

## **CHAPTER IV**

### **ROLE OF ASEAN IN COMBATING ARMS SMUGGLING IN SOUTHEAST ASIA**

ASEAN as biggest regional governmental organization in Southeast Asia face transnational crime especially arms smuggling. ASEAN do many efforts to combat arms smuggling remind the effect of arms smuggling is worse. The efforts are judged by several parties and thinkers are not effective enough to fight arm smuggling.

#### **A. Cooperation in ASEAN**

##### **A.1. Internal Cooperation in ASEAN**

As written in ASEAN Declaration, the main aim of ASEAN is to support the acceleration of economic growth. ASEAN believes if economic sector grows well, so other sector will be better. It does not mean that ASEAN only cooperates in economic sector but also in other sector such as political-security, socio-culture and even military. Cooperation done by ASEAN is not only among the members but also with the other actors, such as, other non-member states, other organizations, think-tanks, researchers, ad-hoc committees, even group of civil society or grassroots.

consisted of representatives of members or other such as non-members state and think tanks.

In economic sectors, the representatives of the members (economic ministers) agree to establish five committees acknowledged in ASEAN structure.<sup>80</sup> They are Committee on Trade and Tourism (COTT) located in Singapore, Committee on Industrial, Minerals and Energy (COIME) located in Philippines, Committee on Food, Agriculture and Forestry (COFAT) located in Indonesia, Committee on Transportation and Communication (COTAC) located in Malaysia and Committee on Finance and Banking (COFAB) located in Thailand. ASEAN also has ASEAN Industrial Cooperation (AICO). It is also cooperation among ASEAN members in industrial sector.<sup>81</sup>

Under those committees, there are many sub-committees, consensus, coordinating groups and working groups. For example in forestry, there is Jakarta Consensus on Tropical Forestry and in fisheries; there is Coordinating Group of Fisheries. Under COFAT, there are many working groups such as, Working Group on Grain, Working Group on Livestock, Working Group on Fisheries and Working Group on Horticulture. In banking sector, there is ASEAN Banking Council (ABS). This council also establishes ASEAN Finance Corporations (AFC).

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<sup>80</sup> Rudy, Teuku May, SH.,MIR., M.Sc. *Administrasi & Organisasi Internasional*. PT. Rafika Aditama. Bandung. 1998.

<sup>81</sup> *ASEAN Selayang Pandang*. Accessed in

In other sector like in political security, ASEAN also establish cooperation such as ASEAN Defense Ministers Meeting (ADMM). It is a meeting of Defense Ministers on ASEAN members to promote regional peace and stability by dialogue and cooperation in defense department. ASEAN also made ASEAN Convention on Counter Terrorism (ACCT). This convention discussed about defeating terrorism in Southeast Asia. Another example is military rehearsal done by Indonesian and Malaysian Air Force namely Elang Malindo.<sup>82</sup>

In other case related to political security, ASEAN established ASEAN Ministers Meeting on Transnational Crime (AMMTC) in 1997 and Senior Official Meeting on Transnational Crime (SOMTC) as its sub-ordination. It regulated on transnational crime in Southeast Asia. In human right case, ASEAN has ASEAN Intergovernmental Commission on Human Rights (AICHR). In ASEAN, this body is a consultative intergovernmental body.<sup>83</sup> The most familiar forum related with security in Southeast Asia is ASEAN Regional Forum (ARF). ARF is a place to discuss many cases or problems raised in Southeast Asia.

## A. 2. External Cooperation in ASEAN

ASEAN has coordination with other states such as Australia, New Zealand, UNDP, Canada, US and Japan. In those states, ASEAN has committees such as

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<sup>82</sup> *Kerjasama ASEAN Negara-Negara ASEAN 6.2*, accessed in [http://www.crayonpedia.org/mw/Kerja\\_sama\\_negara-negara\\_ASEAN\\_6.2](http://www.crayonpedia.org/mw/Kerja_sama_negara-negara_ASEAN_6.2).

ASEAN Canberra Committee, ASEAN Ottawa Committee, ASEAN Bonn Committee, ASEAN Brussels Committee, ASEAN Geneva Committee, ASEAN London Committee, ASEAN Paris Committee, ASEAN Washington Committee, ASEAN Wellington Committee, and ASEAN Tokyo Committee. This cooperation includes many sectors like industry, trading, investment, science, technology, and even culture.

External cooperation in ASEAN is not only between other states but also international organizations. ASEAN has contact with inter governmental organizations such as Economic Cooperation Organization, the Gulf Cooperation Council, the Rio Group, and the South Asian Association for Regional Cooperation, the South Pacific Forum, and Asian-African Sub-Regional Organization Conference. Several ASEAN members also active in Asia-Pacific Economic Cooperation (APEC), Asia-Europe Meeting (ASEM), and East Asia-Latin America Forum (EALAF).<sup>84</sup>

Beside cooperation with government of non-members, ASEAN also coordinates with private parties. The biggest cooperation in economic sector with private party is ASEAN-CCI (ASEAN Chamber of Commerce and Industry). ASEAN-CCI has an initiative in creating ASEAN Industrial Joint Venture (AIJV) and cooperation with other organization like Working Group on Food, Agriculture and Forestry (WGFAF). By ASEAN-CCI, ASEAN has big industry club such as

ASEAN Chemical Industries Club, ASEAN Iron and Steel Industry Federation, ASEAN Federation of Textile Industries, and so on.<sup>85</sup>

ASEAN also has cooperation with several non-governmental organizations. This cooperation includes many sectors such as economic, socio-culture, etc. The first coordination was ASEAN Tours and Travel Association (ASEANTTA) in 1971 and then changed its name to ASEAN Travelers Association (ASEANTA). Other organization emerged then, such as ASEAN Association of Radiologist (AAR), ASEAN Motion Picture Producers Association (AMPPA), ASEAN Inter-Parliamentary Organization (AIPO), ASEAN Council of Museum, ASEAN Women Circle of Jakarta (AWCJ), and so on.<sup>86</sup>

In socio-culture, ASEAN has several centers and cooperation among members as an attempt to further integrate the region, such as, ASEAN University Network, ASEAN Centre for Biodiversity and Association of Southeast Asian Institutions of Higher Learning (ASAIHL). ASAIHL is a non-governmental organization founded in 1956 that strives to strengthen higher learning institutions, especially in teaching, research, and public service, with the intention of cultivating a sense of regional identity and interdependence.

Those cooperation done by ASEAN are in line with value that acknowledged by ASEAN that is ASEAN Way. ASEAN Way set out *musyawarah* and *mufakat* in solving various cases and problems. Those institutions and sub-institutions,

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<sup>85</sup> *Ibid.*

<sup>86</sup> *Ibid.*

committees and seminars become places for ASEAN members as well as non members to discuss many problems. The solutions reached then hoped will not harm each other and mutual benefits can be achieved.

## B. ASEAN Way

Beside ASEAN Way, in attempt to solve problems and cases, ASEAN also uses a kind of diplomacy named Track I and also Track II. Actually Track I and Track II are not only used in Southeast Asia (ASEAN). This kind of diplomacy is using also in Western state. There are opinions said this diplomacy applied in Western has different with application in Eastern state, especially in Track II. In Western context, a Track II process which is much stronger than the Asian format relies on the mediatory roles of civil society. In Eastern, Track II diplomacy is mostly considered "elitist" with little or no participation from civil society organizations.<sup>87</sup>

Track I and Track II diplomacies are not defeating each other, even it complements one another in attempt to solve the cases and problems. Track I or first Track has other term that is Close Diplomacy. In Track I, the diplomacy includes government to government (G to G). Track I is usually used to solve inter state conflict, so it has secretive characteristic.

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<sup>87</sup>Aguilar, Alan Christopher Jessen. *Track 2 Diplomacy and the ASEAN Peace, the Role of Experts in the Development toward a Security Community-a Case Study on ASEAN-ISIS*. Master Thesis at the Department of Political Science, Gale University, 2008.

Track II has other name called Public Diplomacy. It is defined as attempt to reach national interest by understanding, informing and influencing foreign audiences. Track II not only involves government and their representatives but also people-even people to people relationship.<sup>88</sup> Individual or group of individual can be mixed up with negotiation process. This track enables governments to discuss controversial issues and tests new ideas without making official statements or binding commitments, and, if necessary, backtrack on positions.

Other actors include in Track II are participants from the academic community called think-tanks. Think-tanks are, in most cases, linked to their respective governments, and dependent on government funding for their academic and policy-relevant activities, and many that work in Track II have previous bureaucratic experience.

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<sup>88</sup> *Kekuatan Diplomasi dan Politik Luar Negeri Indonesia*. Accessed in <http://dennyprincess.wordpress.com/2010/05/05/kekuatan-diplomasi-dan-politik-luar-negeri%C2%A0indonesia/>

**Table 13:**

**Differentiation between Track I and Track II Diplomacy**

	<b>Track I</b>	<b>Track II</b>
<b>Actor</b>	<ul style="list-style-type: none"> <li>• Official Representative</li> <li>• Government</li> <li>• Multinational Organization</li> <li>• Elites</li> <li>• Chief of Opposite</li> </ul>	<ul style="list-style-type: none"> <li>• Un-official representatives</li> <li>• NGOs</li> <li>• Local and regional government</li> <li>• Grassroots communities</li> </ul>
<b>Method</b>	Incentive of positive and negative mediation, political-economic supports	Discussion, education workshop, grassroots reconciliation, think-tanks
<b>Conflict Arena</b>	Attend in all arenas/sectors but emphasize in Peacemaking and peacekeeping when official actors decide to stop conflict, peace can be reached by negotiating and agreement.	Attend in all arenas but it emphasizes in conflict preventing and peace-building when local and regional actors detect a dangerous related to conflict and then can support personal reconciliation technique between two side in opposite.

Source: *Kekuatan Diplomasi dan Politik Luar Negeri Indonesia, 2010.*

Not only Track I and Track II Diplomacy owned by ASEAN, there is Track III that also implemented by ASEAN. The track is a forum for civil society in Southeast Asia. Track III participants are generally civil society groups who represent a particular idea or brand. Track III networks claim to represent communities and people who are largely marginalized from political power centers and unable to achieve positive change without outside assistance. This track tries to influence government policies indirectly by lobbying and generating



pressure through media. Track III actors also organize and/or attend meetings as well as conferences to get access to Track I officials.

From the brief explanation above, Track Diplomacy can be traced to the practices of the ASEAN Way. ASEAN Way has characteristic of *musyawarah mufakat* which emphasizes in dialogue and meetings. Paralleling the formal dialogues that are held by ASEAN in many bodies and meetings, Track II diplomacy is a process designed to assist officials with complex issues through informal dialogue forums, workshops, conferences, seminars, and the like.

## C. Operational Process in ASEAN

### C.1. ASEAN's Meetings Related to Arms Smuggling in Southeast Asia and the Results

ASEAN as regional governmental organization in Southeast Asia, of course has roles in solving the arms smuggling. ASEAN itself has done several efforts in helping ASEAN members in combating this case. Many meetings have been done to discuss the problem. Several institutions have been established to help efforts become organized. As addition, ASEAN also created workshops and seminar to make all the efforts more effective. Unfortunately, arms smuggling

ASEAN. ASEAN just discussed about transnational crime as a whole not in specific case.

The first declaration related to transnational crimes was Declaration of ASEAN Concord of February 24<sup>th</sup>, 1976.<sup>89</sup> The main points of declaration talked about intensification of cooperation among the members and also with relevant international body to prevent and to eradicate narcotics abuse as well as illegal trafficking of drugs. Another point was studying on developing judicial cooperation including the possibility of an ASEAN extradition treaty.

Another meeting related to transnational crime was first informal ASEAN Meeting in November 1996 in Jakarta.<sup>90</sup> The main point of this meeting was relevant ASEAN bodies to study possibility of regional cooperation on criminal matters, including extradition agreement among ASEAN members. In the same year and place, the 29<sup>th</sup> AMM had also been held. In this meeting, foreign ministers shared the view that the management of transnational crime was urgent, so it would not affect the long term viability of ASEAN and individual member nations.

Another meeting was held in Second Informal ASEAN Summit in December 1997.<sup>91</sup> It was held in Kuala Lumpur, Malaysia. The result was resolved to take firm measures to combat transnational crimes such as drugs

trafficking, woman trafficking, children trafficking as well as another transnational crime. Another important point was the adoption of ASEAN Vision 2020 document. In the same year and place, 30<sup>th</sup> AMM also had been held. The Foreign Ministers stressed on the need for sustained cooperation in addressing transnational concern including the fight against transnational crime. In following year, the Manila's 31<sup>st</sup> AMM was held. It reiterated the need for enhancing regional efforts against transnational crime.

Transnational crime was also discussed in 32<sup>nd</sup> AMM on July 1999<sup>92</sup>. It was held in Singapore. The stressed to strengthen ASEAN's regional capacity to combat transnational crime and to implement drug control programs with assistance of the international community as the result on this meeting.

ASEAN discussed about arms smuggling as specific term for first time in 1997.<sup>93</sup> The term about small arms and light weapons raised in AMM held in Malaysia. The result of this meeting recognized that arms smuggling became integral part of terrorism, money laundering, human trafficking especially women and children, and piracy. Those cases or problems became transnational crimes which needed regional cooperation not only by ASEAN members but also INGOs, international agencies, and so on.

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<sup>92</sup> *Ibid*

<sup>93</sup> Capie, David. *Regional Institutions and Contested Norm Diffusion in Southeast Asia: the Case of*

In the same year, ASEAN Ministers of Interior and Home Affairs adopted ASEAN Declaration on Transnational Crime. It adopted on Conference on Transnational Crime in Manila. It talked about the resolve to confront the problems of transnational crime and it included agreement in principle to increase regional cooperation and to explore ways in which member countries could work more closely with relevant international agencies and organizations.<sup>94</sup>

Sixth ASEAN Summit in December 1998 was held in Hanoi. This meeting resulted in three points, such as, strengthening and promoting regional linkages among ASEAN institutional mechanism in fighting drugs abuse and trafficking, intensifying individual and collective efforts to address transnational crime, and adopting Hanoi Plan of Action (HPA). The participants of this meeting issued the Hanoi Declarations in which stated pledged to intensify their efforts to address arms smuggling and to intensify the consultations with NWS (Nuclear Weapons States) with a view to their accession to the protocol to the SEANWFZ (Southeast Asia Nuclear Weapon Free Zone) Treaty.<sup>95</sup>

In 1999, arms smuggling case in Southeast Asia became clearer because of Second AMM on Transnational Crime.<sup>96</sup> The ministers adopted Plan of Actions to Combat Transnational Crime which included a section on arms

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<sup>94</sup> Kramer, Katherine. *Legal Control on Small Arms and Light Weapons In Southeast Asia*. Non Violence International Southeast Asia. 2001.

<sup>95</sup> *Association of Southeast Asian Nations (ASEAN)*. Accessed in [http://www.nti.org/e\\_research/official\\_docs/inventory/pdfs/asean.pdf](http://www.nti.org/e_research/official_docs/inventory/pdfs/asean.pdf)

<sup>96</sup> *The Role of Regional Organizations in Stemming the Illicit Trade in Small Arms and Light Weapons*.

smuggling. This POA obligate ASEAN members to undertake several points, as follows:<sup>97</sup>

1. To create a compilation of Member States' national laws and regulations on arms smuggling.
2. To study trends and *modus operandi* governing arms smuggling in the region and record these in a database.
3. To enhance information exchange and cooperation among ASEAN Chiefs of National Police (ASEANPOL), customs and immigration officials and legislators.
4. To create a database of international treaties and agreements pertaining on arms smuggling.
5. To harmonize systems for marking arms and ammunition.
6. To cooperate in exchanging intelligence both within ASEAN and with organizations such as Europol and Interpol.
7. To strengthen law enforcement capabilities through comprehensive domestic legislation against illicit arms trafficking.
8. To share experience and best practice on the investigation, monitoring and reporting of illicit arms smuggling.
9. To create procedures for member states to declare surplus arms destroyed, missing and lost from government stockpiles.

10. To enhance information exchange with ASEAN Dialogue Partners, regional organizations, UN Agencies and other international organizations, particularly on the identities, movements and activities of known transnational criminal organizations involved in arms smuggling.
11. To implement the UN Program of Action on small arms.

In a brief, the plan outlined regional strategies to prevent, control, and neutralize transnational crime through several main activities such as information exchange, co-operations in legal and law enforcement matters, institutional capacity building, training, and extra-regional co-operation.

Related to information exchange, ASEAN has done several steps as the efforts to implement Plan of Actions to Combat Transnational Crime (PoA TC), such as, ASEAN Secretariat is collecting national laws related to arms smuggling for compilation which will lead towards establishing a regional repository of such laws within a certain timeframe on-site and on the ASEANWEB.

ASEAN Secretariat has established a list of focal points and regularly updated it. It has purpose to enhance the exchange of information and cooperation among the ASEAN officials, e.g. ASEANAPOL, customs, immigration, and legislation on international and regional arms smuggling activities. Furthermore, ASEAN Secretariat is also coordinating information on activities in combating arms smuggling with the UN Arms Control Department and initiated informal

discussions with the World Bank for possible technical assistance to establish a database on arms smuggling.

In legal matter, ASEAN has worked toward the harmonization of marking systems for ammunition, arms, their parts and their components in line with the international system developed by Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the UN Convention against Transnational Organized Crimes.

In law enforcement matters, ASEAN Secretariat has initiated discussions with officers from Interpol in Lyon, and is awaiting further information from Interpol on possible joint activities on intelligence exchange. ASEAN realizes about the importance of intelligence exchange and cooperation not only in border and customs control between member countries but also with Europol, Interpol and any other related organizations. Moreover, ASEAN is currently compiling laws and regulations on arms smuggling, in order to strengthen law enforcement capabilities, especially the need for comprehensive domestic legislation against illicit arms trafficking.

In training and institutional capacity building, ASEAN requests the members to provide information related to capacity-building and training to ASEAN Secretariat for compilation and information sharing in order to set up a database for research and study on the volume of trade, types of cases pursued,

capacity-building is the establishment of a regional database of information on illicit weapons and procedures for destruction of surplus weapons.

ASEAN Secretariat is coordinating with Dialogue Partners and International Organizations on this matter towards the sharing of critical information on identities, movements and activities of known transnational criminal organizations involved in arms smuggling. ASEAN is also active in coordinating with the UN on information exchange to seek technical assistance and funding considerations for weapons collection and destruction, the strengthening of law enforcement and institutional capacity building. Those are ASEAN's efforts related to extra-regional cooperation.

ASEAN discussed about arms smuggling case in more detail in May 2000 namely the First Regional Seminar on Illicit Trafficking in Small Arms and Light Weapons. It was organized by Indonesia, sponsored by United Nations (UN) Regional Centre for Peace and Disarmament in Asia and the Pacific, and in cooperation with Japan. All ASEAN members attended except Vietnam. The seminar that held in Jakarta, has purpose not to forge a collective plan for tackling small arms problems in the region, but rather an initial attempt to gather information and to begin consolidating a common position.<sup>98</sup> It is also asserted that transnational crime syndicates, particularly drug traffickers, human

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<sup>98</sup> *Localization as Resistance: The Contested Diffusion of Small Arms Norms in Southeast Asia.*



smugglers and sea pirates were the principal recipients of illicitly trafficked (small arms).

All ASEAN members fully support in strengthening law enforcement, intelligent-sharing, and border and custom control as well as increasing cooperation within region and exchange information. Strengthening law enforcement means having coordination with Europol and Interpol. This seminar suggested post-conflict disarmament, addressing the root cause or underlying condition that promote the illicit trafficking of small arms and improving national controls on these weapons with a view in preventing their linkages into the illicit market.<sup>99</sup> Many efforts taken by ASEAN after this seminar such as established regional data base of information on SALW, created procedures for destruction of weapon surplus and also cooperated with non-ASEAN states.

In 2002, ASEAN Ministerial Meeting on Transnational Crime (AMMTC) held a meeting in Kuala Lumpur, Malaysia. This meeting agreed on several points agreements, such as, obligating every state do security operation in its territory, catching and arresting the criminals of arms smuggling, exchanging and controlling intelligent not only in Southeast Asia but also in Interpol, Europol and also other organizations.

Brunei and Thailand organized a Workshop on Arms Smuggling in July 8<sup>th</sup> - 9<sup>th</sup> 2003 in Bangkok, Thailand as an implementation of the Program of

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<sup>99</sup> *Legal Control on Small Arms and Light Weapons in Southeast Asia*. Accessed in <http://sdi.sagepub.com/content/39/6/637.refs>

Action in accordance with the outcome of the UN Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspect in 2001.<sup>100</sup> The Workshop was a good venue that offered the participants opportunities to share valuable information and experiences in dealing with arms smuggling. Some useful suggestion and recommendations were delivered with a focus on public awareness campaign, so as to create a short documentary on arms smuggling problem in conjunction with the drugs and human smuggling problems for the purpose of showing on member countries mass media, with the intention to be translated into respective languages later on.

In January 2004, ASEAN issued a Memorandum of Understanding with the Chinese government regarding “cooperation in the field of non-traditional security issues,” agreeing to cooperative measures, such as information exchange and joint research in dealing with current concerns, including arms smuggling and terrorism. ASEAN Plus Three Ministerial Meeting on Transnational Crime (AMMTC+3) took place on January 10<sup>th</sup> in Bangkok, with the Ministers adopting a concept plan to address transnational crimes in the following eight areas: terrorism, illicit drug trafficking, human trafficking in persons, sea piracy, arms smuggling, money laundering, international economic crime, and cyber crime.

The 28<sup>th</sup> ASEAN Chiefs of Police Conference took place from May 25<sup>th</sup> to 29<sup>th</sup>, 2008 and adopted resolutions addressing cooperation in preventing terrorism

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<sup>100</sup> ASEAN's Efforts Against the Proliferation of Small Arms and Light Weapons. Accessed in

and arms smuggling. The following year, 29<sup>th</sup> ASEAN Chiefs of Police Conference was held in Hanoi, Vietnam, on May 13<sup>th</sup> – 15<sup>th</sup>. Among other subjects, the conference debated and adopted resolutions regarding drugs trafficking, terrorism, arms smuggling, and human trafficking. Particular attention was paid to the issue of nations providing “mutual assistance” to each other to deal with these problems.

## C.2. ASEAN’s Institutions Related to Arms Smuggling Case in Southeast Asia

For arms smuggling in Southeast Asia, ASEAN has committees or forums to combat this issue. The examples of the committees are ARF (ASEAN Regional Forum), AMMTC (ASEAN Ministerial Meeting on Transnational Crime), ACTC (ASEAN Centre for Combating Transnational Crime), ASEAN Finance Ministers Meeting (AFMM), ASEAN Chiefs of National Police (ASEANAPOL). Those committees or forums do not work alone but they cooperate with other committee inside ASEAN, ASEAN dialogue partners as well as other organization outside ASEAN. The meetings or dialogue forums often result on agreements, treaties or plan of actions.

Unfortunately, ASEAN does not have special body to manage arms smuggling or to illicit trade of weapons. There are several reasons why this

seen weak in popularity than other type of transnational crime such as terrorism and illicit drugs trading.

#### 1. ARF (ASEAN Regional Forum)

ARF established in Bangkok, July 1994. It is not only a place to have a dialogue and consultation about political and security problems in Southeast Asia but also place to discuss, harmonize the view, and minimize threats toward security of region. ARF's participants consist of many states, such as, all ten ASEAN members, all ten ASEAN dialogue partners (United States, Canada, China, India, Japan, South Korea, Republic of Korea, Russia, New Zealand, and European Union), and other regions like Papua New Guinea, Mongolia, South Korea, Pakistan, East Timor, Bangladesh and Sri Lanka. ARF's concern is not only about military and security but also economic, social and other non traditional security issue (*comprehensive security*).<sup>101</sup>

#### 2. AMMTC (ASEAN Ministerial Meeting on Transnational Crime)<sup>102</sup>

The ASEAN Ministers of Interior/Home Affairs at their inaugural meeting on December 20<sup>th</sup>, 1997 adopted the ASEAN Declaration on Transnational Crime, which underscored ASEAN's resolves to adopt a comprehensive approach

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<sup>101</sup> *Asean And The Asean Regional Forum*. Accessed in <http://www.deplu.go.id/Pages/IFPDisplay.aspx?Name=RegionalCooperation&IDP=5&P=Regional&l=id>

to fight transnational crime through greater regional collaboration and by forging international cooperation.

The 2<sup>nd</sup> AMMTC in June 1999 adopted the ASEAN Plan of Action to Combat Transnational Crime. The plan established mechanisms and activities to extend ASEAN member countries efforts to combat transnational crime from the national and bilateral levels to the regional dimension, and to strengthen regional commitment and capacity to undertake the expanded task. The plan will put in cooperation among state to fight transnational crime and will encompass information exchange, cooperation in legal and law enforcement matters, institutional capacity building, training and extra-regional cooperation as key program activities.

The plan called for closer cooperation and coordination between the AMMTC and other ASEAN bodies such as the ASEAN Law Ministers and Attorneys-General, the ASEAN Chief of National Police, the ASEAN Finance Ministers, the Directors-General of Immigration and the Directors-General of Customs in the investigations, prosecution and rehabilitation of perpetrators of such crimes.

### 3. ACTC (ASEAN Centre for Combating Transnational Crime)<sup>103</sup>

The establishment of the ASEAN Centre for Combating Transnational Crime (ACTC) has also been agreed, in principle by the 2<sup>nd</sup> AMMTC. A special

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<sup>103</sup> *Ibid.*

working group on the establishment of the ACTC was held in Quezon City, Philippines on August 7<sup>th</sup> to prepare a full report on the operational of the ACTC. The working group has finalized the arrangements for the establishment of the ACTC and recommended a draft agreement on the establishment of the centre for the consideration and approval of the AMMTC.

The ACTC is another regional initiative of ASEAN against transnational crime which is envisioned to promote data resource sharing, assist in the implementation of program activities outlined in the proposed action plan, and be a repository of information on national legislation, regulatory measures and jurisprudence of individual member countries. It is also envisaged that the ACTC will have research capabilities to conduct in-depth analysis of transnational crime activities to recommend appropriate regional strategies to fight these felonious activities. With the establishment of the centre, ASEAN efforts in combating transnational crime will be further intensified.

#### 4. ASEAN Finance Ministers Meeting (AFMM)<sup>104</sup>

At their first meeting, on March 1<sup>st</sup>, 1997 in Thailand, the ASEAN Finance Ministers signed the ASEAN Agreement on Customs. The agreement, which apart from enhancing ASEAN cooperation in customs activities and

combating trafficking in narcotics and psychotropic substances, and will facilitate joint efforts in anti-smuggling and customs control.

#### 5. ASEAN Chiefs of National Police (ASEANAPOL)

ASEANAPOL (ASEAN Chiefs of Police) was established in 1981 and has been the premier regional platform for all the ASEAN Police Chiefs and respective delegates to interact as well as to discuss, exchange views and update each other on the latest development in law enforcement and transnational issues in their respective countries. After twenty-four years, ASEANAPOL has grown from the original five Chiefs of Police who kicked off the ground to strengthen regional police cooperation to a solid force of the ASEAN Ten, signaling the emergence of a regional alliance that is determined to secure not only their own individual sovereignties but also the peace and progress of their community. Member countries include Indonesia, Malaysia, Philippines, Singapore, Thailand, Brunei Darussalam, Vietnam, Laos, Myanmar and Cambodia.

The ASEAN Chiefs of National Police (ASEANAPOL) deals with the prevention, enforcement and operational aspects of cooperation against transnational crime. ASEANAPOL has been actively involved in sharing of knowledge and expertise on policing, enforcement, law, criminal justice, and transnational and international crimes. It has established three ad-hoc

economic and financial crimes, credit card fraud, extradition and arrangements for handing over criminal offenders and fugitives. It has taken initiatives to combat new forms of transnational crime, such as fraudulent travel documents, phantom ship frauds, product counterfeiting and piracy.

ASEANAPOL has also established its own database system to enable member countries to exchange information in a rapid, reliable and secure manner and to provide further means of accessing the computerized systems at the INTERPOL General Secretariat. It proposed during the 11<sup>th</sup> ASEANAPOL Conference held in Singapore on May 5<sup>th</sup> – 9<sup>th</sup>, 1991 and finally launched during the 18<sup>th</sup> ASEANAPOL conference on May 24<sup>th</sup>-27<sup>th</sup>, 1998 in Brunei Darussalam.

### C.3. Role of Track II Actors within ASEAN

In attempt to solve cases/problems, ASEAN also apply Track Diplomacy. Beside G to G diplomacy, the mixed up of Track II actors also take an important roles. They engaged in the process of getting policy inputs about foreign relations for regional cooperation from policy communities to decision-makers.<sup>105</sup> Track II exists in a variety of forms and range from small ad-hoc workshops designed to address specific issues.

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<sup>105</sup> Aguilar, Alan Christopher Jessen. *Track 2 Diplomacy and the ASEAN Peace, the Role of Experts in the Development toward a Security Community-a Case Study on ASEAN-ISIS*. Master Thesis at the [university name], [university], 2008. Page 41



In ASEAN, the role of Track II actors are integrated into an institution called ASEAN-ISIS (ASEAN Institutes for Strategic and International Studies). ASEAN-ISIS constitutes the core of the Track II activities in Southeast Asia and the Asia-Pacific region at large. All ASEAN members have representative institutions in ASEAN-ISIS, except Burma. They are CSIS (Centre for Strategic and International Studies) from Indonesia, ISIS (Institute for Strategic and International Studies) from Malaysia, SIIA (Singapore Institute for International Affairs) from Singapore, ISDS (Center for Integrative and Development Studies) from Philippines, ISIS (Institute of Security and International Studies) from Thailand, BDIPSS (Brunei Darussalam Institute of Policy and Strategic Studies) from Brunei, CICP (Cambodian Institute for Cooperation and Peace) from Cambodia, IFA (Institute of Foreign Affairs) from Laos, and IIR (Institute for International Relations) from Vietnam.

The main aim of ASEAN-ISIS is studying and monitoring issues which relevant to the political and military security of the region as a whole, and of the region's component countries. ASEAN-ISIS promotes regional cooperation outside the government framework and provides ASEAN with input from non-state actors in order to strengthen peace and development in the region. ASEAN-

advice, providing an alternative route when deliberations have become deadlocked, having a socializing function, and building lasting institutions.<sup>106</sup>

Different institution has different attempt to do their functions and roles. For example, done by ISIS Malaysia which organizes the Asia Pacific Roundtable (APR) and the CSCAP Steering Committee. The objectives are promoting discussions on important national and international issues through organization of conferences, seminars, and dissemination of research findings and policy recommendations. It also seeks to provide a forum for individuals, experts, and intellectuals of various fields for the exchange of views, opinions, and research in a free and conducive atmosphere.

SIIA Singapore does different way but has similar aims with other institutions. This non-governmental organization dedicated to the research, analysis and discussion of regional and international issues. SIIA communicate regularly with governments and policymakers to offer policy recommendations and advice, in which Southeast Asian peace and development is a current focus of policy research. It also seeks to bring people together, and organize regional and international workshops and conferences to seek new ideas and thoughts. SIIA promotes a sense of ASEAN identity through education programs on the history, geography and culture of Southeast Asia in order for students to better identify themselves with the region.

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<sup>106</sup> *Ibid.*

In Indonesia, CSIS does several attempts to reach its aims. This non-profit organization focusing on policy oriented studies on domestic and international issues. It contributes to improve policy making through policy-oriented research channeled in various forms as independent input to government, universities, research institutes, media, business, and civil society organizations. CSIS also has an extensive publication program, like “The Indonesian Quarterly” (English Journal) and “Analisis CSIS” (*Bahasa Indonesia Journal*).

#### C.4. ASEAN Put Low Level of Attention toward Arms Smuggling Case

Many views thought that ASEAN has patchy responses toward arms smuggling problem in Southeast Asia. ASEAN have been seen more reactive than proactive in solving the issue. Many reasons show these ASEAN patchy responses. First reason is while ASEAN members in principle see arms smuggling as human security issue and included in transnational crime case of ASEAN, it does not mean that arms smuggling get same proportion of attentions. Many ASEAN members give their priorities on curbing the problems of piracy, human trafficking and terrorism.<sup>107</sup> Those cases are overshadowed arms smuggling case.

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<sup>107</sup> *Small Arms Proliferation and Misuses: Human Security Impact and Policy Actions in Southeast*

Second reason is the idea of harmonizing national laws on SALW which is inhabited by the absence of such laws in some states.<sup>108</sup> Different states have different laws in managing arms smuggling case. It makes the criminal easier to look opportunity to smuggle the weapons within Southeast Asia. Several states do not manage about penalties for several acts. In detail about the laws of arms smuggling, can be seen in following table.

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<sup>108</sup> *Ibid.*

**TABLE 14:**

**PENALTY COMPARISON**

Infraction	Brunei	Cambodia	Indonesia	Laos	Malaysia	Myanmar	Philippines	Singapore	Thailand	Vietnam
General penalty					Max. 1 year and/or max. fine 2,000 RM	Max. 1 month and/or fine				
Violation of License	Fines up to USD 1,000				Max. 7 years and/or max. 10,000 RM fine (possession); max. 25,000 FM fine (manufacture individual); max. 100,000 RM fine (manufacture, company)	Max. 6 months and/or fine			1-10 years and/or 2,000 – 20,000 B	
Illegal possession		1 month – 5 years	Max. 20 years, life, or death	6 months – 5 years	Max. 7 years and/or max. 10,000 RM fine		6 years and not less than P15,000, or 6 years + 1 day and P30,000	5-10 years and 6 strokes canning	1-10 years and/or 2,000-20,000 B (2 years to life)	
Unauthorized carrying of arms				6 months – 5 years	Max. 7 years and/or max. 10,000 RM fine	Max. 3 years and/or fine	1 month + 1 day to 6 months	5-14 years and 6 strokes canning	1-5 years and/or 1,000 – 10,000 B	
Trading in arms/ammunition without a license		1 month – 5 years		6 months – 10 years	Life and min. 6 strokes whipping or death	Max. 3 years and/or fine	6 years and not less than P15,000, or 6 years + 1 day and P30,000	Life and 6 strokes canning, or death	2-20 years and/or 4,000-40,000 B (20 years to life)	1-20 years, life, or death
Providing/selling arms/ammunition to an unlicensed		1 month – 5 years			Max. 2 years and/or max. 2,000 RM fine				2-20 years and/or 4,000-40,000 B (20 years to life)	
Purchasing/accepting arms/ammunition without a license		1 month – 5 years	Max. 20 years, life, or death	6 months – 5 years	Max. 2 years and/or max. 2,000 RM fine		6 years and not less than P15,000, or 6 years + 1 day and P30,000		1-10 years and/or 2,000-20,000 B (2 years to life)	

Stealing arms/ ammunition				2 – 10 years						
Manufacturing arms/ ammunition		1-5 years	Max. 20 years, life or death	6 months – 5 year	Life and min. 6 strokes whipping or death (individual); max 500,000 RM fine (company)	Max. 3 years and/or fine	6 years and not less than P15,000, or 6 years + 1 day and P30,000	Life and 6 strokes canning, or death	2-20 years and/or 4,000- 40,000 B (2 years to life)	1-20 years, life, or death
Repairing/transforming arms without a license					Max. 7 years and/or max. 10,000 RM fine				2-20 years and/or 4,000- 40,000 B (2 years to life)	
Tampering, defacing, changing, or erasing the serial number/ identification mark					Max. 2 years and/or max. 2,000 RM fine		6 months + 1 day to 6 years			
Importing/exporting without a license		Prison	Max. 20 years, life, or death		Max. 7 years and/or max 10,000 RM fine	Max. 3 years and/or fine		Life and 6 strokes canning, or death	2-20 years and/or 4,000- 40,000 B (2 years to life)	
Transporter of illegal shipment					Max. 7 years and/or max 10,000 RM fine	Max. 3 years and/or fine			2-20 years and/or 4,000- 40,000 B or 10 years and fine of four times shipment value	
Use in violation of the penal code or scheduled offence		Prison			Life or max. 14 years (penal code); life and min. 6 strokes whipping (scheduled offence)	Max. 7 years and/or fine	Aggravating circumstance	Death	Life or death	
Injury without lawful excuse					Max. 2 years and/or max 5,000 RM fine					
In possession of an arm at time of committing a scheduled offence					Life and min. 6 strokes whipping		Aggravating circumstance	Life and 6 strokes canning		

Concealing/keeping arms, ammunition, or explosive		Prison		6 months-5 years	Max. 7 years and/or max. fine 10,000 RM				Fine of four times value	
Damage to government owned arms/explosives by carelessness				3 months-3 years						
Drunk and disorderly conduct with an arm					Max. 1 year and/or max. 1,000 RM fine					
Loss or theft of license or licensed weapon		Deprived of license and weapon (loss of license)			Max. 1 year and/or max. 1,000 RM fine					
<b>Infraction</b>	<b>Brunei</b>	<b>Cambodia</b>	<b>Indonesia</b>	<b>Laos</b>	<b>Malaysia</b>	<b>Myanmar</b>	<b>Philippines</b>	<b>Singapore</b>	<b>Thailand</b>	<b>Vietnam</b>

Source: Legal Controls on Small Arms and Light Weapons in Southeast Asia, 2001.

Situation unknown

The third reason is about implementation. There are thought that ASEAN is good enough in developing of program, rules, laws and norms concerning the trade in small arms, yet it is weak in implementation. Weak implementation happens is because neither human resources nor financial support is allocated for the implementation of the work program. Many foreign ministry officials tasked to attend meetings openly admitted; they had little or no knowledge of the subject and privately dismissed its importance as a regional security issue. Securing funds for the management and security of small arms stockpiles is more difficult than securing funds for their destruction, even though both are essential elements of small arms control.<sup>109</sup> Cambodia and the Philippines were both supportive of some small arms action but it was not a priority for either government. Moreover they were not prepared to invest significant energy or resources to advance initiatives at the regional level.

Weak implementation occurs also because working with a government which owns inadequate resources and capacities. Corruption and criminality in intra-state also impede the implementation of legislation.<sup>110</sup> It makes the efforts get more difficult when there are a limited human resources and financial supports. It becomes worse when ASEAN, by non interference principle, can not give obligation toward the members to report to ASEAN about any progress on

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<sup>109</sup> *The Role of Regional Organizations in Stemming the Illicit Trade in Small Arms and Light Weapons*. Accessed in <http://www.geneva-forum.org/Reports/20040129-30.pdf>

<sup>110</sup> *Ibid.*



domestic small arms control. ASEAN members also seldom give report about arms export-import data in a year to ASEAN. The limited data owned by ASEAN make the control sometimes useless.

The next reason is inadequate information-sharing. The information sharing both within and between regional organizations is not as effective as it should be. There is a general lack of vision when it comes to collecting, analyzing and disseminating information. Information-sharing exercises do take place within some regional organizations, but often not enough use is made on the information collected. The sensitivity of information on small arms, and the desire of many governments to keep it confidential, is one of the main reasons for this.<sup>111</sup>

The most important reason is arms smuggling case is viewed as an issue of national security and also each country is affected by small arms in a different way and to a different degree.<sup>112</sup> It could be seen is looked when Canada and Australia pressed ASEAN members to consider a broader range of measures, including a regional code of conduct on small arms transfers which was strongly opposed by China and several ASEAN members. Vietnam and Laos bluntly denied that small arms posed any kind of problem in their states. Myanmar's representative called for restrictions on the supply of weapons to non-state actors,

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<sup>111</sup> *Ibid.*

<sup>112</sup> *Legal Control on Small Arms and Light Weapons in Southeast Asia*. Accessed in

<http://di.aseansec.org/content/2016/1637.pdf>

but also stressed the importance of legitimate self-defense and sovereignty in opposing measures that would require greater transparency in arms transfers.<sup>113</sup>