

ARF MODEL ARRANGEMENT: LATEST STATUS

United States
Department of State
Bureau of East Asian and Pacific Affairs
Presented by Kevin Sheives

What it is

- ▣ A “model” legal agreement between two sovereign countries when foreign military relief assets (personnel and resources) are sent upon request by an Assisting State to an Affected State.
- ▣ Voluntary: ARF members can choose to:
 - 1) Bilaterally agree to this agreement in its current form, or
 - 2) Bilaterally negotiate additional or modified language based on this “model”, or ‘
 - 3) Not use any type of binding, legal agreement
- ▣ The bilateral, legally binding agreement covers issues such as: taxes, interaction with local economy, discipline of forces, dispute resolution, privileges and immunities.

**ASEAN REGIONAL FORUM (ARF) VOLUNTARY MODEL ARRANGEMENT FOR
THE USE OF FOREIGN MILITARY AND CIVIL DEFENSE ASSETS (MCDA) IN
DISASTER RELIEF**

*(To be utilized as a model where establishing bilateral legal arrangements between ARF
Participants on a voluntary basis)*

Explanatory Note for the Model Arrangement

The following model text (hereafter referred to as Model Arrangement) reflects the ARF characteristics of voluntarism, non-binding principles, and flexibility. The Model Arrangement is to be bilaterally activated and designed to apply only to temporary disaster relief operations with use of MCDA following natural, technological, and environmental emergencies in times of peace. ARF support of this model text does not imply that it is mandatory to use the Model Arrangement, nor does the Model Arrangement provide an exhaustive list of all matters that would be involved in final bilateral arrangements between Affected and Assisting States. The Model Arrangement is a guideline to provide the ARF Participants with a useful template in establishing a bilateral arrangement and provisions that might be included in such an arrangement. Bilateral arrangements would be negotiated bilaterally between parties and, subject to the understanding of the parties, may be considered binding once agreed upon. The inclusion of references to other documents and treaties does not imply ARF members' adherence or agreement to those references. "Alternative" additions to the text reflect comments made by some ARF participants that provide language that Affected and Assisting states can consider on a case-by-case basis during bilateral negotiations.

This explanatory note sits above all paragraphs in this Model Arrangement.

A. Preamble

1. The Embassy of _____ (*Assisting State*) has the honor to refer to recent discussions between representatives of our two Governments regarding issues related to the deployment of _____'s (*Assisting State*) military and civilian personnel to _____ (*Affected State*). The military and civil defense assets of the Assisting State shall be present in the Affected State only on the invitation of, and for assistance to, the Affected State. Personnel of the Assisting State may be temporarily present in the Affected State in support of disaster relief efforts associated with _____ (*Disaster Name*).
2. For the purpose of the present Arrangement, the definitions contained in the United Nations Oslo Guidelines on the Use of Foreign Military and Civil Defense Assets (MCDA) in Disaster Relief (hereafter referred to as Oslo Guidelines) shall apply unless otherwise stated. Members of the Assisting State's Armed Forces, civilian employees, contractors, and their equipment are hereafter referred to collectively as the MCDA Operation. The government of the Assisting State is hereafter referred to as the Assisting State. The Government and the authorities of the Affected State are hereafter referred to collectively as the Affected State. The Assisting State shall appoint one of its members of the MCDA Operation to have control of and be in command of the MCDA Operation, hereinafter referred as the Head of the MCDA Operation. The Assisting State's MCDA Operation will remain under national command and control, but the Affected State and its designated authorities will exercise authority for the overall monitoring,

Timeline

- ▣ June 2008: Proposal referenced in 15th ARF Chairman's Statement
- ▣ Dec-April 2009: Presentations and discussion of general concept at ISM-Disaster Relief (Banda Aceh, Indonesia) and Seminar on Laws/Regulations of Military DR (Beijing)
- ▣ May 2009: 1st draft distributed
- ▣ July 2009: 16th ARF take note of ongoing discussions
- ▣ September 2009: ISM-Disaster Relief (Honolulu) In-depth Discussion Groups review and revise 2nd draft
- ▣ November 2010: 3rd Draft distributed. Additional ARF comments
- ▣ March 2010: 4th Draft distributed. Testing discussed.
- ▣ July 2010: 17th ARF expresses additional support

Next Steps

1. Develop an appropriate testing method.
 - Perhaps through the ARF DiRex
2. Refine the text further based on testing participants' feedback
3. Distribute Draft 5 for final ARF consideration.
4. ARF members use the arrangement, on a voluntary basis, in actual relief operations.
5. Text can be reviewed from time to time following additional ARF member feedback