

USAID ASIA COUNTER TRAFFICKING IN PERSONS



Photo by Misty Keasler

LEARNING & ACTION BRIEF 1

THE PROMISE OF ANTI-MONEY LAUNDERING FRAMEWORKS TO REDUCE HUMAN TRAFFICKING

September 2018
Katie Henke and Olga DiPretoro
Winrock International





Photo by Misty Keasler

ABOUT USAID ASIA COUNTER TRAFFICKING IN PERSONS (USAID ASIA CTIP)

A five-year (2016-2021) program, USAID Asia CTIP is a regional activity that aims to reduce human trafficking in Asia through activities that foster cross-border coordination and consolidated action by governments, civil society, and business; develop opportunities for private-sector leadership; and improve understanding of the nature and patterns of human trafficking, especially in the agriculture, fishing, domestic work, and construction sectors.

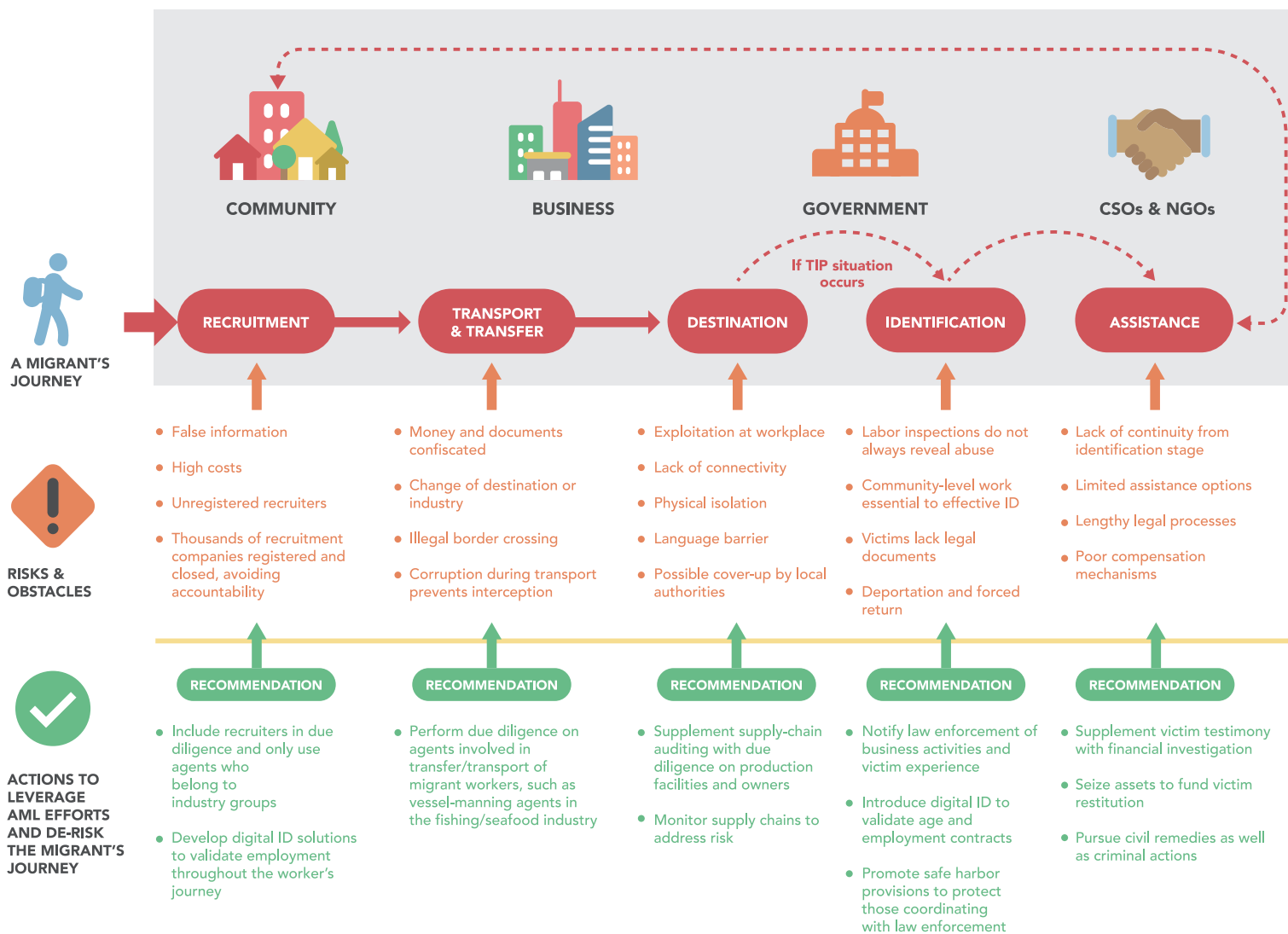
Through a series of "Counter-Trafficking in Persons Learning & Action Briefs" (CTIP LAB), USAID Asia CTIP contributes to the international community's collective ability to replicate and scale up good and promising practices, as well as take up new and innovative approaches. This CTIP LAB is part of a series of learning publications issued under USAID Asia CTIP by Winrock International and implementing partners Liberty Global, NEXUS Institute, and Resonance.

1

SUMMARY

Human trafficking remains one of the three most profitable criminal activities in the world, generating \$150 billion a year.¹ These profits find their way into the formal financial system, opening opportunities for anti-money laundering actions. Yet significant gaps exist in understanding the links between trafficking in persons (TIP) and money laundering and how to leverage those links to effectively attack the criminal enterprise of trafficking.

Three typologies produced under USAID Asia CTIP documented an estimated \$386 million in generated revenue and over 2,000 identified victims of human trafficking. This brief presents two of these typologies, focusing on the seafood sector in Asia. It also highlights typologies as one tool used by financial institutions and discusses how other actors, including private sector, civil society, government and law enforcement, can use this type of research to strengthen their counter-trafficking approaches.



¹ "Profits and Poverty: The Economics of Forced Labour", International Labour Organization, 2014, accessed on 8 August 2018 at: http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_243391.pdf

2 CONTEXT

Anti-trafficking enforcement efforts have historically seen a slow progression of cases coupled with poor remedies for victims, few successful prosecutions, and challenges in reaching high enough levels in criminal rings to effectively disrupt operations. Cases largely rely on victims' testimonies and often fall apart when victims withdraw or are not able to provide sufficient evidence of abuse. This leads to low conviction rates with little deterrence or disruption of trafficking networks. Until recently, efforts to combat TIP have not focused on addressing financial flows associated with the crime.

Because the offense of money laundering is based on concealing the profits of other crimes, the profits associated with human trafficking fall under the global anti-money laundering enforcement framework. Until recently, counter-trafficking-in-persons (CTIP) and anti-money laundering (AML) stakeholders have worked in isolation and failed to take advantage of the connection between the two crimes to effectively disrupt both. With the goal of better understanding the links between TIP and money laundering, in 2017 USAID Asia Counter Trafficking in Persons (USAID Asia CTIP) undertook a series of actions that documented the financial flows of trafficking operations and presented them to financial and multinational companies in the

form of typologies that indicate the various types of entities that benefit from TIP proceeds. Financial institutions are required to monitor for proceeds associated with criminal activities, including TIP, but lack understanding of the different ways TIP manifests itself across sectors and economic activities. Multinational corporations are obliged by a growing number of transparency regulations—such as the U.S. Tariff Act, UK Modern Slavery Act, France's "Duty of Vigilance" law, California Transparency in Supply Chains Act, U.S. Foreign Corrupt Practices Act, and others—to monitor and address issues in supply chains and could apply the "typology" approach in their due diligence processes to identify and address trafficking risks. The governments and civil society working with affected communities are not aware of how their expertise and the information they collect can contribute to the AML efforts and how they can leverage AML frameworks in their prosecution and restitution work.

This LAB aims to illuminate how intelligence used for AML actions can support broader CTIP efforts, including supply chain due diligence and government and civil society interventions, and how the information from CTIP stakeholders can reinforce the AML efforts to disrupt financial flows of proceeds associated with TIP.

3 METHODOLOGY

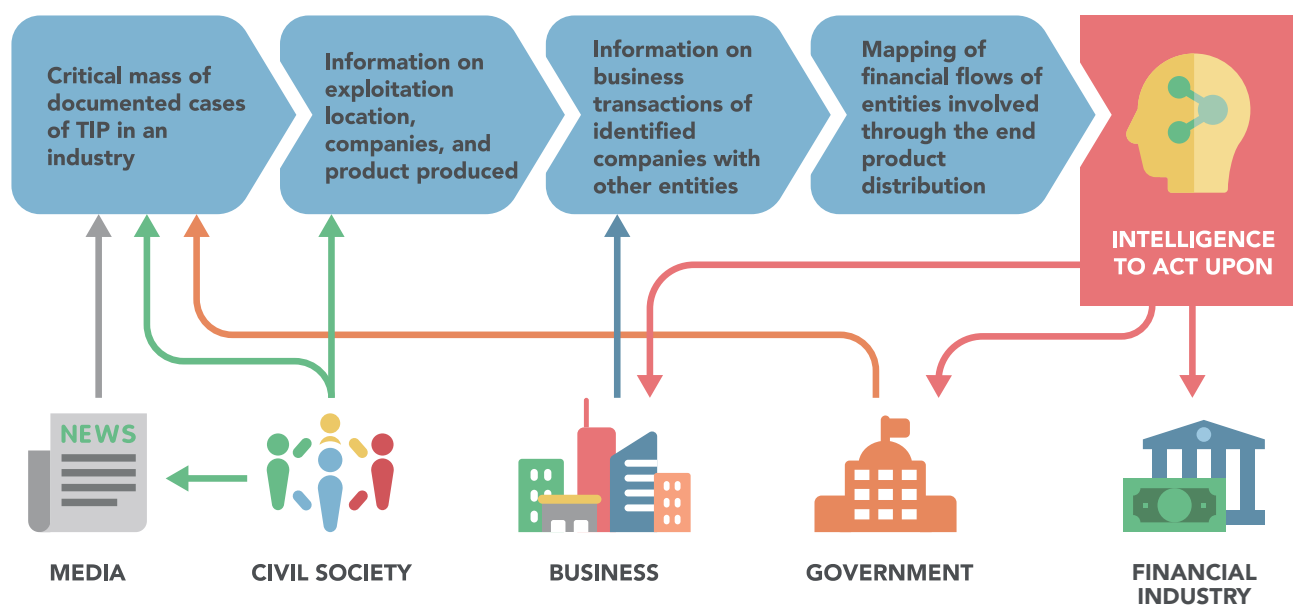
To identify money laundering risk, financial institutions use a tool called a “typology”, which maps the profits and financial flows associated with illicit economic activity.

While the term can be interpreted and applied differently in many fields, this brief refers to typologies as described by the International Monetary Fund (see box on page 5).² In line with this definition, human trafficking typologies provide a mapping of financial flows between entities with recorded TIP cases and their primary suppliers, buyers, and other business partners, as well as the secondary level of companies, including distributors and financiers, who do business with partners of actors engaged in TIP. The typologies

use information from documented trafficking and forced labor cases and open source information (including media reports) to chart patterns of financial flows. The developed maps are then used as actionable intelligence by financial institutions and could also serve in supply chain due diligence and prosecution efforts.

Financial institutions and financial investigators use such typologies to reduce their risk of involvement in money laundering by investigating potential instances of illicit activity, reporting suspicious transactions to financial intelligence units, as well as cancelling accounts and freezing assets, thus disrupting trafficking operations by cutting off access for financial services.

From information to intelligence: typology development and use



² Source: IMF website accessed September 2017 (<https://www.imf.org/external/np/leg/amlcft/eng/aml1.htm>). Other forms of typologies different from those discussed in this document include those developed from hotline information, interviews with known traffickers, and others. Those interested in the practical use of typologies should understand the specific nature of the information and its applicability to their interests.

TYPOLOGIES SUPPORT THE INTERNATIONAL FINANCE COMMUNITY TO MONITOR AND SECURE GLOBAL MARKETS

Anti-money laundering actors use the term “typologies” to describe techniques and patterns of behavior that can support a “follow the money” approach to countering crimes such as money laundering, terrorism financing, and trafficking of humans, wildlife, drugs, and arms. As money laundering involves transacting the proceeds from an initial crime (i.e., trafficking), it is vital to identify the original crimes against the victims and all who benefited.

Because criminal methods adapt to changing contexts, it is essential to systematically and continually collect and analyze information. Banks and law enforcement agencies cooperate to use and share such information, manage risk, and combat criminal financial activity by banking clients to secure the integrity of the international financial system.

4

ANALYSIS AND KEY FINDINGS

The three typologies produced under USAID Asia CTIP reviewed financial flows in the seafood industry in Asia and textile sector in Bangladesh and documented an estimated \$386 million in generated revenue and over 2,000 identified victims of human trafficking.

The typologies have been shared with select financial institutions to assist in monitoring for suspicious activity. Although financial institutions and law enforcement are not permitted to publicly disclose actions taken as a result of received

intelligence, AML rules ensure that banks must act upon receiving information about suspicious activity. In addition, Liberty Global conducts ongoing training and advocacy to bridge the gap between the CTIP and AML communities and highlight the link between human trafficking and money laundering crimes.³

While confidential typologies provided to financial institutions include the details of identified players and transactions, the examples presented below are anonymized to protect privacy and mitigate risks.



EXAMPLE 1

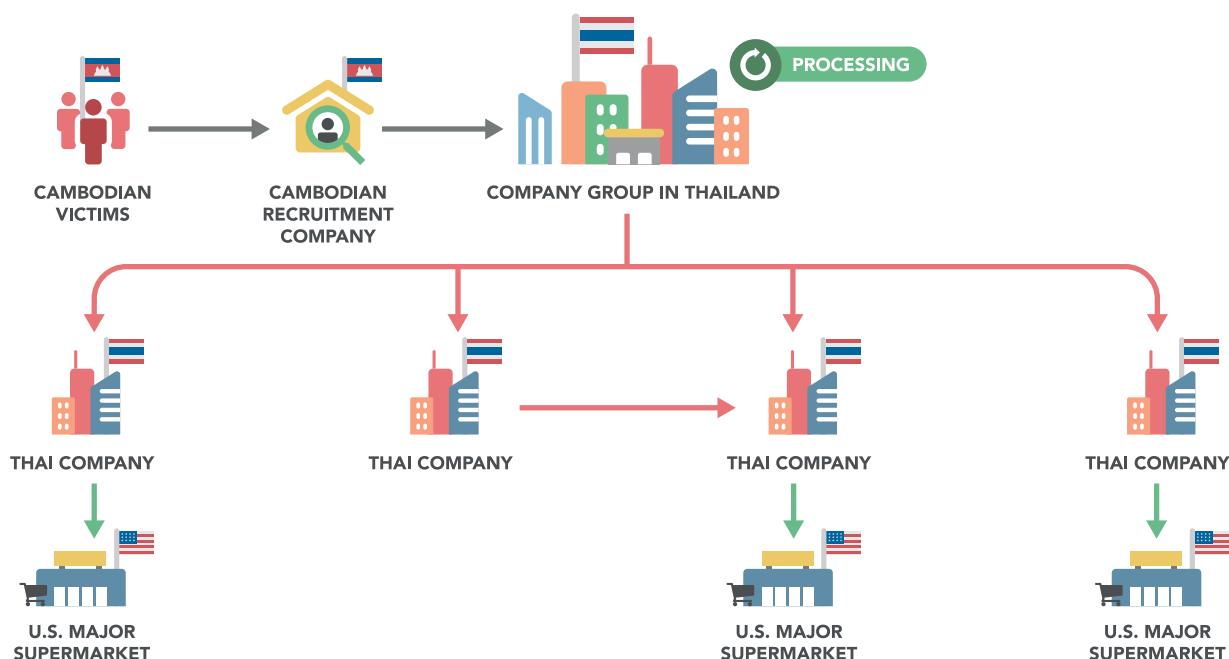
ASIAN FISHING SUPPLY CHAINS – SEAFOOD PROCESSING

Typology 1 illustrates the business model in which more than 800 Cambodian factory workers were allegedly subjected to exploitative conditions amounting to forced labor/human trafficking over a three-year period (2010-2012) in a Thailand-based seafood processing factory. Shrimp and seafood products from this allegedly slave-manned factory

were distributed through major supermarket chains in Thailand and the United States. The diagram outlines different types of entities involved in recruiting victims into slavery, producing or controlling assets with trafficked labor, and distributing the affected product.

³ For example, Liberty Global engaged the following bodies: a) Asia Pacific Group – an intergovernmental body spanning 41 countries/jurisdictions in the Asia/ Pacific region committed to the effective implementation and enforcement of standards against money laundering; b) Egmont Group – an international financial intelligence forum of 155 financial intelligence units established by respective countries and comprising law enforcement and judicial authorities; and c) Financial Action Task Force (FATF), a key intergovernmental body that sets standards and promotes effective implementation of legal, regulatory, and operational measures for combating money laundering and other related threats to the integrity of the international financial system.

Typology 1: Human Trafficking in Fish Processing



According to accounts of migrant workers, a Cambodian recruitment company used deception and coercion to arrange the migrants' employment and misled workers about the nature and type of work they would be doing. The Cambodian recruitment company supplied workers to at least one factory in a group of processing companies that is registered in Thailand and operates four factories there. It is alleged that the conditions in the factory amounted to forced labor and slavery, including subjecting workers to threats of physical abuse, extending shifts far beyond legal hours, often involving hazardous and dangerous work, and withholding the workers' passports and payments.

The factory supplies two Thai importers/exporters of frozen seafood as well as two U.S. companies that market and distribute Thai seafood products in the United States and which are known suppliers of major supermarket retailers throughout the U.S., thus delivering these tainted goods directly to the U.S. consumer. The factory is estimated to have generated revenue exceeding US\$120M from 2013 to 2015, and the factory's income was significantly higher during the period of alleged forced labor (2010-2012). It is believed that the cross-border payments between companies involved in this arrangement are in United States dollars and are cleared through the U.S. institutions, thus placing the transactions under U.S. jurisdiction.

Because typologies are based on a documented pattern of transactional behavior, this information should not be treated as an isolated incident, but as a representation of both a business model and how the benefits from trafficking crimes and forced labor are distributed throughout the global supply chain. This movement of benefits from a crime is the definition of money laundering. Understanding such patterns can help financial institutions detect suspicious activity and can assist the private sector's due diligence requirements. It can also support governments in enforcing domestic and international laws and encourage civil society to record and report relevant information about suspected traffickers and victim experiences.

HOW DO BANKS USE THIS INFORMATION?

A financial institution receiving this typology would be advised to check whether any of its client portfolios include recruitment companies in Cambodia, seafood processing factories in Thailand, and seafood factories in Thailand staffing their factories with migrants from Cambodia. To report clients or transactions that represent suspicious activity to authorities, the bank would file a suspicious activity report or suspicious transaction report to the appropriate Financial Intelligence Unit (FIU) in each relevant jurisdiction. FIUs can confidentially share information and coordinate on investigations with those in other jurisdictions.



EXAMPLE 2 ASIAN FISHING SUPPLY CHAINS – FISHING VESSELS

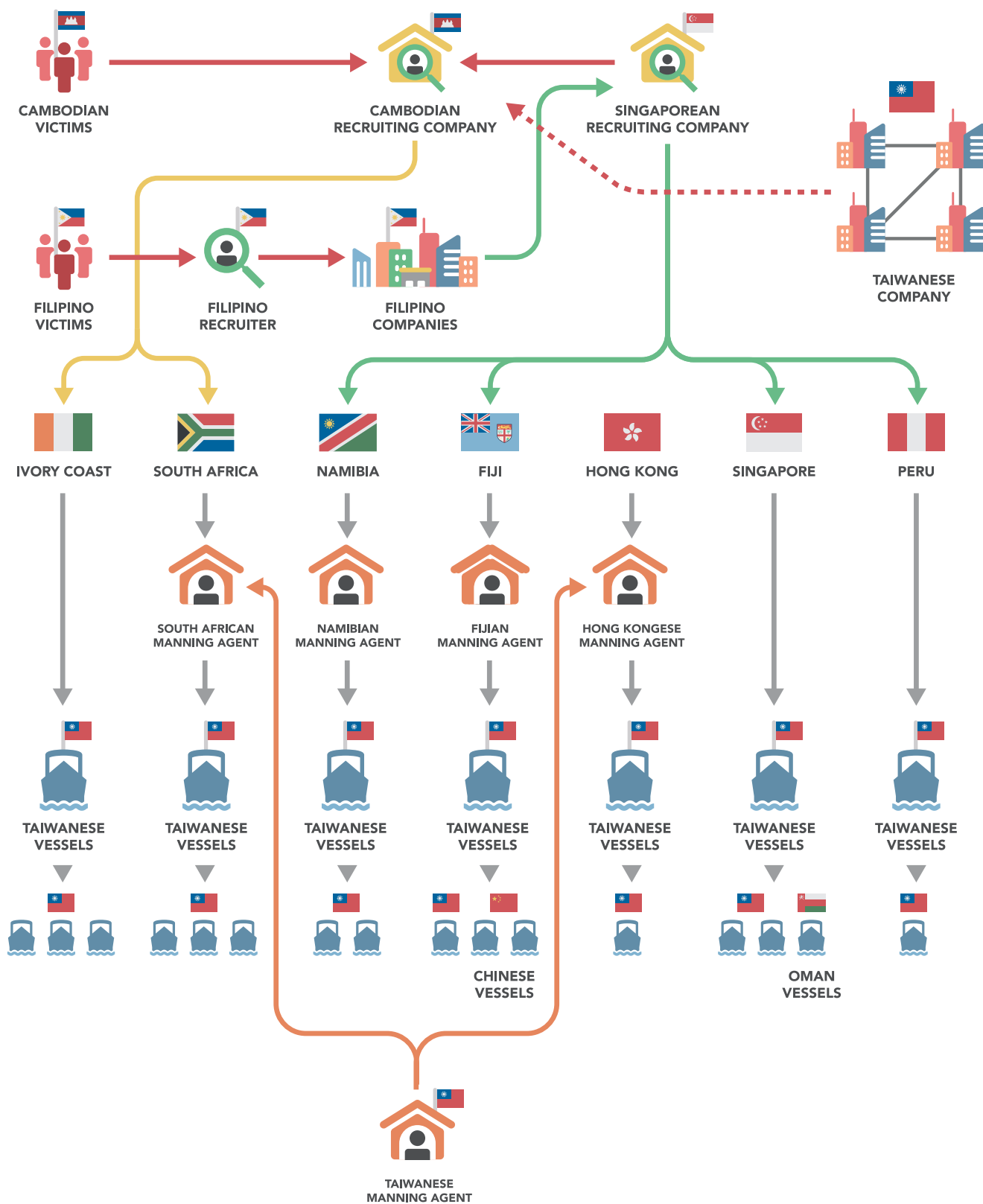
Monitoring work places, such as fishing vessels or agricultural sites that are often remote, unregulated, and seasonal in nature, presents great difficulties. Typologies can offer a more complete picture of the risks than prevailing monitoring techniques. Any single commodity may have multiple patterns of TIP tied to it, such as various types of exploitation at different stages of production (for example, labor trafficking of fishers at sea and worst forms of child labor at fish processing facilities, often accompanied by sexual exploitation). Worker recruitment may take different forms across labor source countries (formal or informal, using regular or irregular labor migration channels, compounded by various levels of debt associated with true and contrived migration costs). Typology 2 below demonstrates one variation in the Asian fishing industry. Transportation can be arranged in various ways and migrants can also be recruited while already in destination countries.

Typology 2 illustrates allegations that more than 1,000 Cambodian and Filipino crew members were subjected to conditions amounting to human trafficking and forced labor over a four-year period (2009-2012) aboard Taiwanese fishing vessels in the waters of South Africa, Micronesia, Fiji, Mauritius, and Senegal. Investigations in Cambodia led to the conviction of six Taiwanese nationals associated with the Cambodian recruitment company. An investigation in the Philippines led to the conviction of one Philippine national for illegal recruitment and revealed links to a recruitment company in Singapore and between the Singapore and Cambodian recruitment companies. The products from these TIP-manned vessels were processed and believed to be distributed to major supermarkets in Japan, South Korea, and the United States. The diagram highlights the entities engaged in recruiting the victims, the recruitment agents and their role facilitating victims through immigration and onto vessels, the Taiwanese fishing companies suspected of chartering/operating TIP-manned vessels for the purpose of supplying products into the global supply chain,

and Taiwanese vessels linked to the Cambodian and Singaporean recruitment companies. In this example, the Cambodian and Singaporean recruitment companies deceived migrants, promising them pay and living conditions that were not met, charged them inflated recruitment fees, made various deductions from their salaries, and confiscated their passports. The Singaporean firm also coordinated with a recruiter in the Philippines who enlisted migrants using deceptive and illegal recruitment practices. Philippines-based travel agents arranged transportation to Singapore for the recruited migrants. Manning agents in South Africa, Fiji, Hong Kong, and Namibia acted on behalf of Taiwanese vessel owners by providing a “letter of guarantee” to allow crew members to easily pass through immigration and board their vessels. Multiple Taiwan-based international fishing companies trading fish and seafood products in Asia and the Americas are suspected of chartering and operating these vessels manned with trafficked labor. A Taiwanese travel services company facilitated immigration for workers to board fishing vessels and was then involved in repatriating four Cambodian crew members working in this operation, leaving the survivors vulnerable to further coercion and fees during repatriation.

The cross-border payments between the companies involved in this arrangement are believed to be in United States dollars and cleared by U.S. institutions, placing the transactions within the U.S. government’s enforcement jurisdiction. Financial institutions receiving such typology information would be encouraged to check for and report any identified suspicious activity in their client portfolios, including recruitment companies in Cambodia or Singapore and manning agents in South Africa, Fiji, Hong Kong, and Namibia. They should also check for fishing companies in Taiwan crewing their vessels with migrants from Cambodia and the Philippines.

Typology 2: Typology of Human Trafficking on Fishing Vessels



RECOMMENDATIONS FOR ACTION

Taking into consideration the context and findings presented above, Winrock and its partners offer the following recommended actions to strengthen counter-trafficking efforts through the AML approach:

General recommendations:

- The common currency among all actors is **data and information**, whether for NGOs and their case management, banks and their anti-money laundering information needs, businesses and their supply chain monitoring duties, or law enforcement and their investigations. The capture, analysis, and sharing of data across stakeholders should be systematized and enhanced. Data-focused technology corporations may be instrumental in accelerating sharing, analysis and secure access to information vital to all stakeholders in advancing the typology approach.
- **Awareness and understanding** of how typologies are developed and used needs to be strengthened across public and private stakeholders through ongoing **dialogue**. Multilateral bodies, regulators, industry associations, and civil society should convene multisector discussions and develop stakeholder-specific roadmaps to outline everyone's roles and contributions to counter-trafficking through the anti-money laundering lens.

Recommendations for governments and law enforcement:

Using a "follow the money" approach when investigating and prosecuting human trafficking can improve the outcome of cases and alleviate the burden of evidence being placed solely on victims. Recommendations for governments and law enforcement include:

- Implement systematic capacity strengthening for relevant law enforcement, prosecutors, judges and legal aid providers on using financial investigative techniques and evidence in trafficking cases. In addition, improved utilization of mutual legal assistance mechanisms and admission of foreign evidence in prosecution could further improve trafficking case outcomes.
- Establish "safe harbor" policies that protect non-state actors from liability when sharing information related to possible trafficking activity.⁴ In addition, effective risk controls and anti-corruption efforts are essential to encourage frontline actors to collect and share information that can aid anti-trafficking enforcement efforts.
- A separate check box for human trafficking should be mandated on banks "Suspicious Activity/Transaction Reports" (i.e. distinguishing between all suspected money laundering and those activities specifically related to trafficking) to encourage clear and actionable reporting from banks to law enforcement.
- Institute policies and clear processes for asset recovery from perpetrators. These funds can be used to provide victim assistance (legal, psychosocial, economic, etc.) and enhance counter-trafficking efforts, many of which are currently funded through charity and foreign assistance and remain grossly under-resourced.

⁴ Such is the case in the United States where safe harbor applies only to financial institutions, but not to others who may possess such information. See "Guidance on the Scope of Permissible Information Sharing Covered by Section 314(b) Safe Harbor of the USA PATRIOT Act" (FINCEN 2009). Accessed on 2 June 2018 at <https://www.fincen.gov/resources/statutes-regulations/guidance/guidance-scope-permissible-information-sharing-covered>

Recommendations for civil society and media:

AML and CTIP efforts are strengthened when victim service providers and advocacy and media organizations understand how the information they collect may be transformed into actionable intelligence for other actors.:

- NGOs should improve trafficking case data collected from victims to include information on the industry of exploitation, involved recruitment companies and other business actors entangled in trafficking supply chains. This will allow for improved analysis, including through typologies, on which law enforcement and anti-money laundering officials could act on. The improved data collection must be pursued within existing rights-centered interview processes that prioritize victims' needs and best interests over potential benefit of collected information.
- CSO advocacy efforts should support policy initiatives and training that advance the "follow the money" approach. Key topics for advocacy efforts include: (a) promoting use of AML tactics to investigate and prosecute TIP, (b) encouraging the seizure of assets from traffickers to support victim assistance, and (c) establishing safe harbor from liability for non-state actors to share information confidentially with others without the risk of retribution.
- Media coverage of TIP cases is often incorporated in due diligence databases used by financial and business actors and can improve AML actions and affect business decisions around particular partners and investments. Civil society and media should improve and expand reporting on TIP, while protecting the privacy and rights of victims.

Recommendations for the financial sector, including regulatory authorities:

Banks and the financial regulators must use their due diligence teams and infrastructure to identify and monitor client transaction activity related to human trafficking and modern slavery. Though AML laws already imply the requirement to conduct client due diligence, strengthened policies and collaboration with other stakeholders can create a more explicit obligation, pathway, and tools to identify trafficking-related finance and to assist law enforcement in dismantling TIP-related criminal enterprises. Below are suggested actions for the finance sector:

- A number of early adopters and contributors have taken the initiative on this issue, with Bankers Alliance Against Trafficking groups forming in the U.S., Europe, and Asia. These bodies should become a crucial access point for industry coordination and engagement on this issue.
- Correspondent banking (i.e., agreements between banks to provide payment services for each other) should be expressly covered by policies that address the financial flows of human trafficking since much of the financial activity may be conducted abroad. With the Financial Action Task Force (FATF) and related bodies, there is considerable bilateral/multilateral coordination among public financial investigative units (FIU). Engaging correspondent banks to effectively identify and address TIP can be a powerful avenue to promote comprehensive monitoring and oversight.⁵

⁵ See "FATF Guidance on Correspondent Banking Services" (FATF, 2016). Accessed on 2 June 2018 at <http://www.fatf-gafi.org/media/fatf/documents/reports/Guidance-Correspondent-Banking-Services.pdf>

Recommendations for private sector:

Using continuous and structured data capture and record-keeping can provide a more complete view of business risk tied to TIP and labor exploitation and offer valuable insights on the appropriate management systems to address it. Private sector actors should:

- Use typology-like business research at two levels: (1) to better understand and visualize the potential human rights risks in supply chains, and (2) to identify which specific parts of the supply chain are at risk to TIP or forced labor. In addition, this analysis can be used to assist in the identification of information gaps or intervention points.
- Strengthen in-house capability to conduct human rights due diligence and improve processes that identify, monitor, and manage risk of human trafficking.⁶ Companies should also support the typology research in high-risk supply chains and industries to expand existing intelligence.
- The quality of a typology can be greatly enhanced by including private and proprietary data such as that gained from years of supply chain monitoring.
- Engage in dialogue with the finance industry and partner with relevant civil society organizations to identify and assess potential criminal liability in the business and understand and address the relative risks of specific business partners and contexts.
- Integrate findings from typology research and financial sector partnerships into public reporting, and disclose risks identified and the steps underway to address them.

Specific actions for counter-trafficking programs

Winrock has identified several actions it and other international actors can take to leverage the AML frameworks when addressing TIP:

- Outreach, sensitize, and collaborate with private and public agencies to develop tools and approaches to enhance application of AML in CTIP.
- Engage local FIUs via CTIP programs to strengthen their understanding of TIP and how they can better address it given various country contexts.
- Continue facilitating the development and dissemination of TIP-specific typologies and related research and increase the capacity of others to perform similar analysis.
- Engage frontline NGOs in strengthening their understanding of the interrelationship between AML and CTIP and assisting them in improving relevant data collection and sharing, including through the media.

Winrock seeks to use this specialized focus to support the advancement of CTIP-related criminal justice efforts via CTIP programs and to coordinate with others to use and expand this approach.

⁶ Such as that gleaned from company grievance/worker voice mechanisms, NGOs, or the Counter-Trafficking Data Collaborative (CTDC), see <https://www.ctdatacollaborative.org/>



Photo by Misty Keasler

Winrock International is a nonprofit organization working globally to empower the disadvantaged, increase economic opportunity, and sustain natural resources.

Winrock has been working to combat TIP for over 20 years by addressing push and pull factors that drive TIP, empowering trafficking survivors and vulnerable populations, and strengthening the capacity of governments, civil society, and private companies to identify and combat TIP.

Liberty Global is a Hong Kong-based nonprofit organization that aims to prevent human trafficking through legal advocacy, technological interventions, and strategic collaborations with NGOs, corporations, and financial institutions. They are an advisor to the global Financial Action Task Force in the fight against money laundering and human trafficking.

FURTHER READING

- *25 keys to unlock the Financial Chains of Human Trafficking and Modern Slavery*. Workshop report. July 2017. United Nations University
- *Flows from Human Trafficking*. FATF Report. Paris, France. July 2018
- *Follow the Money: Financial Crimes and Forfeiture in Human Trafficking Prosecutions*. United States Attorneys' Bulletin. November 2017
- *Follow the Money, Says New Global Anti-Slavery Effort*. Reuters. 25 September 2018
- *Leveraging Anti-Money Laundering Regimes to Combat Trafficking in Human Beings*. Organization for Security and Co-operation in Europe (OSCE). 2014
- *Modern Slavery and Banking*. Liberty Global and Standard Chartered. (Video, 6+ min). 2018
- *Money Laundering Risks Arising from Trafficking in Human Beings and Smuggling of Migrants*. The Financial Action Task Force (FATF). July 2011
- Tom Keatinge and Anne-Marie Barry. *Disrupting Human Trafficking: The Role of Financial Institutions*. RUSI Whitehall Report 1-17. March 2017

ACKNOWLEDGEMENTS

Duncan Jepson, Managing Director, Liberty Global

Valery Farabee, Director of Operational Research, Liberty Global

Jessica Ryckman, Deputy Director, Lawyers without Borders

Steven Brunn, Senior Director of Private Sector Partnerships, Winrock International

Susan Ward, Chief of Party, USAID Asia CTIP, Winrock International

Patchareeboon Sakulpitakphon, Private Sector Engagement Specialist, Resonance



USAID
FROM THE AMERICAN PEOPLE

LIBERTY GLOBAL ASIA
CREATING AN ENVIRONMENT SAFE FROM MODERN SLAVERY



resonance
Frontier Market Solutions



This Learning & Action Brief is part of a series of counter-trafficking learning publications issued by the USAID Asia Counter Trafficking in Persons program implemented by Winrock International and its partners Liberty Global, NEXUS Institute and Resonance