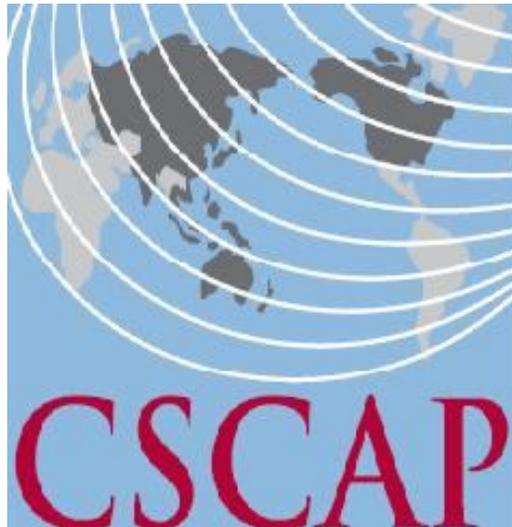


CSCAP MEMORANDUM NO. 27

Implementation of United Nations Security Council Resolution (UNSCR) 1540



**A Memorandum from the
Council for Security Cooperation in the Asia Pacific (CSCAP)**

April 2015

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Introduction

Countries of the Asia Pacific region possess a wide range of sensitive capabilities and face very different nonproliferation and terrorism challenges. Several countries possess nuclear capabilities that include advanced civilian and military capabilities or civil nuclear fuel cycle technology. In addition, there are several nuclear research reactors located throughout the region, dozens of nuclear energy reactors planned for construction by 2025, and a growing level of expertise in nuclear technology. Industries using biological and chemical materials and technology are also expanding in the Asia Pacific and a few states now possess advanced rocket technology. These dual-use technologies and materials have legitimate peaceful applications, but can also be used to develop illicit nuclear, biological, or chemical weapon programs or to conduct terrorist attacks.

While internal security and terrorist threats vary across the Asia Pacific, nonproliferation and terrorism challenges are of concern for the whole region because the use of nuclear, biological, or chemical weapons, materials, or technology by a terrorist anywhere in the Asia Pacific would have dramatic consequences well beyond the location where it is conducted. As the most dynamic region of the world, the Asia Pacific sits strategically at the intersection of sea lanes with a high volume of cargo traffic and, therefore, a high potential for illicit trafficking of sensitive materials and technologies.

United Nations Security Council Resolution (UNSCR) 1540 calls for all UN member states to develop and enforce appropriate legal and regulatory measures against the proliferation of nuclear, biological, and chemical weapons and their means of delivery, in particular, to prevent the spread of weapons of mass destruction to non-state actors. It recognizes non-state proliferation as a threat to peace under the terms of Chapter VII of the United Nations Charter and creates an obligation for states to prevent proliferation of these weapons and their means of delivery to non-state actors. In view of the adoption of UNSCR 1977 in 2011, which gave a 10-year extension to the mandate of the UNSCR1540 Committee to monitor efforts to develop and maintain such controls, the Council for Security Cooperation in the Asia Pacific (CSCAP) proposes a number of general principles and specific policy recommendations to facilitate the Resolution's implementation in the Asia Pacific region.

General Principles

The proliferation of nuclear, biological, and chemical weapons and their means of delivery is a threat to international peace and security.

The potential use of nuclear, biological, and chemical weapons, materials, equipment, and technology by non-state actors for acts of terrorism is a threat to international peace and security.

Preventing the proliferation of nuclear, biological, and chemical weapons and their means of delivery requires complementary measures beyond the obligations contained in the relevant multilateral treaties and conventions.

Access to dual-use goods and technology for peaceful purposes must be ensured when implementing the provisions of UNSCR 1540.

Transparency, cooperation, and coordination of efforts are needed to strengthen the response to the challenge posed by the proliferation-terrorism nexus.

Education, increased public awareness, and research are crucial to help create an environment conducive to prevent proliferation and counter terrorism.

Business sector support and government outreach are critical for effective control of sensitive dual-use technologies.

Recommendations

Recognizing that UNSCR 1540 outlines *what* UN member states are required to do, not *how* they should do so, and building upon the work of the CSCAP Study Group on Countering the Proliferation of Weapons of Mass Destruction in the Asia Pacific ("the WMD Study Group"), this memorandum recommends the following policy actions at the national and regional levels to better facilitate implementation of UNSCR 1540 in the Asia Pacific region.

National Initiatives

Given that each UN member state has a legal obligation to implement UNSCR 1540, all states are obliged to:

- Refrain from providing any form of support to non-state actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery. (Paragraph 1)

- Adopt and enforce effective laws that prohibit any non-state actor to manufacture, acquire, possess, develop, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery. (Paragraph 2)
- Take and enforce effective measures to establish domestic controls to prevent the proliferation of nuclear, chemical, or biological weapons and their means of delivery. (Paragraph 3)

UNSCR 1540 calls on UN member states to submit an initial report describing the steps that they have taken or intend to take toward implementation and to provide additional information following submission of the initial report.

One point of contact (POC) should be identified as a focal point for implementation and to help enhance interagency, regional, and international coordination, prioritization, and identification of assistance needs, requests, and offers.

To promote effective implementation of UNSCR 1540 all states should voluntarily prepare and submit to the 1540 Committee, a national implementation action plan (NAP) mapping out priorities and plans. Recognizing that implementation is a national decision, the scope, content, and form of NAP will vary and should fit national circumstances. NAPs, however, should explain efforts to address all the obligations contained in the operative paragraphs of UNSCR 1540.

NAPs should describe efforts to adopt and enforce laws that prohibit any non-state actor to manufacture, acquire, possess, develop, transport, transfer, or use nuclear, biological, or chemical weapons and their means of delivery.

NAPs should describe efforts to establish a regulatory framework to prevent such proliferation. In describing this framework, NAPs should detail efforts to:

Develop and maintain measures to account for and secure sensitive technologies and materials in production, use, storage, or transport

Develop and maintain physical protection measures

Develop and maintain border controls and law enforcement efforts

Develop procedures to stop and disrupt financial resources of non-state actors involved in the misuse of WMD for terrorism and take swift action against them and their financiers

Establish, develop, review, and maintain national export and transshipment controls

Collaborate with private industry in developing regulatory practices that help facilitate trade in a secure trading environment

NAPs should include a detailed description of assistance required to complete implementation of the obligations under UNSCR 1540 or assistance and expertise available to assist others in need.

Regional Initiatives

Regional organizations have an important role to play in facilitating implementation of UNSCR 1540 because they benefit from greater cultural and institutional knowledge of the regional states they represent and have a better understanding and appreciation of local priorities. Other incentives for states to cooperate at the regional level include burden sharing, the pooling of resources, and other associated efficiency gains. Regional cooperation on UNSCR 1540 implementation complements national initiatives as well as cooperation at the bilateral level.

As called upon by UNSCR 1977, and following the successful example of the Caribbean Community, an association of Caribbean states, Asia Pacific regional organizations should designate a POC to facilitate UNSCR 1540 implementation.

Regional role models or champions should be identified. These states would help market the benefit of effective UNSCR implementation and act as a force multiplier at the regional level.

Regional organizations, in particular economy-focused organizations should reach out to the private sector, raise awareness of companies of proliferation risks, and help them adopt internal practices that are in compliance with regional governments' strategic trade control laws and regulations.

Regional incentives for cooperation should be established.

The clearinghouse should collect region-specific information so regional states can benefit from each other's expertise, share best practices, and provide examples of "appropriate effective measures" to implement UNSCR 1540.

Regional organizations should consider making a request for financial and manpower assistance to implement UNSCR 1540 on behalf of the region they represent.

Taking into consideration unique social, political, economic, and security contextual factors pertaining to specific geographical sub-regions or regions, regional organizations should develop standards and criteria for domestic proliferation controls and assist national governments in developing NAPs.

A regional technical group, formed under the auspices of one of the existing regional organizations, should assist regional governments in developing NAPs and develop tangible shared regional objectives to facilitate the process of identifying and prioritizing the steps each state should take to better prevent proliferation while facilitating trade.

Regional organizations should establish a forum for regional coordination between regulatory and enforcement agencies. Licensing agencies would share information on companies that raised suspicion and enforcement agencies would share information on strategic trade control violations and suspicious transactions.

Regional organizations should help develop common standards for trade that will both help facilitate legitimate trade and discourage illicit trade.

ABOUT CSCAP

CSCAP is a non-governmental (second track) process for dialogue on security issues in the Asia Pacific. Membership in CSCAP is on an institutional basis and consists of Member Committees. Current membership comprises Australia, Brunei Darussalam, Cambodia, Canada, China, the EU, India, Indonesia, Japan, the Democratic People's Republic of Korea, the Republic of Korea, Malaysia, Mongolia, New Zealand, the Philippines, Russia, Singapore, Thailand, Vietnam and the USA.

The functions of CSCAP are as follows:

- a. to provide an informal mechanism by which political and security issues can be discussed by scholars, officials, and others in their private capacities;
- b. to encourage the participants of such individuals from countries and territories in the Asia Pacific on the basis of the principle of inclusiveness;
- c. to organise various working groups to address security issues and challenges facing the region;
- d. to provide policy recommendations to various intergovernmental bodies on political-security issues;
- e. to convene regional and international meetings and other cooperative activities for the purpose of discussing political-security issues;
- f. to establish linkages with institutions and organisations in other parts of the world to exchange information, insights and experiences in the area of regional political-security cooperation; and
- g. to produce and disseminate publications relevant to the other purposes of the organisation.

Study Groups are the primary mechanism for CSCAP activity. As of June 2014, there were three CSCAP Study Groups. These are concerned with: (i) Countering the Proliferation of Weapons of Mass Destruction in the Asia Pacific. (ii) Principles for Good Order at Sea; and (iii) Regional Security Architecture.

This memorandum was produced by the CSCAP Study Group on Countering the Proliferation of Weapons of Mass Destruction in the Asia Pacific and was approved by the out of session CSCAP Steering Committee Meeting via electronic consultation on 2 April 2015.

Further information on CSCAP can be obtained from the CSCAP website at www.cscap.org or by contacting the CSCAP Secretariat:

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CSCAP Memoranda

CSCAP Memoranda are the outcome of the work of Study Groups approved by the Steering Committee and submitted for consideration by the ASEAN Regional Forum and other bodies.

- Memorandum No.26 – Towards an Effective Regional Security Architecture for the Asia Pacific
Author: Study Group on Regional Security Architecture
Date published: June 2014
- Memorandum No.25 – Maritime CBMs, Trust and Managing Incidents at Sea
Author: Study Group on Principles for Good Order at Sea
Date published: June 2014
- Memorandum No.24 – Safety and Security of Vital Undersea Communications Infrastructure
Author: Experts Group on Vital Undersea Communications Infrastructure
Date published: May 2014
- Memorandum No.23 – Enhancing Water Security in the Asia Pacific
Author: Study Group on Water Resources Security
Date published: January 2014
- Memorandum No.22 – Non-Proliferation of Weapons of Mass Destruction
Author: Study Group on Countering the Proliferation of Weapons of Mass Destruction in the Asia Pacific
Date published: September 2012
- Memorandum No.21 – Implications of Naval Enhancement in the Asia Pacific
Author: Study Group on Naval Enhancement in the Asia Pacific
Date published: August 2012
- Memorandum No.20 – Ensuring A Safer Cyber Security Environment
Author: Study Group on Cyber Security
Date published: May 2012
- Memorandum No.19 – Reduction and Elimination of Nuclear Weapons
Author: Study Group on Countering the Proliferation of Weapons of Mass Destruction in the Asia Pacific
Date published: February 2012
- Memorandum No.18 – Implementing the Responsibility to Protect (RtoP)
Author: Study Group on the Responsibility to Protect (RtoP)
Date published: September 2011

- Memorandum No.17 – Promoting the Peaceful Use of Nuclear Energy
 Author: Study Group on Countering the Proliferation of Weapons of Mass Destruction in the Asia Pacific
 Date published: June 2011
- Memorandum No.16 – Safety and Security of Offshore Oil and Gas Installations
 Author: Study Group on Safety and Security of Offshore Oil and Gas Installations
 Date published: January 2011
- Memorandum No.15 – The Security Implications of Climate Change
 Author: Study Group on the Security Implications of Climate Change
 Date published: July 2010
- Memorandum No.14 – Guidelines for Managing Trade of Strategic Goods
 Author: Export Controls Experts Group (XCXG)
 Date published: March 2009
- Memorandum No.13 – Guidelines for Maritime Cooperation in Enclosed and Semi-Enclosed Seas and Similar Sea Areas of the Asia Pacific
 Author: Study Group on Facilitating Maritime Security Cooperation in the Asia Pacific
 Date published: June 2008
- Memorandum No.12 – Maritime Knowledge and Awareness: Basic Foundations of Maritime Security
 Author: Study Group on Facilitating Maritime Security Cooperation in the Asia Pacific
 Date published: December 2007
- Memorandum No.11 – Human Trafficking
 Author: Study Group on Human Trafficking
 Date published: June 2007
- Memorandum No.10 – Enhancing Efforts to Address Factors Driving International Terrorism
 Author: Study Group on Enhancing the Effectiveness of the Campaign Against International Terrorism with Specific Reference to the Asia Pacific Region
 Date published: December 2005
- Memorandum No.9 – Trafficking of Firearms in the Asia Pacific Region
 Author: Working Group on Transnational Crime
 Date published: May 2004

- Memorandum No.8 – The Weakest Link? Seaborne Trade and the Maritime Regime in the Asia Pacific
Author: Working Group on Maritime Cooperation
Date published: April 2004
- Memorandum No.7 – The Relationship Between Terrorism and Transnational Crime
Author: Working Group on Transnational Crime
Date published: July 2003
- Memorandum No.6 – The Practice of the Law of the Sea in the Asia Pacific
Author: Working Group on Maritime Cooperation
Date published: December 2002
- Memorandum No.5 – Cooperation for Law and Order at Sea
Author: Working Group on Maritime Cooperation
Date published: February 2001
- Memorandum No.4 – Guidelines for Regional Maritime Cooperation
Author: Working Group on Maritime Cooperation
Date published: December 1997
- Memorandum No.3 – The Concepts of Comprehensive Security and Cooperative Security
Author: Working Group on Comprehensive and Cooperative Security
Date published: December 1995
- Memorandum No.2 – Asia Pacific Confidence and Security Building Measures
Author: Working Group on Confidence and Security Building Measures
Date published: June 1995
- Memorandum No.1 – The Security of the Asia Pacific Region
Author: CSCAP
Date published: April 1994