

**BALI PROCESS
TECHNICAL EXPERT WORKSHOP
ON MUTUAL LEGAL ASSISTANCE
AND LAW ENFORCEMENT COOPERATION
BANGKOK, THAILAND
30 MAY – 1 JUNE 2011**

Co-Chairs' Summary

1. The Bali Process Technical Expert Workshop on Mutual Legal Assistance (MLA) and Law Enforcement Cooperation was held at the Siam City Hotel, Bangkok, Thailand, during 30 May – 1 June 2011. The Workshop was co-hosted by the Australian Government Attorney-General's Department and the Office of the Attorney-General of Thailand and co-chaired by Ms. Julie Taylor, Director of Extradition, International Crime Cooperation Central Authority, the Attorney-General's Department of Australia and Dr. Chatchom Akapin, Executive Director, International Affairs Department, Office of the Attorney-General of Thailand. The Workshop was mandated by the first Ad Hoc Group Meeting of the Bali Process in July 2009 and reaffirmed at the 4th Bali Process Regional Ministerial Conference held in Bali on 30 March 2011.

2. The Workshop was attended by 50 officials and experts, representing the governments of Australia, Bhutan, Cambodia, Canada, China, India, Indonesia, Iraq, Maldives, Mongolia, Nepal, New Zealand, Pakistan, Papua New Guinea, Samoa, Solomon Islands, Sri Lanka, Thailand, Vietnam, 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). The list of participants is attached hereto as Annex I.

3. The Workshop heard welcoming addresses by Mr. Simon Farbenbloom, Deputy Head of Mission of the Australian Embassy in Bangkok; Mr. Chulasingh Vasantasingh, Attorney-General of Thailand; Mr. Vijavat Isarabhakdi, Director-General of the Department of International Organizations, Ministry of Foreign Affairs of Thailand; and Mr. Andrew Bruce, Regional Representative of the International Organization for Migration (IOM), respectively. The welcoming addresses highlighted the importance of using Mutual Legal Assistance (MLA) to combat transnational organized crime, particularly trafficking in persons and people smuggling, and the importance of strengthening cooperation among the Bali Process countries on such matters. It was hoped that the exchanges and discussions at the Workshop would generate momentum, build partnerships, and increase the standard of MLA and extradition requests and assistance. While working to improve prevention and prosecution activities, it was also important to adopt a people-centered approach in respect of the victims of trafficking in persons, with care taken to avoid re-victimization, and to provide them protection under international refugee law, where applicable.

4. Mr. Sirisak Tiyanpan, Director of the International Affairs Department, Office of the Attorney-General of Thailand, presented an overview of the concept of MLA. The presentation touched upon MLA principles and conditions including double criminality, double jeopardy, reciprocity, and the linkages between domestic, regional and international legal frameworks, drawing on Thailand's experience. Issues that emerged in processing MLA requests were also touched upon. A presentation was delivered by Mr. Nadhavathna Krishnamra, Director of Social Division, Department of International Organizations, Ministry of Foreign Affairs of Thailand, underlining the Bali Process' recognition of the usefulness of MLA as an essential tool to prevent and suppress criminal activities related to

trafficking in persons and people smuggling, as well as dismantle illicit networks behind recent irregular population movements.

5. Workshop participants shared information about developments in their domestic laws to combat trafficking in persons, people smuggling and other transnational organized crime as well as national provisions on MLA and extradition. Participants shared details about bilateral MLA and extradition arrangements, including statistics on trafficking and smuggling cases. They also exchanged views on the developments in regional and international cooperation on MLA and law enforcement such as in the Association of South East Asian Nations (ASEAN) and the South Asian Association for Regional Cooperation (SAARC) and in implementing the United Nations Convention against Transnational Organized Crime (UNTOC) and the United Nations Convention against Corruption (UNCAC). They took note of new trends that needed to be addressed such as dealing with proceeds of crime and asset recovery.

6. Participants also noted the contribution of the Bali Process, particularly the efforts to build a shared information platform among its members and call for strengthened cooperation on MLA and law enforcement involving crimes related to trafficking in persons and people smuggling.

7. Mr. Wanchai Roujanawong, Deputy Director-General of the International Affairs Department, Office of the Attorney-General of Thailand, shared Thailand's experience on international legal cooperation, particularly the use of existing legal arrangements such as Mutual Legal Assistance Treaty (MLAT) and non-treaty based instruments with other countries. He also pointed out the disparities of legal frameworks between countries which led to discrepancies in cooperation on law enforcement, but highlighted that the willingness to cooperate and reciprocate can do much to overcome obstacles to providing the assistance. In this connection, Bali Process member countries could make use of the international organizations' expertise and support in exploring the possibility of harmonizing legal cooperation procedures within the region.

8. Mr. Vipon Kititassasorchai, Terrorism Prevention Officer, and Mr. Martin Reeve, Expert, UNODC, delivered presentations on the linkage between international and regional principles on MLA, particularly the application of the UNTOC provisions regarding MLA and extradition, the ASEAN MLAT and the ASEAN Convention on Counter-Terrorism. The UNODC also underlined the complementarity between the international and regional frameworks and shared its experiences in assisting countries in the region to develop national MLA legislation, highlighting the availability of various tools and templates developed by the UNODC and others, which states could avail themselves of in formulating MLA requests. Ms. Laura Giammarinaro, Regional Registration Officer, UNHCR, also pointed out that victims of trafficking may meet the criteria for obtaining refugee status under the 1951 UN Convention relating to the Status of Refugees and, as such, should be afforded protections under the Refugee Convention and the 1967 Protocol.

9. Ms. Celia Maunder, a Legal Officer within the International Crime Cooperation Central Authority of the Australian Government Attorney-General's Department, shared Australia's experience of mutual legal assistance in trafficking in persons and people smuggling investigations. Ms. Maunder spoke about Australia's mutual legal assistance processes and challenges in providing effective assistance. Ms. Maunder also provided a case study which highlighted particular challenges and methods to try and overcome these challenges.

10. Participants had an extensive exchange of views on issues surrounding cooperation based on a working group exercise involving a trafficking in persons scenario. Participants discussed the challenges in making and responding to requests for international crime cooperation, including their positions and perspectives as countries of origin, transit and destination in the context of the scenario. Participants acknowledged the value of case simulation in gaining a better understanding of the challenges and obstacles in dealing with a number of offenders across multiple jurisdictions, and how to achieve the successful prosecution of crimes related to trafficking in persons and people smuggling. The scenario exercise further helped to identify capacity building needs for relevant officials to ensure more effective international legal cooperation. A summary of the working group exercises on the criminal case scenario is contained in Annex II.

11. H.E. Mr. Kriangsak Kittichaisaree, Ambassador of Thailand to Australia, delivered a special presentation on international legal cooperation on transnational organized crime. He urged participants to consider building on the work of the Bali Process on Counter-Terrorism, which discussed issues relating to MLA and international legal cooperation but focusing on the different offence of terrorism. Particularly pertinent were issues such as reciprocity, extraterritoriality, double criminality, and the importance of using maximum flexibility to promote cooperation.

12. Mr. Sanchai Krungkanjana, Lampang Provincial Public Prosecutor, Department of Civil Rights Protection and Legal Aid, Office of the Attorney General of Thailand, delivered a presentation on issues and challenges in extradition, drawing on Thailand's example and referring to case examples. Presentations on extradition issues arising in trafficking in persons and people smuggling cases were also shared by the Australian and Thai co-chairs.

13. The Workshop successfully achieved its objectives, namely to exchange information regarding relevant legislation criminalizing trafficking in persons and people smuggling activity, as well as identify any 'gaps' and obstacles which impede cooperation in the criminal justice process in such matters; discuss each country's requirements for providing MLA in respect of trafficking in persons and people smuggling matters; identify the various forms of assistance that can be provided pursuant to a request for MLA and discuss respective experiences in making and responding to requests for MLA and extradition in people smuggling and trafficking in persons matters; and identify coordination procedures between Central Authorities for MLA and extradition requests in respect of trafficking in persons and people smuggling matters.

14. Looking ahead, participants noted the value of having further opportunities to update each other on developments regarding domestic frameworks on trafficking in persons and people smuggling as well as on arrangements for MLA, extradition and related issues.

15. The Workshop was held in an atmosphere of cooperation and collaboration.

16. The Co-Chairs acknowledged the support of the IOM in providing logistical and administrative arrangements to facilitate participants' attendance at the Workshop, and the financial assistance of the United States of America and Australia to support the attendance of the participants.

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