



**CO-CHAIRS' SUMMARY REPORT
ASEAN REGIONAL FORUM (ARF) WORKSHOP
ON ENHANCING REGIONAL MARITIME LAW ENFORCEMENT COOPERATION**

Nha Trang, Viet Nam, 18-19 January 2018

1. The ASEAN Regional Forum (ARF) Workshop on Enhancing Regional Maritime Law Enforcement Cooperation, co-chaired by Viet Nam, Australia and the EU, was held in Nha Trang, Khanh Hoa, Viet Nam, on 18-19 January 2018. This is the first in a series of ARF activities to implement the ARF Ministerial Statement on Enhancing Cooperation among Maritime Law Enforcement Agencies, which was adopted by the ARF Foreign Ministers in August 2016. The list of participants appears as **Annex 1**.

Opening Remarks

2. In his opening remarks, H.E. Mr. Nguyen Quoc Dzung, Deputy Foreign Minister and ARF SOM Leader of Viet Nam, highlighted the role of law enforcement agencies as the first responders and frontline actors in addressing various regional maritime challenges, including piracy and armed robbery against ships, drug trafficking, migrant smuggling and human trafficking, maritime theft and fraud, illegal fishing, environmental offences, search and rescue and emergency response. Recognising the transnational and multi-faceted regional maritime challenges, he stressed the need to further strengthen cooperation among maritime law enforcement agencies (MLEA), not only through existing bilateral and multilateral frameworks but also through an ARF-wide arrangement, as mandated in the 2016 ARF Statement on Enhancing Cooperation among Maritime Law Enforcement Agencies.

3. He emphasized that in order to forge cooperation among MLEAs, there is a need to fully comprehend the challenges it involves, such as different institutional settings, scope of mandates and procedures in handling foreign vessels, as well as existing maritime and territorial disputes which might sometimes lead to misunderstandings and escalation of tensions. In this regard, he expressed hope that the Workshop would provide an opportunity for the participants to share their perspectives and experiences in overcoming these challenges and to work together on the principles, scope and measures to realise an ARF-wide mechanism for MLEA cooperation. Furthermore, as trust is the prerequisite for any cooperation to take place, he emphasised that the ARF members should continue focusing on relevant confidence building measures (CBMs) to prevent and mitigate incidents at sea. He looked forward to specific outcomes from the Workshop that would contribute to the long-term pursuit of this regional MLEAs cooperation initiative to maintain law and order across all seas and oceans, and to realise the ARF's collective commitment to a rules-based regional maritime order.

4. Australian Co-chair, Mr. Robert McKinnon, Assistant Secretary, Strategic Issues and Intelligence Branch, Department of Foreign Affairs and Trade, delivered opening remarks. Highlighting the importance of maritime security as a catalyst for regional economic growth over the past decades, he noted that no one country alone could effectively manage security challenges in the maritime domain. In this regard, he reaffirmed Australia's commitment as outlined in its 2017 Foreign Policy White Paper to "peaceful engagement" in the Indo-Pacific region, including in the maritime domain. He postulated that the three main focuses of Australia's regional engagement included CBMs, counter-terrorism, and national maritime strength, which are pursued through various bilateral and multilateral cooperation. He further expressed Australia's support for the ARF maritime cooperation agenda and welcomed Viet Nam's leadership in initiating the 2016 ARF Ministerial Statement on Enhancing Cooperation among MLEAs. He recognised the risk of increasing regional tensions due to maritime challenges that might seriously threaten regional security and prosperity, and stressed the need for confidence reinforcement. He also reaffirmed Australia's perspective that all countries, either large or small, should have a role in international issues and looked forward to working with all ARF members to develop practical cooperation to address regional maritime challenges.

5. EU Co-chair, Mr. Lucas Cibor, Deputy Head of the EU Mission to ASEAN, reaffirmed the EU's rules-based approach to the management of oceans. He believed it was an opportune moment to convene the Workshop given the growing regional maritime security challenges, which in the EU's perspective presents an opportunity to enhance cooperation to develop effective regional responses. He further shared the view that no single actor can guarantee maritime security on its own due to the transnational nature of the challenges as well as the involvement of various stakeholders, military and civil included. To illustrate this point, he noted that the EU had performed an assessment in 2014, which had found that among the 20-60 public authorities dealing with maritime law enforcement in EU member countries, many were facing barriers in their conduct of duty. In this regard, he saw the potential for improving the efficiency and effectiveness of EU MLEAs, while stressing that there is no one-size-fits-all solution.

6. Mr. Cibor also highlighted the three key principles of maritime law enforcement as stated in the EU Maritime Security Strategy, namely rule of law, global governance and civil-military coordination. He further informed that the EU coast guard agencies and training institutions were working as part of the global response to various maritime challenges such as maritime security, climate change, marine environmental protection, and sustainable fisheries management, among others. He also reaffirmed the EU's commitment to work with ASEAN to implement the relevant action lines in the ASEAN-EU Plan of Action (2018-2022) as well as to promote maritime law enforcement cooperation through other ASEAN-led mechanisms including the ARF.

Session I: Regional maritime challenges and the need to enhance cooperation among MLEAs

7. In this Session, the participants reviewed the existing traditional and no-traditional regional maritime security challenges. Key challenges identified during the session included unresolved maritime disputes and actions that may aggravate tensions, environmental degradation due to marine plastic debris and other destructive actions to the marine environment, depletion of fish stocks, and the increasing threats of piracy and

other transnational crimes at sea. In view of these challenges, the participants recognised the need to enhance MLEAs cooperation among regional countries. An overview of the existing regional maritime challenges is provided in the presentation by Dr. Ha Anh Tuan, Assistant Director-General of the Bien Dong Maritime Institute, Diplomatic Academy of Viet Nam, which appears in **Annex 2a**.

8. IUU Fishing was addressed by a number of discussants. It was generally viewed that the issue of IUU Fishing must be addressed in a holistic manner, taking into account its socio-economic aspects and the various relevant stakeholders. In his presentation, Captain Sebastian A. Martin commented on the need to address land-based aspects of IUU fishing and advocated the establishment of a Single Maritime Point of Contact (SMPOC) that focused on traceability, monitoring and surveillance measures to increase value chain and ensure safety and security of fishers, thereby promoting sustainable fisheries. His presentation appears in **Annex 2b**.

9. Captain Matthias Kahler from the EU picked up the issue of dealing with irregular migration at sea through a presentation on the EU operation SOPHIA to address irregular migration from Lybia to Europe. The key thrusts of EU's approach to this included monitoring, exchange of information and intelligence, trust, and capacity building for the source country. His presentation appears in **Annex 2c**.

10. In his presentation, Dr. Kong Lingjie, Vice Dean of China Institute for Boundary and Ocean Studies at Wuhan University, suggested that the MLEA cooperation should form part of the consultation between ASEAN and China on the Code of Conduct in the South China Sea (COC). He believed that this would contribute to the objectives of the COC, which is to manage conflicts and promote trust and confidence among the parties. His presentation appears in **Annex 2d**.

11. Lieutenant Colonel Hoang Van Canh from the Institute for Defense Strategy of Viet Nam identified the key principles for MLEAs cooperation, including: (i) respect for international law; (ii) respect for independence, sovereignty, territorial integrity; (iii) making full use of regional mechanisms to promote cooperation; (iv) building mutual trust; and (v) promoting national responsibility. His presentation appears in **Annex 2e**.

Session II: Stock-take of maritime law enforcement cooperation in the Indo-Pacific region

12. Participants examined existing MLEAs cooperation in the region, including both bilateral and multilateral arrangements, shared experiences and best practices in order to come up with possible modalities for ARF regional MLEAs cooperation.

13. Commander Akira Kuramoto, Director for Coast Guard International Cooperation of Japan Coast Guard introduced the Heads of Asian Coast Guard Agencies Meeting (HACGAM), which has been convened annually since 2004 to strengthen cooperation and collaboration among regional coast guards. Accordingly, the main agenda of HACGAM included: (i) counter measures against piracy and armed robbery at sea, and terrorism; (ii) cooperation for capacity building support; (iii) counter-measures against massive natural disasters; (iv) practical international cooperation in the areas of search

and rescue, environmental protection, counter-measures against unlawful acts at sea; and (iv) capacity building. He further informed that HACGAM was working towards further institutionalisation, including through the establishment of information-sharing mechanism among its members and working groups on the above-mentioned thematic areas. His presentation is attached in **Annex 3a**.

14. In his presentation on “Japan Coast Guard’s International Cooperation”, Cdr. Kuramoto provided a brief history of Japan Coast Guard (JCG), which was established in 1948 as a maritime law enforcement agency that does not have a military function. Cdr. Kuramoto noted that one of the primary missions of the JCG was to strengthen collaboration and cooperation with other countries in conducting coast guard duties in order to promote rule of law at sea, especially in the Indo-Pacific region. In this regard, he highlighted the JCG’s coast guard partnership to address global challenges and recent activities conducted by JCG such as the Coast Guard Global Summit that was held in September 2017 under the theme of “Maritime Safety and Marine Environmental Protection” and “Maritime Security” and “Human Resource Development”, as well as capacity building activities for coast guard agencies of Asian countries through workshops, seminars, trainings and joint exercises. He further informed that JCG had recently established a Mobile Cooperation Team (MCT) dedicated for international cooperation, which would visit their counterparts more frequently to provide in-time assistance and consultations. His presentation appears in **Annex 3b**.

15. Mr. Nurhayadi, Head of Maritime Security and Surveillance Division of Indonesia’s Coordinating Ministry for Maritime Affairs focused on the issue of slavery at sea and Indonesia’s efforts to address this phenomenon. Citing the case of Pusaka Benjina which was transnational in nature and involved victims from different ASEAN countries, he stressed the need for enhanced regional and international cooperation to deal with forced labour in the fishing industry. He reaffirmed Indonesia’s continued commitment to the Bali Process on People Smuggling, Trafficking in Persons and other related transnational crimes, the Australia-ASEAN Programme to Combat Trafficking in Persons (AAPTIP), as well as other regional and international frameworks to address this issue. His presentation appears in **Annex 3c**.

16. Senior Colonel Li Bing, Director of International Cooperation of China Coast Guard (CCG) made a brief introduction on the history, organisational structure and mandate of the CCG, including the latter’s responsibilities to carry out bilateral, multilateral, regional and international law enforcement cooperation. She cited the examples of CCG’s bilateral cooperation with coast guard agencies of the ROK, Viet Nam, the Philippines, the US and France, participation in multilateral initiatives such as the North Pacific Coast Guard Forum, HACGAM, and ReCAAP, as well as cooperation through ASEAN-led mechanisms. The form of cooperation varies from joint patrol to training and exchange programmes, etc. Her presentation appears in **Annex 3d**.

17. Captain Sherman Lacey, US Coast Guard Liaison Officer to the US Pacific Command, provided an overview of the Gulf of Thailand Maritime Law Enforcement Initiative (GOTI), which was established in 2012 as a forum for MLEA commanders and senior leaders of participating countries to discuss and resolve issues of mutual concern and identify areas of practical cooperation. He noted that GOTI was considering expanding this initiative to all ten ASEAN Member States. He also observed how bilateral

cooperation arrangements could develop into a regional one by taking the examples of the Joint Inter-agency Task Force between the US and Central and South American Partners, the Quadrilateral Defense Working Group Support to Oceania, the Atlantic Coast Guard Forum and Arctic Coast Guard Forum. Accordingly, cooperation could evolve from bilateral operations between Coast Guard agencies to multilateral fora, multilateral exercises and multilateral operations. His presentation is attached in **Annex 3e**.

18. Mr. Zhang Jie from the National Institute for South China Sea Studies (NISCSS) made a presentation on China's cooperation on safety of navigation and search and rescue in the South China Sea, which mainly involved joint table-top exercises (TTX), joint maritime SAR drills and handling of people in stress at sea. He made several recommendations on future cooperation, including: (i) strengthening bilateral and multilateral mechanisms for SAR cooperation and coordination; (ii) conducting more TTX; (iii) developing bilateral and multilateral information exchange and intelligence sharing mechanisms; (iv) establishing the China-ASEAN Maritime SAR hotline; and (v) considering the establishment of a joint salvage station at sea. His presentation appears as **Annex 3f**.

19. Mr. Robert McKinnon, Assistant Secretary, Strategic Issues and Intelligence Branch of the Department of Foreign Affairs and Trade of Australia presented the key findings of the Report of "the ARF Experts and Eminent Persons Group (EEPs) working group on Preventing and Managing Maritime Incidents" that was conducted in 2016-17. The central finding of the Report was that non-binding 'guidelines or principles' for MLEAs should be developed for use between ships and aircraft engaged in maritime law enforcement (MLE), and that a study of MLE arrangements in ARF participating countries should be conducted to aid transparency, facilitate regional cooperation, and assist the prevention of maritime incidents. The commissioning of a study of MLE arrangements could be a useful first step, while the development of guidelines or principles could also be considered on the basis of dialogue and consensus. His presentation appears in **Annex 3g**.

Session III: Regional maritime law enforcement agencies cooperation: Principles, Scope and Measures

20. In this Session, the participants discussed possible approaches to regional MLEAs cooperation through identifying the principles, scope and measures.

21. Dr. Collin Koh Swee Lean from the Institute of Defence and Strategic Studies, Rajaratnam School of International Studies of Singapore, examined the enablers and constraints for regional MLEA cooperation based on a survey conducted in April 2017 on how nations have implemented safety of navigation instruments, i.e. COLREGS and SOLAS. As far as Coast Guards were concerned, the results of the survey suggested that there was room for improvement in terms of national regulations/policies, training and cooperation mechanisms with foreign counterparts to reduce the risk of collision or escalation. He envisaged that MLEA cooperation in the region would continue to be promoted at different levels, including: (i) multilateral cooperation through dialogue, confidence building measures, best practices sharing; (ii) bilateral cooperation

constituting the bulk of cooperation; and (iii) unilateral cooperation among distinct groupings of littoral states sharing maritime spaces or confronting common challenges. His presentation is attached in **Annex 4a**.

22. Ms. Linda Cappello, Director Commitments of the Australia Maritime Border Command elaborated on regulatory framework for inter-agency MLEA cooperation through the introduction of the Maritime Powers Act 2013. The Act, which is based on the United Convention on the Law of the Sea (UNCLOS), provide common powers of enforcement and streamline procedures for maritime enforcement. Maritime Border Command (MBC), enabled by the Australian Border force and the Australian Defence Force, will support a Whole of Government effort to protect Australia's national interests by responding with assigned forces to undertaken civil maritime security operations to detect, deter, respond to and prevent illegal activities in the Australian Maritime Domain (AMD). MBC is a multi-agency task force that responses to 8 civil maritime security threats within the AMD. Her presentation appears in **Annex 4b**.

23. Mr. Vytautas Lukas, Operational Officer of Joint Operations Unit of the European Border and Coast Guard Agency (FRONTEX) introduced the multipurpose maritime activities coordinated by FRONTEX in dealing with various issues such as smuggling drugs and other goods, pollution incidents, search and rescue, etc. With regard to the Coast Guard Functions, cooperation varies in the following areas: (i) sharing, fusing and analysing information; (ii) providing surveillance and communication services; (iii) building capacity through training and exchange of staff; (iv) enhancing the exchange of information and cooperation; and (v) implementing multipurpose operations. Learning from the EU experience, he stressed that the key factor for the success of operational MLE activities is inter-agency cooperation. His representation appears in **Annex 4c**.

24. Senior Colonel Phan Van Quang, Deputy Chief of Staff of Viet Nam Coast Guard (VCG) presented the VCG's approach to MLEAs cooperation, which focused on the following priorities: (i) development of a cooperation mechanisms among regional MLEAs; (ii) sharing information and coordinated response to common challenges; (iii) capacity building for MLEAs. He shared the view that while awaiting regional MLEA cooperation mechanism to be established, bilateral cooperation should continue to be encouraged. His presentation appears in **Annex 4d**.

25. Cdr. Prakash Gopal, Research Fellow from the National Maritime Foundation of India elaborated on the possibility of developing an information-sharing framework for regional maritime law enforcement. He stressed the importance of information-sharing among different national authorities holding different information layers, in order to timely and effectively respond to common maritime challenges. He identified three key challenges to this process, including: (i) political will, (ii) lack of capacity, and (iii) security of information, in which (i) was the biggest impediment to information/intelligence sharing. However, he believed that each of these challenges could be mitigated by: (i) operational agencies convincing the Government of the benefits of such a framework; (ii) seeing the lack of capacity as a motivation for cooperation; and (iii) promoting security as integral to all information processes. His presentation is attached in **Annex 4e**.

26. Mr. Michael Vatikiotis, Regional Director for Asia of the Centre for Humanitarian Dialogue (HD) briefed on HD's project on "The Common Operating Principles" (COP).

Accordingly, experts from five countries, i.e. China, Vietnam, Malaysia, the Philippines and Singapore have worked to develop a set of common operating principles for MLEAs in the region. These include: (i) Principle of transparency and communication; (ii) Principle of do no harm; (iii) Principle of due regard for good order at sea. Each of these principles is further expounded in the attached presentation in **Annex 4f**. He further explained that while it might be difficult to come up with codes of conduct for MLEAs at this juncture, a set of principles might be more acceptable to regional countries. While there was broad agreement on the COPS among experts from the five countries involved, there was a lack of will at the political level for their adoption and implementation. He expressed hope that the discussion on the COP will be taken forward by the ARF or other ASEAN-led mechanisms in the near future.

Key take-aways:

27. Throughout the Workshop, the participants had vibrant discussions on the topics presented by the speakers. In general, the following points were highlighted:

- (i) A holistic approach to maritime security is needed since no single country or agency can handle this issue alone. Therefore, inter-agency and multi-stakeholder coordination should be the basis for MLEAs cooperation.
- (ii) Traditional security risks remain a major obstacle to MLEA cooperation efforts, however, it does not prevent ARF participating countries from exploring possible measures to build trust and confidence and to identify feasible cooperation activities in this area.
- (iii) In order to promote MLEA cooperation among regional countries, it is important to facilitate mutual understanding of regulatory frameworks and communication procedures of each country's MLEA, and to work towards harmonisation of these frameworks and procedures.
- (iv) In terms of implementation, a localised and thematic approach was recommended. Among others, the participants shared a strong interest in promoting MLEA cooperation vis-à-vis the fishery sector, including in addressing IUU Fishing.
- (v) With regard to transnational crimes at sea, there might be a need for a 'soft security' approach with more focus on 'deterrence' than 'enforcement', which requires better coordination among MLEAs and land-based agencies.

Menu of Potential Recommended Actions:

28. Based on the discussions that transpired during the two-day Workshop, the participants came up with the following menu of potential recommended actions:

- (i) Compile information on ARF members' MLEA systems to provide lessons learnt and good practices in effective MLE;
- (ii) Conduct a stock-take of existing bilateral and multilateral MLEA cooperation arrangements, based on ARF members' submissions, to identify potential models for regional MLEA cooperation;

- (iii) Consider establishing communication directories/networks among ARF members' MLEAs to share information on country-specific communication arrangements and to assist regional maritime domain coordination;
- (iv) Consider harmonisation measures such as the development of common data standards and operating terminologies among ARF member MLEAs as well as harmonised MLEA training initiatives;
- (v) Engage maritime industries, communities and other relevant stakeholders to support MLE priorities;
- (vi) Expand inter-operable activities such as joint and coordinated patrols among ARF members' MLEAs to address transnational issues at sea;
- (vii) Work towards a set of common guidelines and/or principles for ships and aircraft involved in MLE activities in the region,
- (viii) Support adoption of the Centre for Humanitarian Dialogue's Common Operating Principles at the track 1 level.

29. The participants agreed to submit the above Menu of Potential Recommended Actions to the ARF-ISM-MS, ARF-SOM and ARF Foreign Ministers for consideration.

Closing Remarks:

30. In their closing remarks, the Co-chairs expressed thanks and appreciation to the participants for their active engagement and contribution to the success of the Workshop and looked forward to working with all ARF members to move forward these important initiatives.