



# **MEMORANDUM OF UNDERSTANDING**

**BETWEEN**

**THE GOVERNMENT OF THE REPUBLIC OF INDONESIA**

**AND**

**THE GOVERNMENT OF MALAYSIA**

**IN RESPECT OF**

**THE COMMON GUIDELINES**

**CONCERNING TREATMENT OF FISHERMEN**

**BY MARITIME LAW ENFORCEMENT AGENCIES OF**

**MALAYSIA AND THE REPUBLIC OF INDONESIA**

**27 JANUARY 2012**

**BALI, INDONESIA**

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REPUBLIC OF INDONESIA AND MALAYSIA**

The Government of the Republic of Indonesia as represented by Indonesia Maritime Security Coordinating Board (IMSCB/Bakorkamla) and The Government of Malaysia as represented by the National Security Council, Prime Minister's Department (hereinafter referred to singularly as "the Party" and collectively as "the Parties");

**Appreciating** the good cooperation between the Parties in various fields which has contributed to regional maritime safety and security as well as marine environment protection;

**Noting** the benefits to the Parties of enhancing favourable conditions for a peaceful and durable solution to the differences between the Parties;

**Referring to** Paragraphs 15 and 16 of the Record of Discussion of the 11<sup>th</sup> Meeting of the Joint Commission for Bilateral Cooperation (JCBC) between Malaysia and the Republic of Indonesia, done at Kuala Lumpur, Malaysia, on 10 – 11 October 2011, as well as Paragraph 11

of the Joint Statement between the Republic of Indonesia and Malaysia at the Annual Consultations between President DR. H. Susilo Bambang Yudhoyono and Prime Minister Dato' Sri Mohd. Najib bin Tun Abdul Razak, done at Lombok, Indonesia, on 20 October 2011;

**Recognizing** the needs and welfare of fishermen of the Parties in conducting fisheries activities;

**Desiring to** establish Common Guidelines for respective maritime law enforcement agencies of the Parties in exercising their duties and functions relating to the treatment of fishermen of the Parties;

**Pursuant to** the respective laws and regulations of the Parties;

**HAVE AGREED as follows:**

## **ARTICLE 1 OBJECTIVE**

The objective of the Common Guidelines is to establish guidance for agreed activities in dealing with fisheries issues between the Parties with particular emphasis on ensuring the wellbeing of the fishermen of the Parties.

## **ARTICLE 2 PRINCIPLES OF THE COMMON GUIDELINES**

The Common Guidelines are established on the basis of the following principles:



- a. The highest priority is given to maintaining good relations, close cooperation and mutual understanding between the Parties;
- b. Every action and maneuver undertaken by maritime law enforcement agencies should avoid any violence and be carried out without use of force;
- c. Any action or omission undertaken pursuant to the provisions of this Memorandum of Understanding are without prejudice to:
  - the existing bilateral agreements on maritime boundaries;
  - the ongoing bilateral negotiations on delimitation of maritime boundaries;
  - issues of sovereignty including positions taken in relation to the interpretation;
  - the application of international law, maritime or territorial claims, whether in written form or otherwise; and
  - the eventual delimitation of maritime boundaries.
- d. Impartial treatment should be extended to the fishermen in accordance with their fundamental human rights.



**ARTICLE 3**  
**SCOPE OF ACTIVITIES**

The Parties have agreed to carry out the following activities:

- a. Preventive measures such as dissemination of information to the fishermen and other fisheries industry stakeholders and coordinated patrols;
- b. Actions to be taken upon encroachment incidents/cases:
  - Inspection and request to leave the area shall be conducted promptly towards all fishing boats, except for those using illegal fishing gears, such as explosives, electrical and chemical fishing gears;
  - Notification on the inspection and request to leave the area shall be reported promptly to Focal Points; and
  - Conducting an open and direct communication among the maritime law enforcement agencies of the Parties promptly and expeditiously.

**ARTICLE 4**  
**AGENCIES**

1. The respective Coordinating Agencies are :
  - a. For the Republic of Indonesia: Indonesia Maritime Security Coordinating Board (IMSCB/Bakorkamla)

- b. For Malaysia: Maritime Security & Sovereignty Division,  
National Security Council, Prime Minister's Department
2. The Coordinating Agencies may meet annually and whenever deemed necessary, for monitoring, evaluation and reviewing the implementation of the Common Guidelines.
3. The respective Supporting Agencies are:
- a. For the Republic of Indonesia: Indonesia Maritime Security Coordinating Board (IMSCB/Bakorkamla) and its Stakeholders (the Indonesian Navy, Indonesian National Police, Ministry of Marine Affairs and Fisheries, Indonesian Customs and Coast Guard Unit–Ministry of Transportation).
- b. For Malaysia: Malaysian Maritime Enforcement Agency (MMEA), Royal Malaysian Navy, Royal Malaysian Air Force, Royal Malaysian Police, Department of Fisheries and Royal Malaysian Customs.
4. The respective Focal Points are:
- a. Indonesia Maritime Security Coordinating Board (IMSCB/Bakorkamla)**
- Telephone : +6221-500500 and +6221-127  
Fax : +6221-3503550  
E-mail : [crisiscenter@bakorkamla.go.id](mailto:crisiscenter@bakorkamla.go.id)  
Address : Jl. Dr. Sutomo No. 11,  
Jakarta Pusat 10710, Indonesia



**b. Maritime Security & Sovereignty Division, National Security Council, Prime Minister's Department**

Telephone : +603-88882010/+603-88724322  
Fax : +603-88883091  
E-mail : bkkm@mkn.gov.my / ppon@mkn.gov.my  
Address : Level 2, West Wing, Perdana Putra Building,  
62502 Putrajaya, Malaysia

**ARTICLE 5  
AREAS FOR IMPLEMENTATION**

This Memorandum of Understanding shall be applied in all unresolved maritime boundary areas between the Parties.

**ARTICLE 6  
PARTICIPATION OF THIRD PARTY**

Either Party may invite the participation of a third party in the joint activities and/or programmes being carried out under this Memorandum of Understanding upon the agreement of the other Party. In carrying out such joint projects and programmes, the Parties shall ensure that the third party shall comply with the provisions of this Memorandum of Understanding.

**ARTICLE 7  
CONFIDENTIALITY**

1. Each Party undertakes to observe the confidentiality and secrecy of documents, information and other data received from, or supplied to, the other Party during the period of the



implementation of this Memorandum of Understanding or any other agreements made pursuant to this Memorandum of Understanding.

2. Both Parties agree that the provision of this Article shall continue to be binding notwithstanding the termination of this Memorandum of Understanding.

## **ARTICLE 8 SUSPENSION**

Each Party reserves the right for reasons of national security, national interest, public order or public health to suspend temporarily, either in whole or in part, the implementation of this Memorandum of Understanding which suspension shall take effect immediately after notification has been given to the other Party through diplomatic channels.

## **ARTICLE 9 REVISION, MODIFICATION, AND AMENDMENT**

1. Either Party may request in writing a revision, modification or amendment of all or any part of this Memorandum of Understanding.
2. Any revision, modification or amendment agreed to by the Parties shall be made in writing and shall form part of this Memorandum of Understanding.
3. Such revision, modification or amendment shall come into force on such date as may be determined by the Parties.

4. Any revision, modification or amendment shall not prejudice the rights and obligations arising from or based on this Memorandum of Understanding before up to the date of such revision, modification or amendment.

## **ARTICLE 10 SETTLEMENT OF DISPUTES**

Any difference or dispute between the Parties concerning the interpretation and/or implementation and/or application of any of the provisions of this Memorandum of Understanding shall be settled amicably through mutual consultation and/or negotiations between the Parties through diplomatic channels, without reference to any third party or international tribunal.

## **ARTICLE 11 ENTRY INTO FORCE, DURATION, AND TERMINATION**

1. This Memorandum of Understanding shall enter into force on the date of its signing, and, without prejudice to future agreements on maritime boundary delimitation in the areas of implementation as referred to in Article 5 of this Memorandum of Understanding.
2. Notwithstanding anything in this Article, either Party may terminate this Memorandum of Understanding by notifying the other Party of its intention to terminate this Memorandum of Understanding by a notice in writing through diplomatic channels, at least three (3) months prior to its intention to do so.

DONE at *Bali*..... on the *Twenty Seventh*..... day  
of *January*..... in the year 2012 in 4 (four) original copies in the  
English language which shall be the authentic text.

FOR THE GOVERNMENT OF  
THE REPUBLIC OF INDONESIA



.....  
Y. Didik Heru Purnomo  
Vice Admiral, TNI  
Chief Executive IMSCB/Bakorkamla

FOR THE GOVERNMENT OF  
MALAYSIA



.....  
Datuk Mohamed Thajudeen Abdul Wahab  
Secretary, National Security Council  
Prime Minister's Department