



CONCEPT NOTE

For a Regional Roundtable on Irregular Movements by Sea in the Asia Pacific Region 18-20 March 2013 Jakarta, Indonesia

Introduction

1. The phenomenon of people taking to the seas in search of safety, refugee protection or better economic conditions is not new in the Asia-Pacific region. In response to the arrival of thousands of Vietnamese in South East and East Asian countries, the Comprehensive Plan of Action for the Indochinese Refugees was established in 1989 to provide the regional framework for resolving what was described at the time as a “boat crisis”.
2. Irregular maritime movements still remain a reality in the region *albeit* not at the scale witnessed during the Vietnamese exodus in the 1980s and early 1990s. A highly mobile, often young population of refugees and migrants from Afghanistan, Myanmar, Sri Lanka and more recently Iran and Iraq is taking to the seas heading for middle-income countries such as Thailand and Malaysia or through Indonesia to Australia or beyond, in search of better standards of protection or employment opportunities.
3. In a UNHCR Discussion Paper entitled *Regional Cooperative Approach to address Refugees, Asylum Seekers and Irregular Movement* (November 2010), the Office *inter alia* proposed the development of co-operative arrangements for identifying solutions/outcomes for people moving irregularly by sea. Such arrangements would contribute to combating human smuggling and trafficking by sea and preserving the integrity and effectiveness of maritime search and rescue services (SAR). They would also enable the development of coherent and predictable responses with respect to disembarkation, reception, registration, processing and identification of outcomes for persons traveling irregularly by boat. The Discussion Paper was endorsed by the Fourth Bali Regional Ministerial Conference as a “useful foundation” for operationalizing the Regional Cooperation Framework adopted at that meeting to provide a more effective way for interested parties to cooperate to reduce irregular movement through the region.
4. In November 2011, the Government of Djibouti co-hosted with UNHCR a Global Expert Meeting on *Refugees and Asylum-Seekers in Distress at Sea – How best to respond*. The purpose of the meeting was to explore how responses to rescue at sea situations involving refugees and asylum-seekers could be improved through practical cooperation to share burdens and responsibilities. The meeting considered three proposals by UNHCR for the development of operational tools to enhance cooperative responses to rescue at sea situations involving refugees and asylum-seekers including: (I) a *Model Framework for*

Cooperation; (II) Standard Operating Procedures for Shipmasters; and (III) Mobile Protection Response Teams.

5. Two months earlier, in October 2011, at the Fifth Meeting of Bali Process Ad Hoc Group Senior Officials, held in Sydney, Australia, support had expressed for the organization of a regional roundtable on irregular movements by sea under the Regional Support Office in close cooperation with UNHCR and IOM. Such a roundtable would aim to promote “a common understanding of conceptual issues on irregular movements by sea with a view to informing the development of bilateral or multilateral arrangements among interested States.” During subsequent Bali Process discussions on the establishment of a Bali Process Regional Support Office (RSO), the proposed Regional Roundtable on Irregular Movements by Sea was endorsed as one of the RSO foundation projects to be organized during the first year of the Office’s operation.

Purpose

6. To provide a forum for and facilitate dialogue among interested governments, UNHCR and other international organizations including IOM, UNODC and the International Maritime Organization on practical approaches to irregular movements by sea that are adapted to the specific circumstances of the Asia-Pacific region, build upon areas of common interest to a number of States and contribute to strengthening protection space through inter-State cooperation and harmonized responses across the region.

Objectives

7. A two-day *Regional Roundtable on Irregular Maritime Movements in the Asia Pacific Region* is proposed to be organized by UNHCR and co-hosted by Indonesia under the auspices of the RSO to promote “a common understanding of conceptual issues on irregular movements by sea with a view to informing the development of bilateral or multilateral arrangements among interested States.” The focus of the Roundtable will be to enhance understanding among participants of different aspects of irregular maritime movements, key actors, responsibilities and challenges and identify areas of interest for follow up discussions, activities through the RSO. In particular, the Roundtable will focus on:
 - Providing an overview of the international legal framework and standards applicable to situations of irregular movements by sea as relevant to the Asia-Pacific region;
 - Providing a forum for States to identify key challenges when responding to such movements with a possible focus on:
 - Distress at sea and rescue at sea operations;
 - Maritime interception operations;¹

¹There is no internationally accepted definition of interception. A working definition is provided in UNHCR’s Executive Committee Conclusion No 97 (LIV) (2003) on Protection Safeguards in Interception measures. This defines interception as “one of the measures employed by States to:

- i. prevent embarkation of persons on an international journey;
- ii. prevent further onward international travel by persons who have commenced their journey; or
- iii. assert control of vessels where there are reasonable grounds to believe the vessel is transporting persons contrary to international and national maritime law;

- Irregular sea arrivals at the territory of a third State.
- Reviewing the Summary Conclusions of the UNHCR Global Expert Meeting on *Refugees and Asylum-Seekers in Distress at Sea – How best to respond?* and considering options for adapting these to the specific realities and challenges facing the Asia-Pacific region.
- Providing a forum to discuss concrete and practical mechanisms to enhance cooperation and improve responses based on inter-State coordination and burden and responsibility sharing. In particular, it is proposed that the meeting will discuss how the UNHCR *Draft Model Framework for Cooperation* could be applied at regional level.
- Identifying steps for ongoing dialogue and concrete activities under the auspices of the RSO involving enhanced cooperation and improved responses to irregular maritime movements.

Target Audience

8. Invitations to the Regional Roundtable will be sent to all Bali Process Ad Hoc Group Member States and Observers.
9. Given that responses to irregular maritime movements require engagement by a number of government stakeholders, the Regional Roundtable will target key agencies such as *inter alia* Ministries for Foreign Affairs, Ministries of Interior/Immigration Bureau, Border Management Agencies, the Naval Police/ Search and Rescue Agencies. A total of four delegates per country will be invited.
10. In order to draw from practices from other regions, expert speakers will be invited from the Caribbean, Mediterranean and the Gulf of Aden regions. Participation will also be sought from the International Maritime Organization, UNODC, IOM and the shipping industry,

Expected Outcomes

11. In the short term, the Roundtable will aim to provide a forum for States, UNHCR and other international organizations such as IOM, IMO and UNODC to:
 - discuss different aspects of irregular movements by sea, identify common challenges and consider options to move forward with follow up activities under the auspices of the RSO;
 - network and improve coordination through sharing capacity and experiences;
 - facilitate learning from good practices in other regions.
12. In the longer term, the Roundtable might:
 - contribute to establishing/strengthening links among relevant actors in the region including key government agencies, UN and other international organizations;

Where in relation to the above, the person or persons do not have the required documentation or valid permission to enter; and that such measures also serve to protect the lives and security of the travelling public as well as persons being smuggled or transported in an irregular manner...”

- build a regional consensus that irregular maritime movements are a serious humanitarian and security issue that States need to address collaboratively and comprehensively and through high level political support;
- provide the basis for the development of practical cooperative arrangements which are in line with international obligations under international maritime law, the 1951 Refugee Convention and other international human rights instruments as applicable in the region;
- contribute to improved responses to maritime incidents and the movement of mixed populations by sea.

Timeline and Location

13. The Regional Roundtable will be held from 18 to 20 March 2013 in Jakarta, Indonesia, in advance of the fifth Bali Process Ministerial Conference.

Reference Material

14. In order to facilitate discussions during the Roundtable, UNHCR will draft a Discussion Paper presenting options for adapting the Djibouti conclusions and proposed operational tools into the Asia-Pacific context.

15. Additional material will be developed covering:

- the international and regional legal framework applied with respect to rescue at sea, interception and disembarkation;
- examples of practical cooperation on addressing irregular maritime movements in other regions including the Caribbean, Mediterranean and the Gulf of Aden;
- available statistics and other information material that can serve as the basis to analyze trends in the Asia-Pacific region.

16. With a view to ascertaining the range of issues that would be of most interest to States in the region, a questionnaire has been developed for Bali Process AHG Member States. This seeks to identify areas of interest to Member States for further discussion, sharing of information, capacity building and technical support. The results of the questionnaire will serve to guide the process of drafting the Roundtable's agenda and any conclusions for a follow up process.

*UNHCR,
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