

CHAPTER III THE ESTABLISHMENT OF REGIME AND COOPERATION

A. Background the establishment of Trilateral cooperative arrangement (TCA)

A series of shipjackings and kidnapping-for-ransoms has been interrupted regional trade in Southeast Asia and prompted calls for trilateral maritime policing in the waters between the Philippines, Malaysia, and Indonesia. The Sulu and Celebes Seas are bordered by the Philippines, Malaysia and Indonesia. The entirety of the Sulu Sea is Philippine internal waters and the majority of the incidents occur within, or in close proximity to Territorial Waters. It makes combating the threat and providing assistance as an obligation of the littoral states. To maintain the area the littoral states should have a good quality of security system of maritime. The fact that occurs is the local authorities currently lack the capacity to watching the entire area and programs to improve the quality of personnel and assets in order to maintain security in this area (Mast Intelligence , 2016, hal. 1).

Regarding to the problem happened over the Sulu and Celebes Sea that not only threaten one states but already became international threat, Indonesia, Malaysia, and Philipines as a sovereign State and is committed to maintaining regional security, they should be responsible for this issue. The three countries should decide and explain the best way to carry out this problem.

For the first time in many years, Malaysian and Indonesian leaders have been speaking of the Southern Philippines as being the weak link in regional security and began to call for trilateral maritime policing in waters to the north and northeast of Sabah.

The waters surrounding the Sulu Archipelago, where the sailors were kidnapped, include the Sulu Sea and the northern portion of the Celebes Sea. According to the Analysts, \$40

billion worth of merchandise flow through these waterways each year, including super tankers from the Indian Ocean that cannot fit into the crowded Malacca Strait.

According to Indonesia's Foreign Minister Retno Marsudi more than 100,000 ships sailed through the Sulu Sea last year, carrying about 60 million tons of cargo and more than 18 million passengers. Ms. Retno further stated that the agreement between Indonesia, Malaysia, and the Philippines was mutual and that "we will undertake coordinated patrols in the areas of our common concern (Center for Security Policy , 2016)."

At a regional level, the region lacks established procedures and frameworks for information exchange and for operational coordination to provide both maritime security and maritime safety. Capacity building at the regional level requires cooperation and coordination, talk and dialogue between regional countries. Thus capacity building initiatives might also be seen as maritime confidence and security bulding measures (Forbes, 2010, hal. 6).

Joint naval patrols against piracy have shown some effectiveness in other areas of the world, including off the coast of Somalia. But ultimately Abu Sayyaf cannot be defeated only on the water, and the Philippines will need continued assistance in taking the fight to Abu Sayyaf's inland safe havens.

1. Indonesia, Malaysia and Philippines at risk

IS has capitalised from existing militant networks in Indonesia and the Philippines, forging ties with key militant sects including the Mujahidin Indonesia Timur (MIT) and the Abu Sayyaf Group (ASG). Bahrin Naim, a central figure linked with MIT, poses a significant threat, having built a sophisticated network of Indonesian fighters. Responsible for several failed attacks, his efforts have been scorned by the international media as those of an amateur. According to Sidney Jones, an expert on

Indonesian political conflict, Naim has failed to take any of Indonesia's large supply of would-be mujahidin and turn them into something more than poster children for fecklessness. Nonetheless, based in Syria, Naim will be able to reorganize, learning from past efforts and improving his group's operational capabilities.

Indonesia's counterterrorism units are a great asset in this respect, ensuring that recent terror activities have made only a small impact. Detachment 88 (a U.S.-trained counterterrorism unit) was formed after the 2002 Bali bombings, and a further National Counterterrorism Agency was established in 2010. They are responsible for a string of arrests of suspected IS militants, and more significantly the recent killing of Santoso – MIT commander and Indonesia's most-wanted militant – in Poso, Central Sulawesi. In contrast, despite significant financial and military support from the U.S, the Philippines has struggled to eliminate jihadist activity. Since IS proclaimed Mindanao as a wilayat (Islamic caliphate province) in April, it has become a Petri dish for Islamic militancy. ASG, responsible for the attack in 2004 that killed 116 people, warned of an imminent jihad there.

J.C. Liow, an expert on IS in Southeast Asia, notes that Mindanao and the other islands in the Sulu Sea have been notoriously difficult to govern. Sulu is a vast and complex region determined by competing maritime boundaries (Indonesian, Malaysian and Filipino). Repeated clashes over sovereignty and national jurisdiction have prevented a unified policing strategy, creating a chink in the ASEAN armour (Global Risk Insight, 2016).

2. Cargo at risk

Border security is a serious problem in the Sulu Sea, which separates the Southern Philippine region of Mindanao from the island of Borneo. Each year, 55

million tonnes of cargo and 18 million people transit these waters. But cooperation between surrounding countries' governments, navies and maritime law enforcement organisations has been weak. Transnational organized crime has proliferated, along with smuggling operations and terrorist activity. Together these activities inflict extensive damage to the economy, tourism and civilian life.

Figure 3.1. The island clusters surrounding the Sulu and Celebes Seas



The Abu Sayyaf Group (ASG) is a threat in the Sulu and Celebes Seas. Though small-scale and locally-oriented, the ASG is prolific, and targets fishing vessels for lucrative kidnap-for-ransom operations. In 2016, ASG coordinated a number of ship hijackings and kidnappings, taking hostage not only Indonesian and Malaysian fishermen, but also several westerners.

These shipjackings /maritime kidnappings imperil regional trade. While only a small amount of the \$40 billion in regional maritime trade passes through these waters, it is not insignificant. Indonesian coal exports from East Kalimantan account for 70 percent of total

Philippine coal imports, worth over \$800 million. There are an estimated 55 million metric tons of goods that transit these waters annually. These exports are all the more important as Chinese imports of raw materials from Southeast Asia continue to fall with China's economic slowdown.

On 21 April 2016, Indonesian authorities temporarily blocked ships from sailing to the Philippines, warning that the waters were becoming the "New Somalia." The small shipping companies run on thin margins, and the millions of dollars in ransoms pose a threat to the small-vessel maritime shipping that dominates the region. Following the 20 June kidnapping, the Indonesian Foreign Minister, Retno Marsudi, announced a ban on licenses to ship coal to the Philippines from Indonesian ports, "The moratorium on coal exports to the Philippines will be extended until there is a guarantee for security from the Philippines government" (Abuza, Trilateral Maritime Patrols in the Sulu Sea, 2016).

B. Indonesia – Malaysia – Philippines Cooperation (IMPC)

The littoral states' government of Sulu Celebes Sea decided to discuss and work together in order to protect the safety of maritime zones between their countries. One of the most prominent efforts was the establishment of Indonesia – Malaysia – Philippines Cooperation (IMPC). The regime formation made by these three countries is conducted very well. These three countries agree to conduct send their representatives for a discussion once in a month. The followings are the timeline of IMPC's monthly meetings:

1. 1st Milestone: May 5th 2016

In May 5th 2016, the Military Generals from three littoral states of Sulu Celebes Sea met the President of the Republic of Indonesia, President Joko Widodo, in the Yogyakarta Presidential Palace. After the meeting, the Minister of Foreign Affairs of Indonesia along with the Military Generals from three countries continued their trilateral meeting to discuss about the further detail of the maritime zone's security (Sindonews, 2017)

The trilateral meeting was very productive. These countries met mutual agreement and decided to strengthen the cooperation and collaboration among them in order to handle the security issue in the maritime border zones. The attending representatives were the Minister of Foreign Affairs of Indonesia, Retno Marsudi; the Military General of Indonesia, General Gatot Nurmantyo; the Minister of Foreign Affairs of Malaysia, Dato's Sri Anifah Aman; the Military General of Malaysia, Tan Sri Dato' Sri General Zulkifeli Mohd Zin; the Minister of Foreign Affairs of The Philippines, Jose Rene D Almendras; and the Military General of The Philippines, Admiral Caesar Taccad AFP (Sekretariat Kabinet Republik Indonesia, 2016).

The meeting resulted in the signing of a joint declaration that was signed by those three countries. The following is the content of the signed joint declaration:

- a. The Minister for Foreign Affairs of the Republic of Indonesia, H.E Retno L.P Marsudi; The Minister of Foreign Affairs of Malaysia, H.E Dato' Sri Anifah Aman; and the Secretary of Foreign Affairs of the Republic of the Philippines, H.E Jose Rene D. Almendras; the Commander-in-Chief of the Armed Forces of Indonesia, General Gatot Nurmantyo; the Chief

of Defence Force of Malaysia, General Tan Sri Dato' Sri (Dr) Zulkifeli bin Mohd. Zin; and the Flag-Officer-in-Command, Vice Admiral Caesar C. Taccad AFP representing the Acting Chief of Staff of the Armed Forces of the Philippines, met in Yogyakarta, Indonesia, on the 5th May of 2016, to discuss immediate regional maritime and security challenges affecting the three countries.

- b. They underscored the importance of the longstanding bond of friendship and strong political, economic, social, security and defence ties that have developed through many years of fruitful and mutually beneficial cooperation among the three countries bilaterally and through ASEAN.
- c. They reaffirmed their mutual respect for the sovereignty, territorial integrity, national unity of each other, and the importance of the principles of good neighborliness and non-interference in the internal affairs of one another, consistent with the fundamental principles of the Charters of the United Nations and ASEAN.
- d. They further reaffirmed their full commitment to the promotion of peace, stability, and security in the region to ensure circumstances conducive to sustainable economic growth and development and prosperity in the three countries as well as in ASEAN and the realization of its Vision 2025.
- e. They recognized the growing security challenges, such as those arising from armed robbery against ships, kidnapping, transnational crimes, and terrorism in the region, particularly in reference to the maritime areas of common concern of the three countries.
- f. They deplored the abduction of innocent civilians by armed groups in the vicinity of the

maritime areas of common concern of the three countries that have included the nationals of Indonesia, Malaysia, and the Philippines. In this context, they underscored the importance of protecting the lives, well-being, and rights of their nationals in accordance with international laws, and respective domestic laws and regulations.

- g. They expressed concerns that these security challenges also undermine the confidence in trade and commerce, particularly the movement of commercial shipping, goods and people, in the maritime areas of common concern of the three countries, which in turn can adversely affect the economic activities and welfare of peoples in the surrounding areas.
- h. In light of these developments and security challenges, they reaffirmed the continued efforts in enhancing existing cooperation, such as the Agreement on Information Exchange and Establishment of Communication Procedures between the Governments of the Republic of Indonesia, Malaysia, and the Republic of the Philippines, by strengthening mutual cooperation and collaboration among the military to address the growing non-traditional security challenges in the region.
- i. In this regard, they agreed to implement the following measures:
 - 1) To conduct patrol among the three countries using existing mechanisms as a modality;
 - 2) To render immediate assistance for the safety of the people and ships in

distress within the maritime areas of common concern;

- 3) To establish a national focal point among the three countries to facilitate timely sharing of information and intelligence as well as coordination in the event of emergency and security threats; and
 - 4) To establish a hotline of communication among the three countries to better facilitate coordination during emergency situations and security threats.
- j. They instruct the relevant agencies of the three countries to meet as soon as possible and subsequently convene on a regular basis to implement and periodically review the above mentioned measures and also to formulate the Standard Operating Procedure (Foreign Ministers and Chief of Defence Forces of Indonesia-Malaysia-Philippines).

According the treaty above, there are five main points that these three countries agree on, such as:

- a. Indonesia, Malaysia, and Philippines agreed to do patrol together;
- b. These three countries agreed to provide immediate assistance if there are people or ships in distress situation or in need for help;
- c. These three countries agreed to form a National Focal Point among them to facilitate fast information and intelligence sharing;
- d. These three countries agreed to make a hotline communication among them.

- e. These countries agreed to meet regularly and draft the Standard of Procedure.

This trilateral meeting's result also became a political message to the world that cooperation and collaboration among governments is very important to well-respond any issues and challenges.

2. 2nd Milestone: June 20th 2016

In responding to the mutual agreement in the previous joint declaration, these three countries assembled again in the next month, which was June 20th of 2016. This second assembly was conducted in Manila. The agenda of this meeting was as the follow-up discussion about the cooperation in handling the security of the Sulu Celebes Sea, which was frequently attacked by the Abu Sayyaf terrorist group, by strengthening the patrol implementation (Wirayudha, 2016). In this second meeting, each country sent one delegate to represent the country. The representatives were the Secretary of National Defense of the Republic of the Philippines, H.E. Voltaire T. Gazmin; the Minister of Defence of Malaysia, H.E Dato' Seri Hishammudin Tun Hussein; and the Minister of Defence of the Republic of Indonesia, H.E General (R) Ryamizard Ryacudu. The result of the second meeting is the following:

- a. The Secretary of National Defense of the Republic of the Philippines, H.E. Voltaire T. Gazmin; the Minister of Defence Malaysia, H.E. Dato' Seri Hishammuddin Tun Hussein; and the Minister of Defence of the Republic of Indonesia, H.E. General (R) Ryamizard Ryacudu met in Manila, on 20 June 2016 to discuss on the growing security challenges in the region, specifically in the maritime area of

common concern to the three countries. The Meeting was conducted in the spirit of cordiality, mutual understanding and good neighbourliness.

- b. The Trilateral Meeting among the Defence Ministers in Manila reaffirmed the commitments made on 5th May 2016 in Yogyakarta, Indonesia by the Foreign Ministers and the Chief of Defence Forces of the three countries in addressing regional maritime and security challenges affecting the three countries.
- c. The Ministers raised concern over the recent incidents of kidnappings and armed robbery at sea in the maritime areas of common concern, and reaffirmed the need, commitment and collective responsibility of the countries to address such threats that undermine peace, security and prosperity of the region.
- d. The Ministers agreed that the best practices shared by Malaysia and Indonesia on their experiences in the Malacca Straits Patrol (MSP) may be adopted as a model for trilateral cooperation to address common maritime security concerns.
- e. In this regard, the Ministers deliberated and have agreed in principle for the armed forces and/or relevant agencies to explore the following measures:
 - 1) Coordinated activities among the militaries of the three countries, focusing on maritime security;
 - 2) Possibility to establish joint military command posts at

- designated locations including ad hoc military liaisons on board;
- 3) Trilateral maritime and air patrol at the maritime areas of common concern;
 - 4) Trilateral Maritime Patrol Working Group (TMPWG) which would set the operational directions on the conduct of the trilateral maritime patrol. The Maritime Command Centers shall be established by the respective countries and shall retain overall responsibility for the tasking and deployment of their respective assets;
 - 5) A transit corridor within the maritime areas of common concern which will serve as designated sea lanes for mariners entering the maritime area of common concern;
 - 6) Information and intelligence sharing pertaining to the maritime area of common concern; and
 - 7) A trilateral database sharing mechanism.
- f. The Ministers also agreed for the armed forces and/or relevant agencies of the three countries to expedite the crafting and finalization of relevant Standard Operating Procedures (SOPs).
- g. The Defense Ministers hope to conduct the next trilateral meeting soon after (Joint Statement: Trilateral Meeting Among the Defence Ministers of The Philippines, Malaysia, and Indonesia, 2016).

These three countries discussed about the implementation of maritime patrol by accelerating the

signing of Framework of Arrangement (Foa) or the cooperation draft, patrol activities harmonization, intelligence data and information sharing, military training, as well as the plan to build an alliance military post. This agreement shows that Indonesia, Malaysia, and Philippines are actively declaring their contribution to secure the Sulu Celebes Sea zones.

3. 3rd Milestone: July 14th 2016

The follow-up of the trilateral cooperation was conducted in the next month. These three countries set a meeting in Kuala Lumpur on July 21st 2016. This third meeting focused working on the Framework on Trilateral Cooperative Agreement between Malaysia, Indonesia, and the Philippines. The meeting delegation were the Defence Minister of Malaysia, Datuk Seri Hishammudin Hussein; Indonesian Defence Minister, Gen (Rtd) Ryamizard Ryacudu; and Philippines' National Defence Secretary, Major General (Rtd) Delfin Lorenzana (Petaling Jaya, 2016). This Framework of Agreement (FoA) was signed in this meeting. This initiative comprises joint air patrols, coordinated naval patrols, and exchange of military intelligence between the three countries to fight maritime crime and terrorism in Sulu Sea.

In short, there are four main points that have been agreed in the FoA, they are alliance patrol, emergency aid, sharing intelligence, and hotline communication. This framework is named the Sulu Seas Patrol Initiative (SSPI) (Kementerian Luar Negeri RI, 2016). Within the meeting, these representatives also discussed about the Standard of Procedure (SoP) to operationalize the framework, since many political and operational challenges would be very likely to occur (The Diplomat, 2016). Finally, in this third meeting, the foundation of the trilateral maritime security cooperation was established.

4. 4th Milestone: August 2nd 2016

In August 2nd 2016, the three countries conducted their monthly meeting again. This month, the meeting was conducted in Nusa Dua, Badung, Bali, Indonesia. The representatives of the 4th meeting were the Ministers of Defense of each countries, they are Minister of Defense of the Philippines, Delfin N Lorenzana; the Minister of Defense of Malaysia, Dato' Seri Hishammudin Tun Husein; and the Minister of Defense of Indonesia, Ryamizard Ryacudu (Kompas, 2016). This meeting's agenda was to discuss the Standard of Procedures (SoP) of the operation that they had been working for several months.

The meeting which was conducted for 6 hours in Ruang Pecatu 1 Bali Nusa Dua Convention Center also discussed the secure navigation route in the Sulu Sea, in responding to several piracies and kidnappings that happen in the sea zones by Abu Sayyaf militant group. The alliance also stated that it was also an effort to countermeasure ISIS' influence in South East Asia zone since it is not impossible for ISIS to invade South East Asia after dominating the Middle East regions. Finally, the Standard of Procedure (SoP) of the joint cooperation between these three countries were finalized and signed in this meeting. That way, the patrol operation could be started with the right procedure effectively.

5. 5th Milestone: Duterte – Joko Widodo Meeting, September 9th 2016

In August 2nd 2016, President of Indonesia, Joko Widodo and the President of the Philippines, Rodrigo Duterte conducted a bilateral meeting in Istana Merdeka, Jakarta, Indonesia. The bilateral meeting resulted in the making of three agreements. The first agreement was the permit for Indonesian Moslem pilgrims to depart from

the Philippines. There would be 177 Indonesians who would use the passport of the Philippines. Secondly, the President of Indonesia, Joko Widodo expressed his deep gratitude to the Philippines for helping 700 Indonesians to use the passport of the Philippines to go for pilgrimage in Mecca (Kepala Biro Pers, 2016).

The last result of the bilateral meeting between the number 1 persons in these two countries was the agreement to improve the security in Sulu Sea. They agreed to improve the effectiveness of the Sulu Sea security together by doing patrol operation together. Furthermore, both countries also agreed to cooperate in dealing with the terrorism and extremism, as well as illegal drugs smuggling (Kompas, 2016). In the meeting, the two presidents also discussed the issue of abduction that was done by Abu Sayyaf group. There were 11 Indonesians whom were abducted by the extremists. From total 11 people whom were abducted, 2 of them were already released by the group (Tempo, 2016).

In short, the bilateral meeting of the Presidents which mainly discussed about the Sulu Sea issues was such as:

- a. The Presidents of Indonesia and the Philippines agreed to commit to ensuring the security of Sulu Sea.
- b. The Presidents of Indonesia and the Philippines agreed to encourage the implementation of the previous agreements, such as:
 - 1) The May 5th Declaration;
 - 2) The Framework on Trilateral Cooperative Arrangement
 - 3) The 2 August 2016 Statement

6. 6th Milestone: October 1st 2016

The three countries conducted their 6th meeting in an unordinary way. In October 1st 2016, the representatives of the three countries met casually and informally in Hawaii, the United States of America. The representatives were the Defense Minister of each country. Indonesia was represented by Ryamizard Ryacudu, Malaysia was represented by Hisyammudin, and the Philippines were represented by Lorenzana Delfin.

The representatives agreed to review several cooperation concepts that were offered by the Navies of the United States of America (US Pacific Command and US Coast Guard). The offered concepts were how US Navy and US Coast Guard could always cooperate and coordinate to the three countries to run military operation. This cooperation was considered very important to run.

This trilateral meeting also emphasized the importance of Maritime Domain Awareness. These three countries control very large sea territories which have a lot of potential. However, this potential also results in various new challenges in terms of maritime security. Therefore, it is very important to improve the awareness of the people and the government toward the maritime zone in order to countermeasure the maritime challenges (Maritime News, 2016). This became a very important factor to ensure the branding of SSPI in securing the regions of the three countries in general and Sulu Sea in particular. This trilateral meeting showed that the cooperation among the three countries was in a good phase to countermeasure the threatening issues in Sulu Sea (Detik, 2016).

7. 7th Milestone: November 10th 2016

In November 10th 2016, the President of the Philippines, Rodrigo Duterte visited the Prime Minister of Malaysia, Najib Razak in Malaysia. This bilateral meeting discussed the continuation of Sulu Sea security initiative that had been going on for several months. This meeting showed the intimate relation between the two countries, shown by the two Presidents singing karaoke together after the meeting (News, Kunjungi Malaysia, Presiden Duterte Sempatkan Karaoke dengan PM Najib, 2016).

After the meeting, the result was very positive news. The President of the Philippines, Rodrigo Duterte agreed to permit Indonesia and Malaysia to conduct hot pursuit in the Philippines' territory. Rodrigo Duterte believed that the action was necessary to make the counterterrorism act better and more efficient. It means that if there is any criminals that enter the Philippines' territory, Indonesia and Malaysia only need to notify the Philippines, and then they would be allowed to ask Philippine's navy to pursue the criminals (News, 2016). In regards to the execution, a Standard of Procedure (SoP) for the hot pursuit would be drafted.

8. 8th Milestone: November 16th 2016

The Philippines' Defense Secretary Voltaire T. Gazmin, Indonesian Defense Minister General (R) Ryamizard Ryacudu and Malaysian Defense Minister Dato' Seri Hishammuddin Tun Hussein conducted a Trilateral Meeting on 20 June 2016 at the EDSA Lounge of the Department of National Defense in Camp Aguinaldo, Quezon City. The three defense chiefs discussed the growing security challenges in the region, including the maritime area of common concern to the Philippines, Malaysia and Indonesia, as well as

the recent incidents of kidnapping and armed robbery at sea.

The Ministers further reaffirmed the commitment of the countries to address such threats that undermine peace, security and prosperity in the region. Incoming Defense Secretary of the Philippines Hon. Delfin Lorenzana also joined the Trilateral Meeting, where the Ministers agreed that the best practices shared by Malaysia and Indonesia on their experiences in the Malacca Straits Patrol (MSP) may be adopted as a model for trilateral cooperation to address common maritime security concerns (Public Affairs Service - Department of National Defense of the Philippines, 2016).