



## SUMMARY RECORD

### ASEAN REGIONAL FORUM WORKSHOP ON BEST PRACTICES IN IMPLEMENTING SAFETY OF NAVIGATION INSTRUMENTS

Manila, Philippines, 11-12 July 2017

#### INTRODUCTION

1. The Meeting was held in Manila, Philippines on 11-12 July 2017. The Meeting was co-chaired by Atty. Gilberto Asuque, Philippine Permanent Representative to the International Maritime Organization (IMO) and Related Inter-Governmental Organizations, Philippine Embassy, London, United Kingdom and Captain Nishant Kumar, Director of Military Affairs, D&ISA, Ministry of External Affairs, Republic of India.

2. It was attended by representatives from ARF participants, including Australia, Brunei, Cambodia, China, European Union, India, Indonesia, Japan, Malaysia, Myanmar, Philippines, Republic of Korea, Russia, Singapore, Sri Lanka, Thailand, United States, and Viet Nam. The list of participants appears in **ANNEX 1**.

3. The workshop was organized to identify best practices in the implementation of arrangements pertaining to international safety of navigation, with the aim to ensure safe navigation in international and domestic waters, such as the International Convention for the Safety of Life at Sea (SOLAS) 1974 and the International Regulations for Preventing Collisions at Sea 1972 (COLREGs), to review the implementation of these arrangements in the Asia Pacific setting, and make concrete recommendations on capacity building towards the enhancement of a rules-based maritime regime in the region. The workshop also provided a networking opportunity for relevant officials of the ARF member states, thus enhancing critical lines of communication among them.

4. To achieve these objectives, the discussions focused on the following key themes: implementation of binding and non-binding instruments on safety of navigation; issues and challenges on maintaining safety of navigation in the Asia Pacific region; enhancing navigational safety for international commercial shipping; means of cooperation to enhance safety of navigation in critical waterways; promoting safety of navigation among military and government vessels; enhancing navigational safety for non-convention and fishery vessels; and international cooperation on information-sharing to enhance safety of navigation. The Programme of Activities of the Meeting appears as **ANNEX 2**.

5. The following are the highlights of the discussions:

**OPENING SESSION:  
IMPLEMENTATION OF SAFETY OF NAVIGATION INSTRUMENTS**

6. Emphasis was made on the importance of the International Maritime Organization (IMO) conventions, including SOLAS, COLREGs, the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW), 1978, as amended; and International Ship and Port Facility Security (ISPS) Code as an amendment to SOLAS.

7. Further, there was also a focused discussion on the major international shipping regulations: 1974 SOLAS Convention, 1978 STCW as amended by the 2010 Manila Amendment, International Convention for the Prevention of Pollution from Ships 1973 (MARPOL) with the 1978 and 1997 Protocols, and 2006 Maritime Labour Convention.

8. The discussions highlighted a significant disparity on the level of adoption and implementation of these instruments. As of June 21, 2017, Indonesia has ratified the most number of IMO conventions among ASEAN members and Lao PDR has ratified the least number. The Philippines has ratified only 20 of 59 conventions. It was noted that there is a regional acceptance of the Big Four Conventions (SOLAS, MARPOL, COLREG, and STCW) from which mutual support within ASEAN and ARF can take root. Challenges to implementation of these instruments include lack of capacity and capability as well as technological, administrative and financial challenges.

9. There was also a discussion on the best practices and lessons learned in the implementation of Code of Unplanned Encounters at Sea, such as the CUES adopted by the Western Pacific Naval Symposium in 2014 and the Indian Ocean Naval Symposium (IONS) in 2016.

## **ISSUES AND CHALLENGES ON MAINTAINING SAFETY OF NAVIGATION IN THE REGION**

10. The Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia Information Sharing Centre (ReCAAP ISC), established in 2006 to enhance regional cooperation through information sharing, capacity building and cooperative arrangements in combating piracy and armed robbery against ships, has reported an expansion of its membership, enhanced cooperation, dissemination of the ReCAAP model to the Djibouti Code of Conduct and engagement of shipping industry. Based on ReCAAP data, there is a noticeable decline of piracy and armed robbery incidents at sea in 2016. There is, however, an increase of incidents in the Sulu-Celebes Sea area, involving the abduction of ship crew.

11. The ReCAAP ISC highlighted the following challenges: lack of information-sharing among government agencies of some Member States; under-reporting of incidents by shipping industry; and different levels of competence of the Focal Points of Member States. However, the ReCAAP ISC has established close linkages with inter-governmental organizations such as the IMO and INTERPOL; as well as implemented regional and sub-regional information sharing arrangements with its Member States and regional authorities in dealing with piracy and armed robbery incidents in Asia.

## **SESSION 1: ENHANCING NAVIGATIONAL SAFETY FOR INTERNATIONAL COMMERCIAL SHIPPING**

12. There was a discussion on the best practices of the EU, of several countries in Asia and of the shipping industry. The role of Public Private Partnership (PPP) and military forces as well as the need for capacity building were underlined.

## **SESSION 2: MEANS OF COOPERATION TO ENHANCE SAFETY OF NAVIGATION IN CRITICAL WATERWAYS**

13. The Tripartite Technical Experts Group (TTEG) was established by Indonesia, Malaysia and Singapore in recognition of the importance of the Straits of Malacca and Singapore for international navigation. This reflects the littoral states' commitment in ensuring navigational safety and security, protecting the marine environment, and facilitating the movement of ships in and through the Straits. The three coastal States are committed to upholding and applying the relevant international law, including the UN Convention on the Law of the Sea (UNCLOS), and share a worldview that the cooperative mechanism should be open and inclusive, one which acknowledges the legitimate interests of the user states, while upholding the sovereignty and territorial integrity of the coastal States. The TTEG acknowledged the crucial role of the IMO as the international regulator of shipping, concluding that multilateral efforts at shipping regulation have better chances of success with IMO support.

14. The deployment of vessel protection detachment (VPD) on commercial vessels is a nascent international norm. As such, numerous legal issues on VPD deployment exist, status of VPD personnel; allocation of responsibility between the VPD, the ship-owner, and the flag state; and, rules governing the use of force by VPDs. On the entry of foreign troops into the Philippines as VPDs, the Constitutional prohibition on the entry of foreign troops applies, except for certain countries which may be allowed entry under subsisting treaties and other forces that may be allowed entry only for performance of civilian functions. On the rules governing the activities of foreign VPDs in the Philippines, the following points were clarified: As a general rule, only Filipinos with permits/license can carry firearms within the Philippines; if attacked on Philippine waters, foreign VPDs may use force only in self-defense; and, foreign VPDs may not apprehend perpetrators of an attack in Philippine waters.

15. The Philippine Navy discussed the tripartite agreement of the Philippines, Malaysia and Indonesia to patrol the seas off their coasts that aims to provide a mechanism to operationalize immediate measures to address security issues such as piracy and armed robbery in the maritime areas of common concerns and to facilitate further cooperation among the three countries.

### **SESSION 3: PROMOTING SAFETY OF NAVIGATION AMONG MILITARY AND GOVERNMENT VESSELS**

16. The Institute for International Policy Studies (IIPS) of Japan presented the *Yasuhiro Nakasone Proposal on Maritime Security in East Asia*. The three points of the proposal are: a) to promote practical cooperation while refraining from self-righteous claims inconsistent with established norms; b) to adopt an East Asian Maritime Security Charter in order to reaffirm the rules and practical measures on

maritime security; and c) to establish an Organization for Maritime Security in East Asia (OMSEA) as a forum to exchange views and to take collective steps. The Study Group on Maritime Security in East Asia convened to discuss a couple of urgent issues such as crisis management and capacity-building. Among the proposals made were: a) to abide by the principles governing law enforcement vis-à-vis private vessels; b) to secure a communications mechanism among law enforcement agencies; c) to implement the Agreement on the Prevention of Incidents On and Over the High Seas (INCSEAs); d) to address maritime militia; e) to support maritime law enforcement agencies on areas such as hardware and education; f) to promote common understanding of relevant rules of international law; g) and to enhance maritime situational awareness (MSA).

17. An ARF participant shared the view that some contents of the Nakasone proposal were incorrect. The ARF participant further stressed that while its national maritime law enforcement agency is committed to safety and freedom of navigation, it also has the responsibility to conduct law enforcement measures in sea areas under its jurisdiction. In response to this, the representative from the IIPS stated that the content of the proposal is correct.

18. An ARF participant expressed favorable view on the idea of dialogue and cooperation between ASEAN and China but these should be based on international law and non-militarization and self-restraint on the grounds should be maintained. He emphasized the importance of the conclusion of the Code of Conduct (CoC) in upholding the rule of law in the South China Sea.

#### **SESSION 4: ENHANCING NAVIGATIONAL SAFETY FOR NON-CONVENTION AND FISHERY VESSELS**

19. Representatives from India, Thailand, Japan and the Philippines shared their respective national best practices on this theme, and it was noted that states have different understanding or interpretation of various regulations affecting non-convention and fishery vessels. These pose challenges in harmonizing efforts at compliance with safety regulations.

20. It was highlighted that developing a culture of safety is not the sole responsibility of governments but of all stakeholders. In pushing safety measures to the frontlines, existing technologies may be used, such as mobile applications to prevent accidents and for vessel monitoring systems.

21. The participants raised the possibility of exploring alternative safety arrangements for non-convention vessels engaged in international trade.

## SESSION 5: INTERNATIONAL COOPERATION ON INFORMATION-SHARING TO ENHANCE SAFETY OF NAVIGATION

22. The recurring theme of the primacy of information-sharing was given special emphasis in the discussions on best practices by the National Mapping and Resource Information Authority (NAMRIA) of the Philippines and by the INTERPOL's Maritime Security Unit.

23. The NAMRIA counts among its best practices its close cooperation with other member states of the East Asia Hydrographic Commission, the culture of data openness and sharing of knowledge among them.

24. The INTERPOL's Maritime Security Unit maintains a maritime piracy database which contains a large amount of information from multiple sources, and is used to analyze maritime piracy cases (identifying links between piracy cases and other criminal activities, key players and their profiles). These analyses are used to support investigations with a view to successful prosecution.

25. The Maritime Security Unit prepares over 130 analytical products and these reports are disseminated to 30-40 countries.

26. The INTERPOL expressed concerns over the difficulty of obtaining data from Asia which the organization can use for its analyses while encouraging government officials to take advantage of the INTERPOL data resources to help them perform their maritime law enforcement duties.

### KEY TAKEAWAYS AND WAY FORWARD

27. The participants reviewed the objectives of the workshop and made a reckoning of what they have accomplished during the two-day workshop, highlighting key takeaways. They drew up a list of proposals for moving forward and made recommendations on building capacity of the countries in Asia Pacific towards the enhancement of a rules-based maritime regime in the region. The presentation on the Key Takeaways and Way Forward appears as **ANNEX 3**.

