

## *Chapter 1*

### **Trafficking in persons: Weak governance and growing profits**

*This chapter explores one of the most lucrative forms of organised crime: trafficking in persons. It focuses on the magnitude of the crime in terms of both profit and the number of victims, the transnational nature of trafficking in persons, and takes stock of progress in enforcement of the anti-trafficking laws in place. In addition, the chapter presents a number of efforts that have been made to combat trafficking in persons in terms of international and regional conventions, legislation from national governments and private sector initiatives.*

Illicit trade is a multi-billion-dollar business (Table 1.1) and an increasing concern for countries. It ranges from trade in counterfeit pharmaceuticals, electronics and cigarettes to, among other things, trade in drugs, wildlife, and humans. From an economic perspective, all these activities divert money from governments' tax revenue and the balance sheets of legitimate businesses and put cash in the hands of criminals, who build larger illicit networks (see, e.g. Luna, 2012). Illicit trade threatens the level playing field, economic growth, sustainable development, social cohesion, security and stability. Since illicit trade is a global problem, it cannot be solved by individual governments. Instead, bilateral, regional and international co-operation and initiatives are needed.

Table 1.1. **Estimated value of illicit international trade, 2011**

Market	Estimated value of illicit international trade
Drugs	USD 320 billion
Humans	USD 31.6 billion
Wildlife	USD 7.8-10 billion
Counterfeit total	USD 250 billion
Counterfeit pharmaceuticals	USD 35-40 billion
Counterfeit electronics	USD 50 billion
Counterfeit cigarettes	USD 2.6 billion
Human organs	USD 614 million to USD 1.2 billion
Small arms and light weapons	USD 300 million to USD 1 billion
Diamonds and colored gemstones	USD 860 million
Oil	USD 10.8 billion
Timber	USD 7 billion
Fish	USD 4.2-9.5 billion
Art and cultural property	USD 3.4-6.3 billion
Gold	USD 2.3 billion
<b>Total</b>	<b>USD 639-651 billion</b>
<b>Approximation</b>	<b>USD 650 billion</b>

*Note:* In 2015, the International Labour Organization published a new estimate of the total illicit profits produced in one year by trafficked forced labourers. This new estimate of USD 150 billion was not available during the time of publication of the study that the above table references. The table should therefore only be used as an indication of the relative values of the different markets of illicit trade, and not as a reference in relation to the absolute amounts.

*Source:* Haken, J. (2011). *Transnational Crime in The Developing World*, Global Financial Integrity, Washington, DC, p. 56, [www.gfintegrity.org/storage/gfip/documents/reports/transcrime/gfi\\_transnational\\_crime\\_web.pdf](http://www.gfintegrity.org/storage/gfip/documents/reports/transcrime/gfi_transnational_crime_web.pdf).

The UN Trafficking in Persons Protocol defines the crime of trafficking in persons as consisting of 1) *acts* such as recruitment, transport, transfer, harbouring, receipt of a person, by 2) *means* of abduction, fraud, deception, coercion, abuse of power or a position of vulnerability and others for the 3) *purpose of exploitation*, including sexual exploitation, forced labour, and the removal of organs.<sup>1</sup> Trafficking in persons differs from smuggling of migrants, which refers to “the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident” (“Protocol Against the Smuggling of Migrants by Land, Sea and Air”) – with its focus on illegal border crossings. Trafficking in persons instead centres around human rights violations through exploitation, most commonly the right to personal autonomy, the right not to be held in slavery or servitude, the right to liberty and security of persons, the right to be free from cruel or inhumane treatment, the right to safe and healthy working conditions and the freedom of movement (GTZ, 2008). However, in practice, it is not uncommon that what starts off as smuggling of migrants can turn into a situation of human trafficking. For example, a pre-determined fee for entering a country illegally can – once the border crossing has been completed – be raised to an amount that the migrant cannot afford. In

order to pay off this increased fee, and under threats from the smuggler to report the migrant's illegal border entry to the authorities, the migrant can end up in a situation of forced labour or sexual exploitation, making this person a victim of trafficking.

Trafficking in persons has become one of the most lucrative forms of organised crime (Table 1.1) (see, e.g. Shelley, 2010). It is estimated that trafficking in persons and slavery is the third most lucrative illicit business in the world after arms and drugs trafficking (Arlacchi, 2000). ILO estimates that the total illicit profits produced per year by trafficked forced labourers are about USD 150 billion (Table 1.2). Out of these USD 150 billion, forced sexual exploitation is estimated to generate USD 99 billion per year, and forced labour exploitation, including domestic work, agriculture and other economic activities, an estimated USD 51 billion (ILO, 2015).

Table 1.2. **Estimated average annual profits generated by trafficked forced labourers**

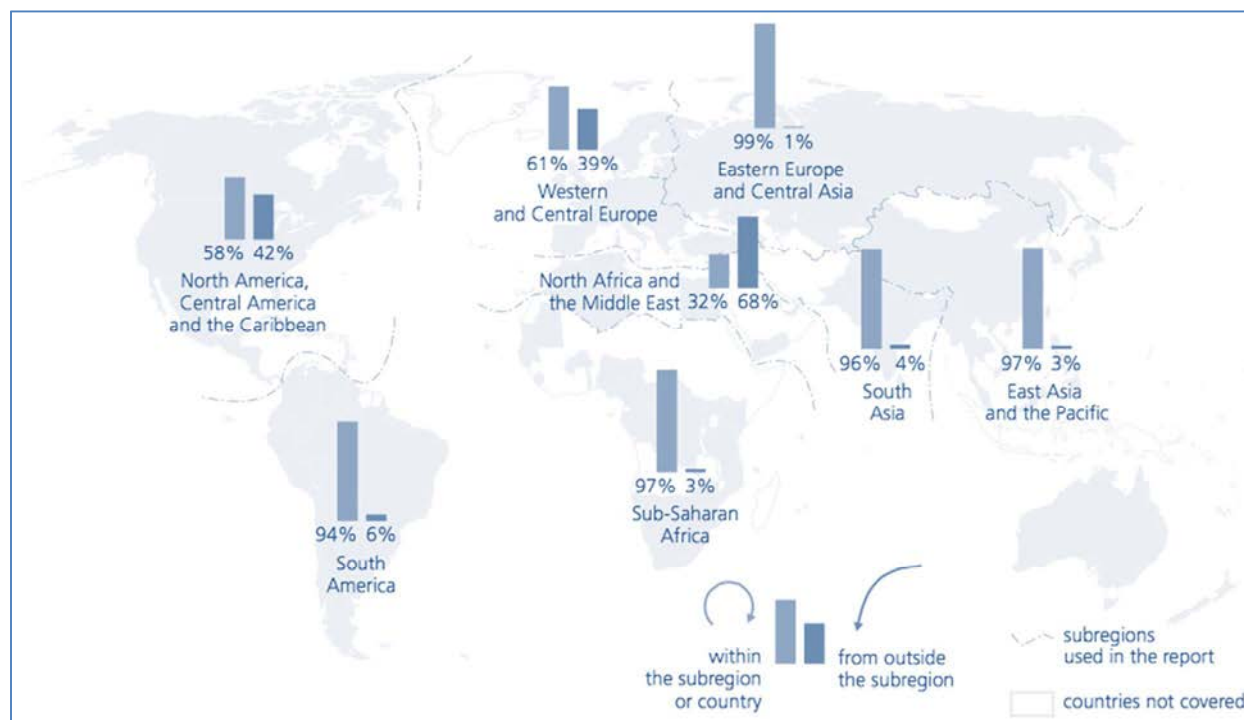
	Annual profit per victim of forced labour per region (USD)	Annual profits of forced labour per region (USD billions)
Asia-Pacific	5 000	51.8
Developed economies and European Union	34 800	46.9
Central and South-Eastern Europe and CIS	12 900	18.0
Africa	3 900	13.1
Latin America and the Caribbean	7 500	12.0
Middle East	15 000	8.5
World		≈150

Source: ILO. (2015), *Profits and Poverty: The Economics of Forced Labour*, ILO, Geneva, p. 14.

According to the International Labour Organization (ILO), 20.9 million people are victims of forced labour<sup>2</sup> globally (ILO, 2012). At the EU level, data from the 2015 edition of the Eurostat report on statistics on trafficking in human beings shows that 30 146 victims were registered in the 28 EU Member States between 2010 and 2012. Some 80% of these victims were female, and 69% of the total number of victims registered were trafficked for sexual exploitation (Eurostat, 2015).

Trafficking in persons is often transnational in nature, with 66% of trafficking victims being trafficked across borders. However, 40% of detected victims are trafficked from a country in the same region as the country of destination or from a nearby subregion, and only about a quarter (26%) are trafficked across different regions (UNODC, 2014). Between 2010 and 2012, 97% of detected victims in the East Asia and Pacific region were from within the region or the country (Figure 1.1). Eurostat data also supports this finding. Between 2010 and 2012, 65% of registered victims in the European Union were EU citizens (Eurostat, 2015). This finding would support a focus on regional co-operation to combat TIP, with the exception of North Africa and the Middle East.

Figure 1.1. Share of detected victims who were trafficked within or from outside the region, 2010-12

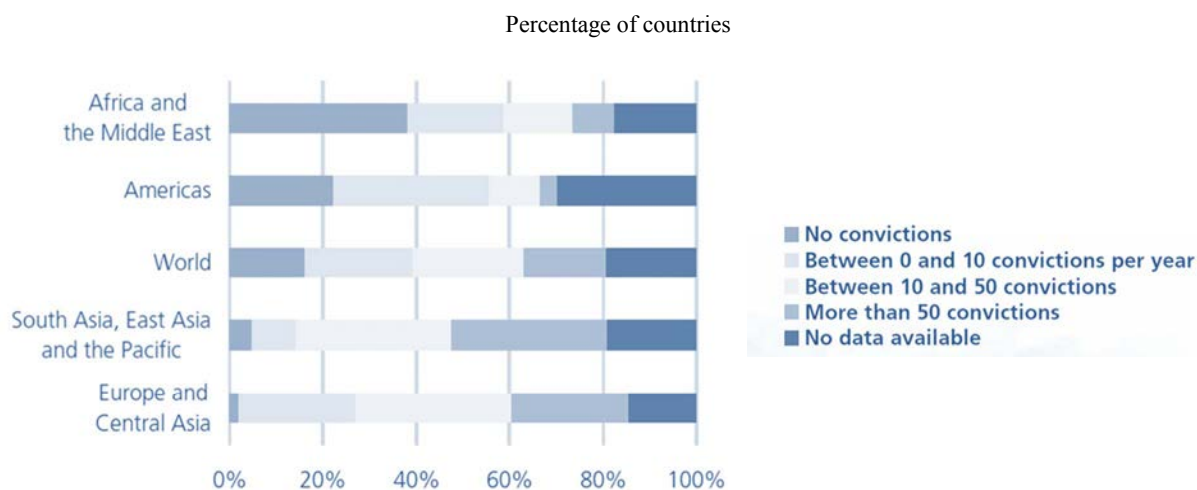


Source: UNODC (2014), *Global Report on Trafficking in Persons 2014*, United Nations, New York, p. 39, [www.unodc.org/documents/data-and-analysis/glotip/GLOTIP\\_2014\\_full\\_report.pdf](http://www.unodc.org/documents/data-and-analysis/glotip/GLOTIP_2014_full_report.pdf).

Of 173 countries covered by the UNODC's *Global Report on Trafficking in Persons 2014*, 146 countries had a specific offence in their domestic legislation covering most or all forms of trafficking in persons. However, 9 countries had no legislation in place, and 18 countries had partial legislation in place, leaving 2 billion people without the full protection of the Trafficking in Persons Protocol (UNODC, 2014).

Despite the evident global concern over trafficking in persons, progress in enforcement remains limited. According to the UNODC (2014), 15% of the countries that have included TIP as a specific offence did not record a single conviction in the period 2010-12. Similar trends were recorded in the period 2007-10 (see Figure 1.2). In the European Union, Eurostat data show that 8 805 prosecutions for trafficking in human beings were reported between 2010 and 2012 in the European Union, with 2 855 convictions (Eurostat, 2015).

Figure 1.2. Number of trafficking convictions recorded per year, 2007-10



Source: UNODC (2012), *Global Report on Trafficking in Persons 2012*, United Nations, New York, p. 86, [www.unodc.org/unodc/en/data-and-analysis/glotip\\_2012.html](http://www.unodc.org/unodc/en/data-and-analysis/glotip_2012.html).

The US Department of State collects worldwide data on trafficking prosecutions, convictions and sentences and estimates that in 2014 there were 10 051 prosecutions and 4 443 convictions globally (Table 1.3). The low conviction rate overall reveals difficulty in successfully prosecuting the underlying offenses. In addition, the low ratio of prosecutions to number of victims identified could imply that some regions are particularly inactive - although this low ratio could also be explained by traffickers in these regions victimising a higher volume of persons.

Table 1.3. Law enforcement data by region, 2014

	Prosecutions	Convictions	Victims identified
Africa	811 (49)	317 (33)	9 523 (1 308)
East Asia and Pacific	1 938 (88)	969 (16)	6 349 (1 084)
Europe	4 199 (197)	1 585 (69)	11 910 (3 531)
Near East	320 (5)	144 (25)	3 388 (2 460)
South and Central Asia	1 839 (12)	958 (10)	4 878 (1 041)
Western Hemisphere	944 (67)	470 (63)	8 414 (2 014)
Global	10 051 (418)	4 443 (216)	44 462 (11 438)

Note: The above statistics are estimates only, given the lack of uniformity in national reporting structures. The numbers in parentheses are those of labour trafficking prosecutions, convictions, and victims identified. The number of victims identified includes information from foreign governments and other sources.

Source: US Department of State (2015), *Trafficking in Persons Report July 2015*, US Department of State, Washington, DC, pp. 55-60.

The data that are collected worldwide by non-governmental organisations (NGOs) and the different national and local agencies tasked with working on trafficking in persons need to be systematically collected, aggregated, and shared at both the national and regional level. The availability of this information would make it possible to strengthen policies designed to prevent trafficking and protect victims, increase prosecutions, and evaluate whether the money invested to combat human trafficking has had the desired impact or could be better spent in the future. An economic analysis could

provide insights into the functioning of trafficking markets for persons, and where policy interventions could usefully undermine the prevailing incentive structures. Donors and governments need to know what public policies work and what has proven sub-optimal.

## Efforts to combat trafficking in persons

Considerable steps have been taken to combat trafficking in persons. One approach has been to adopt a series of conventions at the international and regional level as well as several pieces of national legislation to prevent and combat trafficking in persons. Similarly, in recent years, private sector organisations and civil society have adopted initiatives for the same purpose. OECD countries, as well as a number of non-OECD countries, are parties to many of these instruments (Table 1. 4).

### *International and regional conventions and national legislation*

This section provides a brief overview of the main instruments developed to prevent and combat trafficking in persons. The main international and regional instruments – as well as a selection of national instruments – that deal specifically with the subject of trafficking in persons or the issue of forced labour are found below.

#### *The United Nations Trafficking in Persons Protocol*

The “United Nations Convention against Transnational Organized Crime”, adopted by General Assembly resolution 55/25 of 15 November 2000, was opened for signature by Member States in Palermo, Italy, on 12-15 December 2000 and entered into force on 29 September 2003. The Convention is supplemented by three protocols: the “Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children” (United Nations, 2000a); the “Protocol against the Smuggling of Migrants by Land, Sea and Air” (United Nations, 2000b); and the “Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition”. Countries have to be parties to the Convention before they can become parties to any of the Protocols. Some 80 countries signed the “Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children” in Palermo on 12-15 December 2000. Currently there are 117 signatories and 169 parties to the Protocol.<sup>3</sup>

The “Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children supplementing the United Nations Convention against Transnational Organized Crime” (the “UN Trafficking in Persons Protocol”), entered into force on 25 December 2003. The Protocol is the first global legally binding instrument with an agreed definition on trafficking in persons. According to Article 3(a) of the Protocol, “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.” The purpose of the Protocol is to protect and assist the victims of trafficking in persons with full respect for their human rights and to facilitate for the harmonisation of national approaches with regard to the establishment of domestic criminal offences that would support efficient international co-operation in investigating and prosecuting trafficking-in-persons cases.

Table 1.4. Ratification of international and regional conventions on trafficking in persons and forced labour by OECD countries and APEC member economies

	United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children	United Nations Convention for the Suppression of the Traffic of Persons and of the Exploitation of the Prostitution of Others	Council of Europe Convention on Action against Trafficking in Human Beings	ILO Forced Labour Convention, 1930 (No. 29)	ILO Abolition of Forced Labour Convention, 1957 (No. 105)
Australia	R		n.a.	R	R
Austria	R		R	R	R
Belgium	R	AC	R	R	R
Brunei Darussalam			n.a.		
Canada	R		n.a.	R	R
Chile	R		n.a.	R	R
China, People's Republic of	AC		n.a.		
Czech Republic	R	D		R	R
Denmark	R	S	R	R	R
Estonia	R		R	R	R
Finland	A	R	R	R	R
France	R	AC	R	R	R
Germany	R		R	R	R
Greece	R		R	R	R
Hong Kong, China			n.a.	*	*
Hungary	R	AC	R	R	R
Iceland	R		R	R	R
Indonesia	R	S	n.a.	R	R
Ireland	R		R	R	R
Israel	R	AC	n.a.	R	R
Italy	R	AC	R	R	R
Japan	S	AC	n.a.	R	
Korea	S	AC	n.a.		
Luxembourg	R	R		R	R
Malaysia	AC		n.a.	R	
Mexico	R	AC	n.a.	R	R
Netherlands	A		R	R	R
New Zealand	R		n.a.	R	R
Norway	R	AC	R	R	R
Papua New Guinea			n.a.	R	R
Peru	R		n.a.	R	R
Philippines	R	R	n.a.	R	R
Poland	R	AC	R	R	R
Portugal	R	AC	R	R	R
Russian Federation	R	AC	n.a.	R	R
Singapore	AC	AC	n.a.	R	
Slovak Republic	R	D	R	R	R
Slovenia	R	D	R	R	R
Spain	R	AC	R	R	R
Sweden	R		R	R	R
Switzerland	R		R	R	R
Chinese Taipei	n.a.	n.a.	n.a.	n.a.	n.a.
Thailand	R		n.a.	R	R
Turkey	R		S	R	R
United Kingdom	R		R	R	R
United States	R		n.a.		R
Viet Nam	AC		n.a.	R	
<b>Total</b>					
S - Signature	2	2	1	0	0
R - Ratification	35	3	23	41	38
A - Acceptance	2	0	0	0	0
AP - Approval	0	0	0	0	0
AC - Accession	4	14	0	0	0
D - Succession	0	3	0	0	0
* - Notified as applicable	0	0	0	1	1

Notes: For UN Treaties, "Ratification" is defined as the international act whereby a state indicates its consent to be bound to a treaty if the parties intended to show their consent by such an act. In the case of bilateral treaties, ratification is usually accomplished by exchanging the requisite instruments, while in the case of multilateral treaties the usual procedure is for the depositary to collect the ratifications of all states, keeping all parties informed of the situation. The institution of ratification grants states the necessary

timeframe to seek the required approval for the treaty on the domestic level and to enact the necessary legislation to give domestic effect to that treaty (Arts.2 (1) (b), 14 (1) and 16, Vienna Convention on the Law of Treaties 1969).

For UN Conventions, “Accession” is defined as the act whereby a state accepts the offer or the opportunity to become a party to a treaty already negotiated and signed by other states. It has the same legal effect as ratification. Accession usually occurs after the treaty has entered into force (Arts.2 (1) (b) and 15, Vienna Convention on the Law of Treaties 1969).

For ILO Conventions, ratifying countries commit themselves to applying the convention in national law and practice and reporting on its application at regular intervals.

The statistical data for Israel are supplied by and under the responsibility of the relevant Israeli authorities. The use of such data by the OECD is without prejudice to the status of the Golan Heights, East Jerusalem and Israeli settlements in the West Bank under the terms of international law.

*Source:* Based on the following information: United Nations (2000a), “Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime”, *Treaty Collection*, database, [https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtmsg\\_no=XVIII-12-a&chapter=18&lang=en](https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtmsg_no=XVIII-12-a&chapter=18&lang=en); United Nations (1950), “Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others”, *Treaty Collection*, database, [https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtmsg\\_no=VII-11-a&chapter=7&lang=en](https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtmsg_no=VII-11-a&chapter=7&lang=en); Council of Europe (2008), “Status of Signature and Ratification of the Convention on Action against Trafficking in Human Beings”, [www.coe.int/t/dghl/monitoring/trafficking/Flags-sos\\_en.asp](http://www.coe.int/t/dghl/monitoring/trafficking/Flags-sos_en.asp); ILO (1930a), “Ratifications of C029 – Forced Labour Convention, 1930 (No. 29)”, [www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO:11300:P11300\\_INSTRUMENT\\_ID:312174](http://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO:11300:P11300_INSTRUMENT_ID:312174); ILO (1957a), “Ratifications of C105 – Abolition of Forced Labour Convention, 1957 (No. 105)”, [www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO:11300:P11300\\_INSTRUMENT\\_ID:312250](http://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO:11300:P11300_INSTRUMENT_ID:312250).

### *The United Nations Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others*

The “Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others” (United Nations, 1950) was approved by the General Assembly in 1949 and entered into force on 25 July 1951. Although “trafficking” is not explicitly defined in the Convention, Article 1 sets out that Parties to the Convention should punish “any person who, to gratify the passions of another: 1) procures, entices or leads away, for purposes of prostitution, another person, even with the consent of that person; 2) exploits the prostitution of another person, even with the consent of that person.” State Parties to the Convention should also punish anyone who “keeps or manages, or knowingly finances or takes part in the financing of a brothel” or “knowingly lets or rents a building or other place or any part thereof for the purpose of the prostitution of others.”

### *The Universal Declaration of Human Rights*

The “Universal Declaration of Human Rights” was adopted by the UN General Assembly on 10 December 1948 (United Nations, 1948). The “Universal Declaration of Human Rights” establishes in Article 4 that “No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms” and that everyone has the right to the free choice of employment (Article 23[1]).

### *ILO Forced Labour Convention*

Adopted by the International Labour Conference at its 14th session (June 1930), the ILO (1930b) “Forced Labour Convention” was the first international legal instrument providing a definition of forced and compulsory labour and listing possible exceptions. Forced or compulsory labour is defined as “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.” In June 2014, the ILO International Labour Conference voted to adopt a Protocol and a Recommendation which supplement the Forced Labour



Convention, 1930 (No. 29), in order to provide guidance on effective measures to be taken regarding prevention, protection and remedy to eliminate all forms of forced labour.

### *ILO Abolition of Forced Labour Convention*

After the Second World War, the ILO adopted new approaches to forced labour. The ILO (1957b) “Abolition of Forced Labour Convention” was adopted by the International Labour Conference at its 40th session (June 1957) and supplements the provision of Convention No. 29 on Forced Labour. Article 1 reads that “Member of the International Labour Organisation which ratifies this Convention undertakes to suppress and not to make use of any form of forced or compulsory labour (a) as a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system; (b) as a method of mobilising and using labour for purposes of economic development; (c) as a means of labour discipline; (d) as a punishment for having participated in strikes; (e) as a means of racial, social, national or religious discrimination.”

### *Inter-American Convention on International Traffic in Minors*

The “Inter-American Convention on International Traffic in Minors” was adopted in 1994 and entered into force in 1997. The Convention is a regional treaty that aims to ensure the protection of minors against trafficking. The Convention defines international traffic in minors as “the abduction, removal or retention, or attempted abduction, removal or retention, of a minor for unlawful purposes or by unlawful means.” State parties under the Convention should institute a system of mutual legal assistance dedicated to the prevention and punishment of the international traffic in minors, as well as adopt related administrative and legal provisions to that effect. Although the Convention contains few specific provisions on prevention or protection of victims of trafficking, it requires State parties to protect minors in consideration of their best interests (Article 1a) and “ensure the prompt return of minors who are victims of international traffic to the State of their habitual residence, bearing in mind the best interests of the minors” (Article 1c).

### *South Asian Association for Regional Cooperation (SAARC) Convention on Preventing and Combating Trafficking in Women and Children for Prostitution*

Adopted in 2002, the purpose of the “SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution” (SAARC, 2002) is to promote co-operation amongst SAARC Member States so that they may effectively deal with the various aspects of prevention, interdiction and suppression of trafficking in women and children as well as the repatriation and rehabilitation of victims of trafficking and prevent the use of women and children in international prostitution networks. Article 1.3 of the Convention defines trafficking as the moving, selling or buying of women and children for prostitution within and outside a country for monetary or other considerations with or without the consent of the person subjected to trafficking. A persons subjected to trafficking is defined as women and children victimised or forced into prostitution by the traffickers by deception, threat, coercion, kidnapping, sale, fraudulent marriage, child marriage, or any other unlawful means.

Article VIII(1) established that State Parties to the Convention shall provide sufficient means, training and assistance to their respective authorities to enable them to effectively conduct inquiries, investigations and prosecution of trafficking offences. In addition to

this, the SAARC Convention includes a number of provisions that address the prevention of trafficking and protection of victims. Article VIII(8) establishes that State parties shall “promote awareness, *inter alia*, through the use of the media, of the problem of trafficking in Women and Children and its underlying causes including the projection of negative images of women.” Article IX(2) and (3) state that State Parties shall establish protective homes or shelters for rehabilitation of victims of trafficking and provide legal advice, counselling, job training and health care facilities for the victims. Also, for victims of cross-border trafficking that are waiting for the completion of arrangements for their repatriation, State Parties shall make suitable provisions for their care and maintenance and shall provide legal advice and health care facilities.

*Association of Southeast Asian Nations (ASEAN) Declaration Against Trafficking in Persons Particularly Women and Children*

The “ASEAN Declaration Against Trafficking in Persons Particularly Women and Children” (2004) was adopted on 29 November 2004 during the 10th Summit of the Association of Southeast Asian Nations (ASEAN) by the ten ASEAN heads of state. The purpose of the declaration is to establish a regional focal network for sharing of information, views, and strengthen operations and co-operation to prevent and combat trafficking in persons, particularly women and children, in the ASEAN region. Further demonstrating their commitment to combatting trafficking in persons, ASEAN heads of state signed the legally binding ASEAN (2015) “Convention Against Trafficking in Persons, Especially Women and Children” on 21 November 2015.

*The Coordinated Mekong Ministerial Initiative Against Trafficking (COMMIT)*

In 2004, Cambodia, China, Lao PDR, Myanmar, Thailand, and Viet Nam signed a Memorandum of Understanding (MOU) on Cooperation against Trafficking in Persons at the Ministerial level. The MOU commits the governments to a human-trafficking response that meets international standards, and highlights the need for multi-lateral, bilateral, and government-NGO co-operation in the fight against human trafficking. At the national level, the COMMIT Process is governed by the six national COMMIT Taskforces that are each comprised of government officials from the relevant ministries – including police, justice, social welfare, and women’s affairs. At the regional level, two representatives from each COMMIT Taskforce meet at least twice a year with the goal of setting priorities and holding discussions on urgent issues at a regional level.

*Council of Europe Convention on Action Against Trafficking in Human Beings (European Trafficking Convention)*

The Council of Europe “Convention on Action Against Trafficking in Human Beings” was adopted on 16 May 2005 and entered into force on 1 February 2008. The convention focuses on the protection of victims of trafficking and their rights, as well as the prevention of trafficking and prosecution of traffickers, and uses the same definition of trafficking in human beings as the UN Trafficking in Persons Protocol definition.

*EU Directive 2011/36/EU of 5 April 2011 (EU Trafficking Directive)*

The “EU Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its

victims” (European Union, 2011) uses the UN Trafficking in Persons Protocol definition of trafficking in persons for the definition of trafficking in human beings. The EU Directive requires Member States to criminalise all forms of trafficking and to assign penalties for trafficking offences. According to Article 9(1), Member States shall ensure that investigation into or prosecution of trafficking offences is “not dependent on reporting or accusation by a victim and that criminal proceedings may continue even if the victim has withdrawn his or her statement.”

The establishment of an EU Anti-Trafficking Coordinator was originally discussed in the Stockholm Programme, but later elaborated on in the EU Trafficking Directive. In addition to improving co-ordination and coherence among EU institutions, EU agencies, Member States and international actors and developing existing and new EU policies to address trafficking in persons, the Coordinator is responsible for overseeing the implementation of the EU Strategy towards the Eradication of Trafficking in Human Beings 2012–16 (European Commission, 2012). The Strategy identifies five priorities that the European Union should focus on in order to address the issue of trafficking in human beings and outlines a number of proposed actions implement over the next five years together with other actors (e.g. Member States, third countries, international organisations, civil society and the private sector). The priorities and corresponding actions are (European Commission, 2012):

- A. Identifying, protecting and assisting victims of trafficking
  - Action 1: Establishment of national and transnational referral mechanisms
  - Action 2: Identification of victims
  - Action 3: Protection of child victims of trafficking
  - Action 4: Provision of information on the rights of victims
- B. Stepping up the prevention of trafficking in human beings
  - Action 1: Understanding and reducing demand
  - Action 2: Promote the establishment of a private sector platform
  - Action 3: EU-wide awareness raising activities and prevention programmes
- C. Increased prosecution of traffickers
  - Action 1: Establishment of national multidisciplinary law enforcement units
  - Action 2: Ensuring proactive financial investigation
  - Action 3: Increasing cross-border police and judicial co-operation
  - Action 4: Increasing co-operation beyond borders
- D. Enhanced co-ordination and co-operation among key actors and policy coherence
  - Action 1: Strengthening the EU Network of National Rapporteurs or equivalent mechanisms
  - Action 2: Co-ordinating EU external policy activities
  - Action 3: Promoting the establishment of a civil society platform
  - Action 4: Reviewing projects funded by the EU
  - Action 5: Strengthen the fundamental rights in anti-trafficking policy and related actions
  - Action 6: Co-ordinating training needs in a multidisciplinary context
- E. Increased knowledge of and effective response to emerging concerns related to all forms of trafficking in human beings
  - Action 1: Developing an EU-wide system for data collection
  - Action 2: Developing knowledge relating to the gender dimension of trafficking and vulnerable groups
  - Action 3: Understanding online recruitment
  - Action 4: Targeting trafficking for labour exploitation

### *OSCE Ministerial Council Decision No. 2/03 on Combating Trafficking in Human Beings*

Similar to the EU Trafficking Directive, the OSCE (Organization for Security and Co-operation in Europe) “Decision No. 2/03 on Combating Trafficking in Human Beings”, which was adopted in December 2003 is based on the UN Trafficking in Persons Protocol definition of trafficking in persons. The OSCE “Action Plan to Combat Trafficking in Human Beings” intends to provide participating States with a comprehensive toolkit to help them implement their commitments to combating trafficking in persons. It provides participating States with follow-up mechanisms such as Human Dimension Implementation Meetings and Review Conferences, which promote co-ordination between individual participating States, but also recommends States to, for example, consider appointing national rapporteurs or other mechanisms for monitoring the anti-trafficking activities, and establishing anti-trafficking commissions (taskforces) or similar bodies responsible for co-ordinating activities within a country among State agencies and NGOs. It covers the protection of victims, the prevention of trafficking in persons and the prosecution of those who facilitate or commit the crime. The Action Plan provides recommendations as to how participating States may best deal with political, economic, legal, law enforcement, educational and other aspects of the problem.

### *US Victims of Trafficking and Violence Protection Act*

The US “Victims of Trafficking and Violence Protection Act” (TVPA) of 2000, the “Trafficking Victims Protection Reauthorization Act” of 2003, the “Trafficking Victims Protection Reauthorization Act” of 2005, the “Trafficking Victims Protection Reauthorization Act” of 2008, and the “Trafficking Victims Protection Reauthorization Act” of 2013 provide tools to combat trafficking in persons both worldwide and domestically in the United States. Section 103(8) of the Act defines severe forms of trafficking in persons as 1) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or 2) the recruitment, harbouring, transportation, provision, or obtaining of a person for labour or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery. The TVPA provides the basis for an annual report on trafficking in persons and establishes an inter-agency taskforce to co-ordinate federal anti-trafficking action. The TVPA allows trafficking victims to benefit from residence and work authorisation under certain circumstances.

### *US Agency for International Development (USAID) Counter-Trafficking in Persons Policy and Agency-Wide Counter Trafficking in Persons Code of Conduct*

Being among the largest donors engaged in counter-trafficking in persons, USAID has implemented a “Counter-Trafficking in Persons Policy” and an “Agency-Wide Counter Trafficking in Persons Code of Conduct” that both incorporate the principles set out in the TVPA.

The Policy is built on 4Ps: Prevention; Protection for victims; Prosecution of traffickers; and Partnership and co-ordination of stakeholders. The Policy sets out five programming objectives for the Agency relating to counter-trafficking in persons (USAID, 2012):

1. efforts to combat TIP integrated into relevant Agency initiatives and programmes
2. improved codification and application of learning in efforts to combat TIP
3. enhanced institutional accountability to combat TIP as a result of training and co-ordination
4. augmented C-TIP investments in critical TIP challenge countries
5. increased investments in TIP prevention and protection in conflict and crisis-affected areas.

Through the Code of Conduct, USAID pledges to: 1) prohibit USAID contractors, subcontractors, grantees and sub grantees during the period of performance of their contracts or awards from engaging in trafficking in persons, procuring commercial sex acts, or using forced labour; 2) sensitise USAID personnel to human trafficking and the ethical conduct requirements that prohibit the procurement of commercial sex and the use of trafficked labour; 3) equip USAID personnel with the necessary knowledge and tools to recognise, report, and address human-trafficking offenses; 4) require USAID personnel to report suspected cases of USAID employee misconduct as well as waste, fraud, and abuse in USAID programmes as related to human trafficking; and 5) designate a Counter Trafficking in Persons Co-ordinator at all Missions to serve as the primary point of contact for this issue. The Co-ordinator will disseminate information, respond to inquiries, and liaise with appropriate staff in developing anti-human trafficking strategies.

*Mexican General Act for Prevention, Punishment and Eradication of Crimes in Trafficking in Persons and for the Protection and Assistance of Victims of this Crime*

In Mexico, the “General Act for Prevention, Punishment and Eradication of Crimes in Trafficking in Persons and for the Protection and Assistance of Victims of this Crime” (*Ley General para Prevenir, Sancionar y Erradicar los Delitos en Materia de Trata de Personas y para la Protección y Asistencia a las Víctimas de Estos Delitos*) came into force on 14 June 2012 (Cámara de Diputados, 2012). It determines the co-ordination of federal, state and municipal actors involved in the prevention and prosecution of trafficking in persons, as well as the protection of victims. It sets out the criminal actions and corresponding penalties for crimes of trafficking in persons, and establishes a number of mechanisms to effectively protect the life, dignity, freedom, integrity and safety of persons from offences set out in the Act. The Act does not only make the trafficking of persons a criminal offence but also criminalises slavery, debt bondage, the imposition of forced labour or services, and the exploitation of labour.

The “National Programme for the Prevention and Punishment of Trafficking in Persons 2010-12” (*Programa Nacional para Prevenir y Sancionar la Trata de Personas 2010-12*) (*Secretaría de Relaciones Exteriores*, 2011) was drawn up by an Inter-Ministerial Committee set up to prevent and penalise the trafficking of persons and was adopted on 6 January 2011. The Programme has four objectives: increasing knowledge of trafficking in persons; preventing and raising awareness of trafficking in persons;

contributing to the effective functioning of the justice system; and providing comprehensive protection for victims.

A Special Prosecutor for Crimes of Violence against Women and Trafficking (*La Fiscalía Especial para los Delitos de Violencia contra las Mujeres y Trata de Personas*, FEVIMTRA) attached to the Office for Human Rights, Victim and Community Services of the Attorney General's Office (PGR), is responsible for investigating and prosecuting federal crimes related to violence against women and trafficking in persons, and to contribute to citizens' right to obtain justice.

### *New Zealand Plan of Action to Prevent People Trafficking*

In New Zealand, the “Plan of Action to Prevent People Trafficking” (NZ Department of Labour, 2009) was co-ordinated by the Department of Labour on behalf of an Interagency Working Group on People Trafficking comprised of the Departments of Labour and Prime Minister and Cabinet; the Ministries of Justice, Foreign Affairs and Trade, Health, Social Development, and Women's Affairs; and the New Zealand Police and Customs Service. The Plan of Action sets out ten principles that focus on the prevention, and prosecution of trafficking, and protection of victims of trafficking. This includes training for officials to identify trafficking, assistance, health services, housing and protection for trafficking victims, and compensation for victims. The Plan of Action mainstreams human trafficking prevention and assistance into existing government initiatives and programmes.

### ***Private sector initiatives***

The private sector has a key role to play in the prevention of trafficking in persons as traffickers cannot operate on a large scale without legitimate businesses. Examples highlighted by BEST (Businesses Ending Slavery and Trafficking) are: traffickers advertising their victims on websites and taking them to hotels for sexual exploitation; traffickers using airlines and ports to transport victims; and traffickers using banks for their financial transactions (BEST, Washington Engage and End Human Trafficking Now, n.d.). Also, due to a lack of awareness or a lack of anti-trafficking protocols, employees of legitimate business have difficulties recognising or preventing trafficking in persons, or do not know how to respond when recognised. As outlined below, there are a number of private sector initiatives that aim to address these issues. Less common are government anti-trafficking measures aimed at the private sector (e.g. the “California Transparency in Supply Chains Act” of 2010).

### *Athens Ethical Principles*

Companies are increasingly integrating corporate social responsibility considerations into their business models. A prominent example of a private sector initiative to combat trafficking in persons is the End Human Trafficking Now (EHTN) association. EHTN is an association created by the business community that during the Round Table of the Business Community Against the Trafficking of Human Beings on 23 January 2006 adopted the “Athens Ethical Principles” (EHTN, 2006). The purpose of the Principles is to combat human trafficking worldwide through the focus of seven main areas:

1. Demonstrate the position of zero tolerance towards trafficking in human beings, especially women and children for sexual exploitation (Policy Setting).

2. Contribute to prevention of trafficking in human beings including awareness-raising campaigns and education (Public Awareness-Raising).
3. Develop a corporate strategy for an anti-trafficking policy which will permeate all activities (Strategic Planning).
4. Ensure that personnel fully comply with the anti-trafficking policy (Personnel Policy Enforcement).
5. Encourage business partners, including suppliers, to apply ethical principles against human trafficking (Supply Chain Tracing).
6. In an effort to increase enforcement, it is necessary to call on governments to initiate a process of revision of laws and regulations that are directly or indirectly related to enhancing anti-trafficking policies (Government Advocacy).
7. Report and share information on best practices (Transparency).

In addition to benefitting society at large, the focus on combatting human trafficking is also beneficial for the business community (Box 1.1).

#### **Box 1.1. Benefits to the business community in focussing on combatting human trafficking**

“As an illegitimate form of business, it negatively impacts the functioning of the legitimate business sector and puts the development of sound economic systems into danger. It is a ground where corruptive practices and money laundering proliferate. Potential risks for companies being associated with human trafficking include legal litigations, financial and brand damages. Since loss of reputation is a disaster for any company, it is their vital interest to pay attention to these risks and exercise due diligence to eliminate or minimise them.

An active stance against human trafficking enhances brand value and attracts consumers interested in ethical brand. Experience shows that work for an ethical brand makes employees proud and happy which means higher retention rate and increased profit for a company. Additional gains include strengthening of business partnerships, ensuring market access and attracting new business opportunities. Corporations are increasingly requesting from their suppliers commitment to ethical business practice, including with respect to human trafficking and labor exploitation. A zero-tolerance policy, advocacy and engagement earn business a leadership position in their industry and community, build trust and good working relationships with local communities, and guarantee the highest distinction of its corporate image.”

*Source:* End Human Trafficking Now. (n.d.). *Background*, [www.endhumantraffickingnow.com/background/](http://www.endhumantraffickingnow.com/background/).

#### *The Luxor Implementation Guidelines*

The “Luxor Implementation Guidelines to the Athens Ethical Principles” (EHTN, 2010) was one of the main outcomes of the Luxor International Forum in 2010. The Guidelines follow the structure of the “Athens Ethical Principles” and present a number of actions within each area that companies must take.

UN.GIFT (UN Global Initiative to Fight Human Trafficking) and End Human Trafficking Now (2010) also launched a modular “Human Trafficking and Business eLearning Programme” for business leaders, managers and employees of business companies that was developed together with Microsoft. The aim of the course is to educate them on what human trafficking is, identify where it might be a risk to their business and point to actions they can take to address this risk.

### *International Code of Conduct for Private Security Service Providers*

The “International Code of Conduct for Private Security Providers” (ICoC) is a multi-stakeholder initiative convened by the Swiss Bureau of Diplomatic Security, the Bureau of Democracy, Human Rights and Labour, and the Department of Defence. Companies that sign the code make the commitment that they “will not, and will require their Personnel not to, engage in trafficking in persons. Signatory Companies will, and will require their Personnel to, remain vigilant for all instances of trafficking in persons and, where discovered, report such instances to Competent Authorities” (International Code of Conduct Association, 2010, para. 39).

### *Washington BEST Code of Conduct and Principles for Implementation*

The “Washington BEST Code of Conduct and Principles for Implementation” is a tool for small and medium-sized enterprises to prevent trafficking in persons within their operations and business-to-business networks. It is a partnership between Businesses Ending Slavery and Trafficking (BEST), Washington Engage and End Human Trafficking Now. By signing the Principles, companies commit to:

1. comply with applicable laws and regulations
2. assess trafficking-related risks and impacts
3. implement an anti-trafficking management system with protocols to prevent, report, and remedy incidents
4. align existing policies with the anti-trafficking policy
5. provide notice of the anti-trafficking policy to employees and business partners including suppliers, contractors, and sub-contractors
6. train employees to comply with the anti-trafficking policy and protocols
7. report and share best practices.

### *California Transparency in Supply Chains Act of 2010*

The “California Transparency in Supply Chains Act of 2010” (State of California, 2010) requires retail sellers and manufacturers doing business in the State of California and that have annual worldwide gross receipts that exceed USD 100 million to disclose their efforts to eradicate slavery and trafficking in persons from their direct supply chains for tangible goods offered for sale. The reasoning behind the Act is that this will contribute to educating consumers on how to purchase goods that are produced by companies that responsibly manage their supply chains. Section 2(i) of the Act states that “Absent publicly available disclosures, consumers are at a disadvantage in being able to distinguish companies on the merits of their efforts to supply products free from the taint of slavery and trafficking. Consumers are at a disadvantage in being able to force the eradication of slavery and trafficking by way of their purchasing decisions.” The retail seller or manufacturer should disclose, at a minimum, to what extent it does each of the following:



1. Engages in verification of product supply chains to evaluate and address risks of human trafficking and slavery. The disclosure shall specify if the verification was not conducted by a third party.
2. Conducts audits of suppliers to evaluate supplier compliance with company standards for trafficking and slavery in supply chains. The disclosure shall specify if the verification was not an independent, unannounced audit.
3. Requires direct suppliers to certify that materials incorporated into the product comply with the laws regarding slavery and human trafficking of the country or countries in which they are doing business.
4. Maintains internal accountability standards and procedures for employees or contractors failing to meet company standards regarding slavery and trafficking.
5. Provides company employees and management, who have direct responsibility for supply chain management, training on human trafficking and slavery, particularly with respect to mitigating risks within the supply chains of products.

## Notes

1. According to Article 3(a) of the United Nations “Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children” (the “UN Trafficking in Persons Protocol”), “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.”
2. The ILO defines forced or compulsory labour as “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily” (Article 2.1 of the Forced Labour Convention, 1930 [No. 29]).
3. As of 11 February 2016.

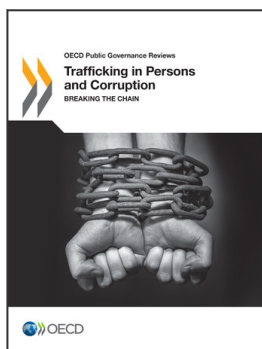
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