necessary to effectively combat human trafficking. Such a holistic response typically addresses *Prevention* – which concentrates on addressing the supply-side of trafficking; *Prosecution* – which concentrates on the capacity of criminal justice systems to effectively investigate and prosecute trafficking cases; and *Protection* – which concentrates on the rescue, safe return, rehabilitation and reintegration of trafficking victims.

Background

Throughout South East Asia, bilateral donors, non-government and multilateral organisations provide significant development assistance to the prevention and protection pillars. Australia is however, one of the few donors that has comprehensively supported the prosecution pillar - or criminal justice response - and, in that regard, has made substantial contributions to

capacity building across the criminal justice sectors of ASEAN official development assistance partner countries for nearly a decade. Since 2003, the Government of Australia, via AusAID, has invested more than A\$50 million across all three pillars and has also made significant strides in the establishment of partnerships that support anti-human trafficking efforts throughout the region. From 2003 to 2006 AusAID funded the Asia Regional Cooperation to Prevent People Trafficking (ARCPPT) which was followed from 2006 to 2011 by the Asia Regional Trafficking in Persons Project (ARTIP). Both initiatives supported the criminal justice response to human trafficking. ARTIP was due to conclude in August 2011 however to ensure no hiatus in on-going support, it was extended for a 12 month transition phase whilst the design of a follow-on initiative was considered.

AusAID now proposes a follow-on initiative called the ***Australia-Asia Program to Combat Trafficking in Persons*** (AAPTIP), which is the subject of this Project Design Document (PDD). AAPTIP will operate at both regional and national level and will provide support to the Association of South East Asian Nations (ASEAN) by working with the ASEAN Secretariat (ASEC); Regional Bodies in the domain of anti-human trafficking; and with individual Partner Countries¹. It will incrementally and concurrently consolidate regional and national capacity to sustain effective criminal justice contributions to tackle trafficking in persons. It will be a critical component of a multi-dimensional response that encapsulates prevention, prosecution and protection.

Rationale

Analysis of the prevailing environment highlights the prosecution pillar as the most logical, valuable and feasible primary contribution that Australia could make under a new initiative. It is also the one most overwhelmingly favoured by key stakeholders. Continued prioritisation of support to the criminal justice response at both regional and national levels as a component of an integrated and multi-faceted Australian response will facilitate:

- ❖ **Substantial Development Benefits:** AAPTIP directly supports Australia's overarching aid objectives and its regional aid objectives, and concurrently supports the regional and national anti-human trafficking objectives of ASEAN Partner Countries. Human trafficking is first and foremost a significant development issue and an effective criminal justice system is an integral component of any holistic development response.
- ❖ **Advancement of Achievements to Date:** Through its past interventions, AusAID has achieved practical gains at the regional and individual country levels alike. To discontinue support to the prosecutorial pillar at this juncture would jeopardise the sustainability of gains made with Australian government assistance to date, and would remove the opportunity to make further advances from the solid base that has been established.

¹ 'Partner Countries' in this design means Indonesia, Thailand, Myanmar, Cambodia, Lao PDR, Vietnam and Philippines but excludes the non-development assistance countries of Malaysia, Singapore and Brunei. The non-development assistance countries however are also critical to the health of the regional architecture on trafficking and will be engaged as such under the auspices of the program's regional objectives.

- ❖ **Harmonization:** Continued investment in strengthening criminal justice capacity will ensure responsible harmonization with other donor contributions which focus on prevention and protection. This includes other contributions by the Government of Australia.
- ❖ **Contribution to Prevention and Protection:** An effective criminal justice system is a substantial contributor to the prevention of human trafficking and the protection of its victims. AAPTIP will provide one mutually reinforcing element of the holistic three-pronged development response that Australia has maintained so effectively to date.
- ❖ **A Platform for Policy Dialogue:** The focus on prosecution would galvanise Australia's leadership position in contributing to anti-trafficking efforts. Australia enjoys exceptional credibility and unprecedented relationships in the region with regard to its place as the primary supporter of the criminal justice response to trafficking. Moreover, ongoing engagement offers unique entry points for dialogue and action on a wide range of sensitive issues, including anti-corruption and other good governance initiatives.

Regional and national capacity building needs were assessed against the requirements of the basic building blocks of an effective criminal justice system. Careful consideration was also given to the principles and obligations placed upon governments and their criminal justice institutions by international and regional policy instruments such as The *United Nations Convention against Transnational Organised Crime* (UNTOC) and its *Protocol to Suppress, Prevent and Punish Trafficking in Persons Especially Women and Children* (UN Trafficking Protocol). Whilst individual country situations are and probably always will be different, the problem analysis clearly identified regional problem 'streams' spanning the continuum of criminal justice processes that were common and high-priorities, in all Partner Countries. This, along with the criticality of regional policy, legal frameworks and dialogue, provides a solid foundation upon which to build a regional program, as opposed to pursuing separate bilateral initiatives. These problem streams include:

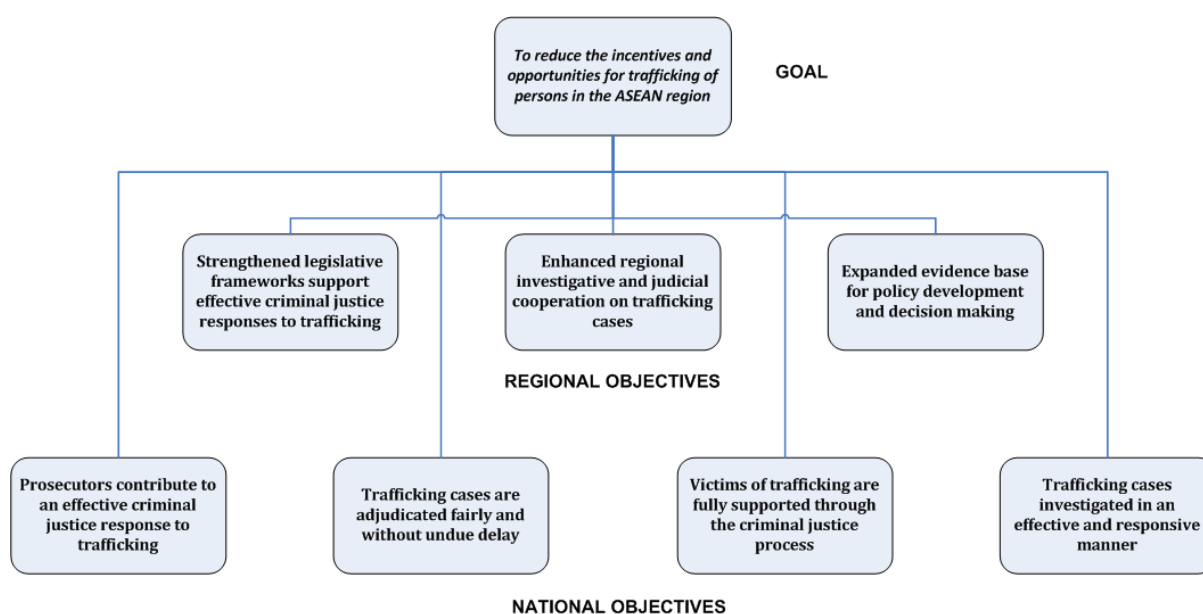
- Capacity of Regional and National Governance Mechanisms;
- Adequacy of Legal Frameworks;
- Effectiveness of Regional Cooperation;
- Availability of Critical Information;
- Investigative Capacity;
- Prosecutorial Capacity;
- Judicial Capacity; and
- Responsiveness to the Needs of Victims.

Goal and Objectives

The goal of AAPTIP is: *To reduce the incentives and opportunities for trafficking of persons in the ASEAN region*. In the context of this goal:

- Incentives means: the influences that motivate the effort of perpetrators considering attempting the crime of trafficking; and
- Opportunities means: the favourable or advantageous circumstances that arise to enable trafficking perpetrators to commit the crime of trafficking.

In support of its overall goal, AAPTIP has established 7 outcome objectives. Three will operate at regional level and will be replicated at national level, and four will operate at national level only. These outcome areas also provide the parameters within which Australian capacity building assistance will be provided to regional and national stakeholders. These objectives will contribute directly to the goal as depicted in the diagram below:



Approach to Implementation

In the interests of promoting sustainability, ownership and mutual accountability for results, AAPTIP will not develop project specific work plans, except for planning of activities to be undertaken in the inception phase; and those that provide ongoing support for the management and administration of AAPTIP. This is a significant departure from the approach taken by ARTIP. With the intention of working through local planning and delivery mechanisms, AAPTIP will support development and implementation of work plans by counterparts at two levels: *at regional level* by supporting ASEC; the Trafficking in Persons Working Group of the Senior Officers Meeting on Transnational Crime (SOMTC TIP WG);

and the Heads of Specialist Unit (HSU) process; and *at national level* by supporting the annual plans developed by each national Technical Working Group (TWG)².

An Implementation Service Provider (ISP) will be selected through an open and competitive process undertaken by AusAID to support implementation of AAPTIP. Based on the assessment of capacity development needs which were reinforced by specific requests from key regional and national stakeholders, AAPTIP will continue to provide high quality technical advice and support, through a team of internationally experienced and qualified advisers. These will be provided through the ISP. AAPTIP will also increase the proportion of resources available through country-based offices, particularly Partner Country nationals, in order to strengthen the ongoing support available to each TWG, particularly with respect to coordination, planning and monitoring functions. Project offices will be maintained in Cambodia, Lao PDR, Myanmar, Vietnam, Indonesia, Thailand and Philippines. Technical advice will also be made available to ASEC, and over time may be co-located in the Indonesia office (subject to agreement with ASEC). The ISP will be located in Bangkok, from where AAPTIP will be managed by AusAID.

Another key feature which distinguishes AAPTIP from ARTIP is alignment of program support to regionally and nationally self-determined priorities. The ISP will be used to resource capacity building efforts necessary to achieve the objectives of the work plans that are developed at the regional level by the SOMTC TIP WG and HSU and at the national level by each TWG. The ISP will provide technical assistance to the planning processes of these stakeholders to ensure they align with the 7 outcomes outlined above.

Once work plans are approved, the ISP will facilitate access to suitably qualified national and international advisers to help support the capacity development activities necessary to ensure the successful implementation of these plans. The ISP will then assist regional and national stakeholders to develop new, or enhance existing systems to monitor implementation, including providing technical or strategic oversight where necessary. A National Country Program Coordinator (CPC) and a National Monitoring and Evaluation Officer (NMEO) will be based in each Partner Country as the key conduit between the ISP and national stakeholders. As a further step towards sustainability, TWG work plans will be incrementally aligned to Partner Country national plans of action as they evolve, and ultimately be brought under their umbrella as the prevailing environment dictates. The ISP will be required to field technical assistance to support this alignment and by the conclusion of AAPTIP, there will be no further need for a program specific TWG.

Resourcing

Costs will be assessed following a competitive tendering process including a value for money assessment. A budget projection, however, indicates that approximately:

- 44% of costs will be directed towards long and short term international and national advisers and country office staff, including their regional travel;

² Technical Working Groups (TWG) have already been established through ARTIP in 7 ASEAN Partner Countries and continue to function on a cross-agency basis.

- 45% of costs will be directed towards training and workshop events, regional information sharing events, programming funds for partner annual plans and the fund to incentivise;
- 6% of costs will be directed towards monitoring and evaluation; and
- 5% of costs will be directed towards project planning and management meetings, offices and administration costs.

It is assumed that there will be a management overhead for the delivery of these services.

Transition

The transition from ARTIP to AAPTIP needs to be carefully managed in order to maintain the momentum developed by ARTIP, including the relationships that have been built with key implementing partners and other stakeholders. Nevertheless, planning for the transition phase also takes into account the fact that AAPTIP is a new initiative with a different staffing complement and new approaches to providing support.

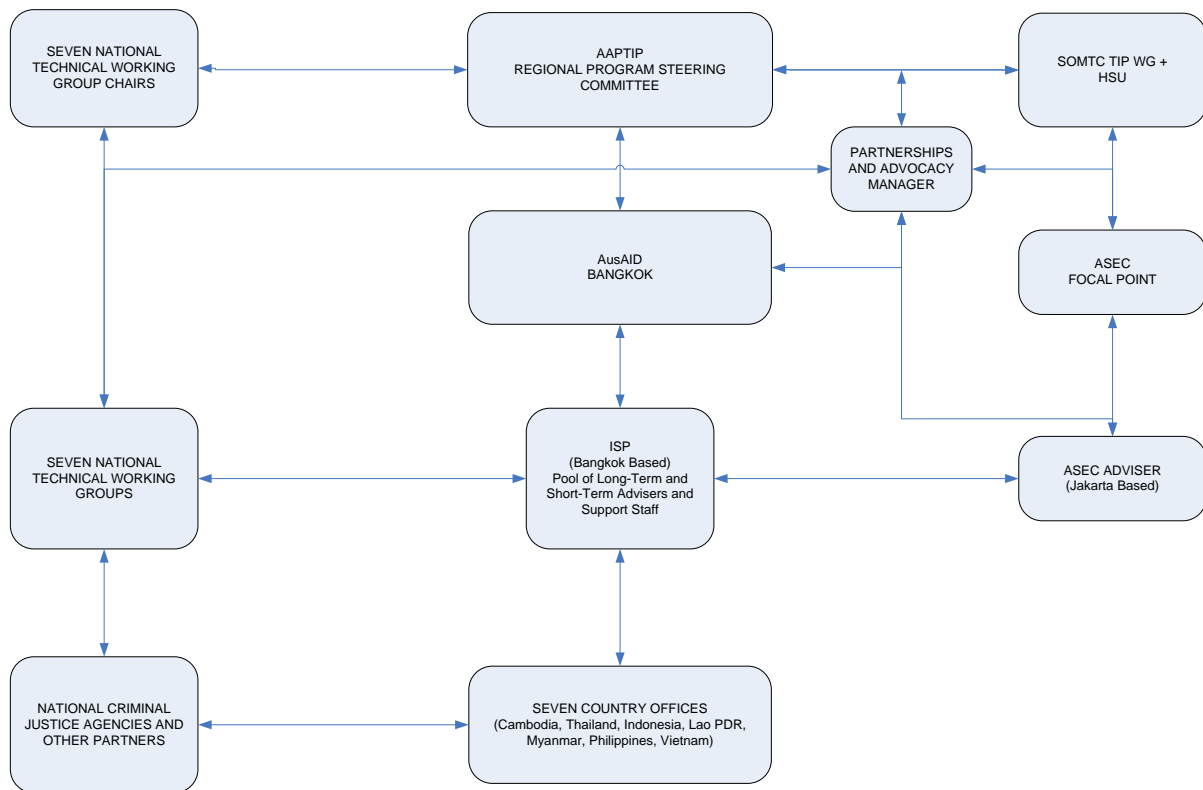
Time has been allowed for the effective establishment of a new team, relationships and management arrangements, development of detailed implementation plans, and to enable baseline data to be updated. An inception phase of approximately 6-9 months will be allowed, starting from the point at which the ISP enters into a contractual agreement with AusAID. During this inception phase, a range of pre-determined start-up activities will need to be executed by the ISP, in close collaboration with Partner Country and Regional Stakeholders.

Fund to Incentivise

It is proposed that a fund of A\$1.75m be established and managed by the ISP on behalf of implementation partners. This fund will help ensure that AAPTIP is able to respond quickly to new or emerging national priorities that have not been accounted for in the approved annual work plans of the TWG, and which cannot be addressed through the provision of technical support from the core advisory team or short term advisory pool managed by the ISP. The fund will be used on the basis of clearly defined mutual responsibilities, and in this respect will also be used as an 'incentive' for promoting Partner Country actors to take specific agreed actions that supports the agreed AAPTIP outcome objectives. Such actions might include the collection and provision of specific data or reports prior to the release of funding, or provision of evidence that agreed institutional changes have been approved or enacted by the competent national authorities, for example implementation of new victim support processes and procedures.

Program Governance Arrangements

Overall governance and coordination arrangements for AAPTIP are shown diagrammatically below:



A Regional Project Steering Committee (RPSC) will be established for the purposes of providing strategic direction for AAPTIP; ensuring its coherence with ASEAN policies and priorities on anti-human trafficking, related criminal justice sector reforms, and the implementation of gender equality and rights-based approaches; reviewing the annual consolidated progress reports of AAPTIP; reviewing and endorsing (where appropriate) proposed consolidated annual implementation plans and budgets of AAPTIP.

The RPSC will be jointly chaired by a Minister Counsellor from AusAID and the Chair of the SOMTC TIP WG, and will also include each national TWG Chairperson; a representative of the Political and Security Directorate of ASEC; an activity management representative of AusAID; and the Partnerships and Advocacy Manager.

At the national level in each of the Partner Countries, AAPTIP will continue to support the program coordination mechanisms established under ARTIP, namely the TWG. These arrangements will nevertheless be reviewed on an ongoing basis, with a view to incrementally better aligning their activities with existing and emerging national structures for coordination of trafficking activities. Membership of each country TWG will be determined by the competent national authorities, but is expected to include representatives from law enforcement, specifically specialist anti-trafficking units; prosecutor's offices; courts; immigration; and government agencies responsible for victim support services. It is expected that the TWG will be chaired by an appropriate senior officer responsible for coordinating and managing at least some elements of the anti-human trafficking response of that particular Partner Country. It is nevertheless also suggested that the option of a rotating chair should be considered to promote teamwork and multi-agency approaches, in a similar way to the rotational arrangements used by the SOMTC and HSU process.

Partnership and Advocacy Manager

It is proposed that AusAID will appoint a Partnership and Advocacy Manager (PAM) for AAPTIP to be based at the Australian Embassy, Bangkok. The PAM will not be a project resource but an Australian government representative engaged for the purposes of: Reinforcing AusAID's place in policy dialogue settings in the region, particularly at the strategic level; providing technical and advocacy inputs in key meetings and forums where traditionally a contractor would have provided the Australian 'face'; undertaking whole-of-government partner interaction in the region regarding AAPTIP and trafficking in general, without the need for the ISP to be involved in that dialogue. The PAM would also have a role in reporting these discussions back to Canberra – to AusAID and whole-of-government partners - in order to ensure Australia is abreast of contemporary developments in the region.

The PAM will have no role in managing contract performance of the ISP as this would be the province of the AusAID Activity Manager. But the PAM would need to keep abreast of the relationships being developed by the ISP, carefully watch their growth, and ensure that Australia had entry into these relationships.

Monitoring and Evaluation

The approach of AAPTIP to monitoring and evaluation is consistent with the international aid effectiveness principles of: ownership, alignment, harmonisation, managing for results, and mutual accountability. AAPTIP will work with, and through, partner systems building linkages at regional and national levels requiring AAPTIP to have dual levels of monitoring and evaluation focus, with approximately 6% of the overall budget dedicated to this purpose. *At the regional level* the starting point will be the ASEAN report on criminal justice responses to trafficking in persons. AAPTIP will support the progressive development of ASEC and SOMTC TIP WG and HSU capacity and systems to produce an insightful and robust regional report drawing upon national data and research without external technical assistance. *At the national level* monitoring, evaluation and reporting will be driven from the performance indicators and means of verification inherent in TWG work plans, however ultimately these will be aligned with and absorbed into national plans of action of each Partner Country. To that end, the national partners AAPTIP will also include the national committees on trafficking in persons.

Technical capacity to undertake monitoring and evaluation at both regional and national levels is very limited and many institutional barriers exist. Accordingly the approach proposed is to concurrently help develop regional and national monitoring and evaluation capacity on trafficking issues, utilising local systems at the regional and national levels, working in harmony to roll up the data. This also differs from the approach of ARTIP which created a parallel system for performance management. This approach aims to support development of a sustainable monitoring and evaluation system regionally - at the level of ASEC - and nationally in each Partner Country.

1. INTRODUCTION

1.1 Background

In 2003 the Government of Australia launched the *Action Plan to Eradicate Trafficking in Persons*. This whole-of-government strategy sought to address the full trafficking cycle, from recruitment to reintegration, and gave equal importance to the critical areas of prevention, detection and investigation, prosecution and victim support. It called for increased cooperation across the region to combat human trafficking, and in response AusAID funded the Asia Regional Cooperation to Prevent People Trafficking (ARCPPT) from 2003 to 2006 which was followed by the Asia Regional Trafficking in Persons Project (ARTIP) from 2006 to 2011. ARCPPT contributed to the prevention of trafficking by strengthening national criminal justice responses and commencing the process of regional cooperation and policy development operating directly in Thailand, Cambodia, Lao PDR and Myanmar.

ARTIP expanded the geographical coverage of ARCPPT to progressively include Vietnam, Indonesia and the Philippines. ARTIP worked with governments to develop common standards, policies, and practices to promote an effective criminal justice response to trafficking. It also developed and delivered consistent training for specialist investigators, front line police officers, prosecutors, and judges to enhance their capacity to undertake successful and fair trafficking prosecutions.

ARTIP collaborated closely with the Association of South East Asian Nations (ASEAN), particularly via the ASEAN Senior Officials Meeting on Transnational Organised Crime (SOMTC) and its working group on trafficking (TIP WG) which had oversight of ARTIP work plans and products. ARTIP supported the establishment of the Heads of Specialist Anti-Trafficking Units Process (HSU) and provided technical advice to it. ARTIP worked with the Secretariat of the Association of South East Asian Nations (ASEC) to facilitate the participation of selected ASEAN Member States.

At the national level, ARTIP supported the establishment of Technical Working Groups (TWG) and provided technical advice to them, including the identification of priorities and implementation of activities. TWG members included heads of specialist investigative units, prosecutors and members of the judiciary. Some TWG members are also part of national government anti-trafficking boards, taskforces and steering committees, many of which have been established subsequent to the commencement of ARTIP.

ARTIP concluded in August 2011. However to ensure no hiatus in ongoing support, particularly to key regional and national mechanisms, it was extended for a 12 month transition phase whilst this design was being developed. This Project Design Document (PDD) proposes a follow-on phase of anti-human trafficking work that responds to domestic policy pressures and effectively uses Australian resources by leveraging a comparative advantage carved out of almost a decade of work in the anti-human trafficking sector in South East Asia. This comparative advantage is built on Australia's singular and niche contribution as the lead government donor to the anti-human trafficking sector. Working within criminal justice systems is a familiar space for the Australian government, and one

which can be entered into with credibility. It is on this basis that Australia is well positioned, more so than civil society or multilaterals, to engage with government counterparts on equal terms and with a shared concern not just to end trafficking, but to ennoble the vital mechanisms of the State. The proposed criminal justice focus for a new program will enable Australia to concentrate its investment where there is most need and where it will have the most impact.

The proposed follow-on initiative is the *Australia-Asia Program to Combat Trafficking in Persons* (AAPTIP). It will operate at both regional and national level and advocates for support to ASEAN via ASEC; regional bodies in the domain of anti-human trafficking; and to selected individual Partner Countries³. It will incrementally and concurrently consolidate regional and national capacity to sustain effective criminal justice contributions to tackle trafficking in persons. It will be a critical component of a multi-dimensional response that encapsulates prevention, prosecution and protection. Such support will be facilitated through five years of assistance that will build upon and consolidate assistance provided through ARTIP, and its predecessor, ARCPPT.

1.2 Human Trafficking and Development

Human trafficking is the criminal and illegal trading of human beings for the purpose of exploitation, including labour and sexual exploitation. It is characterised by the movement or migration of an individual into a situation of exploitation or harm that results in a loss of control by the individual over his or her situation. Trafficking can occur within a country or across national borders. Human trafficking today is a global phenomenon, affecting men, women and children. Trafficking activities contravene fundamental human rights, denying people basic and broadly accepted individual freedoms. It is common practice for a trafficked person to have their identity documents taken away from them and for them to be forcibly detained. Threats of violence, language barriers, and cultural differences can prevent victims from escaping or otherwise seeking external assistance. Once discovered without travel or labour registration documents, trafficked people routinely face detention and deportation. Consequently, many human trafficking cases are not identified and investigated, and the offenders prosecuted. Trafficked people have limited access to essential health, education, and welfare services which would improve their quality of life and enable social development.

Nobel economist Amartya Sen⁴ argues that it is the role of the State to protect and enable the capabilities of its citizens, such as the capacity to work, learn or move. As so clearly articulated by the Millennium Development Goals, it is the capabilities exercised by individuals and their communities which drive development and reduce national poverty. State failure to guarantee a minimum threshold of capabilities will inevitably hinder progress towards development and prosperity.

The true extent of human trafficking remains unknown. However, the International Labour Organisation (ILO) estimates that 1.4 million people are trafficked in the Asia-Pacific region

³ 'Partner Countries' in this design means Indonesia, Thailand, Myanmar, Cambodia, Lao PDR, Vietnam, Philippines but excludes the non-development assistance countries of Malaysia, Singapore and Brunei.

⁴ Sen, Amartya (1999). *Development as Freedom* (Oxford: Oxford University Press)

at any given point in time⁵. Sex trafficking of women and children is amongst the highest profile forms of trafficking however other forms, such as labour trafficking - including domestic servitude - are a widely occurring phenomenon as evidenced by recent high-profile recoveries of multiple victims of labour trafficking in the Asia Region. Other, less reported forms of trafficking include the selling of babies, forced surrogacy, and forced marriage. Whilst it is a crime against individuals and the consequences are felt most immediately and directly by its victims, trafficking also has wide economic, social and political impacts of real consequence.

The dynamics of trafficking are constantly evolving as is the case for all national and trans-national crime types. As difficult as it is to accurately measure the scope of human trafficking, it is equally as difficult to measure its impact. Trafficking-related data are dependent upon a variety of sources, methodologies and definitions. Because trafficking is a criminal activity often interwoven with other crimes such as money laundering, forgery, identity theft, bribery and so on, its consequences are often masked. Universal indicators that will allow the anti-trafficking community to successfully measure the true consequences and impact of this crime have yet to be developed. But it is indisputable that there are significant and complex interrelationships, influences and overlapping factors within each area of consequence. Impacts may contribute to and/or influence each other in many ways and they are frequently closely related. Recognition of the complex nature of trafficking in persons and how it has an impact is pivotal to informing effective responses and, ultimately, to the successful combating of human trafficking.

A summary of the impacts of trafficking is provided in Annex L.

1.3 Responses to Human Trafficking

A holistic response to human trafficking is typically described as addressing three ‘Ps’:

- a. **Prevention:** This has historically concentrated on the supply-side of trafficking, focusing on addressing the vulnerabilities of target communities through initiatives such as awareness raising campaigns, vocational training, micro-credit initiatives, or programmes to increase access to education for those most vulnerable. However, contemporary approaches are taking a more proactive approach including rectifying weak laws and protection policies, focussing on safe migration policies and practices, and tackling the demand side of trafficking.
- b. **Prosecution:** Responses under this pillar focus predominantly on the criminal justice sector agencies of law enforcement, prosecution and the courts. They include development and implementation of specific anti-trafficking laws, enhancement of the capacity of police officers, prosecutors, and judges to effectively investigate and adjudicate trafficking allegations and cases. Increasingly, such responses are accompanied by cooperative efforts across national boundaries in mutual legal assistance and prosecutions of a joint nature that recognise the trans-national nature of trafficking.

⁵ International Labour Organization, *Forced Labour Statistics Factsheet* (2007)

- c. **Protection:** Protection, including the rescue and rehabilitation of trafficking victims, is accomplished through the provision of a wide range of services encompassing shelter, medical and psychosocial support, legal assistance, and support for safe return and reintegration of victims.

Since the launch of the *Action Plan to Eradicate Trafficking in Persons* 2003, the Government of Australia, via AusAID, has invested more than A\$50 million across the three ‘pillars’ and has also made significant strides in the establishment of partnerships that support anti-human trafficking efforts. Mapping of the sector suggests that in addition to Partner Countries’ own efforts there is significant coverage of the prevention and protection pillars by the international donor community. However, Australia is the only donor providing any significant, holistic support to the prosecutions pillar.

Full details of AusAID and other donor contributions are provided in Annex K.

1.4 Whole of Government Partner Activity

In addition to the support provided for anti-human trafficking activities by AusAID, other Australian government agencies play important roles in Australia’s wider trafficking related work in the region.

- a. **Australian Federal Police (AFP):** The AFP maintains an extensive network of police liaison officers throughout the region and undertakes a raft of operational, intelligence related, training and other capacity building activities with police throughout the region. The AFP maintains a comprehensive network of trafficking experts and regularly participates in direct and indirect support for trafficking investigations.
- b. **Attorney General’s Department (AGD):** the International Legal Assistance Branch of ADG has provided a range of legislative drafting and criminal justice sector anti-human trafficking capacity building activities including training and workshop activities across ASEAN member states.
- c. **Department of Immigration and Citizenship (DIAC):** DIAC supports the Bali Process, and through this aims to increase the capacity of States to address people smuggling and people trafficking through a regional cooperation framework and a range of immigration-related workshops, research projects and information sharing. DIAC also has three positions at overseas posts in the Asia-Pacific (Bangkok, Manila, and Guangzhou) which are focused on preventing people trafficking at its source.
- d. **The Department of Foreign Affairs and Trade (DFAT):** DFAT is involved in wide-ranging anti-human trafficking policy dialogue throughout the region, both directly through Australian diplomatic representation in ASEAN member states and through key regional forums such as the Bali Process, which Australia chairs.

The Partnerships and Advocacy Manager (PAM) will ensure policy and strategic dialogue is maintained (see Section 4.2.3) with these key stakeholders and the ISP Team Leader (TL) (see Section 4.1 and Annex H) will ensure implementation level dialogue is maintained at the national level to ensure the harmonization and synchronisation of key Australian

contributions to capacity building and institutional strengthening of criminal justice responses to trafficking.

2. SITUATION ANALYSIS

2.1 Overview of Lessons Learned from ARTIP

The main sources of documented lessons learned from ARTIP are the ARTIP Activity Completion Report (ACR), the ARTIP Independent Completion Report (ICR), the ARTIP Transition Technical Discussion Paper, and the AAPTIP Concept Note. These documents primarily reflect the lessons learned by the ARTIP implementation team. Other lessons have been garnered from interviews with stakeholders from the criminal justice sector officials of Partner Countries and those familiar with ARTIP.

Key lessons that have informed and shaped this design are summarised below but are more fully explored along with their implications in Annex J:

- There is strong, high level support for continued Australian engagement in the criminal justice sector from ASEAN, regional anti-trafficking stakeholders, and Partner Countries. But the Australian government needs to re-take a leadership role in policy dialogue and not outsource that responsibility to a managing contractor.
- Sustainability needs to be built into program systems and approaches from the onset. Greater local control of planning directions and resource allocation has the potential to yield greater ownership and sustainable impact.
- Monitoring and evaluation for a project like AAPTIP is complex and there are no ready-made solutions. Nevertheless, a guiding principle derived from past experience on ARTIP is that for the system to be effective it must be practical and cost effective to implement and the information it generates must be based on user defined needs.
- An appropriate balance of quantitative and qualitative data and information is necessary, as is a strengthened evidence base is important to inform policy and strategic decisions relevant to trafficking at national and regional levels.
- Victim-centricity, gender sensitivity and human rights responsiveness need to be factoring in as centre-pieces of any future program and not merely as training programs.
- Many people who are trafficked in the ASEAN region are trafficked for the purpose of forced labour. Noting the contributions of other projects and stakeholders, developing the capacity of police to investigate crimes by those that arrange employment abroad for migrant workers (including capacity for financial investigations), should be addressed by AAPTIP.
- Different capacity building approaches are required particularly a move away from a predominantly training oriented implementation approach. There is a need to move any new program upstream to develop contextually relevant solutions to problems.

- There is a need to strengthen the evidence base used to inform policy and strategic decisions – both within the program and within Partner Countries. A new program must foster a learning culture oriented towards the development and use of monitoring and evaluation data.
- There is need to move beyond the work of ARTIP, including making generic procedures and training materials, policies and procedures more relevant and applicable at national level. Greater localised tailoring of responses is required going forward.
- High quality technical expertise has been important to the program success and key national country staff members have been central to relationship building and are also foundational to program success.

2.2 Framework for Development Cooperation

2.2.1 Regional Context

AAPTIP will operate across the ASEAN region⁶. A wide ranging analysis of ASEAN is beyond the scope of this design however key issues of a political, economic and social dimension are relevant to the design of AAPTIP insofar as they relate to the environment and context within which it will operate. It is also relevant to the prospects for AAPTIP to have sustainable impact beyond the life of Australian government funding.

The political diversity of ASEAN is both accentuated by and reflected in the differences in the capacity of Member State government machinery. It ranges from states with sophisticated government apparatus with sustained capacity to deliver services, to states with weak institutional structures and limited capacity to deliver services. The long-term trend across the region however continues towards more stable and inclusive governments and greater regional connectivity and integration. In 2006, ASEAN had a combined GDP of just over US\$1,000 billion. By 2010 its combined nominal GDP had grown to US\$1,843 billion. The International Monetary Fund (IMF) estimates that by 2016 - the approximate mid-point of AAPTIP - ASEAN will have a combined GDP exceeding US\$3,300 billion, or close to double the current nominal GDP.

Regional development patterns, including but not limited to greater moves towards regional connectivity and free-market agendas have potentially significant consequences with regard to human trafficking in the ASEAN region. For many ASEAN economies remittances are the single largest or at least a significant source of foreign exchange which are stable and resilient in the face of local economic downturns. A well-documented motivation for many trafficking victims in initially consenting to approaches by traffickers is the opportunity to earn an income and send it home as remittances. Human trafficking results in the loss of migrant remittances. Women, children and the elderly are said to be the majority of beneficiaries of these remittances and are therefore the most likely to be adversely impacted by its reduction or discontinuation.

⁶ Working directly with ASEAN Member States that are eligible recipients of Australian ODA, and indirectly via SOMTC TIP WG and HSU with non-ODA Member States

The economics of trafficking are significant. Unlike smuggling of migrants, which produces a one-time profit, trafficking involves the long-term exploitation of individuals, which translates into continuous income. Estimates of the ILO suggest that the global profits of trafficking in human beings are around \$31.6 billion annually. This translates into an annual illicit profit of approximately US\$13,000 per victim⁷. Human trafficking crimes are also closely integrated into legal business interests such as tourism, employment and recruitment agencies, and leisure and entertainment businesses throughout the region. Criminal organisations hide revenues from their illegal activities by directly and indirectly investing their profits into legitimate financial institutions. Although some businesses are simply established to launder money and not necessarily to make profits, this practice may in turn have a negative impact on the economy, as legitimate businesses may find themselves having to compete against enterprises being subsidised by laundered proceeds of crime or supported by the exploitation of trafficked persons. Fair competition may also be affected when exploited trafficked persons have been used further down the supply chain to produce value-added materials such as textiles.

The consequences of trafficking have now begun to influence the domestic and foreign policies of ASEAN Member States. Because trafficking involves the movement of people across international borders, one of the most important areas of debate is migration policy. ASEAN has embarked upon an ambitious connectivity and integration agenda in order to promote sustainable economic growth and security across the region. Successful implementation of this agenda will open up communities to new trade and transportation routes.⁸ “The vision of ASEAN Leaders to build an ASEAN Community by 2015 calls for a well-connected ASEAN that will contribute towards a more competitive and resilient ASEAN, as it will bring peoples, goods, services and capital closer together”⁹. This new environment of connectivity and integration will lead to new and increased trade within and between countries, with greater intra-regional investment and growth. However, the integration agenda will have diverse impacts on the management of migration in the region, be that regular or irregular. Furthermore, an increase in the scope and likelihood of trafficking in persons may be an unintended consequence. For example, under the regional integration agenda, mobile workers will be increasingly drawn to opportunities across borders and in major urban centres. Yet opportunities in the formal economy are being challenged by the informal – including an increasing demand for trafficked labour. This leads to a significant elevation in risk for migrants undertaking work in informal economies. However, social protection, including robust social safety nets to shield people from external shocks are not keeping pace with these macro-trends.

Increasing numbers of people from ASEAN member states are leaving their homes and families every year in search of economic opportunities that are not available to them at home. Many of these individuals migrate legally. However the numbers are so great and the restrictions on regular or legal migration usually so stringent, that many migrants become

⁷ Belser, Patrick: See www.ilo.org/sapfl/Informationresources/ILOPublications/lang--en/docName--WCMS_081971/index.htm

⁸ ASEAN (2011). *Master Plan on ASEAN Connectivity* (Jakarta: ASEAN Secretariat)

⁹ Op cit p.1

absorbed into the illicit world of people smuggling. In too many cases, smuggling leads to conditions of ongoing exploitation. In this context trafficking arising from exploitation, is confused with illegal migration even though these are different albeit often overlapping phenomena.

A summary of the impacts of trafficking is provided in Annex L.

2.2.2 Aid Program Objectives

AusAID's seminal policy instrument¹⁰ sets out five strategic objectives for the Australian Aid Program. One of these objectives is *effective governance* which states that improving wholesale access to justice and human security will be a key priority area of work for Australia's aid program:

A safe environment is a fundamental prerequisite for development and poverty reduction to occur. Access to justice is vital for promoting human rights.

This objective also recognises the wider development context, which links strengthened human security – or individual security – to broader regional security. Contingent to human security is the consistent delivery of human rights. As already described, trafficking in persons is a violation of human rights as it limits both freedom and dignity and undermines individual self determination. Annex L more fully details the substantial contribution that an effective criminal justice response to trafficking makes to development, poverty reduction and human rights.

2.2.3 Regional Objectives

The overall objective of Australia's strategy for its aid program to Asia regional organisations and programs from 2011 to 2015 is to assist key regional organisations to address agreed regional development priorities and to complement bilateral programs in the region. The East Asia Regional Strategy focuses on achieving two strategic outcomes:

1. Improved capacity of regional organisations to address agreed priority development challenges; and
2. A stronger and more effective partnership between Australia and regional organisations to tackle priority regional issues, concentrating on:
 - Promoting and managing economic integration,
 - Prioritising trans-boundary issues, including communicable human and animal diseases, human trafficking, disaster prevention and responsiveness, as well as climate change.

The design of AAPTIP has considered and responded to four major risks identified in the draft strategy. They are summarised below and the relevant points are articulated in greater detail in Section 3 of this document:

- a. **Member Country Support for Regional Organisations:** The regional strategy relies on Australian efforts complementing member country efforts. Support from AAPTIP

¹⁰ *An Effective Aid Program for Australia – Making a real difference – Delivering real results (2011)*

will complement the individual efforts of Partner Country and will not be a substitute for it. A phased approach that helps ASEC, SOMTC TIP WG¹¹ and HSU¹² to be strong regional leaders on the trafficking agenda will be a centrepiece of AAPTIP as will be progressive transfer of responsibilities to these regional mechanisms commensurate with increasing capacity.

- b. Capacity within Regional Institutions:** The regional strategy stipulates that capacity building must be internally led by reform champions and sustained over time. This is complex and difficult and requires long-term commitment and adaptability from partners. AAPTIP will actively manage its engagement and have the inherent flexibility to change course where approaches are not working. As a move ‘upstream’ from ARTIP, AAPTIP will support the empowerment of, and resource decision making by, regional and national stakeholders in accordance with effective development principles.
- c. Ambitious Objectives and Timeframes:** The organisational objectives that ASEC has set for itself will be challenging. AAPTIP is realistic about the time and level of commitment required to achieve objectives specific to trafficking. The design is mindful of and responds to the absorptive capacity of the Secretariat. AAPTIP relies on the Secretariat to drive regional policy development and coordination of trafficking efforts; however such leadership is expected to evolve incrementally over several years, with program assistance. AAPTIP will re-examine its original assumptions regarding the capacity of its partners to absorb aid and lead regional activities on an annual basis.
- d. Lack of Impact:** The achievement of sustainable impact (including building upon the achievements of ARTIP) forms part of the rationale for a continued focus on the criminal justice responses to trafficking. To achieve economies of scale as well as impact, AAPTIP activities will be determined in a large part by ASEAN Member States in a way that complements the technical and financial resources provided by the states themselves and other donor partners.

2.2.4 Rationale for Australian Involvement in the Criminal Justice Sector

Analysis of the prevailing environment highlights the prosecution pillar as the most logical, valuable and feasible primary contribution that Australia could make under a new initiative. It is also the one most overwhelmingly favoured by key regional, national and sub-national stakeholders. The design strongly advocates continued prioritisation of capacity building and institutional strengthening support to the prosecutions pillar at both regional and national levels as a component of an integrated and multi-faceted Australian response for the following reasons:

¹¹ SOMTC TIP WG is the foremost regional leadership forum for the criminal justice agencies of ASEAN dealing with trafficking in persons matters. It is responsible for the formulation and recommendation of trafficking policy and strategy recommendations to the SOMTC

¹² HSU became an official sub-set of SOMTC TIP WG in 2012 and brings together the heads of all specialist anti-human trafficking units of the region. It is the foremost information sharing and networking forum of specialist anti-trafficking personnel in the region.

- a. **Substantial Development Benefits:** First and foremost, human trafficking is a significant development issue. An effective criminal justice response is an essential ingredient of any holistic development response. Annex L articulates the substantial impact that trafficking in persons has on the development prospects of individuals, communities and Partner Countries.
- b. **Demonstrated Achievements to Date:** As ARTIP has demonstrated, targeting law enforcement, prosecutorial and judicial systems to build capacity to deter trafficking in persons has yielded practical gains at the regional and individual country levels. ARTIP was able to achieve this because it viewed the crime of trafficking as unique and argued that it should be addressed accordingly. This allowed ARTIP to narrow its focus to identify the specific points of weakness in detecting, investigating and bringing human trafficking cases to trial, rather than being ‘bogged down’ in wider criminal justice system reforms. However many of these gains, whilst encouraging, are yet to be completely inculcated in practice, particularly amongst the latest entrants to ARTIP. To withdraw support to the prosecutorial pillar at this juncture would jeopardise the sustainability of gains made with Australian government assistance to date.
- c. **A Solid Platform for Relationship Building and Wide Policy Dialogue:** The focus on prosecution would galvanise Australia’s leadership position in contributing to a holistic and integrated approach to anti-trafficking efforts: Australia is in fact the only donor that has supported all ASEAN ODA Member States on anti-trafficking efforts concurrently. As a result of past and ongoing engagement, Australia enjoys exceptional credibility and unprecedented relationships in the region with regard to its place as the primary supporter of the criminal justice response to trafficking. As such, Australia is soundly placed to work with police agencies, prosecution offices and the courts with credibility; and to engage in policy dialogue with partner governments on a confidential basis as a respected equal. Engagement in the criminal justice sector also offers targeted entry points to enhance and strengthen Partner Country responses to social protection challenges; in addition to enabling dialogue on good governance practices, including corruption reduction, transparency, accountability, and effective whole of government coordination.
- d. **Harmonization of Efforts:** Whilst noting some other limited donor assistance programs which seek to promote reform and capacity in the criminal justice sectors in Indonesia, Cambodia, Thailand and the Philippines, unlike protection and prevention, the donor landscape for a ‘prosecutorial’ response to trafficking is particularly sparse. UNODC has carried out some capacity building for criminal justice agencies in the Mekong Sub-Region, however it is substantially less than past Australian contributions under ARTIP and there are no other donor support mechanisms which replicate AusAID’s substantial investment so far on strengthening a prosecutorial response. On the other hand, contributions to prevention and protection are substantial. Continued investment in the prosecutions pillar will ensure very responsible harmonization with other donor contributions, and indeed AusAID’s other

contributions, in achieving a holistic response. Annex K provides further details of donor activity in anti-trafficking in the region.

- e. **Positive Contribution to Prevention and Protection Efforts:** Investment in prosecutions and achievement of preventative and protective objectives are not mutually exclusive. Effective prosecution is also a substantial contributor to prevention and protection in its own right. This includes its place as a potential deterrent (prevention); as a mechanism of disruption (prevention); and as a vehicle for the championing of justice for victims (protection). Furthermore, secure, just and transparent law and justice systems afford poor and excluded groups with physical security (prevention), protection from corrupt practices (prevention), and access to forms of redress and compensation (protection).

2.3 The Problems

2.3.1 Framework for Analysis

As a framework for analysis, the design team looked to the basic building blocks of an effective criminal justice system. It also drew upon the principles and obligations placed upon governments and their criminal justice institutions by international and regional policy instruments such as The *United Nations Convention against Transnational Organised Crime* (UNTOC) and its *Protocol to Suppress, Prevent and Punish Trafficking in Persons Especially Women and Children* (UN Trafficking Protocol) – as a benchmark for analysing the status of regional and national mechanisms and criminal justice system contributions to a holistic trafficking response.

2.3.2 Problem Streams

Whilst individual country situations are different, the problem analysis clearly identified regional problem ‘streams’ spanning the continuum of criminal justice processes that were common and high-priorities, in all Partner Countries. This provides a solid foundation upon which to build a regional program as opposed to seven separate bilateral initiatives. The AAPTIP design establishes a direct relationship between the problems and the outcome areas established for AAPTIP which are presented in Section 3 – Program Description. There is an inextricable link established between the problems identified and the proposed solutions to them.

- a. **Capacity of Regional and National Governance Mechanisms:** As far back as the mid-term review¹³ of ARTIP, significant progress was noted in the development of ‘training’ and ‘products’ relevant to criminal justice responses to trafficking. However challenges still remain with regard to the capacity of regional and national stakeholders to lead, institutionalise and sustain many of the benefits arising from such assistance. Although the continuum of training programs developed under ARTIP have been ‘endorsed’ by ASEAN for example, there is still no central repository for them, and no entity charged with maintaining their currency. The same is true for the other products developed under ARTIP. ASEC is considered a logical coordinating mechanism, and Partner Countries are looking to it in that regard,

¹³ Asia Regional Trafficking in Persons Project Mid-Term Review - May 2009.

however it has not been positioned and it has not been resourced to undertake such tasks. Consequently, many of the tasks for which ASEC capacity should have been progressively built, have been undertaken by ARTIP.

Similarly, the HSU and SOMTC TIP WG mechanisms, whilst offering promise for the development of regional strategy and policy, and the provision of regional leadership on criminal justice responses, are reasonably new mechanisms and have yet to fully mature their strategic and operational planning capacity. There is opportunity for meetings to build on their current value as a networking modality to take on the leadership and coordinating responsibilities necessary to institutionalise many of the practices introduced with ARTIP technical assistance, and indeed to lead the development of other new practices post-ARTIP.

At the national level, the TWG established by ARTIP operates largely as a parallel mechanism with insufficient alignment to national plans of action and coordinated linkage with the national mechanisms of Partner Countries, such as national committees against trafficking in persons. The TWG have served an important purpose as a conduit for Australian assistance, however Greater levels of ownership and accountability at the national level are a pre-requisite for sustainability in the future.

The criminal justice systems of all Partner Countries continue to operate mainly independent of each other. Whilst ARTIP introduced a range of joint training and networking opportunities, they were largely project driven and consequently, mechanisms for collaboration, information sharing and joint operations have not developed to any great extent under the leadership of local stakeholders.

- b. Legal Framework:** A strong legal framework provides the foundation upon which sound policy and operational responses can be based. To that end, significant progress has been made across ASEAN with ARTIP assistance. There are however areas of law which will require further refinement as the criminal justice responses to trafficking seek to become more regionally consistent and sophisticated. One area of wide variability across Partner Countries for example is the extra-territorial applicability of trafficking offences. That is, that Partner Country laws on trafficking appreciate and allow for responses that acknowledge the reality that trafficking is regularly transnational in nature. Similarly, some Partner Countries have not incorporated the internationally accepted definition of trafficking into national laws, which can lead to inconsistent understanding of what constitutes trafficking, or indeed who can be trafficked. Some Partner Countries are also yet to enshrine adequate victim protection and support mechanisms into their national legislation. Specifically, the laws of some Partner Countries do not reflect the international principle that victims of trafficking should not be arrested, prosecuted or detained because of circumstances relating to the fact that they have been trafficked. Six Partner Countries have signed the United Nations Trafficking Protocol and have made sound progress towards implementing laws and procedures to meet obligations associated with that protocol. However, ASEAN Member States have yet to agree on an ASEAN treaty on

trafficking although dialogue continues on that front with some Member States strongly in favour of such an instrument and a small number of states opposed. More recently, a concept note to develop a regional plan of action on trafficking (in lieu of a treaty) was proposed by the SOMTC TIP WG. In its own right it makes a great deal of sense and could form the basis for:

In the event that such instruments were enacted, there would be significant work to be undertaken across the region to ensure compliance with the obligations arising there under.

- c. **Effective Cooperation:** The crime of trafficking is regularly transnational in nature. However, criminal justice systems throughout ASEAN are naturally (and logically) structured along national lines and are, by-and-large, geared towards serving a domestic need. Accordingly, effective mechanisms and a legal basis for cooperation across national borders need to be established and inculcated into practice to achieve effective trans-national investigative and judicial outcomes. Such cooperation can, and indeed should, take two forms – informal and formal. Informal cooperation typically occurs between investigators and prosecutors during the course of an investigation in the pursuit of ‘information’ whereas a formal cooperation generally involves one state asking another to exercise coercive powers or take other steps to obtain ‘evidence’ that will be admissible in a criminal court in another country.

Following the substantial contributions of ARTIP, the platform for formal cross-border cooperation of this kind has largely been put in place; however there is little evidence that, at an operational level formal cooperation is occurring as a matter of course. For example, while it has been ratified by ASEAN Member States, the ASEAN Mutual Legal Assistance Treaty (MLAT) has not been systematically used in relation to trafficking-related investigations. The MLAT requires that ASEAN Member States establish a ‘Central Authority’ which is responsible for the receipt, coordination and dispatch of requests for mutual legal assistance. Whilst these central authorities have been established, many lack the clear mandate, operating protocols and technical capacity to effectively act upon such requests, or indeed to initiate their own. Also, effective international cooperation requires effective internal cooperation and communication. Many parties in the criminal justice system of Partner Countries are not aware of mutual legal assistance, extradition law, relevant local laws, whether they are allowed to engage with foreign counterparts, or even how to go about it. Forums that bring together investigators, prosecutors, managers of ‘central authorities’ and judges are needed to build networks of practitioners, and to raise awareness of cross-border cooperation and MLAT issues from a practical as opposed to theoretical perspective – both within and across national borders.

Having been incorporated into the ASEAN structure in 2002, the HSU has commenced the process of formalising cross-border networks and this mechanism is now self-funded although not completely self-managed. The movement from project funding to self-funding however has dropped meeting frequency from quarterly to once or twice annually with a commensurate drop in output. In order to strengthen the

capacity of HSU to encourage and enable informal cooperation, further technical assistance will be required. A prosecutorial equivalent of the HSU would do a great deal to address similar capacity issues amongst prosecutors. Some Partner Countries have commenced the process of establishing bilateral or trilateral agreements for cooperation, whereas others require assistance to do so. Support to mutual legal assistance has also been left largely to ARTIP and as such there is no regional ‘home’ for many of its products such as regional training programs. Development of new modules on international cooperation is required however ASEC does not currently have the capacity to oversee such activities.

- d. Availability of Critical Information:** There is a lack of reliable information across the region and Partner Countries upon which significant policy and strategic decisions about the criminal justice response to trafficking can be made. This relates both to proactive policy development and retrospective assessment of the impact of past investments in anti-trafficking efforts.

First, there is little evidence of concerted efforts at the national level for gathering, collating and acting upon data relevant to the performance of the criminal justice sector of any Partner Countries. Statistics are variously gathered for different purposes but do not appear to be used for the purpose of holistically developing policy and then evaluating the effectiveness of that policy in practice. A lack of existing systems for gathering and collating information; a lack of information ‘conduits’, particularly from sub-national to national levels; and a lack of technical expertise in monitoring and evaluation all contribute to this problem. However, as an increasing phenomenon, national steering committees on trafficking have almost universally developed national plans of action (or equivalent) that seek to document national strategies to respond to trafficking that span prevention, prosecution and protection. These bodies have, for the most part developed basic indicators of performance and means of verification both independently, and with donor assistance. Whilst in their early stages, these mechanisms offer a potentially sound basis for meaningful performance monitoring and evaluation at national level.

Second, whilst research into trafficking abounds, little has been undertaken specifically for the purpose of informing strategic directions for the criminal justice response. Two significant research gaps identified during the problem analysis were the political economy of trafficking, particularly the impacts and influences of corruption of the criminal justice response; and the perspective of victims with regard to their experiences within the criminal justice system.

Both subjects have the potential to significantly inform future strategies, both for development assistance, and for regional and national entities independent of donor assistance.

The SOMTC TIP WG will have a role – with direct input from AusAID – for the endorsement of potential research agendas. It would also then be responsible for ensuring that the product of research activities was translated into direct and real action within regional and national level work plans, policies and strategies on anti-

human trafficking (see also Section 4.1.2 (b)). To that end, it is essential that researchers themselves pay careful attention to how the research will be used by stakeholders. To ensure research remains policy relevant researchers will be required to obtain the early and continuous engagement of stakeholders on the project to define the research problem and share interim findings and issues encountered throughout the research. Researchers will develop a communication and engagement plan at the outset for each activity that includes the production of policy briefs.

The problem analysis identifies a gap in existing research relating to the criminal justice response including the experience of victims and the political economy of trafficking, particularly the influence of corruption.. The exact research methodology to be employed will be considered by AusAID, the ISP and SOMTC TIP WG during the inception phase. (See also Annex I).

- e. **Investigative Capacity:** All Partner Countries have now established, or are in the final stages of establishing specialist investigative units. However the models employed differ in structural terms, the most common driver of which has been the mandate given to the units. Wide inconsistency exists with regard to powers; delegated authority; geographic span of responsibilities; and operational independence of anti-human trafficking units of the region. This is not simply because of the differences in common law, civil law and hybrid legal systems in use across the Partner Countries. In most cases a genuine nation-wide mandate has simply not been established and this leaves gaps in the specialist investigative response, even without considering other capacity and technical shortcomings.

Generally, investigative processes across all crime types are lacking and the specialist units need to leverage their specialisation to isolate themselves from this typically agency-wide phenomenon: Risk management, contemporary investigative planning, investigation management and case review systems, where they exist, are in fledgling stages and require further refinement and support for sustainable inculcation. There is a demonstrated propensity to wait until a crime has been committed before acting, which has obvious consequences for potential victims. Specialist units must be empowered and their capacity built to enable proactive investigations capable of pursuing *attempts to commit* and *conspiracy to commit* the crime of trafficking and to remove potential victims from harm. There is little evidence currently of more collaborative engagement between police and prosecutors early in the investigative phase. Increased ‘upstream’ collaboration would potentially address reluctance to deal with attempts and conspiracies and would lead to higher quality evidence being obtained in the first instance. Cultural, mandate and historical procedure rather than legal prohibition seem to be the greatest reasons for this shortcoming.

With ARTIP assistance, under the auspices of the HSU process, significant progress has been made on the development of *generic* standard operating procedures (SOP)¹⁴ to underpin consistent, high-quality investigative practices. However there is no demonstrable evidence that these *generic* SOP have yet been adapted to the *specific*

¹⁴ ASEAN: *Generic Standard Operating Procedures for the Investigation of Trafficking in Persons Cases*

legal frameworks, policy contexts, and many other nuanced needs of individual Partner Countries. Similarly, there is little evidence of the adaptation of *generic* police training materials into the *specific* training needs of specialist anti-trafficking units. The adaptation of these procedures and adaptation of training followed by inculcation into national police curricula are two key challenges for coming years.

As a general principle, mechanisms for recording victim and other witness testimony are weak and are being inconsistently applied to the detriment of cases and victim needs. Gender balance is far from ideal, with units ranging from staff profiles with no women to other units with no men. This is sometimes reflective of both mandate and wider gender-biased pre-conceptions about the nature of trafficking amongst executive police officers. In most units, women remain grossly under-represented in key leadership and high-level specialist investigative roles. Typically, overall investigative effort is too narrowly focussed on those events which occur within individual national boundaries and often results in low-level recruiters and transporters being the focus of an investigation. Focus on trans-national investigations, the employment of criminal intelligence and financial investigations have the capacity to substantially enhance investigative (and hence prosecutorial) outcomes. Whilst networks and bilateral cooperation agreements between individual Partner Countries have progressed in recent years, there is yet little evidence of meaningful cross-border cooperation in the *investigation* phase to target organisers and financiers of trafficking operations. This appears to be a multi-faceted problem spanning mandate, organisational culture, resource shortcomings and a lack of confidence on the part of investigators.

Technical capacity, leadership, oversight and accountability mechanisms are challenged by consistently high rates of turn-over of key personnel and limited nationalised training and development opportunities for career professionals. Weak administrative and human resource management capacities in national police agencies, under which almost all specialist trafficking units fall, contribute to these shortcomings in specialist unit capacity. As a consistent finding, the further one looks away from capital city locations, the more poignant these deficiencies become.

- f. **Prosecutorial Capacity:** Whilst good practice dictates that there should be close collaboration and cooperation between investigators and prosecutors, in practice this is not occurring consistently across Partner Countries. Early intervention by prosecutors can help to ensure that investigative strategies, lines of inquiry and case management generally, are well conceived. It can also assist with ensuring that arrests are made with sufficient evidence and that the right evidence is collected in the first instance by investigators. Delays in investigations based on sound prosecutorial advice currently results in the loss or deliberate destruction of evidence. In some countries, procedural rules require the police to work closely with the prosecutors during the investigative stage. Under some systems (Vietnam for example), the prosecutors may actually be empowered to oversee and direct investigations. In other jurisdictions (Thailand for example) procedures exist for participation of prosecutors

in investigations of a transnational nature, which of course is the case for many trafficking cases. In yet other jurisdictions (Cambodia for example) prosecutors are legally required to oversee certain police investigations. However, in many cases such practices are simply not followed because the process of case allocation is too slow or is inefficient; prosecutors frequently do not exercise their supervisory responsibilities; prosecutors lack technical expertise; and both sides (police and prosecutors) tend to be more comfortable working in a vertical bureaucracy and do not actively seek out the involvement of the other. Those systematic differences notwithstanding, current prosecutor roster systems and reassignment practices across Partner Countries frequently mean that prosecutors who initially review cases – often comprising very large bodies of evidence - are not always, or even perhaps often, the prosecutors who deal with a case at trial. Ultimately, what constitutes procedure and what constitutes actual practice is not always the same thing and across ASEAN, and cooperation between investigators and prosecutors is the exception, not the norm.

However it is also of note that trafficking laws are relatively new and many prosecutors have not had direct involvement in a case of trafficking. The ASEAN Awareness Program on Trafficking in Persons for Judges and Prosecutors has not been advanced to the stage where it can be delivered sustainably within Partner Country institutions, so prosecuting offices have typically relied upon ARTIP or other donors to provide them with training. However all training has been done based on a standardised regional training manual which has not yet been adapted to the national context, or finessed to take into account the very different roles of prosecutors and the judicial process in common law countries versus civil law countries.

It is noteworthy that there is limited prosecutorial specialisation in trafficking. Highly trained prosecutors (and support staff), who build significant experience based on the fact that they deal only or predominantly with trafficking cases, working in close collaboration with specialist investigators would do a great deal to address problems identified across Partner Countries by concentrating key resources on the most problematic cases. Junior prosecutors could work under supervision on less complex matters. However the problem does not vest entirely with the prosecutors as processes to ensure investigators consistently notify prosecutors of trafficking cases is also not embedded in routine practice. Such a system would also assist with the collation and statistical analysis of case trends and patterns.

Case analysis confirmed that there are some examples of prosecutors who have actively sought to establish and maintain constructive contact with trafficking victims during the pre-trial period. However, this is not a common practice. Victim management is rarely seen as deserving the specific focus of prosecutors, yet the challenge of providing robust pre-trial and in-court protections for victims exists as a Partner Country-wide problem. In any event, prosecutors do not have effective mechanisms in place to manage victims' participation in the criminal justice process, to ensure that they are kept informed and updated on the progress of the case, and that testimonial protections available under national laws are used in appropriate cases.

Prosecutors generally do not advise victims of the measures available to protect their privacy and security during the court process, and do not take pro-active steps to identify and address risks that witnesses may be threatened or interfered with. Pre-trial preparation is also uncommon in the ASEAN region. While pre-trial preparation of a witness as it is practiced in common law countries (for example a meeting between the prosecutor and victim to review their testimony) is generally considered inappropriate in civil law countries, court familiarisation (for example pre-trial explanation of the court process and a visit to the courtroom to familiarise the victim with the environment) can and should be used in both common and civil law jurisdictions.

- g. Judicial Capacity:** In most ASEAN Member States there is a national mechanism in place for judicial training or education however once again differences in legal systems dictate their form and function. In some countries for example judges (and prosecutors) undertake a significant period of training in a national judicial training college before being appointed to the bench as a prosecutor, investigating judge, or trial judge. In other countries, judges are appointed from the ranks of the private bar. Whilst judicial education or awareness raising may have value in some locations, the sheer size of the judicial bureaucracy (for example 7,000 judges in Indonesia) limits the capacity of any initiative to undertake widespread training. ARTIP made some progress towards the institutionalisation of judicial training on awareness of trafficking after the SOMTC endorsed formal awareness training for judges and prosecutors in 2008.

A consistently identified problem even acknowledged by members of the judiciary however, are the long delays typically associated in bringing trafficking cases to trial. This is typically a feature of case management and listing processes, more than judicial capacity to adjudicate. Admittedly this is a phenomenon common for many serious crimes across Partner Countries, however it is particularly damaging for victims of trafficking. One of the key reasons is the fact that many rescued victims, who are to be witnesses, are routinely detained in victim ‘shelters’ until such time as the case is adjudicated in court. Similarly, many accused, usually too poor to avoid custody, spend considerable amounts of time in pre-trial detention with the associated impacts on human rights. When raised as an issue during the problem analysis, examples of fast tracking options such as pre-trial depositions and laws that allow fast case processing were sometimes cited. However there is little evidence of these avenues being used on a consistent basis and even less evidence that the plight of victims is improving because of a concerted effort to proactively address the issue. In other jurisdictions such mechanisms simply do not exist in law, or the procedures necessary to operationalise such legislation have not been developed.

- h. Responsiveness to the Needs of Victims:** Most Partner Countries have now developed a strong and comprehensive legal framework to address trafficking, including victim protection. Criminal procedure laws, policies and directives in most countries include some special measures for the protection of vulnerable victims and

witnesses, including trafficking victims. With the support of ARTIP, gender-sensitive and victim-centred approaches have been integrated into key ASEAN documents on trafficking, including the ASEAN Practitioner Guidelines on Effective Criminal Justice Responses to Trafficking in Persons (2007), Standard Operating Procedures (SOPs) on the investigation of trafficking cases, and the ASEAN Training Program on Trafficking in Persons for front-line police and specialist units.

However, significant gaps remain between national and regionally-endorsed standards and national practices. There is limited information available about trafficked victims' views on their experiences in the criminal justice system and the degree to which victim-sensitive guidelines and training messages are being put into practice.. There is some evidence that police, prosecutors and judges now have greater awareness of the impact that the trafficking experience can have on a victim's willingness and ability to cooperate with the criminal justice system, and a growing recognition of the important link between supporting and protecting victims and the successful prosecution of traffickers. However, the cooperation and coordination between criminal justice officials and victim support agencies is generally inconsistent, and the use of special measures to facilitate victims' participation in the criminal proceedings (pre-trial depositions, video-link testimony, screens, etc.) remains erratic. Further, the profile of men and boys trafficked particularly in the construction and fishing industries does not have sufficiently high profile and too often women are stereotypically seen as the only real victims of trafficking.

Trafficking victims face significant barriers in accessing justice, including: lack of knowledge of their rights or the justice system; stigma and cultural prejudices; threats of harm or retaliation; high financial costs; and geographical distance of the courts. These problems are compounded by frequent adjournments and delays resulting from court backlogs and low priority given to trafficking cases. Concerns remain about police attitudes towards and treatment of trafficking victims, particularly those who have been sexually exploited, and the use of victim raid and rescue practices. Foreign victims of trafficking can be confined to shelters until the court case is finalised, often for months and years, and often with little or no information about the status of the case. This routine detention of victims is contrary to the ASEAN Practitioner Guidelines, and the need to afford victims' the right to freedom of movement and to be free from arbitrary detention. It also contributes to victims under-reporting, denying that they are victims so they will be sent home, and otherwise refusing to cooperate with criminal justice officials.

A key concern for many trafficked victims is being able to secure compensation for the exploitation they experienced so that they are able to return home and rebuild their lives. In most Partner Countries, specific provision is made for the payment of compensation or restitution to trafficked victims. Thailand and Philippines have also established victim compensation funds that victims of trafficking can access and Myanmar is in the process of doing so. However, available information suggests that victims' ability to receive adequate compensation is impeded by a number of factors,

including lack of information about available remedies, limited access to legal assistance and information, complex procedures for accessing victim compensation funds, and low rates of success in tracing and seizing the proceeds of trafficking-related crimes.

3. PROJECT DESCRIPTION

3.1 Goal

The goal of AAPTIP is: *To reduce the incentives and opportunities for trafficking of persons in the ASEAN region.* In the context of this goal:

- Incentives means: the influences that motivate the effort of perpetrators considering the crime of trafficking; and
- Opportunities means: the favourable or advantageous circumstances that arise to enable trafficking perpetrators to commit the crime of trafficking.

As discussed in Section 1, an effective response to human trafficking requires a holistic approach spanning prevention, prosecution and protection. The prospects of an effective investigation, prosecution and sentencing following conviction are *powerful disincentives* to potential perpetrators. Accesses by victims to formal mechanisms of redress and compensation that have potential for detrimental financial impact on perpetrators also act as *further disincentives*. As a major mechanism of disruption, an *effective criminal justice* system can substantially *reduce the opportunity* for trafficking. Furthermore, secure, just and transparent law and justice systems afford poor and excluded groups with physical security, greater access to information which can keep them safe, and protection from corrupt practices, further *reducing opportunity*. A strengthened criminal justice response resulting in more thorough and effective investigations combined with successful prosecutions will contribute to the *reduction in incentives* for the perpetrators of human trafficking and a *reduction in the opportunities* for the crime to occur.

AAPTIP has established 7 outcome objectives that will contribute directly to the goal. They are depicted diagrammatically below and are explained in detail in Section 3.3.

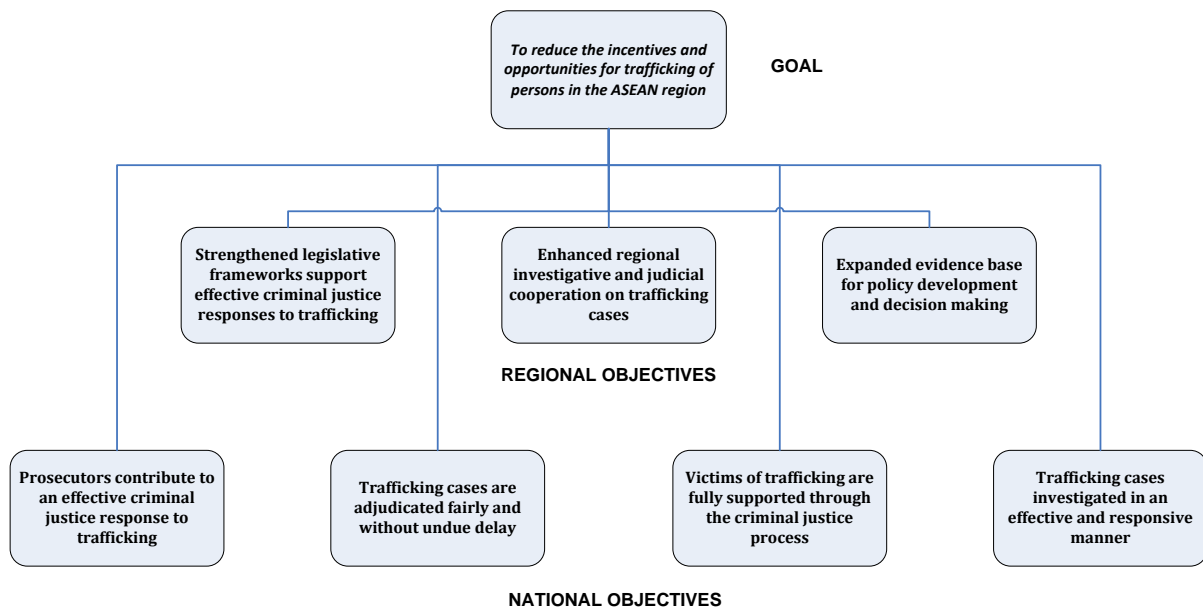


Figure 1: Goal and Contributing Outcome Objectives

What will success at the conclusion of AAPTIP look like? It will include:

- The existence of a solid framework of regional agreements and national laws that meet accepted international standards for preventing and responding to trafficking cases, with mechanisms in place to keep them contemporary over time.
- Intra-regional and intra-national cooperation and shared practice between criminal justice and other officials on the detection and prosecution of trafficking cases being undertaken as routine events.
- Robust and informed decision and policy making on trafficking issues that continues to meet evolving needs being undertaken at regional and national levels.
- Sustainable capacity to undertake thorough and victim-responsive investigations into complex and protracted trafficking cases within the region wherever they occur.
- Sustainable capacity to prosecute complex and protracted trafficking cases in a victim-sensitive manner within the region wherever they occur.
- Trafficking cases handled in a way which is fair to victims and suspects, being adjudicated in a timely manner, with the need for victims to be housed in detention centres until the conclusion of cases having been removed or substantially reduced.
- A criminal justice system that treats victims with respect and sensitivity at all stages of the process, and provides adequate levels of support, assistance and information for the duration of their involvement in criminal proceedings.

3.2 Approach

3.2.1 Approach to Working with and through Partner Systems

In the interests of promoting sustainability, ownership and mutual accountability for results, AAPTIP will not develop project specific work plans per se, except for planning of activities to be undertaken in the inception phase, and ongoing support for the management and administration of AAPTIP. This is a significant departure from the approach taken by ARTIP and with the intention of working through local planning and delivery mechanisms, AAPTIP will support development and implementation of work plans by counterparts at two levels:

- First, at regional level by supporting ASEC; the SOMTC TIP WG; and the HSU process; and
- Second, at national level by supporting the annual plans developed by each national TWG¹⁵.

To do so, AAPTIP will facilitate the provision of technical expertise consistent with planned requirements – including support to ASEC; access to international technical experts; a programming ‘pool’ to support annually planned regional and national objectives; and a mechanism to support incentive-based initiatives that arise between annual planning cycles (See Section 4.1). Ownership and accountability will vest with these national stakeholders with monitoring and evaluations systems aligned to them (See Section 4.4).

As an element of the AAPTIP sustainability strategy, the activities of each national TWG (which were established and are currently supported by ARTIP) would be incrementally rolled into the national plans of action on trafficking which are being progressively developed and refined in each Partner Country. This signifies a key departure from the approach of ARTIP, utilising the program as a catalyst to foster ownership, national multi-disciplinary approaches and more cohesive cross-sectoral integration.

3.2.2 Approach to Capacity Development

The approach taken by AAPTIP to working with and through partner systems, rather than as a separate project, is a key element of its capacity development approach. AAPTIP will pursue its focus on supporting regional and national level capacity development through the promotion of four key elements of institutional capacity (see Figure 2), namely:

- Sound legislative frameworks, policies and implementation of procedures on trafficking and victim support that meet ASEAN and international standards;
- Effective systems and procedures within criminal justice agencies and at a regional level for combating trafficking and supporting victims, including plans, operating procedures and monitoring systems;
- Enhanced knowledge and skills of officials within the criminal justice system with respect to identifying, investigating and prosecuting trafficking cases and supporting victims, including attitudes and behaviours;

¹⁵ Technical Working Groups (TWG) have already been established through ARTIP in 7 ASEAN Member States and continue to function on a cross-agency basis.

- Improved evidence base and access to information at national and regional levels on the scope and nature of trafficking in the region, including its political economy.

The key point about this approach is to emphasise that ‘capacity development’ should not be seen as synonymous with individual knowledge and skills development provided through training. Effective capacity development approaches are viewed more holistically by AAPTIP. They also require that those providing technical and financial assistance take a ‘demand-led’ approach - as it is not possible for donors to impose institutional capacity development.

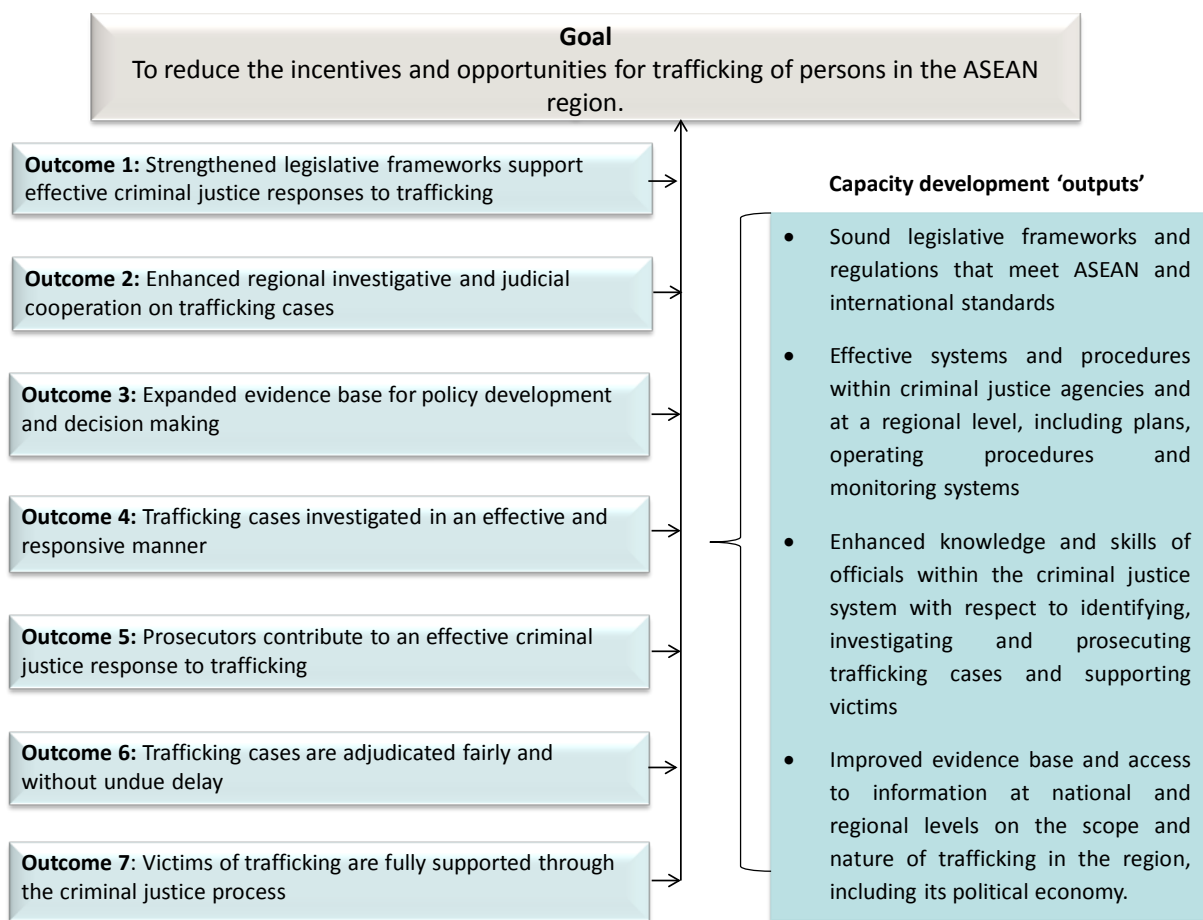


Figure 2: Capacity development outputs of AAPTIP

3.3 Scope and Outcomes

AAPTIP has defined seven outcome areas: **3 at regional level** (3.3.1 to 3.3.3) which will be replicated at national level and **4 at national level** only (3.3.4 to 3.3.7). These outcomes provide the parameters within which Australian assistance would be provided to regional and national stakeholders.

3.3.1 Strengthened legislative frameworks support effective criminal justice responses to trafficking

Through AAPTIP, legal expertise will be available on a flexible basis to support legislative review and reform at both the regional and national levels. At the regional level, this may include technical support for the drafting of an ASEAN treaty or agreement on trafficking in persons. Support will also be available for nationally-identified legislative reform priorities. This might include addressing legislative gaps in specialist trafficking laws, as well as related legislation dealing with anti-money laundering, recovery of proceeds of crime, extradition, mutual legal assistance and victim-witness protection. AAPTIP will also encourage gender reviews of national trafficking laws and policies to ensure that they provide a robust framework for a victim-centred and gender-responsive criminal justice response to trafficking. AAPTIP will also promote rights-based and participatory approaches to legislative reform by supporting stakeholder consultation processes. Particular attention will be given to ensuring that trafficked victims, victim support agencies and other key stakeholders have an opportunity, as appropriate, to contribute to the development of trafficking-related laws.

3.3.2 Enhanced regional investigative and judicial cooperation on trafficking cases

Regional activities that AAPTIP would support include continuing to promote understanding and implementation of the ASEAN MLAT, particularly in relation to trafficking cases; continued development, refinement and delivery of new and existing training programs on international cooperation. AAPTIP will also explore opportunities for the establishment of a regional network of specialist prosecutors on trafficking cases (building on the experience of the HSU process), and pursuing it should sufficient momentum be generated. At the national level, subject to need and demand, and in line with national action plans on trafficking, examples of national work plan activities that AAPTIP could support might include: ratification of key international treaties including the UNTOC and the UN Trafficking Protocol; review of relevant laws and agreements with a view to identifying anomalies, gaps and weaknesses that would prevent a Partner Country from requesting or responding to requests for mutual legal assistance in trafficking cases. AAPTIP would also look to enhance practitioner awareness of international legal cooperation and the tools that are available to them, including through the conduct of existing ASEAN training modules. AAPTIP will also assist with the development of internal guidelines to provide investigators and prosecutors with practical, step-by-step assistance on responding to, and interacting with the Central Authority when confronted with transnational issues. This would be complemented by encouraging familiarity with, and use of, web-based templates for the making and receiving of requests for mutual legal assistance and extradition. Finally, AAPTIP could support development of the capacity of specialist anti-trafficking units to organise and implement bilateral and multilateral case-related meetings between investigators for those cases where the scale and scope justifies such meetings. In planning for and supporting initiatives to support regional cooperation in the investigation and prosecution of trafficking, ongoing coordination with other key stakeholders and donors will be undertaken as a matter of course.

3.3.3 Expanded evidence base for policy development and decision making

Overall there are two inter-related weaknesses: lack of information for monitoring and evaluation, including gaps in trafficking research (see Section 2.3.2 (d)); and the lack of information sharing including lessons learned at both the regional and national levels. A summary of the scope of this outcome area is provided below and full details are provided in Annex D.

a. Performance Information

AAPTIP will support concerted efforts at the national level for gathering, collating and acting upon data relevant to the performance of the criminal justice sector. This will include the establishment and/or consolidation of processes to collect and aggregate performance related data in line with the requirements of national plans of action. The steering bodies for these national plans of action have, for the most part developed rudimentary indicators of performance and means of verification both independently, and with donor assistance that are ready for enhancement. Whilst in their early stages, these mechanisms offer a potentially sound basis for meaningful performance monitoring and evaluation at national level. Support will then be provided to support regional stakeholders to ‘roll up’ national data to the regional level in support of the periodic development of the Progress Report on Criminal Justice Responses to the Trafficking in Persons in the ASEAN Region.

b. Information to Inform Policy and Strategy

Working predominantly with ASEC, SOMTC TIP WG and HSU (and a prosecutorial equivalent of HSU if established), AAPTIP will support the enhancement of understanding of key national and regional stakeholders of the importance of decision making grounded in factual information. AAPTIP will support the development of networks and information ‘conduits’, particularly from sub-national to national level, and national to regional level, particularly through support to the institutionalisation of trafficking peer-to-peer networks and information sharing forums. The SOMTC TIP WG will also be supported as the mechanism to convene key stakeholders to make decisions about commissioning potential research. Information and knowledge exchange in a strategic and targeted way will be undertaken with neighbouring bodies such as the South Asian Association for Regional Cooperation (SAARC) and Organisation for Security and Cooperation in Europe (OSCE) with the involvement of the PAM (see Section 4.2.3) and this will be used to help inform policy dialogue, both regionally and nationally via AAPTIP, and through direct dialogue between the PAM, Partner Countries, and ASEAN non-ODA countries.

3.3.4 Trafficking cases investigated in an effective and responsive manner

Activities in support of this outcome will continue the work commenced by ARTIP, building capacity and establishing systems, policies and operational procedures that enable specialist investigators within Partner Country specialist anti-trafficking units to successfully conduct complex, lengthy and sensitive investigations. It will also support establishment of the enabling environment in which to apply them. Assistance will be prioritised towards the

establishment and consistent application of contemporary risk assessment, case management and case review processes and provide mentoring and on-the-job training during their implementation. Assistance would also be provided to support the establishment of appropriate mandates, oversight mechanisms and leadership of specialist investigative units. The development of capacity in financial investigations, multi-agency and cross-border investigations will also feature as an element of this outcome. This outcome area will also support closer integration of the work of specialist investigative units with prosecutors, bringing prosecutors - where legal systems permit - further 'upstream' in the evidence gathering and operational phases of investigations. It would also support the implementation of victim centred and gender responsive operating modalities in the investigative phase. Both of these dimensions will enhance the quality of evidence gathered and increase the prospects of subsequent prosecutions whilst concurrently better providing for the needs of victims. An additional element of this outcome will also support the establishment of mechanisms of transparency and accountability in specialist units - including anti-corruption strategies - whilst being mindful of the practical needs for confidentiality and operational security.

3.3.5 Prosecutors contribute to an effective criminal justice response to trafficking

The role of the prosecutor differs markedly depending upon the legal system under which the prosecution takes place. ASEAN has common law, civil law and hybrid legal systems in operation across its Partner Countries. The AAPTIP response to this objective will therefore be tailored on a state-by-state basis to ensure that the technical assistance, advice, training and mentoring to prosecutors on the legal and evidentiary issues in relation to the crime of trafficking match the applicable legal system. AAPTIP will support capacity building around prosecutor case load management, contemporary risk assessment, oversight of prosecutorial preparation and trial performance, and access to technical expertise to build technical skill and knowledge and will provide mentoring and on-the-job training during their implementation. This will enable prosecutors to successfully prepare for, advise upon, and prosecute complex, lengthy and sensitive trafficking cases. An emerging trend that has already been seen in investigations is the move towards prosecutorial specialisation to handle trafficking cases, but also as a source of knowledge and expertise to support colleagues, especially in a decentralised setting. Therefore AAPTIP will support the progressive specialisation of the trafficking prosecutorial function in Partner Countries, and where genuine commitment and prospects of sustainability exist, will support the development of a regional prosecutorial forum along the same lines as the HSU. Over time it is anticipated that such a specialist prosecutorial leadership body and the HSU being rolled into a single entity under the SOMTC TIP WG. This outcome area will also support greater collaboration in the operational phases of investigations so that investigators have access to high quality legal and procedural advice as to what would and would not constitute robust and admissible evidence. This is particularly true when considering 'attempts' and 'conspiracy' to commit the crime of trafficking. This approach is consistent with the advice provided under the ASEAN Practitioner Guidelines. AAPTIP will encourage forums that support the regular dialogue between investigators and prosecutors of trafficking to identify and highlight opportunities for ongoing refinement of approaches. Further, opportunities for joint training and workshops for investigators and prosecutors will be supported to identify and implement practical

strategies for greater operational coordination. Finally, prosecutors have a key role to play in ensuring victims, who are after all amongst the most important witnesses, receive assistance and support prior to the case coming to court and then throughout the trial. Activities under this objective would align with those being undertaken with investigators and the courts to ensure practice, procedure and systems meet the emerging needs of victims of trafficking.

3.3.6 Trafficking cases are adjudicated fairly and without undue delay

The primary focus on the judiciary under ARTIP was judicial training and education. Given existing national mechanisms and other donor assistance for judicial education AAPTIP will reduce, but not completely remove, the previous emphasis on judicial education. AAPTIP will however provide technical assistance, advice, training and mentoring to court administrators in the refinement of case management processes to enable the expeditious disposition of trafficking cases as a priority. This will include the refinement of existing court rules, procedures and practice handbooks to ensure appropriate authority and mechanisms for compliance with new processes. A number of options exist in this regard across Partner Countries, from building better understanding of current laws that allow fast case processing; to the development of procedures to effectively use existing fast tracking provisions in laws – for example the use of pre-trial depositions; to the development of new laws where none exist, for the fast tracking of trafficking cases where there is potential for adverse delays. Working through the ‘process’ dimension of court support will also enable development and integration of contemporary victim management guidelines and processes into court practice handbooks and bench books. Some elements of training, both for court administrators and members of the judiciary, will be necessary to support sustainable implementation of new policies, practices and procedures. Where possible, such training will be undertaken in collaboration with national judicial training establishments with a view to greater national ownership and accountability for addressing ongoing training needs.

3.3.7 Victims of trafficking are fully supported through the criminal justice process

During the inception phase, research will be undertaken to better understand what mechanisms are in place for the management of and support to victim-witnesses as they progress through criminal justice system. This will include the identification of strengths and gaps in existing mechanisms, as well as any existing initiatives (including for children, gender-based violence victims, etc.) that can be built upon to improve the management of trafficked victims. Based on the knowledge gained through this research, support will be provided for each country to design appropriate strategies for improving the management of victim-witnesses at all stages of the criminal justice process, and in particular for strengthening victim-witness support services. It is anticipated that this would involve a significant focus on building formal partnerships and cooperation arrangements between the justice agencies and other government and non-government agencies capable of providing victim-witness support services. Emphasis will be placed on the design of sustainable models that could be used for all vulnerable and intimidated witnesses, but using trafficking as the entry point and ensuring linkages to the anti-trafficking units, specialist trafficking prosecutors and courts responsible for trafficking cases. This could include, for example, piloting new models based on: structured multi-agency MOU between justice and victim

support agencies; partnership agreements with the government social welfare authorities to manage victim-witness supporters - staff and volunteers; or embedding a victim-witness coordinator within a justice agency - prosecution or court. Some countries would likely have resources and capacity to develop more structured victim-witness support services and more sophisticated approaches. Others may require strategies designed to simply make more effective use of the services that are currently available through government and non-government entities by, for example, strengthening or developing inter-agency MOU and putting the necessary mechanisms in place to manage the engagement of victim supporters in the justice process. Support under this outcome area would likely include exposing key counterparts to victim-witness support services models from other countries, developing standard guidelines and training packages for victim-witness supporters, encouraging joint trainings and workshops with police, prosecutors, and victim-witness coordinators to foster mutual understanding and trust, and promoting regional dialogue and experience-sharing on best practices. Flexible funding will also be available to enhance victim support services through, for example, the provision of video link equipment, screens, and furnishing victim-witness waiting rooms and victim-witness coordinator offices. An additional element of this outcome area will be to improve victims' access to compensation. This would include supporting the review and streamlining of processes for accessing victim compensation funds, incorporating guidance on the use and calculation of criminal compensation orders into guidelines and training for the judiciary, and ensuring mechanisms are in place for confiscated proceeds of trafficking crimes to be made available to satisfy compensation claims by victims.

3.4 Indicative Resource Requirements and Budget

An Implementation Service Provider (ISP) will be selected through an open and competitive process to support implementation of AAPTIP. Based on the assessment of capacity development needs identified during the problem analysis which were reinforced by requests from key regional and national stakeholders, AAPTIP will continue to invest a significant proportion of the available resources in providing high quality technical advice and support, through a team of internationally experienced and qualified advisers. These will be provided through the ISP. AAPTIP will also increase the resources available to the country-based offices, particularly Partner Country nationals, in order to strengthen the ongoing support available to the TWG, particularly with respect to coordination, planning and monitoring functions. Project offices will be maintained in Cambodia, Lao PDR, Myanmar, Vietnam, Indonesia and Thailand. A new office will need to be established in Philippines, because, as a late entrant to ARTIP, a local office had not been established there. An adviser to ASEC will be co-located in the Indonesia office (Jakarta) and the ISP will be located in Bangkok. Position descriptions for the proposed advisers and country office staff are provided at Annex H.

Moving away from the previous focus on project driven planning however AAPTIP will also allocate a significant proportion of its funds to support the implementation of annual plans prepared by TWG, the SOMTC TIP WG, and the HSU; as well as to an incentive-based fund

to incentivise those who have met planning targets to be able to address compelling opportunities that arise between planning cycles.

Exact costs will need to be assessed following a competitive tendering process and value for money assessment

This projection indicates that approximately:

- 44% of costs will be directed towards long and short term international and national advisers and country office staff, including their regional travel;
- 45% of costs will be directed towards training and workshop events, regional information sharing events, programming funds for partner annual plans and the fund to incentivise;
- 6% of costs will be directed towards monitoring and evaluation; and
- 5% of costs will be directed towards project planning and management meetings, offices and administration costs.

It is assumed that there will be a management overhead for the delivery of these services

4. PROJECT IMPLEMENTATION

4.1 Implementation Approach

4.1.1 Capacity Development Guiding Principles

The guiding principles for AAPTIP implementation include promoting and operationally supporting:

a. The international aid effectiveness agenda, namely:

- i. Ownership:** The existing and emerging anti-trafficking strategies and policies of the regional institutions and partner government agencies that AAPTIP supports will provide the primary basis and framework for project priority setting and resource allocation. Project governance and coordination arrangements provide Partner Countries and their regional bodies on trafficking with strategic planning and decision making authority, in partnership with the Government of Australia.
- ii. Alignment:** Project resources will be used to support existing and emerging national criminal justice agencies and regional institutional and management structures. Establishment of parallel decision making and implementation structures will be avoided, unless requested by and agreed with implementing partners for well-defined reasons (for example the TWG structure established under ARTIP). To the extent possible (noting the differences between Partner Country and Australian financial years) the planning cycle for the allocation of AAPTIP programming funds to partner annual plans will be aligned with their own national planning and budgeting cycles.
- iii. Harmonisation:** AAPTIP will actively engage with other key donor-funded initiatives in the region that are working on trafficking related issues (including

[illegible]

explicitly embedding gender in all aspects of the program, rather than creating separate gender outcomes, indicators and tools. In order to ensure that gender issues are adequately addressed and resourced, gender has been integrated into the core program framework, including in the framing of program outcomes, indicators, strategies, targets, activities, risk management and budget allocations. National and regional planners will also be encouraged to design specific initiatives in priority areas aimed directly at promoting gender equity and addressing gender barriers to access to justice. Gender-sensitive and victim-centred approaches will be integrated into all justice sector strengthening initiatives, including: the development of laws, standards, and procedures, and training and capacity building for justice agencies. The monitoring and evaluation framework has also been designed to help measure gender equity results and the gender-responsiveness of the criminal justice system.

- d. **Anti-corruption:** Engagement in the criminal justice sector offers targeted entry points to enhance the responses of Partner Countries to good governance practices, particularly anti-corruption. AAPTIP will actively promote anti-corruption principles and messages with counterpart agencies, undertake ongoing risk assessment of potential negative impacts on the project of identified corrupt practices, and report any significant corrupt practices coming to its attention to the relevant national authorities. AAPTIP will also support the conduct of applied research with a view of generating insights into how corruption might be countered in anti-trafficking responses. This has been programmed early in the life of AAPTIP to enable it to inform its downstream planning decisions and project directions with regard to anti-corruption contributions.
- e. **Disability Inclusive Development:** AAPTIP has inculcated the guiding principles of the Australian Aid Program's key disability strategy - 'Development for All: Towards a Disability-Inclusive Aid Program 2009-2014' into its design. With credibility in the region in both trafficking and disability-inclusive development, AusAID is well placed to take a leadership role and make an important contribution, and will do so focussing on:
 - i. **People with disabilities will play an active role:** AAPTIP will pursue opportunities to promote and enable active participation and contributions by people with disability. Stakeholders in the development of national and regional work plans will be actively encouraged to ensure wide consultation to inform the directions of these plans and the fact that they address the needs of those with disability. Work in the area of victim services will include provision of services (or referrals) for people with disability. The Partnerships and Advocacy Manager will monitor progress in this regard. (See also Section 4.2.3).
 - ii. **Recognition, respect and promotion of rights:** AAPTIP takes a rights-based approach, acknowledging that people with disability hold the same rights and freedoms as others. (See also Section 4.1.1 (b)).
 - iii. **Respecting and building understanding of diversity:** The lived experiences and perspectives of people with disability are diverse, and effective approaches for improving outcomes will vary in different contexts. The AAPTIP monitoring

framework will support the collection of disability disaggregated data and the program will consider targeted research options to address information gaps. Performance data and research will subsequently inform work plan design and policy dialogue with key AAPTIP stakeholders.

- iv. Interaction of gender and disability:** Inequality may be experienced between men and women or boys and girls, whether they are people with disability or family members or carers. Women and girls with disability often face multiple forms of discrimination due to their gender, disability and economic status and often face a greater risk of abuse and violence. Gender inequalities impact on access to education, employment, health services and decision making. Women and girls are over-represented amongst those living in poverty. (See also 4.1.1(c) and Annex C).
 - v. Focus on children:** Children with disability face significant barriers to enjoying the same rights and freedoms as their peers and often face greater risks of abuse. AAPTIP acknowledges the heightened impact of trafficking on children and has made child centricity an important element of its overall approach. Support for all stages of the criminal justice process will consider special provision for children and other people with disability.
 - vi. Active promotion and support for people-to-people links and partnerships:** The combined commitment, influence and experience of diverse stakeholders ensure development is more effective because it includes people with disability. AAPTIP will actively seek to support linkages between Disabled Peoples Organisations (DPO) and key criminal justice sector stakeholders at both regional and national levels. AAPTIP will investigate opportunities to link relevant DPO with activities in support of victim services. Finally, AAPTIP will explore options to link with the proposed ASEAN Disability Forum which is currently seeking official accreditation through ASEAN, once it is fully operational.
- f. Child Protection:** AAPTIP acknowledges the AusAID child protection policy goal of protecting children from abuse of all kinds in the delivery of Australia's overseas aid program. The ISP will implement child-safe recruitment and screening processes. (See also Annex F). Both the ISP and individual advisers will comply with the child protection policy code of conduct and compliance standards. (See also Annex H).

4.1.2 Main implementing partners

The design identifies 5 key partners for AAPTIP implementation in its first year. Other implementation partners may be identified and included subject to the directions of regional and Partner Country work plan objectives:

- a. ASEC:** The Secretariat, particularly the Security Cooperation Division of the Political and Security Directorate, will be an incrementally more and more important partner for AAPTIP on trafficking matters and particularly in the areas of coordination. ASEC may be represented on the Regional Project Steering Committee (See Section 4.2.1).

- b. **SOMTC TIP WG:** The SOMTC TIP WG and its HSU will be a key regional interface for AAPTIP. These entities will be the primary source of activity identification and the key channel for implementation at the regional level, and a primary mechanism for international cooperation initiatives supported by AAPTIP. It will also be the primary reference source – with direct input from AusAID – for the endorsement of potential research agendas. It would also then be responsible for ensuring that the product of research activities was translated into direct and real action within regional and national level work plans, policies and strategies on anti-human trafficking. The SOMTC TIP WG will also be the primary conduit for regional monitoring and evaluation, with emphasis on input to the Progress Report of Criminal Justice Responses to Trafficking in Persons in the ASEAN Region. The SOMTC TIP WG will also be represented on the Regional Project Steering Committee (See Section 4.2.1).
- c. **Technical Working Groups:** The TWG of each Partner Country will be the primary entry point, activity design and activity implementation channel for AAPTIP. It will also provide a conduit to each organisation within the criminal justice system of each country to enable access to key personnel who participate in decision making, capacity building or other activities supported by AAPTIP. The TWG will take the primary role of coordinating the identification of national priorities and, with AAPTIP technical input, will oversee the implementation of national work plans. The TWG will also support the monitoring of activity implementation and evaluation of performance. Each TWG will also be represented on the Regional Project Steering Committee (See Section 4.2.1).
- d. **National Committees on Trafficking in Persons:** The national committees on trafficking (known by different names in different Partner Countries) will become increasingly important implementation partners as AAPTIP proceeds. Ultimately the roles played and activities undertaken by TWG will be absorbed as responsibilities of the national committees. This will be particularly important with regard to national level monitoring and evaluation, as national committees increasingly build the effectiveness of their monitoring and evaluation frameworks and their capacity to manage them. National committees on trafficking also have a role in driving cross-sectoral cooperation, which is particularly important for addressing victim support in the criminal justice sector.
- e. **Human Rights Resource Centre:** AAPTIP will look to the HRRC in Jakarta to facilitate the first two priority research initiatives of AAPTIP. Other research partners will be considered once needs have been identified and potential researchers evaluated.

4.1.3 Transitional Arrangements and AAPTIP Inception Phase

The transition from ARTIP to AAPTIP needs to be carefully managed in order to maintain the momentum developed by ARTIP, including the relationships that have been built with key implementing partners and other stakeholders. Nevertheless, planning for the transition phase needs to take into account the fact that AAPTIP is a new project with a different

staffing complement and new approaches to providing support. Time must therefore be allowed for the effective establishment of a new team, relationships and management arrangements, detailed implementation plans, and an updated baseline. A clear lesson from ARTIP, and many other projects, is the need for an adequate inception phase..

It is therefore proposed that a 6 to 9 month inception phase be allowed for, starting from the point at which the ISP enters into a contractual agreement with AusAID. During this inception phase, a range of start-up activities will need to be executed by the ISP, in close collaboration with Partner Country and regional stakeholders.

A list of the mandatory inception phase activities is provided as Annex I. This list of activities will be used in the tendering process as one of the criteria for selecting an ISP. Based on this list, tender respondents will be asked to prepare an ISP inception phase work plan, adding any other activities they deem necessary for an effective transition, with full costs and timelines for implementation, to help demonstrate their understanding of the operational context, challenges and the realities of regional implementation.

4.1.4 Annual Work Plans, Monitoring and Review

A key feature which distinguishes AAPTIP from ARTIP is alignment of program support to regionally and nationally self-determined priorities. The design envisages the competitive selection of an ISP to resource capacity building efforts necessary to achieve the objectives of the work plans that are developed at the regional level by the SOMTC TIP WG and HSU and at the national level by each TWG. The ISP will provide technical assistance to the planning processes of these stakeholders to ensure they align with the 7 outcomes outlined in Section 3. Ideally these work plans will be aligned to the Australian financial year to enable streamlined financial management. However the exact timing of these cycles is to be determined during implementation of Inception Phase Activities by the ISP (See Annex I).

Once work plans are approved, the ISP will facilitate access to suitably qualified technical - including local - advisers to help support the capacity development activities necessary to ensure the successful implementation of these plans. The ISP will then assist regional and national stakeholders to develop new (or enhance existing) systems to monitor implementation, including providing technical or strategic oversight where necessary.

A CPC and a National Monitoring and Evaluation Officer (NMEO) will be based in each participating country as the key conduit between the ISP and national stakeholders. As a further step towards sustainability, TWG work plans will be incrementally aligned to national plans of action as they evolve, and ultimately be brought under their umbrella as the prevailing environment dictates. The ISP will be required to field technical assistance to support this alignment. By the conclusion of AAPTIP, there will be no further need for a program specific TWG.

Whilst they are yet in the formative stages in most Partner Countries, the national plans of action represent a division of labour and coordinated response by concerned agencies of each nation across the three pillars of prevention, protection and prevention. This is why the progressive rolling up of TWG work plans under the single national umbrella is an important objective and a way to insert the work of AAPTIP into a broader cross-sectoral approach. All

analysis suggests this is best done incrementally to ensure ongoing ownership by TWG members, and so as not to exceed the current absorptive capacity of the national committees.

AAPTIP will provide strategic advice to ASEC, and support the coordination and technical contributions to the activities of the SOMTC TIP WG and HSU, including (but not limited to) their work plans. Although the provision of this technical advice will initially be based outside of the secretariat it is the design's intent that the all such support activities are ultimately transitioned into ASEC as an internally-supported, ASEC-owned resource.

An incentive-based funding mechanism to be administered initially by the ISP will be established to provide support for activities that address AAPTIP core objectives but which have not been picked up in each national annual planning cycle. Further details are provided in Section 4.1.6.

4.1.5 ISP Program Planning and Priority Setting

The ISP will plan and conduct a regional workshop for heads of TWG and CPCs to discuss planning principles and priorities, and to agree the process and cycles for annual planning, budgeting, and performance reviews. It will then provide support for the TWG national planning process and development of national plans ensuring regional and national problems and potential solutions to them are adequately analysed and validated. The ISP will provide the same support for the SOMTC TIP WG and HSU annual planning processes. Once completed, the ISP will develop a master plan to coordinate and manage the technical inputs and travel of advisers supporting capacity development relevant to TWG and SOMTC work plans. Management and administrative activities in support of overall program activities will be incorporated into the ISP master plan.

The ISP will also support the development of TWG work plan indicators and provide training and development on monitoring and evaluation to TWG members and other relevant stakeholders. This will include assisting with the development of output level indicators of performance and their means of verification.

4.1.6 Fund to Incentivise

It is proposed that a fund of A\$1.75m be established and managed by the ISP on behalf of implementation partners. This fund will help ensure that AAPTIP is able to respond quickly to new or emerging national priorities that have not been accounted for in the approved annual work plans of the TWG, and which cannot be addressed through the provision of technical support from the core advisory team or short term advisory pool managed by the ISP.

The fund will be used on the basis of clearly defined mutual responsibilities, and in this respect will also be used as an 'incentive' for promoting Partner Country actors to take specific agreed actions that supports the agreed AAPTIP outcome objectives. Such actions might include the collection and provision of specific data or reports prior to the release of funding, or provision of evidence that agreed institutional changes have been approved or enacted by the competent national authorities (for example implementation of new victim support processes and procedures).

With a total fund of A\$1.75 over 5 years, an indicative budget of A\$350,000 would be available each year. With 7 participating countries, this would in turn indicate that approximately A\$50,000 could be available to each TWG each year to support unforeseen or emerging priorities. However, it is not suggested that either annual or country specific allocations of the fund be rigidly set, but rather be used as a guide for actual resource allocation. The following principles regarding the use of flexible resources will be inculcated into guidelines to be developed by the ISP during the inception phase and subsequently approved by AusAID:

- Must align or otherwise be consistent with the 7 outcome objectives specified for AAPTIP and have demonstrable strategic value, and not just be an ad-hoc initiative;
- Must demonstrate that the purposes to which funds are to be applied support national anti-trafficking priorities, and complement current TWG annual plans and budgets;
- Mutual responsibilities must be clearly defined, including any actions pre-requisite to approval, release of funds, and agreements on acquittal mechanisms;
- Must be formally endorsed by the TWG chair and a specific report to be provided to AAPTIP by or through the TWG chair on the results achieved through the use of the funding;
- No national staff salaries or salary supplements to be paid; and
- No new equipment procurement or building works to be funded unless explicitly linked to the creation of an enabling environment for wider capacity building activities, and then with Partner Country commitment to any necessary recurrent funding implications.

The process for applying for, approving, expending and accounting for resources from the fund is therefore expected to involve:

- Completion of an application form, in a prescribed format, by the TWG and submission through the AAPTIP CPC to the AAPTIP Team Leader;
- Review of the application by AAPTIP, with clarification or modification as required with further input from the TWG;
- Approval or rejection of the application by the Team Leader in consultation with AusAID, with clear reasons provided to the TWG if the application is modified or rejected;
- Expenditure of funds in line with the scope of the approved application through direct expenditure by AAPTIP on behalf of the TWG, and under the control of the relevant CPC; and
- Preparation and submission of a report by or through the TWG Chair on the results achieved through the use of funds as a pre-requisite to future application approval.

4.2 Program governance and coordination arrangements

Overall governance and coordination arrangements for AAPTIP are shown diagrammatically in figure 2 and explained in further detail in Section 4.2.1 and 4.2.2:

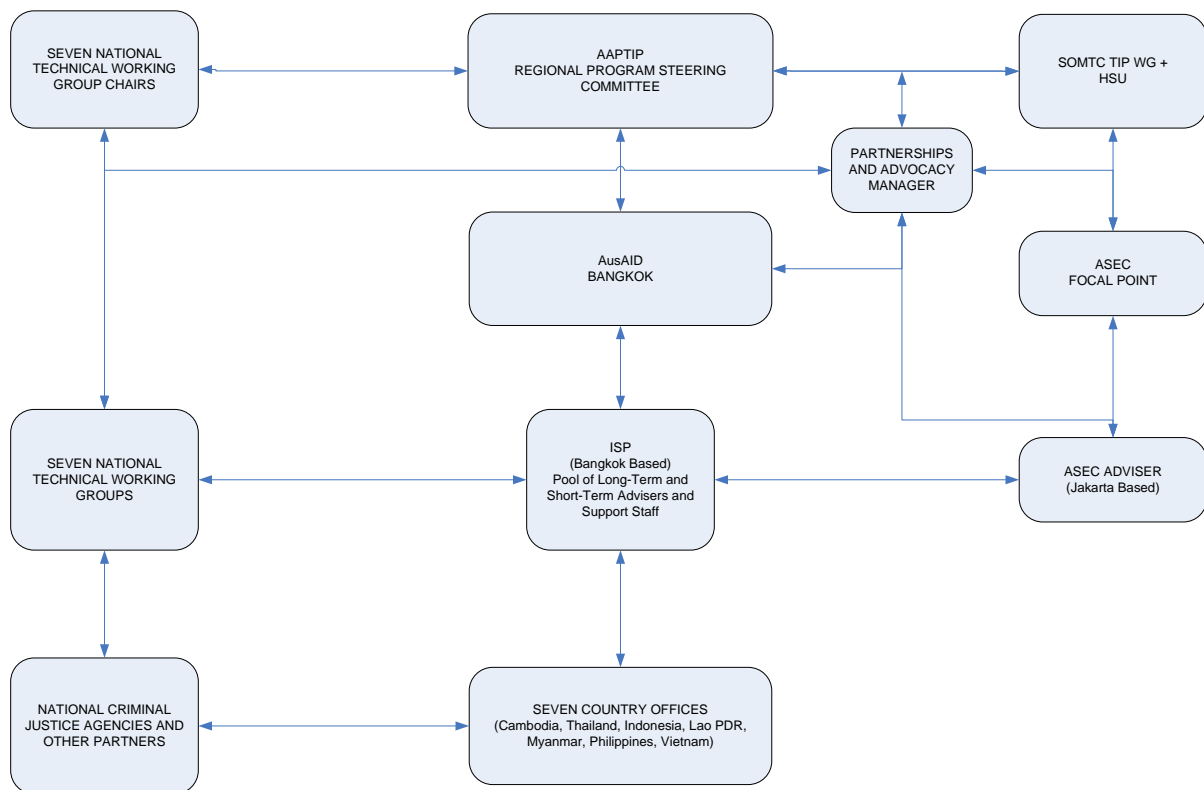


Figure 3: Governance and Coordination Arrangements

4.2.1 Regional Project Steering Committee

A Regional Project Steering Committee (RPSC) will be established for the purposes of:

- Providing strategic direction for AAPTIP, particularly with regard to its regional focus and initiatives;
- Ensuring AAPTIP coherence with ASEAN policies and priorities on anti-human trafficking, related criminal justice sector reforms, and the implementation of gender equality and rights-based approaches;
- Reviewing the annual consolidated progress reports of AAPTIP and taking them into account when reviewing proposed consolidated annual implementation plans and budgets;
- Endorsing proposed consolidated annual implementation plans and budgets of AAPTIP; and
- Providing input to the periodic assessment of ISP performance.

The RPSC will include nominated representatives, including provision for alternates, from:

- SOMTC TIP WG - The Chairperson (1);
- TWG - Each National Chairperson (7);
- ASEC - Political and Security Directorate (1);
- AusAID – Minister Counsellor (1) and First Secretary (1); and
- Partnerships and Advocacy Manager (see Section 4.2.3).

The RPSC will be jointly chaired by the Chair of the SOMTC TIP WG and a Minister Counsellor from AusAID. Other stakeholders may be afforded observer status at specific RPSC meetings, including representatives of such organisations as UNODC, IOM, UNIAP and non-governmental organisations providing victim support services. It is expected that the RPSC will meet at least annually. In the first year of AAPTIP it is nevertheless expected that the RPSC should meet at least twice. Initial meeting dates will be confirmed during the inception phase to align with the approval process of year one work plans. Secretariat support for the RPSC will be provided by the ISP, in close collaboration with ASEC.

4.2.2 National level coordination mechanisms

At the national level in each of the 7 Partner Countries, AAPTIP will continue to support the program coordination mechanisms established under ARTIP, namely the TWG. These arrangements will nevertheless be reviewed on an ongoing basis, with a view to incrementally better aligning their activities with existing and emerging national structures for coordination of trafficking activities.

Membership of each country TWG will be determined by the competent national authorities, but is expected to include representatives from the following (types of) agencies:

- Law enforcement, specifically specialist anti-trafficking units;

- Prosecutors office;
- Courts;
- Immigration; and
- Government agency responsible for victim support services.

It is expected that the TWG will be chaired by an appropriate senior officer responsible for coordinating and managing at least some elements of the anti-human trafficking response of that particular Partner Country. It is nevertheless also suggested that the option of a rotating chair should be considered to promote teamwork and a multi-agency approaches, in a similar way to the rotational arrangements used by the SOMTC and HSU process.

The TWG will meet at least quarterly, and more often as deemed necessary. Observers may be invited to attend TWG meetings as deemed appropriate by the TWG chair. However, it is expected that UNODC and representatives from non-government victim support agencies should normally be invited, at least in relation to specific agenda items relevant to their work.

Secretariat support for TWG meetings will be provided by AAPTIP through the CPC.

The primary responsibilities of the TWG will be to:

1. Provide ongoing strategic advice and guidance regarding the allocation and management of AAPTIP resources to ensure they are effectively used to help achieve substantive results in line with national anti-trafficking action plans;
2. Prepare annual work plans and budgets for the use of AAPTIP resources, with support from CPC and the ISP, based on identified priorities in line with national anti-trafficking action plans;
3. Identify and propose specific activities to be supported through the flexible fund, based on the approved guidelines;
4. Mobilise the personnel and financial resources of the Partner Country required to support implementation of agreed priorities;
5. Provide key stakeholders, including other Partner Countries, ASEC and the ISP with access to relevant information regarding such things as:
 - a. National trafficking policies and plans,
 - b. CJS data on trafficking cases, including gender disaggregated data and data on victim support services,
 - c. Activities undertaken and results achieved related to strengthening national capacities to combat trafficking, and
 - d. The results achieved through the use of flexible funds.
6. Regularly review implementation progress of AAPTIP supported activities, including with respect to implementing gender and rights based approaches, and contribute to the preparation of six-monthly and annual progress reports.

4.2.3 AusAID Partnership and Advocacy Manager

It is proposed that AusAID will appoint a Partnership and Advocacy Manager (PAM) for AAPTIP to be based at the Australian Embassy, Bangkok. The PAM will not be a project resource but an Australian government representative engaged for the purpose of re-inserting AusAID's place in policy dialogue settings in the region, particularly at the strategic level. The role would be a careful balance of:

- a. **Technical and advocacy inputs:** These would be delivered in key meetings and forums where traditionally ARTIP would have provided the Australian 'face', such as regionally at the SOMTC TIP WG; and nationally at selected TWG meetings, and engagements with national committees on trafficking.
- b. **Management of strategic relationships:** The PAM is intended to 'match' Australia's considerable investment in trafficking with an Australian government presence and capacity to influence strategic discussions in the region. The PAM would provide an opportunity for whole-of-government partner interaction in the region regarding AAPTIP and trafficking in general, without the need for the ISP to be involved in that dialogue. The PAM would also have a role in reporting these discussions back to Canberra - AusAID and whole-of-government partners - in order to ensure Australia is abreast of contemporary developments in the region.
- c. **Non-ODA country engagement:** The PAM will monitor the regional environment with regard to trafficking issues and coordinate with the Australian missions in Singapore, Brunei and Malaysia. This would include the PAM seeking policy guidance on how AAPTIP should engage with these three countries as needs and opportunities arise, and then ensuring that such guidance was adopted by AAPTIP. The PAM will also identify strategic opportunities to integrate the non-ODA country position within regional policy dialogue settings.
- d. **Inter-regional issues:** The PAM will also monitor the inter-regional landscape on trafficking to identify and pursue opportunities for inter-regional information exchange and collaboration on trafficking issues. This will enable AAPTIP and its key stakeholders to share information and benefit from knowledge exchange in a strategic and targeted way with neighbouring bodies such as the South Asian Association for Regional Cooperation (SAARC) and Organisation for Security and Cooperation in Europe (OSCE) without AAPTIP being distracted from its regional and national focus.
- e. **Key policy oversight:** The PAM will also monitor the extent to which key AusAID policies are being integrated into AAPTIP and the work plans it supports. Of particular importance will be the focus on Disability-Inclusive Development and Child Protection Policies, including their subsequent revisions.
- f. **Whole of Government Partner Coordination:** The PAM will provide a key point of policy-level interface between AAPTIP, AFP, AGD, and DFAT, ensuring that these critical stakeholders are aware of the current and future directions of AAPTIP and to discuss ongoing opportunities for collaboration and harmonization.

The PAM will have no role in managing contract performance of the ISP as this would be the province of the AusAID program manager. But the PAM would need to keep abreast of the relationships being developed by the ISP, carefully watch their growth, and ensure that Australia had entry into these relationships. The ISP's adjunct advisory support ASEC will also the activities of the PAM and, whilst reporting to the Team Leader on project issues, will also liaise closely with the PAM with regard to regional engagement, activities and relationships at the ASEC level.

4.3 Financing arrangements

Details, including an estimated annual cash flow, are provided at Annex E. An ISP will be engaged by AusAID to manage AAPTIP resources on behalf of AusAID. The ISP will manage and account for expenditures made in line with GoA financial management and procurement regulations. Specific obligations of the ISP will be specified in a contractual agreement which will include a Scope of Services (SOS) and Basis of Payment (BOP) which are attached in draft as Annexes F and G respectively. Arrangements for managing the flexible fund are described in section 4.1.6.

The financial and in-kind contributions of individual Partner Countries will be specified in memoranda of subsidiary arrangements or other formal agreements with the GOA. However, in principle it is expected that partner governments will generally provide for:

- A designated AAPTIP national focal point at senior official level, such as the Chair of the TWG;
- All salary and associated costs of TWG members, including their participation in TWG meetings;
- Counterpart budget for implementation or further dissemination of AAPTIP supported products, including but not limited to recurrent costs of maintaining initiatives such as new training courses, enhanced data collection systems, and improved victim support mechanisms;
- In kind support for establishment of AAPTIP country offices including office space and basic utilities; and
- Domestic travel costs of participants attending national level workshops and training events sponsored by AAPTIP.

4.4 Monitoring and Evaluation

4.4.1 AAPTIP Theory of Change

The AAPTIP program design builds on one of the five objectives of Australia's 2011 Aid Policy which states that effective governance, which improves access to justice and human security, is a prerequisite for development and poverty reduction. As outlined in section 2.2.3, AAPTIP also complements the 2011 to 2015 Australian East Asia Regional Strategy objectives of 'improved capacity of regional organizations and a 'stronger and more effective partnership between Australia and regional organizations to tackle priority regional issues concentrating on...trans-boundary issues including...human trafficking...;

Australia contributes to criminal justice system strengthening to improve protection of poor and disadvantaged groups from corruption and to provide them with opportunities for redress and compensation. Supporting TIP is an entry point to strengthening regional government responses to social protection challenges. AAPTIP will play a key role in the overall strategy of the Australian Government to reduce human trafficking through capacity building in of the criminal justice sectors of ASEAN member states.

The goal of AAPTIP is ‘to reduce the incentives and opportunities for trafficking of persons in the ASEAN region’. The assumption is that a criminal justice system, which features effective investigation, prosecution and sentencing following conviction, is a powerful disincentive to potential perpetrators of human trafficking because the risks of trafficking under such a system outweigh the rewards. In addition, a victim sensitive criminal justice system, which affords poor and excluded groups physical security and greater access to information, reduces their vulnerability and hence the opportunity to be trafficked. Further, an effective criminal justice system can keep victims safe and protected from corrupt practices, increasing their likelihood of testifying in trafficking cases and improve overall system effectiveness – another disincentive to trafficking. A further assumption is that AAPTIP will work to increase the capacity of its regional and national partners (ASEC, SOMTC TIP WG, HSU and TWG) through a variety of methods including technical assistance, legal expertise, bringing partners together to learn from one another, research, training, mentoring, and by involving partners more directly in knowledge management and monitoring and evaluation. AAPTIP will use a facilitative approach through which partners will mentor each other by sharing approaches and techniques as well as through access to technical knowledge provided through the ISP.

AAPTIP is designed to address 7 overarching problem areas. Section 2.3 outlines these problems. The theory of change in AAPTIP is that addressing these deficiencies through strengthened capacity at regional and national levels will result in improved legislation, systems and abilities of police, prosecutors and courts to respond to human trafficking and the needs of trafficking victims. In summary, the theory of change for AAPTIP is that strengthened judicial system capacity, through partnering and cooperation, technical support, and improved information reliability, will contribute to reducing incentives and opportunities for trafficking in persons in ASEAN.

This theory of change assumes that advisory personnel will work with the key partners who contribute to annual national plans in each country to achieve the goal and key outcomes of AAPTIP. It also assumes that AAPTIP coordinates with complementary Australian supported regional programs including TRIANGLE, UNIAP, MTV Exit Foundation and Project Childhood. It also envisages coordination with whole-of-government partners and initiatives such as Bali Process, in addition to synchronising with the activities of other donors and multilateral organisations.

As noted in the theory of change for AAPTIP, described diagrammatically in figure 5, each of the 7 outcomes will be achieved primarily through capacity building activities undertaken with and by partners in particular.

Outcome 1: ‘Strengthened legislative frameworks support effective criminal justice responses to trafficking’ will be realized through provision of technical support regionally, to draft an ASEAN treaty or agreement, and nationally, to support drafting of nationally identified legislation which address gaps in national laws. For this outcome, change will be created primarily through technical assistance and support to drafters of regional agreements

or national legislation and sharing of knowledge and skills between the regional and national levels by the drafters. Success after AAPTIP will include a solid framework of regional agreements and national laws that meet accepted international standards for preventing and responding to trafficking and mechanisms which keep them contemporary.

Outcome 2: ‘Enhanced regional investigative and judicial cooperation on trafficking cases’ will be achieved through improved partnering and cooperation among key relevant stakeholders coordinated by ASEC with assistance from AAPTIP. For this outcome, the vehicle for change will be several levels of stakeholders working together to solve trafficking problems, many levels of stakeholders taking part in regional forums, learning workshops etc. Success after AAPTIP will include routine intra-regional and intra-national cooperation and shared practice between criminal justice and other officials on detection and prosecution of trafficking cases.

Outcome 3: ‘Expanded evidence base for policy development and decision making’ will be gathered through production and use of quality research products synthesized regionally by gathering, collating and acting upon data on performance of national criminal justice systems. Change will occur both through the process of gathering information as part of conducting the research and through the research informing professionals working on trafficking issues at both policy and practical levels regionally and nationally. Post AAPTIP, the reality will be robust and informed decision and policy making on trafficking issues that continues to meet evolving needs being undertaken at regional and national levels.

Outcome 4: ‘Trafficking cases investigated in an effective and responsive manner’ by establishing or strengthening national mechanisms and national procedures of evidence gathering as part of national capacity building through sharing at learning forums, mentoring, and training. Change will be created through implementing the above capacity building techniques. After AAPTIP, there will be sustainable capacity to undertake thorough and victim-responsive investigations into complex and protracted trafficking cases within the region wherever they occur.

Outcome 5: ‘Prosecutors contribute to an effective criminal justice response to trafficking’ through inclusion of strengthened victim-centred and gender responsive approaches developed as part of national level capacity building through learning events, mentoring, training etc. Through these means, prosecutors will gain an improved understanding of the victim perspective and a gender sensitive approach which will inform their approach to prosecution. For AAPTIP, success will be sustainable capacity for prosecutors to prosecute complex and protracted trafficking cases in a victim-sensitive manner wherever they occur in the region.

Outcome 6: ‘Trafficking cases are adjudicated fairly and without undue delay’ through improved national court systems which include fast tracked trials and are modelled after similar systems in other locations to which AAPTIP will provide access and context. The most effective way of creating change and fast tracked trials is for senior personnel in national court systems to be exposed to approaches demonstrated by professionals they perceive as peers. As a result of AAPTIP, success will be trafficking cases that are handled in a way which is fair to victims and suspects, and adjudicated in a timely manner reducing the necessity for housing victims in detention centres until cases are disposed.

Outcome 7: ‘Victims of trafficking are fully supported through the criminal justice system’ by implementing national systems that support victims at all stages of the criminal justice process. Creating this major change will be achieved through building national capacity, modelling, demonstrating and piloting victim responsive and gender sensitive approaches throughout the criminal justice system and fostering of key partnerships with victim support providers both inside and outside of national governments. For AAPTIP, success will be a criminal justice system that treats victims with respect and sensitivity at all stages of the process and provides adequate levels of support, assistance and information for the duration of their involvement in criminal proceedings. In turn, victims will help ensure that investigators and prosecutors have the necessary evidence to convict more perpetrators of trafficking.

During the inception phase, the ISP and key partners will develop annual work plans at both regional and national levels. At this time, the stakeholders will develop outputs and output level indicators that can be measured during the project life and in a mid-term and final summative evaluation.

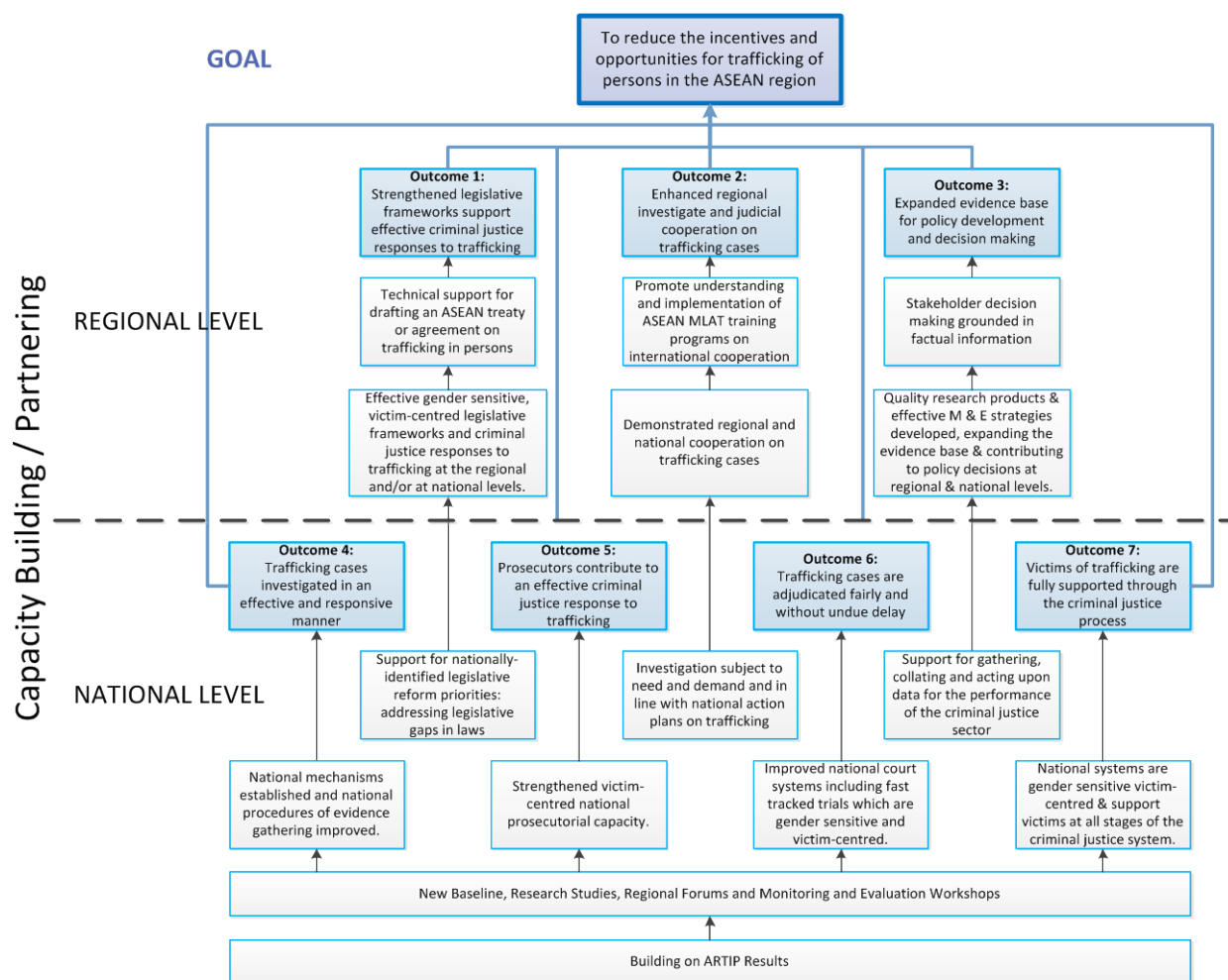


Figure 4: Theory of Change Concept

4.4.2 Overview of Regional and National Linkages

As noted in the Independent Completion Report, monitoring and evaluation posed a significant challenge for ARTIP. That evaluation noted that shortcomings were attributable to a combination of an overly complex monitoring and evaluation system; conflicting advice about how to carry out monitoring and evaluation; and insufficient resources allocated to the task. Under AAPTIP monitoring and evaluation has been given a central focus, including the provision of monitoring and evaluation capacity building to regional and national stakeholders. AAPTIP seeks to learn from, and build upon the experience of ARTIP where appropriate.

As with ARTIP, data on trafficking rates, complaints, arrests and prosecution remains difficult to obtain and independently verify in ASEAN countries and regionally. Given this weakness, ARTIP's experience was that the project did not have sufficient financial or human resources allocated specifically to carrying out monitoring and evaluation data gathering analysis. Acknowledging this experience AAPTIP will have a Regional Monitoring and Evaluation Advisor and trained monitoring and evaluation officers in each country office to ensure that quantitative and qualitative monitoring and evaluation data can, and will, be collected and analyzed. Further they will provide local capacity building to ensure these new practices are institutionalised. Similar to ARTIP, AAPTIP seeks to build on the trust achieved among its partners including policy makers at ASEAN and national levels and law enforcement officials, prosecutors and judges. Some other aspects of the ARTIP Monitoring and Evaluation Plan have been incorporated into the AAPTIP system but others, such as the Case Analysis System, were found by ARTIP to be overly complicated and did not result in the planned deliverables, so have not been included.

ARTIP carried out baseline surveys against which they measured progress towards results. The ARTIP baseline of June 2011 will be used as a starting point for AAPTIP and will be reviewed and information gaps identified and recalibrated for future use. In addition, the existing baseline data will be supplemented with an assessment of victim sensitivity and gender responsiveness of the criminal justice system response to trafficking. An assessment of existing national mechanisms for managing victim participation in criminal proceedings will also be undertaken, since there is evidence to support the inter-relationship between victim protection and improved criminal justice responses.

AAPTIP links its outcomes to the International Quality Standards (IQS) which are expressed in the 2011 Progress Report on Criminal Justice Responses to Trafficking in Persons in the ASEAN Region, as did ARTIP with earlier versions of the standards.

The baseline must also be consistent with the 7 outcome areas specified for AAPTIP. Other contributions to baseline data are two proposed research projects to be supported by AAPTIP.

Monitoring and evaluation strategies are often criticised for not addressing many of the issues noted above. The AAPTIP design presents 7 outcome statements with outcome level indicators but not output level statements or indicators which will be developed with regional and national work plans during the inception phase. To address the lack of output level specificity, the AAPTIP monitoring and evaluation strategy breaks outcomes into long term

outcome indicators - achieved towards the end of the intervention in 5 years - and intermediate outcomes against which progress can be measured annually throughout the program. The first iteration of outputs, output indicators and activities will be designed during the inception phase in consultation with AAPTIP partners.

AAPTIP is intended to develop systemic capacity across ASEAN member states which will result in traffickers (at multiple levels i.e. organised and individual) being identified, arrested, prosecuted, and convicted, and victims being well protected. With respect to how much can be attributed to a project like AAPTIP, the collaborative, relational nature of the project working with many partners makes demonstrating direct attribution difficult. In monitoring and evaluation terms, focus needs to be given to the contribution that AAPTIP has made to progress towards achieving project outcomes and its ultimate goal.

AAPTIP proposes a well-resourced approach to monitoring and evaluation that is aligned to regional and national systems and uses results based management (RBM) augmented by selected tools to ensure sufficient qualitative content is gathered. The monitoring and evaluation strategy is participative which reflects the AAPTIP overall design and the importance of partners taking part in data collection. Ideally, those who collect the data need to see monitoring and evaluation as integral to their own duties and responsibilities to ensure that the system is able to track results and inform project management. During the inception stage, proposed indicators at the outcome level will need to be revised as indicators at the output level are created.

The project will use a RBM approach to monitoring and evaluation augmented by some tools, protocols and techniques from outcome mapping but is not an integrated approach. RBM is a life-cycle approach to performance management that integrates strategy, people, resources, process and measurement to help improve decision-making, transparency and accountability¹⁶. Concepts, approaches, and information about monitoring and evaluation responsibilities are described in the Monitoring and Evaluation Strategy attached as Annex D. However, its theory of change, focus on boundary and strategic partnerships, contribution as opposed to attribution and the importance of behaviour and attitude change do borrow from approaches beyond RBM. The use of performance stories is also important since this method helps to put quantitative data such as numbers, statistics (headline data) into perspective and give it meaning. Stories serve to put measures in context and to provide explanations for numbers and other quantitative success indicators. It is on the basis of these performance stories that project stakeholders gain a greater understanding of the changing realities of program operations.

The monitoring and evaluation approach will be operationalised and implemented in a way which is effective and efficient. Starting with regional and national monitoring and evaluation forums in which activities, outputs and indicators are agreed, the trained national monitoring and evaluation officers, based in national AAPTIP offices, will work with (and train) monitoring and evaluation focal points linked to each TWG who will gather data from relevant activities. This will be rolled up regionally by the Regional Monitoring and

¹⁶ Werner, Meier, Results-Based Management Guide, RBMG, Gatineau, Quebec, May 2012

Evaluation Advisor who reports the results to all partners including AusAID (which demonstrates transparency and real partnership).

The approach of AAPTIP to implementation, monitoring and evaluation is consistent with the international aid effectiveness principles (see Section 4.1.1). AAPTIP will work with, and through, partner systems building linkages at regional and national levels requiring AAPTIP to have dual levels of monitoring and evaluation:

- a. **Regional level:** The starting point will be the ASEAN report on criminal justice responses to trafficking in persons. Under ARTIP this was largely undertaken as a project activity. Under AAPTIP the approach will involve progressively building ASEC and SOMTC TIP WG and HSU capacity to produce an insightful and robust regional report drawing upon national data and research without external technical assistance.
- b. **National level:** Monitoring, evaluation and reporting will be driven from the performance indicators and means of verification in TWG work plans, however ultimately these will be aligned with, and absorbed into, national plans of action for each Partner Country. To that end, the national partners of AAPTIP will also include the national committees on trafficking in persons.

Sections 4.4.3 and 4.4.4 describe the outcome statements at the intermediate and long term level linked to the IQS at the regional and national level. These outcomes are also described in the AAPTIP logical framework in Annex D. The AAPTIP design ensures that gender is structurally integrated into all aspects of the program and is explicit and visible throughout the project design, implementation, monitoring and evaluation. Gender is integrated into the core program framework and the outcomes and is described in detail in Annex E.

4.4.3 Regional

AAPTIP includes three regional outcomes which are also to be replicated at national level. Each is noted below along with an outcome level indicator that will be used to measure it. As explained previously, outputs and output level indicators have not been included because these will be developed with counterpart implementers as they develop their own work plans with AAPTIP assistance. To assist in this process, the outcomes are linked to possible indicators (quality standards) relevant to the issues included in the Progress Report on Criminal Justice Responses to Trafficking in Persons in the ASEAN Region. These quality standards will inform the basis for preparation of outputs and output level indicators. Other indicators can and will be created in consultation with regional and national partners during the inception phase.

Outcomes	Intermediate Outcomes
<p>Outcome 1:</p> <p>Strengthened legislative frameworks support effective criminal justices responses to trafficking (IQS 1).</p> <p>Long-term Outcome Indicator 1:</p>	<p>Result 1: ASEAN treaty, declaration, or agreement on trafficking in persons, consistent with international standards.</p> <p>Result 2: New or improved comprehensive legislation at the national level that supports an</p>

Outcomes	Intermediate Outcomes
<p>Effective gender sensitive, victim-centred legislative frameworks and criminal justice responses to trafficking at the regional and/or at national levels.</p>	<p>effective and victim-centred criminal justice response to trafficking</p> <p>Result 3: Nationally identified legislative reform priorities addressing legislative gaps in specialist trafficking laws and other relevant laws applied in human trafficking cases</p> <p>Result 4: - Gender review of laws and policies to ensure that they provide a robust framework for a victim-centred and gender responsive CJR</p>
<p>Linked to: IQS 1: <i>A comprehensive legal framework in compliance with international standards linked.</i></p>	
<p>Outcome 2:</p> <p>Enhanced regional investigative and judicial cooperation on trafficking cases (IQS 7).</p> <p>Long-term Outcome Indicator 2: Demonstrated regional and national cooperation on trafficking cases.</p>	<p>Result 1: Established regional network of specialist prosecutors on trafficking cases (building on the HSU process)</p> <p>Results 2: Evidence and information exchanged, and standard operating procedures localised, resulting in enhanced gender sensitive, victim-centred regional and national investigative capacity.</p> <p>Result 3: SOMTC TIP WG, HSU, and ASEC develop and implement their own work plans for strengthening regional investigative and judicial cooperation on trafficking cases.</p> <p>Result 4: Development of internal guidelines to provide investigators and prosecutors with practical step-by-step assistance on responding to, and interacting with, national authorities on trafficking.</p>
<p>Linked to: IQS7: <i>Systems are in place to enable effective international investigative and judicial cooperation on trafficking in persons cases.</i></p>	
<p>Outcome 3:</p> <p>Expanded evidence base for policy development and decision making (IQS7).</p> <p>Long-term Outcome Indicator 3: Quality research products and effective monitoring and evaluation strategies developed, expanding the evidence base and contributing to policy decisions at regional and national levels.</p>	<p>Result 1: Standardised monitoring and evaluation system including anti-trafficking data usable by AAPTIP partners.</p> <p>Result 2: National Plans of Action have well-developed performance monitoring and means of verification at the national level.</p> <p>Results 3: Pilot research undertaken on victims of trafficking and the political economic of trafficking.</p> <p>Result 4: Acting as a ‘facilitator of networks’ the ISP convenes a series of regional roundtables (a learning forum) which promotes cross-fertilisation, common understanding, and knowledge sharing, augmenting data collected by the monitoring and evaluation system.</p>

Outcomes	Intermediate Outcomes
Linked to IQS7: <i>Systems are in place to enable effective international investigative and judicial cooperation on trafficking in persons cases.</i>	

Figure 5: Regional Outcome Indicators

4.4.4 National

AAPTIP includes four outcomes at the national level. Ownership and accountability will vest with the national stakeholders with monitoring and evaluation systems aligned to them. Each is noted below along with an outcome level indicator to measure it. Again, output objectives and indicators will be set at the national level with each TWG. To assist in this process, these outcomes are also linked to possible indicators (quality standards) relevant to the issues included in the Progress Report on Criminal Justice Responses to Trafficking in Persons in the ASEAN Region. These quality standards can form the basis for the preparation of outputs and output level indicators by the partners in each member country, whilst other indicators can and will be created in consultation with national partners in each country during the extended inception phase.

Outcome	Intermediate Outcomes
Outcome 4: Trafficking cases investigated in an effective and responsive manner (IQS 2). Long-term Outcome Indicator 4: National mechanisms established and national procedures of evidence gathering improved.	Result 1: Demonstrated capacity built for effective and gender sensitive, victim-centred investigations. Result 2: Systems established with policies and operational procedures which enable national investigators to conduct proactive gender sensitive and victim-centred investigations. Result 3 – Strengthened coordination of criminal justice responses for appropriate victim and witness protection measures throughout criminal investigations.
Linked to IQS2: <i>Specialist Law Enforcement Capacity to Investigate Trafficking.</i>	
Outcome 5: Prosecutors contribute to an effective criminal justice response to trafficking (IQS 4); Long-term Outcome Indicator 5: Strengthened victim-centred national prosecutorial capacity.	Result 1: Improved capacity of prosecutors in terms of case load management, risk assessment, oversight of prosecutorial trial performance and access to technical assistance at the national level. Result 2: AAPTIP facilitated regular dialogue between investigators and prosecutors on human trafficking. Result 3: Prosecutors play a key role in ensuring victims receive support prior to coming to court and throughout the trial process.
Linked to IQS4: <i>A strong and well-informed prosecutorial...response to TIP.</i>	

Outcome	Intermediate Outcomes
<p>Outcome 6:</p> <p>Trafficking cases are adjudicated fairly and without undue delay (IQS 4);</p> <p>Long-term Outcome Indicator 6: Improved national court systems including fast tracked trials which are gender sensitive and victim-centred.</p>	<p>Result 1: Existing court rules, procedures and practice handbooks are refined to ensure faster but effective resolution of cases.</p> <p>Result 2: Fast-tracked cases are processed in a gender-sensitive and victim-centred manner and contribute to increased number of prosecutions.</p> <p>Result 3: Enhanced understanding of judges with respect to human trafficking demonstrated through gender sensitive and victim-centred adjudication of cases.</p>
Linked to IQS4: <i>A strong and well-informed ...judicial response to TIP.</i>	
<p>Outcome 7:</p> <p>Victims of trafficking are fully supported through the criminal justice process (IQS 6).</p> <p>Long-term Outcome Indicator 7–National systems are increasingly gender sensitive and victim-centred and support victims at all stages of the criminal justice system.</p>	<p>Result 1: Gender and age appropriate guidelines and systems ensure that victims of trafficking are supported throughout the criminal justice process.</p> <p>Results 2: Victim and witness support services are attached to or linked with justice agencies and designed to protect victim rights.</p> <p>Result 3: Strengthened victim access to justice and compensation through civil remedies.</p>
Linked to IQS 6: – <i>Victims of trafficking are fully supported as witnesses.</i>	

Figure 6: National Outcomes Indicators

4.4.5 AusAID Headline Results

Under the category of ‘Effective Governance’, key headline results have also been developed by AusAID. All data will be disaggregated by sex where numbers of people are counted and by disability where data exists. These results and the information gathering necessary to verify them will be validated during the inception phase (see Annex I) and inculcated into the overall monitoring and evaluation framework for AAPTIP, as follows:

Outcome 1: Implementation or realisation of national and regional laws, plans or policies to support effective CJ responses to trafficking. Target: 5;

Outcome 2: Number of cases in which there is demonstrated cross-border cooperation on trafficking cases. Target: 10% increase;

Outcome 3: Number of research activities undertaken which are used for policy development and/or strategic decision making. Target: 4;

Outcome 4: Number of trafficking cases that are investigated in an effective and responsive manner. Target: 10% increase;

Outcome 5: Conviction rate for trafficking cases. Target: 5% increase;

Outcome 6: Reduction in the time from reporting to case completion for trafficking cases. Target: 10% decrease; and

Outcome 7: Number of identified or assisted victims who are willing to cooperate in the criminal justice process. Target 10% increase.

4.4.6 Reporting and Review

The ISP will produce the following main reports and submit them for review and subsequent endorsement by the RPSC and/or AusAID:

a. Regular reporting:

- i. Inception report to AusAID:** Within four months of project commencement (the contract execution date), an inception report will be prepared which details progress in implementing inception phase activities, issues arising and implications regarding forward planning.
- ii. Annual work plans and budgets:** The ISP will prepare and submit a master plan that consolidates the capacity development support to be provided to each TWG and regional body in May each year, for subsequent review and approval by the RPSC and AusAID. Plans will follow the Australian financial year however the first annual work plan and budget, which is to be developed in the inception phase, may have a slightly longer or shorter duration, depending on the actual start date of AAPTIP and the time it takes to prepare the first consolidated set of annual work plans and budgets.
- iii. Annual and semi-annual progress reports:** Consolidated annual and semi-annual progress reports will be prepared by the ISP. These reports will, at a minimum, include an account of:
 - Any significant changes in the operating environment;
 - Activities implemented and results achieved to date;
 - A comparison of progress against plan, and expenditure against budget, to help assess performance;
 - An update on management, coordination and partnership arrangements, including how AAPTIP guiding principles are being supported and implemented;
 - Risk management and sustainability issues; and
 - Implications regarding future strategic direction, forward plans, partner agreements and any relevant contractual arrangements.
- iv. Expenditure reports:** Expenditure reports showing expenditure against budget will be annexed to the six-monthly and annual reports. These reports will include brief explanatory narrative highlighting any issues applicable to financial management including but not limited to, actual or potential over-runs or under-runs in expenditure.

- v. **Ad-hoc and technical reports or documents on specific issues:** Specific technical reports and documents will be produced and disseminated by the ISP, in line with agreed work plans. Such reports may include topics such as:
- Research results;
 - Survey results;
 - Comparative regional trafficking data;
 - Regional and national SOP and related operational guidelines; and
 - Case-studies on specific elements of the criminal justice response to trafficking.
- vi. **Activity completion report:** An activity completion report will be prepared and submitted 3 months prior to the completion of the activity, consistent with contracted requirements of the ISP. This will be prepared in a format specified by AusAID.

In addition to these reporting requirements, the ISP will establish and manage its own internal reporting mechanisms, and also actively engage in various informal communication and reporting activities with other stakeholders. Effective informal communication is also critical.

b. Independent reviews and evaluation:

- i. **Technical Advisory Group:** It is expected that a Technical Advisory Group (TAG) will be appointed by AusAID to assist with ongoing assessment of project progress and performance, and to provide independent advice on management or technical actions that may be required to maximise project effectiveness and the likely sustainability of benefits. The TAG will, in particular:
- Assess the extent to which the key principles of the project approach are being implemented in practice;
 - Seek feedback from key implementation partners on the quality of support being provided by the ISP; and
 - Review and comment on key reports and documents, such as the annual plans, six-monthly and annual progress reports.

The TAG is likely to consist of 2 or 3 people, individually contracted by AusAID, each with internationally recognised expertise in combating trafficking and/or supporting criminal justice system reforms in a South East Asian context. It is expected that TAG team members would provide up to 50 days input per year and it is important that the TAG is used judiciously, and that it does not impose unnecessary transaction overheads on implementing partners. While recruited by and reporting to AusAID, the TAG will also report in practice to the RPSC, the main decision making body with regard to the overall scope and strategic

direction of AAPTIP. The detailed terms of reference for the TAG will be developed in consultation with PRSC members and require their endorsement.

- ii. **Mid-Term Review:** AusAID may, taking into account the views of the PAM, TAG and Activity Manager, decide to undertake a Mid Term Review (MTR) of AAPTIP. An MTR could be used to assess, amongst other things, progress towards the achievement of long-term AAPTIP objectives; progress towards sustainable transition of AAPTIP activities to Partner Countries (such as integration of TWG work plans into national plans of action); appropriateness of capacity building approaches; and effectiveness of ISP support for regional and national work plan implementation. See also Section 4.5 – Sustainability Strategy.
- iii. **Independent Completion Report:** An Independent Completion Report (ICR) will be prepared by an independent team, contracted by AusAID, prior to the end of AAPTIP. The terms of reference for the ICR team will be developed in consultation with the PRSC, and will require their endorsement. The ICR team is nevertheless expected to assess AAPTIP against the OECD evaluation criteria of:
 - Relevance;
 - Efficiency;
 - Effectiveness;
 - Impact; and
 - Sustainability.

4.5 Sustainability strategy

The process of building sustainable institutional capacity to more effectively combat trafficking in the region is a complex and long-term endeavour, and will remain work in progress for all concerned stakeholders for the foreseeable future. Stakeholders must therefore be cautioned to have realistic expectations as to what can be achieved over the next 5 years. Accordingly, a key element of the AAPTIP approach to achieving sustainability is to promote and operationally support the principles of aid effectiveness, namely:

- a. **Support national and regional institutional ownership:** The existing and emerging trafficking policies and strategies of ASEAN and Partner Countries will provide the primary basis for AAPTIP priority setting and resource allocation. Project governance and coordination arrangements will provide implementing partners with strategic planning and decision making input to the allocation and use of AAPTIP resources, in partnership with the Government of Australia.

By the end of AAPTIP, it is therefore anticipated that all key initiatives supported by AAPTIP will have contributed directly to advancing both regionally and nationally determined trafficking priorities.

- b. **Align with existing and emerging institutional structures and systems:** Project resources will be used to support existing and emerging national and regional

institutional and management structures. Establishment of parallel decision making and implementation structures will not be undertaken, unless requested by and agreed with implementing partners for well-defined reasons (for example the TWG structure established under ARTIP will continue to be used initially, based on country demand and its proven utility).

By the end of AAPTIP, it is anticipated that TWG will have been ‘dissolved’, based on a mutually agreed AAPTIP exit strategies, and that the ‘products’ supported by AAPTIP will have been fully integrated into established national and regional institutional and management mechanisms.

- c. **Harmonise with the work of other development partners:** AAPTIP will actively engage with other key development partner and donor funded anti-trafficking initiatives in the region, including other GOA funded initiatives, to help ensure coordination of activities and promote mutually beneficial synergies. In particular, coordination with related work of such bodies as UNIAP, UNODC, ILO, IOM and World Vision, and victim support agencies and NGOs, will be given appropriate attention.

As AAPTIP is implemented, it is anticipated that other development partners will be fully aware of what AAPTIP has contributed in terms of strengthening national and regional capacities to combat trafficking and vice versa. Active opportunities for collaboration will have been pursued and these agencies will view GOA as a valuable collaborating partner.

- d. **Emphasise mutual accountability:** AAPTIP will be implemented, based on clear agreements which specify mutual accountabilities. AAPTIP will be accountable for providing partners with high quality technical advisory support, knowledge products, training, mentoring support, financial resources, clear and transparent reports on results achieved, resource allocation and utilisation. Implementing partners will be accountable for using these services and resources effectively, providing counterpart resources to implement systems improvements, and sharing relevant information with other partners, including the ISP and AusAID.

By the end of AAPTIP, it is anticipated that implementing partners will have demonstrated clear ownership of AAPTIP supported products, as evidenced by their use within established national institutions, and by financing their implementation and further dissemination (as applicable) on an ongoing basis.

- e. **Focus on results:** AAPTIP will be results oriented, ensuring at all times that the achievement of longer-term sustainable benefits are what drives resource allocation and management decisions, not just the provision of inputs and the implementation of activities. To do this, AAPTIP will be flexible and responsive to changing circumstances and needs while maintaining a clear focus on end results, and will use robust results focused monitoring and evaluation mechanisms.

By the end of AAPTIP, it is anticipated that there will be a clear empirical record and performance story that demonstrates the GOA contribution to substantive results and sustainable benefits.

As another feature of its sustainability strategy, AAPTIP will also:

- a. **Maximise use of local expertise and other resources:** Wherever possible and appropriate, AAPTIP will seek to utilise local expertise and resources to support activity implementation. For example, experts from within the region will be actively encouraged to engage in AAPTIP work, including as technical advisers. Opportunities will also be sought to leverage both Partner Country and other donor resources to support the achievement of AAPTIP objectives.
- b. **Ongoing assessment of recurrent cost implications of activities supported:** In close collaboration with its implementation partners AAPTIP will continuously assess the recurrent cost implications of any activities that are supported. The main point is to help ensure that if an AAPTIP supported initiative is intended to be continued into the future by Partner Countries, that the recurrent cost implications are carefully considered, deemed to be appropriate, and that practical options exist for mobilising the required recurrent funding from local sources.
- c. **Promote gender equality objectives:** The design of AAPTIP envisages the promotion of gender equality objectives as a part of its longer-term sustainability strategy. Sustained improved performance of criminal justice agencies in addressing trafficking depend, at least in part, on strengthening the ability of these agencies to analyse and address gender equality issues. For example, if an appropriate balance of men and women are involved in managing and implementing responses to trafficking within criminal justice agencies, it is more likely that the different needs of male and female trafficking victims will be taken into account on a sustained basis.

4.6 Risks and risk management

The main areas of risk, as identified by the design team, are profiled below. These are currently identifiable risks, and focus primarily on the risk management information needs of AusAID in assessing the level of risk at the commencement of AAPTIP, including during the inception period. It will be the responsibility of the ISP to prepare and regularly update an operational risk management plan, and actively implement it.

- a. **Political will:** Responsibility for project outcomes is heavily vested in the political will and commitment of partner countries. Engendering political will and the support that comes with it will be critical to the sustainability of capacity developed with AAPTIP assistance.
- b. **Anti-trafficking efforts continue to focus on low-level actors:** There is a risk that regional anti-trafficking efforts will continue to focus on minor players with little real impact on major players and therefore on the overall problem. To address this issue AAPTIP must include a focus on strengthening investigative capacity in countries of origin to investigate crimes by employment agencies and other institutional brokers that arrange employment abroad for migrant workers, when this is reported to have

resulted in trafficking. Financial investigative capacity will be an element of such capacity building efforts.

- c. **Managing the transition from ARTIP to AAPTIP:** It is important for AAPTIP to build on the results delivered, and relationships already established, by ARTIP. To do this effectively, AAPTIP must be mobilised and made operational in good time, and some key existing resources, such as CPCs who have demonstrated high levels of performance, need to be retained.
- d. **Partner country and agency agreements:** Securing new agreements or updating existing ones, such as Memoranda of Subsidiary Arrangements, with partner governments and institutions in a timely manner is critical. Such agreements can take a long-time to secure, given the relatively complex bureaucratic processes often involved and the need for political level endorsement. This requires that efforts be initiated at the earliest opportunity to secure such agreements, and that the lessons of the past be taken into account in how best to secure such agreements.
- e. **Quality of ISP team:** The quality of the ISP team is clearly critical to success, given the proposed aid delivery method. Timely selection and mobilisation of the preferred provider is also vital. To this end, AusAID must initiate the tendering process at the earliest opportunity, and ensure that potential providers have every opportunity to mobilise the best expertise possible irrespective of where in the world it must be drawn from. Also, given that the participating countries have a mix of civil and common law legal frameworks, it is important that the ISP be able to mobilise expertise familiar with both systems.
- f. **AusAID internal:** AusAID's own project appraisal and approval mechanisms can be a source of risk, if they are not effectively managed. The main risks relate to delays in decision making due to the extensive consultation required, and to the quality of either internal or external appraisal advice, if it is not well grounded in a practical understanding of the project operating environment, and what can be realistically achieved by a project of this nature. There is also a need to ensure that the scope of the actual contracting arrangements does not work contrary to effective implementation of key operating principles. To this end, balance must be struck between strict accountability requirements and the implementation of operating principles such as flexibility, partner ownership and alignment with local institutional structures and management systems.

Risks need to be continually reviewed and assessed, and therefore a main element of the overall risk management strategy is to maintain flexibility during implementation, so that the project is responsive to changing circumstances and needs on the ground. A robust monitoring and evaluation system is also a key element of effective risk management. A preliminary risk management matrix is provided as Annex B.

ANNEXES

- A. Summary of Consultations (removed from this version)**
- B. Risk Matrix (removed from this version)**
- C. Gender Strategy**
- D. Monitoring and Evaluation Strategy (including Appendix I – Tools)**
- E. Indicative Costs (removed from this version)**
- F. Scope of Services (removed from this version)**
- G. Basis of Payment (removed from this version)**
- H. Position Descriptions (removed from this version)**
- I. ISP Inception Phase Activities (removed from this version)**
- J. Lessons Learned**
- K. Donor Activity in Anti-Human Trafficking in the ASEAN Region**
- L. Summary of the Impacts of Human Trafficking**
- M. Research Topics (removed from this version)**