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OFFICE ON DRUGS AND CRIME

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Title: Strengthening of the Legal and Law Enforcement Institutions in Preventing and Combating Trafficking in Persons in Viet Nam – Phase II of FS/VIE/03/R21
Crime Prevention Area: Organized crime/Trafficking in Human Beings
Duration: 2 years (October 2005 - September 2007)
Executing Agency: UNODC
Government Counterpart Agency: Ministry of Public Security/General Department of Police
Cooperating Agencies: Ministry of Justice (the Department for Criminal and Administrative Legislation)
 Border Army (the Surveillance Department)
Estimated Starting Date: 1 October 2005
Government contribution: in-kind (US\$18,420) and in-cash (US\$10,099)
Total Budget: US\$ 579,600

Brief description:
 The project's main objective is to increase detection, investigation, and prosecuting capacities and training of the law enforcement and the judiciary (Police, Immigration, Surveillance Department of the Border Army, Prosecution and Courts) regarding human trafficking. The project will build on the lessons learned, training material and curricula etc. developed under phase I of the project, and expand its scope and beneficiaries. The project document and its objectives are in line with the UNODC Strategic Programme Framework on Drugs and Crime for Viet Nam 2003-2007, with the guiding principles of UNODC's Operational Priorities and consistent with the approved biennial 2004-2005 programme budget for trafficking in human beings.

On behalf of Government:

Name and Title	Signature	Date

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Acronyms

BA	Border Army
CPCC	Viet Nam Committee for Protection and Care for Children
HCMC	Ho Chi Minh City
HN	Hanoi
MOFA	Ministry of Foreign Affairs
MOJ	Ministry of Justice
MOLISA	Ministry of Labour, Invalids and Social Affairs
MPS	Ministry of Public Security
UNODC	United Nations Office on Drugs and Crime
PPR	Project Progress Report
SC	Save the Children
SPC	Supreme People's Court
SPP	Supreme People's Procuracy
TOC	Convention against Transnational Organized Crime
VLA	Vietnamese Lawyers' Association
VWU	Vietnamese Women's Union
VYU	Vietnamese Youth Union
W/m	Work months

TABLE OF CONTENTS

1.	PROJECT CONTEXT	4
A.	Introduction, achievements and lessons learned from Phase I	4
B.	Transnational organized crime and trafficking in human beings	5
C.	Policy framework regarding trafficking in human beings in Viet Nam.....	6
D.	International conventions and agreements relevant to trafficking in human beings in Viet Nam	6
E.	National Legislative Framework	7
F.	Laws and other legal documents concerning trafficking in human beings	7
G.	Trafficking in human beings – the current situation in Viet Nam	8
H.	Institutional framework	11
I.	Prior and ongoing cooperation	12
2.	JUSTIFICATION	14
A.	Problem to be addressed	14
B.	Gender issues	15
C.	Expected end situation of the project	15
D.	Intended beneficiaries	16
E.	Project strategy	16
F.	Execution and implementation arrangements	16
G.	Counterpart support capacity	17
3.	CRIME PREVENTION OBJECTIVE, IMMEDIATE OBJECTIVE AND OUTPUTS	18
4.	OUTPUTS, ACTIVITIES AND INPUTS	20
5.	ASSUMPTIONS AND PROJECT RISKS	29
6.	PRIOR OBLIGATIONS AND PREREQUISITES	29
7.	PROJECT REVIEW, REPORTING AND EVALUATION	30
8.	LEGAL CONTEXT	31
A.	General legal framework	31
B.	Compensation clause	31
C.	Property rights	31
D.	Modification of project document	32
E.	Opt-out in case of insufficient funding	32
9.	BUDGET	33
<u>Annexes</u>		
Annex I	Work plan	
Annex II	Logical Framework Approach	
Annex III	Terms of Reference (International Technical Advisor)	
Annex IV	Terms of Reference (National Project Coordinator)	
Annex V	Terms of Reference (Administrative Support Staff)	
Annex VI	In-kind Contribution by Vietnamese Government	
Annex VII	In-cash Contribution by the Vietnamese Government	

1. PROJECT CONTEXT

A. Introduction, achievements and lessons learned from Phase I

Trafficking in human beings is a phenomenon that has its roots in the lack of equal opportunities, in the human desire to improve one's personal status of life and to escape poverty. Organized crime groups abuse this desire and have developed trafficking in human beings into a lucrative business of exploitation.

In project FS/VIE/03/R21 (Phase I of present project), UNODC initiated support to the Government of Viet Nam in preventing and combating human trafficking. The main achievements can be summarized as:

- Establishment of an information network among law enforcement agencies, prosecutors and judges (including identifying focal points in all relevant agencies) in the field of human trafficking;
- Developed a legal assessment report on human trafficking identifying gaps between present Vietnamese legislation on human trafficking and the UN Protocol on Trafficking in Persons;
- Promoted ratification of the TOC and its supplementing protocols on Trafficking and Smuggling;
- Developed training material on human trafficking for the law enforcement and the judiciary;
- Trained approximately 100 officers from the legal and law enforcement institutions;
- Promoted gender equality in the law enforcement agencies and the judiciary
- Developed international cooperation networks and contacts among legal and law enforcement agencies in Viet Nam and China/Cambodia;
- Raised awareness of the issue of human trafficking through press releases and activities;

Some of the lessons learned can be summarized as:

- There is a will by the Government to prevent and combat human trafficking in Viet Nam;
- UNODC has a unique role in assisting the Government on law enforcement and legal issues. UNODC should focus its activities on these areas;
- More time and attention should be given to translation of training material since the terminology is difficult for even the best translators in Viet Nam;
- UNODC participation in the quarterly human trafficking donor group meetings and ILEC meetings (International Law Enforcement Community) is essential to avoid duplication, learn from other agencies and to promote UNODC's activities;
- Selection of a proper National Project Coordinator is crucial to the implementation of the project;
- Selection of a proper international UNODC backstopping officer with criminal law and law enforcement experience is important for the implementation of the project;
- Liaison with embassies in Hanoi is important in order to secure in-kind contributions to the project, e.g. provision of expertise funded by the embassies or assistance with study tours;
- UNODC Execution is the preferred option to National Execution in order to ensure effective implementation of the project and delivery of project outputs;

Lessons learned and experiences from Phase I of the project will be taken into consideration in the implementation of Phase II.

B. Transnational organized crime and trafficking in human beings

Trafficking in human beings has become one of the most profitable activities of organized crime groups worldwide. Therefore, the United Nations Convention against Transnational Organized Crime (hereafter Organized Crime Convention or TOC) was supplemented by three Protocols, including

- The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (hereafter Trafficking Protocol or TIPP); and
- The Protocol against the Smuggling of Migrants by Land, Sea and Air (hereafter Smuggling Protocol or SOMP).

These instruments were adopted by the General Assembly 15 November 2000.¹ The Convention and the supplementing Protocols provide for the legal framework for this project and the concepts of trafficking and smuggling are defined in the following:

In the Trafficking Protocol, article 3, trafficking has been defined as *“the recruitment, transportation, transfer, harboring 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 has been defined as including, *“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.”* Article 3.

In the Smuggling Protocol, article 3, smuggling has been defined as *“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”*.

Hence, while there are similarities, there are also clear differences between trafficking in and smuggling of persons. Trafficking resembles smuggling in that persons who wish to migrate are assisted in crossing borders illegally. The differences are however distinct: First, whereas migrants always consent, trafficking victims may have given their consent to smuggling but not to the following exploitation. Deception through e.g. false promises or even coercion is used. Second, whereas following exploitation for various purposes is a distinct element in trafficking, it does not occur in smuggling. These differences make victims of trafficking considerably more vulnerable than smuggled persons.

Due to this exploitation element in trafficking, the sources of proceeds differ in the two activities: in smuggling, the proceeds are generated by fees paid by the migrants for illegal entry or illegal residence. In trafficking, most of the proceeds come from the following exploitation.

¹ By 31 January 2005, 147 countries had signed and 99 ratified the Convention Against Transnational Organized Crime. 117 countries had signed and 79 ratified the Trafficking Protocol. 112 countries had signed and 67 ratified the Smuggling Protocol. Both the Convention and the two Protocols have entered into force.

Hence, these two distinct phenomena – trafficking in and smuggling of persons – are interrelated. Therefore, even if there is no sufficient evidence for a trafficking case, evidence might suffice for the prosecution of organisers of smuggling. This is why the project addresses aspects of both trafficking in persons and smuggling of migrants. This is also why it is advisable to consider the signing and ratification of both of the Protocols simultaneously. Nevertheless, the focus of the project is trafficking: to further increase Viet Nam’s capacity to investigate and prosecute trafficking cases.

C. Policy framework regarding trafficking in human beings in Viet Nam

In October 2004, Viet Nam signed an MOU on Cooperation against Trafficking in Persons in the Greater Mekong Sub-Region, which divides cooperation and activities into five technical areas and is supplemented by a sub-regional action plan.

The five areas are: 1) Policy and cooperation 2) Legal framework, law enforcement and justice 3) Protection, recovery and re-integration 4) Preventive measures 5) Mechanisms for monitoring and evaluation of the implementation of the MOU. Presently, efforts to develop specific topics of cooperation in the 5 areas are being undertaken. UNODC has been given the lead role in area 2 in Viet Nam.

In November 2004, ASEAN adopted a “Declaration Against Trafficking in Persons, Particularly Women and Children” in which ASEAN Member States, including Viet Nam, undertake concerted efforts to address human trafficking as a regional problem and commit to regional cooperation.

In July 2004, the Prime Minister approved the “National Action Programme on Preventing and Combating Traffickers of Women and Children from 2004-2010”. The National Action Programme designates the Ministry of Public Security as the lead agency in preventing and combating trafficking in persons.

D. International conventions and agreements relevant to trafficking in human beings in Viet Nam

According to Vietnamese law, international treaties and agreements related to human trafficking must be ratified or acceded to after being signed before coming into effect. All international instruments need to comply with the Constitution and the main principles of national laws. The President and the Prime Minister ratify or accede to most of the international instruments after extensive consultations with various ministries².

Viet Nam has signed the Convention against Transnational Organized Crime but not the Trafficking or the Smuggling Protocols. During Phase I of the present project, The Ministry of Justice – in collaboration with UNODC and UNICEF – completed a legal assessment report entitled “Assessment of the Legal System in Viet Nam in Comparison with the United Nations Protocols on Trafficking in Persons and Smuggling of Migrants, supplementing the United Nations Convention Against Transnational Organized Crime. The legal assessment report is expected to pave the way for Viet Nam’s accession to the Trafficking Protocol.

² The National Assembly is another ratifying body. In practice, it has ratified only three important international instruments.

As the above legal assessment report only deals with smuggling of migrants in areas with a direct link to human trafficking, such as the legal definitions of the two types of crime, a similar in-depth legal assessment report is needed in regard to the Smuggling Protocol to pave the way for Viet Nam's accession to the Smuggling Protocol (see output 2).

Viet Nam is a party to the 1989 Convention on the Rights of the Child (CRC) and has ratified the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography. Moreover, Viet Nam is a party to the 1979 Convention for the Elimination of all Forms of Discrimination against Women (CEDAW), to the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights as well as the ILO Convention No. 182 on Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor.

In May 2004, the National Assembly revised the Law on Child Care, Protection and Education to better implement the CRC and its optional protocol.

Viet Nam has entered into bilateral mutual legal assistance agreements with the following countries: Cuba, Hungary, Bulgaria, Poland, Laos, Russia, China, France, Ukraine, Mongolia and Belarus. A bilateral agreement with Cambodia, including on mutual legal assistance and extradition, is expected to be signed in March 2005. The agreement refers to the TOC and its Trafficking and Smuggling Protocols.

Viet Nam has also signed agreements on crime prevention, including human trafficking, with China, Cambodia, Lao PDR and Australia.

E. National Legislative Framework

Viet Nam is a civil law system with laws drafted according to the socialist form of governance practiced in Viet Nam. Viet Nam's Constitution from 1992 was amended in 2001. As a general rule, Vietnamese laws and ordinances are written in a brief manner. Where a law or ordinance has not been enacted, the Government (with permission from the National Standing Committee of the Assembly) may pass a decree to regulate a particular subject until a law or ordinance can be passed.

Laws and ordinances are usually fairly general in nature. Further details are typically left to decrees, decisions or ministerial circulars. Decrees are issued by the Government and decisions by the Prime Minister. There are also two different types of circulars; single ministry circulars where the relevant ministry makes the circular on its own and more common inter-ministerial circulars where several relevant ministries are involved in the drafting of the circular. Also resolutions issued by either the National Assembly after its sessions or the Government after its meeting each month, are legal normative documents. Resolutions are considered to be mainly of informative nature.

F. Laws and other legal documents concerning trafficking in human beings

The Penal Code of Viet Nam, amended in 1999, includes two specific articles concerning trafficking in women and children, whether inter- or in-country in nature. No specific articles on trafficking in men are in place.

Article 119 stipulates the following:

Trafficking in women

1. *Those who traffic in women shall be sentenced to between two to seven years of imprisonment.*
2. *Committing the crime in one of the following circumstances, the offender shall be sentenced to between five and twenty years of imprisonment:*
 - a) *trading in women for the purpose of prostitution;*
 - b) *in an organized manner;*
 - c) *being of professional character;*
 - d) *for the purpose of sending them overseas;*
 - e) *trafficking in more than one person;*
 - f) *trafficking more than once.*
3. *The offenders may also be subject to a fine of between five million and fifty million Dong, to probation or residence ban for one to five years.*

Article 120 concerns

trading in, fraudulently exchanging or appropriating children.

1. *Those who trade in, fraudulently exchange or appropriate children in any form shall be sentenced to between three and ten years of imprisonment.*
2. *Committing such crimes in one of the following circumstances, the offenders shall be sentenced to between ten and twenty years of imprisonment or life imprisonment.*
 - a) *in an organized manner;*
 - b) *being of professional character;*
 - c) *for despicable motivation;*
 - d) *trading in, fraudulently exchanging or appropriating more than one child;*
 - e) *for the purpose of sending them abroad;*
 - f) *for use for inhumane purposes;*
 - g) *for use of prostitution purposes;*
 - h) *dangerous recidivism;*
 - i) *causing serious consequences.*
3. *The offenders may also be subject to a fine of between five million and fifty million Dong, a ban from holding certain posts, practising certain occupations or doing certain jobs for one to five years or subject to probation for one to five years.*

Article 228 further contains provisions on breaching regulations on employment of child labour. Several other articles on rape (art. 111-112), forcible sexual intercourse (art. 113-114), sexual intercourse with children (art. 115), obscenity against children (art. 116) deal with the underlying offences of trafficking. Articles 254-256 prohibit harbouring and procuring prostitutes as well as sexual intercourse with juveniles. In trafficking for marriage purposes, Chapter XV of the Penal Code (in particular article 149) on Crimes of Infringing Upon the Marriage and Family Regimes can be applied.

Article 274 stipulates that illegally leaving or entering the country or illegally staying abroad or in Viet Nam is prohibited. Chapter XXI of the Penal Code concerns crimes relating to

position³, including corruption.

G. Trafficking in human beings – the current situation in Viet Nam

INTRODUCTION

The information available on trafficking in persons at the national level in Viet Nam is limited. While the absence of accurate data and the clandestine nature of the activity make it difficult to accurately assess the nature and extent of the problem, it has been established that human trafficking is on the increase and Viet Nam ranks high as a country of origin, according to UNODC's human trafficking database.

In Viet Nam, domestic trafficking is an additional area of concern. Often people are trafficked from poor rural areas to urban areas.

In February 2004, Ministry of Public Security, with support from UNICEF, finalized a report on human trafficking in 16 hotspot provinces and cities in Viet Nam. The report showed that 1758 women and children were trafficked abroad according to police records on investigation and punishment of human trafficking cases from 1999-2003. It is widely agreed among international organizations and Government agencies that this number only shows a very small fraction of the actual number of trafficking cases that have taken place. Some international organizations and the Ministry of Public Security estimate that tens of thousands have been trafficked over the last 10 years.

DESTINATIONS

According to the available information, two main destinations have so far emerged: China and Cambodia. Other countries of destination in the region include Thailand, Singapore, Malaysia, Indonesia, Republic of Korea, Taiwan and Hong Kong. Trafficking to Great Britain, France and Germany is on the increase, according to the Police Liaison Officers and Embassy staff in Hanoi.

PURPOSES

The purposes of trafficking to the two main destinations differ:

In the case of China, there is a demand for trafficking in Vietnamese women for marriage, sexual exploitation, domestic work, forced labour and adoption of young boys. The demand for women and boys is a consequence of the one child policy applied and preference for male children.

In the case of Cambodia, the main documented purpose of trafficking is sexual exploitation. Trafficking takes place also through Cambodia to Thailand, Malaysia, Singapore and Indonesia for sexual exploitation and forced labor.

In the case of Taiwan, trafficking takes place mainly for the purpose of forced marriage and sexual exploitation.

³ According to article 277 of the Penal Code, "position related crimes are acts of infringing upon the legitimate activities of agencies and/or organizations which are carried out by persons holding positions whilst they are on official duties".

With regard to Europe, trafficking takes place mainly for sexual exploitation.

The main purpose of in-country trafficking seems to be sexual exploitation.

Other known purposes of trafficking from Viet Nam include adoption and labor exploitation.

MODUS OPERANDI

According to information obtained by UNODC through workshops, meetings and field missions as well as from the law enforcement agencies in Viet Nam, there are several indicators that organized crime is involved in trafficking processes in Viet Nam. The inter-linkage between trafficking in persons and organized crime seems to be two-fold: vertical and horizontal.

A) Vertical inter-linkage

First, trafficking processes in Viet Nam seem to consist of chains of individual offences, which are in close relationship with each other. These detected offences relating to trafficking include, counterfeiting of traveling documents as well as birth certificates and violation of immigration laws.

B) Horizontal inter-linkage

Second, there is anecdotal evidence that connections are in place between different criminal activities by the same criminal organization. Criminal groups are involved in different types of criminal activities, such as sexual exploitation, forced labor, illegal adoption and false marriages. Organized crime remains profit oriented – the form the exploitation takes depends on the profits. In Viet Nam, it remains to be seen to what extent the criminal organizations are involved in both trafficking and smuggling.

As typical to organized crime, these different types of crimes, in vertical and horizontal relationship to trafficking, are diversified among different subgroups. These subgroups then independently carry out their individual tasks. These subgroups are highly specialized, consist of one or more persons and know very little, if anything at all, about the organization. Some lower subgroups do not seem to be aware of the fact that they form a part of an organized criminal structure. Indeed some of the subgroups do not seem to form a part of the structure itself but knowingly or unknowingly participate in the organized crime activity chain. In these cases organized crime groups focus on the exploitation where the profit is and rely on brokers to bring the “product”: a human being. Such diversification of tasks naturally minimizes the law enforcement risk and misleads to believe that there is no organization behind trafficking. On the other hand, the diversification also constitutes a point where law enforcement interventions might bear fruit.

The following elements seem to be part of trafficking structures or activity chains in Viet Nam: (i) recruitment element, (ii) transportation element, (iii) guide element, (iv) debt collecting element and (v) management level.

(i) Indeed, it seems that organized crime dealing with trafficking in persons in Viet Nam uses very informal methods of recruitment, either through – most times female - relatives, friends or acquaintances from the same social set. The recruiters are often not aware of their involvement in trafficking in persons. Methods of deception include promises of employment, high salaries, or marriage to rich men.

(ii-iii) Separate elements are responsible for transportation arrangements, obtaining travel documents and guiding the victims to their destinations. In case the border crossing takes place illegally, different elements are used as guides. Again, many of the people are not aware of the organization behind the activities.

(iv) Upon arrival in the destination country many of the trafficking victims find themselves indebted to the trafficker. The debt bondage forces victims to dependency. Such dependency is reinforced through deprivation of travel documents, restrictions in movement, language barriers and cultural as well as spatial dislocation. Violence or threat of violence is often used. Many of the victims receive no or lower income than agreed upon but still work long hours.

(v) In Viet Nam very little is known about the management level in organized crime groups involved in trafficking. The criminal justice system has only been able to deal with the lower level perpetrators. The focus of this project is on medium and top levels of trafficking structures.

H. Institutional framework

Although there is no accurate information available about the exact magnitude of trafficking in persons in Viet Nam, the Government of Viet Nam considers it to be one of the most serious crimes to be addressed. Preventing and combating human trafficking has been declared to be one of the Government's priorities on the criminal justice agenda.

On 17 September 1997, the Prime Minister of Viet Nam passed the Direction 776/TTg on Enhancing Measures against Illegal Trafficking in Women and Children to other Countries. On 31 July 1998, the Prime Minister issued Decision 138/1998/QD/TTg on Promulgation of the National Programme on Crime Prevention.

In July 2004, the Prime Minister approved the "National Action Programme on Preventing and Combating Traffickers of Women and Children from 2004-2010". The National Action Programme designates Ministry of Public Security as the lead agency in preventing and combating trafficking in persons. The Government has established a Central Coordination Office and the Ministry of Public Security has established one specialized unit in the Criminal Police Department in Hanoi as well as units in relevant hot spot provinces. The capacity of these newly established anti-human trafficking units in Hanoi and HCMC as well as bordering provinces with China and Cambodia (Quang Ninh, Lang son, Lao Cai, Tay Ninh and An Giang provinces) will be strengthened during Phase II.

In July 2004, the Investigation Department of Viet Nam Police was dissolved. Previously the Criminal Police Department's mandate was only to do surveillance and preliminary investigation on human trafficking cases and then hand the case over for further investigation by the Investigation Department. As of July 2004, the Criminal Police Department has the mandate to carry out a full investigation and then submit the case to the Prosecution.

The Ministry of Public Security has been appointed by the Government of Viet Nam to take the lead in the implementation of this project in close collaboration with associated implementing agencies.

I. Prior and ongoing cooperation

UNIAP (United Nations Inter-Agency Project)

UNDP has the lead role in phase II (until June 2006) of an Inter-Agency Project (IAP) against "Trafficking in Women and Children in the Mekong Sub-region". Other participating agencies include: Child Workers in Asia, ECPAT, ESCAP, FACE, GAATW, ILO, IOM, Mekong Regional Law Centre, UNODC, OHCHR, Oxfam, Save the Children Alliance, UNAIDS, UNESCO, UNFPA, UNHCR, UNICEF, UNIFEM, UNOPS, World Vision International as well as local NGOs in the participating countries.

The countries participating in this inter-country project are Cambodia, China, Lao PDR, Myanmar, Thailand and Viet Nam. An inter-agency group meets and shares information on trafficking on a regular basis. This is the underlying aim of the IAP: to strengthen cooperation in the response to human trafficking through 4 components: 1. Building a knowledge base. 2. Strategic analysis and priority setting. 3. Targeted Interventions and catalytic research. 4. Research.

The most important output of this project is an MOU on trafficking in persons between the participating countries, which was signed late October 2004 in Myanmar, see page 6.

UNICEF

UNICEF's sub-regional programme on anti-trafficking in Viet Nam has the following country specific objectives: 1) improved legal framework and strengthened law enforcement mechanism against child abuse and exploitation, especially trafficking in children and women; 2) advocacy and project interventions to be based on systematic and quality data collection on child protection; 3) improved capacity and skills among relevant government officials in action-oriented research, implementation, monitoring and advocacy; 4) facilitated cross-border collaboration between Viet Nam and countries in the region to ensure more effective prevention, protection and return of victims to countries of origin; 5) improved awareness, knowledge on protection of children from violence, exploitation, abuse and discrimination; 6) improved prevention interventions, and access to basic and psychosocial services for at risk children or child survivors of abuse and exploitation; 7) increased child participation in planning and evaluation of project interventions and development of IEC materials for them.

The countries participating in this programme are Cambodia, China and Viet Nam. The Counterparts in Viet Nam include Viet Nam Committee for Protection and Care for Children (CPCC), Ministry of Labour, Invalids and Social Affairs (MOLISA), Ministry of Public Security, Border Army, Vietnamese Women's Union and Vietnamese Youth Union as well as local research institutes and social organisations.

The strategy areas include community action for prevention/reintegration; legal protection; capacity building for social work/psychosocial response; data collection and monitoring; advocacy, cooperation and coordination. Hence, the focus, strategy areas and counterparts of the UNICEF programme are partly the same as in the current project. The advocacy work conducted by UNICEF includes advocacy for the Trafficking Protocol. The focus is however on Chapter II of the Protocol on "Protection of victims of trafficking in persons" whereas the current project focuses on Chapter III on "Prevention, cooperation and other measures".

Hence, an extensive victims' protection component is included in the UNICEF programme and therefore omitted in this project document.

UNICEF China and UNICEF Cambodia, on the other hand, has a similar focus in its activities as the current project. UNICEF Viet Nam however lacks the expertise in law enforcement work whereas UNODC has a long tradition to work together with the law enforcement agencies in Viet Nam. Therefore, it is found beneficial for UNICEF and UNODC to remain in close contact and close collaboration with regard to law enforcement and legal issues as done during Phase I. It is found that in particular advocacy for the Trafficking Protocol and related legislative work and cross-border activities as well as possible province activities could be carried out in cooperation. Such cooperation clearly benefits both agencies. Indeed, in Viet Nam, a Joint Plan of Action on cooperation on human trafficking activities between UNODC and UNICEF was signed in 2003.

International Labour organization (ILO)

ILO-IPEC has recently finalised the implementation of Phase I of the “Mekong Sub-Regional Project to Combat Trafficking of Children and Women for Labour Exploitation”. The countries participating in this project were Cambodia, China (Yunnan province), Lao PDR, Thailand and Viet Nam. The purpose of the project was to “have substantially reduced trafficking in children and women for labour exploitation through the development, implementation and monitoring of effective and integrated sub-regional and national programmes and strategies”. The ILO human rights instrument on “Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour Convention – No. 182 provided for the framework.

The objectives of the project included 1) capacity building; 2) advocacy/awareness raising; and 3) direct assistance. Phase II of the project has been awaiting Government approval for more than one and a half year so far.

The counterparts of ILO include the Ministry of Labour, Invalids and Social Affairs, Border Army, Viet Nam Committee for Protection and Care of Children (CPCC), Vietnamese Women's Union and Ministry of Public Security.

International Organisation for Migration (IOM)

IOM Viet Nam has focused on return and reintegration of trafficking victims as well as awareness raising on trafficking. Current IOM projects in counter-trafficking include the following:

- Return and Reintegration of Trafficked and Other Vulnerable Women and Children Between Selected Countries in the Mekong Region

This Mekong region-wide project is to establish a systematic and sustainable cross-border working arrangement for the return and reintegration of trafficked and other vulnerable migrant women and children within and among six countries in the Mekong Region: Cambodia, Lao PDR, Myanmar, Thailand, Viet Nam and Yunnan province in China.

- Rehabilitation of Trafficked Children from the Mekong Delta Provinces

IOM has launched a project providing support for the Little Rose Shelter in HCMC to assist former child victims of trafficking from the Delta provinces. The project aims to upgrade facilities at the shelter, provide counselling, job skills development and literacy training to selected children from the Delta provinces and offer theoretical and on the job training to provincial social workers.

- Capacity Building of Viet Nam Women’s Union In Counter-Trafficking

The project aims to build the capacity of the Viet Nam Women’s Union in addressing trafficking in women and children, through strategic planning and the implementation of a grass-roots awareness raising campaign.

Save the Children (SC)

Save the Children Sweden’s regional office works both in Viet Nam and the region to combat trafficking in persons. The work has an overall focus on advocacy and includes integration of SC approaches on child rights programming, child participation and community-based sustainability in work with ongoing partners who include Vietnamese Women’s and Youth Union. Save the Children has published interesting reports, the most important being

- 1) SC (IOM and UNICEF) Literature Overview on Trafficking of Humans from and within Viet Nam 1999;
- 2) SC Comparative Study of the Legal Provisions of the 6 Countries in the Mekong Sub-region with Respect to Trafficking in Women and Children 2001;
- 3) SC Advocacy Paper on Comparative Laws of the Mekong Sub-region with Respect to Trafficking in Women and Children. The latter reports are available at www.seapa.net.

Oxfam

Oxfam Quebec and Save the Children UK and Sweden co-operate in a project on Community-based initiatives against child trafficking in Viet Nam. The goals of the project include awareness raising, capacity building, child participation, access to basic services, repatriation and reintegration and advocacy.

2. JUSTIFICATION

A. Problem to be addressed

Trafficking in human beings is indeed seen as a complicated problem in Viet Nam. There is a general lack of awareness within the law enforcement and judiciary about human trafficking and the phenomenon as part of organized crime as well as processes, modus operandi and networks involved in the activity.⁴

⁴ During phase one of the project app. 100 officers in 4 provinces within the law enforcement and the judiciary were trained and now possess basic knowledge on human trafficking.

The second phase of the project will on one hand deepen the knowledge of officers who already have a basic knowledge and on the other hand provide the basic knowledge to more officers in additional provinces. After the finalisation of the second phase, Viet Nam would hence have around 100 officers with in-depth knowledge and around 100 officers with basic knowledge on human trafficking.

Furthermore, technical assistance is needed to support the implementation of the “National Action Programme on Preventing and Combating Traffickers of Women and Children”. Since this is Viet Nam’s first action programme against human trafficking, there is a lack of knowledge on how to implement it.

B. Gender issues

According to research conducted in by Save the Children, IOM and UNICEF and Ministry of Public Security, the victims of trafficking in Viet Nam are most often women aged up to 45 and girl children around the age of 12-17 years. They are often compelled by family pressure, a sense of filial duty, to assist the family in poor economic or social circumstances. This family pressure has its basis in the traditional culture of Viet Nam with its distinct gender roles. Indeed, trafficking is also a gender issue.

Given the nature of trafficking in persons and the fact that a majority of victims are female, a significant proportion of participants in all project activities is to include women in order to ensure gender sensitivity. The female participants are preferably from all ranks and levels of administration. This applies in particular to law enforcement activities where there is a clear need to involve female officers in anti-trafficking work. In phase I of the project, 22 percent of the participants were female. This percentage should be kept in Phase II of the project.

In the training activities– as in Phase I –, attention is to be paid to gender and child sensitive investigation and prosecution techniques. The same gender and child sensitive approach needs to be adopted in all activities undertaken. This is also where female participation is important.

C. Expected end situation of the project

The following are the expected outputs at the end of the project:

- 1) The capacity of Viet Nam to ratify/accede to and implement the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Particularly Women and Children and the Protocol against the Smuggling of Migrants by Land, Sea and Air will be increased.
- 2) Awareness among law enforcement and criminal justice system on trafficking in and, to a certain extent, smuggling of persons as phenomena of organized crime will be further enhanced.
- 3) Knowledge base on law enforcement methods, sharing of information and international cooperation used to tackle trafficking in persons will be further enhanced.
- 4) Knowledge base on prosecution of trafficking cases will be further increased.
- 5) Cooperation among Viet Nam and key countries of destination for human trafficking will be further enhanced.
- 6) Cooperation between national agencies working on human trafficking will be improved, including institutional strengthening of the central coordination office.
- 7) Techniques and procedures on human trafficking case investigation, prosecution and trial will be further improved.

In addition, an assessment report on legislation published; training material and tools developed; in-service training conducted and legislative assistance provided.

D. Intended beneficiaries

As a country of origin, the main direct beneficiaries of the project include the participating ministries and agencies as well as their staff who participate in the activities. Moreover, as a consequence of increased capacity to prevent and tackle the problem, the beneficiaries may include the countries of destination. Last but definitely not least, the beneficiaries are those people who are able to avoid being trafficked as a consequence of improved awareness on the side of the law enforcement; and those victims whose cases are successfully dealt with within the criminal justice system as a consequence of improved capacity.

E. Project strategy

In order to support the reduction of the number of trafficked persons, the strategy of the project is to increase the pool of national experts on trafficking in persons as a phenomenon of organized crime within the sectors of law enforcement and judiciary.

This national expertise will be accomplished through networking, sharing of information and training on trafficking in persons with a focus on organized crime.

This will increase the capacity of Viet Nam to ratify/accede to and implement the TOC and sign, ratify/accede to and implement the Trafficking Protocol and Smuggling Protocol.

F. Execution and implementation arrangements

The duration of the project is 2 years.

UNODC will execute the project through the current UNODC Viet Nam Country Office with technical backstopping of substantive matters by the Anti-Human Trafficking Unit in UNODC HQ in close cooperation with the South-East Asia and the Pacific Section of UNODC HQ, which is responsible for the overall coordination and management. The project document and its objectives are in line with the UNODC Strategic Programme Framework on Drugs and Crime for Viet Nam 2003-2007 and with the guiding principles of UNODC's Operational Priorities.

As specified in the revised UNODC-UNDP Working Agreement signed by the mentioned UN specialized programmes in April 2005 and the UPL agreement signed by UNDP and UNODC with effect from 1 January 2004, the UNDP Office for Viet Nam will provide the UNODC Office for Viet Nam with the financial and administrative services, which are required for the implementation of the different activities of the project. An MOU signed by the local Representatives of UNDP and UNODC will detail the terms under which UNDP Viet Nam will provide the project with the services mentioned above.

Representatives of the implementing agencies and from the Supreme People's Court (SPC) and the Supreme People's Procuracy (SPP) will form the Project Management Board. The board consists of senior representatives of each of the agencies, UNODC Viet Nam, the International Technical Advisor, the National Project Director and National Project Coordinator. It meets as required to review project progress and advise or take important project-related decisions that ensure smooth project implementation.

Representatives of the Ministry of Foreign Affairs (MOFA), the Ministry of Labour, Invalids and Social Affairs (MOLISA), Viet Nam Lawyers' Association (VLA), National Universities of Hanoi and Ho Chi Minh City, Police Academy and Border Army Training School will also

be involved in project activities.

A National Project Director will be appointed to oversee the implementation of the project. S/he embodies the Executing Agency's responsible for achieving project objectives and the use of project resources. An International Technical Advisor will be recruited to backstop the project and provide technical advice. A National Project Coordinator will be recruited to coordinate the implementation in close consultation with the executing and implementing agencies. An administrative staff will be recruited to assist in the implementation.

G. Counterpart support capacity

Collaboration, networking and information sharing among all participating ministries and agencies lead by the central coordination office, the Ministry of Public Security, is one of the main outputs of the project; the tradition of information sharing among or within different ministries and agencies is lacking. There is a lack of cooperation, data and information exchange, which results in insufficient, partly contradicting information and statistics. Still, sharing of information is crucial to effectively tackle the problem of trafficking in persons.

The above considered, the lead implementing agency, the Ministry of Public Security, is undoubtedly a strong Ministry and therefore in a very good position to lead the implementation of the project, including information exchange, with the support and collaboration of the other participating ministries and agencies. However, the Ministry of Public Security has relatively little practical experience in human trafficking project implementation. Therefore, close support from the UNODC Viet Nam Country Office is required.

The Ministry of Public Security, the Government of Viet Nam will provide in-kind and in-cash support, totalling to 449 million Vietnamese Dong, equalling to US\$ 28,519.

3. CRIME PREVENTION OBJECTIVE, IMMEDIATE OBJECTIVE AND OUTPUTS:

CRIME PREVENTION OBJECTIVE:

To reduce the number of trafficked persons in and from Viet Nam.

IMMEDIATE OBJECTIVE: The capacity of government law enforcement, prosecution and other criminal justice institutions as well as civil society responses to prevent, investigate and prosecute cases of human trafficking has been strengthened in line with the requirements of the Trafficking Protocol, Supplementing the UN Convention against Transnational Organized Crime.

OUTPUTS:

Output 1: The capacity of the central coordination office and specialized anti-human trafficking units strengthened in accordance with the newly approved “National Action Programme on Human Trafficking 2004-2010”.

Achievement indicator: Mandate and institutional capacity of the newly established central coordination office assessed and recommendations on strengthening cooperation mechanisms between coordination office and other ministries as well as between specialized police units at central and province level drafted. Equipment provided. Two annual workshops to review the activities, individual cases and implementation of the National Action Programme in 2005 and 2006 conducted.

Output 2: A comprehensive legal assessment report on existing Vietnamese legislation in the light of the Smuggling Protocol to ascertain the capacity of the State to ratify/accede to and implement the Protocol and to support the design of legislative and other measures required to ratify/accede to and subsequently implement the Protocol.

Achievement indicator: Legal assessment report available.

Output 3: Existing training material modified and expanded upon, including drafting of a “Human Trafficking Handbook for Law Enforcement Officers”, a “Human Trafficking Handbook for Prosecutors and Judges” and a “Toolkit against Human Trafficking”, for the law enforcement, immigration and the judiciary to combat and punish trafficking in persons⁵. The above material included in the training curricula at the Police Academy, Prosecution College, Border Army Academy and Court College.

Achievement indicator: Training material available and confirmation letter(s) of inclusion in curricula received.

Output 4: Four in-service training sessions conducted for law enforcement, immigration, prosecution and judges as well as other relevant officials, including representatives of the civil society, using the material developed under output 3. Four advanced in-service training sessions conducted.

Achievement indicator: Training evaluation report available.

⁵ This training material will be at a higher and more detailed/specific level for each organization.

Output 5: International activities conducted to increase cooperation with key-countries in the region, including participation in international meetings as well as study tour(s).

Achievement indicator: Reports of the international activities available.

Output 6: By the end of the project, recommendations drafted to improve existing techniques and procedures on human trafficking case investigation, prosecution and trial. Enhanced practical experience in using obtained technical skills from project activities through application of these skills in actual case investigation, prosecution and trial.

Achievement indicator: Recommendations available and judgements by courts and police reports (summaries) received.

4. OUTPUTS, ACTIVITIES AND INPUTS

Output 1.	Activity	Responsibility	Remarks
<p>The capacity of the central coordination office and specialized anti-human trafficking units strengthened in accordance with the newly approved “National Action Programme on Human Trafficking 2004-2010”.</p> <ul style="list-style-type: none"> By the end of the project 	1.1. Nomination of a National Project Director.	UNODC Viet Nam, MPS	<p>If feasible, it is recommended to select Lao Cai, Lang Son and An Giang provinces as additional project sites.</p>
	1.2. Establishment of a Project Management Board.		
	1.3. Recruitment of International Technical Advisor and National Project Coordinator.	UNODC Viet Nam	
	1.4. Choosing three more project sites, two to the border of China, one to the border of Cambodia.	Project Management Board	
	1.5. Nomination of trafficking focal points among police, border army, prosecutors and judges in the new project sites.	MPS, BA, SPC, SPP	
	1.6. Assessment of the mandate and institutional capacity of the newly established central coordination office and specialized units.	International consultant	
	1.7. Drafting of recommendations on strengthening cooperation mechanisms between coordination office and other ministries to be presented at a workshop.	International consultant	

	1.8 Drafting of recommendations on strengthening coordination between the specialized police units at central and province level to be presented at workshop.	International consultant	
	1.9. Procurement and delivery of equipment to Police and Border army.	UNODC Viet Nam	
	1.10. Two annual workshops to review the activities, individual cases and implementation of the National Action Programme in 2005 and 2006.	Project Management Board	

Inputs 1:

Government of Viet Nam:

- Provision of project office, including office facilities (VND 10 million per month x 24 months = VND 240 million);
- Nomination of National Project Director; Release of the selected National Project Director from other duties to carry out his or her tasks as required for the part-time position;
- Release of the selected National Project Coordinator from other duties for the duration of the project;
- Handling of domestic procedures for strengthening the central coordination office and police anti-trafficking units at province level;
- Nomination of experienced focal points
- Release of those focal points and members from other duties during the project activities as required (VND 20 million);
- Assurance of continued availability of the focal points and anti-human trafficking members for the duration of the project;
- Provision of facilities for workshop to review recommendations (VND 1 million).
- Provision of facilities for 2 annual workshops to review implementation of the National Action Programme (VND 5 million)

UNODC:

- 1 full-time International Technical Advisor to backstop the project and provide technical input (24 w/m) – BL 11.01;
- 1 National Project Coordinator to provide input to all outputs and activities (24 w/m) – BL 16.02;

- Administrative Support Staff to provide input to all outputs and activities (24 w/m) – BL 16.03;
- 1 international consultant to assess mandate, draft recommendations, (and handbook and advanced training material, see output 3) (2 w/m, travel and DSA) –BL 11.51
- 1 national consultant to assess mandate, draft recommendations, (and handbook and advanced training material, see output 3) (2 w/m, travel and DSA) –BL 16.04
- Procurement of 1 laptop and other office equipment for the project office – BL 42.02;
- Procurement of equipment (including 1 vehicle and motorbikes) to the Specialized Unit of the Criminal Police Department and law enforcement equipment to the Criminal Police Department and the Border Army and anti-human trafficking units in the border provinces. 15.000 USD to the Border Army and the rest of the budget to be divided between the Criminal Police Department and anti-human trafficking units in the provinces – BL 42.01;
- Cost for 1 workshop to review recommendations, 30 participants, 2 days – BL 31.02.
- Cost for 2 annual workshops to review implementation of the National Action Programme (50 participants, 2 days)– BL 31.03
- Cost for communications (fax, telephone etc.) 54.01
- Cost for renting work space for International Technical Advisor, BL 53.01

Output 2.	Activity	Responsibility	Remarks
<p>A comprehensive legal assessment report on existing Vietnamese legislation in light of the Smuggling Protocol to ascertain the capacity of the State to ratify/accede to and implement the Protocol and to support the design of legislative and other measures required to ratify/accede to and subsequently implement the Protocol.</p> <ul style="list-style-type: none"> • By the end of the eighth month. 	2.1. Development of an assessment plan.	Subcontract with MOJ	In cooperation with IOM as appropriate
	2.2. Carrying out a desk review of existing national legislation and international instruments.	Subcontract with MOJ	
	2.3. Drafting of a report including a gap analysis on the existing legislation.	Subcontract with MOJ	
	2.4. Distribution of the report to all stakeholders for comments at a workshop.	National Project Coordinator	
	2.5. Holding one workshop to review the results and to formulate recommendations on legislative needs.	MOJ and UNODC	
	2.6. Revision of the report.	Subcontract with MOJ	
	2.7. Distributing the finalised report to stakeholders at a launching ceremony.	National Project Coordinator, UNODC Viet Nam	

Inputs 2:

Government of Viet Nam:

- Release of relevant information for assessment purposes;
- Provision of facilities for the workshop (1 million VND).

UNODC:

- Subcontract on legal research– BL 21.01;
- Costs for 1 workshop, 20 participants, 2 days – BL 31.04;
- Printing costs of the report – BL 52.01;
- Costs for the launching ceremony – 31.05.

Output 3.	Activity	Responsibility	Remarks
<p>Existing training material modified and expanded upon, including drafting of a “Human Trafficking Handbook for Law Enforcement Officers”, a “Human Trafficking Handbook for Prosecutors and Judges” and a “Toolkit on Human Trafficking”, for the law enforcement, immigration and the judiciary to combat and punish trafficking in persons. The above material included in the training curricula at the Police Academy, Prosecution College, Border Army Academy and Court College.</p> <ul style="list-style-type: none"> • By the end of the first year. 	<p>3.1. Conducting a workshop to identify issues to be included in the training material and to discuss inclusion of training material in curricula at relevant national training institutions.</p>	<p>International and national consultant with the input of all stakeholders, including the Law Faculties of Hanoi and HCMC Universities, Police Academy and Border Army Training School.</p>	<ul style="list-style-type: none"> ▪ The legal research report produced under the project serve as further training material. ▪ Partly different training material needs to be developed for law enforcement officials, prosecutors and judges. Common training is encouraged to a certain extent.
	<p>3.2. Drafting of a “Human Trafficking Handbook for Law Enforcement Officers” and a “Human Trafficking Handbook for Prosecutors and Judges”.</p>		
	<p>3.3. Translation and distribution of the handbook.</p>		
	<p>3.4. Translation and distribution of the UNODC “Toolkit against Human Trafficking”.</p>		
	<p>3.5. Drafting of advanced training material for each of the involved agencies.</p>		
	<p>3.6. Translation and distribution of training material.</p>		
	<p>3.7. Presenting all material at a workshop to discuss inclusion in curricula.</p>		

Inputs 3:

Government of Viet Nam:

- Provision of facilities for 2 workshops (VND 2 million);
- Release of relevant information for the training materials development.

UNODC:

- Costs for the workshop to identify issues to be included in training material, 20 participants, 1 day – BL 31.06;
- Costs for the workshop to discuss inclusion in curricula, 2 days – 20 participants – BL 31.07
- 1 International consultant to draft handbook and advanced training materials (and mandate recommendations, see output 1) (2 w/m travel and DSA) – BL 11.51;
- 1 National consultant to draft handbook and advanced training materials (and mandate recommendations, see output 1) (2 w/m travel and DSA) – BL 16.04;
- Translation of the handbooks, toolkit and advanced training materials – BL 16.06;
- Printing costs of the training materials – BL 52.01.

Output 4.	Activity	Responsibility	Remarks
<p>Four in-service training sessions conducted for law enforcement, immigration, prosecution and judges as well as other relevant officials, including representatives of the civil society, using the material developed under output 3. Four advanced in-service training sessions conducted.</p> <p>By the end of the project.</p>	4.1. Conducting a one-week training course in Lao Cai.	International and national consultants.	<p>With IOM and UNICEF as appropriate.</p> <p>The participants to the in-service training include all focal points and anti-human trafficking unit members. Gender balance among participants should be respected.</p> <p>“Before and after training questionnaire”.</p> <p>Participants to the advanced training courses have to have participated in the basic training courses.</p>
	4.2. Conducting a one-week training course in Lang Son.		
	4.3. Conducting a one-week training course in An Giang.		
	4.4. Conducting a one-week training course in HCMC.		
	4.5. Conducting a one-week advanced training course in Hanoi.		
	4.6. Conducting a one-week advanced training course in Quang Ninh.		
	4.7. Conducting a one-week advanced training course in HCMC.		
	4.8. Conducting a one-week advanced training course in Tay Ninh.		

Inputs 4:

Government of Viet Nam:

- Release of trainees from other duties during the training courses in the project sites (VND 50 million);
- Provision of training facilities (VND 8 x 5 million = VND 40 million);

UNODC:

- International training consultant(s) (2 w/m, travel and DSA) – BL 11.52;
- Cost for freelance interpreter for 8 group trainings-BL 16.06
- National training consultant (2 w/m) – BL 16.05;
- Travel for project staff to training locations – BL 15.01;
- Costs for 8 group training courses to combat trafficking, 20 participants and 1 week each – BL 31.09;
- Printing training materials for national training courses – BL 52.01.

Output 5.	Activity	Responsibility	Remarks
International activities conducted to increase cooperation with key-countries in the region, including participation in international meetings as well as study tour(s). • By the end of the project	5.1. Organising participation of Vietnamese authorities in anti-trafficking activities undertaken at the regional and international level with a focus on law enforcement or legal issues.	UNODC Viet Nam and project management board.	Focal points and anti-human trafficking unit members are considered a priority for the international activities.
	5.2. Organising a follow-up cooperation meeting Viet Nam – China.	UNODC Viet Nam and project management board.	
	5.3. Organising a cooperation meeting Viet Nam – Cambodia.	UNODC Viet Nam and project management board.	
	5.4. Drafting reports of the international activities.	Implementing agencies	

Inputs 5:

Government of Viet Nam:

- Release of the participants to international activities from other duties;
- Issuing of necessary travel documents for the participants to international activities;
- Provision of meeting facilities for the two meetings with China and Cambodia (2 x VND 5 million = VND 10 million);
- Facilitation of travel of Chinese and Cambodian participants to the cooperation meetings.

UNODC:

- Study tour(s) to key-countries – BL 31.01;
- 2 follow-up cross-border cooperation meetings (50 participants, 2 days each)– BL 35.01
- Cost for freelance interpreters for 2 follow-up cross-border cooperation meetings- BL 16.07

Output 6.	Activity	Responsibility	Remarks
<p>By the end of the project, recommendations drafted to improve existing techniques and procedures on human trafficking case investigation, prosecution and trial. Enhanced practical experience in using obtained technical skills from project activities through application of these skills in actual case investigation, prosecution and trial.</p> <ul style="list-style-type: none"> By the end of the project (or earlier, as appropriate). 	6.1. Conducting a workshop on human trafficking case investigation, prosecution and trial to review existing investigation, prosecution and trial techniques and procedures (incl. review of closed cases). Drafting of recommendations to improve existing procedures.	PMB and UNODC	
	6.2. Application of obtained skills in 3 larger case investigations	PMB and UNODC	
	6.3 Application of obtained skills in 3 larger prosecutions	PMB and UNODC	
	6.4. Application of obtained skills in 3 larger trials	PMB and UNODC	

Inputs 6:

Government of Viet Nam:

- Provision of facilities for 1 workshop (VND 1 million);
- Release of expert personnel from other duties to participate in investigations, prosecutions and trials and support expenses for DSA, transportation, case meetings (VND 75 million);

UNODC:

- Costs for the workshop to review existing techniques and procedures, 20 participants, 2 days – BL 31.08
- Investigation, prosecution and trial support expenses, (DSA, transportation, case meetings) – BL 35.02

5. ASSUMPTIONS AND PROJECT RISKS

Successful project implementation will depend on the commitment of the Government of Viet Nam, the empowerment of existing structures and the mechanisms to be created under the project to take practical action. The strong political will displayed by the Government of Viet Nam and the commitment shown by the stakeholders are major factors in minimizing the risks of the project.

Specific risks in the project implementation could occur if the following assumptions are not met:

- Human and financial resources:
 - People participating in the project activities are released from other duties; Members of the Project Management Board as well as the National Project Director and Project Manager will not be paid by UNODC for overtime, additional work load etc. The Government is to hold these costs.
 - Motivated, experienced enough and committed focal points and anti-human trafficking unit members are selected for the project;
 - Participation of female law enforcement officers, prosecutors and judges is encouraged;
 - Salaries, working conditions and employment policies encourage the trained pool of experts to stay in the positions;
 - Domestic human and financial resources, while limited, will not impact on the sustainability of the activities initiated and structures created under the project;
 - Availability of international and national experts.
 - Participants to the advanced training courses have to have participated in the basic training courses.
- Information provision:
 - Information is released and shared among different ministries and agencies to contribute to the common goal.
- Motivation:
 - Different ministries and agencies willing and motivated to work together towards a common goal;
 - Focal points, anti-human trafficking unit members and other stakeholders remain motivated and committed to contribute to the project;
 - The Government of Viet Nam and neighboring countries keep giving attention to international cooperation.

6. PRIOR OBLIGATIONS AND PREREQUISITES

The project document will only be signed by UNODC when the following prior obligations have been met to UNODC's satisfaction.

The Government of Viet Nam will provide all inputs specified under Chapter 4 "Outputs, activities and inputs". In particular, first, it will strengthen the anti-human trafficking units within the Police and nominate and maintain other focal points in particular within the judiciary to specialize in combating trafficking in persons under the project. Furthermore, it will maintain the structures and networks during and after the project implementation and

further facilitate networking among and within law enforcement and judiciary. Second, the Government of Viet Nam will commit itself for information sharing among different ministries and agencies. Third, it will consider the ratification/accession to and implementation of the Convention against Transnational Organized Crime and the supplementing Trafficking and Smuggling Protocols.

The Government will make available the use of existing facilities and personnel required by the project and consider expanding other relevant operational law enforcement agencies and units to include anti-human trafficking activities.

Provision of assistance will be subject to UNODC assessment that the prerequisites stated above have been met or are likely to be fulfilled. When anticipated fulfillment of one or more prerequisites fails to materialize, UNODC may, at its discretion, either suspend or terminate the assistance.

7. PROJECT REVIEW, REPORTING AND EVALUATION

Review

This project is subject to examination by both the United Nations Internal Audit Division and the United Nations Board of External Auditors. Upon their request, the auditors' access to project's documentation and correspondence, accounts, expenditures and inventory records will be facilitated by the Parties to the project document.

UNODC Viet Nam Country Office can evaluate this project at any time from its start. This evaluation does not involve participation in the evaluation team by other Parties. Recommendations arising from the evaluation process will be shared with the Parties concerned. The Government will facilitate review missions by UNODC, as requested. The terms of reference, duration and purpose of any evaluation mission will be agreed upon with the Government prior to fielding an evaluation team.

The project will be subject to a final tripartite review meeting. For the tripartite meeting, the National Project Director, in cooperation with the International Technical Advisor and the National Project Coordinator and UNODC Viet Nam, will prepare a final project report, which will be circulated for comments and inputs at least one month before the end of the project.

Evaluation

An external evaluation will be carried out at the end of the project. A provision for the evaluation has been made in the budget, in budget line 16.01 (this budget shall not be used for any other purpose). The evaluation is the responsibility of the Independent Evaluation Unit.

Reporting

Regular project reviews will be carried out through the semi-annual and annual Project Progress Reports (PPR). The International Technical Advisor shall prepare semi-annual Project Progress Reports (PPR) and submit them to UNODC Viet Nam Country Office that then forwards them to UNODC HQ for review. Additional PPRs may be requested, if necessary, during the project.

These PPRs will be discussed in a Project Management Board meeting to take place two weeks after the submission of the reports.

Advocacy and awareness

Press releases and articles in national as well as international UNODC publications will be developed at appropriate times to ensure awareness of the project.

8. LEGAL CONTEXT

A. General legal framework

The Government of Viet Nam agrees that the Standard Basic Assistance Agreement (SBAA) signed on 21 March 1978 with the United Nations Development Programme shall apply, *mutatis mutandis*, to the assistance provided by UNODC under the present project document. The Government confirms, in particular, that Article IX (Privileges and Immunities) and Article X (Facilities for execution of UNODC assistance) of the SBAA shall apply to the activities under the project.

In case of conflict between the provisions of the present project document and those contained in the SBAA, the terms of the present project document shall prevail.

B. Compensation clause

It is understood by all parties concerned that UNODC is not liable to pay compensation in respect of any death or disability caused by injury or illness attributable to the performance of official duties of any staff members, consultants or other persons contracted by a United Nations agency (other than UNODC) or the Government in the implementation of this UNODC-assisted project. The respective United Nations agency or Government shall not, under any circumstances, claim from UNODC reimbursement of any amount that may have been paid by as compensation in such event. Furthermore, the respective United Nations' agency or Government hereby confirms that adequate compensation coverage for such eventualities exists, and shall apply to all persons employed by it under the present project document.

C. Property rights

The Government will defray any customs duties and other charges related to the import of equipment, its transportation, handling, storage and related expenses within Viet Nam.

UNODC-funded equipment remains UNODC property until formally transferred or disposed of, irrespective of who undertakes its procurement. UNODC-funded equipment may be transferred at any time during the life of the project or at its end. The final decision of its disposal of equipment, including the transfer of ownership remains with UNODC, who shall endeavour to make such decision in consultation with the parties concerned.

The entity to which formal ownership of UNODC-funded equipment has been formally transferred, is responsible for ensuring that the use of that equipment is strictly for purposes of the project, as agreed with UNODC, and must see to its proper maintenance.

The agency having the ownership of UNODC-funded equipment must arrange for and pay insurance coverage for such equipment.

D. Modification of project document

The project document may be modified by written agreement between the Parties concerned. Any relevant matter for which no provision is made in the programme module document shall be settled by the Parties concerned in accordance with the relevant resolutions and decisions of the appropriate organs of the United Nations.

Each Party shall give full and sympathetic consideration to any proposal advanced by the other Party under this paragraph.

E. Opt-out in case of insufficient funding

Implementation of activities by UNODC under this project is, each year, subject to the availability of adequate funding. Available funds will be committed through an annual budget allocation based on an annually costed workplan. Should required funding not be available, UNODC reserves the right to unilaterally terminate its assistance under the project.

9. PROJECT BUDGET COVERING ODC CONTRIBUTION

Activities	B/L	Description	Total		Year 1		Year 2	
			w/m	US\$	w/m	US\$	w/m	50
	11	<u>International Experts</u>						
1.-6.	11.01	Technical Advisor L-3	24.0	196,000	12.0	98,000	12.0	98,000
	11.50	<u>International Consultants</u>						
1.6-1,9 & 3.2-5	11.51	Mandate, handbook, adv. training mat. Cons.	2.0	15,000	2.0	15,000		
4	11.52	Training consultant(s)	2.0	15,000			2.0	15,000
	11.99	Total international personnel		226,000		113,000		113,000
	15.00	<u>Staff travel</u>						
1.-6.	15.01	Project staff travel to training, monitoring (travel and DSA)		18,000		9,000		9,000
	15.99	Total staff travel		18,000		9,000		9,000
	16.00	<u>Other personnel costs</u>						
1.-6.	16.01	External Evaluation (travel and report)	0,5	10,000			0,5	10,000
1.-6.	16.02	National Project Coordinator	24.0	24,000	12.0	12,000	12.0	12,000
1.-6.	16.03	Administrative Support Staff	24.0	11,000	12.0	5,500	12.0	5,500
1.6-1,9&3.2-5	16.04	Nat. Cons. mandate, handbook, adv. Train. Mat.	2.0	2,500	2.0	2,500		
4	16.05	National Training consultant	2.0	2,500			2.0	2,500
4	16.06	One interpreter for eight group trainings incl. training mat.	3.0	6,000			3.0	6,000
5.2-5.3	16.07	two freelance interpreters for two cross border meetings		1,000				1,000
	16.99	Total other personnel		57,000		20,000		37,000
	21.00	<u>Sub-contracts</u>						
2.2-2.3	21.01	Sub-contract on legal research		5,000		5,000		
	21.99	Total Component Sub-contracts		5,000		5,000		0
	31.00	<u>Individual Fellowships</u>						
5.1	31.01	Study-tour(s) to key-countries		20,000				20,000
1.6-1.8	31.02	One workshop to review recommendations (2days, 30 partic.)		5,000		5,000		
1.11	31.03	Workshops to review impl. Nat. Act. Progr, (2days,50 partic each.)		20,000		10,000		10,000
2.5	31.04	Workshop to review legal assessment report (2 days, 20 partic)		5,000		5,000		
2.7	31.05	Report launch (1 day, 40 partic)		1,000		1,000		
3.1	31.06	W/S to identify issues to be incl. in training mat. (1 day, 20 partic)		3,000		3,000		
3.7	31.07	Workshop to discuss incl. in nat. curricula (2 days, 20 partic)		5,000		5,000		
6.1	31.08	Workshop to discuss techniques/procedures (2days, 20 partic)		5,000				5,000
4	31.09	Eight group trainings (1week, 20 partic. each)		28,000				28,000
	31.99	Total Component Individual Fellowships		92,000		29,000		63,000
	35.00	<u>Group meetings</u>						
5.2-5.3	35.01	Two Cross-border co-operation meetings (2days, 50partic.each)		28,000				28,000
6.2-4	35.02	Support to investigation,prosecution trials		5,000				5,000

FS/VIE/04/R96 – Strengthening of the Legal and Law Enforcement Institutions in Preventing and Combating Trafficking in Persons in Viet Nam

	35.03	TPR		3,000		1,000		2,000
	39.99.	Component Total Training		36,000		1,000		35,000
		42 Equipment						
1.1-1.10	42.01	Expendable equipment incl. 1 vehicle and motorbikes		55,000		55,000		
1.1-1.10	42.02	Non-expendable equipment		4,000		4,000		
	49.99	Component Total Equipment		59,000		59,000		0
	50.00	MISCELLANEOUS						
1.-5.	52.01	Reporting costs for printing of publications and training materials		10,000		5,000		5,000
1.-6.	53.01	Sundries incl. rent workspace Technical Advisor		7,000		3,500		3,500
1.-6.	54.01	Communication costs (telephone, fax)		3,000		1,500		1,500
	59.99	Component Total Misc.		20,000		10,000		10,000
	90.99.	Project Subtotal		513,000		246,000		267,000
	56.00	PROGRAMME SUPPORT COSTS						
	56.01	UNDP 3%		9,200	0	4,400	0	4,800
	56.02	UNODC 13%		26,700	0	12,700	0	14,000
	56.03	UNODC 10%		30,700	0	14,800	0	15,900
		Total PSC		66,600		31,900		34,700
	99.99	PROJECT TOTAL		579,600		277,900		301,700

NB: only the BLs 11.01 & 16.01 are to be implemented by UNODC, with remaining BLs to be implemented with UNDP support

ANNEX I – TENTATIVE WORKPLAN

No.	Activity	Quarter							
		Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8
1									
1.1	Nomination of a NPD	X							
1.2	Establishment of a PMB	X							
1.3	Recruitment of Int. Technical Advisor, NPC and Admin.	X							
1.4	Choosing three additional project sites	X							
1.5	Nomination of focal points in new project sites	X							
1.6	Assessing of mandate etc. of central off. and spec. units	X							
1.7	Draft rec. on strength. coop. central off. with other minis.		X						
1.8	Draft rec. on strength. coop. special. units central/province		X						
1.9	Procurement and delivery of equipment	X	X						
1.10	Anuual workshops				X				X
2									
2.1	Development of an assessment plan		X						
2.2	Desk review		X						
2.3	Drafting of a report		X	X					
2.4	Distribution of the report to all stakeholders			X					
2.5	Holding a workshop			X					
2.6	Revise the report			X					
2.7	Distributing the finalized report at book launching ceremo			X					
3									
3.1	Workshop to identify training issues			X					
3.2	Drafting of Handbook				X				
3.3	Translation of handbook				X				
3.4	Translation and distribution of toolkit				X				
3.5	Drafting of advanced training material				X				
3.6	Translation and distribution of advanced material				X				
3.7	Holding one workshop				X				
4									
4.1	One-week training course in Lao Cai					X			
4.2	One-week training course in Lang Son					X			
4.3	One-week training course in An Giang					X			
4.4	One-week training course in HCMC					X			
4.5	One-week advanced course in Hanoi						X		
4.6	One-week advanced course in Quang Ninh						X		
4.7	One-week advanced course in HCMC						X		
4.8	One-week advanced course in Tay Ninh						X		
5									
5.1	International activities		X	X	X	X	X	X	
5.2	Cross-border cooperation mtg Viet Nam-Cambodia							X	
5.3	Cross-border cooperation mtg Viet Nam-China							X	
5.4	Drafting reports of the international activities							X	
6									

FS/VIE/04/R96 – Strengthening of the Legal and Law Enforcement Institutions in Preventing and Combating Trafficking in Persons in Viet Nam

6.1	Holding one workshop						X		
6.2	Application of obtained skills in 3 case investigations						X		
6.3	Application of obtained skills in 3 prosecutions							X	
6.4	Application of obtained skills in 3 trials							X	

ANNEX II – Logical Framework Approach

NARRATIVE SUMMARY	OBJECTIVELY VERIFIABLE INDICATORS	MEANS OF VERIFICATION	IMPORTANT ASSUMPTIONS
<p>Crime Prevention objective: To reduce the number of trafficked persons in and from Viet Nam.</p> <p>Immediate objective: The capacity of government law enforcement, prosecution and other criminal justice institutions as well as civil society responses to prevent, investigate and prosecute cases of human trafficking has been strengthened in line with the requirements of the Trafficking Protocol, Supplementing the UN Convention against Transnational Organized Crime</p>	<p>Consideration of ratification of the TOC.</p> <p>Consideration of signing and ratification of the Protocols.</p> <p>Consideration of new laws/amendments of existing laws.</p>	<p>Final evaluation.</p> <p>Review of the legislative agenda of the National Assembly.</p> <p>Signature/ratification submitted in accordance with the TOC/Protocols.</p>	<p>The Government’s and National Assembly’s legislative agendas not full and no other internal hindrances concerning ratification.</p>
<p>Output 1: The capacity of the Central Coordination Office and specialized anti-human trafficking units strengthened in accordance with the newly approved “National Action Programme on Human Trafficking 2004-2010”</p>	<p>The Central Coordination Office and specialized anti-human trafficking units developed in line with recommendations from this project</p> <p>Equipment provided to the the Criminal Police Department and the Border Army</p> <p>Two annual review workshops of implementation of National Action plan conducted</p>	<p>Recommendations drafted</p> <p>Equipment provided</p> <p>Review workshops conducted</p>	<p>There is a political will to adopt changes in mandate and structure of these institutions</p> <p>No disagreement between Government agencies on how to divide equipment</p> <p>No other agencies/projects conduct similar activity</p>

FS/VIE/04/R96 – Strengthening of the Legal and Law Enforcement Institutions in Preventing and Combating Trafficking in Persons in Viet Nam

NARRATIVE SUMMARY	OBJECTIVELY VERIFIABLE INDICATORS	MEANS OF VERIFICATION	IMPORTANT ASSUMPTIONS
<p>Output 2: A comprehensive legal assessment report on existing Vietnamese legislation in the light of the Smuggling Protocol to ascertain the capacity of the State to ratify and implement the Protocol and to support the design of legislative and other measures required to ratify and subsequently implement the Protocol.</p>	<p>A report on the existing legislation published.</p> <p>Gaps between the existing legislation and TOC and its supplementing Protocols identified.</p> <p>Recommendations made to draft new laws/amend the existing ones to fill in the gaps.</p>	<p>Review of the report on legislation.</p> <p>Review of the reports by the subcontracted institute.</p> <p>Review of the recommendations made in the workshop.</p> <p>Comparison of the report by the subcontracted institute and the recommendations of the workshop.</p>	
<p>Output 3: Existing training material modified and expanded upon, including drafting of a “ Human Trafficking Handbook for Law Enforcement Officers” and a “Toolkit on Human Trafficking”, for the law enforcement, immigration and the judiciary to combat and punish trafficking in persons. All material will be included in the present curricula at the Police Academy, Prosecution College, Border Army Academy and Court College.</p>	<p>Availability of training material and tools.</p> <p>Use of the developed material and tools in national training courses.</p>	<p>Review of the material and tools.</p> <p>Evaluation of the training material and tools after the training courses under the project.</p> <p>Monitoring of the national training courses.</p>	<p>International and national experts available.</p> <p>There is a will in the training institutions to include all the training materials in their curricula and that there are no rules which hinder the inclusion</p>
<p>Output 4: Four in-service training sessions conducted for law enforcement, immigration, prosecution and judges as well as other relevant officials, including representatives of the civil society, using the material developed under output 3. Four advanced in-service training sessions conducted.</p>	<p>8 training sessions conducted. Distribution of training materials.</p> <p>A minimum of 100 people trained on anti-human trafficking under the project.</p> <p>Improved knowledge on anti-trafficking.</p>	<p>Monitoring reports.</p> <p>Evaluation of the training.</p> <p>Before and after training questionnaires assessing the knowledge of focal points and anti-human trafficking unit members.</p> <p>Review of consultancy reports.</p> <p>Monitoring reports.</p>	<p>It is made clear that the “before and after training” questionnaires are treated as confidential.</p> <p>The Government provides facilities for the training.</p> <p>Relevant Government officials released for training.</p>

FS/VIE/04/R96 – Strengthening of the Legal and Law Enforcement Institutions in Preventing and Combating Trafficking in Persons in Viet Nam

J. NARRATIVE SUMMARY	OBJECTIVELY VERIFIABLE INDICATORS	MEANS OF VERIFICATION	IMPORTANT ASSUMPTIONS
<p>Output 5: International activities conducted to increase cooperation with key countries in the region ,including participation in international meetings as well as study tour(s)</p>	<p>2 cross-border meetings conducted.</p> <p>Increase in joint international investigations.</p> <p>Initiation of international cooperation in legal matters.</p> <p>Participation of Vietnamese experts in international activities with the focus on law enforcement and legal matters.</p>	<p>Review of the meeting report.</p> <p>Statistics before and after project implementation.</p> <p>Review of reports of participants to the international activities.</p>	<p>Statistics available and reliable to a certain extent.</p> <p>Continued willingness of Viet Nam and neighboring countries to co-operate.</p>
<p>Output 6: By the end of the project, recommendations drafted to improve existing techniques and procedures on human trafficking case investigation, prosecution and trial. Enhanced practical experience in using obtained technical skills from project activities through application of these skills in actual case investigation, prosecution and trial.</p>	<p>1 workshop conducted.</p> <p>Reccommendations drafted.</p> <p>Application of obtained skills in 3 case investigations, 3 prosecutions and 3 trials.</p>	<p>Workshop conducted.</p> <p>Recommendations available.</p> <p>Review of judgments by courts and police reports (summaries)</p>	<p>Judgments and police reports will be shared with UNODC in a summary form</p>

ANNEX III

Terms of Reference

International Technical Advisor

PROJECT TITLE AND NUMBER: Strengthening of the Legal and Law Enforcement Institutions in Preventing and Combating Trafficking in Persons in Viet Nam (FS/VIE/04/R96)

DUTY STATION: Hanoi, Viet Nam

LEVEL L-3

DURATION: 2 years, full-time (1 October 2005 - 30 September 2007)

DUTIES AND RESPONSIBILITIES:

The International Technical Advisor will under the general direction of the UNODC Representative in Viet Nam, assist the UNODC Viet Nam Country Office in maintaining overall responsibility for the project's day-to-day operation, and report to both UNODC and the Government. In particular, s/he will carry out the following tasks:

- 1) To oversee the financial management of the project budget
- 2) To design, organize and coordinate activities as mentioned in the project document
- 3) To prepare terms of references and initiate recruitment of project personnel and consultants/experts
- 4) To monitor ongoing project implementation by actively liaison with the government counterparts and all project staff
- 5) To provide technical legal and law enforcement advise to support project implementation
- 6) To undertake regular field visits for monitoring and advisory purposes
- 7) To prepare project progress reports including semi-annual and annual project progress reports, TPR reports and project terminal reports on a regular and on an ad-hoc basis
- 8) To respond to all requests or calls for information relating to the project coming from both domestic and international sources, and to promote project activities within the international development community
- 9) Any other duties as assigned by the UNODC Country Representative

QUALIFICATIONS:

- Advanced university degree in law and/or law enforcement, political or social sciences, international relations or similar academic background
- 4 years of professional experience in international, government or private sector institutions, preferably within the legal and law enforcement area
- Thorough knowledge of human trafficking
- Experience in technical cooperation and project management
- Prior experience in working with the United Nations system is preferred
- Experience working in Southeast Asia in general, and in Viet Nam in particular is regarded as an advantage
- Fluency in both spoken and written English and excellent intercultural communication skills are required

ANNEX IV

Terms of Reference

National Project Coordinator

PROJECT TITLE AND NUMBER:	Strengthening of the Legal and Law Enforcement Institutions in Preventing and Combating Trafficking in Persons in Viet Nam (FS/VIE/04/R96)
SERVICES:	Provide operational management and administrative support to the Government of Viet Nam in implementing the project
DUTY STATION:	Hanoi, Viet Nam
DURATION:	2 years (full time)
DUTIES AND RESPONSIBILITIES:	

The National Project Coordinator will under the general direction of the UNODC Viet Nam Country Office assist the International Technical Advisor and National Project Director in providing operational management and oversee all aspects of the project. S/he will be responsible for effective operations of the project, for monitoring of progress and for providing data for international consultants and relevant agencies, as required. In particular, s/he will assist the International Technical Advisor and the National Project Director in carrying out the following tasks:

1. Providing operational management of the project in accordance with the project document;
2. Coordinating all local administrative matters, including setting up and running an office structure for the project, and providing assistance to consultants, as required;
3. Liaising with ODC, the implementing agencies and other involved ministries and agencies as well as civil society;
4. Maintaining a list of focal points and anti-human trafficking unit members, their contact information and training records to enable networking;
5. Implementing specific tasks of the project, including making all arrangements for the workshops and in-service training sessions to be conducted under the project;
6. Arranging to evaluate effectiveness of workshops, in-service training sessions, group meetings and the subsequent use by staff of the skills developed;
7. Preparing, updating and regularly revising the project workplan in cooperation with UNODC Viet Nam Country Office;
8. Collecting statistical information as required;
9. Assist in preparing and ensuring timely submission of the Project Progress Reports (PPR) and any other required progress report prepared by project personnel or experts, as required. The PPR should be drafted in accordance with the manual of Nationally Executed Projects in Viet Nam;
10. Providing support to the executing agencies relating to UN financial, technical and administrative procedures, rules and regulations;
11. Other tasks as required.

QUALIFICATIONS REQUIRED:

- Excellent written and spoken English;
- A minimum of 10 years of academic and/or professional experience in law enforcement or legal work in Viet Nam;
- Experience in project management/administration; ability to work independently and as a member of a team;

- Well developed communication skills to liaise and negotiate with the implementing agencies;
- Computer literacy; good communication skills; report writing skills;
- Previous work experience with the UN an asset.

ANNEX V

Terms of Reference

Administrative Support Staff

PROJECT TITLE AND NUMBER: Strengthening of the Legal and Law Enforcement Institutions in Preventing and Combating Trafficking in Persons in Viet Nam (FS/VIE/04/R96)

SERVICES: Provide administrative support to the Government of Viet Nam in implementing the project

DUTY STATION: Hanoi, Viet Nam

DURATION: 2 years (full-time)

DUTIES AND RESPONSIBILITIES:

The Administrative Support Staff will under the general direction of the UNODC Viet Nam Country Office, the International Technical Advisor and the National Project Coordinator assist the National Project Director in providing administrative support to the project. S/he will be responsible for various administrative support services. In particular, s/he will assist the International Technical Advisor and the National Project Coordinator in carrying out the following tasks:

1. Providing administrative support in accordance with the project document;
2. Assisting in all local administrative matters, including setting up and running an office structure for the project, and providing assistance to consultants, as required;
3. Maintaining a list of focal points and anti-human trafficking unit members, their contact information and training records to enable networking;
4. Assisting in implementing specific tasks of the project, including making administrative arrangements for the workshops and in-service training sessions to be conducted under the project;
5. Assisting in the preparation, updating and revision of the project workplan in cooperation with UNODC Viet Nam Country Office;
6. Assisting in the preparation and timely submission of the Project Progress Reports (PPR) and any other required progress report prepared by project personnel or experts, as required. The PPR should be drafted in accordance with the manual of Nationally Executed Projects in Viet Nam;
7. Assisting in providing support to the executing agencies relating to UN financial, technical and administrative procedures, rules and regulations;
8. Other tasks as required.

QUALIFICATIONS REQUIRED:

- Good written and spoken English;
- Background in administrative work within law enforcement or legal issues in Viet Nam;
- Some experience in project administration; ability to work independently and as a member of a team;
- Computer literacy;
- Experience with development issues and administration of foreign aid project; previous work experience with the UN an asset.

ANNEX VI In-Kind Contribution from Vietnamese Government

Act.	Description	Total (VND)
1.1-11	Project office, facilities (10 million VND*24month)	(240million)
4.1-4.8	Release of trainees for training courses from other duties	(50million)
Total		US\$18,420 (VND 290 Million)

ANNEX VII In-Cash Contribution from Vietnamese Government

Act.	Description	Total (VND)
1.1-11	Cost for communication (fax, telephone)	(5million)
1.1-11	Release of members/focal points from other duties during project act.	(20million)
1.7-1.8	Facilities for the mandate recommendations workshop	(1million)
1.11	Facilities for the two annual workshops to review impl. Nat. Action Progr.	(5million)
2.5	Facilities for the workshop to formulate recommendations on legislative needs	(1million)
3.1	Facilities for the workshop on issues to be included in training material	(1million)
3.7	Facilities for the workshop to discuss inclusion in curricula	(1million)
4.1-4.8	Facilities for the eight training courses (5 million VND*8)	(40million)
5.2-5.3	Facilities for the two cross border cooperation meetings (5 million VND*2)	(10million)
6.2-6.3-6.4	Support expenses for 03 significant cases investigation, prosecution and trial	(75million)
Total		US\$10,099 (VND159 Million)

Total contribution: VND 449,000,000 (US\$28,519)