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Appendix

APPENDIX A
BRIEF U.S. TIP ON CAMBODIA AND THAILAND

YEAR	CAMBODIA	THAILAND
2008	<p>-Due to resource constrains, the government has not provided reliable statistics on prosecution.</p> <p>-NGOs reported 19 labor trafficking cases involving legal migrants who ended up in condition of involuntary servitude in Malaysia, but Cambodian labor recruitment companies usually paid compensation and were not prosecuted for criminal offenses.</p> <p>-Corruption is pervasive in Cambodia, and it is widely believed that some individuals, including police and judicial officials are involved in trafficking.</p> <p>-Victim are encouraged by police to participate in investigations and prosecutions of traffickers, but credible fear of retaliation from traffickers still hinders their testimony.</p> <p>-</p>	<p>-The Thai government has yet to initiate prosecutions of the owners of a separate Samut Sakhon Shrimp processing factory from which 800 Burmese men, women, and children were rescued from conditions of involuntary servitude, including physical and psychological abuse and confinement, in September 2006. The factory remains in operation.</p> <p>-Previous Thai anti-trafficking legislation that was used during the reporting period defined trafficking only in terms of sexual exploitation and allowed only females.</p> <p>-Corruption is still sometimes a problem with local police or immigration officials protecting brothels, seafood and sweatshop factories from raids and occasionally facilitating the movement of women into or through Thailand.</p> <p>-In March 2008, a team of labor ministry, immigration, police, and NGO representatives raided a shrimp processing factory in Samut Sakhon and found 300 Burmese migrant workers confined to the premises and working in exploitative condition. For the first time, the government included 20</p>

		<p>males among the classified 74 trafficking victims and referred them to a government-run shelter. However, the government handcuffed and detained other illegal male Burmese migrant laborers at the factory and sent them to a holding cell to await deportation. Reportedly, these workers who experienced the same exploitation as those deemed "victims" by the Thai government, were treated as criminals detained, not allowed to retrieve personal belongings or identity papers left at the factories, and sent to a detention facility.</p> <p>- In cases involving forced labor, the 1998 labor Protection Act allows for compensatory damages from the employer, although the government offers no legal aid to encourage workers to avail themselves of this opportunity; in practice, few foreign labourers are able to pursue legal cases against their employers in Thai courts. Formidable legal costs and language, bureaucratic, and immigration barriers effectively prevent most of them from participating in the Thai legal process.</p>
2007	-Although senior level government officials are committed to anti-trafficking efforts, there are reports that public officials' complicity in	<p>Widespread sex tourism in Thailand encourage trafficking for sexual exploitation.</p> <p>-The government sustained impressive efforts to address</p>

<p>trafficking limited the government's success in combating trafficking.</p> <ul style="list-style-type: none">-It is possible that some of these statistics overlap as there is no consolidated data collection in Cambodia.-The former deputy director of the police anti-human trafficking and juvenile Protection Department was convicted for complicity in trafficking and sentenced to give years' imprisonment.-American citizen charged with pedophilia was released on bail in Sihanouk ville under questionable circumstances.-Government of Cambodia continued to provide limited assistance to victims, while relying on NGOs and international organizations for the bulk of victim protective services.-Victims are encouraged by the police to provide testimony, but credible fears of retaliation from traffickers continue to prevent many victims or witnesses from collaborating with law enforcement	<p>trafficking for sexual exploitation but did not improve substantially in responding to incidents of labor trafficking.</p> <ul style="list-style-type: none">-Corruption is still sometimes a problem, with local police or immigration officials protecting brothels, fishing and sweatshop facilities from raids and occasionally facilitating the movement of Burmese, Cambodian, Lao, and P.R.C women and children into or through Thailand. No public officials or law enforcement officials were arrested for trafficking-related crimes in 2006.
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2006	<p>Cambodia's anti-trafficking efforts remained hampered by corruption at all levels of government and an ineffectual judicial system, the judicial system.</p> <p>-Corruption, lack of training and funding for law enforcement, and a weak judiciary remain the most serious impediment to the effective prosecution of traffickers. There are reports that corrupt police officials continue to leak information to brothel/karaoke operators about upcoming police raids.</p> <p>-Despite past U.S. funding for training of the police Anti-trafficking Department, it has conducted only a limited number of proactive investigations over the last year.</p>	<p>-Regional economic disparities drive significant illegal migration into Thailand, presenting traffickers with opportunities to move victims into labor or sexual exploitation.</p> <p>-Widespread sex tourism in Thailand encourages trafficking for sexual exploitation.</p> <p>- Government showed progress in convicting traffickers and providing protection for victims of trafficking, although progress was not seen in efforts to address labor forms of trafficking.</p> <p>-In 2005, the Thai government continued to provide impressive protection to select categories of trafficking victims; there remain no formal and systematic protections offered to foreign victims of forced or bonded labor in Thailand.</p>
2005	<p>-Cambodia's anti-trafficking efforts remained hampered by systemic corruption and an ineffectual judicial system.</p> <p>-Prosecutions of suspected traffickers dropped significantly in response to an attack on an NGO shelter for trafficking victims and removal of</p>	<p>-There are reports that child trafficking victims continued to be incarcerated in and deported from Thailand without proper victim care or any attempt to investigate the trafficking crimes committed against these children.</p> <p>-As in previous years, the Thai Government made minimal progress in reducing trafficking-related corruption in the</p>

	<p>suspected trafficking victims was unsatisfactory.</p>	<p>police, immigration services, and judiciary. Law enforcement officials continued to be implicated in facilitating trafficking, but only one police officer was convicted and sentenced to ten years imprisonment over the past year; prosecutions of 18 others fired in 2003 for complicity in trafficking continues. Thailand is not able to adequately control its long land borders.</p>
<p>2004</p>	<ul style="list-style-type: none"> -Cambodia's anti-trafficking efforts continue to be hampered by endemic corruption and an ineffectual judicial system. Cambodian government officials and their family members are reportedly involved in or profit from trafficking activities. -Corruption and a weak judiciary remain the most serious impediments to the effective prosecution of traffickers. -The Cambodian government relies primarily on foreign and domestic NGOs to provide protective services to victims. 	<ul style="list-style-type: none"> -Regional economic disparities drive significant illegal migration into Thailand, presenting traffickers opportunities to move victims into labor exploitation. Widespread sex tourism in Thailand encourages trafficking for forced prostitution. -Thailand's placement on Tier 2 watch list is due to the government's failure to provide evidence of increasing efforts to combat severe forms of trafficking in one are: the protection of Cambodian trafficking victims, particularly those exploited in street work. -As in previous years, the law was used sparingly in 2003. Some police and prosecutors seem to be unfamiliar with its provisions and therefore do not use it. -In 2003, Thailand signed a memorandum of understanding (MOU) with Cambodia and a wider agreement between

		<p>government agencies and NGOs to help regularize the protection and repatriation of foreign trafficking victims. Foreign victims in Thailand are no longer subject to deportation. However, in an attempt to remove street children from Bangkok in advance of the APEC summit in October of 2003. The Thai government deported 620 Cambodians, some of who were trafficking victims, without any of the protections required by the MOU. an additional 236 Cambodian women and children were deported in march of 2004 without adequate protection.</p>
2003	<p>Government action should concentrate on removing corrupt officials linked to trafficking, ensuring that procedures to protect victims function uniformly, and expanding bilateral cooperation.</p> <ul style="list-style-type: none"> -Prosecution of traffickers was hampered, however, because the judicial system is backlogged and burdened by corrupt practices, a subject of continuing concern. -The victims are at risk of being taken out of the shelters and re-trafficked. 	<ul style="list-style-type: none"> - Economic disparity in the region helps to drive significant illegal migration into Thailand from its neighbors, presenting traffickers opportunities to move victims into labor exploitation, and particularly women and children into prostitution. Widespread sex tourism in Thailand encourages trafficking for prostitution. -The government has recognized for years that trafficking in persons is a problem, but the issue is still not among Thailand's top priorities. -Prosecution attention should continue and expand against public officials who are involved in trafficking abuses. The government does not adequately control its long land

		borders.
2002	<p>-Corruption, lack of police training and poor implementation of laws facilitate trafficking of persons and similar crimes, such as baby selling. Although some Cambodian officials have worked to increase government efforts, a lack of resources has made progress difficult. In addition, reports of widespread and serious official corruption counter the effort by reform minded officials.</p>	<p>Thailand has a law against trafficking in women and children, but investigations and prosecutions have been limited. Evidence of low level police involvement in facilitating the movement of trafficking victims, accepting bribes and owning brothels seriously hinders law enforcement.</p>
2001	<p>-Implementing legislation has not been passed, and lack of prosecutorial resources prevents enforcement. Severe resource limitations hamper all aspects of civil governance.</p> <p>-Civil Society group, NGO's, international organizations, and donor countries find that all efforts to combat trafficking are seriously undermined by a combination of weak institutions and pervasive corruption.</p>	<p>A trafficking in persons law provides for penalties similar to those for rape. In addition, there are other laws that could be used against traffickers. However, enforcement of both sets of laws has been weak. There is little training for officials in law enforcement or in providing assistance to trafficking victims. Corruption is pervasive, and in 2000 there are broad and blunt public discussion of the corrosive effect of corruption on Thai society.</p> <p>-It (Thai government) cooperates with other governments through a Mekong Sub regional project committee and has established some prevention programs and provides assistance to victims. However, these efforts are restricted due to the lack of funding. Victims from neighboring</p>

		countries usually are deported quickly, but efforts are made to assist underage victims.
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APPENDIX B**KRAM DATED FEBRUARY 29, 1996****ON****SUPPRESSION OF THE KIDNAPPING, TRAFFICKING
AND EXPLOITATION OF HUMAN PERSONS**

We, Norodom Sihanouk, King of Cambodia,

- having seen the 1993 Constitution of the Kingdom of Cambodia;
- having seen Kret dated September 24, 1993 on the appointment of the first and the second Prime Minister;
- having seen Kret dated November 1, 1993 on the appointment of the Royal Government of Cambodia;
- having seen Kram NS-RKM-0794-002 dated July 20, 1994 on the organization and functioning of the Council of Ministers;
- having seen Kret NS-RKT-1094-83 dated October 24, 1994 on the modification of the composition of the Royal Government of Cambodia;
- having seen Kret NS-RKT-1094-090 dated October 31, 1994 on the modification of the composition of the Royal Government of Cambodia;
- having seen Kram NS-RKM-0196-04 dated January 24, 1996 on the creation of the Ministry of Justice;
- Upon the proposal of the two Prime Ministers and the State Ministers Minister of Justice

PROMULGATE:

The law on Suppression of Kidnapping, Trafficking and Exportation of Human Persons adopted by the National Assembly on January 16, 1996 during the 5th Session of the First Legislature, the text of which is as follows:

CHAPTER ONE
GENERAL PROVISION

Article 1:

This law has an objective of suppressing the acts of Kidnapping of human persons for trafficking /sale and the exploitation of human persons, in order to rehabilitate and upgrade the respect for good national tradition, protect human dignity and protect the health and welfare of the people.

Article 2:

The kidnapping of human persons for trafficking/sale or for prostitution and the exploitation on human persons, inside or outside of the Kingdom of Cambodia, shall be strictly prohibited.

CHAPTER TWO
KIDNAPPING OF HUMAN PERSONS FOR TRAFFICKING/SALE OR FOR
PROSTITUTION

Article 3:

Any person who lures a human person, even male or female, minor or adult of whatever nationality by ways of enticing or any other means, by promising to offer any money or jewelry, even though upon there is or no consent from the concerned person, by ways of forcing, threatening or using of hypnotic drugs, in order to kidnap him/her for trafficking/sale or for prostitution, shall be subject to imprisonment from ten (10) to fifteen (15) years. Shall be punished by imprisonment from fifteen (15) to twenty (20) years, in the case where the victim is a minor under the age of 15.

Those who are accomplices, traffickers/sellers, buyers, shall be subject to the same punishment term as which of the perpetrator(s).

Shall also be considered as accomplices, those who provide money or means for committing offences.

All means of transportation, materials and properties that are used during the commission of offences, shall be confiscated as State's property.

CHAPTER THREE
PIMP

Article 4:

Shall be considered as a pimp (male or female) or head of prostitutes, any person:

- 1- who supports or protects one or more persons, by whatever means with knowledge in advance of the act of prostitution of such person(s) or seeks customers for such person(s) for the purpose of prostitution, or
- 2- who regularly shares the benefits obtained from the prostitution acts in any form, or
- 3- who brings men or women by whatever means for a training and convincing them to become male or female prostitutes, or
- 4- who acts as an intermediary by whatever form, to create relationships between male and female prostitutes with the head/owner of a brothel or with a person who provides benefits on the prostitution of other persons, or
- 5- who confines men or women in his/her house or any place, for a purpose of forcing them to commit prostitution to earn money for him/her.

Article 5:

Any male or female pimp or head of prostitutes shall be punished with from five (5) to ten (10) years in prison. In case of repeated offence, double term of the above punishment shall be applied.

Shall be subject to punishment to imprisonment from ten (10) to twenty (20) years, in case if upon a pimp:

- 1- commits an offence onto a minor person of below 15 years old, or
- 2- commits an offence by coercion and violence or by threat or weapon, or
- 3- who is a husband, wife, boy/girl friend, father or mother or guardian, forces a man or woman to commit prostitution, or
- 4- who forces a victim to commit prostitution outside of the country or, a victim who is a foreigner to commit prostitution on the territory of the Kingdom of Cambodia.

The court may, in addition to the above principal punishment term, apply a sub-punishment, by restriction of the civil rights and non-authorization of residence.

Article 6:

The accomplices or those who attempt to commit offenses as stated in the Articles 4 and 5 above, shall also be subject to the same punishment term as which of the perpetrator(s).

CHAPTER FOUR

DEBAUCHERY

Article 7:

Any person who opens a place for committing a debauchery or obscene acts, shall be punished to imprisonment from one (1) to five (5) years and with a fine penalty of

from five million (5,000,000) Riels to thirty million (30,000,000) Riels. In case of repeated offence, the above punishment terms shall be doubled.

Article 8:

Any person who commits debauchery acts onto a minor person of below 15 years old, even if there is consent from the concerned minor person or if upon buying such minor person from somebody else or from a head of the prostitutes, shall be subject to punishment from ten (10) to twenty (20) years in prison. In case of not giving up, the maximum punishment term shall be applied.

The court may, in addition to the above principal punishment, apply a sub-punishment by restriction of the civil rights and non-authorization of residence.

CHAPTER FIVE

FINAL PROVISION

Article 9:

Detail instruction for the application of this law, shall be determined by an anukret.

Article 10:

Any provisions contrary to this law shall be hereby repealed.

This law was passed by the National Assembly of the Kingdom of Cambodia,

On January 16, 1996, during the 5th of ordinary session of its 1st Legislature.

Phnom Penh, On January 1996

The President of the National Assembly,

Chea Sim

APPENDIX C

ROYAL KRAM

NS/RKM/0208/005

**PREAH BAT SAMDECH PREAH BAROMNEATH NORODOM SIHAMONI
KING OF THE KINGDOM OF CAMBODIA**

(Unofficial Translation: 03/03/08 by UNICEF)

- Having seen the Constitution of the Kingdom of Cambodia,
- Having seen Royal Decree No: NS/RKT/0704/124 of 15 July 2004 on the Appointment of the Royal Government of the Kingdom of Cambodia,
- Having seen Royal Kram No: .02/NS/94 of 20 July 1994 promulgating the Law on the Organization and Functioning of the Council of Ministers,
- Having seen Royal Kram No: NS/RKM/0196/04 of 24 January 1996 promulgating the Law on the Establishment of the Ministry of Justice,
- Having seen the request of Samdech Akaek Mohasenabatey Techo Hun Sen, Prime Minister of the Kingdom of Cambodia and that of the Minister of Justice,

PROMULGATES:

The Law on Suppression of Human Trafficking and Sexual Exploitation that was passed by the National Assembly on 20 December 2007 during its 7th session of the 3rd legislature, and approved in its entirety by the Senate on 18 January 2008 without any change on the law's formality and legal concepts during its 4th plenary session of the 2nd legislature, which reads as follows:

**LAW ON SUPPRESSION OF HUMAN TRAFFICKING AND SEXUAL
EXPLOITATION****Chapter 1****General Provisions****Article 1: Objective of This Law**

The objective of this law is to suppress the acts of human trafficking and sexual exploitation in order to protect the rights and dignity of human beings, to improve the health and welfare of citizens, to preserve and enhance good national customs, and to implement the UN Protocol to Prevent, Suppress, and Punish Trafficking in Persons,

Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, or other international instruments or agreements with regard to human trafficking that the Kingdom of Cambodia has ratified or signed.

Article 2: Application of This Law within the Territory

This law shall apply to any offense committed in the territory of the Kingdom of Cambodia. For the purposes of this law, the territory of the Kingdom of Cambodia is deemed to include any vessel or aircraft entitled to fly the flag of Cambodia. An offense shall be considered to be committed in the territory of the Kingdom of Cambodia from the moment when one of constituent acts (elements) takes place within the territory of the Kingdom of Cambodia.

Article 3: Application of This Law outside the Territory This law shall apply to any felonies or misdemeanors committed outside the territory of the Kingdom of Cambodia by a Khmer citizen. This law shall apply to any felonies or misdemeanors committed outside the territory of the Kingdom of Cambodia by a foreigner if the victim is a Khmer citizen at the time of commission of the offense.

Article 4: Criminal Responsibility

An attempt to commit the felonies or misdemeanors stipulated in this law shall be punished and liable to the same punishment as if the offence has been committed.

An accomplice and instigator of the felonies or misdemeanors stipulated in this law shall be punished and liable to the same punishment as a principal who commits it.

An accomplice and instigator shall include, but not be limited to, the form of organizing or directing another to commit any of the felonies or misdemeanours stipulated in this law.

When a representative, agent, or employee for a legal entity or a principal commits any offense stipulated in this law in the scope of its business, or in the interest of the legal entity or the principal, the legal entity or the principal shall be punished with

fine and additional penalties in accordance with the punishment stipulated in the relevant article.

Article 5: Pronouncement of Principal Penalties

In all cases where an offence is punishable with both imprisonment and fine, the court may pronounce:

- 1- concurrence of imprisonment and fine
- 2- only imprisonment or
- 3- only fine.

Article 6: Concurrence of Offences

During the prosecution of a single offense, when an accused is found guilty of several concurrent offenses, each of the penalties incurred may be pronounced. However, when several penalties of the same nature are incurred, only one penalty of that nature may be pronounced to the extent of the legally allowed higher maximum.

Article 7: Definition of Minor

A minor in this law shall mean a person under the age of eighteen years. A person who keeps a minor under his/her supervision or control shall be presumed to know the minor's age unless the person proves that he/she reasonably believes the minor's age to be eighteen years or more.

Chapter 2

The Act of Selling/Buying or Exchanging of Human Being

Article 8: Definition of Unlawful Removal

The act of unlawful removal in this law shall mean to:

- 1) remove a person from his/her current place of residence to a place under the actor's or a third person's control by means of force, threat, deception, abuse of power, or enticement, or
- 2) without legal authority or any other legal justification to do so, take a minor or a person under general custody or curatorship or legal custody away from the legal custody of the parents, care taker or guardian.

Article 9: Unlawful Removal, inter alia, of Minor

A person who unlawfully removes a minor or a person under general custody or curatorship or legal custody shall be punished with imprisonment for 2 to 5 years. The punishment for the offence stipulated in this article shall be remitted or mitigated when all of the following conditions are met:

- 1- the person taken under custody, being not less than fifteen (15) years of age, voluntarily gives genuine consent to the criminal act;
- 2- none of the means stipulated in subparagraph 1) of Article 8 of this law is used; and
- 3- the offender does not have any purpose to commit an offense.

The prosecution for the offence stipulated in this article may be commenced upon the filing of a complaint from the parent, custodian/care taker or lawful guardian concerned unless any of the means stipulated in subparagraph 1) of Article 8 of this law is used.

Article 10: Unlawful Removal with Purpose

A person who unlawfully removes another for the purpose of profit making, sexual aggression, production of pornography, marriage against will of the victim, adoption or any form of exploitation shall be punished with imprisonment for 7 years to 15 years.

The offence stipulated in this article shall be punished with imprisonment for 15 to 20 years when:

- The victim is a minor
- The offence is committed by a public official who abuses his/her authority over the victim,
- The offence is committed by an organized group.

The terms “any form of exploitation” in this Article and Article 12, 15, 17, and 19 of this law shall include the exploitation of the prostitution of others, pornography, commercial sex act, forced labor or services, slavery or practices similar to slavery, debt bondage, involuntary servitude, child labor or the removal of organs.

The consent of the victim to any of the intended purpose set forth in paragraph 1 of this article shall be irrelevant where any of the means set forth in subparagraph 1) of

Article 8 of this law is used. This shall apply to the offences stipulated in Article 15, 17, and 19 of this law as well.

Article 11: Unlawful Removal for Cross-border Transfer

A person who unlawfully removes another for the purpose of delivering or transferring that person to outside of the Kingdom of Cambodia shall be punished with imprisonment for 7 to 15 years.

A person who unlawfully removes another in a country outside of the Kingdom of Cambodia for the purpose of delivering or transferring that person to another country shall be punished the same as set out in the above-stated paragraph 1. The offence stipulated in this article shall be punished with imprisonment for 15 to 20 years when

- The victim is a minor
- The offence is committed by a public official who abuses his/her authority over the victim,
- The offence is committed by an organized group.

Article 12: Unlawful Recruitment for Exploitation

The act of unlawful recruitment in this law shall mean to induce, hire or employ a person to engage in any form of exploitation with the use of deception, abuse of power, confinement, force, threat or any coercive means.

A person who unlawfully recruits another shall be punished with imprisonment for 7 to 15 years.

The offence stipulated in this article shall be punished with imprisonment for 15 to 20 years when :

- The victim is a minor
- The offence is committed by a public official who abuses his/her authority over the victim,
- The offence is committed by an organized group.

Article 13: Definition of the Act of Selling, Buying or Exchanging of Human Being

The act of selling, buying or exchanging a human being shall mean to unlawfully deliver the control over a person to another, or to unlawfully receive the control over a

person from another, in exchange for anything of value including any services and human beings.

The act of procuring the act of selling, buying or exchanging a human being as an intermediary shall be punished the same as the act of selling, buying or exchanging a human being.

Article 14: The Act of Selling, Buying or Exchanging of Human Being

A person who sells, buys or exchanges another person shall be punished with imprisonment for 2 to 5 years.

Article 15: The Act of Selling, Buying or Exchanging of Human Being with Purpose

A person who sells, buys or exchanges another person for the purpose of profit making, sexual aggression, production of pornography, marriage against will of the victim, adoption or any form of exploitation shall be punished with imprisonment for 7 years to 15 years.

The offence stipulated in this article shall be punished with imprisonment for 15 to 20 years when:

- The victim is a minor
- The offence is committed by a public official who abuses his/her authority over the victim,
- The offence is committed by an organized group.

Article 16: The Act of Selling, Buying or Exchanging of Human Being for Cross-border Transfer

A person who sells, buys or exchanges another person for the purpose of delivering or transferring that person to outside of the Kingdom of Cambodia shall be punished with imprisonment for 7 to 15 years.

A person who sells, buys or exchanges another person in a country outside of the Kingdom of Cambodia for the purpose of delivering or transferring that person to another country shall be punished the same as set out in the above-stated paragraph 1.

The offence stipulated in this article shall be punished with imprisonment for 15 to 20 years when:

- The victim is a minor
- The offence is committed by a public official who abuses his/her authority over the victim,
- The offence is committed by an organized group.

Article 17: Transportation with Purpose

A person who transports another person knowing that he or she has been unlawfully removed, recruited, sold, bought, exchanged or transported for the purpose of profit making, sexual aggression, production of pornography, marriage against will of the victim, adoption, or any form of exploitation shall be punished with imprisonment for 7 to 15 years.

The offence stipulated in this article shall be punished with imprisonment for 15 to 20 years when:

- The offence is committed by a public official who abuses his/her authority over the victim,
- The offence is committed by an organized group.

Article 18: Cross-border Transportation (The Act of Bringing a Person Cross-border)

A person who transports (brings) another person to outside of the Kingdom of Cambodia knowing that he or she has been unlawfully removed, recruited, sold, bought, exchanged or transported shall be punished with imprisonment for 7 to 15 years.

A person who transports/brings another person in a country outside of the Kingdom of Cambodia to another country knowing that he or she has been unlawfully removed, recruited, sold, bought, exchanged or transported shall be punished the same as set out in paragraph 1 above.

The offence stipulated in this article shall be punished with imprisonment for 15 to 20 years when:

- The offence is committed by a public official who abuses his/her authority over the victim,
- The offence is committed by an organized group.

Article 19: Receipt of Person with Purpose

A person who receives, harbors, or conceals another person who has been unlawfully removed, recruited, sold, bought, exchanged, or transported for the purpose of profit-making, sexual aggression, production of pornography, marriage against the will of the victim, adoption or any form of exploitation shall be punished with imprisonment for 7 to 15 years.

The offence stipulated in this article shall be punished with imprisonment for more than 15 to 20 years when:

- The victim is a minor
- The offence is committed by a public official who abuses his/her authority over the victim,
- The offence is committed by an organized group.

Article 20: Receipt of Human Beings for the Purpose of Assisting the Offender

A person who receives, harbors, or conceals a victim who has been unlawfully removed, recruited, sold, bought, exchanged, or transported for the purpose of assisting the offender who has unlawfully removed, recruited, sold, bought, exchanged or transported that victim shall be punished with imprisonment for 2 to 5 years and a fine of 4,000,000 to 10,000,000.

The offence stipulated in this article shall be punished with imprisonment for 5 to 10 years when the victim is a minor.

Chapter 3 :

Confinement

Article 21: Abduction (Arrest), Detention or Confinement

A person who, without legal authority, arrests, detains or confines another person shall be punished with imprisonment for:

- 1) 3 to 5 years when the arrest, detention or confinement lasts less than one month;
- 2) 5 to 10 years when the arrest, detention or confinement lasts one month or longer.

Article 22: Aggravating Circumstances

A person who, without legal authority, arrests, detains or confines another person shall be punished with life imprisonment when:

- 1) The offense is accompanied with torture or barbarous act;
- 2) The offense is followed by the death of that person;

3) The offense is committed to obtain payment of a ransom.

Chapter IV

Prostitution and Child Prostitution

Article 23: Definition of Prostitution and Child Prostitution

“Prostitution” in this law shall mean having sexual intercourse with an unspecified person or other sexual conduct of all kinds in exchange for anything of value.

“Child prostitution” in this law shall mean having sexual intercourse or other sexual conduct of all kinds between a minor and another person in exchange for anything of value.

Article 24: Soliciting

A person who willingly solicits another in public for the purpose of prostituting himself or herself shall be punished with imprisonment for 1 to 6 days and a fine of 3,000 to 10,000 riel.

A minor shall be exempted from punishment of the offense stipulated in this article.

Article 25: Definition of Procuring Prostitution

The act of procuring prostitution in this law shall mean:

- (1) drawing a financial profit from the prostitution of others;
- (2) assisting or protecting the prostitution of others;
- (3) recruiting, inducing or training a person with a view to practice prostitution;
- (4) exercising pressure upon a person to become a prostitute.

The following acts shall be deemed equivalent to the act of procuring prostitution:

- (1) serving as an intermediary between one person who engages in prostitution and a person who exploits or remunerates the prostitution of others;
- (2) facilitating or covering up resources knowing that such resources were obtained from a procurement;
- (3) hindering the act of prevention, assistance or re-education undertaken either by a public agency or by a competent private organization for the benefit of persons engaging in prostitution or being in danger of prostitution.

Article 26: Procurement of Prostitution

A person who commits procurement of prostitution shall be punished with imprisonment for 2 to 5 years.

Article 27: Aggravated Procurement of Prostitution

A person who commits procurement of prostitution shall be punished with imprisonment for 5 to 10 years:

- 1). when it is committed by a male or female procurer or head of prostitution who is an ascendant, descendant, either legitimate or illegitimate, natural or adoptive, of the prostitute;
- 2). when it is committed by a male or female procurer or head of prostitution who abuses his or her authority over the prostitute;
- 3). when a male or female procurer or head of prostitution uses violence or coercion against the prostitute;
- 4). when the procurement of prostitution is committed by an organized group;
- 5). when the procurement of prostitution is committed by several persons.

Article 28: Procurement with regard to Child Prostitution

Procurement of prostitution shall be punished with imprisonment for 7 to 15 years when the prostitute is a minor.

The term "prostitution" in the relevant provisions of this Chapter shall be replaced with the term "child prostitution," when the offense set forth in Paragraph 1 of this article applies.

Article 29: Procurement of Prostitution by Torture

Procurement of prostitution shall be punished with 10 to 20 years when a male or female procurer or head of prostitution committed such offense by recourse to torture or barbarous act on the prostitute.

Article 30: Management of Prostitution

A person who, directly or through an intermediary, manages, exploits, operates or finances an establishment of prostitution shall be punished with imprisonment for 2 to 5 years.

Article 31: Management of Establishment for Prostitution Shall be punished with imprisonment for 2 to 5 years when a person accepts or tolerates that:

- 1). another person indulges in prostitution inside an establishment or its annexes; or
- 2). another person seeks clients with a view to do prostitution inside an establishment or its annexes.

Article 32: Provision of Premise for Prostitution

A person who sells or makes available to another person premises not utilized by the public, knowing that they will be used by such person to indulge in prostitution shall be punished with imprisonment for 2 to 5 years.

Article 33: Offense with regard to Child Prostitution

A person who commits any of the offenses set forth in Articles 30, 31 and 32 of this law shall be punished with imprisonment for 7 to 15 years when the offense is committed with regard to child prostitution.

When the offense set forth in Paragraph 1 of this article applies, the term "prostitution" in the relevant provisions of this Chapter shall be replaced with the term "child prostitution."

Article 34: Purchase of Child Prostitution

A person who has sexual intercourse or other sexual conduct of all kinds with a minor who is 15 years of age or above by providing, or promising to provide, anything of value to the minor, an intermediary, a parent, a guardian or any other person who keeps the child under his or her supervision or control shall be punished with imprisonment for 2 to 5 years.

Any person who commits the above stated offense with a minor under the age of 15 years shall be punished with imprisonment for 7 to 15 years.

Article 35: Soliciting for Child Prostitution

A person who solicits another for child prostitution, or advertises child prostitution, for the purpose of acting as intermediary of the child prostitution shall be punished with imprisonment for 2 to 5 years and fine of 4,000,000 to 10,000,000 riels.

A person who commits the above offense as business shall be punished with imprisonment for 5 to 10 years.

Article 36: Conditional Money Loan in connection with Child Prostitution

A person who provides another with money loan or anything of value on the condition that a minor engage in child prostitution business shall be punished with imprisonment for 5 to 10 years.

A person who provides a minor with money loan or anything of value on the condition that the latter engage in child prostitution business shall be punished the same as set out in paragraph 1 of this article.

Article 37: Contract of Child Prostitution

A person who makes a contract with another in which a minor is obliged to engage in child prostitution business shall be punished with imprisonment for 5 years to 10 years.

A person who makes a contract with a minor in which the latter is obliged to engage in child prostitution business shall be punished the same as set out in paragraph 1 of this article.

Chapter 5**Pornography****Article 38: Definition of Pornography**

'Pornography' in this law shall mean a visible material such as a photograph or videotape, including a material in electronic form, depicting a genital or other similar pornography which excites or stimulates sexual desire.

Article 39: Pornography

A person who distributes, sells, leases, displays, project or presents in public place, a pornography shall be punished with imprisonment for 7 days to 1 month and a fine of 100,000 to 200,000 riels.

A person who possesses, transports, imports, or exports a pornography for the purpose of use in commission of the above offense shall be punished the same as in the above-stated paragraph 1.

A person who produces a pornography for the purpose of use in commission of any offense stipulated in the first and second paragraphs of this article shall be punished with imprisonment for 1 month to 1 year and a fine of 200,000 to 2,000,000 riels.

Article 40: Definition of Child Pornography

'Child pornography' in this law shall mean a visible material such as a photograph or videotape, including a material in electronic form, depicting a minor's naked figure which excites or stimulates sexual desire.

Article 41: Child Pornography

A person who distributes, sells, leases, displays, projects or presents in public place, a child pornography shall be punished with imprisonment for 2 to 5 years and a fine of 4,000,000 to 10,000,000 riels.

A person who possesses, transports, imports, or exports a child pornography for the purpose of use in commission of the offense stipulated in the above paragraph 1 shall be punished the same.

A person who produces a child pornography shall be punished with imprisonment for 5 to 10 years.

A person who produces a child pornography for the purpose of use in commission of any offense stipulated in the above-stated first and second paragraphs shall be punished with imprisonment for 10 to 20 years.

Chapter 6

Indecency against Minors under Fifteen Years

Article 42: Sexual Intercourse with Minors under Fifteen Years

A person who has sexual intercourse with another person of the age of less than fifteen years shall be punished with imprisonment for 5 to 10 years.

Article 43: Indecent Act against Minors under Fifteen Years

'Indecent act' in this law shall mean an act of touching or exposing a genital or other sexual part of another, or of having another touch the actor's or a third person's genital or other sexual part, with the intent to stimulate or satisfy the actor's sexual desire.

A person who commits an indecent act against another person of the age of less than 15 years shall be punished with imprisonment for 1 to 3 years and a fine of 2,000,000 to 6,000,000 riels.

A person who repeatedly commits any offense stipulated in Article 42 or this article shall be punished with double the prison punishment.

Article 44: Exemption from Punishment

A person under the age of 15 years shall be exempted from punishment of the offenses stipulated in Articles 42 and 43 of this law.

Chapter 7

Civil Remedy

Article 45: Contract for the Act of Selling/Buying or Exchanging of Human Being and Sexual Exploitation

A contract shall be null and void if it is made for the purpose of selling/buying or exchanging of human beings or sexual exploitation.

A loan contract shall be null and void if it is made in connection with the act of selling/buying or exchanging of human beings or sexual exploitation.

‘Act of Selling/Buying or Exchanging of Human Beings’ or ‘Sexual Exploitation’ in this and the following articles shall mean any unlawful act concerning the offenses as stipulated in this law.

Article 46: Restitution of Unjust Enrichment

A person who obtains enrichment without a legal cause knowing that the enrichment has been obtained from the act of selling/buying or exchanging of human being or sexual exploitation shall be liable for restitution of the whole unjust enrichment along with accrued interests.

An aggrieved person (a person being exploited) may claim for damage in addition to the restitution of such unjust enrichment.

A person who has made a contract of loan or any other provision to another person for the purpose of committing the act of selling/buying or exchanging of human being or sexual exploitation may not claim for restitution of the provision.

Article 47: Preference to Confiscated Property

Victims shall have preference over property confiscated by the state for their compensation and restitution.

Chapter 8

Supplemental Provisions

Article 48: Additional Penalties

For the offenses stipulated in this law, the following additional penalties may be imposed:

1- the confiscation of any equipments, materials or objects which have served, or been intended to serve, to commit the offense;

- 2- the confiscation of any materials which are constituent objects of the offenses;
- 3- the confiscation of the proceeds or the properties earned by or which resulted from the offense;
- 4- the closure of business which has served to commit the offense;
- 5- the restriction of civil rights; and
- 6- the ban on stay.

Article 49: Concealment of Identity of Victim

Newspapers and all other mass media shall be prohibited from publishing or broadcasting or disseminating any information which can lead to public knowledge of identities of victims in the offenses stipulated in this law.

Chapter 9

Final Provisions

Article 50: Repeal of Law

The Law on Suppression of Kidnapping, Human Trafficking/Sale of Human Being and Exploitation of Human Being, which was promulgated by Royal Kram No:cs/rkm/0296/01 shall be repealed by this law.

This law shall prevail if a provision of any other law is in contradiction with the provisions of this law.

Article 51: Replacement by Penal Code

Article 2, article 3, article 4 and article 6 of this law shall be replaced with the relevant provisions in the Penal Code when the Penal Code comes into force.

Article 52: Enforcement of this law

This law shall be promulgated as urgent.

The Royal Pace, Phnom Penh 15 February 2008

Royal Signature and Stamp

Norodom Sihamoni

PRL. 0802.132

Having submitted to His Majesty

the King for the Royal Signature
Prime Minister Signature
Samdech Akaek Mohasenabatey
Techo Hun Sen

Having informed Samdech Akaek
Mohasenabatey TechoHun Sen,
Prime Minister of the Kingdom of Cambodia
Minister of Justice
Signature

Ang Vongvathana

N0: 140 c.1
For distribution
Phnom Penh, 20 February 2008
Deputy General Director of
the Royal Government

Khun Chinkein

APPENDIX D

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

.....

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, especially 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:

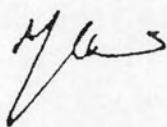
This Memorandum of Understanding may be amended upon the agreement of the Government of the Kingdom of Cambodia and the Government of the Kingdom of Thailand.

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.

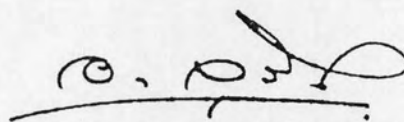
Done at Siem Reap on 31st May 2003.

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



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

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



ANURAK CHUKEEMAS

Minister of Social Development
and Human Resources

APPENDIX F

The Anti-Trafficking in Persons Act

B.E 2551 (2008)

.....

BHUMIBOL ADULYADEJ, REX.

Given on the 30 Day of January B.E. 2551 (2008);

Being the 63rd Year of the Present Reign

His Majesty King Bhumibol Adulyadej is graciously pleased to proclaim that:

Whereas it is expedient to revise the law on the Measures in Prevention and Suppression of Trafficking in Women and Children;

This Act contains certain provisions in relation to the restriction of rights and liberties of persons, in respect of which section 29, in conjunction with section 32, section 33, section 34, section 35, section 36, section 41 and section 45 of the Constitution of the Kingdom of Thailand so permit by virtue of law;

His Majesty the King, by and with the advice and consent of the National Legislative Assembly, is graciously pleased to enact an Act as follows:

Section 1 This act is called the “Anti-Trafficking in Persons Act B.E 2551”.

Section 2 This Act shall come into force after one hundred and twenty days from the date of its publication in the Government Gazette.

Section 3 The Measures in Prevention and Suppression of Trafficking in Women and Children Act, B.E. 2540 (1997) shall be repealed.

Section 4 In this act

“Exploitation” means seeking benefits from the prostitution, production or distribution of pornographic materials, other forms of sexual exploitation, slavery, causing another person to be a beggar, forced labour or service, coerced removal of organs for the purpose of trade, or any other similar practices resulting in forced extortion, regardless of such person’s consent.

“Forced labour or service” means compelling the other person to work or provide service by putting such person in fear of injury to life, body, liberty, reputation or property, of such person or another person, by means of intimidation, use of force, or any other means causing such person to be in a state of being unable to resist.

“Organized Criminal Group” means a structured group of three or more persons, notwithstanding being formed permanently or existing for a period of time, and no need to have formally defined roles for its members, continuity of its membership or a developed structure, acting in concert with the aim of committing one or more offences punishable by a maximum imprisonment of four years upwards or committing any offence stipulated in this Act, with the aim to unlawfully obtain, directly or indirectly, property or any other benefit.

“Child” means any person under eighteen years of age.

“Fund” means the Anti-Trafficking in Persons Fund.

“Committee” means the Anti-Trafficking in Persons Committee.

“Member” means a member of the Anti-Trafficking in Persons Committee.

“Competent Official” means a superior administrative or police official including a government official holding a position not lower than level 3 of an ordinary civil servant, appointed by the Minister, from the person who possesses qualifications specified in the Ministerial Regulation, to perform the duty under this Act.

“Minister” means the Minister having charge and control of the execution of this Act.

Section 5 The President of the Supreme Court and the Minister of Social Development and Human Security shall have charge and control of the execution of this Act, in relations to their respective authorities.

The President of the Supreme Court shall have the power to issue Standing Orders and the Minister of Social Development and Human Security shall have the power to appoint competent officials and issue Ministerial Regulations and Rules for the execution of this Act.

The Standing Orders issued by the President of the Supreme Court, Ministerial Regulations and Rules shall come into force upon their publication in the Government Gazette.

CHAPTER 1

General Provision

.....

Section 6 Whoever, for the purpose of exploitation, does any of the following acts:

(1) procuring, buying, selling, vending, bringing from or sending to, detaining or confining, harboring, or receiving any person, by means of the threat or use of force, abduction, fraud, deception, abuse of power, or of the giving money or benefits to achieve the consent of a person having control over another person in allowing the offender to exploit the person under his control; or

(2) procuring, buying, selling, vending, bringing from or sending to, detaining or confining, harboring, or receiving a child;

is guilty of trafficking in persons.

Section 7 Whoever commits any of the following acts, shall be punished likewise as the offender of an offence of trafficking in persons:

(1) supporting the commission of an offence of trafficking in persons;

(2) aiding by contributing property, procuring a meeting place or lodge, for the offender of trafficking in persons;

(3) assisting by any means so that the offender of trafficking in persons may not be arrested;

(4) demanding, accepting, or agreeing to accept a property or any other benefit in order to help the offender of trafficking in persons not to be punished;

(5) inducing, suggesting or contacting a person to become a member of the organized criminal group, for the purpose of committing an offence of trafficking in persons.

Section 8 Whoever prepares to commit an offence as aforesaid by Section 6, shall be liable to one-third of the punishment stipulated for such offence.

Section 9 Whoever, from two persons upwards, conspires to commit an offence as aforesaid by Section 6 shall be liable to no more than one-half of the punishment stipulated for such offence.

If any one of the offenders in paragraph one has committed in furtherance of the conspiratorial objective, each member of the conspiracy shall be liable, as an additional count, for the punishment stipulated for the committed offence.

In case the commission of an offence is carried out up to the stage of commencement, but because of the intervention of any conspirator, the offence cannot be carried through, or the offence is carried through but does not achieve its end, the conspirator so intervening is liable to the punishment as stipulated in paragraph one.

If the offender, under paragraph one, reverses his position by providing a true statement in relation to the conspiracy to the competent official before the conspired

offence is committed, the court may not inflict punishment or inflict less punishment upon such person to any extent than that prescribed by the law for such offence.

Section 10 In case where an offence stipulated in Section 6 is accrued by the commission of person as from three persons upwards or of the member of an organized criminal group, such offenders shall be liable to heavier punishment than that prescribed in the law by one-half.

Whenever an offence provided in Section 6 is committed by any member of an organized criminal group, everyone being the member of such organized criminal group at the time of the commission of such offence, knowing and conniving at such commission, shall be liable to the punishment prescribed for such offence, even though he has not personally committed such offence.

If an offence under paragraph one is committed in order that the trafficked person taken into or sent out of the Kingdom to be under the power of the other person unlawfully, the offender shall be liable to twice of the punishment prescribed for such offence.

Section 11 Whoever commits an offence mentioned in Section 6 outside the Kingdom shall be liable for the punishment stipulated in this Act in the Kingdom. The provision of Section 10 of the Penal Code shall apply *mutatis mutandis*.

Section 12 Whoever commits the offences under this Act by professing himself to be an official and exercising the functions of an official without being an official having the power to do so, shall be liable to twice the punishment stipulated for such offence.

Section 13 Whoever, in the capacity as a member of the House of Representatives, member of the Senate, member of a Local Administration Council, Local Administrator, Government Official, employee of the Local Administration Organization, or employee of an organization or a public agency, member of a board, executive, or employee of state enterprise, an official, or member of a board of any organization under the Constitution, commits an offence under this Act shall be liable to twice the punishment stipulated for such offence.

Any member of the Committee, member of Sub-Committee, member of any working group and competent official empowered to act in accordance with this Act, committing an offence under this Act, shall be liable to thrice the punishment stipulated for such offence.

Section 14 All offences under this Act shall be predicate offences under the Anti-Money Laundering Act, B.E. 2542 (1999).

CHAPTER 2

Anti-Trafficking in Persons Committee

Section 15 There shall be an Anti-Trafficking in Persons Committee to be called "ATP Committee" in brief, consisting of the Prime Minister as chairman, the Deputy Prime Minister, who acts as Chairman of the CMP Committee, as vice chairman, the Minister of Defense, the Minister of Foreign Affairs, the Minister of Tourism and Sports, the Minister of Social Development and Human Security, the Minister of Interior, the Minister of Justice, the Minister of Labour, and four qualified persons appointed by the Prime Minister from experts who have had no less than seven years demonstrable professional experiences in the fields of prevention, suppression, rehabilitation and international cooperation on the issues of trafficking in persons, one from each field, provided that not less than one half appointed from the private sector, as members, and the Permanent Secretary for Social Development and Human Security shall be the secretary and the Director-General of the Department of Social Development and Welfare and the Director-General of the Office of Welfare Promotion, Protection and Empowerment of Vulnerable Groups shall be the assistant secretaries.

No less than one half of the qualified members in paragraph one must be female.

Section 16 The Committee shall have powers and duties as follows:

(1) to make recommendations to the Cabinet concerning the policy on prevention and suppression of trafficking in persons;

(2) to make recommendations to the Cabinet on the revision of laws, rules, regulations or the restructuring of any governmental agency responsible for the prevention and suppression of trafficking in person to enable a more effective implementation of this Act;

(3) to lay down strategies and measures for the prevention and suppression of trafficking in person;

(4) to prescribe guidelines and monitor the implementation of international obligations, including cooperating and coordinating with foreign bodies in relation to the prevention and suppression of trafficking in persons;

(5) to direct and supervise the arrangements of study or research projects and the development of an integrated data base system for the benefit of prevention and suppression of trafficking in persons;

(6) to issue regulations relating to the registration of a nongovernmental organization with a view to preventing and suppressing of trafficking in person, and to prescribe rules for assistance such organization in carrying out its activities;

(7) to lay down rules, with the consent of the Ministry of Finance, concerning the receipt, payment, keeping, fund raising and the management of Fund;

(8) to lay down rules concerning the report on financial status and the administration of the Fund for the purpose of implementing this Act;

(9) to give instruction and supervise the performance of duties of the CMP Committee.

(10) to perform any other acts as entrusted by the Cabinet.

Section 17 A qualified member shall hold office for a term of four years.

Vacating member may be re-appointed but shall not hold office in excess of two consecutive terms.

Section 18 Apart from the vacation of office upon the expiration of the term, a qualified member shall vacate office upon:

(1) death;

(2) resignation;

(3) being dismissed by the Prime Minister on account of the deficiency, dishonesty or misbehavior;

(4) being declared bankrupt;

(5) being declared an incompetent or quasi-incompetent person;

(6) being imprisoned by a final judgment, except for a negligent or petty offence;

(7) absenting from the meetings for three consecutive occasions without reasonable cause.

Section 19 In case where a qualified member vacates office prior to the expiration of his term of office, the Prime Minister shall appoint another person of the same qualification to fill the vacancy; except when such remaining period of the term is less than ninety days, in which case a new appointment may not be required. The appointed member shall hold office for the remaining period of the term of office of the member replaced.

Section 20 In case where a qualified member vacates office at the expiration of the term of office and a new member has not been appointed, such member shall continue in office until a new member has been appointed to assume office.

Section 21 For a meeting of the Committee, the presence of not less than one-half of the total number of members is required to constitute a quorum.

In case where the chairman of the Committee is not present or is unable to perform the duty, then the vice-chairman of the Committee shall preside over the meeting. If the vice-chairman is also not present or is unable to perform the duty, the members present shall elect one among them to act as chairman of the meeting.

The decision of a meeting shall be made by majority of votes. Each member shall have one vote. In the case of a tie, the chairman of the meeting shall have an additional vote as a casting vote.

The Committee shall hold a meeting at least three times a year.

Section 22 There shall be a Coordinating and Monitoring of Anti-Trafficking in Persons Performance Committee to be called "CMP Committee" in brief, consisting of the Deputy Prime Minister, being assigned by the Prime Minister, as chairman, the Minister of Social Development and Human Security, as vice chairman, the Permanent Secretary for Foreign Affairs, the Permanent Secretary for Tourism and Sports, the Permanent Secretary for Social Development and Human Security, the Permanent Secretary for Interior, the Permanent Secretary for Justice, the Permanent Secretary for Labour, the Permanent Secretary for Education, the Permanent Secretary for Public Health, the Attorney General, the Commissioner-General of the Royal Thai Police, the Director-General of the Department of Provincial Administration, the Director-General of the Department of Special Investigation, the Secretary-General of the Anti-Money Laundering Board, the Secretary-General of the National Human Rights Commission, the Secretary-General of the National Security Council, the Governor of Bangkok Metropolitan Administration, and eight qualified persons appointed by the Minister from experts who have had no less than seven years professional experiences in the fields of prevention, suppression, rehabilitation and international cooperation on the issues of trafficking in persons, two from each field, provided that not less than one half appointed from the private sector, as members, and the Deputy Permanent Secretary for Social Development and Human Security shall be a member and the secretary.

The CMP Committee shall have power to appoint a government official or anyone from the private sector to serve as assistant secretary of the Committee. The qualified members in paragraph one must be female not less than one half.

Section 23 The CMP Committee shall have powers and duties as follows:

(1) to prepare and monitor the performance according to the implementation and coordination plans of the agencies concerned, whether they be at the central, regional or local level, or in the community and civil society, to ensure the consistency with the policies, strategies and measures on the prevention and suppression of trafficking in persons;

(2) to prepare and monitor the implementation of plans and guidelines regarding the capacity building for personnel responsible for prevention and suppression of trafficking in persons;

(3) to formulate and monitor campaigns to inform and educate the public in relation to the prevention and suppression of trafficking in persons;

(4) to monitor, evaluate and report to the Committee the performance according to the policies, strategies, measures, together with the performance under this Act;

(5) to follow up, and report to the Committee the performance under the international obligations, cooperation and coordination with the foreign bodies on the issues of the prevention and suppression of trafficking in persons;

(6) to lay down rules and approve the payment and disposal of property of the Fund under Section 44(4);

(7) to prepare and monitor the implementation plans under this Act with a view to achieve the highest efficiency of law enforcement and to be in line with the law on anti-money laundering, the law on the national counter corruption and any other related laws, including international obligations.

(8) to perform any other acts as entrusted by the Committee.

Section 24 Section 17, Section 18, Section 19, Section 20, and Section 21 shall apply *mutatis mutandis* to the assumption of office, vacation of office, and meetings of the CMP Committee.

The CMP Committee shall hold a meeting at least six times a year.

Section 25 The Committee and the CMP Committee may appoint a sub-committee or a working group to consider, give advice and execute any matter entrusted by the Committee and the CMP Committee.

The provision of Section 21 paragraph one, two and three shall apply *mutatis mutandis* to the meetings of any sub-committee or working group.

Section 26 The Office of the Permanent Secretary for Social Development and Human Security shall be the secretariat of the Committee and the CMP Committee and shall have powers and duties as follows:

(1) to perform administrative tasks of the Committee and the CMP Committee;

(2) to be a focal agency for coordinating and co-operating with other government agencies, and public and private organizations concerned, both within and outside the country, in connection with the execution of this Act;

(3) to develop system of prevention and suppression of trafficking in persons, including to effectively provide services and safety protection to the trafficked person;

(4) to compile, study and analyze data for the benefit of prevention and suppression of trafficking in persons and to conduct a research for the benefit of the execution of this Act;

(5) to develop information technology database system for the prevention and suppression of trafficking in persons and to establish the links thereof;

(6) to implement the decisions of the Committee and the CMP Committee or perform any other acts as entrusted by the Committee and the CMP Committee.

The Office of the Permanent Secretary for Social Development and Human Security shall be responsible for preparing the due appropriations of the annual budget and personnel for carrying out the duties prescribed in paragraph one.

CHAPTER 3

Powers and Duties of the Competent Official

Section 27 For the purpose of prevention and suppression of the commission of the trafficking in persons, the competent official shall have the following powers and duties:

(1) to summon any person to give statements, or submit documents or evidence;

(2) to search the body of any person, with his consent, where there is a reasonable ground to believe that such person is a trafficked person, in case such person is a woman, the searcher shall be another woman;

(3) to search any conveyance with a reasonable ground to suspect that there is an evidence or a person falling the trafficked person therein;

(4) to enter any dwelling place or a premise, to search, seize or attach, when there is a reasonable ground to believe that there is an evidence of the commission of trafficking in persons, or to discover and rescue a trafficked person therein, and that by reason of delay in obtaining a search warrant, such evidence is likely to be removed, concealed or destroyed, or such person is likely to be assaulted, relocated or concealed.

When exercising the power under (4), the competent official must manifest that he has nothing concealed prior to the search as well as report reason and result of the search in writing to his superior. He shall also make a copy of such report and give it to the occupier of the searched dwelling place or premise. In case no one is there, the competent official shall deliver the copy of such report to the occupier as soon as possible. If the search takes place between sunset and sunrise, the competent official who leads the search must, at least, be a Chief District Officer, or a Deputy Superintendent, or an ordinary civil servant holding a position not lower than level 7. The competent official who leads the search shall submit a copy of report describing reason and result of the search to the Provincial Court having jurisdiction over the searched area or the Criminal Court within forty-eight hours after the completion of the search, as evidence.

In exercising the powers under (2) and (3), the competent official may order his subordinate to perform the duties thereof.

While performing the duties under this Act, the competent official may request the assistance from any person nearby, but will be unable to compel such person to assist if the danger may occur to him.

Section 28 In performing the duties under this Act, the competent official shall present his identification card to the person concerned.

The competent official's identification card shall be in conformity with the form stipulated by the Minister as published in the Government Gazette.

Section 29 In case of necessity for the benefit of fact clarification in relation to the trafficking in person and the security protection of a person, where there is a reasonable ground to believe that he is a trafficked person, the competent official may temporarily take such person into his custody, but the custody shall not be over twenty four hours. The custody of such person must be reported to the Commissioner-General of the Royal Thai Police, the Director General of the Department of Special

Investigation, the Director General of the Department of Social Development and Welfare or the Provincial Governor, as the case may be, without delay.

In case of necessity for the custody of any person suspicious to be a trafficked person, to any extent longer than that provided in paragraph one, the competent official shall file a petition to the Court asking for a permission order. The Court shall grant permission for a period of not more than 7 days and may impose any condition upon such permission.

The custody of person suspicious to be a trafficked person according to this Section must be placed in an appropriate place which shall not be a detention cell or prison, in accordance with the regulations prescribed by the Minister.

The performance of the duties under this Section shall take into account all human rights principles seriously.

Section 30 In case where there is a reasonable ground to believe that any other document or information sent by post, telegram, telephone, facsimile, computer, communication device or equipment or any information technology media has been or may be used to commit offence of trafficking in persons, the competent official, approved by the Commissioner-General of the Royal Thai Police or the Director General of the Department of Special Investigation or the Provincial Governor in writing, as the case may be, may submit an ex parte application to the Criminal Court or the Provincial Court of competent territorial jurisdiction asking for an order to permit him to obtain such document or information.

In granting permission under paragraph one, the Court shall consider the effect on individual rights or any other rights in conjunction with the following reasons and necessities:

(1) There is a reasonable ground to believe that an offence of trafficking in persons has been committed or is going to be committed;

(2) There is a reasonable ground to believe that an access to the information will result in getting the information of offence of trafficking in persons;

(3) There is no other appropriate or more efficient method.

The Court shall grant permission under paragraph one for each period of not more than 90 days and may impose any condition upon such permission. Any person involved in the document or information under such order is required to co-operate in compliance with the provision of this Section. After the permission, if it appears that

the fact or a necessity is not as provided, or if there is any change in circumstances, the Court may change such permission order as appropriate.

While executing the Court order, the competent official may request any person to assist him in performing the duties. In addition, after the competent official has executed according to the permission, he shall make a report detailing the result of the execution and submit such report to the Court issuing the permission without delay.

The document or information acquired under paragraph one shall be kept and used only for the benefit of investigation and as evidence in the proceedings of trafficking in person offence, according to the regulations prescribed by the Minister.

Section 31 In case of necessity for the benefit of prevention and suppression of trafficking in person, before entering a charge in the Court, the public prosecutor, by himself or by receiving a request from an inquiry official, may bring the trafficked person or a witness to the Court and file a petition specifying all the facts alleged to have been committed and the necessary cause why the testimony must be taken promptly.

In case the initiation to testify in Court is of the trafficked person or witness, after such person informed his intention to the public prosecutor, a petition to the Court shall immediately be filed by the public prosecutor.

When having received the petition under paragraph one or two, the Court shall take the testimony of witness promptly. During the testimony, if an interested person in the case files a petition to the Court citing a reason or necessity to cross-examine or to appoint a counsel for cross-examination, the Court may grant permission to do so when deemed appropriate and Section 237 bis paragraph three and four of the Criminal Procedure Code shall apply *mutatis mutandis*.

If the alleged offender is indicted later as a defendant with the charge of any offence stipulated in Chapter 1, the deposited testimony of the witness shall be used as evidence in the trial and in making decision of that case.

Section 32 In performing the duties under this Act, the competent official shall be officials under the Penal Code.

CHAPTER 4

Provisions of Assistance and Protection of Safety to the Trafficked Person of Trafficking in Persons

Section 33 The Ministry of Social Development and Human Security shall consider to provide assistance as appropriate to a trafficked person on food, shelter, medical treatment, physical and mental rehabilitation, education, training, legal aid, the return to the country of origin or domicile, the legal proceedings to claim compensation according to the regulations prescribed by the Minister, providing that human dignity and the difference in sex, age, nationality, race, and culture of the trafficked person shall be taken into account. The right to receive protection, whether it be prior to, during and after the assistance providing, including the timeframe in delivering assistance of each stage, shall be informed the trafficked person. In this connection, the opinion of trafficked person is to be sought.

The competent official, in providing assistance under paragraph one, may place the trafficked person in the care of a primary shelter provided by the law on prevention and suppression of prostitution, or a primary shelter provided by the law on child protection, or other government or private welfare centers.

Section 34 For the benefit of the assistance to a trafficked person, the inquiry official or public prosecutor shall, in the first chance, inform the trafficked person his right to compensation for damages resulting from the commission of trafficking in person and the right to the provisions of legal aid.

Section 35 In case where the trafficked person has the right to compensation for damages as a result of the commission of trafficking in persons and express his intention to claim compensation thereof, the Public Prosecutor, to the extent as informed by the Permanent Secretary for Social Development and Human Security or any person designated by him, shall, on behalf of the trafficked person, claim for compensation thereof.

The claim for compensation under paragraph one, may be brought by the Public Prosecutor either with the criminal prosecution or by way of motion filed at any time during the trial of the criminal case in the Court of the First Instance.

The judgment in the part of the claim for compensation shall be given as one part of the judgment in the criminal case. In case where the Court orders to compensate for compensation, the trafficked person shall be regarded as the creditor

according to the judgment and the Director-General of the Legal Execution Department shall be bound to execute the judgment of such.

The hearing proceedings of claim for compensation under paragraph one and the execution of judgment under paragraph three are exempt from any costs. The provisions of the Criminal Procedure Code shall apply *mutatis mutandis* as far as they do not contravene to any provisions stipulated in this Act.

Section 36 The competent official shall provide for the safety protection to the trafficked person under his care regardless of where such person stays, whether it be prior to, during or after the proceeding. In so doing, the safety of the family members of trafficked person shall also be taken into account.

In case where the trafficked person will make statement or testify as a witness in the offense of trafficking in persons under this Act, the trafficked person, as a witness, shall be under the protection according to the law on the protection of witness in a criminal case in all respects.

If the trafficked person has to return to the country of esidence or domicile or if the family members of the trafficked person live in other country, the competent official shall coordinate with the agency in such country whether it be a government or a private agency and whether it be done via the embassy or consular office of such country, with a view to continuously provide safety protection for the trafficked person and family members in that country.

Section 37 For the purpose of taking proceedings against the offender under this Act, or providing medical treatment, rehabilitation for the trafficked person, or claiming for compensation of the trafficked person, the competent official may assist the trafficked person to get a permission to stay in the Kingdom temporarily and be temporarily allowed to work accordance with the law. In so doing, the humanitarian reason shall be taken into account.

Section 38 Subject to Section 37, the competent official shall undertake to have the trafficked person who is an alien return to the country of residence or domicile without delay except such person is allowed the permanent residence in the Kingdom according to the immigration law or has been granted a relief, in an exceptional case, to stay in the Kingdom from the Minister of the Interior, with evidence and documents under the law on census registration or the law on alien registration.

In the undertaking under paragraph one, the security and welfare of such person shall be taken into account.

Section 39 In case where a person of the Thai nationality falls an trafficked person in a foreign country, and wants to return to the Kingdom or residence, the competent official shall undertake to clarify whether such person is a Thai or not. In case where such person is a Thai national, the competent official shall undertake, whatever as necessary, to have such person return to the Kingdom without delay, considering accordingly to the safety and welfare of such person.

In case where the trafficked person in a foreign country is an alien being allowed a residence in the Kingdom under the immigration law, or being granted a relief, in an exceptional case, to stay in the Kingdom from the Minister of the Interior, and prior to leaving the Kingdom, the status of being granted a temporary residence has not yet terminated, once the facts in relation to such person are verified, should he want to return to the Kingdom, the competent official shall undertake whatever necessary to have such person return to the Kingdom without delay, considering accordingly to the safety and welfare of such person, and the same shall be granted a permission to resume a stay in the Kingdom according to the status quo prior to leaving the Kingdom.

In case where the trafficked person in a foreign country is an alien and has no any identity document, but there is a reasonable ground to belief that such person has, or used to have a domicile or residence in the Kingdom lawfully, once the status of domicile or residence of the said person has been verified, should he wish to return to the Kingdom, the competent official shall undertake whatever necessary to have such person return to the Kingdom without delay, considering accordingly to the safety and welfare of such person, and the same shall be granted a permission to resume a stay in the Kingdom according to the status quo prior to leaving the Kingdom.

Section 40 The Ministry of Social Development and Human Security shall prepare an annual report in connection with the situation, number of cases, the performance of various agencies concerned and guidelines for the future performance in relation to the prevention and suppression of the trafficking in persons and submit it to the Cabinet.

Section 41 Unless the Minister of Justice grants a permission in writing, the inquiry official is barred from taking criminal proceeding against any trafficked person on the offence of entering, leaving, or residing in the Kingdom without

permission under the law on immigration, giving a false information to the official, forging or using a forged travel document under the Penal Code, offence under the law on prevention and suppression of prostitution, particularly on contacting, persuading, introducing and soliciting a person for the purpose of prostitution and assembling together in the place of prostitution for the purpose of prostitution, or offence of being an alien working without permission under the law on working of the alien.

CHAPTER 5

The Anti Trafficking in Persons Fund

Section 42 There shall establish a Fund in the Ministry of Social Development and Human Security to be called “ the Anti Trafficking in Persons Fund” to be used as capital for the prevention and suppression of trafficking in persons and the management of the Fund. The Fund shall consist of;

- (1) initial capital contributed by the Government;
- (2) subsidy from the Government, distributed from the annual budget;
- (3) money or property received as a donation;
- (4) money contributed internationally or by an international organization;
- (5) interest or other benefits accruing to the Fund;
- (6) money received from the sale of property of the Fund or received by means of fund raising;
- (7) money or property vested in the Fund or received by the Fund under the other law.

Section 43 Money and interest received by the Fund under Section 42 shall not be required to be remitted to the Ministry of Finance as state revenue.

Section 44 Money and property of the Fund shall be used for the following purposes:

- (1) providing assistance to the trafficked person under Section 33;
- (2) providing safety protection of the trafficked person under Section 36;
- (3) providing assistance to the trafficking person in a foreign country to return to the Kingdom or domicile under Section 39;
- (4) preventing and suppressing of trafficking in persons according to the regulations prescribed by the CMP Committee;
- (5) managing the Fund.

Section 45 There shall be a Fund Management Committee to be composed of the Permanent Secretary for Social Development and Human Security as the chairman, the Permanent Secretary for Foreign Affairs, the Permanent Secretary for Justice, a representative from the Bureau of the Budget, representative from the Comptroller General's Department, and three qualified persons appointed by the Committee, provided that at least two qualified persons must be the representatives from the private sector active in social development, social work, prevention and suppression of trafficking in persons, or financing, as members, and the Deputy Permanent Secretary for Social Development and Human Security assigned by the Permanent Secretary shall be a member and the secretary.

Section 46 Section 17, Section 18, Section 19, Section 20, Section 21 and Section 25 shall apply *mutatis mutandis* to the assumption of office, vacation of office of a qualified member, meetings of the Fund Management Committee and appointment of any sub-committee of the Fund Management Committee.

Section 47 The Fund Management Committee shall have powers and duties as follows:

- (1) to consider the approval the payments stipulated in Section 44;
- (2) to manage the Fund in accordance with regulations specified by the Committee;
- (3) to report to the Committee on the financial status and performance of the Fund in accordance with regulations prescribed by the Committee.

Section 48 The receipt, payment, keeping, fund raising, and management of the Fund shall follow the regulations set forth by the Committee, with the consent of the Ministry of Finance.

Section 49 There shall be a Monitoring and Evaluation of Fund Performance Committee consisting of five persons, comprising a chairman of the Committee and qualified members appointed by the Committee from those with knowledge and experiences in the field of finance, social work and evaluation, one from each field, and the Deputy Permanent Secretary for Social Development and Human Security assigned by the Permanent Secretary shall be a member and the secretary. Section 17, Section 18, Section 19, Section 20 and Section 21 shall apply *mutatis mutandis* to the assumption of office, vacation of office and meetings of the Monitoring and Evaluation Committee.

Section 50 The Monitoring and Evaluation of Fund Performance Committee shall have powers and duties as follows:

- (1) to monitor, inspect and evaluate the performance of the Fund;
- (2) to report to the Committee on the performance of the Fund, together with any recommendations;
- (3) to have the power to request the provision of documents or evidence in connection with the Fund from any person or to summon any person to give statements to further complement its evaluation of the Fund.

Section 51 The Fund Management Committee shall present balance sheet and accounts to the Office of the Auditor-General of Thailand for audit and certification within one hundred and twenty days from the end of a financial year.

The Office of the Auditor-General of Thailand shall prepare a report on the findings and certification of the Fund's accounts and finances for submission to the Committee, within one hundred and fifty days from the end of a financial year, for submission to the Cabinet for information.

The Minister shall present the audit report under paragraph two to the Prime Minister for submission to parliament for information and publication in the Government Gazette.

CHAPTER 6

Penalties

Section 52 Whoever commits an offence of trafficking in persons shall be liable to the punishment of an imprisonment from four years to ten years and a fine from eighty thousand Baht to two hundred thousand Baht.

If the offence under paragraph one is committed against a child whose age exceeds fifteen years but not yet reaching eighteen years, the offender shall be liable to the punishment of an imprisonment from six years to twelve years and a fine from one hundred twenty thousand Baht to two hundred forty thousand Baht .

If the offence under paragraph one is committed against a child not over fifteen years of age, the offender shall be liable to the punishment of an imprisonment from eight years to fifteen years and a fine from one hundred sixty thousand Baht to three hundred thousand Baht.

Section 53 Any juristic person commits an offence of trafficking in persons shall be liable to the punishment of a fine from two hundred thousand Baht to one million Baht.

In case where the offender is a juristic person, if the offence of such juristic person is caused by an order or an act of any person, or the omission to issue an order or perform an act which is the obligation of the managing director, or any person who is responsible for carrying out the business of the said juristic person, such person shall be liable to the punishment of imprisonment from six years to twelve years and a fine from one hundred twenty thousand Baht to two hundred forty thousand Baht.

Section 54 Whoever obstructs the process of investigation, inquiry, prosecution or criminal proceedings on the offence of trafficking in persons so that the process is unable to be conducted in a well-manner, by doing any of the following acts, shall be liable to the punishment of an imprisonment not exceeding ten years and a fine not exceeding two hundred thousand Baht:

(1) giving, offering or agreeing to give property or other benefit to a trafficked person or other witness for inducing such person not to visit the competent official, inquiry official, public prosecutor or not to attend the court for giving facts, statement or testimony, or inducing such person to give facts, statement or testimony that is false, or not to give facts, statement or testimony at all, in the criminal proceedings against the offender under this Act;

(2) using of force, coercing, threatening, compelling, deceiving, or using any other means causing a trafficked person or other witness not to visit the competent official, inquiry official, public prosecutor or not to attend the court to give facts, statement or testimony, or inducing such person to give facts, statement or testimony that is false, or not to give facts, statement or testimony, that is false, or not to give facts, statement or testimony at all, in the criminal proceedings against the offender under this Act;

(3) damaging, destroying, losing or rendering useless, taking away, altering, changing, concealing or hiding any document or evidence, or fabricating, making or using any document or evidence that is false in the criminal proceeding against the offender under this Act;

(4) giving, offering or agreeing to give property or other benefit to the Committee member, the CMP Committee member, subcommittee member, any member of the working group or to the competent official under this Act, or to judiciary official, public prosecutor, or inquiry official or demanding, accepting, or agreeing to accept a property or any other benefit in order to induce such person to do

or not to do any act, or to delay the doing of any act contrary to the duty of such person under this Act;

(5) using of force, coercing, threatening, compelling or using any other wrongful means to the Committee member, the CMP Committee member, sub-committee member, any member of the working group or to the competent official under this Act, or to judiciary official, public prosecutor, or inquiry official to induce such person to do or not to do any act, or to delay the doing of any act contrary to the duty of such person under this Act.

Section 55 Whoever commits the following act shall be liable for the punishment of imprisonment not exceeding five years and a fine not exceeding one hundred thousand Baht, except it is a disclosure in the performance of the duties or according to the law;

(1) knowing that an application to obtain documents or information under Section 30 is making and disclosing to any other person, who has no duties in connection with that capacity, to know that an application thereof is making or is about to be made, which is likely to prejudice the applicant in obtaining such documents or information; or

(2) knowing or obtaining the documents or information under Section 30 and disclosing such documents or information to any other person, who has no duties in connection with that capacity.

Section 56 Whoever commits or undertake to have the following acts been committed shall be liable for the punishment of imprisonment not exceeding six months or a fine not exceeding sixty thousand Baht, or both;

(1) taking a picture, circulating a picture, printing a picture, recording or airing voice of any person, at any stage, which may lead to the identification of the trafficked person;

(2) publishing or disseminating the content appearing in the course of inquiry of the inquiry official or the course of hearing of the court, which may make the other person to know the first name and last name of the trafficked person, or the family members of such trafficked person, through whatever type of information communication media;

(3) publishing or disseminating the content, picture or voice, through whatever type of information communication media, disclosing history, place of living, place of work or place of education of the trafficked person.

The provision of paragraph one shall not be applied to the acts committed for the interest of government affairs in protecting and assisting the trafficked person or the trafficked person honestly gives the consent thereto.

Transitory Provision

Section 57 The assistance capital for the prevention and solving the problem of trafficking in persons according to the regulation, prescribed by the Anti-Trafficking in Persons Committee, on the performance and payment for prevention and solving the problem of trafficking in persons, B.E. 2550 (2007), shall be transferred to be an initial capital for the Fund under this Act.

Countersigned by:

Gen. Surayud Chulanont

Prime Minister

This English version is translated by:

Mr. Pravit Roykaew, Office of the Attorney General

BIOGRAPHY

Pong Pheakdey Boramy was born in Cambodia in 1982. In 2007, he won a scholarship from the Rockefeller Foundation to study in the Master degree program of Southeast Asian Studies at Chulalongkorn University.

