

AusAID Southeast Asia Region

# Asia Regional Trafficking in Persons (ARTIP) Project

AidWorks Initiative Number ING262

## Independent Completion Report

Peter Bazeley and Mike Dottridge  
Final Report, September 2011



ARTIP has been active in Cambodia, Indonesia, Lao PDR, Myanmar, Philippines, Thailand and Vietnam (but also encompassed all ASEAN Member States through regional activities on a self-funded basis).

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## Aid Activity Summary

Aid Activity Name	Asia Regional Trafficking in Persons (ARTIP) Project		
AidWorks initiative number	ING262		
Commencement date	1 Sep 2005	Completion date	19 Dec 2011
Total Australian \$	AUD20,319,657 [Cardno contract – AUD19,669,055 ~ 13/8/06 – 13/8/11]		
Total other \$	[In-kind contributions from 7 participating countries estimated at AUD415,430 in total]		
Delivery organisation(s)	Cardno Emerging Markets (Australia) Pty Ltd		
Implementing partner(s)	Governments of participating countries in Southeast Asia: <ul style="list-style-type: none"> <li>• Cambodia</li> <li>• Indonesia</li> <li>• Laos</li> <li>• Myanmar</li> <li>• Philippines</li> <li>• Thailand</li> <li>• Vietnam</li> </ul> and <ul style="list-style-type: none"> <li>• ASEAN</li> </ul>		
Country/Region	Southeast Asia		
Primary Sector	Legal and Judicial Development		

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## Abbreviations and Acronyms

ACR	[The contractor's] Activity Completion Report
AFP	Australian Federal Police
ANAO	Australian National Audit Office
ARCPPT	Asia Regional Cooperation to Prevent People Trafficking (ARTIP's predecessor project)
ARTIP	Asia Regional Trafficking in Persons [Project]
ASEAN	Association of Southeast Asian Nations
ASEC	ASEAN Secretariat
ATU	Anti-Trafficking (specialist police) Unit
AUD	Australian Dollar
AusAID	Australian Agency for International Development
CAS	Case Analysis System
CJS	Criminal Justice System
COMMIT	Coordinated Mekong Ministerial Initiative against Trafficking
DAC	Development Assistance Committee at the OECD
DFAT	Australian Government Department of Foreign Affairs and Trade
DIAC	Australian Government Department of Immigration and Citizenship
FLO	Front-line [law enforcement] officials
HSU	Heads of Specialist Units
IDC	[Government of Australia] Inter-Departmental Committee
ICR	Independent Completion Report
IOM	International Organisation for Migration
IQS	International Quality Standard(s)
KRA	Key Result Area
M&E	Monitoring and Evaluation
MC	Managing Contractor
ODA	Official Development Assistance
OECD	Organisation for Economic Cooperation and Development
QAC	Quality Assurance Committee
QAP	Quality Assurance Panel
SOMTC	Senior Officials Meeting on Transnational Crime
SOP	Standard Operating Procedures
TA	Technical Assistance
TAG	Technical Advisory Group
TIP	Trafficking in Persons
TWG	Technical Working Group
UN	United Nations
UNIAP	United Nations Inter-Agency Project on Human Trafficking
UNODC	United Nations Office on Drugs and Crime



## Executive Summary

ARTIP's purpose was to support the criminal justice systems of participating governments in the Asia region in their responses to people trafficking by strengthening national law enforcement, judicial and prosecutorial functions, encouraging bilateral and regional cooperation and enhancing regional and national legal, policy and research capacity.

It has been a good and successful project. It was, and remains, highly relevant and it has delivered beyond reasonable expectations. Its access to, and influence on, the highest levels of the criminal justice institutions of the region has been remarkable.

However the political, policy and institutional contexts in which the project has been operating are extraordinarily complex, as are the technical issues involved, and these were bound to determine the outcomes and impacts of project – perhaps more than had originally been understood.

While the ICR has rated ARTIP well or very highly under most evaluation criteria, and while it has been effective and efficient in its delivery, it is important to acknowledge that the translation of strengthened criminal justice system capacity into the effective prevention of people trafficking in the region (the project's goal) is a long-term process, and that we are only part of the way through that process. Different countries in the region are, and will continue to be, at different points in their political, social and economic development and this has direct bearing on when the impacts of a project such as ARTIP will be seen. Further, flexible and responsive, assistance is required at both national and regional (ASEAN) level.

Given the political, policy and institutional nature of the problem, the ICR was surprised by the extent to which AusAID had essentially contracted-out not just the technical delivery of the project but its policy dialogue as well. Any future delivery strategy should properly capture the political as well as the technical dimensions of an appropriate response.

In terms of effectiveness, the project's strengths included the high calibre of the expertise deployed and the degree of analysis of context and learning that the project displayed. This resulted in the project being welcomed and valued at both national and regional level, earning the respect and involvement of senior officials. Project outputs in terms of guidelines, manuals and training materials were of high quality, and in some cases were taken up internationally.

While unashamedly (in the present AusAID context) a TA and adviser-heavy project, this was appropriate to the need and was deployed efficiently and effectively.

The ICR had some concerns over the effectiveness, efficiency and thus sustainability of the model adopted, and assumptions made, in the training of front-line law enforcement officers, principally because of the scale of the requirement and the seemingly low likelihood of such effort being sustained or reaching the majority of officers. (200,000 in case of Thailand.) The design of any future program should be resourced to take a big-picture view on mass capacity-building among front-line officers, and consider alternative approaches and media.

A surprisingly small proportion (just 3%, or AUD670,000) of the project's financial resource was allocated to the flexible and responsive funding of countries' self-determined priorities. The development of a future delivery strategy should consider greater use of incentive funds, perhaps moving towards a substantive element of performance-linked aid. (As much of what has to be done to reach the stated goal depends on sovereign governments making difficult policy and public expenditure choices in support of effective anti-trafficking measures.)



The project struggled with its monitoring and evaluations systems, in part because of conflicting advice initially. By the end it had established a credible approach to performance measurement, but a lesson from the project's M&E methods is that more attention should be paid to measuring changes that the project intends to bring about (as well as keeping track of whether the expected outputs are delivered) and identifying the changes that are attributable to the project (or identifying the other drivers of change which also made a contribution).

Further reflections are contained in the report on the configuration of any future program of support and recommendations include:

- Continued integration of both regional and country-level support;
- The need to recognise political and institutional diversity across the region and to respond flexibly and appropriately to that, and not necessarily to focus on 'quick wins';
- The need to recognise the importance of a coherent whole-of-government strategy for Australia's support to the prevention of human trafficking, not least in the context of Australia's greater interest in the separate but potentially confounding issue of illegal migration;
- Greater use of performance-linked aid (as above);
- Wide-ranging analysis of mass training methods and approaches (as above);
- The need, in the immediate term, for some degree of continuity.

#### **Evaluation Criteria Ratings** (Further elaborated on page 23)

<b>Evaluation Criteria</b>	<b>Rating (1-6)</b>
Relevance	5
Effectiveness	6
Efficiency	5
Sustainability	5
Gender Equality	5
Monitoring & Evaluation	4
Analysis & Learning	6

*Rating scale: 6 = very high quality; 1 = very low quality. Below 4 is less than satisfactory.*



# Introduction

## Activity Background

1. ARTIP commenced in August 2006 and is due to be completed in August 2011. AusAID's financial commitment to the project is just over AUD20.3 million.
2. ARTIP's **goal** (to which other policies, programs and initiatives will also play a part) was to contribute to the prevention of people trafficking in the Asia region, as measured by [unspecified] changes in traffic flows.
3. The **purpose** – usually taken to describe the discernible and sustainable change (typically institutional, organisational and behavioural) that the project will bring about – was to support the criminal justice systems (CJS) of participating governments in the Asia region in their responses to people trafficking by **strengthening national law enforcement, judicial and prosecutorial functions, encouraging bilateral and regional cooperation and enhancing regional and national legal, policy and research capacity**.
4. The indicators of success at this level were specified as:
  - The improved identification and prosecution of trafficking offences;
  - Improved treatment of victims; and
  - Increased incidence of regional and bilateral cooperation.
5. ARTIP's objectives were to be achieved through four substantive areas of work:
  - i. Strengthening specialist and general law enforcement responses to trafficking by improving the operations and performance of both specialist anti-trafficking units and front line law enforcement officials.
  - ii. Strengthening judicial and prosecutorial responses to trafficking by increasing awareness of recent regional and international developments and by the provision of specialist technical advice and assistance.
  - iii. Enhancing innovative and collaborative approaches to trafficking by the development of improved legal and regulatory frameworks, strengthening policy and research capability, mutual information exchange, outreach and other awareness raising activities.
  - iv. Engaging new project and partner countries to maximise the project's regional goals while ensuring consolidation of previous achievements.
6. Following a 2009 mid-term review, there was explicit recognition of the complex system in which the project was operating, "made up of interactive constituent parts ... capable of autonomous change in ways that will influence and potentially change all of the other parts of the system". A new M&E Plan pointed to the "complexity and non-linear causality" of the project, suggesting that "change in these [complex adaptive] systems does not take place [in] a simple cause and effect linear fashion". Consequently the revised M&E Plan presented a set of five 'Key Result Areas' (KRAs), described as 'ARTIP's end-of-project-outcomes':
  - KRA 1: Law Enforcement Responses to TIP
  - KRA 2: Judicial And Prosecutorial TIP Actions and Procedures
  - KRA 3: Bilateral / Regional TIP Mechanisms
  - KRA 4: Bilateral / Regional TIP Frameworks
  - KRA 5: Improved Access to TIP Information

## Evaluation Objectives and Questions

7. An Independent Completion Report (ICR) provides a disinterested ex-post perspective on the relevance, effectiveness, efficiency, impact and sustainability of a development intervention, in line with DAC evaluation standards and norms. It also looks at three additional areas of particular concern to AusAID: the utility of M&E, the promotion of gender equality, and the extent of analysis and learning incorporated into project activities.
8. In this case, the ICR is also to inform putative AusAID plans to continue work in this field.
9. The Terms of Reference, a set of standard and bespoke-to-ARTIP evaluation questions, and an itinerary and meeting schedule (Annex 9), were established by AusAID. AusAID was also responsible for the selection and contracting of the ICR team.
10. The team noted the many factors external to the project's manageable interest that – in complex and unpredictable ways – serve to determine higher-level outcomes in terms of criminal justice responses to trafficking in persons. The ICR therefore also considered, to the extent possible, the relevance, efficiency and effectiveness of the project from an aid effectiveness and aid allocation perspective: that is to say, the extent to which project design, and the assumptions contained therein, represented 'the right thing in the right place at the right time', and properly understood the context and drivers of change, maximally to achieve (or maximally contribute to) the stated or assumed higher level objectives of Australia's regional efforts.

## Evaluation Scope and Methods

11. The team constructed a hypothetical theory of change and set of assumptions for the project at the level of its manageable interest (Annex 5), to be tested during the evaluation by addressing key questions that emerge from documents studied to date (Annex 8). These were adapted as further information emerged, particularly in the light of the one-day evaluation workshop held with the ARTIP early in the evaluation.
12. The ICR was not resourced to undertake primary data collection and analysis: it therefore largely depended on products of the project's own M&E systems, verified to the extent possible by intelligent interrogation of selected stakeholders' views and other secondary data.
13. In that it is to inform plans for further support, the evaluation was intended be *formative*: that is to say it focused on lesson-learning and continuous improvement rather than, simply, on public accountability. (Although providing such accountability is also important.)
14. The evaluation team:
  - Undertook extensive ex-ante study of project and other background documents.
  - Was informed by, and questioned, the project's own experts at a one-day evaluation workshop in Bangkok (agenda at Annex 6). At the end of that workshop the ARTIP team anonymously self-assessed (Annex 7) the project against the DAC and AusAID evaluation criteria, although it is the evaluation team's own and independent ratings that are provided at page 23 of this report.
  - Conducted semi-structured interviews with Australian, regional and selected partner government stakeholders in Indonesia, Thailand and Vietnam as well as some NGOs and UN organisations involved in monitoring the impact of counter-trafficking efforts. These included:

At the regional level:

- Members of the AusAID Asia Regional Program team;
- The ARTIP headquarters team, and some of its advisers;
- The United Nations Inter-Agency Project (UNIAP) (the secretariat for COMMIT);
- ASEC.

At the national level:

- Members of AusAID's bilateral country program teams;
- ARTIP staff based in the country;
- National counterparts:
  - Law enforcement agencies (mostly at very senior level);
  - Prosecutors;
  - The Judiciary.
- NGO victim support agencies;
- Officers from the Australian Federal Police and the Australian Department of Immigration and Citizenship.

15. AusAID staff accompanied the ICR team to some of its meetings.

16. The in-country work was conducted in Thailand from 27 to 29 June, in Vietnam from 30 June to 2 July and in Indonesia from 4 to 8 July 2011. One team member (MD) also attended an ASEAN conference on specialisation of the prosecutorial response to trafficking in persons, 11 to 13 July 2011.

## Evaluation Team

17. The evaluation team comprised:

- Peter Bazeley (Team Leader), an independent aid effectiveness and performance consultant drawn from AusAID's Monitoring and Evaluation Support Services Panel. He has had no previous contact or involvement with the ARTIP project or its staff.
- Mike Dottridge (Subject Matter Specialist), an independent human trafficking and human rights consultant. In this small and specialised field of expertise, he knows and is known to some of ARTIP's specialists but has had no direct, remunerative or advisory role in the project.

18. The team did not consider there to be any conflicts of interest.

19. The size and skills mix of the team were considered appropriate to the task.

## Evaluation Findings

20. This evaluation was as difficult as it was interesting, while the substance of the project is as important as it is complex. Before considering the ICR's comments on the normal DAC and AusAID evaluation criteria, it is important that the reader understands the issues involved in people trafficking and in any criminal justice response to it, and the political and practical complexities of working to strengthen those criminal justice systems in the region. To assist in this:

- Annex 1 summarises key **concepts** of people smuggling and people trafficking, and important elements of appropriate responses.
- Annex 2 outlines some of the political, policy and other **contexts** (internationally, regionally and in Australia) to which ARTIP's support to the criminal justice response needed to relate.
- Annex 3 discusses some of the **practical impediments** to bringing traffickers to justice that need to be overcome.

21. Certainly a crucial observation is that, given these contexts and impediments, supporting the criminal justice response to people trafficking across a region as politically, economically and socially diverse as Southeast Asia has to represent a long-term undertaking, with different forms of progress being seen in different places at different times. It is not a project with a clearly defined beginning and end, but a process that must evolve (and it has been) and respond to emerging needs and opportunities over time, as political and societal values and imperatives themselves evolve.

22. The ICR therefore assesses progress and issues at a notional point in time determined by AusAID's internal project and programming cycle: not at the point where one might reasonably be able to consider that the task has been completed.

## Relevance

23. Our discussion of relevance considers not just whether the project was 'in line with' stated policies and priorities, but whether – through its conceptualisation, design and implementation – the project represented the right thing in the right place maximally to contribute to higher-level development objectives. That said, there is no substantive AusAID national, regional or thematic strategy that covers this area of work.

24. **International society's** response to human trafficking has only relatively recently been institutionalised and become a clear international public good to which governments and donors are subscribing. The UN Trafficking Protocol was adopted less than 11 years ago, only six years prior to ARTIP commencing. There is much yet to understand about the nature and extent of human trafficking worldwide, but it is clearly a major societal (and economic) problem, and one that challenges the very heart of our society's values and responsibilities. Even during the period of the ICR, major international news stories, and evidence of international society's abhorrence of human trafficking, were being highlighted in the media in the USA, in Europe, in Southeast Asia, and in Australia. The world is waking up to human trafficking.

25. But as in any emerging international public good, it is to be expected that there will be differentials in the importance attributed to (and the ability to deal with) human trafficking between countries enjoying different levels of political, social and economic development. As with many other international public goods, there is therefore, *ex-ante*, a potentially strong justification for development assistance to be provided.

26. It is clear that **Southeast Asia** suffers a significant degree of human trafficking. There is a long history of migration for employment, legally and illegally, internally and across porous borders, and the absolute numbers of often uneducated people in poverty and social distress provide a ready source of exploitable labour. While the region's domestic and international sex industries (which in many cases contribute significantly to the economy) are infamous, trafficking is also a significant feature of a number of difficult-to-regulate regional industries such as offshore fishing and overseas domestic workers.

27. Already before the UN Trafficking Protocol<sup>1</sup> was adopted in 2000, it was apparent that substantial numbers of women and girls were being forced or duped into prostitution in many of the ten countries that belong to the Association of Southeast Asian Nations (ASEAN).<sup>2</sup> Since 2000, research in other sectors has shown that large numbers of men, women, girls and boys are in situations of forced labour in other economic sectors. While no dependable estimates of the numbers are available, on the basis of one recent report it is reasonable to extrapolate that the total in the ASEAN region is more than 80,000 individuals.<sup>3</sup>

28. The recent US State Department's report on Trafficking in Persons noted that:

- IOM and a leading Indonesian anti-trafficking NGO estimate that 43 to 50 per cent – or some 3 to 4.5 million – of Indonesia's overseas workforce are victims of conditions indicative of trafficking;
- According to IOM, labour recruiters, both legal and illegal, are responsible for more than 50 per cent of the Indonesian female workers who experience trafficking conditions in destination countries.

29. But it is also clear from this evaluation that Southeast Asian governments want to tackle the problem and are placing a priority on strengthening the criminal justice response to human trafficking. However, those countries are all at different stages of their social, political and economic development. None of ARTIP's focus countries is yet fully ready or equipped to tackle human trafficking robustly, effectively and efficiently, and each of those countries exhibits different lacunae in its criminal justice systems. There continues to be an important – and highly valued – role for assistance in this area, and that role will exist for many years to come, responding to different priorities at different times in different countries.

30. There are some political and policy statements on **Australia's** support to anti-trafficking, or the justification for it:

- Australia introduced laws in 1999 defining slavery and sexual servitude as crimes in order to address trafficking into the sex industry. The ratification of the UN Trafficking Protocol in 2005 led the Government to introduce new offences of trafficking and debt bondage.
- The Australian Government's 2009 Anti-People Trafficking Strategy fact sheet is clear in its statement that, "People trafficking is a complex crime and a violation of human rights. The Australian Government is committed to combating this crime and providing victims with appropriate and humanitarian support. People trafficking is a very different crime to people smuggling".
- Foreign Minister Rudd reportedly commented (at a World Vision event in Canberra in February 2011), "We still find around the world today we have a real problem with slavery. We have a problem with bonded labour and we have a problem with trafficking, sex trafficking, in particular involving children. And ... an important part of

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<sup>1</sup> The United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN Convention on Transnational Organised Crime (2000).

<sup>2</sup> Lin Lean Lim, *The Sex Sector: The economic and social bases of prostitution in Southeast Asia*, International Labour Office, 1998.

<sup>3</sup> A recent UNIAP report that collected information from Cambodians who had just been expelled from Thailand estimated that, "In 2009, among 89,096 Cambodians deported from Thailand, it is estimated that there were at least 20,492 Cambodian trafficked persons ... Of those 8,286 were worst cases, where migrants were deceived into the worst labour conditions with no freedom of movement and no pay". Source: *Human Trafficking Sentinel Surveillance. Poipet, Cambodia, 2009-2010*, UNIAP 2010, page xviii.

the business of politics is to give voice to the voiceless ... That's part of our job through what we do with the foreign aid program”.

31. However, the emphasis and resources currently placed on stopping people from being smuggled (though not trafficked) into Australia possibly serves to reduce the relative amount of political and administrative attention to trafficking issues.

32. Senior managers from AusAID's **whole-of-government** partners (AFP, DFAT, DIAC) were clear about an alternative logic – from their perspectives – of investing in ARTIP: while people smuggling and illegal migration into Australia are their driving interests, they acknowledge that human trafficking is more important to partner governments in the region and that Australia's support to anti-human trafficking programs represents valued reciprocity for partner governments' support to Australia's illegal migration challenge.

33. While the AFP in particular has some alternative perspectives on delivery mechanisms, all the other whole-of-government agencies met by the ICR, in each country visited, stated their support for ARTIP. There are clear synergies and value-added. (But there are also some risks of confused messages and priorities, which are discussed later.)

34. The ICR is aware of arguments being put forward for and against investing in **regional** as opposed to **national** public goods. However it is the view of the ICR that ARTIP exhibited an appropriate and necessary balance between the two: it is clear that addressing human trafficking is – quite correctly – being treated as a regional public good, with ASEAN, just as it should be, in a normative, standard-setting, role. (In particular under the auspices of the Senior Officials' Meeting on Transnational Crime (SOMTC) (which ARTIP supports).) But the actual criminal justice responses need to be taken up at the national level, within the context of sovereign law-enforcement, prosecutorial and judicial systems. Both national and regional responses are required, and one would not be sufficient without the other.

35. While discussed further under 'Efficiency', the ICR is of the opinion that support predominately in the form of **expert technical assistance** (or advisers) was, in this case, the most relevant form of assistance: expertise and know-how is what was required, and is what was valued.

36. The ICR does however consider there to be scope for greater use of performance-linked aid in any future program of support. (Discussed further at para 79.)

37. ARTIP's influence on high-level policy and judicial processes was due to the relationships and trust that its advisers built up during implementation with their counterparts at the most senior levels of the criminal justice systems in the countries of the region, and with ASEAN.

38. However, this last point highlights one of the ICR's most intriguing observations, which is that, notwithstanding the depth and complexity of the political intents of Australia's interest in human trafficking in the region, AusAID to all intents and purposes **contracted-**

The respect with which anti-trafficking specialists in ASEAN countries and elsewhere hold ARTIP was apparent at the July 2011 ASEAN Workshop on Criminal Justice Responses to Trafficking in Persons, in Singapore. This was attended by ASEAN Deputy Secretary-General Sayakane Sisouvang and by the Philippines' chair of SOMTC, as well as by representatives from prosecution services or ministries of justice of all ASEAN Member States. The UN Special Rapporteur on trafficking in persons, Joy Ngozi Ezeilo, also attended throughout and the keynote speaker in the opening session was the US Ambassador-at-Large (from the US State Department's Office to Monitor and Combat Trafficking In Persons), Luis CdeBaca.

The workshop generated a series of recommendations on the benefits of specialist prosecutors dealing with trafficking cases and also commented on a proposed ASEAN training curriculum for prosecutors with respect to international cooperation. The results were referred to SOMTC for formal adoption by ASEAN at the end of July. At the end of the workshop, the ASEAN Deputy Secretary-General remarked "All of us highly appreciate ARTIP" and referred to ARTIP as a "flagship" for ASEAN and others.



out its policy dialogue to the contractor's team of technical experts. We hasten to emphasise that the ICR found absolutely no suggestion of improper or inappropriate representation of political or policy interests. We simply raise the issue as an example of the donor viewing the fix as a technical one, whereas it is clearly – in the first instance – a political and policy one.

## Effectiveness

39. The project intended to drive change in the criminal justice systems of seven countries to end impunity for traffickers. The project's goal and purpose were "to contribute to the prevention of people trafficking in the Asia region" and "to support the criminal justice systems of participating governments in the Asia region in their responses to people trafficking by strengthening national law enforcement, judicial and prosecutorial functions, encouraging bilateral and regional cooperation and enhancing regional and national legal, policy and research capacity".

40. The project achieved its purpose and made a contribution towards preventing people trafficking in Southeast Asia, though the extent of this contribution is impossible to measure (as it has also so far proved impossible to measure the contribution of other prevention efforts). It did indeed drive change, although little evidence is available yet that it brought about a significant reduction in the impunity enjoyed by traffickers. However, its effects undoubtedly made it more likely that traffickers would be detected and brought to trial in most of the countries concerned.

41. ARTIP started with five components which outlined what was to be done (e.g., "Strengthen judicial and prosecutorial response to trafficking..."), rather than being specific about what would be achieved by the end of the project. Two components focused on strengthening law enforcement responses to trafficking at national level, while two more were concerned with regional developments. (A fifth was concerned with project management.)

42. Once various systems for monitoring the project had been tried and found deficient in 2007 and 2008, concern was expressed that the project's "end-of-project-outcomes" had not been identified with enough precision. In 2009 a revised M&E plan set these out in five "Key Results Areas", recognizing explicitly that different countries would achieve different levels of result and that different countries would proceed at different speeds towards the ideal results. It predicted what the situation would be two years later at the end of the project in 2011.

43. The ACR reports on the project's achievements against both these yardsticks, focusing on the Key Results. The following sections review and compare the five

AusAID's approach to 'policy dialogue' is currently being evaluated by the Office of Development Effectiveness. The work is at an early stage but its preliminary analysis defines policy dialogue **negotiation over the allocation of values**, often against a backdrop of power and knowledge imbalances.

That negotiation follows stages of agenda-setting, identification of policy options, and then policy implementation, with **relationships** underpinning all three. Critical factors are seen to include clarity of intent, the balance of 'negotiating capital' (legitimacy, credibility, skills, dependencies and leverage, etc.), the quality of the evidence base, and the appropriateness of negotiating fora.

Throughout, the process is both **political** and **technical**: political because it is about the relative allocation of societal **values** by sovereign states (and the extent to which each is prepared to accept compromise and the other party's perspectives and priorities); technical because policy must be based on evidence, appropriately presented, and – ultimately – on the ability and capacity of institutions to implement it.

One can readily see in ARTIP both of these ingredients – political 'values' being negotiated on behalf of citizens and society and technical fixes in policy implementation. However, AusAID itself maintained a relatively light touch on the political dimensions of the policy dialogue that was fundamental to ARTIP's impact. ARTIP was, rather, seen (by both AusAID and the contractor) as principally a technical fix, with the managing contractor assuming the central, pivotal role.



components/key results areas and comment on the extent to which ARTIP's objectives were achieved.

<b>Component 1:</b>	<b>Key Result 'Ideal Outcome' 1:</b>
"Strengthen specialist and general law enforcement responses to trafficking by improving the operations and performance of both specialist anti-trafficking units (ATU) and front line law enforcement officials".	"National law enforcement responses to TIP are appropriate, efficient and effective".

44. This component was successful in many respects, particularly in strengthening specialist Anti-Trafficking Units (ATUs) (which have been established in nine out of ten ASEAN countries). It ran into a predictable (and almost insurmountable) problem in trying to strengthen general responses to trafficking by front line law enforcement officials (FLOs), as there were so many of them to influence. The ACR reported (page 7) that 318 officials from eight countries had been trained by ARTIP advisers in delivering an ASEAN-endorsed training course for FLOs, that 294 national trainers had been trained to deliver the course and 68 courses had been conducted by ARTIP-trained national trainers in seven countries covering 2,018 FLOs. However, while many attended trainings, the FLOs who were trained directly or indirectly by ARTIP remain a drop in the ocean and seemed likely to remain so with the current training systems being used (even with an emphasis on training of trainers).

45. In addition to training FLOs to identify offences involving trafficking, the project could also have given attention to ensuring that FLOs were not used or manipulated by traffickers into supporting their crimes by arresting victims. This message would have to be conveyed discreetly, so as not to accuse law enforcement officials of being in league with criminals.

<b>Component 2:</b>	<b>Key Result 'Ideal Outcome' 2:</b>
"Strengthen judicial and prosecutorial responses to trafficking by increasing awareness of recent regional and international developments and by the provision of specialist technical advice and assistance".	"Judicial and prosecutorial actions and procedures in relation to TIP are appropriate, efficient and effective".

46. There was significant success at strengthening prosecutorial responses. The most prominent result was in Thailand, where three people accused of holding workers in forced labour in the Ranya Paew shrimp factory in 2006 were convicted at the end of 2010 and each sentenced to 20 years' imprisonment. There was less success in strengthening judicial responses, in part because judges are difficult to influence by conventional training methods (in view of their independence), but mainly because there was little point in trying to influence them unless and until both the investigation of trafficking cases and the competency of prosecutors had reached a stage that required a better response from judges. Further efforts will be required throughout the region to influence judges and improve the effectiveness of trials of traffickers.

47. By the end of the project, ARTIP staff recognised that in some countries the rule of law was so weak or non-existent that trials would remain unfair (rather than ineffective) however much training ARTIP was able to deliver to prosecutors and judges. While this is not a reason to stop monitoring and commenting (critically) on such trials (out of principle

and in the hope that standards can be improved throughout the ASEAN region), such efforts would probably continue to be ineffective. One conclusion drawn by project staff was that further efforts to influence prosecutors and judges should focus on destination countries to which people are trafficked (such as Malaysia and Thailand), on the grounds that brokers who recruit people in countries such as Lao and Myanmar for jobs abroad are not necessarily traffickers and it is difficult to prove charges of trafficking in countries of origin – whereas countries of destination have courts that are more independent, where an investment could result in fair and more effective trials.

48. While ARTIP staff drew the conclusion that it would be most effective to develop law enforcement capacity in countries of destination, the ICR team noted that there is an important distinction among countries of origin between those where recruitment is entirely informal and brokers usually operate on a small-scale (such as Lao and Myanmar) and others (such as Indonesia and Vietnam) where recognised employment agencies, some licensed and others not, are responsible for sending workers abroad into situations of forced labour (i.e., trafficking them) and where it would be feasible to conduct criminal investigations into such businesses.

<b>Component 3:</b>	<b>Key Result 'Ideal Outcome' 3:</b>
"Enhance innovative and collaborative approaches to trafficking by the development of improved legal and regulatory frameworks, strengthened policy and research capability, mutual information exchange, outreach and other awareness raising activities."	"Effective bilateral and regional mechanisms established, through which ASEAN Member States are able to engage with each other on matters related to TIP"

49. The project achieved significantly more at regional (ASEAN) level than was expected at the outset. ASEAN's Senior Officials Meeting on Transnational Crime (SOMTC) established a special working group to focus on trafficking in persons (along with only one other working group, focusing on terrorism). The adoption by ASEAN of the ASEAN Practitioner Guidelines on Effective Criminal Justice Responses to Trafficking in Persons early on in ARTIP's life (2007) meant there was a clear regional standard to cite when seeking to bring new countries on board and to influence practices in non-ARTIP ASEAN countries such as Malaysia.

50. However, the power of the ASEAN brand did not mean that ASEAN had the resources to replace ARTIP or to ensure that ARTIP's initiatives to improve informal police-to-police cooperation between countries and formal mutual legal assistance were sustained. A decision was made early on in the project, in the wake of a review in 2008 of the quarterly meetings of Heads of Specialist Anti-Trafficking Units (HSUs), to ask SOMTC to take the HSU process under its wing and to make it an official ASEAN institution. This was sound strategy. However, the decision at the same time to withdraw ARTIP funding from the HSU meetings was counter-productive. In theory each ASEAN State pays the costs of its representative attending HSU meetings, in line with general ASEAN practice. However, some participants did not obtain funding and the number of meetings fell from four a year to only two: the head of a specialised investigation unit in one country told the ICR team that he was under the impression that the HSU meetings had ceased altogether because ARTIP lacked the money to support them.

51. The HSU process has faltered and cooperation between specialist anti-trafficking police units in different countries is reported not to have advanced much. Although it was

scheduled to adopt a work plan in July 2011, it seems clear that the HSU process would benefit from on-going technical advice and, if possible, financial support.

52. It was fortunate, at a time when ASEAN's Secretariat (ASEC) was still not clear about the role it should play, that ARTIP had the administrative capacity to help prepare all ASEAN's initiatives concerning people trafficking, from SOMTC Working Group and HSU meetings, to workshops to agree standard training curricula and others products. Without ARTIP's support, the numerous trafficking-specific outputs would not have been achieved. The relatively 'hands on' approach adopted towards ASEAN and ASEC by ARTIP was therefore appropriate, as was the strategy of taking advantage of the opportunities offered by ASEAN and getting ASEAN's stamp of approval on more project products than could have been expected at the start of the project.

53. While the bulk of ARTIP's resources were invested in a 'bottom up' approach, training and working with law enforcement officials to strengthen their investigative and prosecutorial methods (4,389 people attending training sessions and a further 2,112 participating in other 'capacity building' sessions, [ACR, Annex 3]), the ASEAN brand given to some ARTIP products is reported to have been an important factor in persuading the authorities of some countries, such as Cambodia, to allow ARTIP to pursue its work. The branding was probably helpful in persuading the authorities in Malaysia to send law enforcement officials to attend ARTIP meetings at Malaysia's own expense.

54. Appointing project country coordinators who were nationals of the country concerned was vital for the project's effectiveness. By being based in the country's capital, knowing who is who in the CJS and who else is doing what on the issue of trafficking, the country coordinators gave this regional project a vital link into the situation at national level. In several cases they also maintained personal links with AFP officers based at Australia's Embassy in the country concerned and also acted (informally) as an effective channel of communication between ARTIP and AFP, providing AFP officers with more information about ARTIP's activities than might otherwise have been the case (and thereby reducing possible problems if the AFP or Embassy officials were inadequately informed about ARTIP's activities).

55. Component 4 differs from Key Result Area 4 more than in the other four cases.

<b>Component 4:</b>	<b>Key Result 'Ideal Outcome' 4:</b>
"Engage new project and partner countries to maximise the project's regional goals while ensuring consolidation of previous achievements."	"ASEAN Member States are using Project supported tools and approaches to coordinate and cooperate on TIP matters."

56. The project started in 2006 in the four countries involved in ARCPPT (Cambodia, Lao, Myanmar/Burma and Thailand) and expanded to include Indonesia from 2008, Vietnam from 2008 and the Philippines from 2009 onwards. This meant that there was relatively little time to bring about change in Philippines and Vietnam. The anti-trafficking responses in both countries had singular characteristics that made bringing about change challenging: the Philippines had already developed relatively strong anti-trafficking institutions with a narrow focus on sex trafficking, but the CJS was found to be relatively weak in implementing laws; the authorities in Vietnam were preoccupied with the situation of Vietnamese women in China and had a legal tradition that regarded any woman in prostitution as 'trafficked'.

57. It was a notable achievement that ARTIP was able to engage the authorities of one ASEAN nation (Malaysia) which is not a recipient of Australian Official Development Assistance (ODA), but where ARTIP staff and others were aware that, as a destination for

many trafficked migrants, there was an acute need to modify the authorities' responses to cases of trafficking and to coordinate them with its neighbours. After adopting a new anti-trafficking law in 2007, Malaysia began participating in ARTIP activities at its own expense, both attending ASEAN-convened meetings about trafficking, such as the July 2011 workshop on the specialist prosecutorial response to trafficking, and inviting ARTIP staff to conduct trainings in Malaysia, such as the April 2008 the ASEAN Awareness Program on Trafficking in Persons for Judges and Prosecutors in Malaysia, attended by 25 Malaysian prosecutors and judges. This was a good use of ARTIP staff resources, as well as ARTIP materials.

58. However, having achieved this, there may then have been some negative impacts from mixed messages received from the wider international community:

59. Having started with a focus on sex trafficking, by 2010 Malaysia's authorities had understood that the issue of "labour exploitation and trafficking" required attention (as their National Action Plan against Trafficking in Persons, 2010-2015 recognises explicitly). The 2007 law was however amended in 2010, in part in response to international pressure to include people smuggling – perhaps due to some lack of clarity over purpose. This represented a retrogressive step, as blurring the focus on trafficking in persons seems likely to reduce the effectiveness of anti-trafficking initiatives, particularly in a country such as Malaysia which has proved willing to act against irregular migrants, while doing less to detect traffickers or protect their victims.<sup>4</sup>

60. Concerning Key Result Area 4, it was apparent by the end of the project that ARTIP's tools and approaches were seen by ASEAN Member States (not just the seven participating in ARTIP) as key to developing consistent anti-trafficking responses throughout the region.

61. Component 5 and Key Result 5 share a common focus on effective management of ARTIP and use of its resources.

<b>Component 5:</b>	<b>Key Result 'Ideal Outcome' 5:</b>
"Implement and manage the project by effective contracting and management of long and short term advisers, planning, financial, activity and output management, and communication and coordination with all stakeholders."	"Project support (research, capacity development and information sharing) contribute to the development of stronger legal frameworks, better policy, common standards and more effective cross-border cooperation."

62. The division of labour between project national coordinators, based in each country (sometimes in the office of a relevant partner law enforcement unit), and technical advisors based centrally in Bangkok, appeared a good one. Technical advisors on policing or prosecutions were reportedly available when required at national level. For the purposes of identifying, maintaining contact with and influencing law enforcement officials at national level, a national acting as country coordinator was good strategy (rather than an Australian national or other foreigner). Although the faces of technical advisors were not Southeast Asian, this was not reported to have created difficulties with national counter-parts, as they seem to have recognised that ARTIP was providing technical advisers of the highest calibre available at international level.

63. The project's strategy of using high quality (and relatively expensive) technical advisers was effective. In part this was because the individuals concerned were leading

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<sup>4</sup> The 2011 US Department of State annual report on trafficking in persons criticised this amendment to Malaysia's anti-trafficking law. The report's chapter on Malaysia comments that, "The application and public presentation of the amendments to the trafficking law, however, threatens to further conflate human trafficking and human smuggling".

experts at international level. However, the project's specific strategy was to deploy individuals with substantial professional experience to influence national counterparts from the same profession: police to influence police, prosecutors to influence prosecutors, etc. This choice of messengers to drive change was vital and effective.

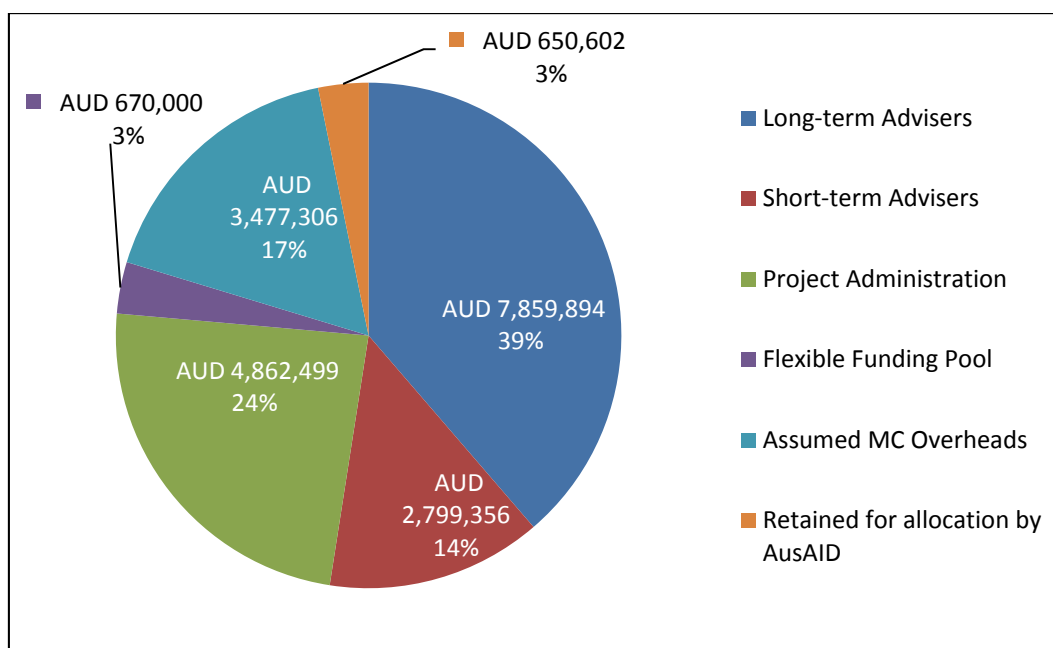
64. After specific weaknesses in investigations or trial preparations were identified during the CAS review, counterparts proposed to remedy these using funds from a Flexible Funding Pool (FFP), where a total of AUD670,000 was made available. This was an effective innovation that encouraged a sense of 'ownership' by project counterparts, notably the Technical Working Groups (TWGs), which recommended how some relatively small amounts of money (less than AUD100,000 for four of the seven countries) should be used. In some cases subsequent evaluation showed that the investments made had not been effective. Nevertheless, the principle that project counterparts should make informed decisions on how resources are used was appropriate and their proposals were not found by ARTIP staff to be frivolous. This sort of method, with funds made available subject to conditions relating mainly to their effective use (rather than just transparent accounting), is an appropriate one to build on in any follow-on project in the future.

65. While all of ARTIP's products were high quality, some may have been too good for the needs of the region, indicating a tension between the specific needs of the region and wider needs to develop specialised anti-trafficking tools at international level. For example, the ASEAN Handbook on International Legal Cooperation in Trafficking in Persons Cases (2010) filled a gap not only at the regional level, but at the international level (it was the first report on mutual legal assistance in the context of human trafficking offences and is appropriately presented as a manual for a practitioner to consult and use when handling a first case of this sort). However, it is long and detailed - making it accessible to English-reading specialists, but relatively unlikely to be read even by specialist lawyers in some ASEAN Member States. ARTIP staff recognised that, to make full use of the Handbook, it needed to be followed up by developing a training curriculum and delivering training (a process that was started at the final ASEAN workshop held in Singapore in July 2011).

66. While effective, further work to strengthen law enforcement responses to trafficking in Southeast Asia is needed to complete some objectives at national level. Specific needs vary (according to each country's progress in implementing the International Quality Standards, IQS), implying that future support should be flexible, based on a needs assessment and probably also conditional on certain changes being made. In numerous cases, the impact of training has been undermined by rapid rotation of personnel (particularly among law enforcement officials appointed to specialist anti-trafficking units), so further support might be made conditional on trainees remaining for longer in their specialist role. (Although, in practice, that is often difficult to ensure.)

## Efficiency

67. AusAID's financial commitment to ARTIP totalled just over AUD20.3 million over the period September 2005 to December 2011. Of this nearly AUD19.7 million was allocated to a contract with a Managing Contractor (MC), Cardno Emerging markets (Australia) Pty Ltd. The utilisation of these funds is shown in the chart and table below:



Long-term Advisers (MC)	AUD 7,859,894	39%
Short-term Advisers (MC)	AUD 2,799,356	14%
Project Administration (MC)	AUD 4,862,499	24%
Flexible Funding Pool (MC-managed)	AUD 670,000	3%
Assumed MC overheads	AUD 3,477,306	17%
<b>Total MC contract</b>	<b>AUD 19,669,055</b>	<b>(13/8/06 to 13/8/11)</b>
Retained for allocation by AusAID	AUD 650,602	3%
<b>Total AusAID commitment</b>	<b>AUD 20,319,657</b>	<b>100% (1/9/05 to 19/12/11)</b>

**Notes:**

- 'Project Administration' includes the costs of trainings, workshops and meetings and adviser/counterpart travel.
- Much of the Advisers' time was taken up with training.

68. The ICR is satisfied that ARTIP was managed, by its managing contractors, to get the most out of the inputs of funds, staff and other resources in most areas. However, at a time of considerable scrutiny over the costs and utility of TA, the ICR makes the following comments on the **appropriateness of an 'adviser-heavy' project design** and the value-for-money achieved:

69. The project was essentially about policy and institutional reform. Reform in itself is not expensive, but the intellectual capital and effort that is required to inform and encourage reform is. In this case the project was working – in part at least – at the top of central government bureaucracies in a politically-charged and sensitive area.

70. Highly specialised (and therefore relatively expensive) international TA was utilised strategically by locating it at a regional hub so that their time and intellectual capital was most efficiently made available across the region. Good use was made, through retained part-time inputs, of some of the highest-calibre specialist expertise that exists internationally. This both allowed ARTIP to benefit from global expertise and experience, as well as allowing ARTIP's experience and output to feed into the emerging global debate on human trafficking.



71. National TA, in the form of national country coordinators, was (from the ICR's limited exposure to it) of a high quality, assumed considerable responsibility, and was held in high regard.

72. Such short- and long-term TA, at a total cost of almost AUD10.7 million, represented 53% of AusAID's commitment. However, their inputs were spread over seven countries (plus ASEC) and five years. (Fewer years in some countries.) In very approximate terms that is about AUD300,000 per country per year.

73. That capital investment meaningfully contributed to significant transformational development – that is to say changes in the policies, institutions and processes or the 'rules of the game' – in criminal justice systems, and in capacity, throughout the region, (In some places more than others, as already discussed.) And that in a region with complex political and governance constraints, under which it is often difficult to produce results.

74. In the ICR's opinion, this represented an example of where adviser-heavy technical assistance was an *appropriate* instrument, and in this case delivered outputs that represented acceptable, and probably good, value for money.

75. ARTIP also leveraged additional resources and contributions beyond AusAID's contribution. The ICR was struck by the commitment and contribution from ASEAN and from Member States themselves, including (for example) Malaysia which was not an ARTIP focus (or ODA) country. Trainings in Cambodia were significantly expanded through cost-sharing, and agencies such as the EC and UNODC contributed to the development of common normative guidelines (for example the *ASEAN handbook on International Legal Cooperation in TIP Cases*.)

76. The ICR does however raise two questions in terms of efficiency:

77. Firstly, we were not wholly convinced that the somewhat **traditional approach to capacity development** – in the form (principally) of short residential courses cascaded-out through training-of-trainers – is (or was), for the cost involved, likely to create a sufficient critical mass of front-line law enforcement officers to have a quantitatively significant impact on trafficking – initially at least. And neither, do we feel, is it likely to represent an approach that can affordably or cost-efficiently be sustained by national police forces. To put this in context, front-line Royal Thai Police might expect only about 3-5 days' in-service training about every 3-5 years, of which a significant proportion will be taken up by compulsory firearms training. There are 200,000 police officers in the Royal Thai Police, and it is estimated that probably 1,000 of them have seen or had access to ARTIP training materials.

78. We recommend that any future program design considers wholly more efficient approaches to mass capacity development, including use of new media (internet, video, podcasts, staff magazines and journals, social media and networks, etc.). However, this was not a design mission, and the ICR team was not specifically configured to assess the training and capacity-building techniques employed: we have simply noted the numbers.

79. Secondly, the ICR notes the very limited allocation of funding to counterpart agencies to be used to support their own priority expenditures on developing anti-trafficking capacity. (i.e. the AUD670,000 region-wide Flexible Funding Pool.) Although, as already said, policy and institutional reform is not in itself expensive, we question whether a significant opportunity was missed here in terms of providing **performance-linked aid** (see text box below), incentivising and rewarding the difficult decisions and reforms that have to be made, but can only be made, by sovereign government departments. In the ICR's view, the kinds of reforms that ARTIP has been championing are ripe candidates for performance-linked aid – but at considerably greater scale than ARTIP's Flexible Funding Pool.



Achieving development at scale is in large part about policy and institutional reform, and adjusting public expenditure, in support of 'pro-poor' or other development objectives. While donor projects can help that process with technical and other assistance, hard choices still have to be made by sovereign governments.

AusAID and others have successfully used **Performance Linked Aid** (PLA) to provide **incentives** to partner governments to prosecute and implement agreed policy, legislative and behavioural reforms, which are then supported in their delivery through more conventional technical and other assistance.

While PLA should not constitute policy *conditionality*, it can be a highly effective stimulus to getting determinants of change that are outside the project's direct influence addressed.

In the context of ARTIP, one could readily envisage PLA being employed to incentivise the meaningful, mainstream, implementation of TIP protocols and standards – with the 'reward' of PLA relating to agreed measures of output (such as legislative reforms and the establishment of new CJS capacity, and the achievement of some of the ARTIP-defined measures of good CJS practice), as opposed to input (such as trainings undertaken or manuals produced).

80. **Development risks** were identified as the project progressed (for example in terms of the likelihood of outcomes being achieved in some areas in some countries due to political, governance and other constraints), and appropriate adjustments made.

## Impact

81. ARTIP's goal is to contribute to the prevention of people trafficking in the Asia region, as measured by changes in traffic flows.

82. However, any determination of changed traffic flows is going to be very difficult, subject to a number of technical considerations, and will need to be assessed over a very long term.

83. Firstly, empirical baseline **data on the numerical extent of human trafficking are lacking**: society's concerns about trafficking are not because there are 'n' known cases per year, but simply because it exists – as a societal abhorrence and an abuse of human rights.

84. What is clear though is that human trafficking is largely invisible, difficult to prove, and that what we see or hear about (some extrapolated figures are given in paras 27 and 28 above) is only the tip of the iceberg.

85. Secondly, the international community's **understanding of human trafficking and the factors affecting its prevalence is still developing**. The UN Trafficking Protocol was adopted less than 11 years ago. And indeed, societal values about human trafficking, and slavery more widely, are only now maturing and becoming universal: slavery was abolished in some countries within our current generation. (See text box, below.) Even if the technical investigatory, prosecutorial and judicial capacity is in place, a universal – or just regional – determination to eradicate human trafficking will only develop over time as societal values and pressures, and political will, develop in check with political, social and economic development in developing countries.

86. Indeed, human trafficking is fundamentally a response to market pressures and demands, in sometimes very competitive markets (as in the example of the shrimp factory mentioned in para 46 above). Part of the solution therefore goes well beyond the criminal justice system, and must embrace workplace and employment standards, export standards and codes of conduct ... and ultimately the education of importers and consumers.

87. ARTIP correctly became concerned that some aspects of international pressure and advocacy were probably promoting **unintended negative impacts**, and they subsequently highlighted this. For

- 1926 League of Nations Slavery Convention
- 1948 UN Article 4 of the Declaration of Human Rights bans slavery globally
- 1952 Qatar abolishes slavery
- 1962 Saudi Arabia abolishes slavery
- 1962 Yemen abolishes slavery
- 1963 United Arab Emirates abolishes slavery
- 1970 Oman abolishes slavery
- 1981 Mauritania abolishes slavery
- 2000 UN Trafficking Protocol adopted

example the sort of advocacy deployed by major players such as the US for greater numbers of prosecutions has in some countries possibly incentivised unfair and unsafe convictions where there is not yet the capacity to properly investigate and prosecute on the basis of evidence.

88. ARTIP has also highlighted the potentially negative impacts of confused messaging coming out of Australia itself, which has not, it seems, always clearly distinguished between the issues surrounding, and appropriate responses to, human trafficking as compared to irregular migration. (The latter constituting a much bigger whole-of-government concern in Australia than human trafficking.)

89. Some probably **unintended positive impacts** would include the extent to which ARTIP became such a respected source of international expertise and experience, both in terms of its behind-the-scenes work with, and influence on, ASEAN norms and standards and further afield in the wider international debate on trafficking, and the UN system.

90. In the ICR's view the political dimensions of promoting a sustained and appropriate criminal justice response to human trafficking have not been fully addressed in AusAID's, or perhaps wider Australian whole-of-government, policy dialogue. As highlighted in para 38 above, AusAID essentially contracted-out its policy dialogue to the technical team. It is important in part to see **impact in the longer-term as a whole of government policy and advocacy responsibility**: it is not just a technical fix.

91. To conclude, while impacts on traffic flows in Asia are some way from being measurable, for both technical and temporal reasons, the ICR's view is that ARTIP has had significant impact on some (but not all) of the essential precursors to the prevention of human trafficking across the region – and probably further afield too. Its activities have constituted, and further work will continue to constitute, an absolutely necessary (but not necessarily sufficient) contribution to the prevention of human trafficking in the region.

## Sustainability

92. Much of the discussion over 'impact', above, has some bearing on sustainability. The extent to which the flow of benefits deriving from ARTIP will be sustained after the project finishes will be different in different places, depending largely on the maturity of wider criminal justice systems and the political will of sovereign states to prevent and prosecute human trafficking.

93. But in the meantime, many of ARTIP's products and approaches have promoted sustainability: the establishment of definitive, ASEAN-branded norms and standards, the production of definitive training guides, training materials and handbooks (translated into the national languages of the region), the emphasis on training a cadre of competent national trainers in each country, for example.

94. But more substantively ARTIP has, to a considerable degree, contributed to genuinely *transformational* development, wherein policies, institutions and processes in the criminal justice systems of the region – the fundamental 'rules of the game' – have been adjusted and strengthened such that human trafficking is – viewed over the long-term – likely to be better identified, investigated and prosecuted in perpetuity.

95. For these reasons the ICR has rated sustainability as 'good' in the following section.

96. However it is important to set this in the context of the ICR's comments, in para 21 above, over the diversity of political and social demand across the region, the different policy and institutional constraints witnessed in different countries, and the long and variable timeframe that is required to bring about meaningful change.

97. Unless such a long-term and process-orientated view is taken, sustainability will be fragile in some places, particularly in countries that only recently joined the ARTIP effort. (Philippines and Vietnam, for example.)

98. The fact that an institution (such as ASEAN) has embraced a particular development (such as the HSU process or the SOMTC working group on TIP) with enthusiasm does not signify that it will be able to make resources available to finance and sustain the development itself. It is important not to assume that sustainability means that an institution can and will make resources available itself to sustain a particular development, especially if the institution in question is going through a period of rapid change (as ASEAN is) and does not have appropriate internal procedures to organise or finance institutional developments. In the ICR's opinion, ARTIP's funding support to meetings of the Heads of Specialist Units, for example, was prematurely removed: it is quite normal, and to be expected, that developing countries will place a lower budgetary priority on international public goods than might a developed country – for sound economic reasons ('free-riding', etc.). In the ICR's view it is valid for a donor to consider filling such a financing gap.

99. The ICR also has a lingering concern over the extent and sufficiency of the training program, and whether a sufficient critical mass of front-line officers has yet been established. (Para 77 above.)

## Gender Equality

100. According to the Project Planning Document, "The Project should seek to promote criminal justice responses to trafficking that respect the rights of all persons, women, men and children".

101. ARTIP reported implementing a gender strategy with four core principles, using a variety of tools to do so. The Gender and Development Action Strategy revised in 2010 emphasised the project's role in making trainees aware of gender issues in the context of trafficking and influencing personnel in the CJS in a general way about gender. However, the ACR described the key issues that the strategy aimed to influence in the following terms: "The [gender] strategy evolved to include more substantive issues such as [issue 1] promoting a role for female investigators within specialist units; [issue 2] supporting greater criminal justice attention to labour trafficking involving men and boys as well as women and girls; and [issue 3] developing gender awareness among prosecutors and judges, particularly with regard to the treatment of witnesses" (ACR page 18). The ICR team agreed that these were the key issues on which to seek an impact. ARTIP achieved some success with respect to issue 1, significant success on issue 2 and less on issue 3.

102. While the statistics on law enforcement officials who were trained by ARTIP (ACR Annex 4, page 31) show that the proportion of women trained across the whole project was only just over 20%, the proportions varied radically from country to country: in Indonesia just over half those trained were women, whereas in Lao the proportion was only 14%. The amount that project staff could do to affect this, without being in a position to change basic police, prosecution service or judiciary recruitment practices, was limited. However,

"It is not a project with a clearly defined beginning and end, but a process that must evolve (and has been evolving) and respond to emerging needs and opportunities over time, as political and societal values and imperatives themselves evolve."

(Para 21 of this ICR.)

while disaggregating the statistics of those trained according to gender was worthwhile (and implemented the gender strategy's undertaking to maintain a Gender and Development Database), the key lesson that needed to be learned was whether project staff were able to influence the gender outcomes, i.e., increase the appointments of women to sufficiently senior posts in specialist police anti-trafficking units in countries other than Indonesia and Philippines. It seemed clear that ARTIP staff repeatedly stressed the importance of recruiting (as well as training) women investigators, but was not apparent whether this had prompted change.

103. The potential contradiction between issues 1 and 2 was apparent in Indonesia and Philippines, where suspected crimes involving women or children were generally referred to women-headed police teams or police stations. These reportedly included all cases involving people trafficking, with the result that women investigators concentrated on cases in which women or children were trafficked, rather than men. The first step towards changing this – ensuring that the law recognised that adult men, as well as women and children, could be trafficked – was achieved, though in Vietnam (and possibly other countries) this had not yet changed assumptions among law enforcement officials.

104. Issue 3 (influencing prosecutors and judges) was an important one linked to IQS 6 ("Victims of trafficking are fully supported as witnesses"), where there was more progress with prosecutors than judges, but where a significant amount remains to be done. For example, Indonesia's anti-trafficking law reduces the number of witnesses necessary to convict a trafficker from two to one (i.e., a single victim-witness). However, we were told that the views of judges and the procedures they use have not yet changed to recognise that victim-witnesses in trafficking cases should be treated in a different way to victim-witnesses in other trials. Once again, the lesson that needed to be learned was about how much a project like ARTIP could influence what happened in practice once the right laws were in place.

## Monitoring and Evaluation

105. The project suffered initially from conflicting advice about monitoring and evaluation (M&E). While there are many inherent challenges to establishing an empirically robust method of determining the project's contribution to criminal justice outcomes and subsequent impacts on trafficking, some of the project's approaches were innovative and potentially very informative.

106. The International Quality Standards (IQS) which were developed in 2006 were an excellent yardstick for measuring the performance of national criminal justice systems and the action they took to end impunity for traffickers. Eight quality standards were identified towards the end of the ARCPPT project which preceded ARTIP and were presented in the ARCPPT/ ASEAN publication, *ASEAN Responses to Trafficking in Persons: Ending Impunity for Traffickers and Securing Justice for Victims* (April 2006). Within a short time of ARTIP's start, the project developed these eight points in greater detail. The eighth, "Donors work effectively" was not important for the purpose of monitoring the performance of CJS.

107. Although presented as quality standards which should be attained in all participating countries, the IQS represented an ideal towards which practice should be encouraged to change. As such, they represented targets as much as standards against which the project's achievements could be measured.

108. The revised ARTIP Monitoring and Evaluation Plan (2009) summarised the changing arrangements for M&E that were tried in 2007 and 2008 (page 2). Between April 2007 and May 2008 a combined internal/external review mechanism was tried, consisting of a Quality

Assurance Panel (QAP) and a Quality Assurance Committee (QAC). The 2009 M&E Plan noted that these were "too cumbersome". From July 2008 a Technical Advisory Group (TAG) was tried, one recommendation of which was to appoint a project M&E specialist. The TAG pointed out that there was a need for greater clarity about the project's expected "end-of-project-outcomes", but as the TAG did not continue it was not able to see this through.

109. In addition to clarifying what the project's expected "end-of-project-outcomes" were, the 2009 M&E Plan recognised that different countries could be expected to reach different standards (or outcomes) by the end of the project and that different countries would proceed at different speeds towards reaching the standards as a whole as well as towards individual standards. To measure the project's achievements it might have been helpful to develop a concept of 'value added' (i.e., comparing where each CJS was situated with respect to each IQS at the beginning of the project with where it was by the end of the project and what was the net change achieved. In effect this began to happen once predictions were made in 2009 about what levels of achievement (with respect to the IQS) different countries would achieve by the end of the project, rather than maintaining a common set of expectations for all seven participating countries. (Annex 4 summarises the findings of baseline studies with respect to relative change and 'value added' in each country).

110. The 2009 M&E Plan proposed refining the IQS as standards against which the project should be monitored, proposing alternative "results matrices". However, baseline studies had already been carried out scoring the performance of each country's CJS against the seven IQS and this form of measurement was retained for mid-term baseline studies (where they occurred) and for the final baseline studies in 2011. In the view of the ICR team it was sensible to retain this same framework for the duration of the entire project, even though there was a degree of 'disconnect' between what the baseline studies were measuring and the components or Key Results Areas presented in the project's M&E Plan.

111. The baseline surveys which were carried out when ARTIP started work in each country (in four countries in 2006, one in 2008 and two in 2009), again midway through the project (in the case of the countries that were surveyed in 2006) and the end (in all seven countries) constituted the main and most meaningful method for measuring the performance of each country's CJS. They provided a template for measuring change in the way a CJS responded to trafficking.

112. A weakness (albeit an understandable one) of the baseline surveys was that the issues on which they were actually scored were mostly ones that related to the country's legal framework – what was supposed to happen in theory – rather than what was reported to be happening in practice. For example, International Quality Standard 6 ("Victims of trafficking are fully supported as witnesses") contained 19 detailed points in its 2009 version (22 in 2011). Out of these, seven points were scored for the purpose of the 2011 Baseline Survey and, of these, five out of seven related to the framework of what was supposed to happen and only two to what was reported to be happening in practice (6.3.2 "Courts actively protect victim identity to the extent this does not compromise the rights of accused persons" and 6.3.4 "Free legal counsel is available and provided to witnesses throughout the judicial process").

113. So, while the IQS as refined in the draft 2011 ASEAN Progress Report on Criminal Justice Responses to Trafficking in Persons in the ASEAN Region have already been fine-tuned enough to deserve wide (international) dissemination and it would also be appropriate to draw the attention of others to the baseline study method for assessing how a particular CJS is performing against these standards, the specific scoring system used in the baseline studies would benefit from further development.



114. It was extremely important that the project's quality standards did not fall into the trap of assuming that greater numbers of investigations, arrests, prosecutions or convictions would necessarily constitute success. This is the message that parts of the international community continue to convey, creating a danger that law enforcement officials have an incentive to report as many arrests, investigations and prosecutions of suspected traffickers as possible (whether or not they really are traffickers), rather than focusing on the quality of police investigations and subsequent prosecutions. In Cambodia, for example, the number of convictions is reported to have fallen, but the quality of the trials of traffickers who have been convicted (and safeness of convictions) is said to have increased. This represents a success for ARTIP.

115. The Case Analysis System (CAS) enabled ARTIP staff to get feedback from law enforcement officials on how they had worked-up specific cases and this enabled ARTIP to learn about their strengths and weaknesses as practitioners. This was a research method (rather than part of the project's M&E systems) for obtaining detailed information on the performance of law enforcement officials and enabling ARTIP to bring weaknesses to their attention. By itself, this method might not be replicable in the countries concerned (due to the sensitiveness of the data obtained and the fact that it led to criticisms that some senior officials felt involved them losing face). However, the fact that the Flexible Funding Pool was introduced to finance measures to remedy the weaknesses that were identified might mean that there was enough of an incentive to repeat the use of this research method in the future.

116. Fortunately the project's formal M&E systems were supplemented by a variety of informal (or personal) monitoring systems that provided valuable information to the project about the impact it was having on law enforcement officials who had been trained. Project staff collected feedback from individuals who had been trained by ARTIP or with ARTIP training materials or, in one case, had worked closely with an ARTIP trainer in a form of mentoring (thereby improving the quality of a prosecutor's work) and found out what the trainee had or had not absorbed from training. In at least one country, ARTIP's country coordinator monitored the media for reports of investigations or prosecutions of traffickers and contacted the law enforcement official involved to ask for feedback on how helpful ARTIP's training had been. This and other informal systems could have been formalised to ensure that the fullest feedback information reached the project (if, for example, the format used by country representatives for recording feedback had been reviewed and improved by ARTIP headquarters).

117. The ICR team did not explore the full extent of the informal monitoring that occurred, but suspected that it was appropriate to include sources of information outside the scope of the project (i.e., who were not direct stakeholders in the project). This would include, for example, consulting reliable sources of information about the number of victims of traffickers being identified or supported in a partner country and any feedback available via victim support organizations from victims who had come into contact with law enforcement officials (about their experience of the CJS) and also from victims who chose to have no such contact (about their reasons for not talking to law enforcement officials). Such information was probably available informally to project staff, but could potentially be included more formally in order to assess what happens in practice regarding the two IQS that concern victims (IQS 5 and 6).

118. In general, a lesson from the project's M&E methods is that more attention should be paid to measuring changes that the project intends to bring about (as well as keeping track of whether the expected outputs are delivered) and identifying the changes that are attributable to the project (or identifying the other drivers of change which also made a contribution). For example, with respect to gender, the key lesson that needed to be learned

was whether project staff were able to influence particular gender-related outcomes (such as an increase in appointments of women investigators in police ATUs), whereas the main records that were kept concerned gender outputs (numbers of men and women who were trained).

119. A related lesson is that more attention should be paid to measuring how a CJS performs in practice, rather than whether suitable laws and procedures are in place (i.e., laws and procedures stipulating what should happen in theory, but which may have little influence on what happens in practice). To do so, it would be essential to consult sources outside the CJS itself, such as organizations providing support to traffickers' victims and others who are able to provide objective information about how the police, prosecutors or judges perform in practice. With hindsight, it was reasonable to focus attention on measuring the legal framework (using the IQS) at the beginning of the project. However, once the legal framework deemed essential (by the IQS) was in place, the scoring system that was used put too much weight on the legal framework and insufficient on practice. This is hardly surprising, in view of how little attention has been given to measuring change in practice in meaningful ways by anti-trafficking projects in other regions.

## Analysis and Learning

120. The management of ARTIP proved adept at adapting to changes in the project's environment and also according to independent reviews. As evidenced during the ICR's evaluation workshop, the ARTIP team were analytical, self-critical and had clearly been keen to explore ways of improving effectiveness throughout the project. ARTIP was a 'learning organisation' and – as they reported to the ICR – its currency and expertise were highly valued by its partners and stakeholders.

121. The project experienced problems with its monitoring and evaluation systems up until 2009. This caused frustration to project staff, notably when different advisers and bodies recommended different methods in the course of 2007 and 2008. Once advice on monitoring methods came from a single source (the M&E consultant appointed in 2009, whom the ICR team met in June 2011), the project followed the advice received. At the end of the project, a creative tension was still apparent in terms of what was to be monitored: the International Quality Standards that sought to measure the performance of the criminal justice system's responses to trafficking (which were what baseline studies assessed at the end of the project in 2011) or the project's expected outcomes ("end-of-project-outcomes"). Achievements with respect to the end-of-project-outcomes were reported in the ACR.

122. While it is entirely normal and desirable that the donor commission regular reviews and opinion, the project found some a diversity of opinion difficult to manage: *"...The sheer number of inputs and their inconsistent quality made it difficult for the Project and AusAID to properly follow direction and advice. Multiple country visits, by different groups of people, often asking similar questions, placed a considerable burden on counterparts. In some case, the perspective and approach taken by reviewers was very different..."* (ACR, p14). Some of the differences in advice were due to the nature of ARTIP: was it a conventional project with a clear set of outputs and outcomes that could be monitored by relatively conventional methods, or a mini-organization which was constantly reassessing what it should be trying to achieve (and taking advantage of new opportunities) and which was therefore bound to be more difficult to monitor?

123. One particular asset of ARTIP which proved difficult to monitor and the value of which was only recognised explicitly half way through the project, in 2009, consisted of the relationships of trust that were established between ARTIP staff and the senior government and law enforcement officials. These remained difficult to quantify, but it was a step forward



to recognise that without these relationships of trust, little could be achieved, that the relationships were perceived by officials to be quite personnel – with individual ARTIP staff – and that they were relatively precarious (i.e., they could be jeopardised by the wrong sort of publicity or criticism).

124. Project staff themselves reached the conclusions that it was not appropriate to invest in strengthening prosecutorial and judicial response to trafficking in countries where the rule of law is too weak to ensure fair trials. By May 2010, the draft ARTIP Exit Strategy (May 2010) noted “In many Project countries, TIP is investigated, prosecuted and adjudicated within weak and underdeveloped criminal justice systems that often fail to meet international standards”. Clearly this was always a risk requiring careful attention (although, in a country such as Myanmar/Burma, ARTIP was nevertheless able to identify individual law enforcement officials who were doing a good job, albeit not in a position to see initial investigations through to the stage of prosecution and conviction).

125. They also concluded that prosecutions of traffickers are generally more feasible in destination countries than countries of origin. However, attention should also be given to developing the capacity of police investigators (as well as others in the CJS) 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.

126. At the outset, the project had underestimated the obstacles to introducing certain novel policing techniques, such as the use of standard operating procedures (SOPs) with respect to particular crime types, but by the time of the mid-term evaluation project staff were well aware of the technical and cultural obstacles and the implication that it would take longer than ARTIP’s five years to bring about the changes necessary to adopt and implement SOPs on trafficking offences at national level. Securing agreement at HSU level to ASEAN region-wide SOPs was an important way of boosting the legitimacy of what might otherwise have been seen as an alien policing concept.

127. The project and AusAID responded in a suitably inventive way when the Case Analysis System (CAS) identified weaknesses in the performance of law enforcement officials on particular cases, by inventing the Flexible Funding Pool (FFP). This began a process which could and should continue in the future of delegating decision-making about the deployment of project resources to national level. It should be possible to make decisions by national institutions (such as the Technical Working Group) on how resources should be used conditional on certain changes occurring. (For example, in those countries where the staff of specialist ATUs are rotated too frequently, funding could be made conditional on this problem being addressed.)

128. The contractor’s Activity Completion Report was well-written, informative and refreshingly analytical and critical, highlighting not just the project’s achievements but the many questions and contextual observations that the project has raised.

## Evaluation Criteria Ratings

Evaluation Criteria	Rating (1-6)	Commentary
Relevance	5	Highly relevant, and would have been a '6' if the significance of organised traffickers in some sending countries had been acknowledged in design. Some doubts about relevance of capacity-building approach.
Effectiveness	6	Delivery exceeded expectations in several key areas. Might slip to '5' if ICR's questions over effectiveness of training were to hold true.
Efficiency	5	Good value for money overall. Some questions over efficiency of training model and the limited application of the Flexible Funding Pool and wider performance-linked aid instruments.
Sustainability	5	Success at influencing and changing policies, institutions and processes across the region suggests a fundamentally high degree of sustainability. Less certain in the 'new' countries of Philippines and Vietnam. Question-mark over quantitative sufficiency of training.
Gender Equity	5	Subject of project fundamentally focused on gender equity. High degree of attention to gender in project processes and approaches. Didn't monitor effects enough though.
Monitoring and Evaluation	4	Borderline between '3' and '4'. Good baseline/end-line institutional assessments and conceptualisation of 'key outcomes'. But many false starts and difficulties conceptualising a robust M&E system, often due to conflicting advice.
Analysis and Learning	6	Undoubtedly a 'learning organisation' committed to analysis and self-criticism, and to adapting approaches in the light of experience. Significant contribution to international debate. But difficulties communicating with AusAID risked this being a '5'.

### Rating scale:

Satisfactory		Less than satisfactory	
6	Very high quality	3	Less than adequate quality
5	Good quality	2	Poor quality
4	Adequate quality	1	Very poor quality

129. In commenting on an earlier draft of this report, AusAID noted that the ratings above are generally higher than those awarded in earlier ARTIP reviews and quality processes. (And they are mostly slightly higher than ARTIP's own self-evaluation at Annex 7.) The ICR stands by its ratings for the following reasons:

- Firstly, the ICR has taken a long-term view on the time and effort that it will take to bring about a meaningful reduction in human trafficking in Asia, relating that challenge to the long-term and diverse political, social and economic development of the region. For that reason the ICR has not judged ARTIP on the basis of whether it is 'job done', but on the basis of whether it was 'the right thing to have done in the right place at the right time' in that long-term process. And our answer to that is a (more or less) unequivocal 'yes'.
- Secondly, the ICR has taken the view that the most critical thing for ARTIP to do was to champion and support a change in the 'rules of the game' – or the 'institutions' in *New Institutional Economics* terms – that shape countries' criminal justice responses to human trafficking – even though ARTIP itself described itself as a 'capacity-building' project. ARTIP was successful in terms of providing the necessary foundations to that process, and in fact exceeded expectations in that regard. What sovereign governments then do in such a politically-charged field, and the pace at which they do it, is clearly beyond the technical influence of the project itself. (But note our emphasis on the importance of policy dialogue and political influence beyond the project.)
- Thirdly, the ICR was influenced by the work and findings of Australia's Independent Review of Aid Effectiveness, published during the ARTIP ICR. By coincidence, one of the ICR team members led one of that Review's commissioned studies – into the lessons learned from the last 160+ AusAID ICRs and other evaluation documents. A key finding of that work was the overwhelming tendency for ICRs not to distinguish clearly enough, in their ratings, the differences between 'bad', 'average' and 'good' development interventions. ARTIP, in our opinion is a 'good' intervention. Indeed, had it been included in the Aid Review study, it would probably have made it into the top decile of AusAID projects included in the study. Our ratings are comparable to those awarded in the ICRs of other projects in that top decile.

## Conclusion and Recommendations

130. ARTIP has been a good and successful project. It was, and remains, highly relevant and it has delivered beyond reasonable expectations. Its access to, and influence on, the highest levels of the criminal justice institutions of the region has been remarkable, and is a testament to the expertise of the project team and the high regard in which they were consequently held.

131. Internationally ARTIP is seen as a model of excellence among anti-trafficking initiatives.

132. This ICR has, however, highlighted the long-term nature of any drive to reform and strengthen the criminal justice response to human trafficking in the region, and how much more there is to do.

133. The ICR makes the following recommendations for any further regional AusAID support to anti-trafficking:

- A. Future support should continue to be an integrated set of regional (via ASEAN and SOMTC) and national initiatives.
  - Because of the high degree of supra-national / regional public good involved, it should not simply focus on countries that have achieved a pre-determined level of development.

- If a future project focuses mainly on regional developments, either with no country programmes or with a focus on only one or two countries, achievements in some countries where ARTIP has been active seem unlikely to be sustained. Offering all or most ASEAN countries the possibility of seeking further support from a menu of available options would give countries such as Vietnam a possibility of sustaining what has been achieved so far.<sup>5</sup> If they choose not to apply, or refuse to meet minimum requirements, this would be their own choice, rather than being seen as AusAID refusing to continue its support to anti-trafficking efforts.
- B. The emphasis and configuration of national initiatives needs to be flexible and adaptive, responding to different priorities in different places at different times, reflecting the variable pace of political, social and economic development across the region.
  - C. The political and international advocacy dimensions of securing a better quality response to human trafficking need to be recognised: it is not just a technical fix. AusAID and its whole-of-government partners need to reflect on how much of the policy dialogue required it is appropriate to contract-out. (But also to recognise the very significant policy influence the project's technical team has had.)
  - D. This political and advocacy dimension – and therefore the relevance of any future intervention – would be well served by AusAID first articulating its motives and expectations in a strategy, either specifically on trafficking in persons or more widely with respect to trafficking and the various forms of exploitation associated with trafficking (forced labour or services, slavery or practices similar to slavery, and servitude; the exploitation of the prostitution of others or other forms of sexual exploitation, including specific cases involving children; and trafficking for the purpose of removing organs). It should also take account of the large number of other donors supporting initiatives to prevent trafficking or to protect and assist victims, and the relative paucity of initiatives to increase prosecutions of traffickers by strengthening criminal justice responses.
  - E. Such a strategy might usefully articulate the role of a program such as ARTIP in helping to support the *transactions costs of change* that might not otherwise be met by member states. That is to say the costs (human and financial) of bringing about *transformation* over and above the regular and recurrent costs of implementing the results of that change. In addition, it should discuss how and when development assistance can compensate for the differential values typically assigned to international public goods between developed and developing nations.<sup>6</sup>
  - F. Although Australia's policy priority in Indonesia, in particular, is to improve law enforcement responses to people smuggling, much remains to be done in Indonesia to strengthen CJS responses to trafficking. As long as support for the CJS is administered quite separately to initiatives related to people smuggling, there need be no inherent contradiction between the two.
  - G. A future delivery strategy for tackling human trafficking in the region should consider significantly greater use of performance-linked aid, for the issue is ultimately largely

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<sup>5</sup> The question of “a possible role for a post-ARTIP funding facility within ASEAN to provide carefully targeted support aimed at preserving project gains” was already raised in ARTIP's Management Team MTR Briefing note in 2009.

<sup>6</sup> Because of the inevitable ‘free-rider’ problem associated with international public goods but, on the other hand, the spill-over effects of the international public good not being addressed, there will often be economically rational differences in what the public good is ‘worth’ between wealthy and less-wealthy economies.

one of encouraging sovereign governments to make difficult policy and public expenditure choices. (The archetypal context for performance-linked aid.) However, hand-in-hand with this goes a requirement for deepened policy dialogue.

- H. In that the majority of people who are trafficked in the ASEAN region are trafficked for the purpose of forced labour<sup>7</sup>, initiatives to strengthen law enforcement responses (to trafficking) need to go beyond conventional criminal justice approaches and also address offences related to workplaces and to the recruitment of workers who end up in forced labour. (ARTIP's efforts to strengthen CJS responses do not seem to have paid significant attention to actors outside the conventional CJS who are regarded as responsible for correcting abuses of labour rights.) It might be useful to consult alternative models, including those which detect crimes involving forced labour without necessarily using the term 'trafficking' (e.g., in Brazil) and those which focus on tighter regulation of labour providers (in both countries of origin and destination). At a minimum, it is essential to ensure a higher level of coordination between conventional CJS actors (particularly FLOs and ATUs) and officials involved in administering labour laws or regulating employment agencies, particularly where large numbers of migrant workers from neighbouring countries are trafficked into situations of forced labour.
- I. Any design process should be resourced to take a big-picture and modern take on capacity-building requirements (particularly for front-line law enforcement officers), and recognise the challenge of scale and the limitations of conventional approaches to the in-service training requirement. If training of front-line law enforcement officers is required at scale, then potentially radically different approaches and media may be required. Issues such as the frequency of staff rotation (which has been a problem for ARTIP) may also need to be addressed.
- J. When the current ARTIP project comes to an end, AusAID should maintain support for ASEAN initiatives on trafficking without a break, notably because preparation of a new ASEAN convention on trafficking is just getting underway (and this may create unique opportunities – i.e., national officials involved would benefit from advice from technical experts who are familiar with other regional conventions against trafficking).

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<sup>7</sup> Estimates by both the ILO and the US State Department.

## Annex 1: Concepts in people smuggling and people trafficking

In November 2000 the UN adopted two protocols at the same time as a new UN Convention on Transnational Organised Crime and thereby made a link between two different crime types that were the subject of the new protocols: people smuggling and people trafficking. The protocols were: the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and the UN Protocol against the Smuggling of Migrants by Land, Sea and Air.

Aimed at persuading states to adopt common definitions of these crimes and at increasing prosecutions of individuals who made money either from moving people illegally across frontiers or from recruiting them for illegal forms of exploitation, the two protocols caused initial confusion among both politicians and law enforcement officials while they came to terms with the terms being used. In Australia the possibility of confusion was increased by use of the term “people trafficking” to refer to trafficking in persons. Elsewhere this offence is referred to as ‘trafficking in human beings’ and ‘human trafficking’, but it has been advisable to avoid using the phrase ‘people trafficking’ as it sounds so close to people smuggling, when the reality of what happens is so different.

The forms of exploitation for which individuals are trafficked include, according to the UN Trafficking Protocol (Article 3a), “...at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs”.

People smuggling is on occasion associated with human trafficking: i.e., a person may be smuggled across a frontier for the specific purpose of subjecting them to one of these forms of exploitation.

However, many cases of human trafficking occur without a frontier being crossed (known as ‘internal trafficking’) or involve someone who enters a foreign country legally, but who is nevertheless subsequently subjected to a form of exploitation. In some cases people cross a frontier illegally, but it is only after they have entered another country that they encounter a trafficker and come under his or her control. In such cases a broker who helps them enter illegally may be a smuggler, but should not be regarded as a trafficker.

Trafficking in persons is a serious crime against the person, which subjects the trafficker’s victim to varying degrees of harm. When the trafficked person is identified and protected before exploitation starts, a crime of trafficking can sometimes be proved if there is evidence that she or he was subjected to one of the abusive means involved in trafficking and that the purpose of recruiting her or him was to exploit them. In contrast, people smuggling is primarily a crime against the security of the state. It involves a smuggled migrant paying a fee to a smuggler, often an inflated fee, but the smuggled person obtains a service in return, albeit an illegal service.

In the case of countries experiencing internal armed conflict or political repression it is more than understandable that citizens should want to flee their country, even if the neighbouring country has not signed the UN Convention relating to the status of Refugees (1951) and refuses to recognise them as refugees. In such a case, some of the brokers who help citizens leave their country provide positive support to asylum-seekers, even though others are traffickers.

Ten years after the two UN protocols were adopted, it is apparent that the methods required to detect and suppress the different crime types – trafficking and smuggling – are quite different and that it is not helpful to expect the same institutions or methods to be used against both.

In the case of human trafficking, experience now shows that some form of a national structure is required to coordinate responses by the many different government and non-governmental organizations which have a role to play in prosecution, protection and prevention. Detection of trafficking-related crimes is almost always enhanced by the establishment of a specialist police anti-trafficking unit. Protection and assistance for people who have been trafficked requires a standard referral system to be in place, i.e., clarity about which organizations are expected to provide particular services or protection to a trafficked person. In each of these cases, requiring the same institution or system to respond to cases of people smuggling would almost certainly detract from the effectiveness of responses to human trafficking. Indeed, those states which have entrusted the vetting of trafficked persons or the management of the national referral system for trafficked persons to a government agency which primarily has responsibilities for managing immigration have been criticised for failing to understand or respond adequately to the predicament of trafficked persons.<sup>8</sup>

However, there is no reason why making it a government priority to support efforts to stop human trafficking (in Australia or in Southeast Asia or elsewhere) should be incompatible with separate efforts to stop people smuggling, either in general or specifically to stop people being smuggled into Australia.

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<sup>8</sup> See, for example, Anti-Trafficking Monitoring Group, *Wrong kind of victim? One year on: an analysis of UK measures to protect trafficked persons*, London, June 2010. A summary can be accessed at <http://combattrafficking.eu/sites/default/files/documents/ATMG%20Executive%20Summary.pdf>.



## Annex 2: Policy context

A Government fact sheet issued in 2009 (Australian Government Anti-People Trafficking Strategy) states that, *"People trafficking is a complex crime and a violation of human rights. The Australian Government is committed to combating this crime and providing victims with appropriate and humanitarian support. People trafficking is a very different crime to people smuggling"*.

Already before the UN Trafficking Protocol<sup>9</sup> was adopted in 2000, it was apparent that substantial numbers of women and girls were being forced or duped into prostitution in many of the ten countries that belong to the ASEAN.<sup>10</sup> Since 2000, research in other sectors has shown that large numbers of men, women, girls and boys are in situations of forced labour in other economic sectors. While no dependable estimates of the numbers are available, on the basis of one recent report it is reasonable to extrapolate that the total in the ASEAN region is more than 80,000 individuals.<sup>11</sup>

The UN Trafficking Protocol introduced the use of the term 'trafficking in persons' (also known as 'people trafficking' or 'human trafficking') to refer to all cases of forced labour and of the exploitation of the prostitution of others (i.e., cases in which a third person takes earning from a person making money from commercial sex) involving adults who were recruited by abusive means (such as coercion or deception) and children who were recruited by any means. The Protocol also applies to other forms of what it calls "exploitation", but these two forms of exploitation cover the vast majority of cases reported in ASEAN countries.

When the UN Trafficking Protocol was adopted, only a few ASEAN countries acknowledged that there was a pattern of human trafficking within their borders. Those that did regarded the term 'trafficking' as applicable mainly to women and children who were moved from one country to another. In the 11 years since the Protocol was adopted, every ASEAN country (with the possible exception of Brunei and Singapore) has come to recognise that there are men, women, boys and girls being trafficked within their countries ('internal trafficking') as well as across borders and that the purposes of for which they are trafficked include forced labour (also referred to as 'labour trafficking') as well as the exploitation of the prostitution of others (also referred to as 'sex trafficking').

The UN Trafficking Protocol requires ratifying States to prosecute traffickers, to protect and assist people who have been trafficked and to take action to prevent trafficking from occurring. During the decade which followed its adoption, States providing Official Development Assistance (ODA) made substantial sums available to anti-trafficking programs and projects.<sup>12</sup> Many donors preferred to target assistance on initiatives to assist trafficked

<sup>9</sup> The United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN Convention on Transnational Organized Crime (2000).

<sup>10</sup> Lin Lean Lim, *The Sex Sector: The economic and social bases of prostitution in Southeast Asia*, International Labour Office, 1998.

<sup>11</sup> A recent UNIAP report that collected information from Cambodians who had just been expelled from Thailand estimated that, "In 2009, among 89,096 Cambodians deported from Thailand, it is estimated that there were at least 20,492 Cambodian trafficked persons ...Of those 8,286 were worst cases, where migrants were deceived into the worst labour conditions with no freedom of movement and no pay". Source: *Human Trafficking Sentinel Surveillance. Poipet, Cambodia, 2009-2010*, UNIAP 2010, page xviii.

<sup>12</sup> Between 2001 and 2006, the records of the government that was probably the largest donor, the US, indicate that more than US\$447 million were spent on anti-trafficking initiatives. See US Government Accountability Office. *Human Trafficking: Monitoring and Evaluation of International Projects Are Limited, but Experts Suggest*

persons or on efforts to prevent trafficking, however, or to provide assistance to develop a country's legal framework and officials' understanding of what constituted trafficking, rather than to provide specific assistance to criminal justice systems to identify and prosecute traffickers. (Or what this meant in practice: to detect and investigate offences, identify victims of the crime, and arrest, prosecute and convict suspected traffickers).

In the case of the United States (US), a law adopted shortly before the adoption of the UN Trafficking Protocol mandated the Department of State to collect information about the responses of other States to trafficking and to document these in a report issued once a year, ranking the adequacy of responses in four tiers. The US law in question required much attention to focus on CJS responses and on numbers of investigations, prosecutions and convictions of traffickers. While the US has provided assistance to develop law enforcement responses to trafficking, these have been relatively unrefined and have not taken the form of the sort of detailed attention and support that ARTIP has provided to the CJS in seven Southeast Asian countries.

In 2003 AusAID initiated its first anti-trafficking project in Southeast Asia: the Asian Regional Cooperation to Prevent People Trafficking (ARCPPT). The project worked to prevent trafficking through strengthening national criminal justice responses and enhancing regional cooperation and policy development. It operated in four countries: Thailand, Cambodia, Lao PDR and Myanmar.

In 2006 the ARCPPT was succeeded by ARTIP, which initially focused on the same four countries but aimed to expand its activities to other countries and to develop coordinated regional responses to trafficking. Eventually it involved Indonesia, Philippines and Vietnam, as well as the original four countries. A non-ODA country, Malaysia, also secured training from ARTIP (at Malaysia's own expense) and attended ARTIP regional workshops. This meant that ARTIP has been involved in eight of ASEAN's ten Member States, omitting only Brunei and Singapore.

The broad context in which ARTIP has operated since 2006 was a challenging one, as it is less than 11 years since the UN Trafficking Protocol was adopted (only six years when the project started). Throughout this time, the US Government has put pressure on other governments across the world to improve the performance of their criminal justice systems in stopping trafficking from occurring. However, while substantial funding has been available over the 11 years for activities to protect people who have been trafficked and to prevent trafficking, there have been relatively few multilateral or bilateral attempts to target law enforcement agencies and to improve their performance (although there have been numerous projects to draft new anti-trafficking laws, to 'raise the awareness' of law enforcement officials about trafficking and to provide them with equipment for use in anti-trafficking operations).

The UN agency which could be expected to provide relevant technical assistance to strengthen criminal justice responses to trafficking, the UN Office on Drugs and Crime (UNODC), is regarded by some observers as lacking the technical competence to provide a useful lead in this field. The International Organization for Migration (IOM), which has played a major role in repatriating and assisting women who have been trafficked abroad, has on occasion also taken on a role in providing law enforcement officials with information about trafficking. However, in 2006 ARTIP was virtually unique among anti-trafficking projects in supporting national criminal justice systems in their responses to trafficking by strengthening police, prosecutorial and judicial functions. The uniqueness of the contribution seems surprising, as there had been so many anti-trafficking projects in Southeast Asia at

the beginning of the decade that a special UN project had been set up to coordinate them (UNIAP, United Nations Inter-Agency Project on Human Trafficking in the Greater Mekong Sub-region) and in 2006 several other regional anti-trafficking projects in Southeast Asia were being funded by different donors. UNIAP has continued to function (since 2004 as the secretariat of COMMIT, the Coordinated Mekong Ministerial Initiative Against Trafficking), but without a special focus on law enforcement responses to trafficking.

Since 2008 the amounts of money provided by donors to fund anti-trafficking initiatives beyond their own frontiers are reported to have decreased, in part because of the global financial crisis, but probably also because previous projects to prevent trafficking did not appear to deliver the results that were promised. If anything this has made ARTIP even more unique and increased the potential value of the model it has developed and the lessons learned about the effectiveness and replicability of its model.

The Government of Australia's commitment to stopping people trafficking is evident in domestic policy as well as overseas. Already prior to international agreement on a new definition of people trafficking (in the November 2000 UN Trafficking Protocol), Australia had introduced laws in 1999 defining slavery and sexual servitude as crimes in order to address trafficking into the sex industry. The ratification of the UN Trafficking Protocol in September 2005 led the Government to introduce new offences of trafficking and debt bondage to cover some of the gaps in existing legislation. A four-year Commonwealth Action Plan to Eradicate Trafficking in Persons was adopted in 2004, with a budget of Aus\$20 million to finance the plan. A People Trafficking Interdepartmental Committee (IDC) was established in 2003 to develop a whole-of-government strategy to combat people trafficking, with AusAID as a member. In 2009 the Australian National Audit Office (ANAO) reported (in the Management of the Australian Government's Action Plan to Eradicate Trafficking in Persons, Audit Report No.30 2008–09), that the Inter-Departmental Committee IDC had met "approximately four times a year to discuss and make decisions relating to a broad range of people trafficking issues from Australia's international position on people trafficking". However, no mention was made of the IDC discussing AusAID-financed initiatives to prevent human trafficking in regions outside Australia, such as ARTIP.<sup>13</sup>

People trafficking is a relatively easy field in which political leaders can condemn the abuse caused by criminals and promise to take the necessary remedial action. However, there is a danger that such condemnation and promises may be little more than rhetoric, for it is a difficult field in which to achieve substantial progress and to be sure that the strategy and tactics that are chosen are the most appropriate ones available. The experience of the past ten years shows that there are no quick fixes or 'magic bullets'. Once an appropriate legal framework is in place, tackling traffickers requires trained and dedicated police to implement the law, as well as political will to ensure that police give priority to detecting offences. Obtaining adequate evidence to prosecute traffickers tends to be expensive, leading some police forces to opt to disrupt trafficking rings rather than to prosecute traffickers. In a context where few cases of trafficking are reported, this may be a reasonable strategy. However, it may have the effect of granting traffickers impunity and depriving their victims of their rights: their right to justice and to damages or compensation, which are only accessible via legal process.

Persuading victims to make statements that can be used as prosecution evidence is challenging. Consequently one of ARTIP's priorities has been to influence the way that

<sup>13</sup> Members of the IDC include the Attorney-General's Department (as Chair), Australian Crime Commission, Australian Institute of Criminology, AusAID, Commonwealth Director of Public Prosecutions, Department of Foreign Affairs and Trade, Department of Immigration and Citizenship, Office for Women, the Department of the Prime Minister and Cabinet and, as of March 2008, the Department of Employment, Education and Workplace Relations.

police, prosecutors and courts relate to victims, both to ensure that their human rights are respected and to convince them that they will not face unacceptable risks in testifying against someone who has trafficked them. Changing law enforcement practice in Southeast Asian countries, as elsewhere, has been challenging, while the process of convincing victims has only just begun and hardly yet delivered positive results.

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## Annex 3: Practical impediments to bringing traffickers to justice

To achieve its objective of strengthening criminal justice system responses to trafficking, ARTIP had to overcome numerous obstacles.<sup>14</sup> Some concerned difficulties in obtaining adequate evidence to prove in court that the offence (of trafficking in persons) had occurred and many of these related to the reluctance of traffickers' victims to make statements to police investigators that could be used as evidence (or even to talk to police or others perceived to be 'officials' at all).

As far as victims of crime are concerned, some fear the consequences of talking to the police or appearing in court – a fear of reprisals against them or another family member or a simpler cost-benefit analysis that tells them that the benefits of a conviction do not outweigh (for them) the costs (particularly if they are unlikely to receive any payment for damages or compensation). The costs might include being held in administrative detention or a residential centre where they are not entitled to work and are unable to earn an income during the preparation of a prosecution and actual trial. Other victims are worried that their irregular or semi-regularised migration status will be held against them and that they will be repatriated (against their will). Yet others are promptly repatriated once they have been identified as 'trafficked', or chose to return themselves, and are no longer available to take part in a prosecution.

Two specific points of the International Quality Standards that ARTIP adopted, numbers 5 and 6, gave the project objectives to improve the ways that police, prosecutors and judges relate to victim-witnesses, to reduce these obstacles.

Law enforcement officials also face numerous technical difficulties in securing adequate evidence when different elements of the crime (of trafficking) have been committed in different places (sometimes in different countries). In countries of origin, police may suspect that particular brokers who assist would-be migrants in obtaining jobs in another country are traffickers, but lack information about what happens to the migrants once they go to another country and consequently lack evidence that the migrants are being trafficked (rather than being genuinely assisted). At its most basic, the challenge is that front line law enforcement officials are not familiar with the definition of the offence of trafficking and either assume that it only concerns women forced into prostitution or that cases of forced

<sup>14</sup> Already in 2002, a report on patterns of trafficking in Southeastern Europe and responses to them identified a list of obstacles to successful prosecutions, which were much the same at that time in South East Asia and most other regions:

- "Lack of political will and action against traffickers.
- Lack of anti-trafficking legislation.
- Failure to apply relevant existing law except to prostitution.
- Lack of enforcement of law due to corruption, lack of understanding of the legislation, lack of knowledge about trafficking and anti-trafficking legislation.
- Lack of information and training for the police and judiciary.
- Written testimonies of the victims of trafficking are not sufficient evidence in the court.
- No witness security.
- Lack of international co-operation and exchange of information".

(B. Limonovska, *Trafficking in human beings in Southeastern Europe*, UNICEF, OHCHR and OSCE-ODIHR, 2002, page 147). The same report observed that,

"There are no standard procedures for the treatment of trafficked persons and no standard protocol for the behaviour of the law enforcement agencies, international organisations and NGOs providing identification, referral and assistance" and "There is also a group of women who are too frightened or traumatised to communicate with the police or who are unaware that they can ask for assistance".

labour in workplaces are not their responsibility to investigate, but rather the responsibility of labour inspectors or others.

Enabling the criminal justice system to function effectively against traffickers also requires improved levels of coordination between different actors in the system and between them and the numerous other agencies which are involved in identifying, protecting or assisting people who have been trafficked. It also requires resolving some inherent contradictions between different government priorities: on the one hand, to punish traffickers and, on the other, to detect and repatriate irregular migrants. This in turn means influencing the attitudes that law enforcement officials have towards foreign workers – which in many countries mean that they are willing to turn a blind eye to cases of ill-treatment that would provoke their reaction if people from their own country were involved.

The flaws that potentially exist in any criminal justice system also require resolving if traffickers are to be convicted fairly. For example, some police forces have an organizational culture that connives at corruption, extortion and abuse of power. In the worst cases, senior police officials are active members of organised crime. However, there are countless lesser degrees of abuse which are obstacles to effective responses to trafficking, including abuse of suspected criminals while they are questioned by police and trials that are routinely unfair. Close links at local level between business owners and police in some countries have meant that traffickers or employers of trafficked workers have been informed in advance of a visit by investigators – so no evidence of trafficking is visible at the time of the visit. In others, traffickers or their associates have routinely undermined the preparation of trials or the trials themselves by making payments to officials or to witnesses.

ARTIP's project design document recognised that "ARTIP works within a sector that is volatile and politicised", identifying risks such as:

- "Lack of political commitment to fight trafficking due to failure to accept seriousness of problem; other priorities, public sector complicity";
- "Intimidation and threats inhibit counterparts and other activities"; and
- "Intimidation and threats inhibit victims serving as witnesses".

It proposed ways of minimizing these risks and these were used during the project.



## Annex 4: Baseline studies

Findings of baselines studies with respect to relative change and 'value added' in each country (based on 'scores' recorded in Baseline Study 3 carried out in 2011)

ARTIP Baseline Studies Country Scores (Measured out of a total of 119, and also as a percentage)							
Country	Overall baseline scores in 2011 and initial baseline scores	2006	2008	2009	2011	Net increase	Average change p.a.
Cambodia	2011 baseline score is 78/119	38			78		
	Initial (2006) baseline score was 38	0.31933			0.65546	0.336134	0.067226
	(As percentage of 119 or percentage change)	32%			66%	34%	7%
Indonesia	2011 baseline score is 63.5/119		59.5		63.5		
	Initial (2008) baseline score was 59.5		0.5		0.53361	0.033613	0.01120
	(As percentage of 119 or percentage change)		50%		53%	3%	1%
Lao	2011 baseline score is 58/119	48			58		
	Initial (2006) baseline score was 48	0.40336			0.48739	0.08403	0.016806
	(As percentage of 119 or percentage change)	40%			49%	8%	2%
Myanmar	2011 baseline score is 54/119	37			54		
	Initial (2006) baseline score was 37	0.31092			0.45378	0.142857	0.028571
	(As percentage of 119 or percentage change)	31%			45%	14%	3%
Philippines	2011 baseline score is 78/119			76	78		
	Initial (2009) baseline score was 76			0.6387	0.65546	0.016806	0.008403
	(As percentage of 119 or percentage change)			64%	66%	2%	1%
Thailand	2011 baseline score is 66.5/119	56			66.5		
	Initial (2006) baseline score was 56	0.47059			0.55882	0.088235	0.017647
	(As percentage of 119 or percentage change)	47%			56%	9%	2%
Vietnam	2011 baseline score is 67/119			47	67		
	Initial (2009) baseline score was 47/119			0.395	0.56303	0.168067	0.084033
	(As percentage of 119 or percentage change)			39%	56%	17%	8%

### Comments on the Table

Measured by the changes scored in ARTIP's baseline studies, Vietnam registered the biggest change (a 16.8% change over two years, i.e., averaging 8.4% per annum) relative to its time involved in the project. Cambodia registered the biggest changes (over five years rather than only two), with changes averaging at 6.72% p.a., meaning its score improved radically over the life of the project, while Thailand, for example, improved at a much more gradual average rate of 1.76% p.a.

With hindsight it is evident to ARTIP staff that the extra points gained for key changes in a country's legal framework were disproportional, allowing countries such as Vietnam to appear to have made a leap forward when this was not apparent in the function of the CJS.

Further, the figures measuring 'net increase' appear more significant than those measuring 'average change p.a.' (per annum), for often most of the change in scores occurred in a single year, rather than constantly over three or even five years.

When considering what changes to attribute to ARTIP rather than other initiatives, and what changes occurred specifically in the capacity of law enforcement to investigate and prosecute trafficking offences, Vietnam appears less significant and Cambodia more.

By the same baseline scoring, Philippines registered the smallest improvement (averaging only 0.84% p.a. over the two years when ARTIP was active there) However, Philippines started with a relative high baseline score of 63.87%.

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## Annex 5: An ex-ante *Theory of Change* for the evaluation

### Comment on the project's program logic and objectives

In line with a view that was stated commonly after the adoption of the UN Trafficking Protocol in 2000, that 'combating' trafficking in persons required attention to be given to 'the three Ps' (prevention, prosecution and protection), both ARCPPT and ARTIP set out to strengthen the capacity of law enforcement agencies in Southeast Asian countries to detect cases of trafficking and to bring traffickers to justice. More than ten years on from the adoption of the UN Trafficking Protocol, virtually all the estimates of the number of people being trafficked and statistics about prosecutions of traffickers suggest that the proportion of traffickers who are identified or prosecuted is small. This is blamed in part on the lack of capacity of law enforcement officials (hence the relevance of ARTIP) and in part on other factors, such as confusion in distinguishing trafficked persons from others (particularly irregular migrants) and lack of political will to adopt or enforce laws which prohibit the full range of forms of trafficking and exploitation mentioned in the UN Trafficking Protocol.

### Theory of change at national level

Two of the four components of ARTIP mentioned above focused on complementary sides of the criminal justice system – detection of crimes and collection of evidence (usually by police) on the one side, and prosecution and trials on the other. These were also the subject of two of the KRAs adopted in 2009.

**Chart 1: Theory of change at national level**

(KRA 1)		(KRA 2)
<ul style="list-style-type: none"> <li>✓ Greater protection for the victims of TIP;</li> <li>✓ Law enforcement institutions stronger on TIP;</li> <li>✓ Increased capacity of law enforcement officers on TIP issues;</li> <li>✓ Greater consideration of gender issues in TIP law enforcement.</li> </ul>		<ul style="list-style-type: none"> <li>✓ Greater protection for the victims of TIP;</li> <li>✓ Stronger judicial institutions and processes;</li> <li>✓ Increased capacity of judges and prosecutors;</li> <li>✓ More supportive national legal frameworks.</li> </ul>
If all delivered to a satisfactory standard		If all delivered to a satisfactory standard
↓		↓
Enhanced law enforcement responses to TIP (various possible levels of outcome)		Enhanced judicial and prosecutorial TIP Actions and procedures (various possible levels of outcome)
↘		↘
More traffickers investigated, tried and convicted, deterring others and contributing to a decline in the number of people trafficked		

Evidently, there are a great many variables with respect to each 'contributing factor' and a relatively high risk that so many of them will not be 'ideal outcomes' that they will undermine the intended program logic. Although one of the factors listed under both KRAs ('greater protection for the victims of TIP') appears the same in each case, the nature of the

protection concerned is different for each KRA (i.e. is different during the phase of police identification/ investigation of a crime and the phase of preparing a case for trial and during an actual trial). ARTIP's Case Analysis System (CAS) was expected to enable the project to monitor performance on this and other contributing factors.

The various inputs or activities expected to contribute to an ideal outcome concerning each factor linked to KRA 1 and KRA 2 remained those listed in the Component Logframe in the Project Design Document, primarily a set of standards (project 'tools') and training sessions (four outputs involving 15 separate inputs were planned to result in enhanced law enforcement [police] responses).

However, in comparison with the IQSs, KRA 1 paid less attention to the role of frontline law enforcement officials (FLOs), referring to a need for "cooperation between ATUs and FLOs" to produce an ideal outcome.

The expectation in 2009 (reported in the M&E Plan) was that no country would be in full compliance with KRA 1 at the end of the project in 2011, but that five countries would reach general compliance (Indonesia, Myanmar, Lao PDR, with Cambodia and Thailand reaching this level except on gender issues) and one would reach partial compliance (Vietnam).

Similarly, the expectation in 2009 (reported in the M&E Plan) was that one country would be in full compliance with KRA 2 at the end of the project in 2011 (Thailand, for protection of victims only), three would be in general compliance (Cambodia and Thailand, and Indonesia where the strength of the judiciary was only expected to reach partial compliance), three would reach partial compliance (Myanmar, Lao PDR and Vietnam), while Vietnam would only achieve limited compliance as far as its national legal framework was concerned.

## Theory of change at the regional level: three separate KRAs

Components 3 and 4 of ARTIP were intended to involve innovation and expanding the number of countries from the four involved in ARCPPT (Cambodia, Thailand, Lao PDR and Myanmar) to more (adding Indonesia in 2007 and Vietnam in 2009 and eventually Philippines). Here the precise theory of change is harder to pin down, although the outputs listed under Component 3 made it clear that the aim was to strengthen policy and program development in regional intergovernmental organizations, including ASEAN (output 3.3) and the Coordinated Mekong Ministerial Initiative against Trafficking (COMMIT) (output 3.4). The three general KRAs adopted in 2009 were more specific: KRAs 3 and 4 both referred to ASEAN (no longer mentioning COMMIT). The 'ideal outcomes' were: *"Effective bilateral and regional mechanisms established, through which ASEAN member states are able to engage with each other on matters relating to TIP"* (for KRA 3) and *"ASEAN Member States using project-supported tools and approaches (Handbooks, Guides, SOPs, etc.) to coordinate and cooperate on TIP matters"* (for KRA 4).

The 'ideal outcome' proposed for KRA 5 remained general: *"Project supported research, capacity development and information sharing to contribute to development of stronger legal frameworks (national); better policy (national & regional); common standards and more effective cross-border cooperation"*.

A diagram in Annex 12 at the end of the 2009 M&E Plan endeavours to represent cause and effect at the regional as well as national levels, linking the original project components with the new expected outcomes/KRAs.

The expectation reported in the 2009 M&E Plan was that ARTIP would reach 'ideal outcomes' for KRAs 3, 4 and 5 by the end of the project in 2011.

The project countries listed were limited to those receiving ODA and consequently excluded several ASEAN countries which were often cited as destinations for people trafficked from project countries (notably Malaysia, which was often reported to be a destination for people trafficked from Thailand and Cambodia).

In terms of how cooperation between law enforcement agencies in different countries was expected to be enhanced, the project plans were less explicit. On the basis of the information available, the following chart represents the intended changes:

**Chart 2: Theory of change in terms of bilateral and multilateral law enforcement cooperation at the regional level**

ASEAN Senior Officers Working Group on TIP (SOMTC WG) meets regularly	→	ASEAN-wide performance standard for law enforcement on TIP cases: <i>ASEAN Practitioner Guidelines</i> (2007), supported by similar training materials in each country (prepared by ARTIP), similar SOPs & ARTIP publications which suggest norms (e.g. on non-detention of trafficked persons)	Personal contacts between law enforcement personnel investigating TIP cases in different countries, particularly heads of ATUs (HSU process).
		↓	↓
Legal basis for mutual legal assistance ( <i>Treaty on Mutual Legal Assistance in Criminal Matters among Like-Minded ASEAN Member Countries</i> (2004))		Awareness of expectations of others (peers in other countries) and expectation of reciprocity	Confidence established between ATUs in different countries through HSU meeting process (notably at bilateral level, rather than multilateral, in countries of origin and destination)
	↘	↓	↓
<ol style="list-style-type: none"> <li>1. Increased informal police-to-police cooperation, including sharing intelligence about transnational TIP cases.</li> <li>2. Mutual legal assistance (in transnational TIP cases or in cases where a suspected trafficker is located in another ASEAN Member State)</li> <li>3. Extraditions (in transnational TIP cases or in cases where a suspected trafficker is located in another ASEAN Member State)</li> <li>4. Sharing of experience on tackling TIP cases, whether involving transnational TIP or internal trafficking</li> </ol>			
5. Possibly other benefits regarding cooperation on other categories of crime, encouraged by cooperation on TIP.			

The interplay between cause and effect at the national and regional level is one of the themes of the project (and of the evaluation). ARCPPT started with a relatively clear priority on building up law enforcement capacity at national level. However, developing a region-wide vision of what law enforcement performance ought to consist of was always viewed as a necessity. The 2006 ASEAN publication mentioned above (*ASEAN Responses to Trafficking in Persons. Ending Impunity...*) set out this vision in the "ASEAN checklist: Key elements of an effective criminal justice response to trafficking" and this was followed up in 2007 when a version of the IQS standards was endorsed by the 7th ASEAN Senior Officials Meeting on Transnational Crime in Lao PDR on 27 June 2007 (*Criminal Justice Responses To Trafficking In Persons: ASEAN Practitioner Guidelines*).

In terms of a theory of change, there is therefore an on-going interplay between developments at the regional level in ASEAN (and, to a lesser extent, within the smaller grouping of States in COMMIT) and developments at national level, with the degree to which one level affects the other somewhat undefined.

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## Annex 6: ARTIP Evaluation Workshop agenda

### ARTIP INDEPENDENT COMPLETION REPORT BRIEFING & EVALUATION WORKSHOP

28 JUNE 2011

#### Objectives

- To provide an expert commentary to the ICR team on the scope and scale of the issues that ARTIP has been addressing;
- To provide the ICR team with a succinct briefing on the design, activities and progress (output) of the project, including key factors of success and compromise;
- To elaborate on the project's complex operating environment and external factors determining the translation of outputs into outcomes and impacts;
- To elicit and discuss ARTIP and AusAID team members' own perspectives on relevance, efficiency, effectiveness, sustainability and impact.

#### Agenda

<i>Topic</i>	<i>Facilitator</i>
• The ICR and its approach	ICR Team Leader
• Briefing by ARTIP (1) <ul style="list-style-type: none"> <li>○ The scope and scale of the issues that ARTIP has been addressing</li> </ul>	ARTIP Team
• Briefing by ARTIP (2) <ul style="list-style-type: none"> <li>○ The design, activities and progress (output) of the project, including key factors of success and compromise</li> </ul>	ARTIP Team
• Facilitated discussion on external factors determining the translation of outputs into outcomes and impacts	ICR Team
• Facilitated discussion & self-assessment on relevance, efficiency, effectiveness, sustainability and impact	ICR Team
• Any necessary adjustments to the ICR approach / methodology / meetings schedule?	ICR Team Leader

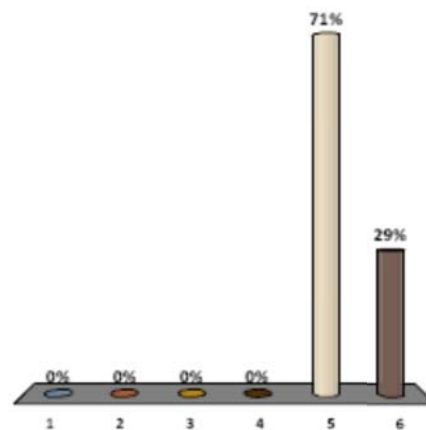


## Annex 7: Evaluation Workshop – ARTIP team self-assessment

(Anonymous electronic response system)

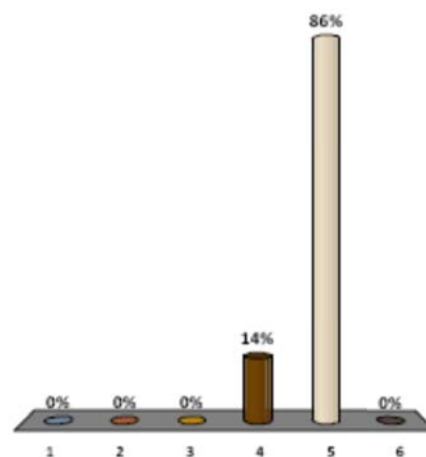
### Relevance

1. Very poor
2. Poor
3. Less than adequate
4. Adequate
5. Good
6. Very high



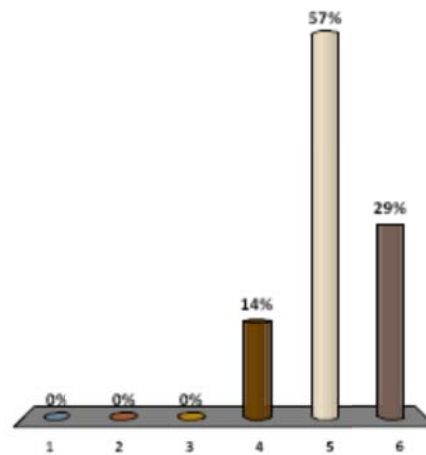
### Effectiveness

1. Very poor
2. Poor
3. Less than adequate
4. Adequate
5. Good
6. Very high



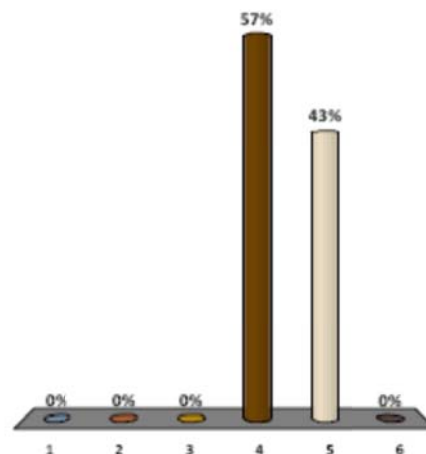
## Efficiency

1. Very poor
2. Poor
3. Less than adequate
4. Adequate
5. Good
6. Very high



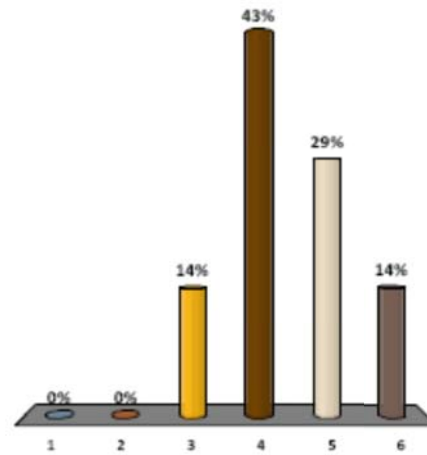
## Sustainability

1. Very poor
2. Poor
3. Less than adequate
4. Adequate
5. Good
6. Very high



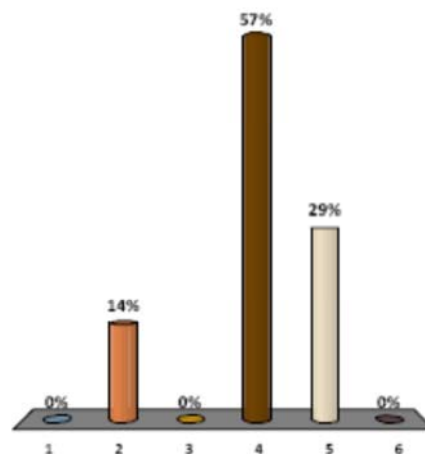
## Impact

1. Very poor
2. Poor
3. Less than adequate
4. Adequate
5. Good
6. Very high



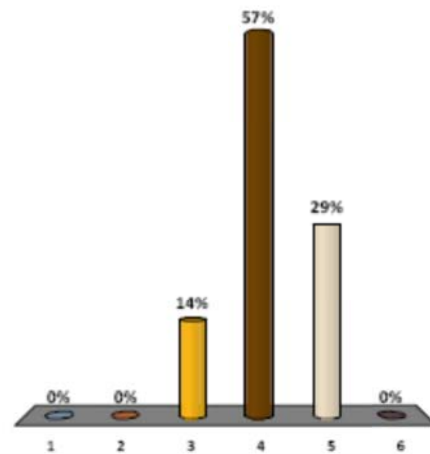
## Gender

1. Very poor
2. Poor
3. Less than adequate
4. Adequate
5. Good
6. Very high



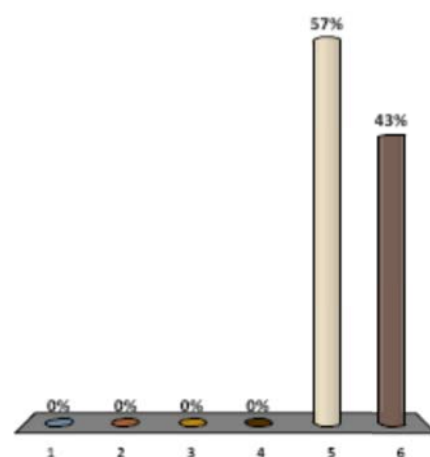
## M&E

1. Very poor
2. Poor
3. Less than adequate
4. Adequate
5. Good
6. Very high



## Lesson-learning

1. Very poor
2. Poor
3. Less than adequate
4. Adequate
5. Good
6. Very high





## Annex 8: Questions from the document review

AusAID provided a list of specific questions which they would like answered during the ICR (their Attachment B). These will guide our questioning, in addition to standard AusAID ICR questions (Attachment A). However, there are some specific points on which the ICR will also focus, notably on questions of effectiveness, impact and monitoring and evaluation.

Issue listed by AusAID	Evaluators' Questions for the ICR <i>(Questions in blue italics are taken from Evaluation ToR Attachment B)</i>
Relevance	<p>Was the project 'the right thing in the right place at the right time' maximally to contribute to the achievement of stated higher-level objectives?</p> <p>How did ARTIP assess whether project objectives were relevant to the context/needs of beneficiaries [checking that we agree who 'beneficiaries' are] and what changes were made during the project to adapt to the context/need of beneficiaries?</p>
Effectiveness	<p><i>To what degree has ARTIP met its objectives, end of project goals and key result areas?</i></p> <p>What activities by others (outside the framework of ARTIP) contributed to objectives being met (or preventing others being met)?</p> <p>What ARTIP objectives were not met and why?</p>
Efficiency	<p>Were alternative delivery approaches and modalities considered in design, and could the project have delivered greater value for money by being configured differently?</p> <p><i>Did the resources, tools and publications developed by ARTIP meet gaps and needs in the sector?</i></p> <p>How were the gaps and needs identified?</p> <p>How were the publications used?</p>
Impact	<p>See below (questions linked to the IQS).</p> <p>To what extent have developments at the regional level (of ASEAN) encouraged improvements in law enforcement at national level?</p> <p>How did <i>ARTIP identify any negative and / or unintended outcomes for its beneficiaries</i> (trafficked persons) <i>and their environment that may have been generated by the project, directly or indirectly?</i></p> <p><i>What were they and what remedial action was taken?</i></p>
Sustainability	<p>Are regional cooperation structures such as the HSU (or SOMTC meeting) being sustained at a level where they are effective, and is it likely that they will continue to be sustained? (What achievements are unlikely to be sustained?)</p> <p>As ARTIP learnt that personal relationships are vital to effectiveness, what is being done to sustain these relationships beyond the closure of ARTIP?</p> <p>Have the 8 sustainability factors identified in the 2009 M&amp;E report been assessed subsequently for each ARTIP country?</p>

Gender Equality	<p>What evidence is available that the focus on women and girls (as the main/only ones being trafficked) has been modified by the project?</p> <p>Has data been collected about the impact of ARTIP activities on people identified as 'trafficked'? If so, is the data disaggregated by sex and what messages does it convey?</p> <p>Has the impact of ARTIP been monitored at the level of individual law enforcement officials (attending trainings, etc.) and has it been disaggregated by sex?</p> <p>Is there evidence that the number and proportion (i) of women being trained and (ii) of women appointed to ATUs (in relation to numbers and proportions in law enforcement - police/prosecution/judicial - in general) have changed since 2006?</p>
Monitoring and Evaluation	<p>Does ARTIP have adequate information to know what it has achieved?</p> <p>Has it been possible for ARTIP to monitor its own performance independently of measuring the performance of national criminal justice systems, i.e., to distinguish between its own performance and that of its immediate beneficiaries/stakeholders?</p> <p>Among the project objectives, components or expected end-of-project outcomes, in which cases does ARTIP have inadequate evidence to know what its results have been (or whether a particular objective has been achieved)?</p> <p>In the cases where results are not certain, why is this the case? Is it because of shortcomings in the way the project or its monitoring methods were formulated or is it due to objective difficulties?</p> <p>Has the evidence from mid- or end-project baseline surveys (of the performance national criminal justice systems on the issue of TIP) been compared to the initial one in 2007?</p> <p>How were achievements of the KRAs (or factors contributing to KRAs 1 &amp; 2) monitored and how was this reported?</p> <p>What evidence is available that the CAS system has been used and proved useful for the project? Is it too resource intensive to maintain or replicate?</p> <p>The CAS system is reported to have identified weaknesses in the performance of national systems, which in turn were reportedly remedied by extra resources made available under the Flexible Pool Arrangement. What examples have there been of effective remedial action addressing a weakness?</p>
Analysis and Learning	<p>What were the most important examples of the project being modified in the light of information obtained during monitoring or of findings of others involved in reviewing ARTIP?</p> <p>What recommendations for change were made but either rejected or considered by project managers to be inappropriate?</p> <p>Was the project a 'learning organisation'?</p>
Lessons	<p>What lessons has ARTIP learnt with respect to the 5 original components of its work that are relevant for future efforts to strengthen TIP law enforcement in the ASEAN region?</p> <p>Have particular lessons been learnt with respect to the 8 IQSs (their appropriateness, legitimacy in ASEAN States and the extent to which they can be measured), which are relevant for future efforts?</p> <p>Did AusAID respond to lessons learned?</p>

In assessing the impact of the project, the consultants expect to pay particular attention to points listed in the IQS (with the exception of #8), checking for evidence on the following:

General IQS standard	Evidence about action and impact
1. A strong and realistic legal framework in compliance with international standards.	<p>What actions did ARTIP take to ensure legal frameworks were amended (to be compliant with IQS) and with what effect?</p> <p>In which countries does ARTIP feel that legal framework is still so flawed that further progress is difficult or further investment in improvement not worthwhile?</p>
2. Law enforcement agencies have the capacity to investigate trafficking	<p>What evidence is there that specialist and general law enforcement responses to trafficking changed as a result of ARTIP?</p> <p>Are all ATUs effective throughout their country, or are some only effective in some places (do they have the ability and resources to conduct investigations in parts of their country where front-line officials detect TIP offences)?</p>
3. Frontline law enforcement officials know how to identify and respond effectively to trafficking cases.	<p>What evidence is there that frontline law enforcement officials now know better how to identify and respond effectively to trafficking cases?</p> <p>What criteria does ARTIP (or national counter-parts) use for deciding which front-line officials merit an investment (of information or training) on TIP?</p>
4. Prosecutors and judges are willing and able to contribute to the criminal justice response to trafficking.	<p>What evidence is there that prosecutors and judges are more willing and more able to contribute to the criminal justice response to trafficking than before?</p>
5. Victims of trafficking are quickly and accurately identified and protected from further harm, while their immediate needs are met.	<p>What evidence is there that victims of trafficking are now identified quickly and accurately and protected from further harm, while their immediate needs are met?</p> <p>Is disaggregated data available about women, men, girls and boys who have been identified as possibly trafficked?</p> <p>What evidence is available about LE ability to identify trafficked children?</p> <p>What evidence is available about the impact of ARTIP's efforts to dissuade States from detaining adults or children who have been trafficked?</p> <p>What feedback has been sought from trafficked persons and what does this tell ARTIP?</p>
6. All parts of the criminal justice system work together.	<p>Is there evidence that ARTIP has had some success in facilitating this (in which countries)?</p> <p>What obstacles have been identified and what efforts made to overcome them?</p>
7. There are effective systems in place to ensure that the criminal justice agencies in one country can cooperate with the criminal justice agencies in another country.	<p>Are effective systems in place and, if so, have they been used? If they are in place but are not used, have the reasons for this been identified and remedial action taken, and has been there any progress as a result?</p>
8. Donors work effectively.	<p>How does AusAID confer with other donors supporting anti-TIP initiatives in ASEAN countries/the Greater Mekong?</p>



## Annex 9: ICR itinerary and meetings

### Bangkok

Monday 27 June 2011	Meetings	Venue
a.m.	Meeting with Bronwyn Wex, AusAID Bangkok	Australian Embassy, Bangkok
a.m.	Meeting with Directorate of Special Investigations <ul style="list-style-type: none"> <li>Police Maj Jatuporn Arunleaktawin and colleagues</li> </ul>	DSI office
p.m.	Meeting with Prosecutors: <ul style="list-style-type: none"> <li>Mr Jumpon Phansamrit, Expert Public Prosecutor</li> <li>Mr Yongyoot Srisattayachon, Chief Provincial Public Prosecutor</li> </ul>	Office of the Attorney General
p.m.	Meeting with UNIAP: <ul style="list-style-type: none"> <li>Matt Friedman</li> </ul>	United Nations Building
<b>Tuesday 28 June</b>		
a.m. + p.m.	ARTIP Workshop	
<b>Wednesday 29 June</b>		
a.m.	Meeting with Thailand Chair of ARTIP TWG: <ul style="list-style-type: none"> <li>Police Gen. Watcharapol Prasarnratchakij</li> </ul>	Royal Thai Police HQ
a.m.	Meeting with Australian Federal Police (AFP): <ul style="list-style-type: none"> <li>Mr John Tanti, Counsellor</li> </ul>	Australian Embassy
p.m.	Meeting with Michelle Sullivan, First Secretary	Australian Embassy
p.m.	Meeting with Royal Thai Police: <ul style="list-style-type: none"> <li>Pol.Col.Monthontanh Bunnag, Deputy Commander, Police Education Bureau</li> <li>Pol.Col.Dr. Surasak Laohapiboonkul, Lecturer, Police Education Bureau</li> <li>Pol.Col.Kitthanathat Lerwongrat, Lecturer, Police Cadet Academy</li> </ul>	Police Education Bureau

### Hanoi

Thursday 30 June	Meetings	Venue
a.m.	Travel Bangkok to Hanoi	
p.m.	Meeting with AusAID Hanoi: <ul style="list-style-type: none"> <li>Chi Nguyen, Senior Program Manager</li> <li>Le Thi Anh Nga, Program Manager</li> </ul>	Australian Embassy, Hanoi
p.m.	Meeting with DFAT: <ul style="list-style-type: none"> <li>Guy Eggerton, Migration Integrity Immigration</li> <li>Richard Terry, AFP Senior Liaison Officer</li> </ul>	Australian Embassy
<b>Friday 1 July</b>		
a.m.	Meeting with Interpol, C45 and Police trainers	Counterpart office
p.m.	Meeting with Prosecutor	Counterpart office
p.m.	Meeting with Anesvad, the Asia Foundation and IOM	ARTIP Office
<b>Saturday 2 July</b>		
a.m. + p.m.	Travel Hanoi to Jakarta	

## Jakarta

Sunday 3 July & Monday 4 July	Meetings	Venue
	Reading / preparation	
<b>Tuesday 5 July</b>		
a.m.	Meeting with AFP : <ul style="list-style-type: none"> <li>Tim Dahlstrom, Senior Liaison Officer – Jakarta Serious &amp; Organised Crime Australian Federal Police</li> </ul>	Australian Embassy, Jakarta
p.m.	Meeting with Prosecutors Education and Training Centre: <ul style="list-style-type: none"> <li>Mr Rahmat</li> </ul>	Prosecutors Education and Training Centre
<b>Wednesday 6 July</b>		
a.m.	Meeting with AusAID Jakarta: <ul style="list-style-type: none"> <li>Victoria Coakley (Counsellor),</li> <li>Jessica Hoverman (1<sup>st</sup> sec regional)</li> <li>Emily Rainey (2<sup>nd</sup> sec democratic governance)</li> <li>Lisa Hannigan (1<sup>st</sup> sec poverty reduction)</li> </ul>	Australian Embassy
a.m.	Meeting with DFAT: <ul style="list-style-type: none"> <li>Michelle McKendry (point person on people smuggling)</li> </ul>	Australian Embassy
a.m.	Meeting with DIAC: <ul style="list-style-type: none"> <li>Andrew Kane-Maguire (2<sup>nd</sup> Sec Integrity) and</li> <li>Anne Freestone (1<sup>st</sup> Sec)</li> </ul>	Australian Embassy
p.m.	Meeting with Sub Directorate III/Anti-Trafficking Unit, INP: <ul style="list-style-type: none"> <li>Sr Supt. Napoleon Bonaparte</li> <li>Major Sigit</li> <li>Major Rita Wibowo</li> <li>Major Katrina</li> </ul>	Office of Sub Director III, Anti-Trafficking Unit, CID, INP
<b>Thursday 7 July</b>		
a.m.	Meeting with East Jakarta Court: <ul style="list-style-type: none"> <li>Judge Retno Purwandari and others</li> </ul>	East Jakarta Court
a.m.	Meeting with Attorney General's Office: <ul style="list-style-type: none"> <li>Ms Lila Agustina</li> <li>Mr Kiki</li> </ul>	Task Force office, AGO
p.m.	Meeting with Indonesian Children's Welfare Foundation: <ul style="list-style-type: none"> <li>Mr Anto Ikayadi</li> </ul>	YKAI office
<b>Friday 8 July</b>	<b>Meetings</b>	<b>Venue</b>
a.m.	Meeting with IOM/Anti-trafficking Unit: <ul style="list-style-type: none"> <li>Ms Nurul Qoiriah</li> </ul>	IOM's office
p.m.	Meeting with Khine Myat Chit, Senior Officer Security Cooperation Division	ASEAN Secretariat

## Singapore (MD only)

Monday 11 July to Wednesday 13 July	Meetings	Venue
a.m. + p.m.	ASEAN Workshop on Criminal Justice Responses to Trafficking In Persons	Singapore



