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STUDY OF MANAGERIAL CHALLENGES CONFRONTING A NEW AGENCY: THE CASE OF THE MALAYSIAN MARITIME ENFORCEMENT AGENCY

June 2015

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THE CASE OF THE MALAYSIAN MARITIME ENFORCEMENT AGENCY**

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Submitted in partial fulfillment of the requirements for the degree of

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LIST OF ACRONYMS AND ABBREVIATIONS

ASEANAPOL	eADS and Interpol Database
BCD	Border Control Department
BHEPMM	Bahagian Hal Ehwal Penguatkuasaan Maritim Malaysia (translation: Malaysian Maritime Enforcement Affairs Division)
CDD	Civil Defense Department
CNZ	The Royal New Zealand Coastguard Inc.
DGSI	Director General's Standing Instructions
DHS	Department of Homeland Security
DOD	Department of Defense
DOF	Department of Fisheries
DOT	Department of Transport
EEZ	Exclusive Economic Zone
EPU	Economic Planning Unit
ESSCOM	Eastern Sabah Security Command
FEMA	Federal Emergency Management Agency
GAO	Government Accountability Office
GTP	Government Transformation Programs
ICG	Indian Coast Guard
ICU	Implementation & Coordination Unit
IMO	International Maritime Organization
ISPS	International Ship and Port Facility Security
JCG	Japanese Coast Guard
JMSA	Japanese Maritime Safety Agency

JMSDF	Japanese Maritime SelfDefense Force
JPA	Jabatan Perkhidmatan Awam (translation: Public Service Department)
LPPDN	Domestic Shipping Licensing Board
MMEA	Malaysian Maritime Enforcement Agency
MMEAD	Malaysia Maritime Enforcement Affairs Division
MMZ	Malaysian Maritime Zone
MNZ	Maritime New Zealand
MOA	Ministry of Agriculture and AgroBased Industry
MOD	Ministry of Defence
MOF	Marine Operations Force
MOHA	Ministry of Home Affairs
MOT	Ministry of Transport
MSST	Maritime Safety and Security Team
PMD	Prime Minister's Department
PMO	Prime Minister's Office
RCCNZ	Rescue Coordination Centre New Zealand
RMAF	Royal Malaysian Air Force
RMN	Royal Malaysian Navy
RMP	Royal Malaysian Police
SAR	Search and Rescue
SLOC	Sea Lines of Communication
SOLAS	International Convention for the Safety of Life at Sea
SOP	Standard Operating Procedure

STAR	Special Task and Rescue
SUA	Suppression of Unlawful Acts
TOC	Transnational Organized Crime
TSA	Transportation Security Administration
UNCLOS	United Nations Convention on the Law of the Sea
U.S.	United States of America
USCG	United States Coast Guard
USSS	United States Secret Service

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I. INTRODUCTION

A. BACKGROUND

In response to concerns about maritime security and enforcement, the government of Malaysia established the Malaysian Maritime Enforcement Agency (MMEA) in 2004. Due to concerns about jurisdictional boundaries and administrative complexities, an act creating the MMEA placed it organizationally within the Prime Minister's Department (PMD). The PMD consists of policy-making departments under the direct supervision of the prime minister, such as the Public Service Commission, Economic Planning Unit, Malaysian Administrative, Modernisation and Management Planning Unit, and the Islamic Development Affairs Department, among others. With the exception of the MMEA, the organizations within the PMD are all central agencies performing policy matters at the highest level of government. The MMEA is the only operational department for law enforcement and search and rescue (SAR) under the administration of the PMD. Of further concern is that many of the functions of the MMEA are duplicated within other agencies.

B. PURPOSE

The purpose of this study is to ascertain whether the Malaysian Maritime Enforcement Agency has reduced or eliminated the duplication of functions of government agencies operating in the Malaysian Maritime Zone. One of the primary arguments for the establishment of the MMEA was to eliminate the overlapping roles of other federal, state, and local agencies. Because the MMEA has just operated for 10 years, has the agency managed to overcome this problem, or is it just adding up the multiple agencies? This study looks at the effectiveness of the matured coast guards of the United States, New Zealand, India, and Japan, with emphasis on their lines of structure as federal agencies. The comparison will help the author analyze the managerial aspects of the various command structures in order to be operationally effective and minimize bureaucratic practices.

C. RESEARCH QUESTION

- What are the managerial challenges related to operational coordination for the MMEA after being established and in operation for 10 years?
- How has the present structure of the MMEA under the PMD contributed to its operational efficiency in reducing duplication and improving command and control functions?
- What are the strengths and weaknesses of the organizational structure and the operational perspective of the United States Coast Guard (USCG), Royal New Zealand Coastguard Inc. (CNZ), Indian Coast Guard (ICG), and Japanese Coast Guard (JCG)?
- Are there any measures required for the MMEA's operational improvement in relation to the best practices of the USCG, CNZ, ICG, and JCG?

D. OBJECTIVE

The objective of this study is to develop recommendations for the improvement of the operational efficiency of the MMEA. This study draws examples from similar agencies in the United States, New Zealand, India, and Japan with respect to lines of reporting and organizational structure.

(1) Scope

The research carries out the analyses to identify the similarities and differences between respective reporting lines during law enforcement and SAR in general, as well as during specific operations. It looks into optimizing the effectiveness of the MMEA's operations by emulating best practices and structural strengths, and by learning from previous weaknesses experienced by the USCG, CNZ, ICG, and JCG.

(2) Benefits of the Study

The primary benefit of this study is to facilitate the government of Malaysia in assessing the earlier decision to place the MMEA under the PMD, and appraising the MMEA in its 10th year of establishment. Any assessment for the MMEA could be reactively done, which normally occurs in the aftermath of any major incident that would have tremendous implication directly to the government, or specifically to the MMEA, which could then be too late or inaccurate as a result of the sudden urgency to provide feedback. Therefore, a 10-year management review, or a proactive periodical insight of

this nature, can significantly and positively affect the MMEA's performance from the lens of the ever-demanding stakeholders. This study critically focuses on the organizational factors that are equally crucial from the traditional overly dependent and vaguely described measurement, such as the key performance indicator.

The secondary benefit is presented in the analysis chapter (Chapter III), which drives the MMEA to emulate the more established USCG, CNZ, ICG, and JCG, and subsequently support the aspiration of the government in its recently launched Government Transformation Programs (GTP). The comparison and analysis serves as a management tool and guidance for the MMEA to look again and realize its true potential based on the four different countries, and four different set-ups and from three different continents, which is intended to further propel the MMEA to becoming the sole agency for law enforcement and SAR at sea.

E. ORGANIZATION AND METHODOLOGY OF THE STUDY

This research is composed of four main chapters. In the literature review and institutional details chapter (Chapter II), the research provides background information about the definitions, overviews, and structures of government system in developed countries. The chapter also explains the creation of the MMEA, and the evolution of the coast guard, which concentrates on presenting the rationale behind the establishment of the USCG, CNZ, ICG, and JCG from four different federal systems. The chapter elaborates the challenges and roles of the USCG, CNZ, ICG, and JCG and focuses on each country's organizational structures, chains of command, operations, and plans.

In the analysis chapter (Chapter III), the author makes comparisons and illustrates the distinct positioning of the USCG, CNZ, ICG, and JCG within each respective government system in relation to the present set up of the MMEA and its chain of command. This is followed by various pros and cons for the coast guard as a government agency, or established as a voluntary organization outside the government system. This chapter further explains the potential problems and inefficiencies of the MMEA as a result of an intricate position within the PMD management structure.

Finally, in Chapter IV, the author makes recommendations for structural changes and reiterates the strengths and weaknesses of the present organizational structure, which helps the reader realize the importance of the checks-and-balances mechanism that improves efficiency instead of interfering with the MMEA.

II. LITERATURE REVIEW AND INSTITUTIONAL DETAILS

The literature review intends to study the reporting structure of other countries' coast guards, which have been crucial in world's maritime defense and development, in order to derive necessary recommendations that could be effective for the MMEA's future. The description of the Malaysia government system is discussed, clarifying the roles of ministries with common interest in the MMEA. The Ministry of Agriculture (MOA), Ministry of Transport (MOT), Ministry of Home Affairs (MOHA), and Ministry of Defense (MOD) are said to share duplicating roles with the MMEA, or share at least common interest with them, whether in territorial areas or functions. A thorough chronicle of the establishment of the MMEA is also incorporated in the chapter to understand the decision that led to the agency's establishment.

This chapter also discusses the evolution of the coast guard to highlight how important the maritime forces are becoming. To perform this role, the ability of the defense and maritime operations needs to be at a high level with the right framework. In this case, the USCG, CNZ, ICG, and JCG are used as examples from which the MMEA could benefit. With exception of the CNZ, this is to show how the coast guards' roles may differ from other countries' perspectives. The USCG, ICG, and JCG are among the biggest global maritime forces. Coast guard is getting more significant with greater reputation attached to the institution as not focused and limited in saving lives only. As for the CNZ, the distinction is shared to compare how different countries treat their maritime force. These coast guards' roles, along with their history and an elaboration of their reporting structure from when it was first introduced are shared in the literature review to provide a better understanding of how a reporting structure has affected decision-making.

By focusing on the changes related to coast guards' reporting structures, this research could provide the MMEA with the best practices and examples needed to change its current chain of command. The structure may seem trivial as a success factor for an agency with a significant role in defense and security. But this structure is key to a smooth operation and future development. A more suitable reporting structure for a fully

matured agency such as the MMEA could help in managing its operational weaknesses, especially because the agency was established just 10 years ago. To promote their relevance and growth as one of law enforcement unit in Malaysia, a correct structure may encourage transparency within the divisions reporting to the same ministry. Furthermore, it streamlines the operations when the heads are of the same interests. Proper communication from the vertical aspects can be an impetus to how things work. This is the chain of command that ensures that the agency can coordinate support from other agencies within the same ministry.

A. MALAYSIAN GOVERNMENT SYSTEMS

1. Overview

Malaysia practices parliamentary democracy under a constitutional monarchy with the administration of His Majesty the Yang DiPertuan Agong as Head of State. One of the conditions of the parliamentary government in its exercise of democracy is that the power of governance is divided into three parts, namely the executive power, or government ministries and agencies; the judicial power; and the legislature. A *cabinet* is a committee that consists of all the ministers in Malaysia, with the Prime Minister acting as custodian. The cabinet is also an organization that runs the highest executive authority of the central (federal) government Federal on behalf of the Yang DiPertuan Agong.

In Malaysia, the executive power is controlled by ministries. A ministry is the implementing agency for the highest government (executive), which is headed by a minister with a portfolio. Under each ministry are several departments that at times are also named as agencies. The role of each department is to carry out the functions as prescribed by the specific responsibilities of the ministry. A ministry in a government is headed by a minister who is appointed by the head of the executive, or the prime minister. There are also ministers who do not hold to lead a specific ministry but are instead responsible for carrying out certain duties based on their portfolios and are placed under the Prime Minister's Department.

There are 24 ministries in Malaysia, which are headed by ministers from the coalition ruling parties represented. These ministries are represented by various

multiethnic political parties, including 10 ministers in the Prime Minister's Department, in addition to the prime minister and deputy prime minister (see Table 1).

Table 1. Ministries in the Federal Government

MINISTRY
Prime Minister's Department (PMD)
Agriculture & Agro-Based Industry (MOA)
Commodities
Communication & Multimedia
Defense (MOD)
Domestic Trade
Education
Energy & Green Technology
Federal Territory & Urban Wellbeing
Finances
Foreign Affairs
Health
Home Affairs (MOHA)
Housing & Local Authority
Human Resource
International Trade & Industries
Natural Resources & Environment
Public Works
Rural Development
Science, Technology, & Innovation
Tourism
Transport (MOT)
Women, Family, & Community Affairs
Youth & Sports

2. The Role of Ministries

The ministries discussed in the paper are of those that are relevant to the administration and management of the MMEA. At present, the MMEA is under the Prime Minister's Department, which has overseen the establishment of the MMEA ever since the Cabinet decided to have a dedicated agency for law enforcement and SAR at sea. In addition, there are also a few ministries—such as the MOT, MOD, and MOHA—that could be related to the operation of the MMEA in relation to the core function of these ministries.

a. Prime Minister's Department

The Prime Minister's Department plays an important role similar to the White House in the U.S. government. In addition, it also plays a few other functions that are significant in relation to national unity among the distinct multi-ethnicity of Malaysia, and carries out national transformation programs that are opaque and not specifically performed by other ministries in the federal government. Other senior positions—such as deputy prime minister, chief secretary of the government, attorney general, and administratively all commissions, such as the Public Service Commission or the Election Commission, to name a few—are all placed under the Prime Minister's Department.

Additional functions of the Prime Minister's Department are as follows:

- To plan, formulate, and coordinate all of the federal government's policies in consensus with Cabinet decisions, as the highest executive power.
- To manage the National Planning Council, National Development Council, National Security Council, National Economic Action Council, and Council of National Service.

There are five central agencies that are responsible for formulating national policies that are not under the jurisdiction of any ministries but that take effect across all levels in society. Central agencies provide guidelines and policies to be fully adhered to by all ministries, such as Human Resource Management and matters related to macro- and micro-economics. The central agencies are as follows:

- Public Service Department
- Implementation and Coordination Unit
- Economic Planning Unit

- Malaysian Administrative, Modernization, and Management Planning Unit
- Public-Private Partnership Unit

In addition to the central agencies, a few other agencies under the Prime Minister's Department are not suitable administratively to be recognized and placed under any specific ministry. However, these agencies are instead managed under the Prime Minister's Department because of certain characteristics, such as the responsibility to enhance unity amongst races, to handle matters pertaining to Islamic or Parliamentary affairs, or to uphold the formulation of policies at the highest level within the federal government, under the direct supervision of the Prime Minister himself. Nevertheless, and interestingly, the MMEA and Eastern Sabah Security Command (ESSCOM) are the only two operational agencies under the Prime Minister's Department, as compared to other agencies that require active direct supervision of the prime minister due to their distinct characteristics, particularly in formulating national policies. The ESSCOM is purposely placed under the Prime Minister's Department because of its multi-agencies nature comprised of Armed Forces, the police force, and the MMEA. The ESSCOM is a considered a task force established by the government in response to the intrusion of Sulu separatists in February 2013. The operation area of the ESSCOM is only in the vicinity of Eastern Sabah in a concerted effort to further enhance essentially security and public order.

On the other hand, the MMEA is a totally new and permanent agency established by the government to operate in the Malaysian Maritime Domain throughout the country. The government decided to create the Malaysian Maritime Enforcement Affairs Division (MMEAD), better known as Bahagian Hal Ehwal Penguatkuasaan Maritim Malaysia (BHEPMM) in national language, to complement the MMEA in the exact role of a ministry to any other agency. Resource management and policy planning for the MMEA is coordinated and streamlined by the BHEPMM. However, the MMEA and BHEPMM do not exist in the same chain of command in the organizational structure of the Prime Minister's Department.

There are many departments and other agencies under the Prime Minister's Department. Amongst them, the MMEA and ESSCOMM are the operational agencies, and the MMEAD is an agency established specifically to function as a ministry for the MMEA in a supervisory role. The agencies under the Prime Minister's Department are as follows:

1. Malaysia Maritime Enforcement Agencies (MMEA)
2. Maritime Enforcement Affairs Division (MMEAD)
3. Eastern Sabah Security Command (ESSCOM)
4. Parliament of Malaysia
5. Human Rights Commission
6. Anti-Corruption Commission
7. Public Service Commission
8. Education Service Commission
9. Election Commission
10. Attorney General's Chambers
11. Legal Affairs Division
12. Legal Assistance Bureau
13. Insolvency Unit
14. Integrity Institute of Malaysia
15. Ceremonial and International Conference Secretariat Division
16. Cabinet, Constitution and Inter-Government Relations Division
17. Property and Management Division
18. Research Division
19. Public Complaints Bureau
20. National Civics Bureau
21. Judicial and Legal Training Institute
22. National Audit Department
23. Department of Legal and Syariah
24. Syariah Court of Federal Territory
25. Department of Islamic Affairs Development
26. Economic Action Council
27. Department of Statistics
28. Department of National Unity
29. Malaysian Hajj Pilgrims Fund Board
30. Department of Wakaf, Zakat, and Hajj Pilgrimage
31. Legal Advisory Board
32. Sabah Commercial Vehicle Licensing Board
33. Sarawak Commercial Vehicle Licensing Board
34. National Security Council
35. Prime Minister's Office
36. Chief Government Security Officer
37. Islamic Affairs Department of Federal Territory
38. Federal Court Registrar's Office

39. Science Advisory Office
40. General Administration Office of Prime Minister's Department
41. Special Innovation Unit
42. National Palace of Malaysia
43. Office of the Keeper of the Rulers' Seal
44. Secretariat Office of Former Prime Minister Tun Dr. Mahathir Mohammad
45. Secretariat Office of Former Prime Minister Tun Abdullah Haji Ahmad Badawi
46. Regulatory Office of Federal Land Development Authority
47. Federal Land Development Authority
48. Public Affairs Office of Federal Land Development Authority
49. Penang Regional Development Authority
50. Office of Federal Secretary, Sabah
51. Office of Federal Secretary, Sarawak
52. Early Education Secretariat
53. Performance Management and Delivery Unit
54. Witness Protection Division
55. Federal Territories Director of Lands and Mines Office

Each agency under the Prime Minister's Department reports to a minister based on the specific portfolio given to each of the 10 ministers in the Prime Minister's Department. However, due to the diverse nature of agencies under the Prime Minister's Department, a minister could also handle and manage more than one agency. This eventually makes the Prime Minister's Department a big ministry with various roles and complex organizational structure, as opposed to the normal structure of a ministry in the federal administration. Figure 1 shows the organizational structure of the Prime Minister's Department and the chain of command for the MMEA and MMEAD (BHEPMM).

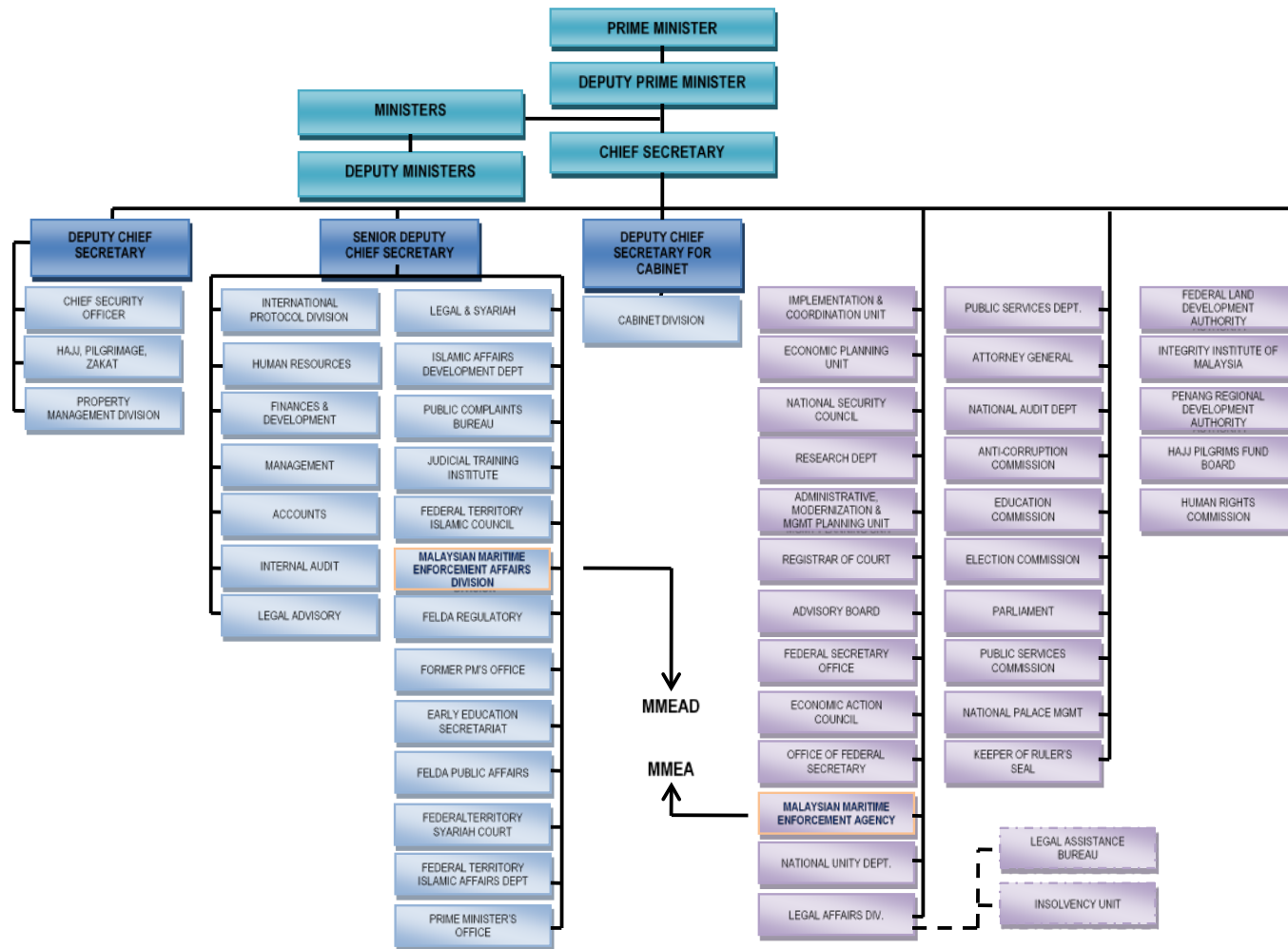


Figure 1. Organizational Structure of the Prime Minister's Department (from PMD 2010)

b. Ministry of Agriculture and Agro-Based Industry

In 1955, the Ministry of Agriculture was established with three underlying portfolios of agriculture, forestry, and veterinary services. This ministry had changed its name and portfolio many times until after the formation of the Cabinet on March 27, 2004, and recently adopted the name the Ministry of Agriculture and Agro-Based Industry (MOA, 2015).

The MOA's objectives are to transform the agriculture sector into a modern, dynamic, and competitive sector; make Malaysia more competitive as the world's leading producer of food and agriculture as one of the country's economic growth engines; realize the vision of the ministry in making Malaysia a leader in agricultural transformation. Objectives include formulating and planning policies, strategies, and programs for agricultural development; evaluating and coordinating the implementation of the project or program of agricultural development; providing economic analysis, including collecting, analyzing, and restoring information or data on agriculture; designing and implementing publicity referral services and research; introducing an agricultural management information system; ensuring the participation of the Ministry of Agriculture and Agro-based Industries in international programs; and acting as a one-stop agency to private parties for advice and expertise in the agricultural sector.

There are many agencies under the ministry, but one that collides with MMEA's duties would be the Department of Fisheries (DOF), which is responsible for managing and developing the national fishery sector. Therefore, all services related to fishing activities, such as fishing licenses, marine catches, fish transport, fish export, and fish and fishing equipment import are under the supervision of the DOF. The DOF is also accountable for executing, monitoring, controlling, and surveillance tasks pursuant to that responsibility. The DOF is also a law enforcement agency tasked to oversee illegal poachers and other illegal fishing activities.

c. Ministry of Transport

According to the Malaysian Ministry of Transport's website (2015), the history began in 1951 where, long before creation of the ministry, a committee was created to

handle matters pertaining to road transports and civil aviation, called as Members-in-Charge of Land, Mineral, and Communication, while all matters related to rails, ports, and maritime were handled by the Members for Pails and Ports. In 1953, all matters related to rail, maritime affairs, civil aviation, and road transport were under one portfolio and administered by the minister in-charge for transportation. In 1956, the Ministry of Transport (MOT) was formed with numerous name changes until 1978, when the name was reverted to MOT with few additional responsibilities in relation to the transportation portfolio.

There is an agency under the MOT that may share some interests in maritime activities with the MMEA, which is responsible of five main units: Ports, Maritime Security, Maritime Economy, Domestic Shipping Licensing Board (LPPDN), and the International Convention. Even though the unit is only in charge of security and activities at the ports, being under a different parent ministry may lead to problems in managing overall security aspects and dampen coordinated efforts to curb illegal activities. The MOT is the unit mainly responsible for promoting Malaysian entrepreneur participation in the shipping industry, both locally and abroad; and licensing, creating, and executing laws and policies pertaining to ports' activities. It is also accountable for formulating policies on navigational safety, pollution prevention, ship security, and property and life at sea.

d. Ministry of Home Affairs

As with the history of other ministries, the subject of homeland security started under a committee system introduced by the British government in 1951. The Ministry of Home Affairs (MOHA) has been established since then under several names all serving the same purpose, which is to protect the internal national security. This ministry is in charge of maintaining security and stability in the country, preserving public order, supervising information flow, managing the records of Malaysia through the National Registration Department, and managing the records of non-residents via the Immigration Department. In carrying out the governance of national security and public order, the

MOHA focuses on three important aspects: prevention, enforcement, and rehabilitation.

The agencies under the MOHA are as follows:

- People's Volunteer Corps
- Royal Malaysian Police (RMP)
- Civil Defence Department (CDD)
- National Printing
- National Anti-Drug Agency
- Police Force Commission
- National Registration Department
- Film Censorship Board
- Immigration Department (MOHA, 2015)

The MOHA is responsible for maintaining peace in Malaysia and curbing threats that could cause harm to Malaysia and its people. On the subject of crime prevention and law enforcement, the Royal Malaysian Police (RMP) has been entrusted to carry out this task. One of the branches under the RMP is the Marine Operations Force (MOF), which performs the constabulary role in the maritime domain. It is this role with which the MMEA is said to share many duplicate functions, which the government has to address and rectify. In terms of insightfulness of operation and networking, the MOF clearly has the edge due to its maturity. The MOF has been around since as early as 1947. Because crimes often begin at sea and end on shore, the MOF is a part of the RMP, and therefore, information is readily and easily accessible through cooperation from within the organization. In order to facilitate and manage cross-border criminal activities, the MOF has access to criminal intelligence provided through the RMP, the interface agency to Interpol, and the e-ADS and Interpol Database (ASEANAPOL). The MOF clearly has leverage on this linkage, which may not be readily available to agencies other than the police themselves. The MOF has also established bilateral relations with the littoral states coast guards and regional police force that can facilitate the assignment of combating cross-border crime.

Due overlapping jurisdiction between the MMEA and MOF, the Cabinet decided that tasks and responsibilities of the MOF only cover rivers, lakes, and islands, thus making national security, public order, and crime prevention a core assignment of the MOF. As stated in RMP's website (Official Portal of Royal Malaysian Police, 2014),

after taking into account the decision of the Cabinet, the police enforcement scope of work in the water is as follows:

1. all the rivers, including estuaries;
2. all lakes, dams, and watersheds;
3. all islands in the waters of the state;
4. all coastal plain and riverside country until 1.6 kilometers (1 mile) from the beach and the riverside to the mainland; and
5. all harbors, piers, and docks across the country.

e. Ministry of Defence

The Ministry of Defense (MOD) was established in 1957. Since then, it has been responsible for managing national defence, national security from outside threat by implementing national defence policies, decision-making, and government policies. It also manages the resources allocated by the government, including the purchase of assets of national defence, and is the administrative center (command center) for the Malaysia Armed Forces.

There are several agencies under the MOD:

- Royal Malaysian Army
- Royal Malaysian Air Force (RMAF)
- Royal Malaysian Navy (RMN)
- Veteran Affairs Department
- National Service Department
- Science and Technology Research Institute for Defence

Because the MOD is directly involved in maintaining peace and security of Malaysia's borders from outside threats, ensuring the border's peace and security would become a joint collaboration with the MMEA. The MMEA Act of 2004 (Act 633), Section 17,¹ specifically mentions that the MMEA can be mobilized and placed under the command of the Armed Forces in the event of war.

The RMN and RMAF both play important roles in defending national interests, sovereignty, and integrity, not forgetting the safety of the people and properties by aiding other maritime enforcement agencies. However, both the RMN and RMAF are less

¹ Notwithstanding any provisions of this act or any other federal law, the agency, or any part of the agency as may be determined by the minister, shall be under the general command and control of the Armed Forces of Malaysia during any period of emergency, special crisis, or war.

skilled in managing domestic law because this is not their main task, and their assets are not suited to most of maritime felonies.

B. MALAYSIA MARITIME ENFORCEMENT AGENCY

1. Background

When 200 nautical miles of the Exclusive Economic Zone (EEZ) was declared in 1980, Malaysia gained twice the area of territorial seas than what it had in land. A study was conducted on the directive of the Malaysian Cabinet to measure the effectiveness of enforcement duties performed by the existing agencies to protect Malaysian sovereignty from threats through the territorial waters and their boundaries. A major concern of this study was law and order and coordination during SAR missions in the Malaysian Maritime Zone. This study was carried out by the National Security Council of the Prime Minister's Department and became the foundation for the establishment of the Malaysian Maritime Enforcement Agency (MMEA), or in Malay, Agensi Penguatkuasaan Maritim Malaysia (APMM). The headquarters of the agency is located in the vicinity of Putrajaya, the federal administrative capital of Malaysia.

Prior to the establishment of the MMEA, there were 12 departments and agencies responsible for managing and patrolling the Malaysian Maritime Zone. The various agencies were as follows:

- Marine Operation Force of the Royal Malaysia Police
- Department of Immigration
- Royal Malaysian Navy
- Royal Malaysian Air Force
- Marine Department of Peninsular Malaysia
- Marine Department of Sabah and Sarawak
- Department of Fisheries (DOF)
- Royal Malaysian Customs Department
- Department of Environment
- Department of Lands and Mines
- Mineral and Geoscience Department
- Maritime Enforcement Coordination Centre

The multiple agencies have resulted in duplicities and also redundancies in roles, overlapping of territorial areas, unhealthy competition in assets procurement, and the

under-utilization of assets and human resources. Among other weaknesses was the existence of many agencies, each lacking the right amount of assets and manpower to carry out the expected duties. Bringing all of these roles and assets together under the MMEA would yield a better result. On November 10, 2005, during the launching of the MMEA, then-Deputy Prime Minister Razak said, “With the forming of MMEA as a single agency, the country’s resources can be optimized and save money because the focus is given to a single agency in enforcement of maritime security” (Ishak, Anuar & Ramli, 2005). Those weaknesses of duplication and redundancy could be reduced with the establishment of the MMEA. The immediate task for the MMEA to embark on is the handling of cases, such as encroachment of foreign fishing vessels, human trafficking, piracy at sea, the intrusion of foreign ships, marine pollution, smuggling activities, and other threats that may affect the sovereignty of the Malaysian territorial waters. This can affect and threaten the nation’s interests in the fisheries sector and tourism, and ultimately jeopardize defense and security.

2. History

A Nucleus Team for the MMEA’s establishment was initiated in 2002 with the objective of managing the legal and bureaucratic requirement of the agency. The agency was formally established from the legal perspective with the enactment of the Malaysian Maritime Enforcement Agency Act of 2004 (Act 633)² by the Malaysian Parliament in May 2004. Subsequently, the act received the Royal Assent from the Yang Di Pertuan Agong on June 25, 2004, and was gazetted on July 1 of the same year. February 15, 2005, was the act’s official date of establishment. The agency achieved operational status on November 30, 2005, with the commencement of patrols by MMEA vessels. The Nucleus Team, with its 20 officers, was then dissolved and made into the Malaysian Maritime Enforcement Affairs Division (MMEAD), or in Malay, Bahagian Hal Ehwal Penguatkuasaan Maritim Malaysia (BHEPMM), to continue assisting the MMEA with policies on operational aspects, procurement, workforce development, and strategic

² This act to established the Malaysian Maritime Enforcement Agency, enabling the agency to perform enforcement functions for ensuring the safety and security of the Malaysian Maritime Zone with a view to the protection of maritime and other national interests in the zone and for matters necessary thereto or connected therewith (Attorney General’s Chamber, 2006).

planning. The MMEAD began its operations on March 1, 2006, with the dissolution of the Nucleus Team.

In its initial stages, the MMEAD was known as the Supervisory Office of the Malaysian Maritime Enforcement Agency (billet Warrant No. A126 Year 2005), which took effect on December 1, 2005, with 42 posts. However, “On June 28, 2006, the name of the Supervisory Office of the Malaysian Maritime Enforcement Agency was later changed to Maritime Enforcement Affairs Division, or MMEAD, (billet Warrant No. A68 Year 2006), effective June 1, 2006” (Malaysia Maritime Enforcement Affairs Division, 2011).

The MMEA currently has its own special forces unit known as the Special Task and Rescue (STAR) Team modelled after the U.S. Coast Guard’s Maritime Safety and Security Team (MSST). It is composed of members from the Royal Malaysian Air Force and Royal Malaysian Navy’s special force. Their task is to act on hostage rescue works in shallow waters that falls under the MMEA’s jurisdiction. They are also tasked to do anti-terrorist actions in Malaysian waters, alongside the Royal Malaysian Navy.

3. Reasons for Establishment

The sad events of September 11, 2001, that brought down World Trade Center in New York City, which caused thousands of casualties, and billions of dollars in losses, highlighted that acts of terrorism via any mode of transportation could be exploited as weapons by non-state actors. Cargoes, too, could be converted into powerful weapons. Thus, there is evidence that some pressure was exerted by the United States, fearing that militants could have targeted their interest-linked ships, on the littoral states of the Strait of Malacca to beef up the security of one of the world’s busiest navigation routes for commercial shipping. The MMEA will perform not only as a unit to handle non-military threats, but also as an agency with serious tasks in order to combat terrorism by illegal immigration and smuggling of items, such as weapons, narcotics, arms, and ammunition, to name a few.

The waterway and seas have become important transportation hubs and source of economy for Malaysia. The sandy coastline, the crystal clear water, and the various

species of marine life and plants are popular among tourists. The coastline provides employment opportunities, particularly for people living on the seafloor. Fish from the many fishing villages along the coastal settlement in Malaysia has been one of the main sources of protein for the country. The coastal areas sheltered from the wind makes for the most suitable locations to set up the port. The main ports are Port Klang in Selangor, Pasir Gudang Port and Tanjung Pelepas in Johor, and Kuantan Port in Pahang. Ports have helped develop commercial activities and spurred aggressive industrialization, which contribute massively in exports and imports. Malaysia's sea is rich in minerals, such as petroleum and natural gas, especially in the South China Sea in the state of Terengganu and Sarawak, which influences the seafloor area developed by mining activities. Many other economies have subsequently grown out of ports. There are also petrochemical industrial activities in new towns, such as Kerteh in Terengganu, and Miri and Bintulu in Sarawak. This signifies the importance of protecting Malaysian maritime borders from the non-military threats, thefts, illegal activities, misuse of hubs, and other non-state actors. Section 2 of the Malaysian Maritime Enforcement Agency Act 2004, or Act 633, describes the Malaysian Maritime Zone as the internal waters, territorial sea, continental shelf, exclusive economic zone, and Malaysian fisheries waters, as well as the air space over the zone (see Figure 2).

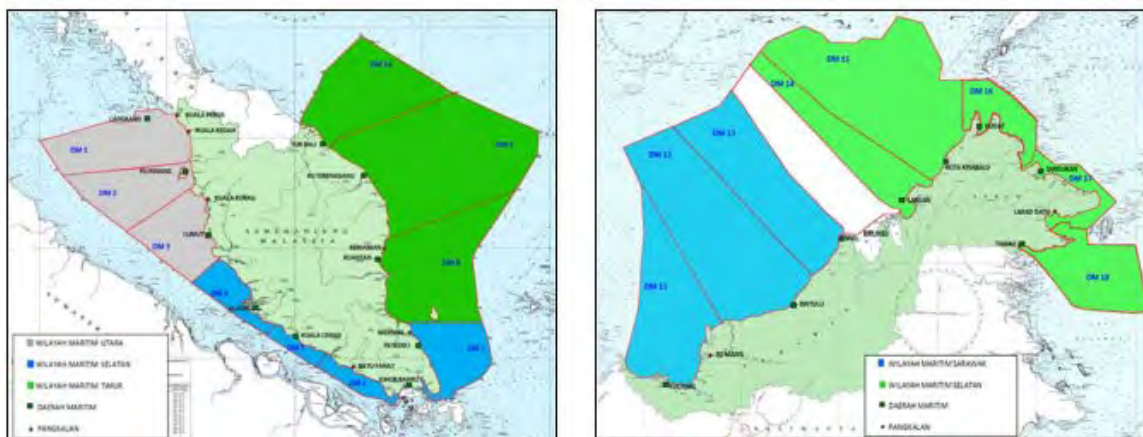


Figure 2. Malaysian Maritime Zone (from MMEA, 2011b)

The Malaysia Maritime Zone (MMZ), which includes the EEZ, covers 556,285 square kilometers (National Hydrographic Center, 2011). The 4,490 km coastline is very extensive and would require a very high commitment to address the challenges, mainly in the EEZ Strait of Malacca, in the EEZ South China Sea along the East Coast Peninsula, in Sabah and Sarawak, and in the Sulu Sea and the Celebes Sea along the east coast of Sabah.

4. Reporting Structure

As the result of study conducted into making the MMZ and stakeholders a secured and a safer place, three options were considered (Malaysian Maritime Enforcement Affairs Division, 2011).

Option 1: Maintain and upgrade the existing agencies and resources.

Option 2: Create an integrated enforcement agency composed of all agencies related to maritime enforcement.

Option 3: Create a new and dedicated enforcement agency for maritime purposes.

Option 2 was recommended by the research team of this study, hence the initiation of the MMEA in 2005. This option sees the integration of all related units, with the aim to enhance and strengthen supervision, maritime safety, sovereignty, optimization of assets, utilization of resources, reduction of wastage, while creating a new work culture that is more flexible, adaptable, and focused on maritime stakeholders. This option sees systematic maritime management and is able to move in parallel with developed countries in managing, administrating, and preserving maritime resources.

One of the concerns is who will be the owner of the agency. Because the MMEA is at present placed under the wing of the Prime Minister's Department as its ministry, the creation of the MMEAD was required as the organization that carries out the ministerial functions for the MMEA after the MMEA was officially launched and operational in 2005. The decision to place the MMEA under the Prime Minister's Department was approved by the Malaysian Cabinet to ensure the smooth transition of resources and manpower, unwavering success of the MMEA's legal framework for establishment, and

the right paradigm shift in facing all bureaucratic challenges. With direct command and clear subordination from the deputy prime minister himself as the minister-in-charge, the process of formalizing the agency will be made easier and faster if the establishment were to be carried out under a different organization or ministry. The government saw the need to place the MMEA under the Prime Minister's Department as a solution to avoiding potential struggle and shortcomings caused by other agencies that may have had interests in the jurisdiction and operation of a newly created agency such as the MMEA. The RMP could have thought that they were supposed to be given the responsibility to spearhead the agency as the federal agency for law enforcement and the relevance of their MOF, which was then known as the Marine Police. This was obvious and especially true because the MOF has been undertaking the roles of maintaining maritime security and curbing criminal activities as its core function. In addition, any law enforcement agencies, such as the Immigration Department and Royal Customs, may legitimately make assertive arguments to spearhead the newly created MMEA as well.

Since becoming fully operational in 2005 and continuingly becoming a credible force in the MMZ, the MMEA is still under the Prime Minister's Department, as this paper exhibits. Where should it rightfully belong? As discussed previously, the Prime Minister's Department is seen as a policy-making ministry rather than an operational entity. There is no other law enforcer or armed forces unit that serves as part of their agencies.

C. EMERGENCE OF THE COAST GUARD

It is undeniable that the issue of maritime security does not involve only the military, but also a variety of civilian agencies. The involvement of civil institutions is not because of any inability within the Navy, but certain aspects of maritime security and safety are technically not within the Navy's jurisdiction. It is not uncommon in many countries to have coast guard organizations, under various names but performing similar functions, that serve in the field of security and safety of navigation. Coast guards have been around from the early 1700s, though perhaps with different functions.

After the September 11 attacks, more countries became aware that such threats are imminent that could possibly originate from a waterway, partly because there were two maritime terrorism attacks after that date: the attack on the USS *Cole* in the Yemeni port on October 12, 2000; and the attack on the MV Limburg in the waters of Yemen on October 6, 2002. In the latter case, according to Capt. Dirk Vernaeye (2007) in his book *Maritime Security in Ports*, on October 6, 2002, Limburg was carrying 397,000 barrels of crude oil from Iran to Malaysia, and was in the Gulf of Aden off Yemen to pick up another load of oil. It was registered under a French-flag and had been chartered by the Malaysian state-owned oil-and-gas company, Petronas. While it was some miles offshore, an explosives-laden dinghy rammed the starboard side of the tanker and detonated. The vessel caught fire, and approximately 90,000 barrels of oil leaked into the Gulf of Aden. One casualty was reported, and many were injured.

The many occurrences of potential threats from terrorism to piracy forced international parties, such as the International Maritime Organization (IMO),³ stressed the importance of the role of civil authorities in maintaining maritime security. This is in line with the rules in the field of maritime security and safety, such as The United Nations Convention on the Law of the Sea (UNCLOS)⁴ in 1982, the Safety of Life at Sea (SOLAS), The International Ship and Port Facility Security (ISPS) Code,⁵ the Suppression of Unlawful Acts (SUA) Convention, the SUA Protocol, the SAR Convention, and others, leading to a civil institution that is widely known as the Coast Guard.

³ The purposes of the organization, as summarized by Article 1(a) of the Convention, are “to provide machinery for cooperation among Governments in the field of governmental regulation and practices relating to technical matters of all kinds affecting shipping engaged in international trade; to encourage and facilitate the general adoption of the highest practicable standards in matters concerning maritime safety, efficiency of navigation and prevention and control of marine pollution from ships” (IMO, 2015).

⁴ The UNCLOS, also called the Law of the Sea Convention or the Law of the Sea treaty, is the international agreement that resulted from the third United Nations Conference on the Law of the Sea (UNCLOS III), which took place between 1973 and 1982.

⁵ The ISPS Code provides a standardized, consistent framework for managing risk and permitting the meaningful exchange and evaluation of information between contracting governments, companies, port facilities, and ships.

Although not all countries call civilian institutions that deal with maritime security the *coast guard*, it is clear that there is a difference in function between the coast guard and other institutions, such as the Marine Police Force, Customs Department, and so forth. At times, it is difficult to differentiate between the roles of *lawships* and *warships*. The USCG, for example, carries both roles, depending on the situation. The emergence of coast guards around the world has been picking up rapidly since 1998. In the Asia Pacific, several countries have had coast guard: India, with the Indian Coast Guard; China, with the China Coast Guard, and Japan, with the Japanese Coast Guard. Japan changed the name from Japanese Maritime Safety Agency (JMSA) to the Japanese Coast Guard (JCG) in 2000, acknowledging its function as coast guard. As for the other countries who have not had the organization, or at least the functions, of a coast guard historically, those functions are spread across a number of different agencies.

With regards to Southeast Asia, the development of Coast Guard is mushrooming, too. The MMEA, formed in 2005, was created to relieve its currently overburdened navy and maritime police. Indonesia recently launched Badan Keamanan Laut Republik Indonesia (Bakamla) in 2014. It was reported that Bakamla has long existed with a different name to serve as a maritime coordinating agency since 2005, after being dormant since 1972, but the duplications of roles and other issues have dampened its progress and effectiveness (Jatmiko & Tandiarrang, 2014). Singapore, Thailand, Vietnam, and the Philippines all have their own dedicated units to protect their maritime borders. There was also numerous bilateral cooperation between all these coast guards, sometimes with Japanese and Indian Coast Guard, when conducting training or exercises that promised future endeavors to combat problems that may arise. The blossoming nascent networking promise a greater maritime security.

D. UNITED STATES COAST GUARD

The United States has proclaimed to have the best Coast Guard in the world, upon which every other coast guard organization desires to model its own organizational structure. The USCG is one of the oldest branches of the American military and is unique in a number of ways, with its primary purpose to ensure the safety of the United States'

shores and waterways. It has five core focusses: national and maritime security, preserving national resources, maritime safety, maritime mobility, and national defense (National Academies Press, 2007, p. 47). It is unique in such a way that the organization has the authority to enforce laws in the territorial sea as well as the high sea. Unlike other services and federal agencies around the world, the USCG is simultaneously an armed force of the United States and a federal law enforcement agency.

1. Introduction

The United States has 5,525 miles of border with Canada, 1,989 miles of border with Mexico, 95,000 miles of shoreline, and a 3.4 million square-mile EEZ (Bullock, Haddow, & Coppola, 2012, p. 205), requiring that an armed customs enforcement service protect its land from illegal maritime activities and also from national security threats. Being one of the five armed forces, the USCG's main focus is saving lives while others engage in combat in war and protect the nation from outside threats.

First introduced in 1790 by Alexander Hamilton (USCG, n.d.), the unit is still one of the oldest services to operate in the sea that enforces tariffs and trade laws, and also to curb smuggling activities. The "Revenue Cutter," as it was named when first introduced, was the only unit at sea that collected taxes, hence the name. As time goes on, this organization is becoming a more important forefront in order to ensure the safety of maritime stakeholders: the maritime inhabitants, the fishermen, the businesses, the transporters, and commercial vehicles, to name a few. This unit has roles in protecting maritime homeland security; in fact, it also acts as law enforcement to guard maritime stakeholders, cater SAR operations, protect the marine environment, and maintain and provide aids to navigation.

The USCG protects the stakeholders from natural disasters, combats against illegal activities such as drug and human trafficking, and corresponds with other units to help prevent the growing national security threats. It is to no surprise, then, that even though their main responsibilities are protecting American's own waters, they were still needed for overseas missions, whether for military or humanitarian purposes. In the latter

case, the USCG was ordered to deliver U.S. aid to the Republic of Georgia after the South Ossetia war in 2008 (Bahrapour & Pan, 2008).

Since its inception, the USCG has always been embroiled in many important wars, from quasi-war with France (1797–1801), to World War I, World War II, the Vietnam War, and beyond. It has also provided aid, like with Operation Desert Storm. This shows the flexibility in the USCG's reporting structure, because it was mandated that when it is required for the USCG to perform military activities, the unit will report to the Secretary of Defense.

2. Brief History

Having been around the world since 1789, the service, which eventually became known as the U.S. Lighthouse Service, was established under the control of the Treasury Department. The next year, the Secretary of the Treasury, Alexander Hamilton, created a maritime service to enforce customs laws, which were passed in 1790. Alternately known as the system of cutters, the Revenue Service, and the Revenue-Marine, this service was placed under the control of the Treasury Department because it was initially formed to enforce and collect tariffs and taxes from related parties. In late 1870s, the Steamboat Inspection Service and U.S. Life-Saving Service became parts of the Treasury Department.

The actual United States Coast Guard was developed on January 28, 1915, when President Woodrow Wilson signed into law the Act to Create the Coast Guard, an act passed by Congress on January, 20, 1915, and which combined the Life-Saving Service and Revenue Cutter Service to form the Coast Guard. First introduced as law enforcers, in 1917, with the declaration of war against Germany, the Coast Guard was transferred by Executive Order to the control of the Navy Department. Since then, the roles of USCG may be expanded into military purposes with the approval of the president of the United States. This again took place in 1941 under President Roosevelt, who transferred the Coast Guard to Navy Department control.

However, with the introduction of the Department of Transportation in 1967, the Coast Guard was transferred from the Treasury Department to the newly formed

Department of Transportation. In the aftermath of the terrorist attacks of September 11, 2001, President George W. Bush proposed the creation of a new Cabinet-level agency, eventually named the Department of Homeland Security. The Coast Guard was foremost among the agencies slated to become a constituent of the new department. Formally, on March 1, 2003, the Coast Guard was transferred from the Department of Transportation to the newly created Department of Homeland Security.

3. Reporting Structure

There are seven uniformed services in United States of America:

- United States Army
- United States Marine Corps
- United States Navy
- United States Air Force
- United States Coast Guard
- United States Public Health Service Commissioned Corps
- National Oceanic and Atmospheric Administration Commissioned Officer Corps

Among these services, the first five units are the combatant or armed forces, with the USCG being the only component reporting to the Department of Homeland Security (DHS); the other armed forces report to the Secretary of Defense. The USCG, as established by Title 14 of the U.S. Code,⁶ (Cornell University Law School (n.d.)) is a branch of the U.S. armed forces. It is probably the smallest task force when compared to the other armed forces, but it is the seventh largest navy in the world.

When the USCG first introduced, it was placed under the Treasury Department, perhaps because it was sanctioned to seize illegal economic activities and protect maritime stakeholders' interest. The USCG was the law enforcement agency that collected tariffs and taxes at sea. Even though the USCG reported to the secretary of treasury, there were times where the unit was placed under the Department of Defense (DOD) (within the Department of the Navy) during wartime, and current federal laws authorize this to be done at the authorization of Congress or the president. The USCG

⁶ "The Coast Guard, as established January 28, 1915, shall be a military service and a branch of the armed forces of the United States at all times."

was initially a part of the U.S Department of Treasury prior to its establishment and until 1967.

What took place in 1967 changed the structure of the USCG? The establishment of the Department of Transportation (DOT) by an act of Congress, signed into law by President Lyndon B. Johnson on October 15, 1966. Its first secretary, Alan S. Boyd, took office on January 16, 1967. The DOT's first official day of operation was April 1, 1967 (Kane, 2003, para 1).

In 1992, a formal working group was chartered by the Board to define Coast Guard national defense roles, missions, and functions. This group recommended that maritime interception operations, deployed/foreign port control, and environmental defense operations be added to the above Coast Guard's national security functions. An October 3, 1995, Memorandum of Agreement signed by representatives of DOD and DOT formalized the working group's recommendation. (Government Accountability Office [GAO], 1998)

The Department of Transportation Act (80 Stat. 931), passed October 15, 1966, consolidated highway, rail, air, and marine transportation functions previously vested in the Departments of Commerce, Treasury, and the Interior, as well as the Interstate Commerce Commission, Civil Aeronautics Board, Federal Aviation Agency, and Saint Lawrence Seaway Development Corporation. The mission of the DOT, a Cabinet-level executive department of the United States government, is to develop and coordinate policies that will provide an efficient and economical national transportation system, with due regard for need, environment, and national defense. It is the primary agency in the federal government with the responsibility to shape and administer policies and programs that protect and enhance the safety, adequacy, and efficiency of the transportation system and services.

In 2003, the USCG ended a 36-year term of being under the DOT and was handed over to the DHS. This establishment was a national security wake-up call by the President of United States at that time, George W. Bush, in the wake of September 11 attacks by terrorists. As a result of the attacks, homeland security has moved to the forefront of the service's primary missions. Since the attacks executed by terrorists from within the United States, stricter control has been required regarding the people who

come in and go out of the United States, and knowing the whereabouts of people who are potential threats has become a priority.

Even though the USCG operates under the DHS during times of peace, it can be transferred to operating under the Department of the Navy during times of war in accordance with Title 14 U.S.C. 1–3⁷ (Cornell University Law School (n.d.)). The transfer and the horizontal aspect of relationship among other units in DHS ensures that all aspects of border control, including the issuing of visas, are informed by a central information-sharing clearinghouse and compatible databases.

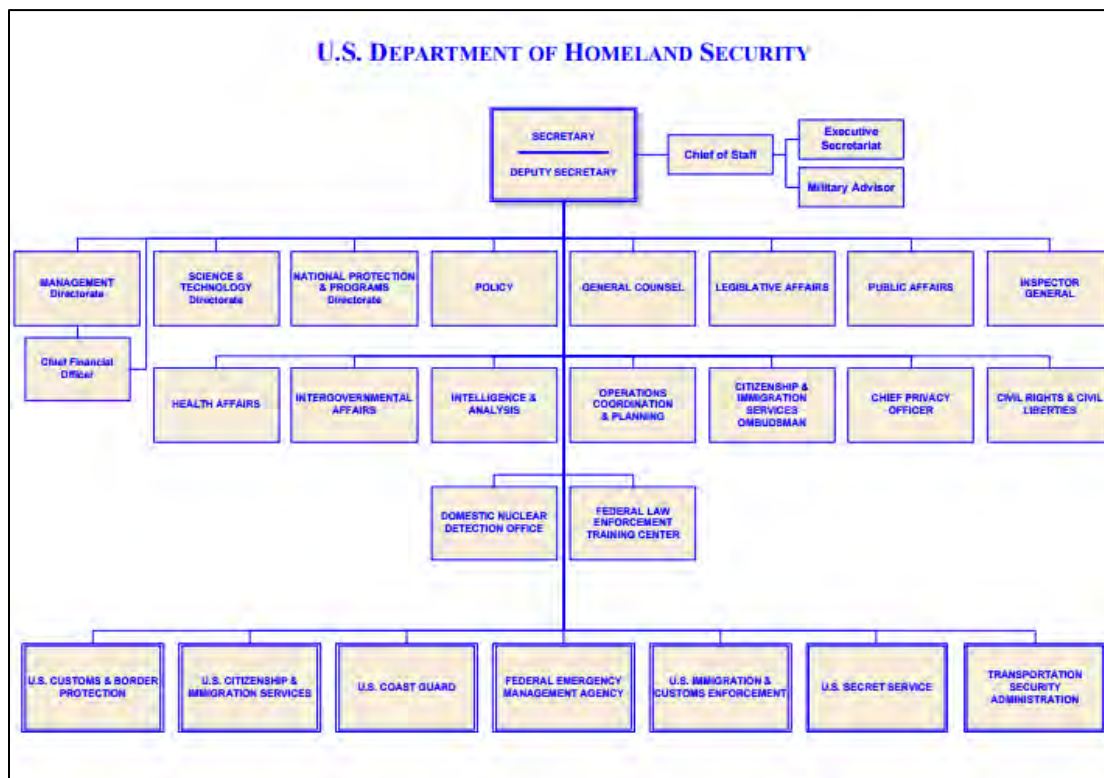


Figure 3. Department of Homeland Security Organization Chart (from Official website of the Department of Homeland Security, 2013)

⁷ “The Coast Guard, which is a military service and a branch of the armed forces, is to operate as a service within the Navy upon declaration of war or when the President directs, until the President by executive order transfers it back to its peacetime parent department.”

E. INDIAN COAST GUARD

1. Brief History

The Indian Coast Guard (ICG) has been around since the late 1970s. There was an urgent need to expand the enforcement, which was inadequate and had not kept pace with the substantial increase in the maritime activities in the seas around India. Establishment of the ICG started with discussions in September 1974 among the Indian Navy, the Air Force, and the Department of Revenue, regarding ways to combat smuggling activities. The Rustamji Committee recommended the establishment of the ICG under the Ministry of Defence on July 31, 1975. The cabinet secretary made a recommendation to place the service under the Ministry of Home Affairs; however, Prime Minister Indira Gandhi overruled the cabinet secretary and decided to accept the original recommendation of the Rustamji Committee to place the service under the Ministry of Defence. Next, an interim coast guard was formed as part of the Navy in 1977 to assume the tasks. The duties and functions of the service were formally defined in the Coast Guard Act, which was passed by India's parliament on August 18, 1978, and came into immediate effect.

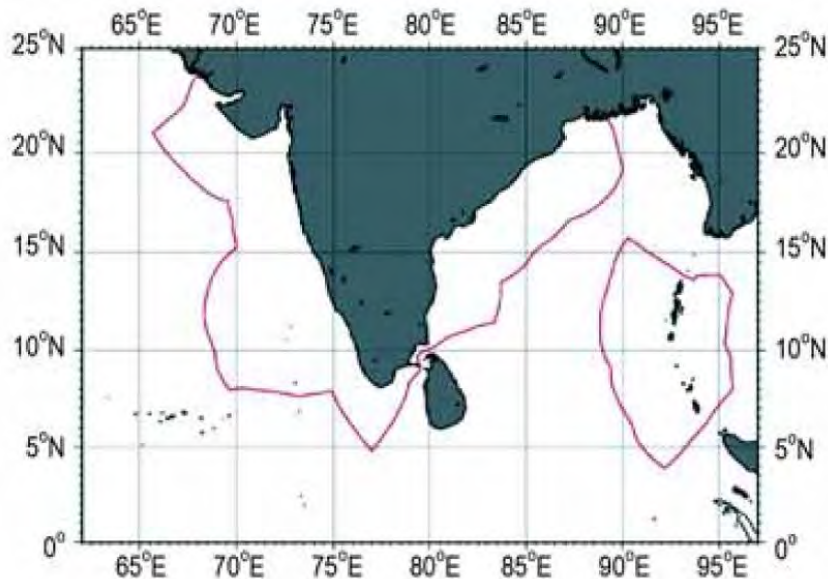


Figure 4. Exclusive Economic Zone of India (from Indian Navy, 2007)

2. Reporting Structure

The ICG is similar to the USCG in terms of the organizational set up. The only difference is that the ICG has always been under the MOD. It is budgeted under the Department of Revenue in the Finance Ministry, although it is administratively under the MOD. The role of the ICG was constituted as a force only to deter the economic offenders engaged in smuggling activities. The roles kept increasing, with added responsibilities including national security, economy or/and energy security, law enforcement, protection of maritime inhabitants, environmental security, and wartime role. Both the ICG and the Navy operate in the Territorial Sea. The ICG handles issues in international waters and the EEZ in tackling issues such as smuggling, illegal immigration, and poaching. The ICG should handle municipal matters because there are many untidy functions in maritime enforcement. Having both organizations under same ministry helps smooth the coordination of efforts and planning of resources management. This also help the ICG grow and develop under the direction of the MOT. However, in times of crisis, the ICG should be equipped the way the Navy wants it to be.

Other than sharing land boundaries, mostly in the northern and eastern region of the country, India also has a long coastline. According to Rocha (2013), the 7,517 kilometers of Indian coastline shares boundaries with seven neighbors, namely, Pakistan, Sri Lanka, Maldives, Bangladesh, Myanmar, Thailand, and Indonesia. Besides the continental territory, there are more than 300 inhabited island possessions, including the Lakshadween, and Andaman, and Nicobar Islands. The seven neighboring states are plagued with economic problems, such as poverty and political and social instability. Instabilities such as extremism, terrorism, and military instability, particularly to the West, in countries such as Somalia, Yemen, Iraq, Iran, Afghanistan, Pakistan, Myanmar, and Sri Lanka, among others, threaten peace and stability. The long coastline, compounded with the large area of maritime territory and the EEZ, are why the ICG should be placed with the Navy under the Ministry of Defence.

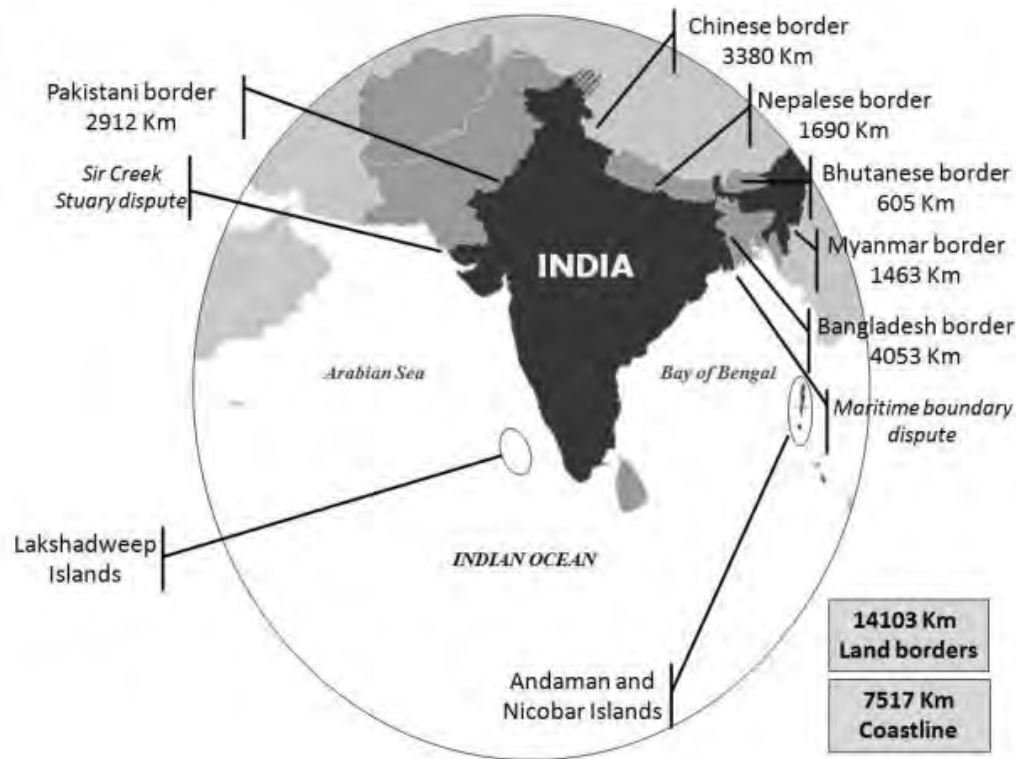


Figure 5. Maritime Boundaries of India (from Rocha, 2013)

F. THE ROYAL NEW ZEALAND COASTGUARD INCORPORATED

1. Overview

The coast guard in New Zealand has been around since late 19th century. Due to New Zealand's rugged coastline, local boaters were aware that they needed to rescue people from maritime tragedy, and to prevent such tragedies from occurring at all. Thus, a group effort of volunteers set up a unit to focus on saving lives. It has neither political nor economic interests.

The Royal New Zealand Coastguard Incorporated is the "go to" coast guard for marine safety, education, and SAR services. The mission of this agency is solely to save lives at sea without doing any law enforcement, as is commonly done by other coast guards (CNZ, 2015). The CNZ does not interfere in maritime security or economic security but instead focuses entirely on saving lives. Sea rescue services have existed in New Zealand since at least 1861, but it was not until 1976 that various local groups

formed the national New Zealand Coastguard Federation. In 1991, the word *federation* was dropped, and the national body officially became known as Royal New Zealand Coastguard Inc., commonly called the Coastguard. Their units are placed along New Zealand's coastline and major lakes and rivers.

The unique element about the Coastguard is that it runs as a charity, makes no profit, and is administered by highly trained professional volunteers who dedicate their time to saving lives. Nevertheless, even a charity body needs funding to operate; therefore, the Coastguard has a service-level agreement with the government, which provides it with about 15% of its annual funding. The cost to keep the Coastguard network running is around NZ \$8.5 million annually, and the remaining 85% needs to be raised from supportive organizations and individuals (Auckland Now, 2008). The Coastguard also relies on annual membership fees to sustain the organization. The Coastguard is not a security or military organization, and unlike other coast guards, it is not part of the government, nor is it a law enforcement agency. However, rising costs to maintain and conduct operations resulted in charges made to non-members for services rendered, beginning in 2006. The stipulated charge per hour based on the article to cover the fuel and other related costs began at NZ \$200 and up, depending on the type of mission and platform mobilized for the search operation.

2. Other Related Agencies

In addition to the Royal New Zealand Coastguard Incorporated, there are other agencies operating in the New Zealand maritime domain.

- The New Zealand Police coordinate smaller SAR incidents in New Zealand, with assistance and resources from the Coastguard as required.
- The Rescue Coordination Centre New Zealand (RCCNZ) is the body accountable for major maritime disasters.
- Maritime New Zealand (MNZ) is a government body that ensures the safety of mariners by managing lighthouses and providing aid and navigation to vessels, elements that are related to economic security. The maintenance of safety at sea has remained an important part of this organization (MNZ, n.d.).

G. JAPANESE COAST GUARD

1. Overview

Japan, despite ranking only 61st in the world in terms of land area (380,000 km²), has a combined sea area of territorial waters and EEZ of 12 times larger (4,470,000 km²) than its land area (Global Security Organization, 2014). Though known as the Japanese Maritime Safety Agency (JMSA) in May 1, 1948, its English name was changed to the Japan Coast Guard (JCG) in April 2000. The roles of the JCG basically cover what other coast guards do: maintaining peace and security, guaranteeing maritime safety, conducting search and rescue, preventing and fighting maritime disasters, protecting maritime environment, and collaborating with domestic and foreign organizations.

Japan is one of the countries that heavily depends on the safe passage of ships, especially via the Straits of Malacca, hence the great collaboration and cooperation among the Straits' littoral states. Even prior to the launch of the MMEA, several visits to the JCG and the ports showed the same interest of providing a safe avenue for vessels from maritime threats, especially piracy. The JCG vessels have patrolled the South China Sea and carried out joint exercises with civilian maritime counterparts in Southeast Asia.

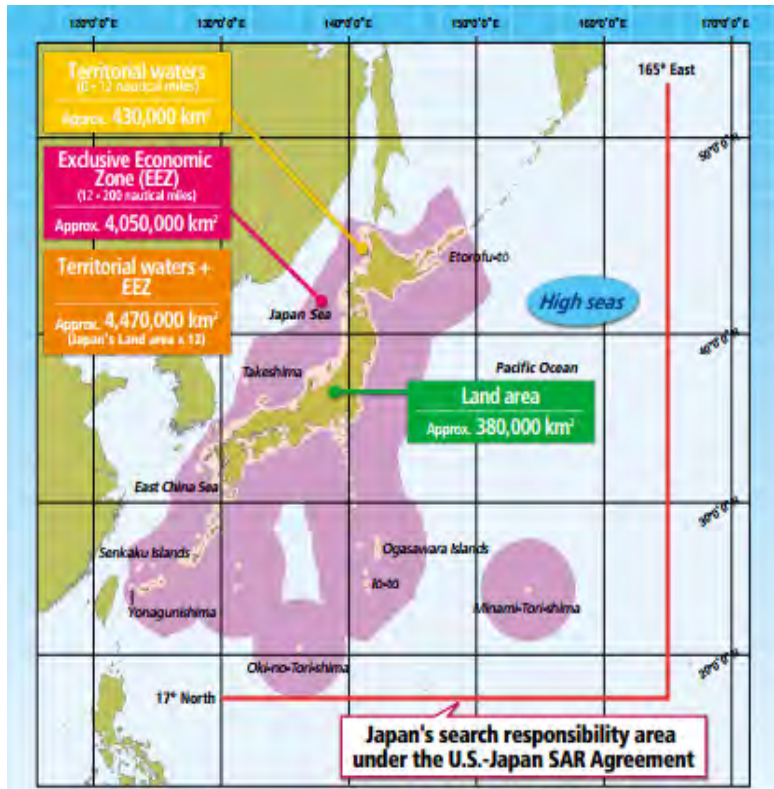


Figure 6. Exclusive Economic Zone of Japan (from JCG, 2014)

2. Reporting Structure

The JCG as a uniformed services was established under the Ministry of Transport (MOT). The Port State Control, unlike the USCG, is within the purview of the Maritime Technology and Safety Bureau, which is also under the MOT. As stated in the legislation Maritime Safety Agency Law, Article 25, neither the JCG nor its personnel can be trained or function as military establishment. It is also stipulated that the equipment should meet not military standards but the requirements of the International Convention for the Safety of Life at Sea (SOLAS). The budget for the JCG is obtained from Ministry of Finance (MOF) through the MOT.

It is important that the unit be separated from the military and work as the police because the JCG does not need powerful weapons to carry out its functions. The JCG should function just as a law enforcement agency and be independent from politics. It is not clear whether it will have to participate should there be a war. Under the MOT, there is no direct relationship between the JCG and the Navy, known as Japan Maritime Self-

Defense Force (JMSDF). However, there was one joint exercise with the JMSDF against North Korean ships and the proposition for heavily arming of JCG vessels. There was an incident reported that there will be a move towards militarization of the JCG by heavily arming its vessels, said as a move to “improve patrols around some disputed islands in the East China Sea, *Kyodo News* reported in early March. The discussion has been in the works since November 2012, and, having cleared the Japanese Ministry of Defence, the ball now lies in the JCG’s court” (Simpson, 2013). Because of the Sensaku Islands’ wrangle, the government is considering transferring decommissioned MSDF destroyers to the JCG to patrol the areas. For now, the JCG is still under MOT, which has been renamed the Ministry of Land, Infrastructure, Transport, and Tourism.

III. ANALYSIS AND COMPARISON

A. DIFFERENT ROLES OF COAST GUARDS WITHIN GOVERNMENT STRUCTURES

In the previous chapter, we identified how each country perceives its respective coast guards, and the distinct role of each organization as reflected in its reporting structure. The roles differ quite significantly, from lifesaving, to surveillance, to a more serious role as defending the sovereignty of the nation from external threats. From within the government structure, coast guards are under the federal government as opposed to smaller law enforcement agencies, such as the police departments in the United States, or as merely law enforcement in smaller counties, districts, or municipalities. For this reason, the function of law enforcement is not generally the key determinant in placing an agency such as the coast guard under the federal or state structure because enforcing laws can be undertaken when the agency is allowed to be an enforceable entity. Nevertheless, in the maritime domain, state agencies cannot enforce specific categories of law, such as laws provided under the IMO. It is actually under the IMO that a country that ratifies the SOLAS has the obligation to undertake the role of SAR at sea, not only in territorial waters or the EEZ, but also far beyond international waters. This role requires specific technical skills, equipment, and certain training modules required for coast guards.

There are few countries that have agencies performing coast guard activities, such as the JCG, which the Japanese government considers an agency under the Ministry of Land, Infrastructure, Transport, and Tourism. The JCG's vessels are not equipped with heavy artillery like those of the warships, but merely light weapons for crime prevention and law enforcement at sea. The JCG, together with the USCG, is the agency on which the MMEA was modelled during its inception.

The CNZ, on the other hand, is committed only to its lifesaving function, and the agency itself is not even considered a government agency in New Zealand because the CNZ is not required to enforce law. Therefore, the reporting structure of the CNZ does not link directly to the government system because its only focus is to assist the maritime community and those at peril in the maritime zone.

There are an indefinite number of countries that are recognized to have coast guards. As extracted from the Central Intelligence Agency (n.d.) website, Table 2 shares some countries in which naval forces operate under both pretenses. Some coast guards, such as the ICG, are branches of countries' military forces. There is no specific reason as to why coast guards of those countries are joined with naval forces because coast guards are supposed to perform as the constabulary role within territorial waters, and not as a defense force.

However, there are also certain agencies that specifically give focus to just maritime matters. Goldstein (2010), in his Chinese maritime study, explained that the China Maritime Police is a part of the Border Control Department (BCD). The BCD is an elite subcomponent of the People's Armed Police, which is likely derived from the Soviet model, which is also designated for guarding borders as a separate and elite formation. The primary mission of the Maritime Police is to fight and investigate crime, but emergent threats have taken on special concerns, which also include terrorism and piracy. The China Maritime Police operate speedboats and small cutters. It is worth emphasizing that this force is armed with machine guns and small cannons. However, there is competition to BCD: the existence of the Maritime Safety Administration of the Chinese Ministry of Transportation, which has the same duties and responsibilities.

With regards to the United States, which the MMEA also used as the model agency during its inception, the USCG's roles have been evolving from tax collector to a more serious roles in ensuring maritime security and managing threats in the maritime domain. The USCG was first established under the Treasury Department to protect the nation's revenue, to safeguard against illegal activities that may affect its economy, and to act as tax collectors. As part of the DHS, the White House (2005), during President George W. Bush's administration, explicitly took maritime affairs and maritime security to the maximum:

Various departments have each carried out maritime security strategies which have provided an effective layer of security since 2001. In December 2004, the President directed the Secretaries of the Department of Defense and Homeland Security to lead the Federal effort to develop a comprehensive National Strategy for Maritime Security, to better integrate

and synchronize the existing Department-level strategies and ensure their effective and efficient implementation.

Here for example are the strategic goals of the USCG (2002):

- Maritime Safety
Eliminate deaths, injuries, and property damage associated with maritime transportation, fishing, and recreational boating.
- Maritime Security
Protect our maritime borders from all intrusions by halting the flow of illegal drugs, aliens, and contraband into this country through maritime routes; preventing illegal incursions of our Exclusive Economic Zone; and suppressing violations of federal law in the maritime region. [This year the Coast Guard's Strategic Plan will be updated to reflect Homeland Security.]
- Protection of Natural Resources
Eliminate environmental damage and natural resource degradation associated with all maritime activities, including transportation, commercial fishing, and recreational boating.
- Maritime Mobility
Facilitate maritime commerce and eliminate interruptions and impediments to the economical movement of goods and people, while maximizing recreational access to and enjoyment of the water.
- National Defense
Defend the nation as one of the five U.S. Armed Services. Enhance regional stability in support of the National Security Strategy, utilizing our unique and relevant maritime capabilities. (p. 21)

The USCG has the same duty as the MMEA, which is to serve under the direct command of the Armed Forces as the fourth branch in the military in the event of war. This role is reflected in the USCG Strategic Goals in the subject of National Defense, which is protecting national security like the armed services that has been embedded in their additional functions as well. It explains and legitimates the need to work with the defense force when the need arises.

Amongst the coast guards discussed in Chapter II, the ICG is the only organization that is placed under the Ministry of Defence as an agency specified to be part of the military branches. There are a few other coast guards that are also within the structure of the defense forces, which are entrusted to enforce the law and serve as part of the military branches (see Table 2).

Table 2. Coast Guards as Part of Military Branches (from CIA, n.d.)

Country	Military Branches
<u>Antigua and Barbuda</u>	Ministry of National Security, Royal Antigua and Barbuda Defense Force (includes Antigua and Barbuda Coast Guard) (2012)
<u>Barbados</u>	Royal Barbados Defense Force: Troops Command, Barbados Coast Guard (2011)
<u>Cabo Verde</u>	Armed Forces: Army (also called the National Guard, GN), Cabo Verde Coast Guard (Guardia Costeira de Cabo Verde, GCCV; includes naval infantry) (2013)
<u>Colombia</u>	National Army (Ejercito Nacional), Republic of Colombia Navy (Armada Republica de Colombia, ARC, includes Naval Aviation, Naval Infantry (Infanteria de Marina, IM), and Coast Guard), Colombian Air Force (Fuerza Aerea de Colombia, FAC) (2012)
<u>Comoros</u>	Army of National Development (l'Armee du Developpement Nationale, AND); Comoran Security Force (also called Comoran Defense Force (Force Comorienne de Defense, FCD), includes Gendarmerie), Comoran Coast Guard, Comoran Federal Police (2013)
<u>Croatia</u>	Armed Forces of the Republic of Croatia (Oruzane Snage Republike Hrvatske, OSRH) consists of five major commands directly subordinate to a General Staff: Ground Forces (Hrvatska Kopnena Vojska, HKoV), Naval Forces (Hrvatska Ratna Mornarica, HRM; includes coast guard), Air Force and Air Defense Command (Hrvatsko Ratno Zrakoplovstvo I Protuzracna Obrana), Joint Education and Training Command, Logistics Command; Military Police Force supports each of the three Croatian military forces (2012)
<u>Dominica</u>	no regular military forces; Commonwealth of Dominica Police Force (includes Coast Guard) (2012)
<u>Ecuador</u>	Ecuadorian Armed Forces: Ecuadorian Land Force (Fuerza Terrestre Ecuatoriana, FTE), Ecuadorian Navy (Fuerza Naval del Ecuador (FNE), includes Naval Infantry, Naval Aviation, Coast Guard), Ecuadorian Air Force (Fuerza Aerea Ecuatoriana, FAE) (2012)
<u>Georgia</u>	Georgian Armed Forces: Land Forces (include Air and Air Defense Forces); separatist Abkhazia Armed Forces: Ground Forces, Air Forces; separatist South Ossetia Armed Forces note: Georgian naval forces have been incorporated into the Coast Guard, which is part of the Ministry of Internal Affairs rather than the Ministry of Defense (2015)
<u>Grenada</u>	no regular military forces; Royal Grenada Police Force (includes Coast Guard) (2010)
<u>Guyana</u>	Guyana Defense Force: Army (includes Air Corps, Coast Guard) (2012)
<u>Iceland</u>	no regular military forces; Icelandic National Police; Icelandic Coast Guard (2013)
<u>India</u>	Army; Navy (includes naval air arm); Air Force; Coast Guard (2011)
<u>Jamaica</u>	Jamaica Defense Force: Ground Forces, Coast Guard, Air Wing (2010)
<u>Latvia</u>	National Armed Forces (Nacionalo Brunoto Speku): Land Forces (Latvijas Sauszemes Speki), Navy (Latvijas Juras Speki; includes Coast Guard (Latvijas Kara Flotes)), Latvian Air Force (Latvijas Gaisa Speki), Latvian Home Guard (Latvijas Zemessardze) (2011)
<u>Maldives</u>	Maldives National Defense Force (MNDF): Marine Corps, Security Protection Group, Coast Guard (2010)
<u>Mauritius</u>	no regular military forces; Mauritius Police Force, Special Mobile Force, National Coast Guard (2011)
<u>Morocco</u>	Royal Armed Forces (Forces Armees Royales, FAR): Royal Moroccan Army

	(includes Air Defense), Royal Moroccan Navy (includes Coast Guard, Marines), Royal Moroccan Air Force (Al Quwwat al Jawyiya al Malakiya Marakishiya; Force Aérienne Royale Marocaine) (2010)
<u>Norway</u>	Norwegian Army (Haeren), Royal Norwegian Navy (Kongelige Norske Sjøforsvaret, RNoN; includes Coastal Rangers and Coast Guard (Kystvakt)), Royal Norwegian Air Force (Kongelige Norske Luftforsvaret, RNoAF), Home Guard (Heimevernet, HV) (2013)
<u>Paraguay</u>	Armed Forces Command (Commando de las Fuerzas Militares): Army, National Navy (Armada Nacional, includes Marine Corps, Naval Aviation, and Coast Guard), Paraguayan Air Force (Fuerza Aerea Paraguay, FAP), Logistics Command, War Materiel Directorate (2012)
<u>Peru</u>	Peruvian Army (Ejército Peruano), Peruvian Navy (Marina de Guerra del Perú, MGP; includes naval air, naval infantry, and Coast Guard), Air Force of Peru (Fuerza Aerea del Perú, FAP) (2013)
<u>Saint Kitts and Nevis</u>	Ministry of Foreign Affairs, National Security, Labour, Immigration, and Social Security: Royal Saint Kitts and Nevis Defense Force (includes Coast Guard), Royal Saint Kitts and Nevis Police Force (2013)
<u>Sao Tome and Principe</u>	Armed Forces of Sao Tome and Principe (Forças Armadas de Sao Tome e Principe, FASTP): Army; Coast Guard of Sao Tome e Principe (Guarda Costeira de Sao Tome e Principe, GCSTP; also called “Navy”); Presidential Guard (2013)
<u>Seychelles</u>	Seychelles Defense Force: Army, Coast Guard (includes Naval Wing, Air Wing), National Guard (2005)
<u>Sri Lanka</u>	Sri Lanka Army, Sri Lanka Navy, Sri Lanka Air Force, Sri Lanka Coast Guard (2015)
<u>Taiwan</u>	Army, Navy (includes Marine Corps), Air Force, Coast Guard Administration, Armed Forces Reserve Command, Combined Service Forces Command, Armed Forces Police Command
<u>Tanzania</u>	Tanzania People’s Defense Force (Jeshi la Wananchi la Tanzania, JWTZ): Army, Naval Wing (includes Coast Guard), Air Defense Command (includes Air Wing), National Service (2007)
<u>Trinidad and Tobago</u>	Trinidad and Tobago Defense Force (TTDF): Trinidad and Tobago Army, Coast Guard, Air Guard, Defense Force Reserves (2010)
<u>United Arab Emirates</u>	United Arab Emirates Armed Forces: Critical Infrastructure Coastal Patrol Agency (CICPA), Land Forces, Navy, Air Force and Air Defense, Presidential Guard (2015)
<u>United States</u>	United States Armed Forces: U.S. Army, U.S. Navy (includes Marine Corps), U.S. Air Force, U.S. Coast Guard; note - Coast Guard administered in peacetime by the Department of Homeland Security, but in wartime reports to the Department of the Navy (2013)
<u>Venezuela</u>	Bolivarian National Armed Forces (Fuerza Armada Nacional Bolivariana, FANB): Bolivarian Army (Ejército Bolivariano, EB), Bolivarian Navy (Armada Bolivariana, AB; includes Naval Infantry, Coast Guard, Naval Aviation), Bolivarian Military Aviation (Aviación Militar Bolivariana, AMB; includes Air National Guard), Bolivarian National Guard (Guardia Nacional Bolivariana, GNB) (2013)
<u>Vietnam</u>	People’s Armed Forces: People’s Army of Vietnam (PAVN; includes Vietnam People’s Navy (with Naval Infantry), Vietnam People’s Air and Air Defense Force, Border Defense Command, Coast Guard) (2013)
<u>Malaysia</u>	Malaysian Armed Forces (Angkatan Tentera Malaysia, ATM): Malaysian Army (Tentera Darat Malaysia), Royal Malaysian Navy (Tentera Laut Diraja Malaysia, TLDM), Royal Malaysian Air Force (Tentera Udara Diraja Malaysia, TUDM) (2013)

Taylor (2000) defined *good governance* as “the responsibility and accountability for the overall operation” of an organization. He also explained that unity of command, unity of direction, and unity of accountability are keys to success. As cleverly stated by Klitgaard & Light (2005),

Every agency has—or should have—a clear mission with structures and processes that follow from their particular responsibilities. With rare exception, agencies with related mandates should fit together in a broad organizational scheme that permits and encourages constructive interaction rather than battles over turf. Federal departments should be reorganized to bring together agencies that contribute to a broad mission in a manner responsible to direction from elected leaders and their appointees, and subject to careful oversight by Congress but sufficiently independent in administration to achieve their missions. (p.29)

Frumkin (2003) said, “There is a natural attraction to the idea of combining services and resources, particularly during times of fiscal constraints or following operational crises.” These five areas, if given careful attention, may become catalysts to success in merging government agencies: (p. 4)

1. ***Choosing targets wisely.*** Frumkin (2003) said, “Not all public agencies with overlapping responsibilities are ripe for merger or consolidation.” (p. 4). First, the missions must be compatible and fit between culture and competencies. Therefore, as for the MMEA condition, we can see the missions under the PMD are not the same as theirs, let alone the culture where the MMEA are law enforcers, which have been filled up with people mainly from the Royal Malaysian Navy, as a branch in the military.

2. ***Communicating effectively.*** Mergers create anxiety and fear among both employees and stakeholders. According to Frumkin (2003), “it is critical for leaders to communicate early and openly.” (p. 4) Communicating applies to vertical and horizontal reporting. Under certain circumstances, communicating to the head with the right mind will help in getting problems solved.

3. ***Implementing quickly.*** It is often tempting to assume that “going slow” will ease the stress of a merger on employees and stakeholders. However, experience shows that moving quickly with important operational changes—such as payroll, travel, and new logos—“is critical to building momentum and moving toward normalization” (Frumkin, 2003) (p. 4). The PMD has done such a great job in initializing the MMEA, but it is time to let the agency be under the right command in

order for it to competently grow. With readiness, implementation under the right ministry should not pose any hindrance to its success.

4. Creating a new culture. “Mergers do not involve simple addition or deletion of agency features. The demand the creation of something new” (Frumkin, 2005) (p. 5). This step would require breaking away from routines, traditions, and customs. And it is crucial for the MMEA to receive the support from agencies within the ministry, once transition takes place.

5. Adjusting over time. Implementing a merger often takes years after the initial wave of change. This situation deals not with a merger but with a change in the reporting structure; nevertheless, these areas could point the newly spearheaded MMEA in the right direction and make it a world-class coast guard.

In 2003, the GAO released a document entitled *Results-Oriented Cultures: Implementing Steps to Assist Mergers and Organizational Transformations*. The GAO (2003) also defined nine key practices that are central to successful mergers, acquisitions, and transformations. Merger is not the answer for this case; still, these practices could be implemented in the MMEA in the future:

1. Ensure that top leadership drives the transformation.
2. Establish a coherent mission and integrated strategic goals to guide the transformation.
3. Focus on a key set of principles and priorities at the outset of the transformation.
4. Set implementation goals and a timeline to build momentum and show progress from day one.
5. Dedicate an implementation team to manage the transformation process.
6. Use the performance management system to define responsibility and assure accountability for change.
7. Establish a communication strategy to create shared expectations and report related progress.
8. Involve employees to obtain their ideas and gain their ownership for the transformation.
9. Build a world-class organization.

B. THE MALAYSIAN MARITIME ENFORCEMENT AGENCY AND PRESENT CHALLENGES UNDER THE PRIME MINISTER'S DEPARTMENT

Taylor (2000) stated,

For any organization to be strategically successful it is crucial that there be a high degree of strategic alignment, fit or congruence among the organization's mission, vision, goals, strategy, structure, culture leadership style, resource deployment and investment, incentive system, skill sets, and performance measures. (p. 112–113)

Any agency is under the responsibility of a ministry. It is clear that the role of departments is to implement matters and policies, as prescribed by the government, through their respective ministries. The responsibilities of each branch is to carry out tasks and activities related to official policies made by the ministry. This leads one to question why the MMEA, after being in operation for 10 years since its establishment in 2005, is still placed under the PMD when the overall responsibilities are not operational in nature. The structure of the PMD, which consists of various agencies, does not reflect the clear chain of command of an operational agency, which requires direct supervision for command and control. The PMD is a body that initiates new policy and oversees overall development that benefits the nation. It is obvious why the MMEA was placed under PMD during the initiation stage, which contributes significantly to its effectiveness and successful establishment in the present day. However, the question now is where it rightfully belongs. The aspiration of the federal government, through launching the National Blue Ocean Strategy, and the implementation of government transformation programs could, be used to review the present reporting structure of the MMEA. Agencies that share same responsibilities could profitably be combined under same organization to expedite decision-making and for better utilization of operational resources.

It will never be easy for the MMEA, even though it has been in operations since 2005, to make comparisons of the MMEA's efficiency with other agencies, particularly the Marine Operations Force (MOF), which has previously done the same thing in the area of law enforcement. In addition, the present personnel, from the director general to

most positions in the MMEA, are made up of former officers from the Royal Malaysian Navy, even though the core competency required for these two organizations is asymmetrical. Subsequent to the establishment of the MMEA, there were a few instances when the MMEA was not getting the necessary cooperation from other operational agencies, including the Armed Forces, in what could be termed as reporting-structure pandemonium.

1. Checks and Balances

In the federal administration system of Malaysia, the prime minister holds executive power of the state to become the head of government. The prime minister has the prerogative to appoint any qualified persons to become ministers in his Cabinet to make up the government. All government agencies are placed under their respective ministries, with ministers as the head who are assisted by secretary generals appointed from the Civil Service to manage and effectively administer the core functions of the ministry.

The Armed Forces are under the Ministry of Defence, and together with agencies such as the Veteran Affairs Department, National Service Department, and other smaller divisions, they formulate defence policy, strategic management, and general management functions. There are also some other ministries, such as the Home Affairs Ministry, to handle internal security and peaceful order of the country through agencies such as the police, the Immigration Department, the National Registration Department, and others as listed in Chapter II. These departments are placed in their respective ministries in this compartmentalized structure to undertake the core functions named after the ministries for greater effectiveness in achieving the government's vision and aspiration to best serve the Malaysian people.

The prime minister chairs the weekly Cabinet Meeting attended by all ministers and the chief secretary of the government in his capacity as secretary of the Cabinet, who is also the highest ranked officer in the Civil Service. Subsequent to the weekly meeting, all ministers chair the post-Cabinet Meeting with the top management officials of the ministry as a reflection on how the federal government system works. The element of

checks and balances within the executive branch of the federal government is led by the minister, who supervises the agencies placed in the ministry. This is done to enhance the efficiency of the government machinery based on the specific core function of the specific ministry, either Defence, Home Affairs, Transportation, or other names given to the ministries.

Departments that do not fall under the clear structure of a ministry's core functions, such as the central agencies, are placed directly under the PMD and also have minister portfolios within the PMD as the minister in-charge. Parliament, as an organization, is an example of this, which has the MMEA placed under the supervision of a minister in the PMD. It is so obvious that Parliament and the MMEA have no significant relation in their roles and functions for them to be placed together, reporting to the same minister of the PMD. After its inception in 2005, the MMEA was under the supervision of the deputy prime minister, who was coincidentally also the then-Minister of Defence. However, he was later appointed as the Sixth Prime Minister of Malaysia in 2009, and the new deputy prime minister was the Minister of Education. Under these two ministers, the MMEA was not regularly represented by the director general in any of the post-Cabinet Meetings, who occasionally attended only when required to by the deputy prime minister. Nevertheless, in order to have a role in the ministry, the PMD established the MMEAD together with the MMEA under the PMD. But the director general of this new division has no supervisory role over the MMEA, unlike of those departments under the specific ministries. The ministry role of the MMEAD is limited to coordinating applications for the Development Expenditure to Treasury and Economic Planning Unit, to acting as secretariat for all acquisition processes such as tender bidding, to creating documentations and signatory of contracts. The role to formulate maritime policy, as done by all policy divisions in all respective ministries, could not be done by the MMEAD because of the structure separation between them and the MMEA within the PMD, as illustrated in Figure 1.

2. The Pivotal Search and Rescue Mission of MH370

The disappearance of flight MH370 in March 2014 put the MMEA in a secondary role instead of as the lead agency for SAR, as stipulated in their Mission and Vision Statement. The Minister of Defence, in his capacity as caretaker Minister of Transport, led the SAR operation. The fact that the MMEA is not placed in either of these two ministries does that mean it should have no direct involvement or be used in the SAR mission, implying the miniscule decision-making or importance the MMEA has in the matter. The absence of MMEA in the early stage of the rescue mission was also considered an operational flaw because the MMEA was not mentioned specifically in press conferences.

The following is an excerpt from one of the press conference, as cited in the *Straits Times* (2014):

Following further discussion up the chain of command, the military informed the Acting Transport and Defense Minister Hishammuddin Hussein at approximately 10:30 of the possible turn-back of the aircraft. The Minister then informed the Prime Minister, who immediately ordered that search and rescue operations be initiated in the Straits of Malacca, along with the South China Sea operations which started earlier in the day. During this time, KD Mahameru, the Mine Counter Measure Vessel and KD Laksamana Muhamad Amin, the Corvette Vessel of the Royal Malaysian Navy were already in the Straits of Malacca on patrol duties. They were immediately re-tasked to conduct the search and rescue operation. A military aircraft was then sent to join the two ships in the Straits of Malacca at 10:54 to search for MH370.

The MMEA was left out in the rescue operation, and its director general released separate press statements to media team without going through the proper coordination. At a certain point, when the media was desperate for updates, a director from MMEA Headquarters released a statement televised live on the national TV that MMEA aircraft spotted an orange-colored object in the South China Sea, presumably from MH370, and the MMEA had dispatched a ship to further investigate on site; but the object turned out to just be a canvas. Such sighting, which has not proven conclusive in a tragedy of this nature, and which received worldwide coverage, should not be disclosed to media by an

officer, even in his capacity as director from headquarters, without verification. Statements should be channeled through the SAR team led by a minister.

In another sighting, which was also reported to the public and which could be interpreted as another public relations flaw, a local fisherman's boat discovered a deflated life raft. The discovery was reported to the MMEA, and the fisherman's boat managed to hold onto the deflated life raft while waiting for the MMEA to arrive at the scene. However, after the arrival of the MMEA, and as the personnel tried to recover it, the raft sank, and the pictures, as well as a video shoot of this incident, were published in newspapers and shown on TV news. Incidents such as this receiving public viewing only leads to further bad publicity after the MMEA was incapable in recovering the raft after it had been closely secured by the fisherman.

The MMEA was sidelined because neither the director general and the minister in the PMD as the minister in-charge were performing in their respective chains of command. A mishap of this scale requires a joint operation. In another press conference, the MMEA seemed to be included in the rescue mission, but the only attendee was the deputy director general. However, the event was not led by the minister as the head of the SAR mission, but was chaired by only the Director General of Civil Aviation, making the press conference seem less importance and significant than a press conference normally was.

Further speculation on this tragedy might not be accurate, but outsiders could conclude the role of the MMEA in rescue operations from these publicized incidents, as reported by the media, and make the MMEA more vulnerable to critiques.

3. Sulu Separatists Intrusion

Another case that received attention and which put the MMEA under the microscope was the intrusion of Sulu Separatists in the East Coast of Sabah. This incident lasted for several weeks at Kampung Tanduo in Lahad Datu and claimed the lives of eight policemen, two army personnel, and 68 separatists. This group came through the sea and managed to land without been detected by the Malaysian authority. The prime minister subsequently formed a special task force called Eastern Sabah Security

Command (ESSCOM), which consisted of Armed Forces and the Police Force, which was fortunately represented by MMEA officers. ESSCOM was placed under the PMD, probably for reasons similar to why the MMEA was placed under the PMD, and was headed by a director, who was from the Immigration Department of the MOHA. The director of ESSCOM lasted for only 15 months, at which point the prime minister reevaluated its effectiveness and decided to restructure this new agency, which has now been divided into a civilian entity and an enforcement agency led by a commander at the rank of deputy commissioner of police. However, the scenario is different because even as a commander, the head of this service scheme is the inspector general of police, who reports to the MOHA, even though ESSCOM is under the PMD.

As reported by a media source in Malaysia,

The Ministry of Defence is currently responsible for keeping the waters east along the 1,400 km that were previously the responsibility of the Prime Minister's Office (PMO). Its minister Datuk Seri Dr Ahmad Zahid Hamidi said in a recent briefing, the Sabah waters controlled Malaysian Maritime Enforcement Agency (MMEA), will be placed under the responsibility of the ministry with the assistance of the Royal Malaysian Navy (RMN). (Awani, 2013),

This is clearly to offset the MMEA, as if it is not able to carry out its duties whenever there is a huge problem; even when an issue is related to maritime aspects, the handling of the problem will be relinquished to another agency under a different ministry because there is not enough support within the PMD to handle such a complication. It is now questionable whether resources and enforcement can be fully maximized or realized if this trend continues. The MMEA should be given a chance to mature in this area, to grow like other long-established coast guards. Years in operation not only yields maturity but also the ability to solve all types of problems that arise in the future. To achieve that, it is strongly suggested that the agency be under a different ministry to help the MMEA develop through the right mixture of coordination and communication. This should work in horizontal and vertical ways, between agencies with similar interests, under the same apex, or moving towards greater efficiency and economies of scale.

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IV. RECOMMENDATIONS

This chapter offers recommendations for making the MMEA more effective from the operational perspective, based on the organizational structure of the MMEA and its chain of command. The present reporting structure of the MMEA under the PMD has been found lacking coordination in its operational management approach, and weak in its organizational and reporting structure when it comes to a more effective allocation of resources, even after being in operation for 10 years.

A. OPERATIONAL MANAGEMENT APPROACH

The MMEA has been given all necessary supports from the federal government to become a brand new government agency that enforces federal and international laws in the MMZ and carries out SAR operations. All the potential bureaucracies that could be a hindrance to the MMEA, established within the specified time framework, were successfully overcome with placement of the MMEA in the PMD, which is the most centralized and important ministry in the Malaysian Federal System. All the initiatives taken before the establishment of the MMEA prior to 2005 have managed to anticipate the potential resistance from the existing agencies in operation in the MMZ. Those efforts were also successful in understanding and planning the smooth managerial transition to a new government agency of the MMEA's stature. However, from the operational perspective, the government had a tendency toward trial and error by not having an action plan to execute after the establishment of the MMEA. The aspiration of having an effective maritime agency does not end after the MMEA has been launched and is in operation, but it has to be assessed in determining the MMEA's effectiveness from the operational perspective, subsequent to the establishment.

The operational management approach has to cover the effectiveness of the standard operating procedures (SOP) and the director general's standing instructions (DGSI). This gives an assessment to better understand any flaws from these two vital operational documents. Additionally, the operational management approach has to encompass all agencies in the area of operations, both within the Malaysian government

system and in the littoral states. Having the neighboring maritime agencies could ensure inclusiveness and improve operational effectiveness because the enhanced cooperation involves efforts to manage transnational organized crime (TOC), such as acts of terrorism, or even contrabands and drugs-related crimes.

Being in operation and the MMEA's presence in the maritime domain does not necessarily justify its effectiveness. The determining factor in gauging the MMEA's effectiveness could not be concluded even by publishing all statistical data for all previous operations, or even by showcasing achievements of high profile cases. Instead, the government has to review the operational perspective of the MMEA in order to revisit the aspirations behind the establishment of the MMEA. It is impossible for the MMEA, as an operational agency, to function on its own. Moreover, when a previous enforcement agency, such as the MOF, has been withdrawn, the area of operation left an operational gap, a result of making the MMEA the sole agency for law enforcement in the MMZ. The MMEA has to build on operational capability by establishing a link with other operational agencies and all stakeholders in the maritime domain, the area of operations.

B. ORGANIZATIONAL AND REPORTING STRUCTURE

Law enforcement and SAR are the main functions of the MMEA, which is considered a relatively new agency, even after celebrating its 10th-year anniversary in 2015. The MMEA needs the continuous support of the government. The following aspects are seen as the crucial parts in achieving the success of making the MMEA a more credible force:

- *Organizational Structure:* The MMEA's structure, which puts the director general as the head of the organization, has to expand. Placing the MMEA under the PMD does not enable checks and balances to monitor the MMEA's performance and effectiveness. The structure has to be expanded beyond the MMEA, putting it as a division within an organization at a macro level.
- *Reporting Structure:* Placing the MMEA under an operational ministry (such as the MOHA, which has the police force as law enforcement) with other related agencies with which the MMEA can work closely (such as the Immigration Department) will benefit Malaysia as a whole. The confusion in operation area and jurisdiction between the MMEA and MOF can also be overcome. The duplication and overlapping duties between the

MMEA and MOF, which share similar functions, can be resolved indefinitely. Command and control in the event of natural disasters needs to be clearer and more objective. This improves accountability and enhances professionalism of the MMEA when the director general of the MMEA reports directly to the Minister of Home Affairs, who is the Cabinet member at the highest executive power in the government administration. With the availability of the MMEA's superior and more advanced assets, all operations for human assistance and disaster relief missions, which has been receiving greater significance, can be leveraged further. Management of SAR operations, which depends highly on mobilization of assets, can be improved with the centralization structure and unified command. The Minister of Home Affairs will be able to better manage Malaysia's homeland security, which includes maritime boundaries, to improve on force capability and response time. The success of law enforcement is always the outcome of efficient intelligence-gathering and sharing, which at the moment is the core competence of the Police Force, under MOHA, which fights and prevents ever-evolving and challenging crimes.

- *Resource Management for the MMEA's Operations:* Planning for resource allocation and management for the MMEA under a specific operational ministry such as the MOHA will enhance the efficiency and scarcity of resources. Appropriation of financial resources will be more efficient within the MMEA as an operational agency, and within MOHA as the respective ministry within the Federal Government system.

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V. CONCLUSION

A strong workforce comes from having the right people with the right skills in the right place at the right time. Only then will government operate in an effective, efficient, and economic manner.

—U.S. Senator Daniel K. Akaka (n.d.)

Maritime security today has gone beyond just ensuring the safety of borders, though many crimes and threats are related to the invasion of the border. Maritime stakeholders are now under threat of such problems as piracy, robbery, illegal trafficking, and smuggling. These things pose a danger to the economy and eventually to national security. An article from the North Atlantic Treaty Organization (NATO; 2011), “Alliance Maritime Strategy,” summarizes the importance of maintaining maritime security:

The oceans connect nations globally through an interdependent network of economic, financial, social and political relationships. The statistics are compelling: 70% of the Earth is covered in water; 80% of the world’s population lives within 100 miles of the coast; 90% of the world’s commerce is seaborne and 75% of that trade passes through a few, vulnerable, canals and international straits. The maintenance of the freedom of navigation, sea-based trade routes, critical infrastructure, energy flows, protection of marine resources and environmental safety are all in Allies’ security interests. At the same time, the world’s oceans and seas are an increasingly accessible environment for transnational criminal and terrorist activities, including the transport and deployment of weapons of mass destruction and associated materials.

This shows that there is no other way to describe the growing importance of upgrading the nation’s coast guard resources and responsibilities.

In this research, the author studied four different countries’ coast guards in order to look at the best suitable organizational structure for the MMEA to emulate. The author discovered that the coast guard does not need to be a government agency because the CNZ can effectively run as a voluntary agency, self-sustainable due to the contributions made by the general public for services rendered. The CNZ’s role is to conduct SAR operations, with its only purpose that of saving lives at sea, which is common for an

island state surrounded by the sea. Nevertheless, by not associating the CNZ with the government, the CNZ is not able to enforce the law, which historically has been the core business of coast guards all over the world. Other than the CNZ as a voluntary body, the MNZ is the other entity that is part of New Zealand's government with the role of providing and maintaining navigational facilities, such as lighthouse and beacons for seafarers.

The other three coast guards the author studied are from the United States, Japan, and India, which all have very distinct coast guards. The USCG, which was previously under the DOT, is now under the command of the DHS. The U.S. government felt the need to consolidate all security agencies under a specific federal department after the 9/11 attacks. Therefore, the approval of the Homeland Security Act of 2002 clearly showed the seriousness of potential threats that are now possible in many kinds and forms. Together with USCG are 22 other security-related agencies, such as the Federal Emergency Management Agency (FEMA), Transportation Security Administration (TSA), United States Secret Service (USSS), and others, all under the DHS, which is very similar to the structure and agencies under the MOHA. The decision to restructure and have all security-related agencies under the DHS helps the U.S. government manage homeland security subjects effectively and efficiently to improve on resource management. Even as an agency under the DHS, the USCG is under the command of the DOD in the event of war; it is also the requirement for the MMEA to be placed under the MOD during times of war.

The JCG, on the other hand, is placed under the Ministry of Land, Infrastructure, Transport, and Tourism, which is essentially the second largest ministry in Japan, after the Ministry of Defense. This ministry was formerly known as the Ministry of Transport, but it changed the name just recently to reflect the diversification of functions in the Japanese government. Both the USCG and JCG are model agencies used by the MMEA prior to its establishment.

There are other coast guards that are under their respective ministries of defense, and in operation together complement their Naval forces. The ICG is an example of this, where its operations are to support the Indian Navy, and the director general, who is

attached from the Indian Navy and who also reports to the Indian Minister of Defence. The author discovered that the justification for the ICG to be placed under the Ministry of Defence is due to its long coastline, vast operational area in the maritime zone, and maritime boundaries that India shares with seven neighbors.

After carefully studying and analyzing the USCG, JCG, ICG, and CNZ, the author believes that the similarities shared between the MMEA and USCG, and also the MOHA and DHS, can be extended further based on the recommendations made in Chapter IV. The security threats are evolving and ever challenging, thus requiring the conventional intelligence gathering and interdiction for counter-measure efforts by a dedicated ministry specifically for this utmost important reason.

Therefore, the author sees the importance in putting the MMEA in the right framework for better effectiveness. Being under the MOHA stresses the importance of better ways in managing the flow of information, disseminating that information and resources between agencies, and not falling under the complexity of bureaucracy. As stated previously, crime beginning at sea eventually end on land. The joint collaboration and greater cooperation between all agencies under the MOHA can prevent transnational crimes that could jeopardize Malaysia's peace, public order, and security. This is surely the utmost aspiration of the Malaysian government's call for maintaining what is in the "MMEA Act of 2004 (Act 633), Section 17"⁸ (Attorney General's Chamber, 2006).

⁸ Notwithstanding any provisions of this act or any other federal law, the Agency, or any part of the Agency as may be determined by the Minister, shall be under the general command and control of the Armed Forces of Malaysia during any period of emergency, special crisis or war.

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