

## **Session 1: Patterns of Maritime Security Cooperation that Can be Improved for ASEAN Member States to Address Transnational Crime**

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### **Introduction**

Transnational crimes in the maritime domain are not a new phenomenon and it continues to be a growing threat to the peace and stability of the region. Criminal activities at sea are usually transboundary and non-military in nature; they include piracy, maritime terrorism, and smuggling of contrabands, human trafficking and Illegal, Unreported and Unregulated (IUU) fishing. Southeast Asia is no exception as it is predominantly a maritime region.

The intensity of globalisation has inevitably made economies more interconnected and interdependent. The booming shipping industry that heavily depends on the South China Sea and other chokepoints as its passage way and/or ports has tempted numerous groups to steal and smuggle goods for profit. Earlier this year, the United Nations stated that transnational crime in Southeast Asia is on the rise. For Southeast Asian countries, this puts the region at a vulnerable spot as the region works towards integrating its economies under the ASEAN Economic Community (AEC).

Regionally, there are many cooperation and engagement that are already in place. ASEAN member states need to further look into addressing this concern -- not to widen its cooperation, but to further deepen engagement with practical and achievable milestones. This paper briefly addresses (1) the presence of transnational crimes in Brunei Darussalam and (2) regional patterns of cooperation in response to maritime security and transnational crime.

### **Transnational Crimes in Brunei Darussalam and its Response**

Being a predominantly maritime country, Brunei Darussalam relies heavily on its maritime domain to keep up with the country's growing needs and to contribute to its socio-economic development. This is no surprise as it has a coastline of 161 km and a 200 nautical miles of its Exclusive Economic Zone (EEZ).

Although most of the country's transnational crimes challenges currently come from the land mainly due to its porous borders and limited surveillance in place, any disruptions on its maritime pose huge security threats to Brunei's national security and sovereignty. Hence it is crucial for Brunei to maintain the stability of its territorial waters and beyond i.e. the South China Sea. Among some of the challenges are as follows:

*Piracy* remains to be one of the main security concerns for Brunei Darussalam especially as Southeast Asia continues to see an increase in piracy attacks over the years. Though it is said that piracy attacks in the region tend to be less violent; this is currently changing as more piracy attacks are now resorting to 'kidnap for ransom and killing'. This is suspected to be mainly due to the extensive networks that could involve militants.

Adding to the complexities are the numerous strategic chokepoints in Southeast Asia that has always been vulnerable to piracy attacks such as the Straits of Malacca, the spike in the piracy attacks around Indonesian waters and the emergence of the Sulu Sea as a new hot spot. For Brunei, although there are no piracy attacks within its maritime jurisdiction, relevant authorities and agencies acknowledge the importance of surveillance in its waters and EEZ, as it could easily be used as a transit point, and as well as constitute a security blind spot for Brunei.

*Maritime Terrorism* is another maritime security concern for Brunei Darussalam in view that the consequences it brings are too damaging to be ignored. With the presence of seven offshore oilfields which include Champion, Southwest Ampa, Fairley, Fairley-Baram, Magpie, Gannet, and Iron Duke; any disruption to its shipment route and oil platforms would definitely result in adverse implications to its socioeconomic development. Hence, the safety of the international passageway, oilfield platforms, territorial waters and EEZ remains top priority as it largely impinges on Brunei's national security and sovereignty.

*Illegal fishing* remains to be one of Brunei's continuous security challenges in its maritime domain. From 2000 until 2006, there were about 480 cases of foreign fishing vessels trespassing and fishing illegally in Brunei's water, while from 2009 to 2015, a total of 145 cases were recorded, excluding those that got away. Though the total number of cases have reduced over the years, it remains a serious problem as it still brings about large revenue loss to Brunei's economy.

In 2011, over \$13 million revenue was lost to illegal fishing and in 2014, losses were estimated to be at around \$19 million. Despite having mechanisms in place to address IUU fishing in Brunei's waters, more needs to be done. The announcement to acquire a National Coastal Surveillance System by the National Maritime Coordination Centre (NMCC) in 2012 serves as a boost for joint cooperation and coordination between relevant agencies including the RBAF, Marine Police and the Fisheries Department in Brunei waters.

*Human trafficking* So far, no cases of human trafficking has been reported in Brunei. However, with the unpredictability of the maritime security environment, it remains crucial for mechanisms to be introduced and put in place as preventive measures. Last year, at the 10<sup>th</sup> ASEAN Ministerial Meeting on Transnational Crime (AMMTC), Brunei shared that the Trafficking and Smuggling of Person Orders 2004 is currently being amended to align national initiatives with ASEAN's efforts to implement the ASEAN Convention Against Trafficking in Persons, Especially Women and Children (ACTIP) and the ASEAN Plan of Action Against Trafficking in Persons.

*Drug Trafficking* In recent times, there have been no drug trafficking cases via the sea reported so far in Brunei. However, looking at the country's coastline as well as porous borders on land, this could easily emerge as a threat to Brunei's national security in the future. This is especially

due to the re-emergence of drug production in the Golden Triangle penetrating both regional and international markets.

In dealing with the widespread of security challenges in the maritime domain, Brunei has numerous mechanisms in place. Among some of the initiatives are the establishment of the National Security Committee; amendment of the Trafficking and Smuggling of Person Orders 2004 to align it with the initiative on ASEAN level; and Maritime Offences (Ships and Fixed Platforms) Order 2007 to address cases of hijacking, threatening safety of sea lanes, destroying ships, compromising safety of platforms; and Fisheries Order 2009 to address illegal fishing in the country.

On the regional level, Brunei is also actively involved in initiatives carried out in the ADMM and ADMM Plus as well as in the ASEAN Navy Chiefs Meeting. To this end, Brunei is and will remain committed in contributing to regional peace and stability, especially in the maritime domain.

### **Patterns of Cooperation in Dealing with Maritime Security and Transnational Crimes**

The increasing occurrence and intensity of security challenges faced by the region has made it important for the region to be more proactive and actively engaged with one another under ASEAN. This has led to the changing patterns of communication and cooperation with one another, as relying on meetings and consultations alone are no longer sufficient to address growing challenges.

#### ***Patterns of Cooperation***

In recent years, we have seen a variation of cooperation patterns within Southeast Asia. Among some of them are as follows:

*The establishment of the ASEAN Defence Ministers Meeting (ADMM) was a significant point for ASEAN. The ADMM is a multilateral defence platform for discussions and decision-making among defence ministers. It changes the way leaders manage and deal with challenges faced by the region especially as defence leaders and representatives are made to discuss and prioritise as a region, on common security issues that need the highest attention. For now, there are a total of six priority areas that have been identified including Maritime Security, Humanitarian Assistance and Disaster Relief, Military Medicine, Peacekeeping Operations, Counter-terrorism and Humanitarian Mine Action.*

*While ADMM is not the only multilateral forum for defence diplomacy and cooperation, it stands out for being the top-level ministerial defence mechanism that is directly accountable to the ASEAN leaders.<sup>1</sup>*

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<sup>1</sup> "Roundtable on The Future of the ADMM/ADMM-Plus and Defence Diplomacy in the Asia Pacific," RSIS, February 2016 [https://www.rsis.edu.sg/wp-content/uploads/2016/02/PR160223\\_Future-of-the-ADMM.pdf](https://www.rsis.edu.sg/wp-content/uploads/2016/02/PR160223_Future-of-the-ADMM.pdf) (accessed on 21 November 2016)

*Intensification of interaction with Plus Countries* bridges ASEAN member states with various countries in sectors related to the maritime domain and transnational crimes including with Australia, China, India, Japan, New Zealand, Republic of Korea, Russia, and the United States. In the defence sector, the presence of Plus Countries has enhanced dialogue which are then translated into practical cooperation through joint exercises in the six priority areas identified. Under the ADMM Plus initiatives, progress has been made with many table top exercises, workshops, establishment of focal points and national centers as well as SOPs in place including the recent ADMM Plus Maritime Security and Counter-Terrorism Exercise held early this year.

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*Close partnership with the US* is probably one of the oldest form of bilateral cooperation that is visible in the region. Besides being involved in the ADMM Plus, the US also has numerous bilateral and multilateral arrangements with various countries in the region. This includes “the bilateral CARAT series, the Naval Engagement Activity (NEA) with Vietnam, and the multilateral Southeast Asia Cooperation and Training (SEACAT) with Brunei, Indonesia, Malaysia, the Philippines, Singapore and Thailand”. At the same time, we are also seeing Southeast Asian countries expanding partnership with other major powers besides the US.

Within Southeast Asia, there are also numerous bilateral cooperation in dealing with maritime challenges, for example, the cooperation between Singaporean and Indonesian navies under SURPIC sea surveillance system where navies from both sides are able to share information on real time maritime situation along the Singapore Strait.

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*Minilateral* form of maritime cooperation is also emerging in the region. This can be an effective form of cooperation as it involves countries that share similar challenges and has the same drive to resolve it.

This can be seen in the trilateral cooperation to address the upsurge of piracy attacks along the Malacca Strait. The Malacca Straits Patrol (MSP) was initiated which consisted of the Malacca Straits Sea Patrol (MSSP), the Eyes-in-the-Sky (EiS) air patrols and MSP Intelligence Exchange Group (IEG) between relevant countries closest to the strait. This arrangement has proven to be an effective measure to fight off piracy and sea robberies as it brought the numbers down from 38 attacks in 2004 to 0 in 2011. Currently, Indonesia, Malaysia and the Philippines are also working on a trilateral agreement for joint sea and air patrol along the Sulu Sea and Sabah coast.

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*High concentration of defence and security related Track II engagements.* These exist bilaterally between think tanks, or multilaterally such as the Shangri-La Dialogue (SLD), Jakarta International Defence Dialogue (JIDD), Putrajaya Forum (PJ), Xiangshan Forum, Seoul Defense Dialogue and Tokyo Defense Forum. These venues for strategic dialogues aims to address dynamism between major powers, regional powers, and enhance understanding of pressing issues facing the region. In addition to this is also the increasing importance of NADI’s role in providing recommendations for ADSOM’s consideration.

The extensive Track II platforms in the region has also provided opportunities for *China to re-engage* in maritime cooperation with the region. The presence of conflicts in the South China Sea is said to be China's biggest hurdle for cooperation and failure of China-ASEAN Maritime Fund in 2011 initiatives. However, it is suggested that China has redirected its fund through its Track II engagements where "the Fund has now become a very useful tool in the projection of Chinese influence into ASEAN policymaking circles".

### ***Best Practices***

Countries engaging with one another on the various aspects of maritime security have to take into account the multidimensional nature of the security challenges they are facing before deciding on the kind of security framework to work on. Bilateral cooperation between countries is the way forward when two countries share a common threat and perception on security matters. The interactions between the two would exist in the form of intelligence exchanges, joint exercises and even conferences where concrete actions and policies are developed. This can also exist in a trilateral cooperation. Whereas a multilateral cooperation is more suitable when a wide range of issues are involved, for example in the ADMM Plus. In this setting, consensus is needed before decisions are translated into actions.

### ***Principles of Cooperation***

Relations in ASEAN have always been based on the basic ASEAN principles. This includes principles of non-interference and respect of one's sovereignty. Additional principles for Plus countries are to promote capacity building and transfer of knowledge, technology and expertise. ASEAN should already reach the maximum comfortability level of with one another. The current level of trust and confidence among one another should be higher now for more engagements on other security matters (besides NTS challenges) that would pose problems for the regional peace and stability.

### **Conclusion: Future Cooperation**

It is observed that there is (1) intensification of Track II engagements (2) expanding partnerships and (3) increased cooperation between countries with aligned interest working together in defence and security cooperation as well as economics.

Based on all these, the regional focus for future cooperation is likely to move from dialogue and consultation to an increase of multilateralism and practical joint exercises and a shift away from ASEAN's comfort zone to managing sensitive yet important issues. In looking at the overall maritime cooperation, it is recommended for ASEAN member states to focus on, not on widening its cooperation (introducing new initiatives), but rather to deepen engagement with one another by implementing the commitments agreed by ASEAN Leaders, through translating and implementing more practical cooperation in preventing the expansion of transnational crimes in the region.