

For discussion
on 5 June 2018

Legislative Council Panel on Security

Steering Committee and Action Plan to Tackle Trafficking in Persons and to Enhance Protection of Foreign Domestic Helpers in Hong Kong

This paper briefs Members on the establishment of the Steering Committee and the promulgation of the Action Plan to Tackle Trafficking in Persons (“TIP”) and to Enhance Protection of Foreign Domestic Helpers (“FDHs”) in Hong Kong (“the Action Plan”).

Background

2. The Hong Kong Special Administrative Region (“HKSAR”) Government has always been fully committed to combatting TIP and protecting FDHs through multi-faceted measures. As the potential threats of trafficking posed by transnational organised crime syndicates continue to evolve, we have continued to identify necessary new measures in response over the years. Hong Kong addresses TIP through various pieces of local legislation. The conduct of TIP as defined in the Palermo Protocol¹ is covered and effectively prohibited by various pieces of legislation in Hong Kong, encompassing offences such as physical abuse, false imprisonment, criminal intimidation, unlawful custody of personal valuables, child abduction, child pornography and exploitation of children, illegal employment, etc. Some of the offences attract penalty of up to life imprisonment. A list of these offences is at Annex A. For more details of the legislative framework for combatting TIP, please refer to LC Paper No. CB(2) 1480/17-18 (06).

¹ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children supplementing the United Nations Convention against Transnational Organised Crimes

The Steering Committee

3. In March 2018, a high-level inter-bureau/departmental Steering Committee to Tackle TIP and to Enhance Protection of FDHs in Hong Kong (“Steering Committee”) was established. To ensure that policy steer on overall strategy and strategic measures to tackle TIP and enhance protection of FDHs are available to relevant bureaux and departments (“B/Ds”) from the most senior echelon of the Government and that sufficient resources are provided to B/Ds, the Steering Committee is chaired by the Chief Secretary for Administration, with the Secretary for Security and the Secretary for Labour and Welfare as the vice chairmen. Membership and Terms of Reference of the Steering Committee are at Annex B.

The Action Plan

4. At the same time, the Government promulgated the Action Plan, which outlines a package of multi-faceted measures that are comprehensive, strategic and targeted, covering areas including victim identification, investigation, enforcement, prosecution, victim protection and support, prevention, and partnership with different stakeholders. The Action Plan is at Annex C. Key initiatives of the Action Plan are elaborated in the following paragraphs.

Victim Identification

5. The Government first introduced a TIP victim screening mechanism in 2015 in the Immigration Department (“ImmD”). The mechanism was then gradually implemented by the Hong Kong Police Force (“Police”) in some Police districts in 2016 and 2017, and also by the Customs and Excise Department (“C&ED”) in 2017.

6. Under the mechanism, officers concerned will first conduct initial screening on vulnerable persons (e.g. illegal immigrants, sex workers and FDHs) whom they come into contact during daily operations, and look for any indicators that the person might be a potential TIP victim. If yes, officers concerned will conduct full debriefing following a standardised checklist to ascertain the presence of human trafficking elements, such as threat and coercion in the recruitment phase, and the nature of exploitation.

Identified TIP victims will then be referred to relevant departments for follow-up actions and will be provided with necessary protection and support according to their individual situations, such as urgent intervention, medical services, counselling, shelter and other supporting services.

7. Pursuant to the Action Plan, the Police will extend the mechanism to all 24 police districts within 2018. The Labour Department (“LD”) also plans to extend the screening mechanism to the branch offices of its Labour Relations Division, such that FDHs potentially being exploited or abused can be identified at an early stage, and those possibly facing greater dangers (e.g. being physically abused) can have their cases referred to law enforcement agencies (“LEAs”) at the earliest possible time for investigation. LD also plans to set up an FDH division to coordinate efforts within the department in educating FDHs their rights and channels to seek assistance where necessary.

Investigation and Enforcement

8. In 2016, the Guidelines on Inter-departmental Cooperation for the Handling of Suspected Cases of Trafficking in Persons were issued to relevant departments. Under the Guidelines, cases identified to involve potential TIP victims under the victim screening mechanism mentioned in paragraph 6 above or otherwise suspected to involve TIP crimes are referred to the Organised Crimes and Triad Bureau (OCTB) of the Police for co-ordination and follow-up actions. The Guidelines also set out the general principles and procedures on inter-departmental coordination and in other areas of handling potential TIP cases (e.g. providing necessary support to victims, etc.)

9. Following promulgation of the Action Plan, we will review the above Guidelines, make necessary adjustments based on operational experience so far, and incorporate new measures set out in the Action Plan.

10. To strengthen coordination, the Police will assign one team from OCTB and one Regional Crime Unit from each of the six Police regions to take up the role as the dedicated teams to handle TIP and exploitation of FDHs related cases later this year. OCTB will continue to be the overall coordinator of the Police on TIP enforcement and will be expanded to enhance the capacity in monitoring the trend of TIP crimes, formulating enforcement strategies, liaising with internal and external stakeholders (e.g.

consulates, LEAs of other jurisdictions, etc.), and providing training to other units in the Police. Relevant B/Ds will also appoint or set up dedicated teams or officers to handle cases relating to TIP and exploitation of FDHs in order to strengthen investigation and enforcement efforts on relevant crimes, as well as inter-departmental coordination where needed.

Prosecution

11. Since April 2017, the Department of Justice (“DoJ”) has set up a designated desk to oversee and coordinate cases involving TIP issues handled or submitted by various LEAs for legal advice.

12. With the implementation of the Action Plan, DoJ will expand the designated desk to strengthen its coordination and monitoring role and to ensure that potential victims of TIP cases will be given necessary assistance and immunity in the related criminal proceedings where the circumstances permit.

13. In a similar vein, LD will accord priority to strengthening manpower to handle the increased caseload arising from the Employment (Amendment) Ordinance which came into effect on 9 February 2018.

Victim Protection and Support

14. Various government departments have been providing necessary protection and suitable assistance to victims. Depending on the circumstances of individual cases, such protection and support may include –

- (a) witness protection programme;
- (b) request for overseas LEAs to provide assistance to victims and families in their home country;
- (c) shelter², medical services, psychological support, counselling and financial assistance, etc.;

² The Multi-purpose Crisis Intervention and Support Centre (the CEASE Crisis Centre), fully funded by the HKSAR Government, is the designated centre for handling TIP victim cases. Shelter service, counselling, and other material assistance, as deemed necessary, would be arranged for victims in need and are free of charge. These services are fully funded by the Social Welfare Department (“SWD”). The operator (a non-governmental organisation (“NGO”)) is required to provide service complying with the performance standards stipulated in the Funding and Service Agreement set out by SWD. Their performance is subject to government's monitoring and regular review.

- (d) publicly-funded interpretation during enquiry, investigation and court proceedings (including in the Labour Tribunal);
- (e) financial assistance to enable victims residing overseas to return to Hong Kong to testify as witnesses (covering expenses including accommodation, passage, daily subsistence and visa processing fees, etc.);
- (f) visa extension and waiver of visa fees for victims who need to stay in Hong Kong to act as prosecution witnesses in legal proceedings instituted by the Police, ImmD or LD; and
- (g) exceptional approval for FDHs to change employer while in Hong Kong when there is evidence suggesting that they are being exploited or abused by their employers.

15. Depending on the facts and circumstances of individual cases and subject to pre-conditions being satisfied, when the situation so warrants, DoJ will grant victims immunity from prosecution for crimes committed as a result of being trafficked or exploited.

16. Following the promulgation of the Action Plan, the Government will continue to provide holistic protection and suitable assistance to TIP victims and FDHs abused or exploited, and keep them under review for necessary enhancements.

17. To strengthen support to FDHs, LD is liaising with the Efficiency Unit to set up a dedicated hotline with interpretation service to provide one-stop services to FDHs, including providing advice on FDHs' rights and obligations; referring any requests for conciliation services for employment claims or complaints against employment agencies ("EAs") to designated officers in LD; and referring or advising FDHs subject to exploitation or physical abuse to seek assistance from LEAs. The hotline is expected to be set up within 2018.

18. The Government will also strengthen liaison with NGOs to enhance promotion amongst vulnerable groups on available support services to victims (e.g. the production of multi-lingual hand-out cards on essential information on support services).

Prevention

19. Capacity building for officers in relevant B/Ds is crucial to the successful implementation of the overall strategy of tackling TIP and enhancing protection of FDHs. In this regard, the Government has been providing relevant training to more officers of LEAs, LD, SWD and prosecutors of DoJ over the years. In 2017, over 1 800 government officials received local or overseas TIP-related training, almost doubling the number receiving similar training in 2016.

20. Currently, relevant LEAs have included the theme of TIP into their induction training for new recruits. LD has also included training on relevant labour legislation (e.g. protection against child labour and prohibition of exploitation such as non-granting of statutory holidays and underpayment of wages, etc.) into the training programme for its officers. Specialised training programmes were also organised for responsible officers in LEAs, LD and DoJ.

21. The Government will continue to provide suitable training to staff of relevant B/Ds to enhance their awareness of TIP, the way to detect and identify TIP victims or FDHs being abused or exploited, and to enhance their investigation skills in respect of such cases. We also plan to develop information packs for government officials who are more likely to come across TIP victims or exploited FDHs.

22. Separately, to enhance public awareness of TIP and protection of FDHs, we plan to run targeted awareness campaigns via different channels, including websites, social media, etc. Besides, we will also make effort to raise FDHs' awareness of their legal rights and channels to seek assistance when needed.

23. At present, FDH employers with adverse record of abusing or exploiting FDHs will not normally be considered eligible for employment of FDHs again, and their applications will normally be refused. ImmD will keep the practice under review.

Partnership

24. The Government fully understands that TIP cannot be properly tackled without joining hands with the civil society, other sectors of the community and other governments. In this regard, the Government will foster closer partnership with major source countries of FDHs to address problems that cannot be resolved by Hong Kong alone (e.g. debt bondage), and to promote our new and existing measures for protecting FDHs working in Hong Kong.

25. At the same time, LEAs will engage with their overseas counterparts on joint-investigation and intelligence sharing. We will also continue to maintain close liaison with relevant consulates in Hong Kong, as well as to actively participate in international or regional events and workshops to identify the best practice to combat TIP.

Conclusion

26. The setting up of a high-level Steering Committee demonstrates the Government's renewed commitment and resolve in combatting TIP and protecting FDHs, ensuring that our strategy is comprehensive, measures are targeted, and that sufficient resources are provided to relevant B/Ds for taking forward various strategic measures. Suitable publicity measures will be mounted to heighten public awareness of TIP. The Steering Committee will review implementation of this Action Plan regularly to ensure the progress and to identify further measures for implementation as necessary. Additional resources requirements arising from these plans will be sought following established procedures.

**Security Bureau
Labour and Welfare Bureau
Department of Justice
May 2018**

Offences Relating to Trafficking in Persons, Forced Labour and Slavery

Legislation	Section	Offence	Maximum Penalty
Employment Ordinance (Cap. 57)	60(6)	Unlicensed operation of employment agency	A fine of \$350,000 and imprisonment for 3 years
	60(7)	Overcharging by employment agency	A fine of \$350,000 and imprisonment for 3 years
	63	Failure to grant any rest day	A fine at level 5
	63C	Offences relating to time and payment of wages	A fine of \$350,000 and imprisonment for 3 years
Employment of Children Regulations Cap. 57B	4	General prohibition of employment of children	A fine at level 5
Stowaways Ordinance Cap. 83	3(a)	Being on board any ship in the waters of Hong Kong with intent to obtain in passage therein without the consent of the owner	A fine of HK\$ 1,000 and Imprisonment for 9 months
	3(b)	Arriving in the waters of Hong Kong on board any ship, having obtained a passage therein to Hong Kong without the consent of the owner	
Immigration Ordinance Cap. 115	17I	Employing person not lawfully employable	A fine of HK\$ 350,000 and imprisonment for 3 years
	17J	Offence of employers failing to inspect documents of new employee	A fine of HK\$ 150,000 and imprisonment for 1 year
	17K, 17LA	Offence of employers failing to keep or produce for inspection a record or list of employees	A fine at level 5
	37C	Offence by crew etc., of ship carrying unauthorized entrants	A fine of HK\$ 5,000,000 and imprisonment for 14 years
	37D	Arranging/assisting passage to or within Hong Kong of unauthorized entrants	A fine of HK\$ 5,000,000 and imprisonment for 14 years
	37DA	Assisting unauthorized entrant to remain	A fine of HK\$ 500,000 and imprisonment for 10 years

Legislation	Section	Offence	Maximum Penalty
	38(l)(b) ¹	Remaining in Hong Kong without the authority of the Director of Immigration after having landed unlawfully	A fine at level 4 and imprisonment for 3 years
	39	Liability of captain of ship carrying persons seeking to land unlawfully	A fine of HK\$ 600,000 and imprisonment for 7 years
	41 ¹	Breach of conditions of stay	A fine at level 5 and imprisonment for 2 years
	42 ¹	Making false statements, forgery of documents and using and in possession of forged, false or unlawfully obtained or altered travel document	A fine of HK\$ 150,000 and imprisonment for 14 years
Crimes Ordinance Cap. 200	24	Criminal intimidation	Imprisonment for 5 years
	25	Assaults with intent to cause certain acts to be done or omitted	Imprisonment for 5 years
	71-74	Making or copying or using a false instrument or copy of a false instrument	Imprisonment for 14 years
	129	Trafficking in persons to or from Hong Kong for the purpose of prostitution	Imprisonment for 10 years
	130	Control over persons for purpose of unlawful sexual intercourse or prostitution	Imprisonment for 14 years
	131	Causing prostitution	Imprisonment for 10 years
	137	Living on earnings of prostitution or others	Imprisonment for 10 years
Offences Against the Person Ordinance Cap. 212	17	Shooting or attempting to shoot, or wounding or striking with intent to do grievous bodily harm	Imprisonment for life
	19	Wounding or inflicting grievous bodily harm	Imprisonment for 3 years
	39	Assault occasioning actual bodily harm	Imprisonment for 3 years

¹ The arranger may be charged (subject to evidence) with section 89 of Criminal Procedure Ordinance (Cap. 221) "aiding, abetting, counseling or procuring" to the substantive offence.

Legislation	Section	Offence	Maximum Penalty
	40	Common assault	Imprisonment for 1 years
	42	Taking away or detaining by force or fraud any person against his will with intent to sell him	Imprisonment for life
	44	Unlawful transfers of possession, custody or control of other persons for valuable consideration.	Imprisonment for 2 years
Protection of Children and Juveniles Ordinance Cap. 213	26	Abduction of child or juvenile	Imprisonment for 2 years
Common Law	-	False imprisonment punishable under s. 101I of the Criminal Procedure Ordinance (Cap. 221)	A fine and imprisonment for 7 years

Offences Relating to Sexual Exploitation / Child Sex Tourism

Legislation	Section	Offence	Maximum
Crimes Ordinance Cap. 200	126	Abduction of unmarried girl under 16	Imprisonment for 10 years
	127	Abduction of unmarried girl under 18 for sexual intercourse	Imprisonment for 7 years
	129	Trafficking in persons to or from Hong Kong	Imprisonment for 10 years
	130	Control over persons for purpose of unlawful sexual intercourse or prostitution	Imprisonment for 14 years
	131	Causing prostitution	Imprisonment for 10 years
	132	Procurement of girl under 21	Imprisonment for 5 years
	133	Procurement of mentally incapacitated person	Imprisonment for 10 years
	134	Detention for intercourse or in vice establishment	Imprisonment for 14 years
	135	Causing or encouraging prostitution of, intercourse with, or indecent assault on, girl or boy under 16	Imprisonment for 10 years
	136	Causing or encouraging prostitution of mentally incapacitated person	Imprisonment for 10 years
	137	Living on earnings of prostitution or others	Imprisonment for 10 years
	139	Keeping, managing or assisting in the management of a vice establishment	Imprisonment for 10 years
Prevention of Child Pornography Ordinance Cap. 579	3(1)	Any person who prints, makes, produces, reproduces, copies, imports or exports any child pornography	A fine of HK\$ 2,000,000 and imprisonment for 8 years
	3(2)	Any person who publishes any child pornography	A fine of HK\$ 2,000,000 and imprisonment for 8 years
	3(3)	Any person who has in his possession any child pornography	A fine of HK\$ 1,000,000 and imprisonment for 5 years
	3(4)	Any person who publishes or causes to be published any advertisement that conveys or is likely to be understood as conveying the message that any	A fine of HK\$ 2,000,000 and imprisonment for 8 years

Legislation	Section	Offence	Maximum
		person has published, publishes or intends to publish any child pornography	

Offences Relating to Trafficking in Human Organs

Legislation	Section	Offence	Maximum Penalty
Human Organ Transplant Ordinance Cap. 465	4	Prohibition of commercial dealings in human organs	A fine at level 5 and imprisonment for 3 months
	5	Restriction on transplants between living persons	On a first conviction, to a fine at level 5 and to imprisonment for 3 months; and On a subsequent conviction, to a fine at level 6 and to imprisonment for 1 year.

Other Offences

- s. 153P of the Crimes Ordinance, Cap. 200: the extra-territorial effect of sexual offence provisions listed in Schedule 2
- s. 153Q of the Crimes Ordinance, Cap. 200: the arrangement or advertisement relating to commission against a child of act outside Hong Kong that offends Schedule 2 provision

Crimes Ordinance

Schedule: 2

**Heading:
SEXUAL OFFENCE
PROVISIONS THAT HAVE
EXTRA-TERRITORIAL EFFECT**

Section	Description of offence
118	Rape
118A	Non-consensual buggery
118B	Assault with intent to commit buggery
118C	Homosexual buggery with or by man under 21
118D	Buggery with girl under 21
118F	<i>(Repealed 18 of 2014 s. 8)</i>
118G	Procuring others to commit homosexual buggery
118H	Gross indecency with or by man under 16
118J	Gross indecency by man with man otherwise than in private
118K	Procuring gross indecency by man with man
119	Procurement by threats
120	Procurement by false pretences
121	Administering drugs to obtain or facilitate unlawful sexual act
122	Indecent assault
123	Intercourse with girl under 13
124	Intercourse with girl under 16
126	Abduction of unmarried girl under 16
130	Control over persons for purpose of unlawful sexual intercourse or prostitution
132	Procurement of girl under 21
134	Detention for intercourse or in vice establishment
135	Causing or encouraging prostitution of, intercourse with, or indecent assault on, girl or boy under 16
140	Permitting girl or boy under 13 to resort to or be on premises or vessel for Intercourse
141	Permitting young person to resort to or be on premises or vessel for intercourse, prostitution, buggery or homosexual act
146	Indecent conduct towards child under 16

Offences Indirectly Relating to Trafficking in Persons, Forced Labour and Slavery

Legislation	Section	Offence	Maximum Penalty
Immigration Ordinance Cap. 115	38AA	Prohibition of taking employment and establishing business	A fine at level 5 and imprisonment for 3 years.
Crimes Ordinance Cap. 200	75	Possessing a false instrument	Imprisonment for 3 years or Imprisonment for 14 years (with the intention to use it to induce somebody to accept it as genuine)
	118	Rape	Imprisonment for life
	119	Procurement by threats	Imprisonment for 14 years
	120	Procurement by false pretences	Imprisonment for 5 years
	121	Administering drugs to obtain or facilitate unlawful sexual act	Imprisonment for 14 years
	122	Indecent assault	Imprisonment for 10 years
	123	Intercourse with girl under 13	Imprisonment for life
	124	Intercourse with girl under 16	Imprisonment for 5 years
	125	Intercourse with mentally incapacitated person	Imprisonment for 10 years
	128	Abduction of mentally incapacitated person from parent or guardian for sexual act	Imprisonment for 10 years
	138A	Use, procurement or offer of persons under 18 for making pornography or for live pornographic performances	If the offence is committed in relation to a person under the age of 16, to a fine of \$3,000,000 and to imprisonment for 10 years; If the offence is committed in relation to a person of the age of 16 or above but under 18, to a fine of \$1,000,000 and to imprisonment for 5 years.
	140	Permitting girl or boy under 13 to resort to or be on premises or vessel for intercourse	Imprisonment for life
	141	Permitting young person to resort to or be on premises or vessel for intercourse, prostitution, buggery or homosexual act	Imprisonment for 14 years

Legislation	Section	Offence	Maximum Penalty
	142	Permitting mentally incapacitated person to resort to or be on premises or vessel for intercourse, prostitution or homosexual act	Imprisonment for 10 years
	143	Letting premises for use as a vice establishment	Imprisonment for 7 years
	144	Tenant etc. permitting premises or vessel to be kept as a vice establishment	Imprisonment for 7 years
	145	Tenant etc. permitting premises or vessel to be used for prostitution	Imprisonment for 7 years
	159A&159C	The offence of conspiracy	Imprisonment for a term not exceeding the maximum term provided for the relevant offence
Theft Ordinance Cap. 210	9	Theft	Imprisonment for 10 years.
	16A	Fraud	Imprisonment for 14 years.
Offences Against the Person Ordinance Cap. 212	43	Stealing child under 14 years	Imprisonment for 7 years
Criminal Procedure Ordinance Cap 221	89	Aiders, abettors and accessories	Imprisonment for a term not exceeding the maximum term provided for the relevant offence

**STEERING COMMITTEE TO
TACKLE TRAFFICKING IN PERSONS AND TO
ENHANCE PROTECTION OF FOREIGN DOMESTIC HELPERS**

Terms of reference

- (a) To devise and keep under review the overall strategy of the HKSAR Government to tackle trafficking in persons and to enhance protection of foreign domestic helpers;
- (b) To promulgate an Action Plan to Tackle Trafficking in Persons and to Enhance Protection of Foreign Domestic Helpers in Hong Kong (“the Action Plan”) and oversee its implementation by relevant bureaux and departments (“B/Ds”); and
- (c) To ensure that sufficient resources are provided to B/Ds to effectively implement the Action Plan.

Membership

Chairman : The Chief Secretary for Administration

Vice Chairmen : Secretary for Security
Secretary for Labour and Welfare

Members : Commissioner of Police
Director of Immigration
Commissioner of Customs and Excise
Director of Social Welfare
Commissioner for Labour
Director of Public Prosecutions

Secretary : Principal Assistant Secretary for Security (Review)



Action Plan to Tackle Trafficking in Persons and to Enhance Protection of Foreign Domestic Helpers in Hong Kong

March 2018

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FOREWORD

Trafficking in Persons (TIP) is a heinous crime which is not tolerated in Hong Kong. The Hong Kong Special Administrative Region (HKSAR) Government has always been fully committed to combatting TIP through multi-faceted measures. As the potential threats of trafficking posed by transnational organised crime syndicates continue to evolve, we have also continued to identify necessary new measures in response over the years.

Crimes relating to TIP need to be tackled on all fronts. It takes the concerted efforts of multiple policy bureaux and departments (B/Ds) of different disciplines. This Action Plan presents a package of our multi-faceted measures that are comprehensive, strategic and targeted, covering victim identification, investigation, enforcement, prosecution, victim protection and support, prevention and partnership with different stakeholders. Implementation of this Action Plan will be reviewed from time to time to identify new or strengthened measures as and when necessary.

As at the end of 2017, about 370 000 foreign domestic helpers (FDHs) were working in Hong Kong, and their population is expected to continue to grow in future years. FDHs help taking care of the children and/or elderly members of our households, and perform other general household chores. Our community fully recognises the contribution of FDHs and the HKSAR Government is committed to protecting their rights and interests through a multi-pronged approach. Whilst FDHs are fully

protected, and they know clearly about their terms of employment upon signing the government-prescribed Standard Employment Contract (SEC) and come to work voluntarily, to prevent them from falling victims to exploitation, the Action Plan includes measures for enhancing the protection of FDHs.

This Action Plan underlines the HKSAR Government's determination to tackle TIP and to enhance protection of FDHs working in Hong Kong. We look forward to joining hands with all stakeholders to achieve positive results in the days to come.

A handwritten signature in black ink, appearing to read 'Matthew Cheung', with a long horizontal flourish extending to the right.

Matthew Cheung Kin-chung, GBM, GBS, JP
Chief Secretary for Administration
Chairman, Steering Committee to Tackle TIP and to
Enhance Protection of FDHs

ABBREVIATIONS

Action Plan	Action Plan to Tackle Trafficking in Persons and to Enhance Protection of Foreign Domestic Helpers in Hong Kong
B/Ds	Bureaux and departments
C&ED	Customs and Excise Department
DoJ	Department of Justice
EA	Employment agency
ETO	Economic and Trade Office
FDH	Foreign domestic helper
HKSAR	Hong Kong Special Administrative Region
ImmD	Immigration Department
LEA	Law enforcement agency
LD	Labour Department
NGO	Non-governmental organisation
Palermo Protocol	Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime
Police	Hong Kong Police Force
SB	Security Bureau

Steering Committee	Steering Committee to Tackle Trafficking in Persons and to Enhance Protection of Foreign Domestic Helpers
SEC	Standard Employment Contract for foreign domestic helpers
SWD	Social Welfare Department
TIP	Trafficking in persons
WG	Inter-departmental Working Group on Trafficking in Persons

INTRODUCTION

TIP involves the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation, which shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs¹.

TIP in Hong Kong

The HKSAR Government attaches great importance to tackling TIP, which is a very serious crime. Although there is no sign that Hong Kong is being actively used by transnational syndicates as a destination or transit point for TIP, or that TIP is a widespread or prevalent problem in Hong Kong, we must stay vigilant.

All along, Hong Kong has been addressing TIP through a multi-pronged approach, covering victim identification, enforcement and prosecution,

¹ See Article 3 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime (i.e. the Palermo Protocol). Although the Palermo Protocol has not been applied to Hong Kong, reference is drawn to Article 3 of the Protocol on the meaning of TIP in this Action Plan.

victim protection and support, prevention and partnership with different stakeholders.

Conducts of TIP are prohibited by various pieces of legislation in Hong Kong, such as physical abuse, false imprisonment, criminal intimidation, unlawful custody of personal valuables, child abduction, child pornography and exploitation of children, illegal employment, and various sexual or prostitution related offences, etc. Some of these offences attract penalties of up to life imprisonment. The present legislative framework has served Hong Kong well.

Crimes relating to TIP are tackled through the joint efforts of various government departments which may directly come across victims and witnesses in their day-to-day operation. Significant initiatives in recent years include –

- In 2010, an Inter-departmental TIP Working Group (WG) was established to enhance the enforcement strategy against TIP. The WG is chaired by the Security Bureau (SB), comprising members from the Customs and Excise Department (C&ED), the Department of Justice (DoJ), the Immigration Department (ImmD), the Labour Department (LD), the Hong Kong Police Force (the Police) and the Social Welfare Department (SWD). The WG monitors the overall situation of TIP and formulates the overall strategy for combatting TIP in Hong Kong by adopting a holistic and collaborative approach.
- In 2013, a new section on “Human Exploitation Cases” has been incorporated into the Prosecution Code issued by DoJ to highlight

the identification of such cases and broad principles on their handling, having regard to applicable international standards and practices. A new chapter on “Human Exploitation” is further added to the Prosecution Manual 2017 for the purpose of providing guidance to prosecutors on TIP issues.

- Since 2015, a TIP victim screening mechanism is being gradually introduced in various law enforcement agencies (LEAs).
- In 2016, a “Guideline on Inter-departmental Cooperation for the Handling of Suspected Cases of Trafficking in Persons” was introduced.

Protection of FDHs

Hong Kong is one of the few places in the world which grant statutory labour rights and benefits to FDHs that are on par with those enjoyed by local workers. These include, for example, weekly rest days (1 day in every period of 7 days), paid statutory holidays (12 days per year) and annual leave (7 days to a maximum of 14 days per year according to length of service), maternity protection (including paid maternity leave of 10 weeks), paid paternity leave and sickness allowance, as well as severance and long service payments. The HKSAR Government has also prescribed a SEC to provide additional protection to FDHs, including the Minimum Allowable Wage set and reviewed by the Government regularly, free food (or food allowance), free and suitable accommodation, free return passage to/from the place of origin and free medical treatment, etc. FDHs are also protected from

discrimination on the ground of nationality, race, religion and sex under the Hong Kong Bill of Rights Ordinance. They have full access to services and assistance that the Government offers to the local workforce including legal aid.

The HKSAR Government does not tolerate any abuse or exploitation of FDHs. In addition to the on-going publicity and educational efforts to raise FDHs' awareness of their rights and channels of seeking redress, we have been taking prompt and strenuous enforcement actions against exploitation and abuse of FDHs, including physical and sexual abuse, illegal deployment, violation of labour legislation, etc. Measures have been put in place to tighten the regulation of employment agencies (EAs) to further the protection of FDHs.

The Action Plan

To ensure that efforts across B/Ds will benefit from high-level strategic guidance and to heighten public awareness of TIP, the HKSAR Government has decided to establish a high-level Steering Committee, chaired by the Chief Secretary for Administration, and to promulgate this Action Plan, which includes not only ongoing efforts in combatting TIP and protecting FDHs, but also introduces new initiatives in terms of overall strategy, victim identification, investigation, enforcement, prosecution, victim protection and support, prevention, and partnership with different stakeholders. Details are set out in the following chapters.

OVERALL STRATEGY

To ensure effective collaboration among relevant bureaux and departments, we have set up a high-level inter-bureau/departmental Steering Committee, chaired by the Chief Secretary for Administration.

In March 2018, we set up a "Steering Committee to Tackle Trafficking in Persons and to Enhance Protection of Foreign Domestic Helpers" (Steering Committee) to provide high-level policy steer on actions against TIP and monitor the implementation of the Action Plan.

The Chief Secretary for Administration, Mr Matthew CHEUNG Kin-chung, GBM, GBS, JP, will chair the Steering Committee, comprising the following officials of the Government as members –

Vice-Chairmen

Secretary for Security	Mr John LEE Ka-chiu, SBS, PDSM, JP
Secretary for Labour and Welfare	Dr LAW Chi-kwong, GBS, JP

Members

Commissioner of Police	Mr Stephen LO Wai-chung, PDSM
Director of Immigration	Mr Erick TSANG Kwok-wai, IDSM
Commissioner of Customs and Excise	Mr Hermes TANG Yi-hoi, CMSM
Director of Social Welfare	Ms Carol YIP Man-kuen, JP

Commissioner for Labour
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Mr Carlson CHAN Ka-shun, JP
Mr David LEUNG Cheuk-yin, SC

The setting up of a high-level Steering Committee demonstrates the Government's renewed commitment and resolve in combatting TIP and protecting FDHs, ensuring that our strategy is comprehensive, measures are targeted, and that sufficient resources are provided to relevant B/Ds for taking forward various strategic measures. Suitable publicity measures will be mounted to heighten public awareness of TIP. The Steering Committee will review implementation of this Action Plan regularly to ensure progress and to identify further measures for implementation as necessary.

A. Overall Strategy

Objective	Initiatives
High-level policy steer on overall strategy and strategic measures to tackle TIP and enhance protection of FDHs	<ol style="list-style-type: none">1. To set up a high-level inter-bureau/departmental Steering Committee to –<ol style="list-style-type: none">(a) devise the overall strategy to tackle TIP and to enhance protection of FDHs, including strategic measures under this Action Plan for implementation by relevant B/Ds;(b) oversee implementation of this Action Plan; and(c) ensure that sufficient resources are provided to relevant B/Ds to effectively implement this Action Plan.
Effective implementation of strategic measures with sufficient resources allocated to ensure effective implementation of the Action Plan	<ol style="list-style-type: none">2. To review implementation of this Action Plan regularly, with a view to ensuring that –<ol style="list-style-type: none">(a) the strategic measures therein are effective in preventing, suppressing and punishing acts described in Article 3 of the Palermo Protocol, having regard to the local circumstances of Hong Kong; and(b) sufficient resources (manpower, financial or others) are allocated to relevant B/Ds for the implementation of the strategic measures.

VICTIM IDENTIFICATION, INVESTIGATION, ENFORCEMENT AND PROSECUTION

We will set up dedicated teams of officers to tackle TIP, continue to expand coverage of victim screening, strengthen investigation and enforcement, and ensure effective prosecution of suspects.

In 2016, the Police first introduced a pilot screening mechanism in 3 police districts for identifying potential victims. In 2017, the mechanism was expanded to cover 12 police districts. Meanwhile, C&ED and ImmD had also put in place similar mechanisms.

Building on the useful experience so far, we will further expand the mechanism to cover all 24 police districts in the territory. Apart from LEAs (i.e. C&ED, ImmD and the Police), the mechanism will also be extended to LD such that potential victims approaching LD could be identified at an early stage. We will also keep the mechanism under review to ensure its effectiveness.

B. Victim Identification, Investigation, Enforcement and Prosecution

Objective	Initiatives
Comprehensive and effective victim identification mechanism	<p>3. To extend implementation of the initial victim screening mechanism to LD, such that FDHs potentially being exploited or abused can be identified at an early stage, and those possibly facing greater dangers (e.g. being physically abused) can be referred to LEAs at the earliest possible time as needed.</p> <p>4. To extend implementation of the victim screening mechanism to all 24 police districts in Hong Kong, riding on the successful pilot run of the mechanism implemented since 2016.</p>
Dedicated and professional officers to handle cases relating to TIP and exploitation of FDHs	<p>5. To appoint dedicated teams or officers in the following departments to handle cases relating to TIP and exploitation of FDHs, including –</p> <ul style="list-style-type: none"> (a) the Police will designate investigation teams in each of their 6 regions to handle all suspected cases, whilst the Organised Crime and Triad Bureau will continue to handle the more complex ones; (b) ImmD and C&ED's designated teams will step up investigation on cases suspected of TIP and exploitation of FDHs; (c) designated officers at each of the branch offices of the Labour Relations Division of LD to support implementation of the victim screening mechanism, as well as designated teams at its Employment Agencies Administration, Employment Claims Investigation Division and Prosecutions Division, and the setting up of a dedicated FDH Division to ensure the effective implementation of measures to enhance protection of FDHs; and (d) support to the designated Coordinator of Human Exploitation Cases of the Prosecutions Division of DoJ will be strengthened in the handling of prosecution work in relevant cases. <p>Designated teams will also be responsible for monitoring the trend of the crimes and the prompt referral of victims to other departments for investigation or to accord assistance where necessary.</p>

Objective	Initiatives
Strengthened enforcement and prosecution actions against EAs and employers on 'FDH exploitation cases'	6. To increase the maximum penalty for the offences of EAs – overcharging job-seekers or operating without a licence, to extend the scope of the overcharging offence to associates of the licensee (including the management as well as persons employed by EAs), and to extend the statutory time limit for prosecuting the overcharging and unlicensed operation offences to 12 months from the date of the commission of the offence.
	7. To take vigorous enforcement actions to ensure EAs are operating in compliance with the laws through licensing, inspection, complaint investigation and prosecution.
	8. To take prompt and strenuous enforcement actions against exploitation and abuse of FDHs, including physical and sexual abuse, illegal deployment, underpayment or non-payment of wages, etc.
Concerted efforts in tackling TIP and exploitation on FDHs	9. To keep the “Guideline on Inter-departmental Cooperation for the Handling of Suspected Cases of Trafficking in Persons (2016)” under review, and to introduce necessary improvements based on operational experience of relevant B/Ds and the latest TIP situation and trend of the crimes.
	10. To develop and promulgate a protocol (including case monitoring and referral, counter-check system, collation of statistics, etc.) to ensure efficient and effective collaboration between departments in monitoring and investigating cases of TIP and exploitation of FDHs.
	11. To maintain comprehensive statistics to enable analysis of the overall and latest trend of relevant crimes, including statistics on cases involving FDH exploitation, to provide useful feedback to update the overall strategy as necessary.

VICTIM PROTECTION AND SUPPORT

We will continue to provide necessary protection and suitable assistance to victims in need, as well as support for them to act as witness in legal proceedings and facilitation for their return to their home country.

Various government departments have been joining hands to provide necessary protection and suitable assistance to victims, including witness protection, shelter, medical care, psychological support and counselling, financial assistance, legal support, visa extension fee waiver, documentation for returning to their home country, etc.

We will keep all protection and assistance measures under review. In the process, we will work more closely with the civil society to ensure that these measures are accessible and effective.

We will set up a dedicated channel, including a dedicated hotline with interpretation service, to provide dedicated support services to FDHs. Designated officers will handle and refer any complaints or requests for assistance received to the relevant authorities for follow-up.

C. Victim Protection and Support

Objective	Initiatives
Immunity from prosecution	12. To grant immunity from prosecution to victims of TIP and exploited FDHs for crimes committed as a result of being trafficked or exploited when the situation so warrants (depending on the facts and circumstances of the case and subject to pre-conditions being satisfied).
Immigration facilitation	13. To facilitate the return of victims to their home country, in partnership with non-governmental organisations (NGOs) and other governments. 14. To grant visa extension and waive the visa fees for victims who need to stay in Hong Kong to act as prosecution witness in legal proceedings instituted by the relevant departments.
Financial assistance	15. To provide financial assistance to victims residing overseas to enable them to return to Hong Kong to testify as witness.
Personal safety and well-being	16. To offer witness reassurance and protection to victims who are concerned about their personal safety. To activate witness protection programme when appropriate and when the situation so warrants, and to request overseas LEAs for assistance to victims and families in their home country when necessary. 17. To provide other necessary support and assistance to victims in a timely manner subject to the needs of individual cases, including (but not limited to) – (a) the provision of shelter; (b) medical services; (c) psychological support; (d) counselling; and (e) financial assistance, etc.
Legal support	18. To provide publicly-funded interpretation during enquiry, investigation and court proceedings, including in the Labour Tribunal.
Access to information on rights	19. To support and encourage NGOs to produce multi-lingual hand-out cards with essential information on support services.

Objective	Initiatives
Dedicated support for FDHs	<p>20. To set up a dedicated channel (including working with the Efficiency Unit to set up a dedicated hotline, with interpretation service, to provide one-stop support services to FDHs), including (but not limited to) –</p> <ul style="list-style-type: none"> (a) providing advice on FDHs' rights and obligations; (b) referring any requests for conciliation services for employment claims or complaints against EAs to designated officers in LD; and (c) referring or advising FDHs subject to exploitation or physical abuse to seek assistance from relevant LEAs.
	<p>21. To strengthen facilitation of FDH victims to stay in Hong Kong to assist in the investigation and prosecution process, including the handling of applications from these FDH victims to change their employer without leaving Hong Kong.</p>

PREVENTION

We will continue to provide suitable training to raise the awareness of frontline officers and other government officials, as well as to raise the awareness of FDHs on their legal rights and channels for seeking assistance.

In 2017, over 1 800 government officials from SB, C&ED, DoJ, ImmD, LD, the Police and SWD received local or overseas anti-TIP training. Relevant LEAs have also included the theme of TIP into their induction training for all officers in recent years.

We will continue to provide suitable training to staff of relevant B/Ds to enhance their awareness of TIP, the way to detect and identify TIP victims or FDHs being abused or exploited, and to enhance their investigation skills in respect of such cases.

We will also develop information packs for other departments or organisations which may also have contact with potential victims from time to time.

We will also consider how to further raise FDHs' awareness of their legal rights and channels to seek appropriate assistance.

D. Prevention – Training and Other Preventive Measures

Objective	Initiatives
Training for frontline officers	22. To provide training (including induction and refresher training) to frontline officers of relevant B/Ds to enhance their awareness of cases of TIP and exploitation of FDHs, including detection, identification, investigation and handling procedures.
Training for judicial officers and prosecutors	23. To raise awareness of judicial officers (including those of the Labour Tribunal) and prosecutors on global trend on TIP and exploitation of FDH cases.
Raise general awareness of government officials	24. To develop information materials for government officials (e.g. brochures and information packs) and arrange appropriate training for them, starting from B/Ds or organisations which will more likely come across TIP victims or exploited FDHs (e.g. Hospital Authority, SWD, the Economic and Trade Offices (ETOs), etc.).
Prevent traffickers from obtaining Hong Kong visa by fraudulent means	25. To strengthen fraud detection in applications for immigration entry visas or extension of stay in Hong Kong to prohibit traffickers from obtaining visa for trafficking purposes (e.g. by stepping up efforts in conducting field visits and strengthening spot-checks, etc.).
Better safeguards against exploitation or abuse of FDHs	<p>26. To reinforce the mechanism to prevent FDH employers with adverse record of abusing or exploiting FDHs from engaging FDHs for employment in Hong Kong again.</p> <p>27. To raise FDHs' awareness of their legal rights and channels to seek assistance when needed, e.g. by producing leaflets on their legal rights and exploitation indicators for distribution at ImmD offices, control points, LD offices and roving exhibitions and seminars, and via other suitable platforms, including local Filipino and Indonesian newspapers, the FDH portal, FDH information packs, etc.</p>

PARTNERSHIP

We will foster closer partnership with other stakeholders and seek to raise public awareness of TIP.

We fully understand that TIP cannot be tackled by the HKSAR Government alone, and we must work closely with the civil society, other sectors of the community and other governments. For example, we will seek to foster closer partnership with source countries of FDHs (e.g. Indonesia and the Philippines) to address problems that cannot be resolved by Hong Kong alone (e.g. debt bondage), and to promote our new and existing measures for protecting FDHs working in Hong Kong. LEAs will engage with their overseas counterparts on joint-investigation and intelligence sharing. We will also continue to maintain close liaison with foreign consulates in Hong Kong, as well as to actively participate in international or regional events and workshops to identify the best practice to combat TIP. Suitable measures will be pursued to heighten public awareness of TIP.

E. Partnership, Publicity and Awareness

Objective	Initiatives
Raise public awareness	28. To run targeted awareness campaigns via a wide range of suitable channels, including websites, social media, posters, leaflets, etc. to raise public awareness of TIP and exploitation of FDHs, and to promote available victim protection services.
Strengthen international cooperation	<p>29. To foster close partnership with LEAs and other stakeholders in source countries for joint-investigation and intelligence sharing, especially targeting crime syndicates.</p> <p>30. To share and exchange views and best practices with other countries on their experience in combatting TIP and enhancing protection of FDHs.</p> <p>31. To engage the government in major source countries of FDHs, through our ETOs, to mount awareness campaigns targeting potential FDHs on their legal rights and practical ways to avoid exploitation in Hong Kong.</p> <p>32. To actively participate in international or regional events and seminars relating to combatting TIP and enhancing protection of FDHs.</p> <p>33. To foster close partnership with international organisations on training and research on combatting TIP and enhancing protection of FDHs.</p>
Enhance partnership with NGOs	<p>34. To engage with NGOs to regularly exchange views on –</p> <p>(a) smooth referral of potential cases to suitable authority for follow up;</p> <p>(b) necessary victim assistance; and</p> <p>(c) outreach, research, public awareness campaigns, training workshops, etc.</p>

CONCLUSION

TIP and exploitation of FDHs are not tolerated in Hong Kong. The HKSAR Government will continue its strenuous efforts to combat TIP and enhance protection of FDHs by implementing the initiatives set out in this Action Plan. The Steering Committee will oversee its implementation and provide strategic guidance on areas for further improvements and enhancements to keep pace with the evolving trends and modus operandi of criminals where necessary. The Action Plan will be kept under review to ensure that it continues to serve the best interests of Hong Kong as an international city.