



Signing Ceremony

Memorandum of Understanding
between
The Union of Myanmar
and
The Kingdom of Thailand
on
Cooperation to Combat Trafficking in Persons,
especially Women and Children

24 April, 2009
Nay Pyi Taw, Myanmar

PRESS RELEASE

THE UNION OF MYANMAR AND THE KINGDOM OF THAILAND SIGN HISTORIC AGREEMENT ON HUMAN TRAFFICKING

24 April 2009, Nay Pyi Taw, Myanmar – The Government of the Union of Myanmar and The Government of the Kingdom of Thailand today signed a Memorandum of Understanding on Cooperation to Combat Trafficking in Persons, especially Women and Children. The aim is to enhance bilateral cooperation in fighting against human trafficking. The Minister of Home Affairs, and the Minister of Social Development and Human Security, signed on behalf the Government of the Union of Myanmar and the Government of the Kingdom of Thailand, respectively.

The Memorandum of Understanding clearly lays out areas of cooperation to combat all aspects of human trafficking. The Memorandum of Understanding encompasses different areas: prevention; protection, recovery and reintegration of victims of trafficking in persons; law enforcement and criminal justice; as well as developing and implementing joint actions between the two countries.

The signing ceremony was attended by ministerial representatives, senior officials from the relevant ministries, representatives from the Royal Thai Embassy, and representatives from the UN and INGOs working in the field of anti-human trafficking.

Remarks were delivered by H.E. Major General Maung Oo, Minister of the Ministry of Home Affairs and Chairperson of the Central Body for Suppression of Trafficking in Persons. The Minister highlighted the complexity of human trafficking and the efforts made between the two countries to fight the complex issue. He also commended the achievements of Myanmar and Thailand - along with other GMS countries - under the COMMIT MoU, as well as other regional mechanisms which address the human trafficking problem. He spoke on the main efforts Myanmar has made since 1997 to combat human trafficking. He reaffirmed Myanmar's commitment to enhance the cordial relationship between the two countries; a relationship which will enable pragmatic and genuine cooperation to address cross-border trafficking.

Following these remarks by H.E Major General Maung, H.E Mr. Issara Somchai, Minister of the Ministry of Social Development and Human Security, then gave his remarks. He expressed his gratitude to the Government of the Union of Myanmar and for all the behind-the-scenes work that had gone into making the signing of the MoU possible. The Minister noted that this was the first bilateral agreement addressed to anti-human trafficking that Myanmar and Thailand had signed. While the two countries already shared a strong collaborative relationship, he said the MoU was an important step, and provided a strong foundation for future joint efforts between the two countries in tackling cross-border trafficking. .

Along with the MoU, the two countries have also drafted the Plan of Action, which contains the specific, concrete activities that will translate into action the commitments made under the MoU framework. The Plan of Action will be finalized and in place in the very near future. The activities identified in the Plan of Action will also be implemented accordingly.

Along with the two governments, non-governmental organizations, UN agencies and international organizations are also joining hands and are committed to the fight against human trafficking.

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE GOVERNMENT OF THE UNION OF MYANMAR
AND
THE GOVERNMENT OF THE KINGDOM OF THAILAND
ON
COOPERATION TO COMBAT TRAFFICKING IN PERSONS, ESPECIALLY
WOMEN AND CHILDREN

THE GOVERNMENT OF THE UNION OF MYANMAR AND THE GOVERNMENT OF THE KINGDOM OF THAILAND; (hereinafter referred to as “the Parties”);

BEING CONCERNED that trafficking in persons, especially women and children, constitutes a serious violation of human rights, undermines human dignity and adversely affects physical and psychological development of a person, and jeopardizes social cohesion and values;

RECOGNIZING the obligations of the Parties under the Universal Declaration of Human Rights (UDHR), the Convention on the Rights of the Child (CRC), the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the ILO Forced Labour Convention No. 29, and other international human rights instruments which both Parties have ratified or acceded to and are effective in eliminating trafficking in persons and in protecting the rights of any persons, especially women and children, who fall victims to trafficking;

AIMING to prevent and suppress individuals and transnational organized criminal groups engaging in trafficking in persons, in accordance with the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime 2000;

REAFFIRMING the principles contained in the 2004 Memorandum of Understanding on Cooperation against Trafficking in Persons in the Greater Mekong Sub-region and the ASEAN Declaration against Trafficking in Persons Particularly Women and Children of 2004;

BEING CONVINCED that the suppression of the crime of trafficking in persons, especially women and children, and the protection of the victims of trafficking in persons through cooperation in law enforcement and criminal justice, including other relevant authorities, are effective measures to ensure justice against human trafficking;

DESIRING to enhance cooperation of mutual benefit between two countries;

HAVE HEREBY AGREED AS FOLLOWS:

I. Scope of the Memorandum of Understanding

Article 1

This Memorandum of Understanding shall apply to combating trafficking in persons, especially women and children, as defined in Article 2 of this Memorandum of Understanding.

II. Definition

Article 2

For the operational purpose of this Memorandum of Understanding,

(a) “Trafficking in Persons” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or 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, 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;

(b) The consent of a victim of trafficking in persons 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, harboured or received for the purpose of exploitation shall be considered as a victim of trafficking in persons 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.

III. Preventive Measures

Article 3

The Parties shall make best efforts to prevent trafficking in persons, especially women and children, by:

(a) Providing educational and vocational training programs for persons in vulnerable situations, and in particular for women and children, in order to support employment opportunities and reduce the vulnerabilities to trafficking;

(b) Providing improved social services, such as employment, income generation and health care for all persons, especially women and children, who are vulnerable to trafficking;

(c) Disseminating information to the public regarding the multiple risk factors that lead to trafficking in persons, especially women and children, including the means used to keep victims in exploitative conditions; and,

(d) Undertaking, within each party's jurisdiction, public awareness-raising activities at areas of origin, transit and destination.

Article 4

The Parties shall make best efforts to take measure to minimize vulnerabilities and to promote safe migration.

Article 5

The Parties shall make best efforts, to the extent possible, to take measures to reduce the demand factors that lead to trafficking in persons, especially in women and children.

Article 6

The Parties strive to ensure that appropriate measures are undertaken, to the extent possible, to monitor workplaces so that they comply with the applicable laws of each party.

IV. Protection of Victims of Trafficking in Persons, Especially Women and Children

Article 7

The Parties shall make best effort to identify victims of trafficking in persons. Mutually agreed-upon victim identification criteria should be developed to guide the process of victim identification.

Article 8

Victims of trafficking in persons shall be considered victims of a crime, not violators or offenders of immigration law. Therefore;

(a) Victims of trafficking in persons should not be prosecuted by either party for illegal entry to or exit from the country, and for any other offences arising as a direct consequence of trafficking in persons;

(b) Victims of trafficking in persons shall not be detained in any law enforcement or immigration detention centres while waiting for repatriation, but shall be placed under the care of the Department of Social Welfare (Myanmar), Department of Social Development and Welfare (Thailand), or temporary shelters. Shelter and protection shall be provided to the victims of trafficking in persons according to the laws and policies of each Party;

(c) The Parties shall ensure the security and privacy of victims of trafficking in persons;

(d) Victims of trafficking in persons shall be treated humanely throughout the process of protection, judicial proceedings and repatriation. The principle of voluntariness should be considered throughout the victim's participation in judicial proceedings.

(e) Child sensitive procedures should be put in place and applied throughout the process of protection, judicial proceedings, and repatriation.

(f) If the age of child victim of trafficking is uncertain but there are reasons to believe that the victim of trafficking in persons is a child, the presumption shall be that the victim is a child until further determination on the age is made.

Article 9

Victims of trafficking in persons, especially women and children, shall receive legal protection while awaiting the completion of the procedures for their official repatriation. The relevant authorities and organizations of the Parties shall provide temporary shelter and appropriate protection to the victims of trafficking in persons in accordance with the policies of each Party.

Article 10

The Parties shall take appropriate measures against traffickers in cases relating to trafficking in persons, in accordance with the national laws of each Party, and provide fair and just legal assistance to the victims of trafficking in persons, especially women and children.

Article 11

The Parties shall undertake appropriate measures, which may include legal aid, to ensure effective legal remedies for victims of trafficking in persons as follows:

(a) Victims of trafficking in persons may claim restitution of any undisputed personal properties and belongings that may have been confiscated or obtained by authorities in the process of being rescued or any other criminal procedure;

(b) Victims of trafficking in persons may claim compensation from the offender of any damages caused by trafficking in persons;

(c) Victims may claim payment for unpaid services from the offender; and

(d) Victims shall have access to the due process of law to claim for criminal justice, recovery of damages, and any other judicial remedies.

Article 12

The Parties shall cooperate with social and non-governmental organizations to provide safe shelter, legal assistance, appropriate communication between victims and families back home, and healthcare, and take other necessary measures to protect the victims of trafficking in persons, especially women and children and their families, in an appropriate manner.

V. Cooperation in Suppression of Trafficking in Persons

Article 13

The Parties' departments responsible for law enforcement shall closely cooperate to uncover and investigate cross-border trafficking in persons, especially women and children, at origin, transit and destination areas.

Article 14

The Parties shall individually or jointly provide training programmes for concerned authorities to enhance their capacity for implementing the laws in force relating to the investigation and prosecution of offenders, and the protection of victims of trafficking in persons, especially women and children.

Article 15

(a) The Parties shall promote bilateral cooperation in, for example, the prosecution of transnational traffickers, extradition and mutual legal assistance in criminal matters, in order to prevent and suppress trafficking in persons; and,

(b) The Parties shall afford one another the broadest mutual legal assistance in investigation, prosecution and judicial proceedings related to trafficking in persons in accordance with applicable existing agreements bound by the Parties while taking into account the best interest of victims of trafficking in persons.

Article 16

Subject to national laws, the Parties shall cooperate in compiling and exchanging data and information, and the collecting evidence relating to trafficking in persons, such as routes, places, networks, means and methods of trafficking in persons, including the personal information and criminal records of the traffickers.

Article 17

The Parties shall formulate plan of action for the protection to ensure the safety of victims of trafficking in persons, especially women and children, and witnesses, as appropriate, from acts of revenge or threats during and after judicial proceedings.

VI. Repatriation and Reintegration**Article 18**

(a) The Parties shall cooperate to ensure safe and timely repatriation of victims of trafficking in persons;

(b) The Parties shall inform the other Party, in advance, through the Department of Social Welfare (Myanmar) and the Department of Social Development and Welfare (Thailand), and diplomatic channels, of the victims' names and other information relating to the victims for the purpose of arranging repatriation and reintegration of the victims of trafficking in persons, especially women and children;

(c) The Parties shall develop joint Standard Operating Procedures to assist safe and timely repatriation and reintegration; and,

(d) Persons who have been identified as victims of trafficking in persons shall not be deported but repatriated in their best interest, and in accordance with the above provisions and/or standards developed within the context of the 2004 Memorandum of Understanding on Cooperation against Trafficking in Persons in the Greater Mekong Sub-region.

Article 19

The Parties shall assign the Department of Social Welfare (Myanmar) and the Department of Social Development and Welfare (Thailand) to act as focal points for the purpose of executing the repatriation and reintegration of victims of trafficking in persons, especially women and children. The focal points shall have the following responsibilities:

(a) Facilitating and arranging the repatriation of victims of trafficking in persons, including conducting family tracing and assessment;

(b) Executing the repatriation of victims of trafficking in persons according to predetermined schedules;

(c) Ensuring the safety of victims of trafficking in persons, especially women and children, in the execution of their repatriation and reintegration;

(d) Follow-up of returned victims of trafficking in persons, and sharing information thereon and outcomes with the other focal point, keeping the best interest of the returnee in mind;

(e) Establishing information networks between law enforcement agencies, and national and international organizations responsible for the protection of victims of trafficking in persons for the purpose of monitoring activities related to trafficking in persons; and,

(f) Cooperating with social and non-governmental organizations, UN agencies, intergovernmental organizations, and international organizations, as appropriate, to assist the repatriation and reintegration of victims of trafficking in persons.

Article 20

The Parties shall undertake measures to assist victims, especially women and children, to reintegrate into their families and society in a safe and timely manner, in order that their dignity, freedom and self-esteem be restored, and that each is empowered as a survivor. For this purpose, the Parties shall take appropriate measures to attain the following objectives:

(a) Victims of trafficking in persons shall not suffer re-victimization, stigmatization, discrimination or trauma during the process of recovery, in judicial proceedings, repatriation and reintegration;

(b) An individualized reintegration plan should be developed with the aim of providing age-, gender- and culturally-appropriate services that are responsive to the needs of each individual;

(c) Continued social, medical, psychological and other necessary support shall be provided for victims of trafficking in persons, particularly those who are infected with sexually transmitted diseases, including HIV/AIDS; and,

(d) Child victims of school age shall be provided with appropriate educational opportunities.

Article 21

The Parties shall provide the following training programmes for the purpose of effective recovery, repatriation and reintegration:

(a) Appropriate vocational training programmes for victims of trafficking to increase their employment opportunities; and,

(b) Joint and individual training programmes to sensitise staff in relevant departments and organizations working with victims of trafficking to issues of child development, child rights, and 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 which both Parties have ratified or acceded to.

VII. Joint Action

Article 22

The Parties shall establish a joint working group, with members drawn from relevant authorities and organizations working to combat trafficking in persons,

(a) The joint working group shall meet on both regular and *ad hoc* basis, when and where appropriate and agreed to by both Parties;

(b) The joint working group shall, have, inter alia, the following functions;

1. Planning joint actions and implementation of the provisions of the Memorandum of Understanding;
2. Undertaking joint actions to combat trafficking in persons, especially women and children;
3. Developing strategic plans, guidelines and necessary frameworks, in coordination with other relevant organizations, in combating trafficking in persons, especially women and children, in accordance with the provisions of this Memorandum of Understanding;
4. Evaluating the joint actions of the Parties and regularly reporting national outcomes to each Party;
5. Developing proposals to enhance mutual cooperation between the Parties in combating trafficking in persons, especially women and children; and,
6. Reviewing the implementation of this Memorandum of Understanding every three years.

VIII. Final Provisions

Article 23

(a) This Memorandum of Understanding shall become effective upon signature;

(b) This Memorandum of Understanding may be amended by the mutual agreement of the Parties;

(c) The Parties shall endeavor to settle disputes concerning the interpretation and implementation of this Memorandum of Understanding through negotiation; and,

(d) Either Party may terminate this Memorandum of Understanding at any time by written notification to the other Party through diplomatic channels. Such termination shall become effective six months after the date of receipt by other Party of such notification.

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

DONE at Nay Pyi Taw, on this 24th day of April 2009, in duplicate in the English language.

**For the Government
of the Union of Myanmar**

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

(Major General Maung Oo)
Minister of Home Affairs

(Mr. Issara Somchai)
Minister of Social Development and
Human Security