

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE GOVERNMENT OF THE KINGDOM OF CAMBODIA
AND
THE GOVERNMENT OF THE KINGDOM OF THAILAND
ON
BILATERAL COOPERATION
FOR
ELIMINATING TRAFFICKING IN CHILDREN AND WOMEN
AND ASSISTING VICTIMS OF TRAFFICKING

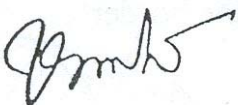
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The Government of the Kingdom of Cambodia and the Government of the Kingdom of Thailand (hereinafter referred to as the "Parties"),

HAVING SOUGHT to strengthen the bonds of friendship between the two countries and to increase the bilateral cooperation on the suppression of trafficking in children and women,

RECOGNIZING that trafficking in children and women is a gross infringement of human rights and grievous trampling on the dignity of human beings,

GRAVELY CONCERNED that trafficking in children and women has negative impact on individual physical, mental, emotional, moral development and is detrimental to the social fabric and values of the society,



TAKING INTO ACCOUNT that transnational criminal groups and organizations are actively involved in trafficking in children and women and that such transnational organized crimes have affected not only Thailand and Cambodia but also the region and the global community at large,

CONFIRMING that the Parties share the common concern against transnational human trafficking as addressed in the Bangkok Declaration on Irregular Migration deliberated in the International Symposium on Migration "Towards Regional Cooperation on Irregular/Undocumented Migration" held in Bangkok during 21-23 April 1999, and " The Bali Conference on the people Smuggling and Trafficking in Person" held in Bali during 26-28 February 2002.

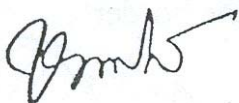
RECALLING the Agreed Minutes of the Third Meeting of the Joint Commission for the Bilateral Cooperation between the Kingdom of Cambodia and the Kingdom of Thailand, in Siem Reap Province of the Kingdom of Cambodia, during 31 January-1 February 2000 with regards to the intensification of cooperation in suppressing cross border trafficking in human beings, especially in women and children,

REFERRING to the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime,

CONVINCED that suppressing the crime of trafficking in children- and women through mutual cooperation in law enforcement and criminal procedures is an effective measure to ensure justice against human trafficking,

PLEDGING that the Parties shall faithfully cooperate to eliminate trafficking in children and women, and to protect and assist them,

HAVE AGREED as follows:



I- SCOPE OF THIS MEMORANDUM OF UNDERSTANDING

Article 1:

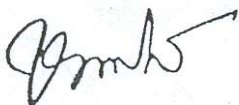
This Memorandum of Understanding shall apply to trafficking in children and women as defined in article 2 of this Memorandum.

II –DEFINITION

Article 2:

For the operational purpose of this Memorandum:

- (a) Trafficking in Children and Women" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of threat, use of force, or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include the exploitation of others through prostitution or other forms of sexual exploitation, forced labour or service, slavery or practices similar to slavery, servitude or the removal of organs;
- (b) The consent of a victim of trafficking in children and women to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;
- (c) A child who has been recruited, transported, transferred or harboured for the purpose of exploitation shall be considered "as a victim of trafficking" even if this does not involve any of the means set forth in subparagraph (a) of this article; and
- (d) "Child" shall mean any person under eighteen years of age.



Article 3:

The Parties recognize that examples of the purposes of trafficking in children and women include, but are not limited to, the following:

- (a) Prostitution;
- (b) Forced or exploitative domestic labour;
- (c) Bonded labour and other forms of hazardous, dangerous and exploitative labour;
- (d) Servile marriage;
- (e) False adoption;
- (f) Sex tourism and entertainment; .
- (g) Pornography;
- (h) Begging; and
- (i) Slavery by the use of drugs on children and women.

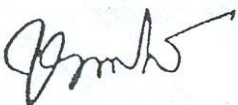
III- PREVENTIVE MEASURES

Article 4:

The Parties shall undertake necessary legal reform and other appropriate measures to ensure that the legal frameworks in their respective jurisdictions conform with the Universal Declaration of Human Rights, the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women, and other international human rights instruments which both parties have ratified or acceded to and are effective in eliminating trafficking in children and women and in protecting all rights of children and women who fall victims to trafficking.

Article 5:

The Parties shall undertake educational and vocational training programs, in particular for children and women, to-increase the opportunity for employment and hence reduce vulnerability to trafficking.



Article 6:

The Parties shall make best effort to prevent trafficking in children and women through the following preventive measures:

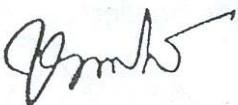
- (a) Increase of social services such as assistance in job searching and income generating and provision of medical care to children and women vulnerable to trafficking,
- (b) Reform of educational and vocational training programs to improve their linkage with job opportunities;
- (c) Enhancement of public awareness and understanding on the issue of trafficking in children and women; and
- (d) Dissemination of information to the public on the risk factors involved in trafficking of children and women and on the businesses that are exploitative to children and women.

IV- PROTECTION OF TRAFFICKED CHILDREN AND WOMEN

Article 7:

Trafficked children and women shall be considered victims, not violators or offenders of the immigration law. Therefore,

- (a) Trafficked children and women shall not be prosecuted for illegal entry to the country;
- (b) Trafficked children and women shall not be detained in an immigration, detention center during the times awaiting the official repatriation process, but shall be put under the care of the Ministry of Social Affairs, Labour, Vocational Training and Youth Rehabilitation (Cambodia) or the Department of Social Development and Welfare (Thailand), and shelter and protection shall be provided to the victims according to the policy of each state;



- (c) The relevant authorities shall ensure the security of trafficked children and women; and
- (d) Victims shall be treated humanely throughout the process of protection and repatriation, and the judicial proceedings.

Article 8:

The Parties shall undertake appropriate measures, which may include legal reform and legal aid, to ensure the effective legal remedies to victims of trafficking as follows:

- (a) Victims may claim restitution of any undisputed personal properties and belongings that have been confiscated or obtained by authorities in the process of detention or any other criminal procedure;
- (b) Proceeds of crime of trafficking shall be liable for confiscation and managed according to the laws of relevant country;
- (c) Victims may claim compensation from the offender of any damages caused by trafficking in children and women;
- (d) Victims may claim payment for unpaid services from the offender; and
- (e) Victims shall have access to the due process of law to claim for criminal justice, recovery of damages, and any other judicial remedies.

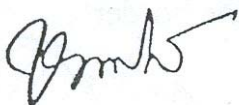
Article 9:

The relevant Governmental agencies where appropriate, in cooperation with non-governmental organizations, shall provide trafficked children, women, and their immediate family, if any, with safe shelters, health care, access to legal assistance, and other imperative for their protection.

V-COOPERATION IN SUPPRESSION OF TRAFFICKING IN CHILDREN AND WOMEN

Article 10:

The law enforcement agencies in both countries, ~specially at the border



shall work in close cooperation to uncover domestic and cross border trafficking of children and women.

Article 11:

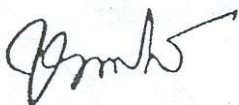
- (a) The law enforcement process shall be streamlined so as to combat crimes of trafficking in children and women effectively;
- (b) The investigation and the prosecution of offenders and criminal syndicates in trafficking cases shall be intensified; and
- (c) The Parties shall undertake training programs unilaterally and bilaterally. concerning the applicable legal rules and skills of investigation and protection in trafficking cases for law enforcement personnel, with emphasis on the rights of children and women, with reference to. the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women, other international human rights standards and the relevant domestic laws.

Article 12:

- (a) The Parties shall promote bilateral cooperation in the judicial procedure against trafficking, e.g., prosecution of transnational traffickers, extradition arrangement, mutual judicial assistance in the criminal procedures; and
- (b) The parties shall afford one another the widest measure of mutual legal assistance in investigation, prosecution and judicial proceeding in relation to trafficking in children and women including existing arrangement on extradition.

Article 13:

The police and other relevant authorities in both countries shall cooperate in exchange of information concerning trafficking cases, e.g., trafficking routes, places



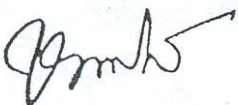
of trafficking, identifications of traffickers, network of trafficking, methodologies of trafficking, and data on trafficking.

Article 14:

- (a) The Ministry of Foreign Affairs and International Cooperation, the Ministry of Interior, the Ministry of Social Affairs, Labour, Vocational Training and Youth Rehabilitation, the Ministry of Women's and Veterans' Affairs, the Ministry of Justice, and the Ministry of Tourism (Cambodia) and The Royal Thai Police, the Ministry of Foreign Affairs, the Ministry of Labour, the Ministry of Social Development and Human Security, the Ministry of Public Health and the Department of Social Development and Welfare, the local police, or immigration border control checkpoints (Thailand), along with other relevant non-governmental organizations, shall cooperate in collecting information and evidence relating to human trafficking cases;
- (b) The information and evidence obtained in accordance with the above paragraph shall duly be delivered to the competent police office, immigration office, prosecutor's office or other relevant parties who takes legal action in trafficking cases of children and women, e.g., searching for offenders, investigating in cases, prosecuting offenders, and proceeding with any other judicial procedures.

Article 15:

The police and other appropriate authorities of the relevant state shall undertake the protection program to secure the safety of victims and eyewitnesses from retaliation or menace during and after the judicial proceedings as deemed necessary.



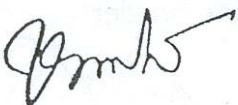
VI- REPATRIATION

Article 16:

- (a) The authorities in charge of repatriation shall use the diplomatic channel of communication to inform the other Party of repatriation arrangements of trafficked children and women in advance;
- (b) Repatriation of trafficked children and women shall be arranged and conducted in their best interest; and
- (c) Children and women who have been identified as victims of trafficking shall not be deported. Repatriation of children and women victims will undertaken in accordance with the above.

Article 17 :

- (a) The Parties shall establish the Focal-Point to implement the repatriation process of trafficked children and women;
- (b) The Focal Point shall be composed of the competent authorities from both Parties;
- (c) The Focal Point shall undertake the following duties:
 - (i) To arrange repatriation of trafficked children and women;
 - (ii) To implement the arranged repatriation of trafficked children and women;
 - (iii) To provide security for trafficked children and women in the repatriation process; .
 - (iv) To endeavour to monitor trafficking in children and women; and
 - (v) To establish informational networks concerning the practice of trafficking in children and women among the national and international law enforcement authorities and relevant civil society organizations.



VII-REINTEGRATION

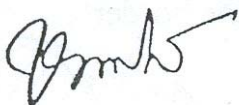
Article 18:

- (a) The Parties shall make all possible efforts towards the safe and effective integration of victim of trafficking into their families and communities in order to restore their dignity, freedom, and self-esteem.
- (b) For this purpose, the Parties shall take appropriate measures to attain the following objectives:
 - (i) Victims of trafficking shall not suffer any further victimization, stigmatization or dramatization in the judicial procedure;
 - (ii) Continuous social, medical, psychological and other necessary support shall be provided to children and women who are victims of trafficking and their families particularly to those who are infected with sexually Transmitted disease including HIV/AIDS;
 - (iii) Children and Women who are victims of trafficking, shall not be discriminated or stigmatized socially; and
 - (iv) Child victims of school age shall be ensured appropriate educational opportunities.

Article 19:

The Parties shall provide the following training programs for the purpose of effective reintegration:

- (a) The vocational training program for victims of trafficking to opportunity of alternative means of their livelihood; and
- (b) Training programs to sensitize those working for victims of trafficking in regard to child development, child rights and child/gender issues with reference to the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women and other relevant human rights instruments to which both parties are parties,



III- JOINT TASK FORCE

Article 20:

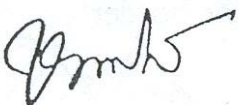
- (a) The Parties shall establish the Joint Task Force;
- (b) The Joint Task Force shall be comprised of competent representatives from both Parties;
- (c) The Joint Task Force shall be called for to meet as the need arises. The date and venue of the meeting of the Joint Task Force shall be agreed by both Parties;
- (d) The Joint Task Force shall assume the following responsibilities:
 - (i) To monitor and assess the implementation of this Memorandum and report to the Joint Commission for Bilateral Cooperation between Cambodia and Thailand at its annual meeting;
 - (ii) To initiate establishment of strategies, implementing guidelines and other necessary framework to implement this Memorandum;
 - (iii) To make recommendations toward further development of the mutual cooperation against trafficking in children and women; and
 - (iv) To review the implementation of this Memorandum of Understanding every 5 years.

IX- FINAL PROVISIONS

Article 21:

Parties shall endeavour to settle disputes concerning the interpretation or application of this Memorandum through negotiation.

This Memorandum of Understanding shall take effect on the date of signature by both Parties.



Article 22:

Either party may terminate this Memorandum of Understanding at any time by giving written notice to the other party through diplomatic channels, and the termination shall be effective six months after the date of receipt of such notice.

Article 23:

This Memorandum of Understanding may be amended upon the agreement of the Government of the Kingdom of Cambodia and the Government of the Kingdom of Thailand.

This Memorandum of Understanding shall be written in duplicate in English.

IN WITNESS- WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this Memorandum of Understanding.

Done at Siem Reap on 31st May 2003.

**For the Government of
the Kingdom of Cambodia**



ITH SAMHENG

Minister of Social Affairs,
Labor, Vocational Training
and Youth Rehabilitation

**For the Government of
the Kingdom of Thailand**



ANURAK CHUREEMAS

Minister of Social Development
and Human Resources

