

REPORT ON MALAYSIA'S IMPLEMENTATION OF THE UNITED NATIONS PROGRAMME OF ACTION TO PREVENT, COMBAT AND ERADICATE THE ILLICIT TRADE IN SMALL ARMS AND LIGHT WEAPONS IN ALL ITS ASPECTS FOR THE YEAR 2011

NATIONAL LEVEL

1. National Co-ordination Agency

1.1 The Ministry of Home Affairs Malaysia is the **national co-ordination agency** or body that is responsible for policy guidance, research and monitoring of efforts to prevent, combat and eradicate the illicit trade in Small Arms Light Weapons (SALW) in all its aspects. The Ministry of Home Affairs Malaysia is assisted by the Royal Malaysia Police, the Royal Malaysian Customs and the Ministry of Finance.

2. National Point of Contact

2.1 The Royal Malaysia Police is the national point of contact to act as liaison with other States on matters relating to the implementation of the United Nations Programme of Action.

3. Legislation, Regulations, Administrative Procedures

3.1 The production, export, imports and transit of SALW is effectively controlled by the Arms Act, 1960. This is also supported by the Customs (Prohibition of Imports) Order 1998 and Customs (Prohibition of Exports) Order 1998. The Arms (Manufacture of Arms and Ammunition) (Licensing) Regulations, 1989 also governs the production of SALW, with regard to the application for license, under Rule 2, and the granting of license, under Rule 3.

3.2 The specific sections in the Arms Act 1960 which regulate the production of SALW, are as follows:

- Section 12 – No person to manufacture arms or ammunition without a license;
- Section 13 - Identification of a place of manufacture;
- Section 14 – Penalty for manufacturing without license and for breach of conditions of license.

3.3 The specific sections in the Arms Act 1960 which regulate the export and import of SALW, are as follows:

- Section 15 – License to import arms or ammunition;
- Section 16 – Marking of cases and notice of importation;

- Section 17 - Declaration of arms and ammunition;
- Section 18 – Permit to land or transship arms or ammunition;
- Section 19 – License to export arms or ammunition;
- Section 20 – Ports and places of import and export;
- Section 21 – Minister may prohibit importation or exportation;
- Section 22 – Penalty in respect of vessel, aircraft or vehicle used for illegal importation or exportation;
- Section 23 – Penalty for unlawful importation or exportation.
- Section 24 – Concealing unlawfully imported arms or ammunition;

3.4 The specific section in the Arms Act 1960 which regulates the sale and transfer of arms, is as follows:

Section 11 - It is an offence for a person to transfer any arms or ammunition except to:

- (a) a licensed dealer or licensed repairer; or
- (b) a person who shows that he is entitled to have the arms or ammunition in his possession by virtue of this Act or of any license or permit there under, provided that in the case of a person entitled by virtue of a license or permit, he produces the license or permit to the person selling or transferring the same; or
- (c) to a person who is and whom he knows or believes to be a police officer or other public officer acting in the course of his duty in accepting delivery of the arms or ammunition.

3.5 **The Arms Act, 1960 is also relevant to prevent the manufacture, stockpiling, transfer and possession of unmarked or inadequately marked SALW.**

3.6 Ministry of Home Affairs Malaysia has the responsibility of issuing licenses under the Arms Act, 1960. The marking of firearms manufactured in Malaysia is also regulated under the same Act. Section 59(c) empowers the Minister of Home Affairs to make regulations on the marking of firearms.

- 3.7 In addition to that, Malaysia has enacted its comprehensive Strategic Trade Act 2010. The Act entered into force on 1 January 2011 and the permit requirements for export, transit and transshipment under the Act became fully enforceable on 1 April 2011. The Strategic Trade Act 2010 seeks to provide a regulatory mechanism over the export, transit, transshipment and brokering of military items and dual-use items as well as unlisted items that are susceptible to use for restricted activities such as the proliferation of weapons of mass destruction. In this regard, small arms and light weapons are prescribed as strategic items under the Strategic Trade (Strategic Items) Order 2010 [P.U.(A) 485/2010]. Malaysia also gives effect to the various United Nations Security Council (“UNSC”) arms embargoes and sanctions regimes and resolutions through the Strategic Trade (United Nations Security Council Resolutions) Regulations 2010 [P.U.(A) 481/2010] and the Strategic Trade (Restricted End-Users and Prohibited End-Users) Order 2010 [P.U.(A) 484/2010].
- 3.8 Further, Section 82 of the Central Bank of Malaysia Act 2009 provides that the Central Bank of Malaysia may, with the approval of the Minister, make regulations or issue directions in writing to any financial institution or to a class of financial institutions to enable effective application of measures decided by the UNSC in pursuance of Article 41 of the Charter of the United Nations to be employed, where Malaysia is called upon to apply such measures. This section may be invoked by the Central Bank of Malaysia in order to impose measures such as embargoes, freezing of funds, financial assets and economic resources against countries that have UNSCRs against them. Regulations are being drafted to implement the relevant sanctions under the relevant UNSCRs.
- 3.9 National laws and regulations pertaining to the issue of preventing, combating and eradicating of the illicit trade in SALW are gazetted to notify the public. From time to time, the Government could also hold information campaigns to raise awareness among the public, apart from educating the public on the issue.

4. Law Enforcement/ Criminalization

- 4.1 The illegal manufacture, possession, stockpiling and trade of SALW are made criminal offences under the following domestic laws:
- Arms Act 1960
 - Arms Licensing Regulations 1961
 - Arms (Manufacture of Arms and Ammunition) (Licensing) Regulations 1989
 - Firearms (Increased Penalty) Act 1971

- Explosives Act 1957
- Penal Code
- Customs Act 1967 – this Act also allows for the confiscation of SALW

4.2 These measures have been implemented through the **requirement of licensing** and enforcement by the police and customs officers. This is followed by prosecution in the national courts.

4.3 The export, transshipment, transit and brokering of strategic items including arms and related material is regulated by the Strategic Trade Act 2010.

- A permit system is enforced for export, transshipment and transit of strategic items and unlisted items for restricted activity.
- A broker registration system is enforced for brokering in strategic items.
- Breach of these requirements are serious offences and are punishable, in relation to strategic items which are arms or related material –

(i) if done with intention –

(a) where death is the result of the act, with death or imprisonment for natural life, and in the case of a body corporate, a minimum fine of thirty million ringgit; or

(b) in any other case, with imprisonment for a term of not less than ten years or with a fine of not less than ten million ringgit or with both, and in the case of a body corporate, a minimum fine of twenty million ringgit.

(ii) if done without intention, with imprisonment for a term of not less than five years or with a fine of not less than five million ringgit or with both, and in the case of a body corporate, be punished with a minimum fine of ten million ringgit.

4.4 Malaysia has also enacted the Anti-Money Laundering and Anti-Terrorism Financing Act 2001 to deal with the subject matter of money laundering in all its aspects, including requiring suspicious transaction reporting by off-shore banks and financial investments companies to prevent money being laundered in Malaysia to finance illegal activities which may also include arms smuggling. The Anti-Money Laundering Act 2001 was amended by the Anti-Money Laundering (Amendment) Act 2003 to deal with the issue of terrorist financing and renamed the “Anti-

Money Laundering and Anti-Terrorism Financing Act 2001". The amendments came into force on 6 March 2007.

- 4.5 The Anti-Money Laundering and Anti-Terrorism Financing Act 2001 provides for the offence of money laundering, the measures to be taken for the prevention of money laundering and terrorism financing offences and to provide for the forfeiture of terrorist property and property involved in, or derived from, money laundering and terrorism financing offences, and for matters incidental thereto and connected therewith.
- 4.6 The Anti-Money Laundering and Anti-Terrorism Financing Act 2001 was amended to extend certain provisions of the Act to counter terrorist financing as well as to comply with the requirements of the United Nations Security Council Resolution (UNSCR) 1373 and the International Convention for the Suppression of the Financing of Terrorism. Following the entry into force of these and other related amendments to the Penal Code, the Courts of Judicature Act 1964, the Subordinate Courts Act 1948 and the Criminal Procedure Code on 6 March 2007, Malaysia acceded to the International Convention for the Suppression of the Financing of Terrorism and the International Convention against the Taking of Hostage on 29 May 2007. As a result to this, Malaysia is now able to freeze the assets of terrorists pursuant to the UNSCRs 1267 and 1373. Malaysia has an obligation to gazette the list of terrorists belonging to the Al-Qaida and Taliban groups under UNSCR 1267, and the list of terrorists belonging to other terrorist organisations under UNSCR 1373.
- 4.7 The existing domestic law are generally adequate in addressing the other requirements of relevant UNSCRs.

5. Terrorism and Transnational Crime

- 5.1 The Penal Code (Amendment) Act 2003 [*Act A1210*] amended the Penal Code to include a new Chapter (Chapter VIA) on terrorism offences and other related acts. The words "terrorist" and "terrorist act" are defined in sections 130B (1) and (2) of the Penal Code, respectively, as follows:
 - "terrorist" means any persons who-
 - (a) commits, or attempts to commit, any terrorist act; or
 - (b) participates in or facilitates the commission of any terrorist act, and includes a specific entity under section 66B or section 66C of the Anti-Money

Laundering and Anti-Terrorism Financing Act 2001;

- “terrorist act” means an act or threat of action within or beyond Malaysia where –
 - (a) the act or threat falls within subsection (3) and does not fall within subsection (4);
 - (b) the act is done or the threat is made with the intention of advancing a political, religious or ideological cause; and
 - (c) the act or threat is intended or may reasonably be regarded as being intended to –
 - i) intimidate the public or a section of the public; or
 - ii) influence or compel the Government of Malaysia or the Government of any states in Malaysia, any other government, or any international organization to do or refrain from doing any act.

Subsection (3) states:

An act or threat of action falls within this subsection if it -

- (a) involves serious bodily injury to a person;
- (b) endangers a person’s life;
- (c) causes a person’s death;;
- (d) creates a serious risk to the health or the safety of the public or a section of the public;
- (e) involves serious damage to property
- (f) involves the use of firearms, explosives or other lethal devices;
- (g) involves releasing into the environment or any part of the environment or distributing or exposing the public or a section of the public to -
 - (i) any dangerous, hazardous, radioactive or harmful substance;
 - (ii) any toxic chemical; or

- (iii) any microbial or other biological agent or toxin;
- (h) is designed or intended to disrupt or seriously interfere with, any computer systems or the provision of any services directly related to communications infrastructure, banking or financial services, utilities, transportation or other essential infrastructure;
- (i) is designed or intended to disrupt, or seriously interfere with, the provision of essential emergency services such as police, civil defense or medical services;
- (j) Involves prejudice to national security or public safety; or
- (k) involves any combination of any of the acts specified in paragraphs (a) to (j);

And includes any act or omission constituting an offence under the Aviation Offences Act 1984 [Act 307]

Subsection (4) states:

An act or threat of action falls within this subsection if it -

- (a) is advocacy, protest, dissent or industrial action; and
- (b) is not intended –
 - (i) to cause serious bodily injury to a person;
 - (ii) to endanger the life of a person;
 - (iii) to cause a person's death; or
 - (iv) to create a serious risk to the health or safety of the public or a section of the public.

Subsection (5) states:

For the purposes of subsection (2) –

- (a) a reference to any person or property is a reference to any person or property wherever situated, within or outside Malaysia; and

- (b) a reference to the public includes a reference to the public of a country or territory other than Malaysia.

5.2 Section 130C(1) provides the punishment for the commission of terrorist acts as follows:

- Whoever, by any means, directly or indirectly, commits a terrorist act shall be punished-
 - (a) if the act results in death, with death; and
 - (b) in any other case, with imprisonment for a term of not less than seven years but not exceeding thirty years, and shall also be liable to fine.

5.3 Section 130D provides the punishment for the act of providing devices to terrorist groups as follows:

- Whoever knowingly provides or offers to provide any explosive or other lethal device to-
 - (a) a terrorist group;
 - (b) a member of a terrorist group; or
 - (c) any other persons for use by, or for the benefit of, a terrorist group or a member of a terrorist group,

shall be punished with imprisonment for life or imprisonment for a term not exceeding thirty years, and shall also be liable to fine.

5.4 Section 130F provides the punishment for the act of providing training and instruction to terrorist groups and persons committing terrorist acts as follows:

- Whoever knowingly provides training or instruction, or agrees to provide training or instruction-
 - (a) in the making or use of any explosive or other lethal device;
 - (b) in carrying out a terrorist; or
 - (c) in the practice of military exercise or movements,

to a member of a terrorist group or a person engaging in, or preparing to engage in, the commission of a terrorist act shall be punished with imprisonment for a term which may extend to thirty years, and shall also be liable to fine.

5.5. Besides the Penal Code, among other legislative tools available to Malaysia in the fight against terrorism are the following Acts –

- Firearms (Increased Penalties) Act 1971;
- Corrosive and Explosive Substances and Offensive Weapons Act 1958;
- Explosives Act 1957;
- Extradition Act 1992;
- Extraterritorial Offences Act 1976 read with s127A of the Criminal Procedure Code;
- Mutual Assistance in Criminal Matters Act 2002; and
- Chemical Weapons Convention Act 2005.

6. Stockpile Management and Security

6.1 On the issue of management and security of SALW stocks, the police are guided by the existing Inspector General of Police's Standing Orders (IGSO). **Inspection of stocks is conducted once every six months.** Section 25 of the Arms Act, 1960 provides for the periodical inspection of stock-in-trade.

7. Collection and Disposal

7.1 Regular exercises are conducted to review arms stocks and determine the need for disposal. Stocks that are disposed are stocks that have become ineffective. Ineffective stocks are then destroyed according to a standard operating procedure.

7.2 The armed forces or police or other authorized bodies shall first inform the relevant ministries such as the Ministry of Finance. Upon approval by the relevant ministries the identified stock shall be disposed of accordingly. For example, in the case of the Royal Malaysia Police, approval to dispose such stocks shall be obtained from the Ministry of Home Affairs and the Ministry of Finance.

7.3 With due observance given to the methods and procedures outlined above, all confiscated, seized or collected SALW are destroyed. The standard means of disposal is by melting the arms.

7.4 In addition to that, Section 41 of the Strategic Trade Act 2010 provides for the disposal of seized strategic items and unlisted items. The order for the disposal of such items is to be made by the Controller of Strategic Trade upon consultation with the Public Prosecutor.

8. Brokering

8.1 For the purpose of regulating the activities of those who engage in SALW brokering within national jurisdiction and control, the

national legislation or administrative procedures that exist are as follows:

- Arms Act 1960
- Arms Licensing Regulations 1961
- Firearms (Increased Penalties) Act 1971; and
- Strategic Trade Act 2010.

8.2 The following provisions in the Arms Act, 1960 may be relevant to deal with brokering:

- Section 4(5) requires licenses granted to dealers, auctioneers, individuals, importers and exporters, and manufacturers to be registered with the police;
- Section 6(2)(c) - Registration for auctioneers;
- Section 9(1) – Licenses to deal in arms
- Section 9(2) – License to repair arms or ammunition;
- Section 9(3) – Separate or combined licenses for dealing in, and repairing arms or ammunition;
- Section 9(5) – Dealers carrying on business at more than one premise needs to have separate licenses for each premise;
- Section 9 (9) - Registration of licenses granted to dealers;
- Section 9(10) – Requirement for book-keeping and returns to police;
- Section 10 – Identification of the business of the licenses-holder;
- Section 11 – Restrictions on the sale and transfer of arms and ammunition by an individual to a licensed dealer [(section 11(1)(a), and other qualified persons only (section 11 (1) (b) and (c))];
- Sections 15 and 19 – License to import and export, respectively;
- Section 59(b) – Power of Minister to make regulations, from time to time, on importation, exportation, landing, transshipping, transportation, conveyance, manufacture, sale, and purchase of arms ammunitions, and imitation arms.

For the offences, penalties range from six months imprisonment or a fine, to death, depending on the type and seriousness of the offences, as provided for in the 1960 and 1971 Acts and 1961 Regulations.

8.3 Under the Strategic Trade Act 2010, “brokering” is defined in Section 2 as –

“the activity of a person who, either on his own behalf or acting as an agent on behalf of another person—

(a) negotiates, arranges for or facilitates the purchasing, financing, conveying, sale or supply of items; or

(b) buys, sells or supplies such items.”

8.4 Section 11 of the Strategic Trade Act 2010 prescribes the control mechanism with regard to brokering of strategic items as follows:

- Section 11(1) – Requirement for brokers to be registered under section 19 and to obtain a valid permit where required by the related laws to carry out the act of brokering strategic items;
- “related laws” means –
 - Animals Act 1953 [Act 647]
 - Atomic Energy Licensing Act 1984 [Act 304]
 - Chemical Weapons Convention Act 2005 [Act 641]
 - Customs Act 1967 [Act 235]
 - Pesticides Act 1974 [Act 149]
 - Plant Quarantine Act 1976 [Act 167]
 - Prevention and Control of Infectious Diseases Act 1988 [Act 342]
 - Protection of New Plant Varieties Act 2004 [Act 634]
 - Malaysian Communications and Multimedia Commission Act 1998 [Act 589]
- Section 11(2) – The punishment provided when a person is convicted for contravening Section 11(1)(failure to register and to obtain a valid permit). The punishments in relation to strategic items which are arms or related material are –
 - (i) where death is the result of the act, death or imprisonment for natural life, and in the case of a body corporate, a minimum fine of thirty million ringgit; or

(ii) in any other case, imprisonment for a term of not less than ten years or a fine of not less than ten million ringgit or with both, and in the case of a body corporate, a minimum fine of twenty million ringgit; or

- Section 11(3) – Provides that it shall be a defence for the accused to prove that he has made all reasonable inquiries as to the use or proposed use of the items and is satisfied from such inquiries that the items will not be used for or in connection with a restricted activity;

8.5 Under section 19 of the Strategic Trade Act 2010, registration is to be with the Controller of Strategic Trade. Further, by administrative inter-agency agreement to facilitate the brokers, exporters, importers, consignees, owners, and their agents, all applications for permits can be centrally made to the Controller as a one-stop centre.

9. Marking, record keeping and tracing

9.1 The requirement for marking on each arm is not specified in any of the laws involving firearms. However, it is noted that manufacturers generally do provide marking on the arms. The manufacturer also keeps records of the serial number of the arms sold. The name of the manufacturer is also marked.

9.2 The Arms Act 1960 is the national legislation that provides for proper record-keeping of arms and license owners. **For the purpose of identifying and tracing arms, registers are maintained permanently.** The Royal Malaysia Police will be able to trace a particular arm by referring to the register. The details of the arms are recorded and kept in a register maintained by the Chief of Police Officer of each State.

9.3 In addition Malaysia has introduced two systems for tracing purposes, namely:

- MyBid – This system will assist in conducting ballistic identification on all small arms recovered, seized or alleged to be used in any crime. In future all arms owned by private persons and security agencies will be subjected to the same test.
- FLAME System – (Firearms Licensing Application Monitoring and Enquiry System). This system is developed in Malaysia to assist in maintaining electronic records on all arms.

9.4 The exchange of information and co-operation in tracing illicit SALW is conducted administratively through bilateral and multilateral arrangements, such as ASEANAPOL, INTERPOL

and EUROPOL. The type and extent of information disclosed is governed by national security measures. Apart from this, the Mutual Assistance in Criminal Matters Act was enacted in 2002 to render assistance to other countries on the basis of reciprocity when the need arises.

10. Disarmament, demobilization and reintegration

10.1 Malaysia has had no need to institute any disarmament, demobilization or reintegration programme in recent years. However, Malaysia has contributed towards addressing the needs of children affected by armed conflicts by acceding to the four Geneva Conventions of 12 August 1949 on 24 August 1949. To give effect to our accession, the Geneva Conventions Act was enacted in 1962.

11. Awareness-raising

11.1 At the national level, Royal Malaysia Police with the co-operation of the local shooting clubs conducted public awareness campaigns on illegal possession of firearms. Police and army cadet programmes are organized at universities and schools to raise students' awareness on crimes associated with illegal SALW.

11.2 The annual renewal deadline for a license to hold firearms is 30 June. The Royal Malaysia Police will publicize the dateline in all national newspapers to inform eligible license holders to renew their licenses as it is an offence to possess weapons without a proper license.

11.3 In addition to that, the Attorney General's Chambers had organized an industry outreach programme entitled the Strategic Trade Act 2010 Forum: Proactive Deterrence Against Proliferation Of Weapons Of Mass Destruction on 2 to 3 March 2011 with the following objectives:

- to provide accurate and in-depth information on the Strategic Trade Act 2010 and its implications for legitimate and illegitimate trade in strategic items; and
- to provide an opportunity for industry and regulators/enforcement agencies to exchange views and share best practices to jointly implement an effective Malaysian mechanism to counter the proliferation of Weapons of Mass Destruction (WMD).

11.4 The forum was attended by representatives from the industry, the regulators/enforcement, academicians as well as other interested individuals.

REGIONAL LEVEL

12. Legally binding instruments

- 12.1 At present, there is **no legally binding instrument at the Southeast Asia regional level** which aims to prevent, combat and eradicate the illicit trade in SALW in all its aspects.
- 12.2 The ASEAN Convention on Counter-Terrorism (ACCT) adopted at the 12th ASEAN Summit in Cebu, Philippines on 13 January 2007 reflects the commitment and cooperation of ASEAN Member Countries (AMC) towards meeting the challenges to peace and security presented by international terrorism. It also provides the framework for regional cooperation to counter, prevent and suppress terrorism. Article II recognizes terrorist acts to mean the acts criminalized by the relevant international counter-terrorism instruments. Article XI promotes the sharing of best practices among Parties on rehabilitative programmes, including social reintegration of persons convicted of terrorist offences, which is aimed to prevent perpetration of terrorist acts.
- 12.3 Malaysia signed the ACCT together with the 9 other AMCs on 13 January 2007. Malaysia believes that the ACCT is a value-added instrument that would complement the existing UN Conventions and Protocols on terrorism. Malaysia will ratify the ACCT subject to the completion of relevant legislative and administrative measures.

13. Moratoria and action programmes

- 13.1 Malaysia supports the ASEAN Plan of Action to Combat Transnational Crime as a follow-up to the Manila Declaration on the Prevention and Control of Transnational Crime. The ASEAN Work Plan is focused towards strengthening regional commitment and capacity to combat transnational crime, which includes terrorism, drug trafficking, arms smuggling, money laundering, trafficking in persons, sea piracy, cyber crime and economic crime. The co-operation envisaged is not purely on the illicit trade in SALW only but comprising of other transnational crime as well.

14. Declarations and Memorandums of Understanding (MOU) at the Regional Level

- 14.1 Malaysia as an ASEAN member country is also signatory to the following Declarations and MOU.

(a) Transnational Crime

- Manila declaration on the Prevention and Control of Transnational Crime (1998)

- ASEAN Declaration on Transnational Crime, Manila, 20 December 1997

(b) Terrorism

- 2001 ASEAN Declaration on Joint Action to Counter Terrorism, adopted on 5 November 2001 in Bandar Seri Begawan, Brunei Darussalam
- ASEAN-United States of America Joint Declaration for Cooperation to Combat International Terrorism, adopted on 1 August 2002 in Bandar Seri Begawan, Brunei Darussalam
- Declaration on Terrorism by the 8th ASEAN Summit Phnom Penh, 3 November 2002
- Joint Declaration of ASEAN and China on Cooperation in the Field of Non-Traditional Security Issues, adopted on 4 November 2002 in Phnom Penh, Cambodia
- ASEAN-EU Joint Declaration on Cooperation to Combat Terrorism, adopted on 27-28 January 2003, Brussels, Belgium
- ASEAN-India Joint Declaration for Cooperation to Combat International terrorism, adopted on 8 October 2003 in Bali, Indonesia
- MOU Between The Governments of the Member Countries of the Association of Southeast Asian Nations (ASEAN) And The Governments of the People's Republic of China On Cooperation in the Field of Non-Traditional Security Issues, adopted 10 January 2004 in Bangkok, Thailand
- ASEAN-Australia Joint Declaration for Cooperation to Combat International Terrorism, adopted on 1 July 2004 in Jakarta, Indonesia
- ASEAN-Russia Joint Declaration for Cooperation to Combat International Terrorism, adopted on 2 July 2004 in Jakarta, Indonesia
- ASEAN-Japan Joint Declaration for Cooperation to Combat International Terrorism, adopted on 30 November 2004 in Vientiane, Lao People's Democratic Republic

- ASEAN-Republic of Korea Joint Declaration for Cooperation to Combat International Terrorism, adopted on 27 July 2005 in Vientiane, Lao People's Democratic Republic.
 - ASEAN-Pakistan Joint Declaration for Cooperation to Combat Counter Terrorism, adopted on 29 July 2005 in Vientiane, Lao People's Democratic Republic
 - ASEAN-Canada Joint Declaration for Cooperation to Combat International Terrorism, adopted on 28 July 2006 in Kuala Lumpur, Malaysia
- (c) Malaysia has signed and ratified the Agreement on Information Exchange and Establishment of Communication Procedures with Indonesia and the Philippines
- The Agreement focuses on 11 transnational criminal offences whereby Parties have agreed to cooperate among themselves through the exchange of information. The offences are terrorism, money laundering, smuggling, piracy/robbery at sea, hijacking, intrusion, illegal entry, drug trafficking, theft of marine resources, marine pollution and illicit trafficking in arms.
 - The Agreement has yet to come into force pending Indonesia's ratification to the same.

15. Regional Co-operation

15.1 Malaysia participated in various dialogues and Working Groups held to address the issues of transnational crime, which includes illicit trade in SALW, in the ASEAN Plan of Action. The specific objectives of the ASEAN Plan of Action are to urge the ASEAN Member Countries to:

- Develop a more comprehensive regional strategy aimed at preventing, controlling and neutralising transnational crime;
- Foster regional co-operation at the investigative, prosecutorial and judicial level as well as the rehabilitation of perpetrators;
- Enhance co-ordination among ASEAN bodies dealing with transnational crime;
- Strengthen regional capacities to deal with sophisticated nature of transnational crime;

- Develop sub-regional and regional treaties on co-operation in criminal justice, including mutual legal assistance in criminal matters and extradition.

15.2 With regards to arms smuggling, measures undertaken to achieve the objectives of the ASEAN Plan of Action are as follows:

15.3 Information exchange

- Establish a compilation of national laws and regulations of ASEAN Member Countries pertaining to arms smuggling leading towards establishing a regional repository of such laws on-site and the ASEANWEB;
- Conduct typology studies to determine trends and modus operandi of arms smuggling in the ASEAN region;
- Enhance the exchange of information and co-operation among the ASEAN officials e.g. ASEANAPOL, customs, immigration, and legislators on international and regional arms smuggling activities;
- Coordinate with ASEANAPOL on information pertaining to regional arms smuggling activities;
- Establish a comprehensive database of international treaties and agreements pertaining to money laundering or transnational crime.

15.4 Legal matters

- Working towards the harmonization of marking systems for ammunitions, arms, their parts and their components according to the international system developed by the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition.

15.5 Law enforcement matters

- Intelligence exchange and co-operation in border and customs control between ASEAN countries, and also with EUROPOL, INTERPOL and any other organizations;
- Strengthen law enforcement capabilities, especially the need for comprehensive domestic legislation against illicit arms trafficking.

15.6 Training

- Develop regional training programmes and conduct regular conferences to enhance existing capabilities in investigation, intelligence surveillance, detection, monitoring and reporting. This can be achieved through sharing of experiences among the law enforcers and the compilation of national training programmes of each Member Country by the ASEAN Secretariat within a specific time frame.

15.7 Institutional capacity-building

- Establish a database on illicit trafficking of arms and explosives with a view to address the current lack of information or database and research indicating the volume of trade, types of cases pursued, the trends, routes and manner of smuggling;
- Establish procedures for countries to declare surplus arms destroyed, missing and lost from government stockpiles to be reported and compiled to facilitate tracking measures in line with the development of international procedures and the exchange of information.

15.8 Extra regional co-operation

- Enhance information exchange with ASEAN Dialogue Partners, regional organizations, relevant specialized agencies of the United Nations and other international organizations, particularly towards the sharing of critical information of identities, movements and activities of known transnational criminal organizations involved in arms smuggling;
- Seek technical assistance and funding considerations for weapons collection and destruction, the strengthening of law enforcement and institutional capacity-building;
- Implement the programme of action, where practicable, in accordance with the outcome of the United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All Its Aspects.
- Malaysia initiated and led the negotiations on the Treaty on Mutual Legal Assistance in Criminal Matters among like-minded ASEAN Member Countries which was concluded on 29 November 2004. The Treaty has been signed by all 10 AMCs and ratified by Singapore, Malaysia, Vietnam, Brunei, Lao PDR, the Republic of Indonesia, the Republic of the Philippines, the Union of

Myanmar and Cambodia as at 1 January 2012. The Senior Officials through their Meetings have developed Model Request Forms and Checklists to facilitate the use of the Treaty. The Attorney General's Chambers of Malaysia as the Secretariat for the Treaty also maintains an online database to assist the Treaty Parties.

15.9 Bilateral treaties on mutual assistance in criminal matters have also been concluded with Australia, the United States of America, Hong Kong SAR, the United Kingdom, India and the Republic of Korea. Negotiations on such treaties with other interested States are continuing.

15.10 Malaysia has bilateral extradition treaties with Thailand, Indonesia, Hong Kong SAR, United States of America, Australia and India. Malaysia is also supportive of the effort to negotiate and conclude the ASEAN Extradition Treaty as envisaged in the Bangkok Declaration 1967 and the Vientiane Action Programme.

Global Level

16. International instruments against terrorism and crime

16.1 The 16 International Conventions and Protocols on combating terrorism represent the agreed set of sectoral international legislation for dealing with terrorism at the international level. Malaysia is currently State Party to 9 of the 13 Conventions and Protocols:

- 1963 Convention on Offences and Certain Other Acts Committed on Board Aircraft (Tokyo Convention);
- 1970 Convention for the Suppression of Unlawful Seizure of Aircraft (Hague Convention);
- 1971 Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (Montreal Convention);
- 1973 Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents;
- 1997 International Convention for the Suppression of Terrorist Bombings;
- 1988 Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Montreal Convention;
- 1979 International Convention against the Taking of Hostages;
- 1999 International Convention for the Suppression of the Financing of Terrorism; and
- 1991 Convention on the Marking of Plastic Explosives for the Purpose of Detection.

- 16.2 The Government of Malaysia has agreed to accede or ratify the other remaining Conventions and Protocols, subject to the completion of certain legislative and administrative measures. These Conventions and Protocols are:
- 1979 Convention on the Physical Protection of Nuclear Material and 2005 Protocol;
 - 1988 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation;
 - 1988 Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platform Located on the Continental Shelf; and
 - 2005 International Convention for the Suppression of Acts of Nuclear Terrorism.
- 16.3 Malaysia signed the ASEAN Convention on Counter-Terrorism on 13 January 2007 but has not ratified to date.
- 16.4 The National Security Council is considering Malaysia's accession to –
- Protocol of 2005 to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation; and
 - Protocol of 2005 to the 1988 Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf.
- 16.5 The Ministry of Transport is considering Malaysia's participation to the Convention on the Suppression of Unlawful Acts relating to International Civil Aviation (Beijing Convention).
- 16.6 The Ministry of Home Affairs as the lead agency, is studying the following related international instruments with a view of becoming a party to them:
- Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects, 10 October 1980 (CCWC) and its Protocols as follows:
 - Protocol I on Non-Detectable Fragments;
 - Protocol II on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices;
 - Protocol III on Prohibitions or Restrictions on the Use of Incendiary Weapons;
 - Protocol IV on Blinding Laser Weapons;
 - Amended Protocol II on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices; and

- Protocol V on Explosive Remnants of War
- 16.7 Malaysia has drafted the Maritime Security Bill to give effect to the requirements of the **1988 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation** and the **1988 Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platform Located on the Continental Shelf**.
- 16.8 The Atomic Energy Licensing Board is drafting amendments to the Atomic Energy Licensing Act 1984 / a new consolidated law to give effect to the **Convention on the Physical Protection of Nuclear Material** as amended in July 2005 as well as the **International Convention for the Suppression of acts of Nuclear Terrorism**.
- 16.9 Malaysia signed the *UN Convention against Transnational Organized Crime (UNTOC)* on 26 September 2002 and subsequently ratified the Convention during the 59th United Nations General Assembly on 24 September 2004. Malaysia is studying the Protocol against the Illicit Manufacturing and Trafficking in Firearms, their Parts and Components and Ammunition, Supplementing the United Nations Convention against Transnational Organized Crime (UN Firearms Protocol) with a view to accession in the future.
- 16.10 Malaysia established the Southeast Asia Regional Centre for Counter – Terrorism (SEARCCT) in Kuala Lumpur on July 1, 2003. The Centre’s primary focus is on training and capacity-building to combat terrorism. The Centre is fully funded by the Government of Malaysia. Nevertheless, it welcomes co-operation and assistance from other countries in terms of organisation of courses, funding for participants and provision of expertise.
- 16.11 The Royal Malaysia Police has established 46 ‘Coastal Police Stations’ since 6 February 2009. These coastal police stations are actually the Marine Operation Force bases which have been adopted to become the coastal police stations. The functions of these police stations are to render the policing services to the maritime community such as receiving police report on crime activities at sea, conducting investigation and prosecution. The objective of this initiative is to reduce the burden and work load of general duty police on land. At the same time, this effort is to enhance instrument on combating transnational crime and terrorism in Malaysian waters.

17. International co-operation and assistance

- 17.1 Malaysia conducted capacity building programmes on bilateral basis on SALW. Any request for assistance would be coordinated through the Ministry of Home Affairs.
- 17.2 Malaysia is negotiating bilateral treaties or agreements with several countries with regard to mutual legal assistance in criminal matters and extradition, which covers all serious crimes, including the illicit trade in SALW. Further to this, Malaysia has been co-operating with neighboring countries with common borders in the effort to curb the illicit trade of small arms. This has been done through administrative and bilateral measures.
- 17.3 Apart from the ASEAN Plan of Action as set out above, there is no other specific step taken at present, to develop common understandings of the issues and the scope of the problems related to illicit brokering in SALW.

18. Co-operation with civil society and NGOs

- 18.1 The Royal Malaysia Police organize periodical training and awareness programmes with private security agencies on safe arms handling, record keeping and training of personnel.

19. Information exchange

- 19.1 Malaysia closely works with its counterparts in ASEANAPOL and INTERPOL towards the creation of an integrated electronic ASEANAPOL database system (E-ADS) for information sharing and exchange of intelligence and operational matters on crimes including SALW.

20. Training, capacity-building, research

- 20.1 Malaysia continuously enhances the capacity of its enforcement personnel through its capacity-building and awareness-raising programmes with the assistance and funding from regional and international organisations including ASEAN Dialogue Partners and ASEAN Regional Forum.

**International Division
Ministry of Home Affairs, Malaysia**

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