

**CO-CHAIRS' SUMMARY REPORT
OF THE
ARF SEMINAR ON LAWS AND REGULATIONS ON THE
PARTICIPATION IN INTERNATIONAL DISASTER RELIEF
BY ARMED FORCES**

22-25 APRIL 2009, BEIJING

Introduction

1 The ASEAN Regional Forum (ARF) Seminar on Laws and Regulations in Humanitarian Assistance and Disaster Relief (HADR) was held in Beijing, China from 22 to 24 Apr 09 , co-hosted by the Ministry of National Defence(MOD), PRC and Ministry of Defence Singapore, and organized by PLA National Defence University, PRC. The theme of the seminar was laws and regulations building on the participation in international disaster relief of the armed forces of ARF members.

2 The seminar was attended by ARF members from Australia, Brunei Darussalam, Cambodia, Canada, China, European Union, India, Indonesia, Japan, The Democratic People's Republic of Korea, the Republic of Korea, Laos, Malaysia, Mongolia, Pakistan, Russia, Singapore, Thailand, the United States, and Vietnam. A representative from the ARF Unit of the ASEAN Secretariat also participated in the seminar.

Item 1: Opening Ceremony

3 The Seminar was officially opened by Senior Captain Guan Youfei, Deputy Chief of the Foreign Affairs Office of MOD, and co-chaired by MG Zhu Chenhu, Director General, Academic Department of Strategic Studies, PLA National Defence University, PRC, and BG Jimmy Tan, Commandant SAFTI Military Institute of the Singapore Armed Forces .

Item 2: Adoption of Agenda

4 The Seminar discussed and adopted the Agenda.

Item 3: Stocktake of ARF HADR Cooperation

5 The representative from the ARF Unit of the ASEAN Secretariat gave an overview of the existing ARF structures, established frameworks and cooperative activities for HADR. She highlighted the renewed interests within the ARF to pursue cooperation in HADR following the Boxing Day tsunami of 2004 and noted the revival of the ARF Inter-Sessional Seminar on Disaster Relief. She noted that the 13th ARF in July 2006 had adopted a statement on "Disaster Management and Emergency Response" which provided an overarching framework for cooperation under the ambit of the ARF, as well as a set of General Guidelines for ARF Cooperation in HADR Operations during the 14th ARF in July 2007. The ARF Unit also highlighted that work was in progress for the ARF to eventually develop an ARF Strategic Guidance for HADR which includes elements of the ARF Standby Arrangements. She updated the seminar that the US and the Philippines are co-hosting a Voluntary Demonstration of Response (VDR) on Disaster Relief in Central Luzon in May 2009. The ARF was also working towards an ARF Workplan on Disaster Relief for approval by the 16th ARF Ministers Meeting in July 2009.

Item 4: Experiences of Militaries in HADR Operations

6 The seminar noted that the Asia-Pacific region was faced with a frequent occurrence of natural disasters and calamities that resulted in significant loss of lives as well as damages to property and infrastructures. The seminar exchanged views on the roles and experiences of the militaries of ARF members in HADR operations and their national legal frameworks of mobilization for disaster relief efforts within their own countries, as well as for deploying to other countries. It was noted that militaries played different roles in HADR operations in different countries – in some countries the militaries were the main institution while, in others, it was the civil agencies that took the lead with the militaries play a supporting and complementary role.

7 Participants recognised that militaries possessed both the capacity and capability to play an important role in disaster relief efforts. ARF member states have established to some extent relevant domestic laws and regulations, coordinated with its own national laws and characteristics. There is a rough basis for military cooperation and exchanges among the member states. Militaries can provide manpower on the ground, which can greatly speed up the overall response time. Militaries can also provide technical expertise, equipment as well as logistics and medical support to enhance the delivery of aid supplies and rescue services. In areas with heavy infrastructural damage, militaries can help to re-establish communications linkages.

8 It was clear that militaries could make a significant difference in helping to manage the consequences of disasters, ensuring that the loss of life and suffering is minimized and that reconstruction, recovery and a return to normalcy can take place quickly. The seminar, however, acknowledged that militaries should only be used as the last resort, and not play a long-term sustained role in HADR reconstruction. This was a role that is best left to the civil agencies.

Item 5: Legal Challenges faced by Militaries in Undertaking Disaster Relief Operations

9 The seminar noted that there were many regimes governing HADR cooperation as well as the use of military and civil defence assets. At the national level, some countries had adopted domestic laws and regulations that guide the use of the armed forces as well as their operations in a disaster situation. Others, however, had developed internal standard operating procedures that facilitated the use of the military.

10 At the international level, the seminar noted that the UN provided a comprehensive framework for cooperation under the Guidelines on the Use of Military and Civil Defence Assets in Disaster Relief (“Oslo Guidelines”). At the same time, regional frameworks for cooperation, such as those under the ambit of ASEAN and the ARF had emerged to facilitate HADR cooperation.

11 The seminar recalled that it was important to respect the international norms of behaviour and principles for cooperation in disaster relief operations. These principles included that the affected country has the primary responsibility in responding to disasters occurring within its territory in a prompt and effective manner; where needed, the affected country shall facilitate external assistance from other countries and international organisations in its HADR efforts to achieve the objective of prompt and effective disaster management and relief; and that external assistance shall be provided with the consent of the affected country, and the HADR efforts should be under its overall control and supervision. The seminar also noted the importance to abide by the humanitarian principles of humanity, neutrality and impartiality.

12 The seminar noted that the militaries could face a series of legal issues in HADR operations. Some of these included the provision of security which was a responsibility of the affected states, the implementation of the appropriate rules of engagement, the wearing of uniform and the appropriate carriage of weapons. The other legal challenges included the issues of privileges and immunities and the need to secure diplomatic clearances and over-flight rights expeditiously as well as issues relating to customs, taxes and duties, and claims and other dispute mechanisms.

13 The seminar recognised that there was no one-size-fits-all legal model and framework given that countries had different political systems and cultures as well as national policies that govern the offer of assistance or the acceptance of disaster relief assistance. Nonetheless, we needed to address how we could reconcile the different frameworks and legal regimes that we operated under. We also needed to ensure that frameworks and laws adopted are practical and implementable for the operational agencies. This would allow us to ensure a coherent, coordinated and timely humanitarian response.

Item 6: Suggestions for Enhancing International HADR Cooperation

14 The seminar acknowledged the ARF's contributions to encouraging regional and international cooperation in mitigating and responding to natural disasters in the region. The seminar agreed that existing ARF frameworks and initiatives had been useful in building capacity and establishing the basic principles and modus operandi for HADR cooperation. The seminar also expressed support for the ARF Strategic Guidelines for HADR and ARF Disaster Relief Workplan, which are in the process of being finalised.

15 Recognising that many ARF countries were in a region prone to natural disasters, the seminar acknowledged disaster relief must be driven by need; Security is the primary responsibility of affected country; It should be under the request from the government of the affected country; that it was necessary for ARF participants to implement the various mechanisms that had been adopted by the ARF to facilitate HADR cooperation, such as the ARF General Guidelines on Disaster Relief Cooperation. The seminar also called for the discussions on the ARF Strategic Guidance for HADR to be concluded quickly for adoption as this was an important mechanism that would assist ARF participants in HADR cooperation. The seminar also urged ARF participants to review the respected national legal frameworks and to assess if there was a need to rationalise them with existing international and regional regimes.

16 Apart from strengthening the legal frameworks, the seminar noted the importance and need for the ARF participants to build both national and regional capacities so that we could better deal with the challenges posed by natural disasters. It was also suggested that there was a need to establish emergency response standby arrangements to facilitate disaster relief efforts. The seminar further noted the necessity for the ARF to intensify its cooperation and to move beyond dialogue and to build practical cooperation. The seminar further noted that the armed forces on their own would not have the full capacities to deal with disaster relief operations and would need to work closely together with other civilian agencies. The operational procedures that the ARF was working on would facilitate better understanding and cooperation among ARF defence establishments and civilian agencies tasked with relief efforts.

17 In order to promote the development of the laws and regulations for HADR by the armed forces. It is desirable that following steps can be taken initially such as: Speeding up the systematic domestic legislation to facilitate armed forces participation in HADR operation; Pushing forward the development of related regional and international laws and regulations building; Formulating legally-binding bilateral agreements or non-legally binding bilateral arrangements; Enhancing cooperation and exchanges in the research of relevant laws and regulations establishment.

18 Apart from the formal presentations, the US briefed the seminar on the US-Indonesia co-sponsored concept paper and draft text, proposing for an *ARF Model Agreement on the Use of Military and Civil Defence Assets (MCDA)*. Vietnam and South Korea also respectively submitted papers related to the topic of the seminar.

Item 7: Closing Remarks

19 BG Tan expressed his appreciation to the officials for their active participation and valuable insights which had contributed to a fruitful and meaningful seminar. BG Tan highlighted the need to take a broader perspective and adopt an overarching framework for HADR

cooperation that was capable of reconciling international and regional laws on disaster relief assistance.

20 MG Zhu was very grateful to BG Tan for his excellent cooperation in their co-chairing of the seminar. He hoped that what was achieved in the seminar would be helpful to the promotion of the building of laws and regulations by armed forces in international HADR operations.

21 The seminar thanked the Government of the People's Republic of China for the generous hospitality and the excellent arrangements made for the delegates.