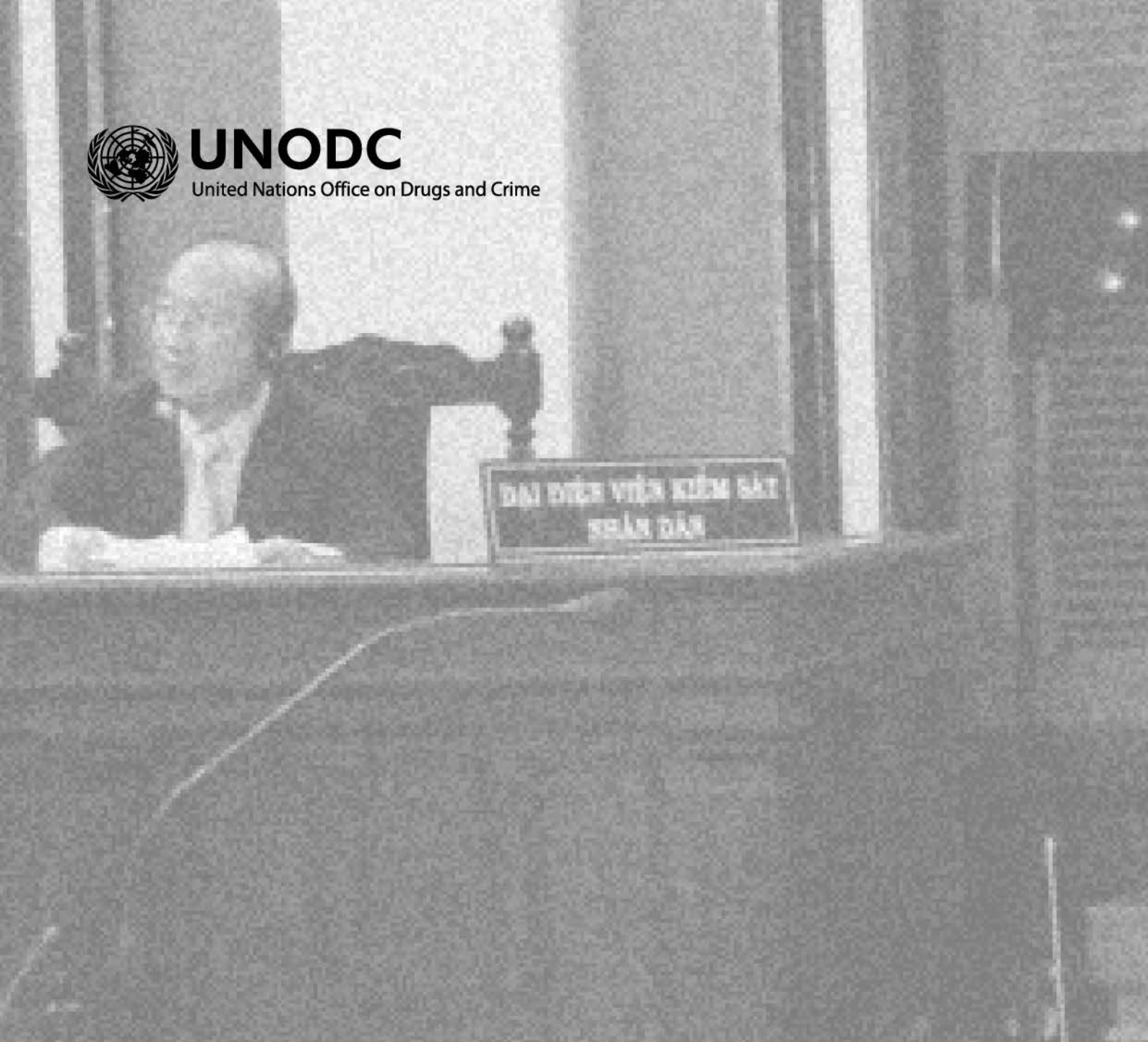




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United Nations Office on Drugs and Crime



Improving cross-border criminal justice cooperation in the ASEAN region: conference outcome report and recommendations

April 2017



UNODC

United Nations Office on Drugs and Crime

Telephone: +6622882100

Fax: +6622812129

Email: fo.thailand@unodc.org

Website: www.unodc.org/southeastasiaandpacific



Twitter: @UNODC_SEAP

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UNODC/ROSEAP Editorial and Production Team:
Mr. Scott Beazley and Mr. Brian Lee.

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Foreword

Southeast Asia has experienced an accelerated process economic and political integration at the regional level in recent years as a result of the establishment of the Association of Southeast Asian Nations (ASEAN) Community in 2015 and the launch of its Community Vision 2025. While this has brought many opportunities for growth and sustainable development for the members of ASEAN, it has also increased the range and scope of transnational crime and security challenges faced by these countries.

Although ASEAN members are increasingly confronted by these cross-border issues, many of them are unable to effectively respond at a time when the need to utilise international legal assistance (ILA) is growing. This is due to several factors. For instance, criminal justice and law enforcement officials possess varying levels of capacity and knowledge regarding ILA. In addition, many of the national legal frameworks in the region are outdated, and trust levels between agencies remain low, further hindering the provision of ILA to counterparts in neighbouring countries.

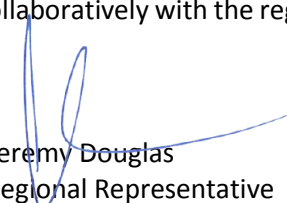
Steps have been taken in response to this situation. In 2004, the ASEAN Mutual Legal Assistance in Criminal Matters Treaty (MLAT) was signed and has since been ratified by all ASEAN countries. In addition, these governments have all ratified important international conventions with clauses pertaining to ILA and its use, including the UN Convention Against Transnational Organized Crime (UNTOC) and the UN Convention Against Corruption (UNCAC).

The United Nations Office on Drugs and Crime (UNODC) has been engaged on the issue of ILA at the regional and country-level in recent years, working with ASEAN, its bodies and members in support of the objectives outlined in the Community Vision 2025 and the related ASEAN Political-Security Community (APSC) Blueprint 2025 and ASEAN Economic Community (AEC) Blueprint 2025. More recently, UNODC has expanded its scope of engagement in this area. With the support of the United States, it has begun working with ASEAN members to strengthen their Central Authorities and other government agencies relevant to ILA, focusing on the entire process as a whole, instead of how ILA relates to any one crime type in particular. However, challenges in the area of ILA remain.

The implementation of measures to address the challenges surrounding ILA requires both political will and concerted efforts by the governments of Southeast Asia. The United Nations system, in particular UNODC, has an important role to play in assisting the countries of ASEAN to achieve their goal of an improved capacity to effectively engage in ILA with counterparts within and outside the region. To help this process UNODC convened a high level conference in March of this year titled “Improving Cross-Border Criminal Justice Cooperation in the ASEAN Region”.

The fact that all ASEAN Member States were represented at a senior level at the conference is an indication that governments in the region appreciated the importance of increased cooperation and the need to work together to address shared crime challenges.

We trust that the outcomes and related recommended actions outlined in this report will be well received by governments in Southeast Asia, as they work to enhance their capacity to engage in ILA. UNODC stands ready to continue working collaboratively with the region and international partners to achieve this goal.



Jeremy Douglas
UNODC Regional Representative
Southeast Asia and the Pacific

Acknowledgments

This report was developed within the framework of the UNODC Regional Programme (RP) for Southeast Asia. The RP features several stand-alone components that look to assist ASEAN Member States to address crime, drug and security-related challenges, actively supporting the cooperation of justice and law enforcement authorities as part of these efforts. One of these components, Sub-Programme 4 on Criminal Justice, aims to assist Member States to improve the rule of law and ensure adequate criminal justice responses to challenges in the region, in particular by strengthening MLA and extradition networks. These networks are underpinned by central authorities in each country. These bodies are important, cross-cutting government institutions, which assist law enforcement and justice agencies to address many transnational crime types and challenges that require state-to-state criminal justice cooperation. The Regional Conference on “Improving Cross-Border Criminal Justice Cooperation in the ASEAN Region” was an important step in helping UNODC to integrate and strengthen its approach to providing assistance to Central Authorities in the region.

The Regional Conference on “Improving Cross-Border Criminal Justice Cooperation in the ASEAN Region” and the production of this report were financially supported by the governments of the United States of America, Canada and the European Union. UNODC would like to thank these partners for their generous cooperation with its cross-border legal cooperation projects in the region.

UNODC wishes to acknowledge the valuable inputs provided by all delegations of Southeast Asian countries who attended the conference, namely: Brunei Darussalam, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, the Philippines, Singapore, Thailand, Timor-Leste and Viet Nam.

Finally, we would like to extend our appreciation for the technical contributions made by subject matter experts from Canada and the United States of America, and from the international and regional organizations who participated at the meeting, namely, the Association of Southeast Asian Nations’ (ASEAN) Inter-Parliamentary Assembly (AIPA), the ASEAN Senior Law Officials Meeting (ASLOM), the International Criminal Police Organization (INTERPOL), the Thailand Institute of Justice (TIJ), and the Coordinated Mekong Ministerial Initiative against Trafficking (COMMIT) Task Force.

Abbreviations

AEC	ASEAN Economic Community
AIPA	ASEAN Inter-Parliamentary Assembly
APSC	ASEAN Political-Security Community
ASEAN	Association of Southeast Asian Nations
ASLOM	ASEAN Senior Law Officials Meeting
COMMIT	Coordinated Mekong Ministerial Initiative against Trafficking Task Force
EU	European Union
ILA	International Legal Assistance
INTERPOL	International Criminal Police Organization
MLA	Mutual Legal Assistance
MLAT	Treaty on Mutual Legal Assistance in Criminal Matters
RP	Regional Programme
SDG	Sustainable Development Goal
TIJ	Thailand Institute of Justice
UNCAC	United Nations Convention Against Corruption
UNCC	United Nations Convention Centre
UNODC	United Nations Office on Drugs and Crime
UNTOC	United Nations Convention Against Transnational Organized Crime

Executive Summary

While recent political and economic integration within Southeast Asia has accelerated growth and sustainable development, it has also increased the level of transnational crime and security challenges faced by ASEAN members. Combined with an increase in internet use and technology access, these challenges continue to grow in significance. Despite this, most governments in the region are not able to respond effectively, with criminal justice and law enforcement agencies possessing varying levels of capacity to engage in cross-border legal cooperation. As a result, officials' knowledge of, and trust in, international legal assistance remains low, at a time when the need to utilise it is increasingly rapidly.

The reasons for this vary, ranging from a lack of capacity and knowledge of ILA and how it functions to outdated legal frameworks. In response, ASEAN and Member States have taken steps to address these issues. For instance, the ASEAN Treaty on Mutual Legal Assistance in Criminal Matters was signed in 2004 and subsequently ratified by all Member States, and certain countries have recently introduced domestic MLA or extradition legislation or are currently in the process of doing so. However, the need to improve the capacity of countries in Southeast Asia to engage in ILA within the region and with international partners remains and is of growing urgency.

In line with ongoing work in the area of rule of law and criminal justice reform in support of Southeast Asia and ASEAN sectoral bodies under its RP, UNODC convened a regional conference on "Improving Cross-Border Criminal Justice Cooperation in the ASEAN Region" in Bangkok, Thailand from 22 to 23 March 2017.

The conference was attended by all ASEAN Member States and Timor-Leste. Other representatives included officials from the ASEAN Senior Law Officials Meeting (ASLOM), the International Criminal Police Organization (INTERPOL), the Thailand Institute of Justice (TIJ), and the Coordinated Mekong Ministerial Initiative against Trafficking (COMMIT) Task Force, and subject matter experts from Canada and the United States of America. Representatives from Botswana, China, France, the Freeland Foundation, Germany, the European Union (EU), Kenya, New Zealand, Tanzania, and Uganda also observed and participated in the conference.

Conference delegates discussed ILA in the ASEAN region and how they could improve their capacity to work together. In doing so, they identified 5 common challenges and 5 related solutions to address, and a series of recommendations to implement. In addition, they took advantage of the opportunity to build and further relationships. The outcome of the conference will help guide UNODC, ASEAN Member States and other partners to provide assistance in the area of ILA in Southeast Asia.

I. Background

ASEAN countries are undeniably benefiting from economic and infrastructure integration, but they have recently also had to consider the evolution of related challenges, including the illegal movement and trafficking of persons, goods and capital between countries. It is also apparent that transnational organized crime groups have been able to capitalize on regional connectivity and trade flows. Combined with the continuing growth of internet reach and usage, many justice agencies and authorities remain reactive and not well set-up to cooperate effectively across borders. As a result, there is an increased urgency to improve how national justice and law enforcement agencies assist each other in addressing transnational criminal issues.

Only decades ago, few law enforcement officials needed to engage foreign governments to investigate a routine domestic case, such as theft or assault. But today, due to the proliferation of cross border (and often online) activity and transactions, law enforcement agents frequently need to request foreign government assistance to obtain evidence. For example, access to a foreign-based email account would require a relationship with and an action by a foreign government.

The traditional form of MLA required for joint investigations of major transnational crime cases in the area of people smuggling, drugs and illegal products and substances, has been well understood by most member countries of ASEAN. Cooperation during investigations of criminal networks has taken place on an ad-hoc basis for a long time. The step to create a region-wide mutual legal assistance treaty was taken in the early 2000s, when the negotiations for the ASEAN MLAT began. The ASEAN MLAT was signed in 2004, and all member countries have since ratified the treaty.

Moreover, ASEAN Member States have ratified major UN conventions on transnational organized crime that require MLA, such as the UNTOC, the drug convention, the UNCAC, and terrorism instruments. Member states are also bound by Security Council (SC) Resolutions 1373 and 2178 that deal with legal cooperation to prevent and fight terrorism.

Despite commitments to regional and international treaties and resolutions, legal cooperation in ASEAN has been slow to develop, and large efficiency gains are yet to be made. This is partly due to the fact that the MLA and extradition process has been applied in different ways by different ASEAN countries, a result of varying legal traditions and capacities throughout the region. In addition, the MLA and extradition regime is not entirely complete, and differences between the interpretation and implementation of the relevant laws between countries remain.

As a result, the time to process a request can be measured in months and, in some cases, years, which may leave criminal justice officials with the sense that the MLA and extradition process is not useful. In addition, the current process lacks transparency. National justice and law enforcement agents are often unable to determine who is handling their request or why it is taking a long time. There are also serious gaps in the availability of data, and the capacity to handle requests in most countries is limited. On the international level, engagement with justice authorities from outside Southeast Asia is also often inconsistent – and in some cases minimal or not happening – leaving the region open to possible exploitation and criticism.

For several years UNODC has been working with regional and national level partners, helping them more effectively investigate and prosecute offences in the Southeast Asia, in particular with regard to cases that focus on corruption and terrorism, human trafficking and migrant smuggling, as well as combating child sex tourism and violence against women. More recently, UNODC has begun to work directly with ASEAN Member States on cross-border legal cooperation in general, in particular Cambodia, Lao PDR, Myanmar and Viet Nam. The aim of its assistance is to increase the knowledge

and capacity of each country's Central Authority and related government agencies to more effectively engage in ILA. As in other areas of its RP, UNODC's approach is to work with and through national and local institutions, so that its impact is sustainable and translates into an increased level of capacity amongst criminal justice practitioners, able to continue the on-going process of legislative and procedural review and reform.

II. Conference Overview

In line with ASEAN's goal to strengthen its Member States' efforts to address the transnational crime and security challenges that have arisen as a result of increased political and economic integration, UNODC convened a conference entitled "Improving Cross-Border Criminal Justice Cooperation in the ASEAN Region". The conference was hosted at the United Nations Conference Centre (UNCC) in Bangkok, Thailand from 22 to 23 March 2017.

The conference aimed at building on the outcomes of two recent conferences, held in 2013 and 2015 respectively, where ASEAN Member States and their respective Central Authorities came together to discuss the topic of MLA and extradition both regionally and on the wider international level. The focus of the event was on how Member States could be in a position to better manage and process incoming and outgoing MLA, extradition and related requests in light of recent regional and international developments. The following topics were covered over the course of the two-day conference:

- Domestic and regional barriers to effective ILA and proposed solutions to overcome them
- ILA in the context of the ASEAN Community 2025 and the 2030 Sustainable Development Goals
- MLA and the Digital Age – methodologies for obtaining digital evidence in criminal investigations
- International Legal Assistance – A Thematic Approach

The conference was attended by more than 80 senior policy makers and criminal justice officials from 11 Southeast Asian countries, namely: Brunei Darussalam, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, the Philippines, Singapore, Thailand, Timor-Leste and Viet Nam. Most delegations were represented by senior-level officials from each country's Central Authority and related law enforcement and justice agencies, responsible for ILA and related issues at the policy, legal and operational levels.

The keynote address for the conference was provided by Her Royal Highness Princess Bajrakitiyabha Mahidol, UNODC Goodwill Ambassador on the Rule of Law for Southeast Asia followed by opening remarks by Mr. Irra Sunthornvut, Secretary-General of AIPA, Mr. Glyn T. Davies, Ambassador of the United States to Thailand, and Mr. Jeremy Douglas, UNODC Regional Representative for Southeast Asia and the Pacific.

Additional inputs and comparative experiences regarding ILA were provided by delegates from international and regional organizations, such as: the ASEAN Senior Law Officials Meeting (ASLOM), the International Criminal Police Organization (INTERPOL), the Thailand Institute of Justice (TIJ), and the Coordinated Mekong Ministerial Initiative against Trafficking (COMMIT) Task Force, and subject matter experts from Canada and the United States of America. Representatives from Botswana, China, France, the Freeland Foundation, Germany, the European Union (EU), Kenya, New Zealand, Tanzania, and Uganda also observed the discussions during the conference.

During the two-day event, subject matter experts and practitioners from the region and abroad assessed the situation regarding cross-border criminal justice cooperation in the ASEAN region. The topics covered during the panel discussions included an overview of current international norms and standards in providing ILA, ILA in the digital age, and the importance of cross-border legal cooperation in fulfilling the objectives of the ASEAN Community Vision 2025 and the SDGs. In addition, UNODC presented an overview of existing international legal instruments and mechanisms available to assist ASEAN Member States in this area.

The main focus of the conference was the two break-out sessions that took place during the afternoon of Day 1 and 2. These sessions served as an opportunity for the delegations from ASEAN Member States to jointly discuss challenges they face in effectively providing ILA, both individually as a country and jointly as a region, in addition to developing solutions to address them. At the end of the conference, the delegates were able to agree to 5 main challenges and corresponding solutions, in addition to a timeframe during which they would like to begin enacting the solutions agreed to. This outcome will help serve as a guide for both UNODC and the participant countries in the years to come – for UNODC as it continues to provide assistance to these countries in the coming years, and for the countries as they look to put in place measures to enhance their capacity to engage in ILA with their neighbours and strategic partners outside the region.

III. Purpose and Methodology of the Conference

The conference aimed to provide delegations an opportunity to discuss how ASEAN Member States engage in ILA amongst themselves and their strategic partners. It was structured in a manner to present participants information on key developments in this area, yet more importantly aid them in identifying the main challenges and formulating solutions to address them. The main purpose of this report is to present the outcomes of the two break-out sessions that took place during the course of the two-day conference. It intends to provide a concise overview of the key challenges and corresponding solutions identified by the delegations, as well as a plan of action moving forward.

The purpose of the break-out sessions was to serve as an interactive opportunity for delegates to both network, exchange perspectives and learn from one another, as they discussed the challenges they faced and formulated potential solutions. The end objective for the two sessions was twofold: a) identify 5 overall challenges the region faced in engaging in cross-border legal cooperation both within ASEAN and outside the region, and b) formulate 5 solutions to address them.

The delegations were divided into two groups – Group A and Group B – with the following compositions:

Group A:

- Brunei Darussalam
- Lao PDR
- Malaysia
- Thailand
- Viet Nam

Group B:

- Cambodia
- Indonesia
- Myanmar
- Philippines
- Singapore

The countries were divided up in a manner designed to expose the participants to as many different legal traditions and systems within ASEAN as possible, placing them in a group that contained countries with which they may or may not be in consistent contact. Each group was led by one facilitator from UNODC, with non-ASEAN participants being able to observe the proceedings on both days.

The format for the break-out sessions was chosen due to its interactive nature, which provided a platform for the participants to interact and actively engage in discussion both within their country's delegations and amongst other countries present. In addition, it provided the opportunity to most effectively build on the outcomes of the two previous conferences in 2013 and 2015, as well as recent assessment missions taken by UNODC to Cambodia, Lao PDR, Myanmar and Viet Nam in the months leading up to the event.

Although the conference and subsequent report are among the first initiatives to take stock of ASEAN and its Member States' overall capacity in the area of ILA in recent years, the report should be regarded as a working document. It serves as a preliminary step in assisting the region to identify a concrete way forward as it looks to enhance the ability of the countries of Southeast Asia to effectively carry out both incoming and outgoing MLA and extradition requests, both at the national and regional level. The report is complementary to steps undertaken within the overall framework of the ASEAN Political-Security Community Blueprint 2025 and the ASEAN Economic Community Blueprint 2025, as well as other components of UNODC's RP for Southeast Asia. Furthermore, it is meant to augment the results of UNODC's recent on-site assessment missions in the region, providing the opportunity to discuss the topic of ILA at greater length with certain delegations.

IV. Summary of Discussions

Component A. Break-Out Session I: Obstacles and Challenges Identified

The focus of the first break-out session was to identify the top five challenges facing the region with regards to ILA and discuss the reasons why these obstacles were viewed as issues by the participants.

As mentioned previously, the delegations were divided into two groups – Group A and Group B. During each session, the participants discussed the various internal and external challenges that they believed their country and the region faced with regard to ILA, working first within their country delegations before then coming together in a larger group discussion. It should be noted that despite the discussion method employed, the list of challenges arrived at and agreed upon were nearly identical between the two groups. The 5 overall challenges agreed to by the participating ASEAN countries can be summarised as follows:

1. Language: While official ASEAN affairs are conducted in English, there lacks a common language between ASEAN Member States. Each state has its own national language, which are not necessarily related. As mentioned by the participants, this creates myriad complications regarding communication. For instance, each outgoing request needs to be translated into another language, incoming requests can be difficult to understand and subsequently execute, and following up on requests can be challenging. Due to the time sensitive nature of MLA and extradition requests, not being able to communicate effectively only causes delays.

2. Differences in Legal Systems and Traditions: Due to the rich history and culture of the ASEAN region, each country has a legal system that varies to some degree from other ASEAN members. In matters concerning ILA, this can cause confusion. For instance, there might be a different Central Authority depending on the nature of the request, the legal framework for MLA and extradition may vary, and the legal requirements and information necessary for executing a request can also vary from one's home country. Many delegates expressed a lack of knowledge regarding other legal systems and traditions within ASEAN, which they said has led to difficulties in engaging in cross-border legal cooperation in the region.

3. Insufficient Information: Many participants mentioned that one of the main reasons they could not execute an incoming request was due to insufficient information on behalf of the requesting country. The main reasons mentioned were that the legal requirements were unclear and that in many cases, there was an overall lack of available information regarding a country's requirements.

4. Complicated Process for Incoming and Outgoing Requests: Several participants mentioned that sending a request was complicated due to a lack of clarity regarding the process within their own country. For instance, they were unsure which office was responsible for sending a request, as well as how a request should be sent, e.g. through diplomatic channels or directly to the recipient country's Central Authority. In addition, once a request had been sent, several delegations stated that they had difficulty following up on it in the recipient country. In many cases, there lacked a clear focal point or Central Authority, and once the request had been received it was unclear who would be responsible for processing and executing it.

5. Internal Communication and Coordination: Many participants mentioned that within their own countries, there were difficulties in coordinating with regards to ILA. In most instances, this was due to the lack of a clear delineation of responsibilities amongst government offices with regard to receiving, sending and processing requests. Not only did this lead to confusion amongst government

departments, but for a country wanting to follow up on a submitted request, it proved difficult to do so.

While there were other issues mentioned by participants, they were either specific to a certain country, e.g. finalise the drafting of a domestic MLA or extradition law, or were covered by one of the more broadly by one of the challenges outlined above.

Component B. Break-Out Session II: Solutions Identified

The focus of the second break-out session was to identify solutions to address the challenges discussed on Day 1. As with the first break-out session, the participants were divided into their two respective groups, where they discussed various solutions first within their country delegation before then coming together in a larger group. At the end of Day 2, both Group A and Group B met to present the outcome of their discussions and agree on possible ways they could address the common challenges they faced as a region with regards to ILA. The 5 overall solutions agreed to by the participating ASEAN countries can be summarised as follows:

1. Standard Language: The adoption of English as a standard language to be used was proposed by most participants. While this would help to improve communication and coordination between countries, it was also understood that a request might still have to be translated into a national language. This would help to ensure that requests to a country containing specific instructions are able to be carried out properly, so that the information can then be utilised in the requesting country.

2. Standard Format for MLA and Extradition Requests: Participants proposed introducing a standard format that could be used for MLA and extradition requests that would outline all the information that should be included in the request. This would help ensure that the legal requirements of the recipient country were met, and that sufficient information is provided to carry out an incoming request.

3. Identification of Single Focal Point and Central Authority, including Regional Network: Participants recommended that each country identify, where possible, a single focal point or Central Authority to handle ILA issues. It was noted that a couple countries have already done so, but many ASEAN members lack a central contact point in their government. As discussed on Day 1, without a focal point or clear Central Authority, communication between countries is difficult, leading to issues in receiving, sending and following up on requests for assistance. One of the ideas mentioned was that a regional network for these focal points and Central Authorities should be established, which would meet regularly. This would assist in improving trust and working relationships between countries, strengthening their ability to engage in ILA both within ASEAN and outside the region.

4. Uniform MLA and Extradition Framework at the ASEAN Level: While the ASEAN MLAT has been ratified by all ASEAN members, it was recommended that the treaty be utilised more frequently throughout the region. In addition, many participants desire to see a similar treaty for extradition agreed to at the ASEAN level. This would assist in creating a common framework at the regional level, and potentially overcome many of the issues and misunderstandings that arise from differences in domestic legal systems and traditions. One suggestion was to elevate the MLAT and make the MLAT Secretariat an official ASEAN body located in Jakarta. In addition, several delegates recommended the creation of a database of all domestic laws relevant to MLA and extradition within ASEAN, something which would also help to allay concerns that arise when dealing with an unfamiliar legal tradition.

5. Standard Operating Procedures: Participants proposed that standard operating procedures be developed and implemented where possible at the national level. If in place, they could go a long way in improving communication and coordination among domestic government offices, clarify and

streamline the process of how to execute an incoming request, and decrease the period needed to do so.

As with the challenges discussed on Day 1, there were other solutions proposed by participants. However, they were either specific to a certain country, e.g. finalise the drafting of a domestic MLA or extradition law, or were covered by one of the more broadly by one of the challenges outlined above.

V. Conclusions and Recommended Next Steps

As ASEAN integration continues, its Member States and strategic partners will increasingly face crime and security challenges that are transnational in nature. In order to effectively address these issues, it is important that these countries are able to engage in ILA with each other, using such tools as MLA and extradition. The Regional Conference on “Improving Cross-Border Criminal Justice Cooperation in the ASEAN Region” provided a timely occasion for Southeast Asian countries to take stock of where they stand with regard to MLA and extradition, and provide suggestions on how they could improve their capacity in this area.

All Southeast Asian delegates agreed on the importance of further developing their capacity to engage in cross-border criminal justice cooperation. In this regard, it was recognized that there is a need to address common challenges faced by all countries in the region. These include a lack of understanding with regard to another country’s legal system and tradition, including the legal requirements for executing MLA and extradition requests; a lack of a standard format for outgoing requests; the complicated process for submitting and executing requests; the lack of a standard language and weak communication both domestically and amongst partner countries; and the lack of a designated focal point or Central Authority in some cases.

While this list of challenges may seem long and difficult to address, the issues are related and participants were able to agree on a list of measures to do so. For instance, they agreed on the need to introduce a standard language for use in engaging with each other on ILA issues; to utilise a standard format for MLA and extradition requests; to identify a single focal point or Central Authority where possible, including the establishment of a related regional network; to work towards a more uniform legal framework at the ASEAN level for MLA and extradition; and to introduce standard operating procedures where appropriate.

In order to act on these solutions, it is important that the participating states from Southeast Asia take steps to implement them. These include et al. upgrading their domestic legal frameworks where necessary and introducing uniform legal instruments on the regional level, identifying centralised focal points and implementing standard procedures with clear responsibilities for submitting, receiving and processing requests, as well as establishing a regional network that can foster communication and coordination among countries in the region. It was mentioned by the majority of the delegations that they would appreciate the opportunity to convene in early 2018 to again take stock and see how much progress has been achieved in implementing the identified solutions.

As ASEAN Member States work to implement the solutions put forth during the conference, there are several areas where their international partners, such as UNODC, can provide assistance in helping them achieve their stated aims and objectives. In doing so though, it is important to note that each country possesses a varying level of knowledge and capacity to engage in ILA in comparison to others, which will impact the type and level of support needed.

On the national level, UNODC and other strategic partners should provide countries with capacity-building measures, helping to increase knowledge levels regarding ILA and strengthen their ability to more effectively draft, receive and carry-out MLA and extradition requests. In addition, legislative assistance can be provided where applicable, working with Southeast Asian countries to introduce and upgrade their legal frameworks with regard to ILA. For instance, UNODC has model MLA and extradition legislation that can be easily adapted to the needs of a country, and it has provided technical assistance and expertise to countries in this area upon request. Furthermore, there are also various tools available that could assist these countries in achieving their stated aims, such as the MLA Request Writer Tool and related handbook which helps countries to quickly and easily format a MLA

request. At the regional level, it is important that UNODC and other strategic partners of the region continue to provide opportunities where criminal justice and law enforcement officials engaged in ILA are able to meet and network. This will aid in building trust and mutual understanding, as well as promote the exchange of lessons learned and utilisation of best practices in the ASEAN region.

In conclusion, the conference served as an excellent opportunity to bring together all the relevant stakeholders and their strategic partners engaged on ILA in ASEAN. It permitted them to exchange ideas, discuss common challenges and aims, and devise solutions that they could work together on in addressing them. Importantly, it also helped to highlight areas where UNODC and other partners of ASEAN could provide assistance to strengthen its members capacity to effectively respond to transnational crime and security challenges.

Annex I: Concept Note and Agenda of the Regional Conference on “Improving Cross-Border Criminal Justice Cooperation in the ASEAN Region”

Background

Regional political and economic integration in Southeast Asia brings unique opportunities, but also significant challenges regarding the illegal movement of persons, goods, services and capital between countries. Many types of transnational organized crime are benefitting from closer relations and larger trade flows. Combined with the continuing growth of internet reach and usage, national law enforcement agencies face added urgency in cooperating effectively across borders.

A few decades ago, law enforcement officers rarely needed to engage foreign governments during the course of an investigation. But today, due to the proliferation of cross border (and often online) activity and transactions, law enforcement agents frequently need to request foreign government assistance to obtain evidence. For example, access to a foreign-based email account would require a relationship with and an action by a foreign government.

The traditional form of mutual legal assistance (MLA) required for joint investigations of major transnational crime cases in the area of people smuggling, drugs and illegal products and substances, has been well understood by most member countries of the Association of South East Asian Nations (ASEAN). However, cooperation during investigations of criminal networks has largely taken place on an ad-hoc basis. The step to create a region-wide mutual legal assistance treaty was taken in the early 2000s, when the negotiations for the ASEAN Mutual Legal Assistance in Criminal Matters Treaty (MLAT) began. The MLAT was signed in 2004, and all member countries have since ratified the treaty.

Moreover, all ASEAN member states have ratified major UN conventions that require or refer to MLA, including the UN Convention against Transnational Organized Crime (UNTOC), the UN Convention against the Illicit Traffic in Narcotic Drugs and Psychotropic Substances, and the UN Convention against Corruption (UNCAC). Member states are also bound by UN Security Council Resolutions (UNSCR), including UNSCRs 1373 and 2178, that deal with legal cooperation to prevent and fight terrorism. Furthermore, there are several major legal instruments and additional amendments dealing with counter terrorism that include MLA requirements.

Implementation of the MLA framework in the region has been slow though, and large efficiency gains are yet to be made. In order to address this situation, UNODC has been working with regional and national level partners for several years, helping them more effectively investigate and prosecute offences in the Southeast Asia, in particular with regard to cases that focus on corruption, terrorism, human trafficking, combating child sex tourism and violence against women. UNODC’s approach is to work with and through national and local institutions, so that its impact is sustainable and translates into an increased level of capacity amongst criminal justice practitioners, able to continue the on-going process of legislative and procedural review and reform.

As part of these efforts, UNODC has held a series of regional conferences in recent years with ASEAN Member States and their respective Central Authorities to discuss the topic of MLA and extradition both regionally and on the wider international level. In 2013, a conference was attended by the 10 ASEAN, during which they presented on their country’s experience with MLA and extradition. The purpose of this conference was to apprise other states within the region of the volume of MLA and extradition requests and related requirements in each country. In 2015, senior members of the 10 ASEAN Member States, along with representatives from UNODC, the World Bank, Australia, China and Japan met for a two-day work shop with a view to achieving the following:

- To enhance mutual understanding of each state's MLA and extradition system
- To facilitate a cooperative network for efficient and effective MLA and extradition
- To enhance awareness of international norms and standards of MLA and extradition
- To discuss challenges faced in the timely implementation of MLA and extradition practices

Overview

In order to build on the outcome of these two conferences, UNODC plans to organize a conference on improving cross-border criminal cooperation in the ASEAN region in March 2017. The focus will be on how ASEAN Member States and their Central Authorities are better able to manage and process incoming and outgoing MLA, extradition and related requests in light of recent regional and international developments. The following topics et al. will be addressed over the course of the two-day conference:

- Domestic and regional barriers to effective ILA and proposed solutions to overcome them
- ILA in the context of the ASEAN Community 2025 and 2030 Sustainable Development Goals
- MLA and the digital age – methodologies for obtaining digital evidence in criminal investigations
- International Legal Assistance – A Thematic Approach

Objectives

UNODC has put forth the following objectives for the two-day conference:

- To enhance mutual understanding of each state's Central Authority and system for providing international legal assistance (ILA)
- To facilitate a cooperative network for efficient and effective ILA
- To enhance awareness of international norms and standards regarding ILA
- To discuss challenges faced in the timely implementation of ILA practices, in particular the management and execution of MLA and extradition requests
- To discuss solutions and action plan to address challenges identified in ILA in the region

Proposed Approach

UNODC will facilitate for both days, with senior-level guests and experts providing advice and insight on certain topics. In addition, each participating country will provide a brief overview of its Central Authority, its legal framework and recent developments regarding challenges and lessons learned as relevant.

Expected Outcomes

Following the two-day conference, UNODC will have achieved the following outcomes:

- Enhanced levels of understanding and cooperation between Central Authorities in Southeast Asia, in particular with regards to the role of Central Authorities, national legal frameworks and related processes
- Strengthened regional MLA network in the ASEAN region in line with international and regional obligations
- Identification of future needs and areas of assistance in the area of ILA

Agenda

Day 1 – 22 March 2017 (Wednesday)	
08:30 – 10:00	Registration
10:00 – 12:00	<p>High Level Panel – Opening Session (Conference Room 2)</p> <p>Opening Remarks</p> <ul style="list-style-type: none"> Mr. Jeremy Douglas, UNODC Regional Representative for Southeast Asia and the Pacific Mr. Isra Sunthornvut, Secretary General of the ASEAN Inter-Parliamentary Assembly (AIPA) H.E. Glyn T. Davies, Ambassador, Embassy of the United States to Thailand <p>Keynote Speech</p> <ul style="list-style-type: none"> HRH Princess Bajrakitiyabha Mahidol, UNODC Goodwill Ambassador on the Rule of Law for Southeast Asia <p>Group Photograph</p>
11:30 - 13:00	Lunch
13:00-13:15	<p>Objectives and Methodology of the Workshop (Conference Room 2) Mr. Scott Beazley, Senior Prosecutorial and Judicial Advisor for Southeast Asia and the Pacific, UNODC ROSEAP</p>
13:15-13:45	<p>Session 1: Transnational Crime and Security Challenges in Southeast Asia – Current Trends (Conference Room 2)</p> <p>Speakers</p> <ul style="list-style-type: none"> UNODC ROSEAP Thematic Experts <p><i>(5 minute presentations by substantive experts)</i></p>
13:45-15:00	<p>Session 2: International Norms and Standards of International Legal Assistance (Conference Room 2)</p> <p>Speakers</p> <ul style="list-style-type: none"> Ms. Candice Welsch, Chief, Implementation Support Section, Corruption and Economic Crime Branch, UNODC Police Major General Apichat Suriboonya, Commander, Foreign Affairs Division, Head of INTERPOL Thailand Mr. Jean Cormier, Regional Liaison Officer Asia-Pacific, Royal Canadian Mounted Police, Embassy of Canada to Thailand <p><i>(15 minute presentations followed by Q&A sessions)</i></p>
15:00 – 15:15	<p>Objectives and Methodology of Break-Out Session (Conference Room 2)</p> <ul style="list-style-type: none"> Mr. Scott Beazley, Senior Prosecutorial and Judicial Advisor for Southeast Asia and the Pacific, UNODC ROSEAP
15:15 – 17:30	<p>Session 3 (a): Cross-Border Criminal Justice Cooperation – Challenges and Obstacles (Group 1, Meeting Room C, D, E)</p> <p>Facilitator: UNODC ROSEAP</p>
Break-Out Sessions (2 Groups)	

<p>(Coffee available during break-out sessions)</p>	<p>Participants</p> <ul style="list-style-type: none"> • Brunei Darussalam • Lao PDR • Malaysia • Thailand • Viet Nam <p>Session 3 (b): Cross-Border Criminal Justice Cooperation – Challenges and Obstacles (Group 2, Meeting Room H)</p> <p>Facilitator: UNODC ROSEAP</p> <p>Participants</p> <ul style="list-style-type: none"> • Cambodia • Indonesia • Myanmar • Philippines • Singapore
<p>17:30 – 18:00</p>	<p>Summary and Closing of Proceedings (Conference Room 2)</p> <ul style="list-style-type: none"> • Mr. Scott Beazley, Senior Prosecutorial and Judicial Advisor for Southeast Asia and the Pacific, UNODC ROSEAP
<p>18:30 – 20:00</p>	<p>Networking Reception at The Sukosol Hotel, Bangkok</p>

<p>Day 2 – 23 March 2017 (Thursday)</p>	
<p>9:00 – 9:15</p>	<p>Recap of Day 1 and Overview of Proceedings for Day 2 (Conference Room 2)</p>
<p>09:15 – 10:15</p>	<p>Session 4: Regional Criminal Justice Cooperation in the context of the ASEAN Community 2025 and the 2030 Sustainable Development Goals (Conference Room 2)</p> <p>Facilitator: UNODC ROSEAP</p> <p>Speakers</p> <ul style="list-style-type: none"> • Mr. Cahyo Rahadian Muzhar, LLM, Director, Central Authority and International Law, Ministry of Law and Human Rights, Indonesia, Chair of ASEAN Senior Law Officials Meeting (ASLOM) • Mr. Sebastian Boll, United Nations Action for Cooperation Against Trafficking in Persons (UN-ACT) • Dr. Phiset Sa-ardyen, Director of the Office of External Relations and Policy Coordination, Thailand Institute of Justice <p><i>(15 minute presentations followed by Q&A sessions)</i></p>

10:15 – 10:30	Coffee Break
10:30 – 12:00	<p>Session 5: International Legal Assistance and the Digital Age (Conference Room 2)</p> <p>Facilitator: UNODC ROSEAP</p> <p>Speakers</p> <ul style="list-style-type: none"> • Ms. Catharine Hartzenbusch, Attaché for Criminal Matters in Southeast Asia, Department of Justice, Embassy of the United States to Thailand • Mr. Alexandru Caciuloiu, Cybercrime Project Coordinator, Southeast Asia and the Pacific, UNODC <p><i>(30 minute presentations followed by Q&A sessions)</i></p>
12:00 – 13:00	Lunch
13:00 – 15:30	<p>Session 6 (a): Open Discussion on Cross-Border Criminal Justice Cooperation: Solutions and Action Plan to Regional Barriers (Group 1, Meeting Room C, D, E)</p> <p>Facilitator: UNODC ROSEAP</p> <p>Participants</p> <ul style="list-style-type: none"> • Brunei Darussalam • Lao PDR • Malaysia • Thailand • Viet Nam <p>Session 6 (b): Open Discussion on Cross-Border Criminal Justice Cooperation: Solutions and Action Plan to Regional Barriers (Group 2, Meeting Room H)</p> <p>Facilitator: UNODC ROSEAP</p> <p>Participants</p> <ul style="list-style-type: none"> • Cambodia • Indonesia • Myanmar • Philippines • Singapore
15:30 – 16:30	<p>Overview of Available UNODC Technical Assistance Measures and Tools (Conference Room 2)</p> <p>Facilitator: UNODC ROSEAP</p> <p>Topics:</p> <ul style="list-style-type: none"> • UNTOC • UNCAC

	<ul style="list-style-type: none">• Model Legislation and Treaties• MLA Request Writer Tool and Manuals• Sherloc
16:30 – 17:00	Wrapping Up: Conference Outcomes and Next Steps (Conference Room 2)
17:00 – 17:30	Closing remarks (Conference Room 2) Speakers <ul style="list-style-type: none">• UNODC• TBC



UNODC


United Nations Office on Drugs and Crime

Regional Office for Southeast Asia and the Pacific

United Nations Building, 3rd floor B Block, Secretariat Building, Raj Damnern Nok Avenue, Bangkok 10200, Thailand

Tel. (66-2) 288-2100 Fax. (66-2) 281-2129 E-mail: fo.thailand@unodc.org

Website: <http://www.unodc.org/southeastasiaandpacific>

 Twitter: @UNODC_SEAP