

DRAFT
(3 December 2005)

**CSCAP STUDY GROUP ON CAPACITY BUILDING FOR
MARITIME SECURITY COOPERATION IN THE ASIA PACIFIC**

Study Group Objectives

The agreed objectives of the CSCAP Study Group on Capacity Building for Maritime Security Cooperation in the Asia Pacific are: to refine the notion of capacity in the context of maritime security cooperation in the Asia Pacific; to identify the requirements of cooperation at the national, sub-regional and regional levels; to identify weaknesses in the present arrangements, and to see how these can be overcome; to support links between CSCAP and relevant Track I organizations dealing with maritime security; and finally, to produce an edited monograph(s) and CSCAP memoranda for consideration by the CSCAP Steering Committee.

Third Study Group Meeting

The third meeting of the Study Group was held in Singapore on the 2nd and 3rd December, 2005. Earlier, its first meeting was held in Kunming, China on 7th and 8th December, 2004 and the second meeting in New Delhi, India, on 6th and 7th April 2005. There were 30 participants at the third meeting from CSCAP members: Australia, Canada, China, Europe, India, Japan, Malaysia, New Zealand, ROK, Singapore, Thailand, U.S. and Vietnam, and one participant from Chinese Taipei. The co-chairs from India and Australia attended but the co-chair from Indonesia was unable to.

Copies of the first published monograph of papers from the Study Group were distributed at the meeting. This is: Peter Cozens and Joanna Mossop (eds), *Capacity Building for Maritime Security Cooperation in the Asia-Pacific*, Wellington, Centre for Strategic Studies-New Zealand, 2005). It includes a selection of the papers presented at the first two meetings of the Study Group. They contain specific recognition, expressly stated in some papers but implied in others, of the good that can flow from cooperative approaches to maritime security. The Study Group expressed its appreciation to CSCAP New Zealand for the magnificent effort in producing this volume.

Session 1 - Contemporary Maritime Security Issues in the Asia-Pacific – Recent Developments

2005 has seen much positive progress with maritime security cooperation in the Asia-Pacific region. Developments include arrangements for cooperation on resource development in the South China Sea and between neighbouring countries in the region for ensuring law and order at sea, as well for preventing the proliferation of WMD. In many instances, this cooperation has been developed despite conflicting or overlapping claims to maritime jurisdiction, or other bilateral sensitivities that have previously

inhibited cooperation. As well as bringing the Study Group up-to-date on these developments, papers in this session helped the Group to identify common factors and interests that have assisted the development of maritime security cooperation.

The paper from CSCAP China reviewed major developments, both multilateral and bilateral, especially with the implementation of the Declaration on the Conduct of Parties in the South China Sea (SCS), the Workshops on Managing Potential Conflicts in the SCS, as well as some bilateral arrangements between China and related parties. CSCAP Vietnam's paper had a similarly positive note with information on Vietnam's accession to key regional conventions, new domestic legislation and cooperative arrangements between Vietnam's maritime security forces and those of neighbouring countries.

CSCAP Korea's paper on island disputes in NE Asia was less positive. It acknowledged the way in which these disputes have fuelled nationalistic settlement in China, Japan and South Korea, and that there had been little rational discussion of important issues, including resource management and conservation, and the protection and preservation of the marine environment. This rational discussion could only start at a Track Two level. Other participants then noted that in many ways a model for Track Two dialogue was provided by the SCS Workshops where initial discussion had been very negative and locked into assertions of sovereign, but now an atmosphere of constructive, functional cooperation prevailed.

Other recent developments addressed in the first session included a paper from USCSCAP on "Countering WMD Proliferation at Sea". This identified legitimate reasons for serious concerns over WMD trafficking at sea, reviewed developments with the Proliferation Security Initiative (PSI), particularly in the Asia-Pacific. It concluded that the importance of PSI can only grow, and that this was evident from the recent U.S. National Strategy for Maritime Security. As demonstrated by recent exercises, clearly the PSI is an important vehicle for regional maritime security cooperation, although the initiative is yet to be widely accepted in the region.

CSCAP Australia then briefed the meeting on the "Guidelines for Navigation and Overflight in the Exclusive Economic Zone" recently agreed at a meeting in Tokyo sponsored by the Ocean Policy Research Foundation of Japan. These Guidelines set out broad principles of common understanding regarding certain aspects of navigation and overflight in the EEZ, including military and intelligence gathering activities.

Session 2 – Recent Developments with Countering Violence at Sea, including Piracy and Maritime Terrorism

Measures to reduce the risks of violence at sea, including the incidence of acts of piracy and armed attacks against ships and the risks of maritime terrorist attack in the region, are a specific area of progress with maritime security cooperation during 2005. These measures include: first, the adoption of the 2005 Protocol to the 1988 *Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation* (SUA Convention); second, there have been two significant developments with respect to the

Straits of Malacca and Singapore that warrant discussion: (1) The Batam Joint Statement of the 4th Tripartite Ministerial Meeting of the Littoral States on the Straits of Malacca and Singapore; and (2) The IMO Jakarta Meeting on the Straits of Malacca and Singapore: Enhancing Safety, Security and Environmental Protection held on 7 and 8 September 2005; and third, progress has been made with implementation of the Regional Cooperation Agreement on Anti-Piracy in Asia (ReCAAP).

Two papers from CSCAP Singapore looked at the 2005 Protocol to the SUA Convention and ReCAAP respectively. The first pointed out that although the SUA Convention was primarily a ship safety convention, it was related very closely to the PSI mainly through its provisions relating to ship boarding. Negotiation of the Protocol at the International Maritime Organization (IMO) had been complicated, but the U.S. had largely been able to accommodate the concern of other parties. The second paper briefed the meeting on progress with implementing ReCAAP, particularly the establishment of the Information Sharing Centre (ISC) in Singapore. In subsequent discussion, some reservations were expressed about the effectiveness of ReCAAP, particularly the extent to which it had support in the region.

CSCAP Malaysia's paper looked specifically at recent developments with countering piracy and maritime terrorism in the Malacca Straits. It noted how traditional concerns about the safety of navigation have moved now towards maritime security. The attention with recent developments was now much more on addressing practical operational challenges rather than satisfying geo-political agendas.

Session 3 – Capacity Building for Situational Awareness

Situational awareness, or simply knowing what is happening in adjacent regional and national waters, is a key area for maritime security cooperation. This is an area where the region lacks capacity at present at both the national and regional levels. Considerations include: surveillance and identification systems for developing maritime situational awareness and for long range identification and tracking (LRIT) of vessels, including the use of automatic identification systems (AIS); new technologies to provide situational awareness in adjacent maritime areas; and procedures for information sharing and dissemination to provide maritime situational awareness at the regional level.

Rather than situational awareness in an operational context which is now being well covered elsewhere, papers in this session looked more at strategic and political considerations, including the general need for operational cooperation and information sharing, particularly against non-traditional threats. CSCAP India's paper noted the sensitivities that were still involved and that the Study Group should play a proactive role in persuading official machineries to overcome their inhibitions and set in place the desirable mechanisms. The paper by CSCAP Japan raised the issue of "maritime order" as an urgent regional issue of common concern and offered suggestions on how Japan might contribute through training, technology and equipment.

CSCAP Australia then briefed the meeting on progress with the Australian-funded projects for maritime security capacity building in the Philippines. These are being presented by a range of Australian agencies and are addressing the concepts of Prevention (including effective physical security of ports), Governance (including the development of effective legislation) and Response. “Working Together” was an important theme in these projects recognising the need for inter-agency coordination and cooperation between the public and private sectors.

Session 4 - Role of Maritime Security Forces in facilitating Maritime Security Cooperation

The role of maritime security forces in facilitating maritime security cooperation has been an issue at previous Study Group meetings. The views expressed by Study Group members have been spread across a wide spectrum, including with regard to the division of responsibility for maritime security between naval forces, police forces and coast guard agencies. At the Second Meeting of the Study Group, it was agreed that these issues would be addressed at the third meeting of the Study Group. There is scope for the Study Group to identify potential mechanisms for cooperation based on assessments of best practice – what was successful and what was not, where were the sensitivities, and what facilitated cooperation?

The two papers in this session looked specifically at the Western Pacific Naval Symposium (WPNS) and the progress it was making. CSCAP Singapore’s paper noted how the WPNS was responding to challenges of the new maritime security environment. Basic issues such as navigation and pollution control have now been replaced by more substantial exchanges on common interests in maritime interdiction, force protection measures, disaster relief, countering maritime terrorism and shipping security.

The paper by CSCAP Australia identified some constraints on naval cooperation, including through the medium of the WPNS. These included the dominance of the WPNS by a few navies, the availability of funding, interoperability, the unclassified nature of WPNS deliberations, and the need for navies to remain within the “policy boxes” established by their governments. The paper then made a number of recommendations on how the Study Group might influence the WPNS towards addressing issues that have hitherto been regarded as too insensitive or too difficult for the WPNS to address. These included links with other maritime security agencies, some SLOC issues and capacity building for the less well-equipped navies.

Session 4 - Maritime Awareness Sub-Group

The last two sessions of the Meeting were devoted first, to consideration of the work of the two Sub-Groups that have been working out of session on matters related to the objectives of the Study Group, and second, to the future programme for the Study Group.

CSCAP New Zealand led discussion in this session on the work of the Maritime Awareness group. It is clear that this concept has not been well articulated in the past.

Many participants have identified the lack of *maritime awareness* as a major problem in policy development, implementing legal frameworks and establishing appropriate institutional arrangements and operational coordination. It has been identified as a basic hurdle to effective maritime security cooperation. This concept of *maritime awareness* is not the same as the concept of “maritime domain awareness” or “situational awareness” introduced by the U.S. - meaning knowing what is going on at sea and identifying what shipping traffic is engaged on legal purposes – and what might be suspicious or illegal.

The concept of *maritime awareness* that concerns the Study Group is that of basic knowledge of the maritime environment, the maritime transportation system, relevant legal frameworks (including international conventions) and the various threats to maritime security, including natural hazards, as a prerequisite for policy development for maritime security and its implementation. To some extent, the lack of inter-agency coordination at both the national and regional levels is a manifestation of a lack of this maritime awareness. It also leads to some lack of trust, and trust after all is the essence of cooperation.

CSCAP New Zealand made several suggestions, including the possibility of pursuing some of the recommendations in the Tokyo Declaration on Securing the Oceans, the need to identify all the regional forums engaged in some aspect of maritime security, and the possibility of a regional Clearing House, or Secretariat, that has sufficient resources to monitor and assess the various maritime security activities that are being undertaken in the region. After considerable discussion, a consensus was reached that the relevant topic for the Study Group was along the lines of “The Importance of Institutional Awareness of the Maritime Environment for effective Maritime Security Cooperation”. The Co-chairs undertook to prepare a Report on this topic for the next Study Group meeting.

Session 5 - Legal Sub-Group

The Legal Sub-Group was established at the first meeting of the Study Group. It met for the first time in Singapore in February 2005 supported by funding made available by CSCAP Canada. The result of that meeting – an outline proposal for a comprehensive study on a range of legal issues relevant to the promotion of maritime security cooperation was tabled at the Study Group’s second meeting in New Delhi.

CSCAPs Canada, New Zealand and Singapore have continued working together on the Sub-Group to refine ideas on how CSCAP might usefully contribute to some resolving some of the current problems with for example, uneven adherence in the region with key international conventions and different levels of implementation, monitoring and enforcement by State parties. Outputs could include recommendations for capacity-building to facilitate implementation of maritime security laws and a CSCAP workshop or meeting at which the results might be prevented. A related issue was amending legal barriers to effective maritime enforcement, including in areas of disputed or overlapping maritime jurisdiction. Some useful precedents for this latter aspect were now available in the region.

CSCAP Canada advised the meeting that some additional funds had been obtained by CSCAP Canada to support the work of this Sub-Group. The Sub-Group will meet at least once between now and the final meeting of the Study Group in mid-2006. Coordinators will be discussing possible venues with potential host national committees. The Sub-Group will be making recommendations for further work that might be usefully undertaken in this area by CSCAP.

WAY AHEAD

Discussion on the way ahead focused on what would be the actual product of the Study Group, the agenda for its next meeting, and possible maritime security topics for ongoing study by CSCAP. The product from the Group will comprise: two edited monographs, one of which has already been published and a second that CSCAP New Zealand has agreed to edit and produce also; and at least two CSCAP memoranda and reports: one on the topic of Institutional Awareness, as discussed above, and another on the output from the Legal Sub-Group.

Under its charter from the CSCAP Steering Committee, the Group will only have one more full meeting prior to presenting its final report to the Steering Committee. It is likely that this final meeting will be held in Kuala Lumpur in late May 2006. The agenda will include a paper summarising considerations with Institutional Awareness; a progress report from the Legal Sub-Group; further papers on cooperation between maritime security forces, including some consideration of the contribution of private security companies (PSCs), and some final discussion of the notion of capacity-building and specific recommendations that the Study Group might make in its final report.

The Group also gave some consideration to further work in the area of maritime security that CSCAP might take on after the present Study Group completes its work. Maritime security remains high on the agenda with Track One forums and it remains an area where CSCAP can usefully contribute by consideration of issues, particularly of a strategic nature that may be too long-term, sensitive or difficult for Track One. In that regard, some participants thought it would be useful for CSCAP to have a programme of maritime security topics that might be addressed over a 10 year period.

Particular topics that might be taken on by new CSCAP Study Groups, assuming that current arrangements continue, include maritime security cooperation in disputed areas and cooperation between maritime security forces. With these topics and others, CSCAP offers the appropriate mix of legal, maritime, operational, policy and international relations experience to make recommendations on current and emerging issues. However, it was important that good links were maintained with relevant Track One forums. The current programme of ARF CBMs on capacity building for maritime security was an example of an activity where there might have been a better link. Some Study Group participants will be attending the forthcoming ARF meeting in Tokyo and will report back to the Study Group.