

**POSSIBLE NEXT STEPS IN IMPLEMENTING
RECOMMENDATIONS FROM THE EEP
WORKING GROUP ON PREVENTING AND
MANAGING INCIDENTS AT SEA**

ARF EEP's Working Group On Preventing And Managing Maritime Incidents

- Established in March 2016 to study lessons learnt and best practice with preventing and managing incidents at sea.
- Working Group (WG) included both EEPs and government-appointed experts in maritime security
- Conduct of Study
 - Co-chairs compiled list of current agreements and other arrangements
 - WG members asked to verify this list – adding or delating as necessary
 - Online questionnaire to members to ascertain their country's experiences with these arrangements and agreements identifying lessons learnt and best practices.
 - Co-Chairs circulated draft report to WG members for feedback
 - Co-chairs submitted Final Report to EEP meeting February 2017

Key Lessons Learnt and Best Practice (1)

- Existing agreements do not apply to non-naval vessels and aircraft
- Non-binding agreements are easier to achieve, and may be only ones possible at a multilateral level. Despite their limitations, they are important for building trust and mutual understanding.
- Common communications procedures and language are essential elements of any effective agreement.
- Hot lines between operational headquarters ashore are vital aid for the management of maritime incidents.
- Agreements should be without prejudice to sovereignty claims.

Key Lessons Learnt and Best Practice (2)

- Safety should always be a primary consideration
- A 'whole of government' approach to maritime incidents, involving maritime law enforcement, fisheries, marine environmental protection and other relevant agencies, is desirable.
- Professional expertise important for negotiating agreements - officers with the requisite maritime and/or air operational experience should have leading responsibility for negotiating agreements.
- Regular consultations on an agreement are required, including for the evaluation of lessons learnt after an incident has occurred.
- Regular training, workshops and exercises associated with arrangements to prevent and manage maritime incidents contribute to effective implementation of agreements and to the development of mutual understanding and trust.

Considerations for taking EEP Report forward

- Arrangements are required that cover both military units and ships and aircraft operated by coast guards or other civil government agencies - existing Code for Unplanned Encounters at Sea (CUES) only applies to naval ships and naval aircraft
- Non-binding 'guidelines' or 'principles' for maritime law enforcement in the region should be developed for use between ships and aircraft engaged in maritime law enforcement (MLE)
- Naming an agreement can be an issue. 'Code' can suggest a binding agreement, 'Guidelines' or 'principles' may be a better term for a non-binding agreement

POSSIBLE NEXT STEPS

- Objective to develop an agreement ('guidelines') to prevent and manage incidents involving maritime law enforcement (MLE) vessels and aircraft
 - Not to be confused with the Centre for Humanitarian Dialogue's (CHD's) Common Operating Principles (COPS) focussed on the conduct of MLE operations

- Conduct of Study
 - Open source study of relevant issues
 - Develop a concept paper outlining possible guidelines for discussion at the second ARF workshop on Enhancing Regional Law Enforcement Cooperation)
 - Establish an online working group with participants nominated by ARF members
 - On line exchange of questionnaires, drafts managed by WG co-chairs

Some Issues for WG's Consideration (for open source study)

- Application of CUES to MLE operations
- Lessons Learnt and best practice from MLE incidents that have occurred
- Experience from existing cooperative coast guard forums (European CG Functions Forum, HACGF, NPCGF, Arctic CG Forum, ASEAN CG Forum, etc)
- CHD's COPS for the conduct of MLE operations
- WPNS work to extend CUES to MLE vessels
- Annual Report from UNODC's Global Maritime Crime Programme (GMCP)
- UN Code of Conduct for Law Enforcement Officials
- Current and Past ARF Work on Related Matters

Possible Issues for the Guidelines:

- Arrangements for joint regular training, workshops and exercises
- Mechanisms for joint consultations after an incident
- Contact details for agencies conducting law enforcement operations
 - Arrangements for 'hot lines'
- Prior notice of major operations and exercises involving MLE vessels
- Bilateral arrangements for MLE in areas where maritime boundaries have not been agreed
- Adherence to COPs
- Legal Considerations
- Safety Issues (largely based on CUES)
- Communications Procedures (largely based on CUES)