

**THE 10<sup>TH</sup> CSCAP GENERAL CONFERENCE**  
**CONFIDENCE BUILDING IN THE ASIA-PACIFIC**  
**THE SECURITY ARCHITECTURE OF THE 21<sup>ST</sup> CENTURY**

**ULAANBAATAR, MONGOLIA**  
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**SESSION 5: Maritime Cooperation**

At the 9<sup>th</sup> CSCAP General Conference held in Beijing in December 2013, we discussed the need to strengthen maritime cooperation in the face of a growing array of challenges in the maritime domain that could undermine regional security.

Some important progress has been made since the last General Conference in building habits of cooperation. Notably CUES, the Code for Unplanned Encounters at Sea, has been agreed and drills are being held by some regional Navies to practise the procedures set out in the Code.

China and the United States have concluded a MOU on rules of behaviour for safe military encounters at sea and in the air. I understand that this very welcome development has given renewed impetus to the bilateral Military Maritime Consultative Agreement which provides a mechanism for regular consultations intended to foster understanding of each Party's operational practices, to facilitate communication and to strengthen engagement. Japan and China have just agreed to launch a crisis management mechanism to prevent unintended clashes in the East China Sea, and China and the ASEAN's have agreed to set up a hotline between their foreign ministries.

China and Vietnam have established a hotline between the two defence ministries, while a hotline between the Vietnamese and Philippines coastguards will share information on incidents at sea, enhance situational awareness and act as an early warning system. The ASEAN Defence Ministers plus forum has been active in promoting cooperation between the navies of member countries. The Expanded ASEAN Maritime Forum is addressing a range of maritime issues with a focus on cooperation and safety at sea as is the ARF Inter-sessional meeting on maritime security.

These are all welcome developments. But during the same timeframe the maritime security environment has become even more complicated and the need to make further progress is even more compelling.

Sovereignty disputes over maritime borders have prompted the rapid growth of naval and coastguard forces in the region. Of particular concern, however, is the proliferation of

submarines. Their operations in the often confined waters of South-east Asia heighten the risk of an accident or incident that could have serious consequences.

Moreover, the covert nature of submarine patrolling compared with the more transparent presence of surface vessels and maritime patrol aircraft can be potentially destabilising in disputed waters. Given this rapid militarisation of the region, CUES should be seen very much as a beginning rather than an end point in measures to mitigate the impact of incidents. CUES is a tactical measure. We need measures at both the operational and strategic levels as effective risk management tools.

And let's not forget that trend lines in respect of other issues are also heading in the wrong direction.

I am referring to:

The seaborne irregular movement of people organised by criminal enterprises. Not only are there appalling consequences for human rights but this worrying development has security implications should such acts facilitate the movement of terrorists.

The increasing incidence of illegal, irregular and unreported fishing which is seriously depleting fish stocks.

The problem of piracy and robbery at sea which had been declining but which has once again escalated significantly in South-east Asian waters, and

The risk of maritime terrorism targeting high value cargoes or vital under-sea communications cables,

All in their various forms create risks to regional security. They call for much more to be done to establish a more secure maritime commons for the benefit of all.

The CSCAP study group on maritime security which concluded its work last year put forward a number of proposals to this end, and a current CSCAP study group is addressing how to harmonise aeronautical and maritime search and rescue in order to overcome significant gaps in the early stages of SAR cooperation particularly where that pertains to information sharing.

Here are some thoughts on where we might go from here.

**Expand coverage of CUES to include Coastguard vessels.**

As noted much greater use is being made of Coastguard vessels in the region, particularly in contested areas of the maritime commons. Some regional countries have only recently developed this capability, while others have expanded their fleets. It is highly desirable that

the Code's provisions for good seamanship that contain procedures to avoid collisions and actions that could be misconstrued, be applied also to these vessels.

### **Improving maritime situational awareness.**

The establishment of the International Fusion Centre in Singapore in 2009 was an important step forward in promoting collective awareness of trans-boundary maritime security threats. The Centre was established as a regional maritime information hub, to enhance situational awareness, and act as an early warning system. ReCAAP also has a regional information sharing centre. What is needed now is to further institutionalise mechanisms for maritime security cooperation. There are useful European examples of an incremental approach which demonstrate how pragmatic multilateral arrangements can meet trans-boundary challenges.

### **Hotlines**

Hotlines can be a very important crisis management tool. More bilateral hotlines are needed between key decision-makers in Coastguard HQ's, Navy and Air Force HQ's, between Chiefs of Defence Force and between Ministers with security responsibilities. Ideally over time these could evolve into a web of multilateral hotlines. But a cautionary note. If hotlines are to be effective, the Parties need to know who their counterparts are, and hotlines are not at all effective if no one answers at the other end.

### **Coordinated or Joint Patrols.**

Some coordinated patrolling is already taking place in the region. India and Thailand conduct coordinated maritime border patrols as do India and Indonesia along the maritime boundaries of the Andaman and Nicobar islands. Singapore, Malaysia and Indonesia conduct coordinated sea and air patrols of the important Malacca Strait waterway. And China and Vietnam carry out joint patrols including exercises in the Gulf of Tonkin. An expansion of this practice, would help to build confidence.

### **Strategic Measures**

Recent developments highlight the importance of renewing efforts to develop a Code of Conduct for the South China Sea and to implement the Declaration of the Conduct of the Parties issued in 2002. Emphasis should be given to the building of trust and confidence through defence and military dialogues, the voluntary exchange of information, and advance notification of exercises, and cooperative activities in such areas as search and rescue, countering trans-national crime and practising safety of navigation and communication at sea. The seminar organised recently by the ADMM+ working group on maritime security which was held in New Zealand for future maritime leaders is an excellent example of a useful CBM.

Perhaps consideration could be given to a multilateral version of the China-US Military Maritime Consultative Agreement with an emphasis on crisis management provisions including de-escalation measures, and the avoidance of provocative activities.

Much has been said recently about the importance of freedom of navigation in respect of the South China Sea. I am sure everyone present would agree on the overriding importance of this principle. Freedom of navigation is the lifeblood of commerce. But I have seen nothing yet in the South China Sea to suggest that this is under threat. All Parties with a direct interest in the region would be adversely affected if it was.

I would argue that what we are seeing is the conflation of this principle with the military principle of the right of innocent passage. This is a principle to which the US attaches huge importance. There is talk that this right will shortly be exercised by the USN to deliver a message to China over the development of infrastructure and military facilities in the contested waters of the South China Sea.

Let me pose a question. UNCLOS defines innocent passage as “passage (that) is innocent so long as it is not prejudicial to the peace, good order, or security of the coastal state”. I acknowledge that sovereignty is in dispute, but would patrols into claimed territorial waters meet this test?

### **Protection of submarine cables**

The possibility of attempts by terrorists to disrupt submarine cables which still carry some 95 percent of international communications need to be considered. Any such disruption would pose both security and economic risks. The current legal regime is quite inadequate to deal with submarine cable security and there is no specialised international agency responsible for law and policy relating to such cables. There is plenty of scope for regional cooperation in developing regional protocols to facilitate prompt repairs and procedures for information sharing of cable breaks or suspicious activity.

### **Conclusion**

The ultimate challenge for the region is to build not only confidence but more importantly trust and that is the most difficult challenge of all. A zero sum approach is destined to fail.

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