

**BALI PROCESS WORKSHOP
ON THE RATIFICATION AND THE IMPLEMENTATION OF
THE UNTOC AND ITS TWO PROTOCOLS
BANGKOK, THAILAND
12 – 14 DECEMBER 2012**

Co-Chairs' Summary

1. The Bali Process Workshop on the Ratification and the Implementation of the United Nations Convention against Transnational Organized Crime (UNTOC) and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and the Protocol against the Smuggling of Migrants by Land, Sea and Air was held at the Royal Orchid Sheraton Hotel, Bangkok, Thailand during 12 – 14 December 2012. The Workshop was co-hosted by the Australian Government Attorney-General's Department and the Office of the Attorney-General of Thailand, in cooperation with the Ministry of Foreign Affairs of Thailand.
2. The Workshop was attended by 110 officials and experts, representing the governments of the Islamic Republic of Afghanistan, Australia, Austria, Bangladesh, Cambodia, Canada, Fiji, Finland, India, Indonesia, Iraq, the Republic of Korea, Lao PDR, Malaysia, Maldives, Mongolia, Myanmar, Nauru, Nepal, the Netherlands, New Zealand, Norway, Pakistan, Papua New Guinea, the Philippines, Samoa, Spain, Solomon Islands, South Africa, Sri Lanka, Sweden, Thailand, the United States of America, Vanuatu and the European Union as well as the International Organization for Migration (IOM), the United Nations High Commissioner for Refugees (UNHCR), and the United Nations Office on Drugs and Crime (UNODC). Representatives of the Bali Process Regional Support Office (RSO) and the Thailand Institute of Justice (TIJ) were also present. The list of participants is attached hereto as Annex I.
3. Ms. Emily Anne Elizabeth Roper, Acting Assistant Secretary of the Australian Attorney-General's Department, and Mr. Wanchai Roujanavong, Director-General, International Affairs Department, Office of the Attorney-General of Thailand as well as Mr. Cherdkiat Atthakor, Deputy Director-General, Department of International Organizations, Ministry of Foreign Affairs of Thailand, co-chaired the meeting.

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4. Mr. Chulasingh Vasantasingh, Attorney-General of Thailand and Mr. Simon Farbenbloom, Deputy Head of Mission of the Australian Embassy in Bangkok, delivered their opening remarks. The workshop also heard welcoming remarks by Ms. Pornprapai Ganjanarintr, Director-General of the Department of International Organizations, Ministry of Foreign Affairs of Thailand.

5. Mr. Vasantasingh warmly welcomed participants to Thailand and highlighted the importance of combating transnational organized crime, including trafficking in persons and smuggling of migrants. He affirmed the importance of incorporating good practices on the UNTOC to strengthen common efforts in this fight.
6. Mr. Farbenbloom noted that this event highlighted the role of the Bali Process as a forum to work on practical measures to combat trafficking in persons, people smuggling and transnational crime in the Asia Pacific, by sharing experiences and best practices among countries in the region. Australia therefore viewed Thailand's proposal to host the Workshop as highly relevant and applauded Thailand's initiative.
7. Ms. Ganjanarintr underlined the need for concerted international cooperation to fight trafficking in persons, smuggling of migrants and other forms of transnational organized crime. The Workshop represented a regional response to this call, in particular the ratification and implementation of the UNTOC and its Protocols. It was also an expression of shared determination to address this threat to both national security and the security of people who were exploited and whose rights were violated by the illicit networks. There was no one-size-fits-all solution, but Thailand hoped that there would be some guidelines for future work of the Bali Process in this area.
8. Presentations by the UNODC provided an overview of the UNTOC and the two Protocols. The briefings stressed the value of the overarching, comprehensive approach provided by the UNTOC to address all manifestations of transnational organized crime in a flexible and practical manner. It was important to look at the issues as a whole and tackle transnational organized crime in a unified way. The presentations did not only highlight the obligations of States Parties vis-a-vis these international instruments, but also the various related tools which have been developed by the UNODC to provide guidance and assist states in their consideration and implementation processes. Among others, issues were raised as to terminology, in particular the differentiation between trafficking and smuggling as well as definition of serious crime and effective coordination.

Experiences of States Parties

9. Participating countries presented information on the development of national legal frameworks, and possible challenges to the implementation of the UNTOC and its two Protocols in domestic legislation.
10. The presentations recognized the amplitude of trafficking in persons, smuggling of migrants and other forms of transnational organized crime and their impacts on socio-economic development. The revision and amendment of national legislation formed part of national efforts to address the issues. Certain countries were conducting needs assessment and surveys in preparation for such process and to pave the way for the ratification of the UNTOC and the Protocols.

11. Participating countries expressed particular interest in fostering better understanding of the differences between migrant smuggling and trafficking in persons, including in identifying victims and perpetrators.
12. Participants considered trafficking in persons a serious international crime and the violation of human rights. Various countries have amended their existing national legislation on trafficking in persons and people smuggling, including by integrating new offences to immigration or criminal laws, as appropriate, or introducing new ones. This has rendered positive impacts in solving situation at the national and regional levels. Strong and comprehensive legislation was considered crucial in fighting this crime.
13. Participants also discussed determining the appropriate focus for the implementation of the Convention and the Protocols, namely whether the provisions sat most appropriately within migration or criminal laws, and whether separate legislation or a combined framework was preferred on trafficking in persons and smuggling of migrants. Some countries had progressively established legal and policy frameworks on trafficking in persons or smuggling of migrants before proceeding to ratify the relevant protocols.
14. Presentations underlined the importance of national coordination, for example the multi-disciplinary national committees, for effective policy implementation. This included inter-agency coordination in the criminal justice and social responses to migrant smuggling and trafficking in persons. It was noted that the confiscation, seizure of assets and the proceeds of crime helped to deprive criminal networks of their resources, and could support victim protection and assistance. The presentations also emphasized on mutual legal assistance, extradition and law enforcement cooperation at regional and international levels to combat trafficking and smuggling of migrants, as well as the need to balance law enforcement with humanitarian and protection needs. The importance of victim assistance and protection, including adequate identification and support measures that are rights-based, was underlined.
15. The presentations by the UNODC, the RSO and the Australian Attorney-General's Department described the utility of existing information and technical assistance tools, including model laws developed within the Bali Process and the role of the RSO. Participants recalled the Ad Hoc Group had requested that this Workshop revisit the Bali Process model laws and consider how to take this forward. In this regard, participants agreed that the UNODC model laws were comprehensive and up to date reference tools to assist legislative drafters to develop domestic laws, whilst greater awareness and training should be organized or made available regarding these tools. It was viewed that there was perhaps no need to update the Bali Process model laws in light of this. An alternative approach that received strong interest was to develop regionally focused policy guides, which complemented existing tools, provided greater clarity on core definitions, as well as the key elements of criminalizing people smuggling and trafficking in persons.

16. Participants exchanged information on global trends and good practices in implementing the Convention and its two Protocols, including on prevention activities such as awareness and information campaigns as presented by the IOM. Participants also explored the usefulness of technical assistance available within the regional and international frameworks. The importance of victim protection and assistance was underlined, while good practices in countering trafficking in persons and smuggling of migrants were identified, including evaluation.
17. It was noted that the Conference of the State Parties to the UNTOC and its Protocols was the main forum for assessing progress and exchanging information on a wide range of best practices. Participants also noted the significance of the “omnibus survey software” developed by the UNODC which will help states to self-assess their implementation of the Convention and its Protocols. The UNODC made a demonstration of the Voluntary Reporting System on Migrant Smuggling and Related Conduct, which would be a valuable information sharing mechanism for the Bali Process.

Special Presentation by the Thailand Institute of Justice (TIJ)

18. A special presentation was given by Mr. Chaikasem Nitisiri, Chairman of the TIJ, on its programme of work, possible cooperation with countries, regional frameworks and international organizations, including in the area of transnational organized crime. The TIJ stands ready to explore synergies with the Bali Process, particularly through the RSO.

Breakout group discussion

19. To further reflect on some of the issues and challenges raised by the UNTOC and the Protocols, and to identify possible responses, the Workshop was divided into three breakout groups to discuss the following:
 - Group 1: Cross-cutting tools to tackle trafficking in persons and smuggling of migrants as forms of transnational organized crime;
 - Group 2: Treatment of victims of trafficking in persons; and
 - Group 3: Policy issues regarding migrant smuggling.
20. Among the key issues identified were: the need for national leadership and political will; criminalization of offences; challenges associated with protection and support of victims of trafficking including in criminal justice processes; inter-agency coordination; the nexus between asylum, statelessness and trafficking in persons; and the links between smuggling, development and regulation of migrant workers.

Recommendations/Action Points

21. Participants exchanged views on the issues raised in breakout groups as well as in the plenary and agreed that similar challenges were shared by many countries and these deserved better reflection.
22. Participants expressed interest in the development of regional policy guides on people smuggling and trafficking to support countries in implementing obligations under the UNTOC and the Protocols. These guides could clearly and simply explain the obligations under the two Protocols, in particular criminalization, and be useful tools for communicating about legal obligations across a range of domestic agencies. The development of such guides would complement the UNODC model laws, take into account the existence of technical assistance tools and avoid duplication.
23. The Co-Chairs recommended that the proposal to develop guides of this type be presented to the next Ad Hoc Group Senior Officials' Meeting for endorsement and inclusion in the forward work plan of the RSO. Australia proposed to work with interested members, international organizations, and the RSO to develop such policy guides, which would benefit all Bali Process countries.
24. Recognizing the complexity of smuggling issues, participants saw the value of further defining various policy issues regarding people and migrant smuggling in the national context. In this regard, it was recommended that the identification of useful elements of a comprehensive national strategy to address smuggling be further considered.
25. In addition, participants strongly supported practical implementation of important international instruments on trafficking in persons, including through the United Nations Global Plan of Action to Combat Trafficking in Persons, especially Women and Children. Participants also saw the value of regional countries coming together to discuss possible ways to contribute to the review and post-review phase of the Global Plan of Action to Combat Trafficking in Persons, especially Women and Children, scheduled for 2013.
26. Many participants underlined the need for the Bali Process to continue to support the provision of technical assistance for countries, who were in the early stages of considering ratification and implementation, and in developing or amending legislation. The RSO was recognized as a possible resource for facilitating technical assistance, in cooperation with interested countries and organizations.
27. On international legal cooperation, participants examined the legal basis and practical aspects of mutual legal assistance and extradition. Participants acknowledged disparities between legal frameworks of countries which proved challenging for international legal cooperation and recognized the importance of direct consultations between parties and adopting relevant provisions of the

UNTOC and the Protocols in overcoming these challenges. Bali Process member countries could, together with international organizations, explore the possibility of harmonizing legal cooperation procedures within the region.

28. To further effective ratification and implementation of the UNTOC and its Protocols countries are encouraged to work with the UNODC and other organizations on technical and policy issues, including on the Omnibus Survey.

Conclusions

29. The Workshop achieved its objectives of exchanging information regarding relevant legislation, exploring assistance for countries and States Parties, and jointly promoting coordination against transnational organized crime in a cooperative atmosphere. It was agreed that the outcome of the Workshop on the Ratification and the Implementation of the UNTOC and its two Protocols would be presented to the Bali Process Steering Group and relevant meetings of the Senior Officials of the Bali Process.
30. The Co-Chairs expressed appreciation to the IOM, the Australian Embassy in Bangkok as well as the Ministry of Foreign Affairs of Thailand for their assistance in providing logistical and administrative support to facilitate participants' attendance at the Workshop. The Co-Chairs also commended the United States of America for her important contributions to the organization of this Workshop.

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Australia and Thailand (Co-Chairs)

Bali Process

Workshop on the Ratification and the Implementation of the UNTOC and its two Protocols

Bangkok, 14 December 2012.