

MATRIX 2: SUGGESTED LEGISLATIVE REQUIREMENTS NECESSARY FOR SUCCESSFUL PROSECUTION, PROTECTION OF VICTIMS AND EXTRA-TERRITORIAL COOPERATION IN RELATION TO PEOPLE SMUGGLING, TRAFFICKING IN PERSONS AND RELATED TRANSNATIONAL CRIME

KEY

Interception strategies (column 4) includes listening devices or other special investigation techniques

NEW ZEALAND

CRIMINALISATION OF PS AND PT		EXTRADITION and MUTUAL ASSISTANCE LEGISLATION		INTERCEPTION STRATEGIES	CRIMINALISATION OF PROCEEDS OF CRIME AND MONEY LAUNDERING		CRIMINALISATION OF THE PROCUREMENT AND/OR PRODUCTION OF FRAUDULENT DOCUMENTS
PS	PT	Extradition legislation	Mutual Assistance legislation	Special investigation techniques including listening devices	POC	ML	
Conspiracy	Conspiracy						
Attempting	Attempting						
Aiding/Abetting	Aiding/Abetting						
Organised crime	Organised crime						
Commercial carrier responsibility	Commercial carrier responsibility						
Extra-territoriality	Extra-territoriality	Treaty required	Treaty required				
PENALTY	PENALTY	Nationals	Dual Criminality	Application to trafficking/smuggling	Application to trafficking/smuggling	Application to trafficking/smuggling	Application to trafficking/smuggling
		Any bars to PS and/or PT	Any bars to PS and/or PT				
Criminalised	Criminalised	Extradition Act 1999	Mutual Assistance in Criminal Matters (1992)	Crimes Act 1961 - can use a listening device However the interception of electronic	Proceeds of Crime Act 1991	Crimes Act 1961	Crimes Act 1961 Must only use documents for their proper purpose Immigration Act 1987
Y	Y						
Y	Y						
Y	Y						No specific application

	N however trafficking in persons could constitute participation in an organised criminal group provided the number of persons in the group is 3 or more			communication is currently not permitted because of application to oral communications.			
	Y if the commercial carrier has the requisite knowledge of the offence being committed and participates in any way Commercial carrier has specific statutory obligations to ensure that those travelling to NZ are legitimately entitled to do so						
ET	ET	Treaty required unless extradition is to a Commonwealth country however there is also a discretion NT (but subject to conditions)	No treaty required				
> 20 years imprisonment	> 20 years imprisonment, fine >500,000 or both				No specific act	No specific act	

NEW ZEALAND *cont.*

INTER-AGENCY COOPERATION WITHIN COUNTRY	COUNTRY COOPERATION	ASSISTANCE TO TRAFFICKED/SMUGGLED VICTIMS				PREVENTION STRATEGIES			
	Information Sharing	General	Temporary Visa Protection	Charges Dropped	Repatriate	National action plans	Awareness raising	Immigration Procedures	Other
	Law Enforcement Sharing	Specific							
<p>Watch group of key departments convened by PMC</p>	<p>Locating or identifying persons; obtaining evidence; arranging the attendance of persons in NZ; serving documents; obtaining articles or things; arranging enforcement of various orders made under the Proceeds of Crime Act</p> <p>Immigration Act 1987 (amended in 2002) provides for the sharing of immigration information with any overseas agency, body or person whose functions include:</p> <ul style="list-style-type: none"> – the prevention, detection, investigation, prosecution or punishment of immigration or other offences; – the processing of international passengers; or – border security <p>Information sharing may be pursuant to an agreement or on a case by case basis</p> <p>Customs Act 1996 arrangement for sharing of information on customs matters</p>		<p>Discretionary power to the Minister of Immigration to allow victims to stay in New Zealand temporarily during a criminal investigation</p>	<p>Charges are not dropped but it is not likely that such offences would take place.</p> <p>The criminal defence of compulsion also applies</p>	<p>Y</p> <p>A number of legislative provisions apply to ensure that unsafe repatriation does not occur</p>				<p>NZIS operates an interdiction programme at various airline embarkation points in the region and where trafficking or smuggling activity is detected persons are generally refused permission to travel to New Zealand</p> <p>Immigration Act section 39: employers have a statutory obligation to ensure that persons are lawfully entitled to engage in employment</p> <p>Immigration Act s. 39A: if an employer knowingly employs a person not lawfully entitled to work and then exploits that person in some way then they commit an offence punishable by a maximum of 7 years imprisonment or a fine of \$100,000 (this applies even where there is no employment relationship)</p>