

CO-CHAIRS' SUMMARY

“Mapping Disembarkation Options: Towards Strengthening Cooperation in Managing Irregular Movements by Sea”

3-4 March 2014

Bangkok, Thailand

1. The Government of Indonesia and the Office of the United Nations High Commissioner for Refugees (UNHCR) co-chaired a meeting on “Mapping Disembarkation Options: Towards Strengthening Cooperation in Managing Irregular Movements by Sea” under the auspices of the Bali Process Regional Support Office (RSO) from 3 to 4 March 2014, in Bangkok, Thailand. Participants included delegates from Bangladesh, Indonesia, Malaysia, Sri Lanka and Thailand. Participants from the UNHCR, the International Organization for Migration (IOM), the International Maritime Organization (IMO) and the RSO also attended, as well as independent experts. A background paper was commissioned by UNHCR under RSO auspices to facilitate discussion.
2. The purpose of the meeting was to “establish a consultative and collaborative process to discuss and agree upon the parameters, structure, content and modalities of a mapping exercise of disembarkation options in some countries”. Using as a starting point applicable international legal standards and principles and a more precise understanding of key disembarkation issues, discussions were held at the working level and were aimed at determining the scope, content, common research methodology and analysis framework for mapping disembarkation options. Secondment arrangements to the RSO were proposed to support the mapping exercise. The timeframe for project implementation, including potential secondment arrangements for State officials to the RSO, were also considered.
3. The Government of Indonesia and UNHCR opened the meeting and were joined by the RSO in setting the context for discussions recalling the conclusions of the Regional Roundtable on Irregular Maritime Movements co-hosted by the Government of Indonesia and UNHCR in March 2013, the 5th Bali Regional Ministerial Conference in April 2013, and the Jakarta Special Conference on the Irregular Movement of Persons hosted by the Government of Indonesia in August 2013.
4. Some key common challenges facing States with irregular maritime movements across the Asia-Pacific region and beyond were described. While noting the non-binding, voluntary nature of the Meeting’s deliberations, specific areas where cooperation and coordination at the regional level would be useful, were highlighted. The right of each State to safeguard its sovereignty and security was underlined. Yet, the need for balance with humanitarian concerns was acknowledged to prevent loss of life at sea and ensure the protection of persons moving irregularly by sea as corresponding to their needs. Recalling the shared, voluntary commitment to collective responsibility as reaffirmed in the Jakarta Special Conference, participants noted the benefits of working together on mapping disembarkation options. The

workshop was framed as an opportunity to move towards a cohesive and holistic response to irregular maritime movement through a process that involved the mapping of disembarkation options in the region.

Towards a Protection-Sensitive Regional Approach to Irregular Maritime Movements,

5. During the session, it was noted that there has been a significant increase in irregular maritime movements in the region posing considerable protection challenges to the safety and security of persons undertaking such movements. Many persons have lost their life at sea over recent years, including an increasing number of women and children who are most vulnerable. A number of initiatives have been developed to support holistic and comprehensive regional responses to assist States in effectively responding to irregular movements in a way that ensures that lives are saved and people are protected in accordance to their needs. A UNHCR Global Strategy on Protection at Sea is under development that offers a global framework for consideration by States. Other initiatives were highlighted including Mobile Response Teams to assist States in responding to arrivals by sea, temporary protection or ‘stay’ arrangements, and access to labour schemes as a possible outcome for persons in need of international protection. As part of its strategy on a comprehensive migration management system, IOM’s focus has been on assisted voluntary return and sustainable reintegration programs, on initiatives that promote legal and safe migration as well as on dialogue and information sharing among source, transit and destination countries.

Applicable International Legal Framework for Disembarkation

6. During the session, experts laid out the international legal framework governing search and rescue at sea and the treatment of people travelling as part of mixed movements up to and following disembarkation. This includes the international law of the sea, international human rights and refugee law, and international criminal law. Among the themes highlighted was the obligation to help those in distress, as well as to establish mechanisms for search and rescue coordination. The international legal framework encourages the development of regional mechanisms for cooperation. Experts identified the current state of international law, including evolving areas regarding the definition of distress at sea, identification of locations where disembarkation should take place, and how to deal with stateless vessels in the context of maritime interception. These are addressed under the theme of “grey areas” in the background paper. Respect for the principle of non-refoulement and other human rights as provided under international law were noted. The need for differentiated screening systems was highlighted to identify different categories among those travelling irregularly by sea so that their needs can be met through referral to relevant procedures and providers. IMO’s initiative for a Code of Conduct/Practice on Rescue at Sea in the Mediterranean was presented including a recent initiative of the Regional Asia-Pacific SAR Task Force to enhance SAR capability.

National Arrangements for Disembarkation

7. Thought-provoking presentations were made by invited countries describing the applicable national legal and policy framework that covers rescue and interception at sea including disembarkation, key challenges and gaps as well as areas where support is needed. Throughout the presentations, the need for regional cooperation was underlined in light of the complexity and transnational nature of the challenges facing countries in the region making it difficult for States to act alone. More specifically, the challenge of prevention was addressed with respect to the geography of different countries and lack of resources to manage increasing numbers of potential migrants. Awareness-raising at community level was noted as an important element of a comprehensive response.
8. Disembarkation was presented as a key issue raising specific challenges for States with respect to the identification of a place of safety and the screening of victims of trafficking and other persons with specific protection needs. The need to address root causes through development in source countries was stressed as well as for capacity building. A call was made for countries of disembarkation not to be left alone but assisted through arrangements that promote burden sharing and improved information exchange and regional cooperation.

Next Steps: Agreeing on Common Objectives, Outcomes and Secondment Arrangements

9. Presentations were made of three discussion papers prepared in connection to applicable international legal framework, the proposed scope and methodology for mapping disembarkation, and secondment options under RSO auspices. Note was made that what was proposed in terms of scope, methodology or secondment options was not prescriptive but open to discussion. Specific suggestions were made by States on the way forward. Participants noted that the proposal for a mapping exercise had contributed to a useful process of national reflection on responses to irregular maritime movements. During a feedback session, a number of key points were identified to guide next steps with regard to:
 - the need for further consultation and discussion at national level on the basis of available material in order for an informed decision to be made;
 - the importance of flexibility to allow for adaptation of the scope and methodology to national realities and for different issues to be addressed on the basis of diverse national arrangements and requirements including with respect to the range of agencies engaged in responses to irregular migration by sea. The end result should be the same while the approach for reaching the desired outcome should be left to participating States.
 - the need to conceptualize the present endeavor within a holistic approach and a comprehensive strategy including through the facilitation of existing regional fora and structures;
 - the possible engagement of other affected countries in future discussions on disembarkation including countries of origin, transit and destination.
 - the value of sharing information and intelligence among affected countries.
10. Participants highlighted the importance of clarifying how the outcomes will be used in the context of the Bali Process. They committed to reverting with comments to the RSO in

writing and to continuing dialogue on this issue. The six-month implementation timeframe was considered acceptable with the possibility of further extension.

The Way Forward & Concluding Remarks

- 11.** The meeting identified a range of issues that require further consideration and elaboration at capital level. Participants expressed support to bringing the outcomes of the Meeting to the attention of senior officials at national level for guidance on how to proceed. Feedback would need to be received by 31 March 2014 to ensure that the project can be started and completed within the designated six-month timeframe. Note was made that the proposed timeframe would enable the results of the mapping exercise to feed into the next Bali Regional Ministerial Conference and the Jakarta Special Conference process.
- 12.** The Co-Chairs acknowledged the support of UNHCR for organizing the meeting and of the Regional Support Office, under the auspices of which the meeting was held.

Bangkok, 4 March 2014