



COUNCIL FOR SECURITY COOPERATION IN THE ASIA PACIFIC
1st Meeting of the CSCAP Study Group on Maritime Security
7-8 June 2013
Traders Hotel, Singapore

Co-Chair's Report

The first meeting of the CSCAP Study Group on Maritime Security was held on 7-8 June 2013 at Traders Hotel, Singapore. Co-chaired by CSCAP Singapore, CSCAP Indonesia and CSCAP New Zealand, the meeting was attended by 28 participants from 13 countries. The findings of this Study Group would supplement the recommendations of previous Study Groups, focusing in particular on the principles for good order at sea. It would emphasise confidence building measures, information sharing, and the need to enhance regional maritime domain awareness. This Study Group aimed to contribute towards the ARF ISM on Maritime Security series, as the main framework for developing a regionally institutionalised approach to good order at sea.

Session 1: Overview

CSCAP Singapore's presentation noted the paradoxical nature of the current maritime situation. While cooperation and collaboration on maritime security are at an all-time high, maritime tensions are also at their worst. Despite pan-ASEAN maritime security collaboration returning to the agenda of regional media and think-tanks, intra-ASEAN links, especially east of Singapore and the Malacca Straits, are difficult to forge. In particular, the South and East China Seas remain the main focus for inter-state tensions and incidents. The presentation observed that recent Track 1 and 1.5 levels broaching South China Sea and maritime security issues contrasts positively with the past two years, at least in terms of atmospherics. Despite the apparent progress in these areas, however, the local situation in parts of the South and East China Seas continues to give grounds for concern. The absence of high-level political and military engagement between China and Japan is the most important lacuna in regional dialogue and crisis communications infrastructure. In this regard, it is important for the region to have a framework to raise and resolve concerns at the policy level.

Citing Memorandum No. 5, **CSCAP Malaysia** reminded the meeting that good order at sea allows for the “free flow of seaborne trade and ensures that nations can pursue their maritime interests and develop their marine resources in an ecologically sustainable and peaceful manner in accordance with international law.” CSCAP Malaysia noted that good order at sea is contingent upon good governance on land, but there is currently a land-sea disconnect in dealing with maritime non-traditional security issues. As such, national maritime security policies need to ensure that domestic capabilities can enable good governance both on land and at sea. To achieve good order at sea, CSCAP Malaysia proposed the sharing of intelligence among the police, maritime law enforcement, navy, industry and coastal community. Well-harnessed information would be useful in deterring crime and

apprehending perpetrators. Additionally, there should be concerted efforts between agencies, industry, community, and like-minded organisations to supplement the current arrangements ensuring good order at sea.

ReCAAP ISC spoke on enhancing regional cooperation through the ReCAAP model. Regional cooperation is essential because no state or agency is able to combat maritime crimes alone. There is a need for coordinated responses, and this can only be achieved by building trust and confidence among states. In this regard, ReCAAP promotes information sharing, capacity building and cooperative arrangements to enhance regional cooperation for combating maritime piracy and armed robbery. Each ReCAAP signatory is required to designate a Focal Point, which coordinates with other relevant agencies within the country, to be the point of contact for the ISC. Information sharing and an awareness of the roles of different stakeholders are critical to good order at sea. ReCAAP highlighted lessons from two case studies – the first on the hijacking of the tug boat *Asta* and barge *Callista* in February 2010, and the second on the piracy incident involving the *Ai Maru* in June 2012. Both incidents stressed the importance of collaboration among maritime authorities via timely reporting, information sharing, as well as working out a coordinated response.

Discussion focused on two issues. First, it was noted that some claimants were viewing the South China Sea disputes through a historical lens, while others were viewing it through the lens of UNCLOS. The different attitudes toward international law and perceptions of its role in regional disputes will pose a challenge to building good order at sea, as was iterated in Memorandum No. 6. Second, information sharing and other cooperative frameworks to enhance regional cooperation are necessary to manage flashpoints. In this regard, participants stressed the need for national and regional structures for coordination on maritime issues, in particular establishing the link between the diplomatic stratosphere and the developments at sea.

Session 2: Developing Principles for Good Order at Sea

CSCAP Japan noted that although non-state actors still pose a threat to good order at sea, mechanisms and frameworks to address non-traditional issues already exist. Challenges posed by state actors, on the other hand, remain largely unresolved. These challenges include disputes over islands and features in the East and South China Seas, disputes over maritime boundaries, excessive maritime claims by states, differing perceptions of freedom of navigation, lack of good seamanship, as well as the assertiveness of paramilitary ships. CSCAP Japan proposed eight measures for conflict prevention at sea. First, a common understanding on good order at sea, based on international law, must be promoted. Second, claimants should clarify their claims based on international law. Third, the peaceful resolution of disputes should be encouraged. Fourth, joint development of marine resources must be promoted. Fifth, there must be regulation of unilateral actions in contested waters, especially actions by paramilitary ships. Sixth, good seamanship must be promoted, in terms of crisis management and communication mechanisms. Seventh, international courts must be

used for arbitration. Finally, regional rules such as the Code of Conduct in the South China Sea should be agreed upon and established.

As previous Study Groups had produced useful memorandums on similar topics, **CSCAP Singapore**'s presentation on good order at sea in Southeast Asia would build on past efforts and situate it in the current context. The present lack of good order at sea is due to the proliferation of illegal activities, inadequate resources to combat illegal activities, and poor coordination between national agencies, among other reasons. The current regional response to maritime threats involves both 'top down' and 'bottom up' approaches. 'Top down' measures include the ASEAN Maritime Forum, the ARF ISM on Maritime Security, and the ADMM-Plus Expert Working Group on Maritime Security. 'Bottom up' efforts refer to coordinated patrols, the cooperative mechanism for the Straits of Malacca and Singapore, as well as the operations of ReCAAP ISC and the Information Fusion Centre. It was noted that a lack of coordination exists between the 'top down' and 'bottom up' approaches. To resolve this disconnect, **CSCAP Singapore** suggested the development of more effective arrangements for information sharing, data collection and sense-making.

CSCAP China assessed that at present, there is no need for a regional INCSEA-type agreement. This assessment was based on three reasons. First, jurisdiction and sovereignty issues are not major threats to good order at sea, as none of the parties concerned have the intention to use force to solve the disputes. The long existence of the maritime territorial disputes has also not hampered the freedom of navigation in terms of trade and commerce. Second, China has been active in regional cooperation to solve maritime threats. It has, for example, proposed that the territorial disputes be set aside and the parties involved seek joint development. It has also established various working groups with ASEAN to study non-traditional security issues in the South China Sea. Third, there already exist sufficient agreements and frameworks in the region, such as the MMCA and the DoC, to establish good order at sea. In this regard, **CSCAP China** proposed that the region adopt the spirit of the 1972 U.S.-USSR INCSEA agreement rather than its actual provisions. Separately, **CSCAP China** added that recent maritime tensions in the region were not due to Chinese assertiveness. Instead, China was being forced to respond to unilateral provocations made against them, as some countries had been using their warships and fighters to harass Chinese civilian aircraft patrolling in the disputed areas.

During the discussion, participants debated on the relevance of an INCSEA-type agreement for the region (also discussed in Memorandum No. 4), as there was a real risk of conflict arising from maritime incidents. The importance of having a conflict management framework that provides for professional-level interaction, regular dialogue and law enforcement of paramilitary ships was stressed. Some participants noted, however, that adopting the INCSEA agreement wholesale may not work for the region as it neither resolves non-traditional security threats nor maritime territorial disputes, and the original U.S.-USSR INCSEA agreement had been plagued by procedural challenges. As such, these participants felt that a regional framework should adopt the spirit of INCSEA, but not the actual procedures. Additionally, any regional framework should not just be restricted to the navies, but should

consider all maritime stakeholders. It was also suggested that principles for ensuring good order at sea be established to reduce the risk of miscalculation or accidents.

Session 3: Interagency Cooperation

CSCAP Australia presented on Australia's whole-of-government approach to good order at sea within its extensive maritime zones. Australia maintains maritime security in its waters through its Border Protection Command (BPC), a government maritime law enforcement agency. The primary agencies within the BPC are the Australian Defence Force and Australian Customs and Border Protection Service, which are the only two government agencies with an offshore enforcement capability. The BPC also works with partner agencies that make decisions on maritime matters, such as the Australian Fisheries Management Authority and the Australian Maritime Safety Authority. To deal with maritime security threats, Australia makes full use of its intelligence, awareness and response assets. Industry and international engagement help Australia build long-term relationships that deliver cooperation and information sharing arrangements. For example, it assists in the capacity building efforts of the Philippines and Vietnam. These relations provide preventative opportunities to manage maritime threats.

CSCAP Indonesia focused on the challenges facing the Indonesian Maritime Coordinating Agency (BAKORKAMLA). First, with 12 direct stakeholders plus five other agencies involved in the maritime environment, it is difficult for BAKORKAMLA to harmonise the standard operational procedures of the various agencies, utilise their resources under one command, and assign missions and objectives to each agency. Second, despite some measures to improve BAKORKAMLA's capacity, the agency remains under-funded, under-equipped, and under-staffed. It lacks the capability to oversee and manage its stakeholders. Third, overlapping institutional jurisdictions mean that the work of different maritime stakeholders often cover the same areas, leading to competition and institutional turf battles for legitimacy. This problem is compounded by the unresolved maritime boundaries among provinces and districts within Indonesia. Fourth, the lack of a clear mandate for BAKORKAMLA poses a challenge in ensuring that its stakeholder agencies would prioritise its mission and objectives over their own. To resolve these issues, CSCAP Indonesia suggested that the government should have a clear and firm policy giving BAKORKAMLA the final say in maritime security issues, and implement legal reforms to provide a stronger legal basis for BAKORKAMLA to carry out its tasks. At the bilateral and regional levels, Indonesia has promoted cooperation to deter maritime crimes. Within the various forums dealing with maritime security, there is a need to build trust among the countries.

Against the context of transnational maritime issues, **CSCAP U.S.** emphasised the need for information sharing in the maritime domain. Achieving Maritime Domain Awareness would require informational and operational coordination at all levels. There are currently several frameworks for inter-state cooperation on maritime issues, such as the Western Pacific Naval Symposium (WPNS) and the North Pacific Coast Guard Agencies Forum (NPCGF). Recent progress on regional maritime information sharing can also be seen from the first ASEAN

Maritime Security Information Sharing Exercise in 2012 and the ADMM-Plus maritime security field training exercise to be held in September 2013. However, challenges to maritime information sharing remain, including the division of responsibility, cost and interoperability. To manage these challenges, CSCAP U.S. proposed that information sharing should first be enhanced at the national level. Existing Asia Pacific maritime information sharing and coordination initiatives should also be strengthened and expanded. Specifically for the CSCAP Study Group on Maritime Security, it could facilitate coordination among existing regional maritime forums and in the longer-term, the ARF could coordinate Asia Pacific regional efforts with global maritime initiatives.

During the discussion, it was suggested that the NPCGF could be expanded to include coast guards from the Southeast Asian countries, in order to strengthen regional maritime cooperation. Several participants separately noted that coordinating the interests of the different maritime stakeholders, both at the national and regional levels, was a challenge. To manage this, it was suggested that interagency cooperation should first focus on deterrence, then response. This would help address the problem of redundancy and manage scarce resources. Regarding the East China Sea disputes, one participant proposed that the coast guards of Japan and China establish dialogue channels, such as at the Track II level, so that communication can continue even if the political relations turn sour.

Session 4: Emerging Issues for Good Order at Sea

CIL NUS highlighted the importance of submarine cables to the world's communications infrastructure. It was noted that fishing activities, natural hazards, as well as procedural delays posed challenges to the effective functioning of the submarine cable system. The lack of international regulation compounded the problem, as there was no legal obligation on the part of states to protect the cables. In this regard, there was a need for regional cooperation to maintain the safety and security of submarine cables. As proposed by CIL NUS, all states should designate a national focal point to receive communications from the cable industry when there are cable breaks which may pose a security threat. The international community should also adopt a convention to make the intentional destruction of cables an "international crime", and ensure that states act in accordance with this convention. Other suggested areas for regional cooperation include inter-state information sharing about suspicious cable breaks, as well as a coordinated response to immediately repair broken cables. CIL NUS additionally proposed an expert study group on the protection of submarine cables, as a first step for regional cooperation on this issue.

CSCAP India observed that the vulnerability of maritime choke points is increasing, along with the rise of sea-borne trade and build-ups in naval capabilities. Maritime security threats and challenges to choke points include piracy, maritime terrorism, natural and man-disasters, as well as political instability. In this regard, CSCAP India highlighted several ways to reduce the vulnerability of choke points, such as the utilisation of alternative routes, collective declaration by states to protect choke points, as well as the employment of cooperative mechanisms and engagements. Several recommendations were made by CSCAP India for

effective sea governance and inter-state cooperation. These recommendations include promoting greater user stakeholder responsibility, enhancing maritime capacity building, as well as implementing cooperative security measures such as coordinated exercises, combined patrols and information sharing. Ultimately, choke point security rests on the observance of international law and the willingness and capacity of the international community to cooperate and enforce the necessary measures.

Noting the growing importance of Asia Pacific SLOC security amid non-traditional security challenges, **CSCAP Singapore** questioned if more could be done to forge peaceful coexistence at sea. A threat assessment report produced by the UN Office on Drugs and Crime on transnational organised crime in the Asia Pacific was cited, in which the key policy recommendations included building technical capacity and expanding regional partnerships, promoting transnational cooperation, as well as strengthening regional institutions. CSCAP Singapore also suggested that the Asia Pacific could learn from regional cooperation frameworks in other parts of the world. The Sea Surveillance Co-operation Baltic Sea (SUCBAS), Arctic Council and Frontex are examples of how states can establish close networking links, share information, and leverage on each other's competitive advantage.

The discussion saw participants agreeing on the importance of protecting submarine cables, and proposing that CSCAP hold a meeting on this topic in the near future. Managing the enforcement of fishery regulations was also highlighted as an issue that is important for good order at sea. Regarding tensions in the East China Sea, it was noted that China and Japan are currently holding consultations to develop a maritime cooperation mechanism, which would include the establishment of hotlines and channels for regular consultation.

Session 5: Way Ahead

Three important issues arising from this Study Group were identified for future discussion.

First, participants agreed that the gap between the diplomatic stratosphere and the sea level must be bridged. Positive discussions at the diplomatic level may give the impression that progress is being made on maritime safety and security, but incidents may still spiral out of control at sea. In this regard, there is a need to propose specific crisis engagement measures that CSCAP could recommend to Track I. Some examples which could be implemented at the regional level to maintain good order at sea are the ReCAAP model of designating a Focal Point of contact in each country, the adoption of the WPNS Code for Unalerted Encounters at Sea (CUES), expanding the NPCGF to include Southeast Asian coast guards, enforcing fishery regulations, as well as forging a common understanding on the use of hotlines and principles for ensuring good order at sea. These recommendations would be put forth without prejudice or taking sides in sovereignty disputes (as noted in Memorandum No. 13), and are meant solely to ensure good order at sea by managing potential crises.

Second, participants agreed that CSCAP should attempt to look at what is not being discussed at present. The gaps identified include the protection of submarine cables and the

enforcement of fishery regulations. Both issues are expected to be on the agenda of future CSCAP meetings, and the recommendations emerging from the meetings would be useful for discussions at the ARF level. This would ensure that CSCAP remains relevant and adds value to the ARF process.

Third, participants suggested that future CSCAP Maritime Study Group meetings should be scheduled just prior to ARF Maritime Meetings (in the same location), to facilitate interaction and enable fuller impact on ARF of the CSCAP Study Group on Maritime Security.
