EXECUTIVE SUMMARY

TRAFFICKING IN PERSONS

IOM

**1. Concept.** With respect to the definition of trafficking in persons, the following is recommended:

a) **Unify the concept** of trafficking in persons within the region comprised of the Member Countries of the Regional Conference on Migration (RCM), using as a basis the definition set forth in Article 3(a) of the Protocol to Prevent, Suppress, and Punish Trafficking in Persons. This concept is important, since during the past decade it has served as a model for designing penal definitions that sanction trafficking in persons, as well as the evaluation parameter used by the United States government in its Trafficking in Persons Reports. A unified concept can allow better identification, appraisal, and diagnosis of actual cases of human trafficking in relation to other crimes which, although similar, involve exploitation but not the process of trafficking in persons.

**2. Identification of Cases.** The following recommendations are made regarding this aspect:

a) Create and develop a **regional level mapping** to determine the presence of criminal networks operating in the region, their *modus operandi*, routes, and victim and victimizer profiles, for purposes of establishing a more effective criminal policy related to governmental efforts to combat trafficking and the organization of resources. The mapping process should be based on the gathering of data that is submitted to the process of tactical and strategic intelligence. This tool will in turn generate the development of the profiling technique that is already being applied in several countries in the region, specifically the profiling of suspicious persons and potential locations and routes for recruitment, transport, harboring, and exploitation, among other aspects. This profiling capacity will then facilitate the implementation of an *Early Warning System* that serves to ‘notify’ when the presence of human trafficking situations is detected, with such notification being sent to the corresponding response units. Actions are currently local or regional, but intermittent and not structured with respect to the information required to create a common armor against trafficking networks that can prevent their arrival or detect their presence in the region’s countries. It should be taken into account that the region comprised of the RCM Member Countries constitutes a ‘trade market’ for said networks, whether as the countries of origin, transit, or destination for the victims.

b) Create a **regional database** with intelligence information that can be used by officials in charge of investigating and prosecuting the crime of trafficking in persons, with the necessary controls, security, and level of confidentiality. Existing technological platforms at the regional level can be used to create a structure similar to that used by INTERPOL to handle dissemination and information in general. Assistance can be requested from INTERPOL for this purpose, as it uses this type of technological platform very effectively.

**3. Institutional Organization**

With respect to organizational structures, the following is recommended:

The Regional Coalition against Trafficking in Persons, in coordination with the Regional Conference on Migration, should establish the agreement mechanisms necessary to include in the agenda a proposal for a more dynamic and efficient **organizational and financial model** for the governmental agencies in charge of creating and executing measures for addressing the issue of trafficking in persons. The main tool for achieving this objective is the sharing of experiences and guidance by specialists from the different countries related to creating and managing this type of administrative body and its financial resources. For such purposes, the agreements set forth in the Memorandum of Understanding between the Governments of El Salvador, Guatemala, Honduras, Nicaragua, Panama, and the Dominican Republic can be used as a reference. Along with other regional instruments, said agreements set forth execution of the 2015 Regional Framework for Comprehensively Addressing the Crime of Trafficking in Persons.

In addition to the good intentions and disposition of the persons involved in a comprehensive approach, combatting human trafficking requires considerable financial resources, and thus a more efficient mechanism must be established to obtain such resources. Legislation on trafficking in persons generally refers to funds from governmental allocations, donations, the sale of confiscated property, and other similar sources. In practice, however, it is difficult to obtain rapid access to these resources, some of which never materialize. The experience of Costa Rica could be a good example, with the pertinent adjustments, to obtain a financial model that facilitates prevention and prosecution of this crime, and especially assistance and protection for its victims.

**4. National Policies and Action Plans**

The following recommendations are made regarding this aspect:

The Regional Coalition against Trafficking in Persons, in coordination with the Regional Conference on Migration, should propose on their agendas the creation and implementation of a **Regional Strategic Plan** against trafficking in persons, with actions, execution timeframes, and monitoring systems based on the reasons set forth in the Memorandum of Understanding between the Governments of El Salvador, Guatemala, Honduras, Nicaragua, Panama, and the Dominican Republic, which set forth execution of the 2015 Regional Framework for Comprehensively Addressing the Crime of Trafficking in Persons.

*Note: After delivering the set of recommendations, I found out that ECPAT Guatemala and the Danish organization IBIS proposed a consulting process to develop, among other products, a Regional Strategic Plan for the Regional Coalition, which I believe is to commence in 2017.*

**5. Dissemination of Information.** It is recommended that:

The Regional Coalition against Trafficking in Persons, in coordination with the Regional Conference on Migration, should propose on their agendas the creation and implementation of a **regional dissemination program focusing on ‘grassroots communication’** and based on the experiences of several countries in the region, such as Guatemala, El Salvador, and Nicaragua, among others. The grassroots focus refers to direct contact with communities, health clinics, schools, businesses, and other entities with clear and differentiated messages that explain to the target audience the reality of human trafficking and how to identify and prevent this crime.

**6. Legislation.** It is recommended that:

The Regional Coalition against Trafficking in Persons, in coordination with the Regional Conference on Migration, should encourage the holding of meetings among law enforcement agencies in the region for purposes of analyzing options for:

a) **Harmonizing penal definitions** of criminal conduct and sanctions, using as a basis the definition set forth in Article 3(a) of the Protocol to Prevent, Suppress, and Punish Trafficking in Persons.

b) **Analyzing the legal framework** regarding trafficking in persons with respect to **related crimes**, especially those committed with the same objectives (labor exploitation, forced labor or services, bonded marriage, sexual exploitation, illegal trafficking of human organs, tissues, and fluids, among others), in order to establish harmonious parameters in regional legislation.

c) Reviewing specialized legislation in order to **align the essential procedural figures** related to investigating the crime of trafficking in persons and the migratory and administrative provisions that favor migratory protection and assistance for victims.

d) Carrying out the necessary formalities to promote **legislative amendment processes** where so required.

e) Creating or improving a **database** or website at the regional level to allow access to each country’s complete and updated legal framework related to human trafficking. It is important that one or more persons be assigned to the updating process.

**7. Investigation and Prosecution**

The following recommendations are made regarding this aspect:

Promote meetings of the heads of specialized investigative and prosecution units for purposes of establishing, through the sharing of experiences:

a) A reference framework that facilitates **the harmonized development of investigative techniques** that are better suited to addressing cases involving human trafficking.

b) An **inventory of the best resources** needed to amplify the positive results related to the investigation of trafficking in persons and related crimes. This refers to structural, human, technical, and logistical resources.

c) An **initial agreement to share experiences, training, and resources** that can support investigations in all of the countries.

d) An analysis of **the mechanism for detecting and identifying trafficking cases** that investigative units require to achieve better results, and how to implement it in each country.

e) Mechanisms for improving **the communication channels between countries**, especially for relaying sensitive information that can not be sent through conventional channels that could be subject to intentional or accidental hacking.

f) A way to **standardize the process for requesting and providing judicial assistance** related to cases involving human trafficking, establishing the Public Ministries as the sole central authority in the most frequently used international instruments, as well as a single format to be used for assistance requests that includes the English-speaking countries. It is essential to strengthen the process for appointing and maintaining the liaison officials who facilitate the communication of information and the solution of the various situations related to this type of cooperation.

**8. Victim Assistance and Protection**

Based on the existing provisions of international agreements and specialized legislation, the following recommendations are made.

a) Establish a reference framework, based on consensus among representatives from each country, to create a **catalogue of services** required by victims from the outset, taking into account all the variables experience has shown from actual cases. If one or more countries already have such information and have successfully put it into practice, these elements can be used as a basis for discussion. Likewise, it is important to invite doctors, psychologists, social workers, and experts in victim assistance who can provide a broader perspective. The objective is to create a base model for a **procedures manual** for personnel in charge of assistance, along with a petition for decision-makers regarding the essential resources needed for managing this type of process. It should be remembered that a single trafficking case can involve from five to seventy victims, although *statistically there have been cases with many more victims*.

b) Standardize the **model for assisting victims**, who may be women, men, minors, disabled persons, and elderly persons, among others. This point refers especially to interviewing techniques and the use of interpreters.

c) Create a **regional bank or database of interpreters** of different languages who can communicate with victims, or even participate in criminal proceedings as experts by way of *video conferences* or *visual calls*. For such purposes, it is very important that each country have at least one center or facility with video conference equipment (there now exist mobile versions of such equipment).

d) Analyze the best options for applying the **repatriation process**, especially with respect to financial resources, and submit the necessary proposals to the respective authorities at the national and regional levels.

*Note: After delivering the set of recommendations, I found out that ECPAT Guatemala and the Danish organization IBIS have proposed the creation of a regional protocol on repatriation, the development of which I believe is to commence in 2017.*

e) Analyze and propose the best options for **managing victim assistance services** (for example, the institutional model in which governmental institutions are the ones that provide assistance in different locations), and the best options for lodging, meals, clothing, etc. (for example, the commercial support model, in which businesses, based on a prior agreement, provide the lodging and materials needed by victims). Each option should be subjected to a cost-effectiveness evaluation. For this type of analysis, the presence of experts in finances, assistance, lodging, etc., is essential.

f) Create, improve, or fine-tune a **permanent protocol** that establishes the process to be followed with victims of trafficking with respect to **access to justice**. This implies support and follow-up from a legal representative (free of charge) from the moment the victim is identified, throughout the process (if the victim participates), and subsequently during the victim’s reintegration into her/his family, community, and work settings. This includes an ongoing guarantee of **restitution of her/his rights** and assistance with all legal matters related to her/his status as a crime victim.

g) Strengthen **victim and witness protection programs** for victims of trafficking in persons with **two basic protocols**: 1) Action mechanisms for authorities who deal with trafficking victims who are witnesses in the criminal proceedings that investigate the facts related to their victimization. In such cases, the assistance for this type of victim-witness differs from the conventional security protocols observed by such programs. 2) Actions the authorities should take when a victim of trafficking does not participate in the criminal proceedings for whatever reason, but still requires protection.

h) Apply the mechanisms for **comprehensive redress of damages** that are established in the trafficking legislation existing in each country in the region. With respect to this particular point, what is required is not the creation of additional laws or other provisions, but rather the enforcement of existing statutes. It seems that what is required here is awareness-raising and training for judicial officials on this topic.

i) Create or improve and harmonize a **victim reinsertion and reintegration program** that includes personnel who ‘accompany’ the victims on a real and effective basis. Each victim requires a follow-up process from the moment she/he is identified during any of the phases of the trafficking process, in order to guarantee the proper assistance is provided by all the entities involved. This process culminates in the critical phase of **social reinsertion**, where the application of a series of measures is guaranteed to prevent revictimization in the family, community, labor, and academic settings. It is important that the same team of trained personnel remain in charge of the entire process, in order to allow the victim to establish the necessary trust and support ties. The accompanying personnel should have access to assistance services in order to ensure that the victim is assisted and listened to, and should also remain in contact with the victim’s assistance lawyer to deal with any legal matter that may arise during the process.