# ASEAN Convention Against Trafficking in Persons, Especially Women and Children

Member States of the Association of Southeast Asian Nations (hereinafter referred to as "ASEAN") - Brunei Darussalam, the Kingdom of Cambodia, the Republic of Indonesia, the Lao People's Democratic Republic, Malaysia, the Republic of the Union of Myanmar, the Republic of the Philippines, the Republic of Singapore, the Kingdom of Thailand, and the Socialist Republic of Viet Nam, hereinafter referred to individually as "the Party" and collectively as "the Parties";

**RECOGNISING** that trafficking in persons constitutes a violation of human rights and an offence to the dignity of human beings;

**RECALLING** the purpose and principles of the Charter of the United Nations, the Universal Declaration on Human Rights, the Charter of the Association of Southeast Asian Nations ("ASEAN Charter"), the ASEAN Human Rights Declaration, the United Nations Convention against Transnational Organized Crime, and where applicable, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and other international agreements and resolutions of the United Nations on the eradication of trafficking in persons, in the promotion and protection of human rights, fundamental freedoms, fair treatment, rule of law and due process;

**REAFFIRMING** our commitment to the ASEAN Charter with a view to responding effectively, in accordance with the principle of comprehensive security, to all forms of transnational crimes and transboundary challenges;

**REAFFIRMING** also our commitment to the ASEAN Declaration Against Trafficking in Persons Particularly Women and Children adopted in 2004; the Criminal Justice

CERTIFIED COPY
DEPUTY SECRETARY GENERAL, THE ASEAN SECRETARIAT
asean

Responses to Trafficking in Persons: Ending Impunity for Traffickers and Securing Justice for Victims in 2007 ("ASEAN Practitioner Guidelines"); the ASEAN Leaders' Joint Statement in Enhancing Cooperation against Trafficking in Persons in South East Asia in 2011; and ASEAN's efforts in promoting human rights, including the ASEAN Human Rights Declaration adopted in 2012;

**REAFFIRMING** further our commitment to a stronger and more effective regional and international cooperation against trafficking in persons where the offence is transnational in nature, including but not limited to crimes committed by organised criminal groups;

**RECOGNISING** that cooperation is imperative to the successful investigation, prosecution and elimination of safe havens for the perpetrators and accomplices of trafficking in persons and for the effective protection of, and assistance to, victims of trafficking;

**RECOGNISING** that trafficking in persons is caused by a combination of factors, including government corruption, poverty, economic instability, inefficient legal systems, organised crimes, and the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking, which must be effectively addressed;

**REALISING** that all ASEAN Member States, regardless of whether they are countries of origin, transit or destination, have a shared responsibility and a common goal to prevent trafficking in persons, prosecute and punish offenders of trafficking in persons and to protect and assist victims of trafficking in persons;

**TAKING INTO** consideration the proximity and connecting borders of ASEAN Member States and in the spirit of regionalism;



CERTIFIED COPY
DEPUTY SECRETARY GENERAL, THE ASEAN SECRETARIAT
asean

**REALISING** the need to establish a regional instrument that deals especially with trafficking in persons as a legal framework for regional action in preventing and combating trafficking in persons, including the protection of, and assistance to, victims of trafficking in persons;

**RECOGNISING** the importance of having in place a regional instrument against trafficking in persons that is legally binding and that would assist ASEAN Member States, as countries of origin, transit or destination, to deal with their diverse national challenges, priorities and strategies in the fight against trafficking in persons;

Have agreed as follows:

## Chapter I
## General Provisions

### Article 1
### Objectives

1. The objectives of this regional legal instrument are to effectively:

   a. Prevent and combat trafficking in persons, especially against women and children, and to ensure just and effective punishment of traffickers;

   b. Protect and assist victims of trafficking in persons, with full respect for their human rights; and

   c. Promote cooperation among the Parties in order to meet these objectives.

2. The Parties agree that the measures set forth in this Convention must be construed and applied in a manner that is consistent with internationally and regionally recognised



CERTIFIED COPY
DEPUTY SECRETARY GENERAL, THE ASEAN SECRETARIAT
asean

principle of non-discrimination, especially to those persons on the ground that they are victims of trafficking in persons.

## Article 2
## Use of Terms

For the purposes of this Convention:

a. "Trafficking in persons" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;

b. The consent of a victim of trafficking in persons to the intended exploitation set forth in Paragraph (a) of this Article shall be irrelevant where any of the means set forth in Paragraph (a) have been used;

c. The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered "trafficking in persons" even if this does not involve any of the means set forth in Paragraph (a) of this Article;

d. "Child" shall mean any person under eighteen (18) years of age;

e. "Victim" shall mean any natural person who is subject to an act of trafficking in persons as defined in this Convention;



CERTIFIED COPY
DEPUTY SECRETARY GENERAL, THE ASEAN SECRETARIAT
asean

f. "Organised criminal group" shall mean a structured group of three or more persons existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established in accordance with this Convention, in order to obtain, directly or indirectly, a financial or other material benefit;

g. "Serious crime", as stated in Paragraph (f) of this Article, shall mean conduct constituting an offence punishable by a maximum deprivation of liberty of at least four years or a more serious penalty;

h. "Transnational Crime" shall mean an offence that is transnational in nature. An offence is transnational in nature if:

(i) It is committed in more than one State;

(ii) It is committed in one State but a substantial part of its preparation, planning, direction or control takes place in another State;

(iii) It is committed in one State but involves an organised criminal group that engages in criminal activities in more than one State; or

(iv) It is committed in one State but has substantial effects in another State.

i. "Public official" shall mean:

(i) any person holding a legislative, executive, administrative or judicial office of a Party, whether appointed or elected, whether permanent or temporary, whether paid or unpaid, irrespective of that person's seniority;

(ii) any other person who performs a public function, including for a public agency or public enterprise, or



CERTIFIED COPY
DEPUTY SECRETARY GENERAL, THE ASEAN SECRETARIAT
asean

provides a public service, as defined in the domestic laws of the Party and as applied in the pertinent area of law of that Party;

(iii) any other person defined as a "public official" in the domestic laws of that Party.

j. "Property" shall mean assets of every kind, whether corporeal or incorporeal, movable or immovable, tangible or intangible, and legal documents or instruments evidencing title to, or interest in, such assets;

k. "Proceeds of crime" shall mean any property derived from or obtained, directly or indirectly, through the commission of an offence;

l. "Freezing" or "seizure" shall mean temporarily prohibiting the transfer, conversion, disposition or movement of property or temporarily assuming custody or control of property on the basis of an order issued by a court or other competent authority;

m. "Confiscation", which includes forfeiture where applicable, shall mean the permanent deprivation of property by order of a court or other competent authority;

n. "Predicate offence" shall mean any offence as a result of which proceeds have been generated that may become the subject of an offence as defined in Article 7 of this Convention.

## Article 3
## Scope of Application

This Convention shall apply to the prevention, investigation and prosecution of the offences established in accordance with Article 5 of this Convention, where the offences are transnational in nature, including those committed by



CERTIFIED COPY
asean
SECRETARY GENERAL. THE ASEAN SECRETARIAT

organised criminal groups, as well as to the protection of and assistance to victims of trafficking in persons.

### Article 4
### Protection of Sovereignty

1. The Parties shall carry out their obligations under this Convention in a manner consistent with the principles of sovereign equality and territorial integrity of States and that of non-intervention in the domestic affairs of other States.

2. Nothing in this Convention entitles a Party to undertake in the territory of another Party the exercise of jurisdiction and performance of functions that are reserved exclusively for the authorities of that other Party by its domestic laws.

## Chapter II
## Criminalisation

### Article 5
### Criminalisation of Trafficking in Persons

1. Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences the conduct set forth in Article 2 of this Convention, when committed intentionally.

2. Each Party shall also adopt such legislative and other measures as may be necessary to establish as criminal offences:

a. Subject to the basic concepts of its legal systems, attempting to commit an offence established in accordance with Paragraph 1 of this Article;

b. Participating as an accomplice in an offence established in accordance with Paragraph 1 of this Article;



CERTIFIED COPY
asean
DEPUTY SECRETARY GENERAL, THE ASEAN SECRETARIAT

c. Organising or directing other persons to commit an offence established in accordance with Paragraph 1 of this Article.

3. Each Party shall adopt such legislative or other measures as may be appropriate so that offenders are liable to higher penalties than usual if any of the following aggravating circumstances are present:

a. Where the offence involves serious injury or death of the victim or another person, including death as a result of suicide;

b. Where the offence involves a victim who is particularly vulnerable such as a child or a person who is unable to fully take care of or protect himself or herself because of a physical or mental disability or condition;

c. Where the offence exposed the victim to a life-threatening illness, including HIV/AIDS;

d. Where the offence involves more than one victim;

e. Where the crime was committed as part of the activity of an organised criminal group;

f. Where the offender has been previously convicted for the same or similar offences;

g. Where the offence was committed by a public official in the performance of his or her public duties.



CERTIFIED COPY
DEPUTY SECRETARY GENERAL, THE ASEAN SECRETARIAT
asean

## Article 6
## Criminalisation of Participation in an Organised Criminal Group

1. Each Party shall, in relation to offences covered by this Convention as provided in Article 3, adopt such legislative and other measures as may be necessary to establish as criminal offences, when trafficking in persons is committed intentionally:

a. Either or both of the following as criminal offences distinct from those involving the attempt or completion of the criminal activity:

(i) Agreeing with one or more other persons to commit a serious crime for a purpose relating directly or indirectly to the obtaining of a financial or other material benefit and, where required by domestic law, involving an act undertaken by one of the participants in furtherance of the agreement or involving an organised criminal group;

(ii) Conduct by a person who, with knowledge of either the aim and general criminal activity of an organised criminal group or its intention to commit the crimes in question, takes an active part in:

(a) Criminal activities of the organised criminal group;

(b) Other activities of the organised criminal group in the knowledge that his or her participation will contribute to the achievement of the above-described criminal aim;



CERTIFIED COPY
asean
DEPUTY SECRETARY GENERAL, THE ASEAN SECRETARIAT

b. Organising, directing, aiding, abetting, facilitating or counselling the commission of serious crime involving an organised criminal group.

2. The knowledge, intent, aim, purpose or agreement referred to in Paragraph 1 of this Article may be inferred from objective factual circumstances.

**Article 7**
**Criminalisation of the Laundering of Proceeds of Crime**

Each Party shall, in relation to offences covered by this Convention as provided in Article 3, adopt, in accordance with fundamental principles of its domestic law, such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

a. (i) The conversion or transfer of property, knowing that such property is the proceeds of crime, for the purpose of concealing or disguising the illicit origin of the property or of helping any person who is involved in the commission of the predicate offence to evade the legal consequences of his or her action;

(ii) The concealment or disguise of the true nature, source, location, disposition, movement or ownership of or rights with respect to property, knowing that such property is the proceeds of crime;

b. Subject to the basic concepts of its legal system:

(iii) The acquisition, possession or use of property, knowing, at the time of receipt, that such property is the proceeds of crime;

(iv) Participation in, association with or conspiracy to commit, attempts to commit and aiding, abetting,



CERTIFIED COPY
DEPUTY SECRETARY GENERAL, THE ASEAN SECRETARIAT
asean

facilitating and counselling the commission of any of the offences established in accordance with this Article.

## Article 8
## Criminalisation of Corruption

1. Each Party shall, in relation to offences covered by this Convention as provided in Article 3, adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:

a. The promise, offering or giving to a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties;

b. The solicitation or acceptance by a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties.

2. Each Party shall also consider establishing as criminal offences other forms of corruption.

3. Each Party shall also adopt such measures as may be necessary to establish as a criminal offence participation as an accomplice in an offence established in accordance with this Article.

## Article 9
## Criminalisation of Obstruction of Justice

Each Party shall, in relation to offences covered by this Convention as provided in Article 3, adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally:



CERTIFIED COPY
asean
DEPUTY SECRETARY GENERAL, THE ASEAN SECRETARIAT

a. The use of physical force, threats or intimidation or the promise, offering or giving of an undue advantage to induce false testimony or to interfere in the giving of testimony or the production of evidence in a proceeding in relation to the commission of offences covered by this Convention;

b. The use of physical force, threats or intimidation to interfere with the exercise of official duties by a justice or law enforcement official in relation to the commission of offences covered by this Convention. Nothing in this Paragraph shall prejudice the right of Parties to have legislation that protects other categories of public officials.

**Article 10**
**Jurisdiction**

1. Each Party shall adopt such measures as may be necessary to establish its jurisdiction over the offences established in accordance with Article 5, Article 6, Article 7, Article 8, and Article 9 of this Convention when:

a. The offence is committed in the territory of that Party; or

b. The offence is committed on board a vessel that is flying the flag of that Party or an aircraft that is registered under the laws of that Party at the time that the offence is committed.

2. Subject to Article 4 of this Convention, a Party may also establish its jurisdiction over any such offence when:

a. The offence is committed against a national of that Party;

b. The offence is committed by a national of that Party or a stateless person who has his or her habitual residence in its territory; or



CERTIFIED COPY
DEPUTY SECRETARY GENERAL, THE ASEAN SECRETARIAT
asean

c. The offence is:

(v) One of those established in accordance with Article 6, Paragraph 1, of this Convention and is committed outside its territory with a view to the commission of a serious crime within its territory;

(i) One of those established in accordance with Article 7, Paragraph (b) (ii), of this Convention and is committed outside its territory with a view to the commission of an offence established in accordance with Article 7, Paragraph (a) (i) or (ii) or (b) (i), of this Convention within its territory.

3. For the purposes of Article 19 of this Convention, each Party shall adopt such measures as may be necessary to establish its jurisdiction over the offences covered by this Convention when the alleged offender is present in its territory and it does not extradite such person solely on the ground that he or she is one of its nationals.

4. Each Party may also adopt such measures as may be necessary to establish its jurisdiction over the offences covered by this Convention when the alleged offender is present in its territory and it does not extradite him or her.

5. If a Party exercising its jurisdiction under Paragraph 1 or 2 of this Article has been notified, or has otherwise learned, that one or more other Parties are conducting an investigation, prosecution or judicial proceeding in respect of the same conduct, the competent authorities of those Parties shall, as appropriate, consult one another with a view to coordinating their actions.

6. Without prejudice to norms of general international law, this Convention does not exclude the exercise of any criminal jurisdiction established by a Party in accordance with its domestic laws.

asean
SECRETARY GENERAL, THE ASEAN SECRETARIAT

## Chapter III
## Prevention

### Article 11
### Prevention of Trafficking in Persons

1. The Parties shall establish comprehensive policies, programmes and other measures:

   a. To prevent and combat trafficking in persons; and

   b. To protect victims of trafficking in persons, especially women and children, from revictimisation.

2. The Parties shall endeavour to undertake measures such as research, information and mass media campaigns and social and economic initiatives to prevent and combat trafficking in persons.

3. Policies, programmes and other measures established in accordance with this Article shall, as appropriate, include cooperation with non-governmental organisations, other relevant organisations and other elements of civil society.

4. The Parties shall take or strengthen measures, including through bilateral or multilateral cooperation, to alleviate the factors that make persons, especially women and children, vulnerable to trafficking, such as poverty, underdevelopment and lack of equal opportunity.

5. The Parties shall adopt or strengthen legislative or other measures, such as educational, social or cultural measures, including through bilateral and multilateral cooperation, to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking.

CERTIFIED COPY
DEPUTY SECRETARY GENERAL, THE ASEAN SECRETARIAT
asean

## Article 12
## Areas of Cooperation

The areas of cooperation under this Convention on prevention of trafficking in persons may, in conformity with the domestic laws of the respective Parties, include appropriate measures, among others:

a. To discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking;

b. To take or strengthen measures where appropriate, such as through bilateral, multilateral or regional cooperation to prevent and combat trafficking in persons, so as to alleviate the factors that make persons, especially women and children, vulnerable to trafficking, such as poverty, underdevelopment and lack of education and equal opportunity;

c. To strengthen policies and programmes to prevent trafficking in persons through research, information, awareness-raising and education campaigns, social and economic initiatives and training programmes, in particular for persons vulnerable to trafficking;

d. To further strengthen regional cooperation in the investigation and prosecution of trafficking in persons cases;

e. To enable free movement of people to take place legally, and to ensure that immigration requirements are adhered to, by disseminating accurate information on the requirements and conditions enabling the legal entry into, exit from, and stay in their respective territories;

f. To exchange and share information on measures to reduce children's vulnerability to trafficking in persons, so that they can grow up and live in a safe environment;



CERTIFIED COPY
DEPUTY SECRETARY GENERAL, THE ASEAN SECRETARIAT
asean

g. To promote capacity-building, including trainings, technical cooperation, and the holding of regional coordination meetings;

h. To ensure that any person who perpetrates or supports trafficking in persons is brought to justice.

## Article 13
## Cross-border Cooperation, Control and Validity of Documents

1. The Parties shall endeavour to undertake cross-border cooperation, in order to prevent and detect trafficking in persons, as appropriate, among border control agencies by, *inter alia*:

   a. Establishing and maintaining direct channels of communication;

   b. Enhancing intelligence exchange and sharing of information including through establishing, developing or utilising appropriate databases.

2. The Parties shall prevent the movement of traffickers and victims of trafficking in persons by effective border control and controls on the issuance of identity papers and travel documents, and through effective measures to prevent counterfeiting, forgery or fraudulent use of identity papers and travel documents.

# Chapter IV
# Protection

## Article 14
## Protection of Victims of Trafficking in Persons

1. Each Party shall establish national guidelines or procedures for the proper identification of victims of



CERTIFIED COPY
DEPUTY SECRETARY GENERAL, THE ASEAN SECRETARIAT
asean

trafficking in persons, and where appropriate, may collaborate with relevant non-governmental victim assistance organisations.

2. In a case where the trafficking takes place in more than one country, each Party shall respect and recognise the identification of victims of trafficking in person made by the competent authorities of the receiving Party.

3. Unless the victim otherwise informs, such identification shall be notified to the sending Party without unreasonable delay by the receiving Party.

4. Each Party shall consider adopting legislative or other appropriate measures that permit victims of trafficking in persons to remain in its territory, temporarily or permanently, in appropriate cases. Each Party shall give appropriate consideration to humanitarian and compassionate factors to this end.

5. Each Party shall endeavour to provide for the physical safety of victims of trafficking in persons while they are within its territory.

6. In appropriate cases and to the extent possible under its domestic laws, each Party shall protect the privacy and identity of victims of trafficking in persons, including, *inter alia*, by making legal proceedings relating to such trafficking confidential.

7. Each Party shall, subject to its domestic laws, rules, regulations and policies, and in appropriate cases, consider not holding victims of trafficking in persons criminally or administratively liable, for unlawful acts committed by them, if such acts are directly related to the acts of trafficking.

8. Each Party shall not unreasonably hold persons who have been identified by its competent authorities as victims of trafficking in persons in detention or in prison, prior to,



CERTIFIED COPY
DEPUTY SECRETARY GENERAL, THE ASEAN SECRETARIAT
asean

during, or after civil, criminal, or administrative proceedings for trafficking in persons.

9. Each Party shall communicate to identified victims of trafficking in persons within a reasonable period, information on the nature of protection, assistance and support to which they are entitled to under domestic laws, and under this Convention.

10. Each Party shall, where applicable, provide care and support to victims of trafficking in persons, including in appropriate cases, in cooperation with relevant non-governmental organisations, other organisations, and other elements of civil society, in the following:

a. Appropriate housing;

b. Counselling and information, in particular as regards their legal rights, in a language that the victims of trafficking in persons can understand;

c. Medical, psychological and material assistance; and

d. Employment, educational and training opportunities.

11. Each Party shall make its best effort to assist in the reintegration of victims of trafficking in persons into the society of the sending Party.

12. Each Party shall, take into account, in applying the provisions of this Article, the age, gender and special needs of victims of trafficking in persons, in particular the special needs of children.

13. Each Party shall ensure that its domestic legal system contains measures that offer victims of trafficking in persons the possibility of obtaining compensation for damage suffered.



CERTIFIED COPY
DEPUTY SECRETARY GENERAL, THE ASEAN SECRETARIAT
asean

14. Each Party shall make provisions for appropriate funds to be allocated, including where applicable, establishing national trust funds, for the care and support of victims of trafficking in persons.

## Article 15
## Repatriation and Return of Victims

1. The Party of which a victim of trafficking in persons is a national or in which the person had the right of permanent residence at the time of entry into the territory of the receiving Party shall facilitate and accept, with due regard for the safety of that person, the return of that person without undue or unreasonable delay.

2. When a Party returns a victim in accordance with Paragraph 1 of this Article, such return shall be with due regard for the safety of that person and for the status of any legal proceedings related to the fact that the person is a victim of trafficking in persons.

3. In accordance with Paragraphs 1 and 2 of this Article, at the request of a receiving Party, a requested Party shall, without undue or unreasonable delay, verify whether a person is its national or permanent resident, whichever is applicable, at the time of entry into the territory of the receiving Party.

4. In order to facilitate the return of a victim of trafficking in persons who is without proper documentation, the Party of which that person is a national or in which he or she had the right of permanent residence at the time of entry into the territory of the receiving Party shall agree to issue, at the request of the receiving Party, such travel documents or other authorisation as may be necessary to enable the person to travel to and re-enter its territory.

5. Each Party shall adopt such legislative or other measures as may be necessary to establish repatriation



CERTIFIED COPY
asean
DEPUTY SECRETARY GENERAL, THE ASEAN SECRETARIAT

programmes where appropriate, and if necessary, involving relevant national or international institutions and non-governmental organisations.

6. This Article shall be without prejudice to any rights afforded to victims of trafficking in persons by any domestic laws of the receiving Party.

7. This Article shall be without prejudice to the provisions of any applicable bilateral or multilateral agreement or immigration arrangements that provide for more favourable rights and privileges to victims of trafficking in persons.

## Chapter V
## Law Enforcement

### Article 16
### Law Enforcement and Prosecution

1. Each Party shall adopt such measures as may be necessary to ensure that competent authorities dealing with trafficking in persons cases are equipped with appropriate skills or knowledge in the fight against trafficking in persons and the protection of victims of trafficking in persons, and where appropriate, designate specialised units or authorities for this purpose.

2. Each Party shall take effective and active steps to detect, deter and punish corruption, money laundering, participation in an organised criminal group and obstruction of justice that contributes to trafficking in persons.

3. Each Party shall ensure that its legal system is efficient to deal with trafficking in persons cases.

4. Each Party shall adopt such measures as may be necessary to ensure coordination of the policies and actions of its government's departments and other public agencies



CERTIFIED COPY
DEPUTY SECRETARY GENERAL, THE ASEAN SECRETARIAT
asean

against trafficking in persons, and where appropriate, set up coordinating bodies to combat organised crimes such as trafficking in persons, corruption, money laundering and obstruction of justice.

5. Each Party shall, consistent with the domestic laws of the sending and the receiving Parties, through informal cooperation or mutual legal assistance where appropriate, encourage the victims of trafficking in persons to voluntarily enter and stay temporarily in the territory of the receiving Party for purposes of testifying or otherwise cooperating in the prosecution of their traffickers, with due regard for the safety of the victims of trafficking in persons.

6. Each Party shall provide or strengthen training programmes for relevant officials in the prevention of and fight against trafficking in persons, with focus on methods used in preventing trafficking, investigating and prosecuting the traffickers, and protecting the rights of the victims, including protecting the victims and their families from the traffickers, and the privacy of the victims.

7. Each Party shall take all necessary steps to preserve the integrity of the criminal justice process including through protecting victims and witnesses from intimidation and harassment, where necessary, and punishing perpetrators of such acts, in appropriate cases.

8. Each Party shall, where appropriate, establish under its domestic laws a long statute of limitations period in which to commence proceedings for any offence covered by this Convention and a longer period where the alleged offender has evaded the administration of justice.

9. Nothing contained in this Convention shall affect the principle that the description of the offences established in accordance with this Convention and of the applicable legal defences or other legal principles controlling the lawfulness of conduct is reserved to the domestic laws of a Party and



CERTIFIED COPY
asean
DEPUTY SECRETARY GENERAL, THE ASEAN SECRETARIAT

that such offences shall be prosecuted and punished in accordance with that law.

## Article 17
## Confiscation and Seizure

1. Each Party shall adopt, to the greatest extent possible within its domestic legal system, such measures as may be necessary to enable confiscation of:

   a. Proceeds of crime derived from offences covered by this Convention or property the value of which corresponds to that of such proceeds;

   b. Property, equipment or other instrumentalities used in or destined for use in offences covered by this Convention.

2. Each Party shall adopt such measures as may be necessary to enable the identification, tracing, freezing or seizure of any item referred to in Paragraph 1 of this Article for the purpose of eventual confiscation.

3. If proceeds of crime have been transformed or converted, in part or in full, into other property, such property shall be liable to the measures referred to in this Article instead of the proceeds.

4. If proceeds of crime have been intermingled with property acquired from legitimate sources, such property shall, without prejudice to any powers relating to freezing or seizure, be liable to confiscation up to the assessed value of the intermingled proceeds.

5. Income or other benefits derived from proceeds of crime, from property into which proceeds of crime have been transformed or converted or from property with which proceeds of crime have been intermingled shall also be liable



CERTIFIED COPY
asean
ASEAN SECRETARIAT
SECRETARY GENERAL, THE

to the measures referred to in this Article, in the same manner and to the same extent as proceeds of crime.

6. For the purposes of this Article and Article 21 of this Convention, each Party shall empower its courts or other competent authorities to order that bank, financial or commercial records be made available or be seized. Each Party shall not decline to act under the provisions of this Paragraph on the ground of bank secrecy.

7. Each Party may consider the possibility of requiring that an offender demonstrate the lawful origin of alleged proceeds of crime or other property liable to confiscation, to the extent that such a requirement is consistent with the principles of its domestic laws and with the nature of the judicial and other proceedings.

8. The provisions of this Article shall not be construed to prejudice the rights of *bona fide* third parties.

9. Nothing contained in this Article shall affect the principle that the measures to which it refers shall be defined and implemented in accordance with and subject to the provisions of the domestic laws of a Party.

## Chapter VI
## International Cooperation

### Article 18
### Mutual Legal Assistance in Criminal Matters

1. In order to combat offences of trafficking in persons which are transnational in nature, the Parties shall, subject to their respective domestic laws, afford one another the widest measure of mutual legal assistance in criminal investigations or criminal proceedings in relation to such offences established in accordance with Article 5 of this Convention.



CERTIFIED COPY
DEPUTY SECRETARY GENERAL, THE ASEAN SECRETARIAT
asean

2. The Parties shall carry out their obligations under Paragraph 1 of this Article in accordance with the Treaty on Mutual Legal Assistance in Criminal Matters.

**Article 19**
**Extradition**

1. Each of the offences established in accordance with Article 5 of this Convention shall be deemed to be included as an extraditable offence in any extradition treaty existing between Parties. The Parties undertake to include such offences as extraditable offences in every extradition treaty to be concluded between them.

2. If a Party that makes extradition conditional on the existence of a treaty receives a request for extradition from another Party with which it has no extradition treaty, it may consider this Convention the legal basis for extradition in respect of any offence established in accordance with Article 5 of this Convention.

3. Subject to the provisions of its domestic laws and its extradition treaties, the requested Party may, upon being satisfied that the circumstances so warrant and are urgent and at the request of the requesting Party, take a person whose extradition is sought and who is present in its territory into custody or take other appropriate measures to ensure his or her presence at extradition proceedings.

4. A Party in whose territory an alleged offender is found, if it does not extradite such person in respect of an offence established in accordance with Article 5 of this Convention applies solely on the ground that he or she is one of its nationals, shall, at the request of the Party seeking extradition, be obliged to submit the case without undue delay to its competent authorities for the purpose of prosecution. Those authorities shall take their decision and conduct their proceedings in the same manner as in the case of any other offence of a grave nature under the domestic



CERTIFIED COPY
asean
DEPUTY SECRETARY GENERAL, THE ASEAN SECRETARIAT

law of that Party. The Parties concerned shall cooperate with each other, in particular on procedural and evidentiary aspects, to ensure the efficiency of such prosecution.

5. For the purpose of this Article, each Party shall designate a central authority to be notified to the depositary of this Convention.

**Article 20**
**Law Enforcement Cooperation**

1. The Parties shall cooperate closely with one another, consistent with their respective domestic legal and administrative systems, to enhance the effectiveness of law enforcement action to combat the offences covered by this Convention. Each Party shall, in particular, adopt effective measures:

a. To enhance and, where necessary, to establish as well as utilise existing channels of communication between their competent authorities, agencies and services in order to facilitate the secure and rapid exchange of information concerning all aspects of the offences covered by this Convention, including, if the Parties concerned deem it appropriate, links with other criminal activities;

b. To cooperate with other Parties in conducting inquiries with respect to offences covered by this Convention concerning:

(i) The identity, whereabouts and activities of persons suspected of involvement in such offences or the location of other persons concerned;

(ii) The movement of proceeds of crime or property derived from the commission of such offences;



CERTIFIED COPY
asean
DEPUTY SECRETARY GENERAL, THE ASEAN SECRETARIAT

(iii) The movement of property, equipment or other instrumentalities used or intended for use in the commission of such offences;

c. To provide, when appropriate, necessary items or quantities of substances for analytical or investigative purposes;

d. To facilitate effective coordination between their competent authorities, agencies and services and to promote the exchange of personnel and other experts, including, subject to bilateral agreements or arrangements between the Parties concerned, the posting of liaison officers;

e. To exchange information with other Parties on specific means and methods used by traffickers, including, where applicable, routes and conveyances and the use of false identities, altered or false documents or other means of concealing their activities;

f. To exchange information and coordinate administrative and other measures taken as appropriate for the purpose of early identification of the offences covered by this Convention.

2. With a view to giving effect to this Convention, the Parties shall consider entering into bilateral or multilateral agreements or arrangements on direct cooperation between their law enforcement agencies and, where such agreements or arrangements already exist, amending them. In the absence of such agreements or arrangements between the Parties concerned, the Parties may consider this Convention as the basis for mutual law enforcement cooperation in respect of the offences covered by this Convention. Whenever appropriate, the Parties shall make full use of agreements or arrangements, including international or



CERTIFIED COPY
asean
SECRETARY GENERAL, THE ASEAN SECRETARIAT

regional organisations, to enhance the cooperation between their law enforcement agencies.

3. The Parties shall endeavour to cooperate within their means to respond to trafficking in persons and other offences covered by this Convention committed through the use of modern technology.

**Article 21**
**International Cooperation for Purposes of Confiscation**

1. A Party that has received a request from another Party having jurisdiction over an offence covered by this Convention for confiscation of proceeds of crime, property, equipment or other instrumentalities referred to in Article 17, Paragraph 1 of this Convention situated in its territory shall, to the greatest extent possible within its domestic legal system:

a. Submit the request to its competent authorities for the purpose of obtaining an order of confiscation and, if such an order is granted, give effect to it; or

b. Submit to its competent authorities, with a view to giving effect to it to the extent requested, an order of confiscation issued by a court in the territory of the requesting Party in accordance with Article 17, Paragraph 1 of this Convention insofar as it relates to proceeds of crime, property, equipment or other instrumentalities referred to in Article 17, Paragraph 1, situated in the territory of the requested Party.

2. Following a request made by another Party having jurisdiction over an offence covered by this Convention, the requested Party shall take measures to identify, trace and freeze or seize proceeds of crime, property, equipment or other instrumentalities referred to in Article 17, Paragraph 1 of this Convention for the purpose of eventual confiscation to be ordered either by the requesting Party or, pursuant to a



CERTIFIED COPY
DEPUTY SECRETARY GENERAL, THE ASEAN SECRETARIAT
asean

request under Paragraph 1 of this Article, by the requested Party.

3. The provisions of Article 18 of this Convention are applicable, *mutatis mutandis*, to this Article. In addition to the information specified in Article 18, requests made pursuant to this Article shall contain:

a. In the case of a request pertaining to Paragraph 1 (a) of this Article, a description of the property to be confiscated and a statement of the facts relied upon by the requesting Party sufficient to enable the requested Party to seek the order under its domestic laws;

b. In the case of a request pertaining to Paragraph 1 (b) of this Article, a legally admissible copy of an order of confiscation upon which the request is based issued by the requesting Party, a statement of the facts and information as to the extent to which execution of the order is requested;

c. In the case of a request pertaining to Paragraph 2 of this Article, a statement of the facts relied upon by the requesting Party and a description of the actions requested.

4. The decisions or actions provided for in Paragraphs 1 and 2 of this Article shall be taken by the requested Party in accordance with and subject to the provisions of its domestic laws and its procedural rules, any bilateral or multilateral treaty, agreement or arrangement to which it is bound in relation to the requesting Party, and the Treaty on Mutual Legal Assistance in Criminal Matters.

5. If a Party elects to make the taking of the measures referred to in Paragraphs 1 and 2 of this Article conditional on the existence of a relevant treaty, that Party shall consider this Convention the necessary and sufficient treaty basis.



CERTIFIED COPY
DEPUTY SECRETARY GENERAL, THE ASEAN SECRETARIAT
asean

6. The provisions of this Article shall not be construed to prejudice the rights of *bona fide* third parties.

7. The Parties shall consider concluding bilateral or multilateral treaties, agreements or arrangements to enhance the effectiveness of international cooperation undertaken pursuant to this Article.

**Article 22**
**Disposal of Confiscated Proceeds of Crime or Property**

1. Proceeds of crime or property confiscated by a Party pursuant to Article 17 or Article 21, Paragraph 1 of this Convention shall be disposed of by that Party in accordance with its domestic laws and administrative procedures.

2. When acting on the request made by another Party in accordance with Article 21 of this Convention, Parties shall, to the extent permitted by domestic laws and if so requested, give priority consideration to returning the confiscated proceeds of crime or property to the requesting Party so that it can give compensation and assistance to the victims of trafficking in persons or return such proceeds of crime or property to their legitimate owners.

3. When acting on the request made by another Party in accordance with Article 17 and Article 21 of this Convention, a Party may give special consideration to concluding agreements or arrangements on sharing with other Parties, on a regular or case-by-case basis, such proceeds of crime or property, or funds derived from the sale of such proceeds of crime or property, in accordance with its domestic laws or administrative procedures.



CERTIFIED COPY
asean
SECURITY SECRETARY GENERAL, THE ASEAN SECRETARIAT

## Chapter VII
## Final Provisions

### Article 23
### Establishment of Coordinating Structures

Each Party shall consider establishing coordinating structures in the fight against trafficking in persons, including enhancing cooperation under all areas of this Convention.

### Article 24
### Monitoring, Reviewing and Reporting

1. The ASEAN Senior Officials Meeting on Transnational Crime (SOMTC) shall be responsible for promoting, monitoring, reviewing and reporting periodically to the ASEAN Ministerial Meeting on Transnational Crime (AMMTC) on the effective implementation of this Convention.

2. The ASEAN Secretariat shall provide the support for supervising and coordinating the implementation of this Convention and assist the SOMTC in all matters relating thereto.

### Article 25
### Confidentiality of Documents, Records and Information

1. Each Party shall preserve the confidentiality and secrecy of documents, records and other information received from any other Party, including the source thereof.

2. No document, record or other information obtained pursuant to this Convention shall be disclosed to or shared with any other Party, State or person except with the prior written consent of the Party which provided such document, record or information.



CERTIFIED COPY
DEPUTY SECRETARY GENERAL, THE ASEAN SECRETARIAT
asean

## Article 26
## Relationship with Other International Instruments

This Convention shall not derogate from obligations subsisting between the Parties pursuant to other international agreements nor, where the Parties agree, shall it prevent the Parties from providing assistance to each other pursuant to other international agreements or the provisions of their respective domestic laws.

## Article 27
## Settlement of Disputes

Any difference or dispute between the Parties arising from the interpretation or application of the provisions of this Convention shall be settled amicably through consultation and negotiation between the Parties through diplomatic channels or any other peaceful means for the settlement of disputes as agreed upon between the Parties.

## Article 28
## Ratification, Approval and Depositary

1. This Convention shall be subject to ratification or approval in accordance with the internal procedures of the Parties.

2. The instruments of ratification or approval shall be deposited with the Secretary-General of ASEAN who shall promptly inform the other Parties of such deposit.

## Article 29
## Entry into Force and Amendment

a. This Convention shall enter into force on the thirtieth ($30^{th}$) day following the date of the deposit of the sixth ($6^{th}$) instrument of ratification or approval with the Secretary-General of ASEAN in respect of those Parties that have submitted their instruments of ratification or approval.



CERTIFIED COPY
DEPUTY SECRETARY GENERAL, THE ASEAN SECRETARIAT
asean

b. For any Party ratifying or approving this Convention after the deposit of the sixth ($6^{th}$) instrument of ratification or approval, but before the day the Convention enters into force, the Convention shall also apply to that Party on the date the Convention enters into force. In respect of a Party ratifying or approving this Convention subsequent to its entry into force pursuant to Paragraph 1, it shall enter into force for that Party on the date its instrument of ratification or approval is deposited.

c. This Convention may be modified or amended at any time by mutual written consent of the Parties. Such modification or amendment shall enter into force on such date as shall be mutually agreed upon by Parties and shall form part of this Convention.

d. Any modification or amendment shall not affect the rights and obligations of the Parties arising from or based on the provisions of this Convention before the entry into force of such modification or amendment.

**Article 30**
**Withdrawal**

1. Any Party may withdraw from this Convention at any time after the date of the entry into force of this Convention for that Party.

2. The withdrawal shall be notified by an instrument of withdrawal to the Secretary-General of ASEAN.

3. The withdrawal shall take effect one hundred and eighty (180) days after the receipt of the instrument of withdrawal by the Secretary-General of ASEAN.

4. The Secretary-General of ASEAN shall promptly notify all the other Parties of any withdrawal.



CERTIFIED COPY
DEPUTY SECRETARY GENERAL, THE ASEAN SECRETARIAT
asean

## Article 31
## Registration

This Convention shall be registered by the Secretary-General of ASEAN to the United Nations Secretariat pursuant to Article 102 of the Charter of the United Nations.

**DONE** at Kuala Lumpur, Malaysia, this Twenty-First Day of November in the Year Two Thousand and Fifteen, in a single original copy in the English language.

For Brunei Darussalam:

**HAJI HASSANAL BOLKIAH**
Sultan of Brunei Darussalam

For the Kingdom of Cambodia:

**SAMDECH AKKA MOHA SENA PADEI TECHO HUN SEN**
Prime Minister

For the Republic of Indonesia:

**JOKO WIDODO**
President

CERTIFIED COPY
DEPUTY SECRETARY GENERAL, THE ASEAN SECRETARIAT
asean

For the Lao People's Democratic Republic:

**THONGSING THAMMAVONG**
Prime Minister

For Malaysia:

**DATO' SRI MOHD NAJIB TUN ABDUL RAZAK**
Prime Minister

For the Republic of the Union of Myanmar:

**THEIN SEIN**
President

For the Republic of the Philippines:

**BENIGNO S. AQUINO III**
President

For the Republic of Singapore:

**LEE HSIEN LOONG**
Prime Minister

CERTIFIED COPY
asean
DEPUTY SECRETARY GENERAL, THE ASEAN SECRETARIAT

For the Kingdom of Thailand:

**GENERAL PRAYUT CHAN-O-CHA (RET.)**
Prime Minister

For the Socialist Republic of Viet Nam:

**NGUYEN TAN DUNG**
Prime Minister



CERTIFIED COPY
DEPUTY SECRETARY GENERAL, THE ASEAN SECRETARIAT
asean