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Department of Environment and Natural Resources
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MEMORANDUM

TO : **The Undersecretary**
Policy, Planning and International Affairs

The Service Directors
Policy and Planning Service
Climate Change Service
Strategic Communication and Initiatives Service

The Bureau Directors
Biodiversity Management Bureau
Mines and Geosciences Bureau

The Administrator
National Mapping Resource and Information Authority

The Director
Gender and Development Office

FROM : **The Undersecretary**
Finance, Information Systems and Climate Change

SUBJECT : **INVITATION OF AMADOR RESEARCH SERVICES (ARS)
FOR A FOCUS GROUP DISCUSSION (FGD) RE: MARITIME
LAW ENFORCEMENT (MLE) PRACTICE IN THE PHILIPPINES
ON 16 DECEMBER 2022**

DATE : 6 December 2022

This refers to the letter dated 5 December 2022 from Mr. Julio S. Amador III, Chief Executive Officer, Amador Research Services (ARS), inviting the concerned Offices of the DENR to a Focus Group Discussion (FGD) on **16 December 2022, from 11:30 A.M. to 2:00 P.M. at the Cocoon Hotel, Sct. Rallos St., corner Sct. Tobias St., Diliman, Quezon City.** Said FGD aims to gain insights from the DENR with regards to the results of their review of the maritime law enforcement practice in the country.

May we request your Office to send your appropriate technical staff and/or the concerned Division Chief to attend the said FGD.

The Executive Summary of their study and the consent form for participants are enclosed herewith.

For your appropriate action.


ATTY. ANALIZA REBUELTA-TEH

CC: The Undersecretary for Organizational Transformation

MEMO NO. 2022 - 860



05 December 2022

SEC. MA. ANTONIA "TONI" YULO-LOYZAGA

Secretary

Department of Environment and Resources
DENR Bldg, Visayas Avenue,
Diliman, Quezon City
Republic of the Philippines

Dear Sec. Ma. Antonia Yulo-Loyzaga:

Kapayapaan at Kasaganahan!

Amador Research Services, in partnership with The Asia Foundation, is currently engaged in the Waypoints Project. Waypoints is composed of a group of maritime security specialists, practitioners, scientists, and development workers who seek to contribute to stakeholders' efforts to address the challenges in the maritime security sector.

One of the project's key outputs is a comprehensive analysis of the sector that aims to take stock of existing policy frameworks and operational realities and to provide an update on the situation since the Review of the National Marine Policy in 2016. Between May and August 2022, Waypoints Project conducted a comprehensive review and analysis of the maritime law enforcement agencies' policy and law enforcement frameworks, organizational structures and systems, operating environments, and inter-agency dynamics through desk research and key informant interviews.

With the study now complete, we are carrying out focused group discussions (FGDs) to affirm the initial results and findings with key stakeholders and generate a common understanding of the issues at hand to aid in improving cooperation in the sector. As the BFAR had been key to providing us with salient insights for our study, we would like to invite your representatives to the FGDs.

We are holding the FGD with the Department of Environment and Natural Resources (DENR) on **16 December 2022, from 11:30AM to 2:00PM at Cocoon Hotel, Sgt. Rallos St., corner Sgt. Tobias St, Diliman, Quezon City.** We would appreciate it if representatives from the following offices/units could participate:

1. Office of Policy, Planning, and International Affairs

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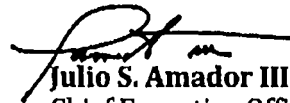
2. Office of Climate Change Service
3. Policy Studies Division of Policy, and Planning Service
4. Development Communication Division of Strategic Communication, and Initiative Services
5. Biodiversity Management Bureau
6. Mines and Geosciences Bureau
7. National Mapping Resource and Information Authority
8. Gender and Development Focal Person of the Agency

We have enclosed the Executive Summary of our Report and an informed consent form. Our *Project Officer, Jerome Inoc*, will keep in touch with your office in the next few weeks to follow up on this invitation. Again, I hope your representatives can join us on 16 December 2022.

I look forward to receiving positive feedback from your office. Thank you very much.

Should you have any inquiries, please do not hesitate to contact us (email: projectwaypoints@amadorresearchservices.com; or mobile: 0977-056-9484).

Sincerely,



Julio S. Amador III
Chief Executive Officer
Amador Research Services

Informed Consent Form

Waypoints: Navigating Civil Maritime Security Reform

This informed consent form will be issued to participants selected for focus group discussions (FGD).

Good day! We are from The Asia Foundation and Amador Research Services (ARS). We are conducting a comprehensive study of the country's civil maritime security sector. The study will involve mapping national and local maritime policies and frameworks, reviewing maritime paradigms delineating the division of jurisdiction and function between civil maritime security and law enforcement from national defense and security, and mapping maritime law enforcement agencies and their mandates, capabilities, and resources.

To ensure that relevant stakeholders within the civil maritime security sector are interviewed during data collection, your agency/department was selected to participate in this study. The FGD will take 1.5 to 2 hours. It will be conducted through face-to-face to ensure that the mode of the interview is accessible to you and the research team. Please inform the research team of any reasonable accommodation that you need to participate in this study actively.

We will record our conversation to ensure we are able to get your responses accurately. Rest assured that voice recordings will be shared with the research team for verification purposes only. We will not proceed with recording our conversation if you do not give your permission. Kindly inform the research team of your preference.

We assure you that everything you tell us will be kept confidential and will not be shared with anyone other than the research team. Before we start asking questions, the facilitator will lead a discussion to reach an agreement among the participants about keeping sensitive information confidential. We will write a report about our findings when we finish all the research activities. This report will not include your name or that you were in the study.

Your involvement in this study is voluntary, and you have the right to withdraw your participation at any stage. If you agree to participate, you may refuse to answer any question you do not want to answer, or you can request not to participate in the FGD at any time. As far as the research team is aware, there are no potential risks involved when you join this study. You will not receive any payment or any other direct benefit for participating in this study.

You can ask questions about this study at any time. If you have further questions that were not answered during the interview, you may contact Ms. Peaches Vergara at projectwaypoints@amadorresearchservices.com.

Participant:

I understood the information explained in this sheet, and I was allowed to ask questions. I voluntarily agreed to participate in this study.

| | |
|-----------|--|
| Name | |
| Signature | |
| Date | |

Researcher

I have discussed this research with the participant and answered all the participants' questions in a language they understood. I believe the participant understood the explanation and voluntarily agreed to participate in this study.

| | |
|-----------|--|
| Name | |
| Signature | |
| Date | |

Executive Summary

This research paper undertakes a comprehensive review and analysis of the maritime law enforcement (MLE) practice in the Philippines. The increasingly complex and volatile maritime environment and the country's lack of an encompassing marine strategy that addresses perennial as well as contemporary challenges in the Philippines' maritime domain propelled the conduct of this study. To a certain extent, the absence of an updated national marine policy has contributed to the convoluted maritime governance agenda, with imbricated mandates breeding imprecise and sporadic arrangements that hamper effective law enforcement. Thus, the core of this paper discusses maritime policy and law enforcement frameworks of key agencies in the sector, which may help guide the Philippine Government's prospective marine strategic policy agenda.

Further, the study outlines the maritime security practices of Indo Pacific countries, including Australia's civil maritime security concept, which provides insights as to how other countries enforce their maritime laws and policies, and how their governments configure its MLE units/systems. While the civil maritime security concept is certainly relevant and pragmatic, stakeholders in the Philippine MLE sector largely agree that the country needs to focus Government's efforts on radically improving the mechanisms and arrangements in the existing whole-of-government approach.

The focal theme of the study – challenges in MLE – is not new. In fact, a few studies have already been conducted on this topic. To provide a distinctive focus, this paper examines Philippine MLE agencies' approaches in tackling seven (7) specific maritime threats in the country so as to problematize the key issues in the sector. These threats include illegal fishing, terrorism, piracy, smuggling, human trafficking, marine pollution and environment degradation (illegal and uncontrolled discharge and disposal of marine pollutants), and incursions. The Report identifies the challenges encountered by these agencies in reconciling their policy mandates, organizational frameworks and operational environment realities when addressing these maritime insecurities, and makes recommendations on how existing policies and procedures may be enhanced.

On the whole, the Report finds four areas where effective maritime governance and law enforcement in the country may be improved upon: i) strategic, policy and legislative frameworks; ii) the current system with multiple regulators and multiple enforcers; iii) capacity and capability development; and iv) preventive measures and regulations to motivate policy compliance and reduce the burden on law enforcement.

First and foremost, as an archipelagic nation, it is high time that the Government places the maritime security sector and the needs of the MLE system at the apex of its priorities. Addressing the inadequacies in the sector requires a long-term strategic vision and an integrated, holistic and sustained plan. The 1994 National Marine Policy and its subsequent review should be the takeoff points for this comprehensive plan. Strategic documents such as the National Security Strategy and National Security Policy should also consider detailing the key areas of maritime security in the country, and mapping out the lay of the land in our maritime law enforcement practice. Clarity on our maritime strategic interests and how these may be achieved could provide more robust support to the MLE agencies' fulfillment of their mandates.

Moreover, the enactment of the Maritime Zones Law is a long-term, strategic and foundational reform policy that should be tenaciously pursued. The proposed Law, which clarifies the country's maritime zones and establishes the legal powers that the Philippines may exercise over them, is strongly anchored on the pursuit of effective maritime governance and law enforcement. Its passage will have ripple effects on the conduct of MLE operations with ambiguities in legal jurisdictions removed. It will also open the door to initiating other essential marine policy reforms, which aid in the promotion and preservation of the country's national security interests.

Secondly, the report notes that the current MLE structure having several agencies issuing policies alongside multiple agencies implementing them has been problematic. We found that the commonly cited obstacle to effective law enforcement – MLE agencies' 'overlapping' mandates – may not be the root of the problem. While there are certainly some overlaps, the general premise is that these are inherent and unavoidable given the Government's limited resources. As such, these are intended to provide support to other agencies that may have constraints in their capacity or ability to perform MLE. Hence, their responsibilities are often required to intersect. The central challenges to this institutional design are manifested in the lack of a command structure and the ambiguities in implementation owing to undefined 'support' functions in their mandates; these in turn breed further problems such as communication and coordination deficits, accountability gaps, and resource inefficiencies.

To address these multi-prong challenges, this report proposes a number of action points for the consideration of the sector's decision makers. The 'menu of options' put forward include centralizing regulatory as well as law enforcement functions under one authority; clarifying the control and command structure of the MLE system; strengthening existing mechanisms to address communication and coordination issues; and aligning or unifying protocols that have been effectively responding to maritime threats.

The centralization of regulatory and law enforcement authorities is envisaged to circumvent the inevitable competing targets, priorities, or misaligned strategies emanating from MLE agencies' top brass. It also rationalizes the system's resources, which enables a more efficient use of its capacities and capabilities. Delineating the command lines respond to the lack of clarity around 'support' roles. Re-examining the longstanding concerns on the structure, organization and functions of the National Coast Watch System and its sub-units is one way by which communication and coordination could be vastly improved. If reconstituted appropriately, the sector should be able to benefit from its monitoring and coordinating powers for which they were originally envisioned, not to mention, its staff's technical expertise.

Similarly, LGUs play a critical role in the success of law enforcement operations. With their devolved powers in MLE, ensuring LGUs' cooperation, especially in combating illegal fishing, is crucial. In this space, the role of LGU mechanisms such as the Bantay Dagat and people's councils/associations for meaningful representation cannot be understated. Local best practices cited in this study may contribute to the efforts of national and LGU leadership in developing clear-cut, inclusive and practical arrangements when conducting law enforcement operations. Meanwhile, while the creation of rules of engagement or protocols in enforcing marine/maritime laws may be ad hoc, some progress has already been achieved in successfully curbing violations over the years. Through the agencies'

familiarization with each other's duties and their cordial relations, these protocols have, to an extent, tackled the lack of straightforward processes and unclear roles/jurisdiction designation in MLE operations. The Report maintains that institutionalizing existing functional protocols will pave the way for a more standardized and sustained enforcement of mechanisms and arrangements that already work.

Thirdly, this study highlights the evident limitations in capacities and capabilities of MLE agencies that undermine effective MLE in the country. Considering the Herculean task of protecting the Philippines' extensive coastline, the dearth of onshore assets, offshore facilities, and human resources in the sector is astounding. Likewise, some agencies encounter the inability to efficaciously perform their duties owing to capability gaps. Ultimately, filling in the gaps in capacities and capabilities of MLE agencies to competently fulfill their law enforcement responsibilities rely upon the urgent recognition of the Philippine Government of the pivotal role of effective marine and maritime governance in national development. The Report also makes recommendations on enhancing available instruments and adequately resourcing them to utilize both the physical and strategic resources economically.

Lastly, the Report maintains that corrective action may prevent recurrence, but preventive action evades occurrence. Pre-emptive steps to discourage violators may entail simplifying rules and regulations and easing the bureaucratic processes with which actors have to comply. In this study, this is found to substantially apply to procedures in commercial and municipal fishing. It may also involve reviewing policies on penalties to ensure that these remain appropriate and effective in intercepting maritime threat violations.

To conclude, the study has highlighted the need for the Philippine Government to come up with an updated marine policy strategy that integrates a clear and decisive framework for maritime law enforcement aligned with the existing whole-of-government approach. Some of the suggested solutions, such as instituting a centralized authority for policymaking and law enforcement, necessitate a deep-dive into the root causes of the problems and initiating substantive systematic changes. Others, including augmenting agencies' capacities and capabilities, are uncomplicated reforms that could be immediately and simultaneously pursued. Regardless of the Government's approach, the findings and recommendations here could provide further basis for introspection and deliberation on some of the important parameters within which critical interventions may be introduced, and in due course, a more coherent Philippine MLE system may be achieved.