

## ATTACHMENT A

### Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime

#### **Review of Region's Response to Andaman Sea Situation of May 2015**

1. We, senior officials and representatives of member states and organisations of the Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime, have reviewed the Asia Pacific region's response to the Andaman Sea situation of May 2015, as recommended by the Sixth Ministerial Conference of the Bali Process (23 March 2016). We have done so to share lessons and implement necessary improvements. Ministers agreed that our Review would consider options for improving national, regional and subregional contingency planning and preparedness for potential large influxes of irregular migrants in the future.

#### **Events of May 2015 and Lessons Learned**

2. We acknowledge the events of May 2015, specifically the movements of mixed populations from Bangladesh and Myanmar, were in large part predictable. The movement was longstanding and in the absence of a coordinated response a crisis was likely. The discovery of graves and abandoned holding camps indicates that smuggling and trafficking networks had been in existence for some time. These smuggling networks abused and exploited migrants and refugees for monetary gain. Camps were used to confine people and keep them in appalling conditions until passage was fully paid. The movements resulted in the tragic loss of life at sea, including approximately 70 during the crisis. The larger loss of life however was due to mistreatment and disease brought on or worsened by the smugglers.
3. We recall that although there was knowledge of maritime movements, it was the media reporting to the world on the ships stranded at sea, the discovery of graves and more profoundly the lack of coordination and agreement in the region that prompted action. This should not happen again.
4. We believe that we must continue to work towards timely and proactive responses to irregular migration challenges. These have grown in scale and complexity around the world, resulting in human tragedy and significantly testing the capabilities of individual governments. We recognise that no one country on its own can manage complex maritime movements. A regional approach based on the principles of collective action and responsibility sharing is essential. Such an approach strengthens regional and global stability, along with the wellbeing of people and countries in the region.
5. We commend the governments of Bangladesh, Indonesia, Malaysia, Myanmar and Thailand for their humanitarian response to the events in May 2015. We also commend the Royal Thai Government for calling two Special Meetings of affected countries, international organisations and other parties. We note further meetings by ASEAN, by some of the affected countries and the Bali Process, that also addressed the Andaman Sea situation.
6. Consistent calls to action at these meetings were for:

- i. mechanisms to facilitate a collective regional response to large influxes of irregular migrants;
  - ii. coordinated and predictable search and rescue protocols and disembarkation points;
  - iii. better preparedness in the provision of emergency assistance;
  - iv. functional systems to identify, screen and register people;
  - v. strengthened information and intelligence sharing;
  - vi. resolute action against people smuggling and human trafficking networks;
  - vii. better incorporation of international non-governmental organisations and civil society agencies in the care and support of displaced people;
  - viii. concerted efforts to address root causes and push factors;
  - ix. enhancing legal, affordable and safe channels of migration, including regularising labour migration programs; and
  - x. more attention on voluntary repatriation and expedited resettlement processes to enhance durable solutions.
7. We acknowledge the actions taken by many member states and organisations in response to the Andaman Sea situation to ensure the safety of those at sea, provide humanitarian assistance for migrants and refugees upon disembarkation, facilitate durable solutions for migrants involved, and advance a coordinated and comprehensive approach to managing large influxes of irregular migrants in the region. These actions include:
- i. immediate search and rescue operations by Bangladesh, Indonesia, Malaysia, Myanmar and Thailand, with help from other countries including the United States;
  - ii. pledges of financial support for relief, processing and resettlement, and humanitarian assistance, including from the Australia, Gambia, Japan, Philippines, Qatar, Saudi Arabia, Turkey and the United States;
  - iii. verifying the status of arrivals and providing shelter, food, water and health services in Indonesia, Malaysia and Thailand, with support from UNHCR and IOM;
  - iv. resettlement of refugees and other vulnerable individuals in third countries;
  - v. repatriation of those migrants not in need of protection;
  - vi. ASEAN adopting the Terms of Reference of the Trust Fund to Support Emergency Humanitarian and Relief Efforts in the Event of the Irregular Movement of Persons in Southeast Asia; and
  - vii. Bali Process members, via the Working Group on Disruption of Criminal Networks, actively coordinating law enforcement operations against people smuggling and human trafficking networks.
8. We are conscious of the need for more agile and timely responses by Bali Process members, as recognised by Ministers at the Sixth Ministerial Conference. This is why Ministers agreed to have a mechanism which would authorise the Co-Chairs to consult, and if necessary, convene future meetings to discuss urgent irregular migration issues with affected and interested countries in response to current regional issues or future emergency situations.
9. We are grateful to the Asia Dialogue on Forced Migration (ADFM) for first proposing a review of the region's responses to the Andaman Sea situation of May 2015. We note that at the time there was little functioning capability to deal with root causes of displacement in the affected countries, and that there was little functioning capability to deal with the consequences for the region when mass displacement occurs. Both of

these deficiencies must be overcome if Bali Process members are to be better prepared to avoid large influxes of irregular migrants in the first place and respond more effectively when they occur.

10. We believe there is an emerging consensus on how to overcome these deficiencies. The decline in irregular movement of people in the Andaman Sea and the Indian Ocean since May 2015 can be attributed to actions by affected countries, including the Joint Periods of Action by the Bali Process Working Group on Disruption of Criminal Networks Involved in People Smuggling and Trafficking in Persons, and bilateral cooperation between countries.
11. We are convinced there is now a window of opportunity to build on these actions and lessons learned to ensure that similar situations do not happen again. This will require implementation of some options at regional, subregional and national levels. It will also require further technical and capacity building activities under the framework of the Bali Process, including by establishing arrangements for the consultation mechanism, and under other regional frameworks.

#### **Future action at operational level**

12. We reaffirm that in order to improve national planning and preparedness for potential large influxes of irregular migrants in the future, each country requires:
  - i. a register of national contact points of operational officials involved in responding to migrants and refugees;
  - ii. a register of international agency and civil society contact points who are locally based;
  - iii. established procedures for detection, search and rescue;
  - iv. identified places for disembarkation and provision for shelter and support;
  - v. functional joint identification, screening and registration systems; and
  - vi. organisations which can provide post-disembarkation emergency assistance.
13. We agree that in order to improve subregional planning and preparedness for potential large influxes of irregular migrants in the future, the Bali Process requires a Task Force on Planning and Preparedness, comprising operational level governmental officials who are responsible at a national level for the actions identified above. These officials are in a better position to standardise various national approaches, develop early warning capabilities and coordinate action in the events of a large influx of irregular migrants. They can also develop an inventory of capability in the region that can be deployed by states in the event of a crisis and refine protocols for its use.
14. We therefore decide to establish such a Task Force on Planning and Preparedness (TFPP), participation in which will be voluntary and non-binding. We have agreed to task this Task Force with developing protocols to harmonise detection, search and rescue, disembarkation and shelter practices. Members of the Task Force will share operating procedures at national and bilateral level. They will work to harmonise these arrangements at a subregional and regional level to ensure predictable and functional responses in the event of another mass displacement. This Task Force will operate under the framework of Bali Process Consultation Mechanism and the direction of the Co-chairs.
15. We note a number of areas where concerted action would provide benefits to individuals and assurances to governments concerning real or perceived security

challenges posed by irregular migrants in their territories. The most important is joint registration and identification of irregular migrants at the earliest point of interception and where displacement occurs. Protocols to advance this objective would be another appropriate priority for the Task Force on Planning and Preparedness, including by using and refining the Regional Biometric Data Exchange Solution, produced under the auspices of the Bali Process Regional Support Office (RSO) and hosted through IOM.

### **Joined-up expertise across the region**

16. We agree that improving preparedness across the region for potential large influxes of irregular migrants requires greater understanding of root causes and the situations that trigger mass displacement. We note there is a broad based regional consensus to this effect, as highlighted by the Jakarta Declaration Roundtable meeting (27-28 November 2015).
17. We note the Bali Declaration highlighted the need for temporary protection and local stay arrangements and recommended that further research be done to determine how such arrangements would operate. The Declaration also encouraged consideration of alternative safe and orderly migration and visa pathways, including how labour migration opportunities can be opened up to persons with international protection needs. We note that the Second Special Meeting on Irregular Migration in the Indian Ocean (3-4 December 2015) offered similar encouragement.
18. We believe that substantial progress in these areas requires joined-up expertise across the region. In this regard, we recognise the contributions made by the Asia Dialogue on Forced Migration, and look forward to its continued partnership with the Bali Process. We believe that the Dialogue is well-placed to undertake targeted research and contribute ideas that could assist the Task Force on Planning and Preparedness in its work. For example, the Dialogue could undertake work to identify existing technical capacity in the region, particularly in humanitarian assistance and disaster management, and how this might be utilised in the event of large influxes of irregular migrants. The Dialogue could also undertake research or prepare policy papers on critical issues, such as:
  - root causes of mass displacement;
  - temporary local stay arrangements; and
  - expanding safe, legal and affordable migration pathways as an alternative to irregular movement.

Such papers could be considered by the Task Force on Planning and Preparedness. The Task Force Co-Chairs could also commission the Dialogue to undertake other specific tasks on an ad hoc basis, that would be of value to the Task Force. In carrying out such tasks, the Dialogue would take into account the existing and previous work undertaken by the Regional Support Office and other relevant programs. We are conscious that such work may contribute directly to the development of the global compacts on refugees and migrants, for which negotiations will soon commence; and in which the members of the Bali Process have a direct interest.

### **Supporting the Bali Process consultation mechanism**

19. We believe the consultation mechanism announced at the Sixth Ministerial Conference of the Bali Process has considerable potential to improve regional responses to large influxes of irregular migrants.
20. We appreciate the need for the consultation mechanism to be ready and well prepared in advance of the need for its use. We have developed a Concept Note, taking into account input from members. This covers purpose and guidelines on how and in what circumstances the mechanism should be activated.
21. We note that the effectiveness of the draft Administrative Arrangements will be monitored by the Co-Chairs and may be amended, in consultation with the AHG.
22. We agree the Task Force on Planning and Preparedness will assist the consultation mechanism to function effectively when needed. These groups will provide the policy and operational expertise for the new consultation mechanism to call on when deliberating future action or an emergency response. Systematic and regular reporting on movements, considered analysis of source country events, and harmonisation of procedures will ensure that senior officials are better positioned to take early action. We believe these arrangements would deliver on the demands of the Sixth Ministerial Conference for our responses to a given situation to be agile and expeditious. These groups can prepare the ground for:
  - i. coordinated and functional operational responses;
  - ii. preparedness measures, including early warning systems; and
  - iii. action on the root causes of displacement.
23. We believe that substantially progressing these arrangements will provide the framework and operational capability for the consultation mechanism to activate more effective responses in the event of a sudden displacement.

#### **Further collaboration in the region**

24. We commend ASEAN for the authority it has shown in the area of migration governance through initiatives such as the Trust Fund to Support Emergency Humanitarian and Relief Efforts in the Event of Irregular Movements of Persons in Southeast Asia; the 2015 ASEAN Convention Against Trafficking in Persons, Especially Women and Children; the 2015 Kuala Lumpur Declaration on Irregular Movement of Persons in Southeast Asia; regular meetings of ASEAN Directors General of Immigration and Heads of Consular Divisions of Foreign Ministries; nine agreements on internal 'free' movement of highly-skilled workers; and the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers 2007.
25. We acknowledge in particular the technical capacity and expertise that exists with ASEAN that can help to improve subregional and regional responses to large influxes of irregular migrants.
26. We believe that in light of the authority that now exists within the Bali Process for consultation about urgent irregular migration issues with affected and interested countries, it would be prudent for dialogue to commence between the Ad Hoc Group Senior Officials and representatives from ASEAN to determine whether ASEAN's

involvement in this area, including its technical capacity and expertise, can strengthen cooperative responses at subregional and regional level.

27. We agree for Bali Process SOM Co-Chairs to meet with key ASEAN institutions such as the ASEAN Maritime Forum and the ASEAN Coordinating Centre for Humanitarian Assistance on disaster management (AHA Centre) to identify complementarities and shared interests in issues of irregular migration, with a longer-term view to working together in response to future influxes.

### **Technical support and capacity Building**

28. We appreciate that many of the actions we have agreed on cannot be achieved without technical training and capacity building across the region, in areas such as protection, intelligence analysis, and risk based approaches to border management. We have committed to redoubling efforts to this end.
29. We further note that the RSO in its current work program has a series of projects and training programs underway that will enhance the capacity and expertise in the region. We encourage governments to make greater use of the programs offered by the RSO. The Regional Intelligence Analysis Training would significantly enhance the development of better early warning capabilities. Similarly, the Training on Comprehensive Approaches for Addressing Irregular Movements by Sea would better prepare the region for standardised approaches in this area. So too would concerted use of the Regional Biometric Data Exchange Solution.
30. We believe that implementation of the proposed project “Policy Guide on Irregular Movement by Sea: Appropriate Treatment of People in Need of International Protection” would further support the objectives of this Review in giving guidance to officials and those responsible for providing assistance to displaced people.

### **Accountability and reporting**

31. We note that due to the lack of centralised monitoring and reporting, it has been difficult to measure progress against commitments and agreements made at the regional meetings of 2015 and 2016. The Task Force on Planning and Preparedness will be responsible for monitoring progress in implementing the actions agreed in this Review, including identifying major blockages and reporting back to the AHG within 12 months.

### **Proposed Recommendations**

1. Each country is encouraged to consider developing as appropriate:
  - i. established national procedures for detection, search and rescue;
  - ii. identified places for disembarkation and provision for shelter and support;
  - iii. functional joint identification, screening and registration systems; and
  - iv. organisations which can provide post-disembarkation emergency assistance
  - v. further collaboration within the Bali Process to build upon actions already taken against people smuggling and human trafficking networks.
2. The Bali Process establishes a Task Force on Planning and Preparedness, comprising operational-level governmental officials who are responsible at a national level for the actions identified above. This Task Force will operate under the framework of Bali Process Consultation Mechanism and the direction of the Co-chairs.

3. The Bali Process also recognises the potential value of research and ideas forthcoming from the Asia Dialogue on Forced Migration, and looks forward to the Dialogue's contributions on significant issues; complementing the ongoing practical work program of the RSO.
4. Noting that the Bali Process Consultation Mechanism's initial Administrative Arrangements and modalities have been developed, the SOM Co-Chairs will consider how, in practice, the Task Force on Planning and Preparedness and the Asia Dialogue on Forced Migration will contribute to, inform and advise discussions.
5. The Bali Process SOM Co-Chairs, as necessary, will meet with ASEAN institutions such as the ASEAN Maritime Forum and the ASEAN Coordinating Centre for Humanitarian Assistance on disaster management (AHA Centre) to identify extant capacity, complementarities and shared interests in issues of irregular migration, with a view to working together in response to future influxes.
6. The Task Force on Planning and Preparedness (supported by IOM as the administrative support to the Consultation Mechanism, under initial arrangements) will be responsible for monitoring progress in implementing the actions agreed in this Review, including identifying major blockages and reporting back to the AHG within 12 months.