

## **Maritime Security in Southeast Asia**

Pacific Forum CSIS co-hosted four workshops with a counterpart research organization in the Philippines, Vietnam, Malaysia, and Indonesia. A total of 124 individuals from all the East Asia Summit (EAS) States (except Laos and Myanmar) attended at least one of the workshops. There was a core group of 14 individuals who attended at least three of the four meetings.

### **General Observations**

Throughout the discussions several themes that emerged are the fundamental importance of UNCLOS as the basis for a rule-based approach to maritime governance, the urgent need for more involvement in initiatives promoting cooperation in the area of environmental protection and fisheries management, the risk of over-emphasizing maritime domain awareness at the expense of broader maritime security issues, and the need for better seafarer education and training as shipping lanes become more crowded and vessels become more complex. Finally, while there is a recognized need for a regional code of conduct for dealing with good order at sea in the region, there is little consensus on how to proceed.

Within that broad framework, there was a clear appreciation among participants that UNCLOS Article 123, which calls for cooperation among states bordering enclosed and semi-enclosed seas, is an important consideration among the maritime states in Southeast Asia. However, the discussion on how to fully implement the intent of the call for cooperation especially in the areas of safety and ecosystem management remains frustrated by concerns with sovereignty and border security. This is an area that is deserving of much attention and would be perceived by all as contributing greatly to improved relations in the region.

It was also apparent from the discussions that Southeast Asian participants tended to categorize areas into three distinct sub-regions: the South China Sea, Malacca Strait, and the Sulu/Sulawesi Sea. The importance of the distinction is that each sub-region is focused on separate issues that lend themselves to different types of cooperative solutions. It is especially useful to separate out the South China Sea as it is the sub-region least amenable to cooperative approaches.

A third observation is that while Southeast Asian countries take great pride in their ability to cooperate, there has been little done to study best practices associated with dispute resolution in the region. All acknowledge that the ASEAN way reflects a desire for consensus building and avoiding difficult issues. But there is a lack of appreciation for the successes realized regarding dispute resolution in that context.

Fourth, the parameters of confidence building in maritime Southeast Asia have not been fully explored. While there has been a tendency to focus on soft measures such as dialogues and ship visits, there has been little effort in more robust efforts such as joint operations, establishing regional or even sub-regional task forces, or standardized reporting of military and civilian maritime law enforcement assets.

Finally, there remains a perception of some that the US purpose is to dominate the region. This is especially apparent in the context of maritime domain awareness, but also reflected in discussion regarding joint patrols and recent activity in the South China Sea.

## **“Maritime Domain Awareness”**

Partner: National Defense College of the Philippines

January 29-31, 2012

**Session 1: Maritime Domain Awareness (MDA): Concept and Fundamentals**

**Session 2: Achieving Comprehensive MDA: Essential Responses**

**Session 3: International Organizations in the Maritime Information Sector**

**Session 4: Multilateral Regional Information Sharing Initiatives**

**Session 5: Minilateral Initiatives to Improve Domain Awareness**

**Session 6: Maritime Surveillance in the Tri-Border Sea Area**

### **Key findings:**

The definition of Maritime Domain Awareness (MDA) as the “effective understanding of anything associated with the global Maritime Domain that could impact the security, safety, economy, or environment...” is generally accepted throughout Southeast Asia although there is some concern that the broad definition has made MDA difficult to operationalize.

In practice, the key characteristic of MDA is the creation of actionable intelligence that can be shared among neighboring states. A difficulty has been finding the appropriate balance between the need for shared information to promote safety of shipping and the need to protect sources in the interest of ensuring national security.

Effective MDA requires a combination of interagency cooperation within a country and information-sharing between countries. As one participant stated, “MDA requires that you think globally and act locally.” Each country perceives the requirement differently, but all recognize that MDA is ultimately a public good.

There are some who feel this broad definition makes it difficult to operationalize the concept. There is also a minority view that believes the US promotes this broad definition to enable surveillance of all aspects of the maritime domain in the region.

International organizations are cautiously optimistic about the future, since they tend to see the success of bureaucratic processes and are well-staffed. Their structure and staff tend to view this as an evolutionary process.

Given the generally accepted broad definition for MDA, a wide range of programs involving regional cooperation have been implemented to promote comprehensive regional MDA.

The specific application of MDA in Southeast Asia centers on two aspects: the security objective being sought (e.g. piracy, armed robbery, collision avoidance, territorial integrity, resource exploitation, fishery management, etc.) and the geographic area (e.g. international sea lane, coastal waters, contested waters, EEZs, etc.).

The use of vessel tracking systems on large commercial ships passing through international waterways such as the Malacca Strait and information-sharing among Malaysia, Indonesia, Singapore, and Thailand to promote antipiracy has been widely accepted as a primary component of MDA in Southeast Asia.

Because sovereignty remains a major concern, maritime Southeast Asian states prefer to coordinate sea and air patrols in major sea lanes rather than engage in joint operations. This concern also remains a significant barrier to requesting or tolerating any assistance from extra-territorial states.

Malaysian and Indonesian rationales for refusing to participate in the Regional Cooperation Agreement on Combatting Piracy and Armed Conflict against Ships in Asia (ReCAAP) information sharing center in Singapore are based on concerns of overlapping territorial claims and the distinction between armed robbery and piracy contained in UNCLOS Article 101; these will likely prevent them from ever joining the initiative.

Identification of small boats, especially in coastal areas, remains a significant problem due to the large number of vessels and the impracticality of putting electronic monitoring devices on them.

Coastal watch programs are most effective for monitoring activity of small boats in local communities. An important task for improving MDA is to develop mechanisms for linking this on-the-ground information to regional and global initiatives.

There is some agreement that there should be a better understanding of the priorities and principles of the individual states involved in promoting MDA. The argument is that without better clarification, there are suspicions that prevent effective MDA.

The inclusion of environmental information-sharing in MDA is controversial because it is seen as providing rationale for collection of hydrographic data in the enclosed waters in Southeast Asia.

There is a general recognition that the US is a primary provider of public goods in the region

Indonesia is mostly concerned with sovereignty issues vis-a-vis other powers, and is somewhat suspicious of data-sharing/intelligence activities.

Indonesia also views MDA through the prism of domestic terrorism/insecurity.

Indonesia is NOT a participant in PSI due to concern that PSI inherently limits freedom of navigation and right of innocent passage as provided in UNCLOS Articles 19, 27, 28, and 110.

Indonesia claims that although the US had made an initial offer to implement CSI in Indonesia, it never followed up. The perception is that it did not do so at the request of Singapore.

The Philippines is mostly concerned with internal stability and security, in addition to resources and capability-building. It views MDA through the prism of domestic terrorism/insecurity.

## **Workshop 2: “Maritime Safety and the Marine Environment”**

Partner: Diplomatic Academy of Vietnam

March 28-30, 2012

**Session 1: Legal Regimes and Maritime Environmental Protection and Safety**

**Session 2: Disaster Relief and Search and Rescue**

**Session 3: Maritime Safety**

**Session 4: Energy Extraction and Transportation**

**Session 5: Fisheries**

**Session 6: Marine Environmental Protection**

### **Key findings:**

Increased shipping activity in Southeast Asian waters has greatly increased the likelihood of environmental damage.

The increased emphasis on security considerations in the maritime domain since 9/11 has created a dilution of emphasis on managing ocean resources and created confusion among those concerned with ocean policy. For some this has created a false tension between security and safety. For others, it has resulted in the neglect of or hindered cooperation on safety and environmental protection initiatives.

Due to sensitivities over security issues, the Malacca Straits patrols are characterized as a safety initiative and conducted as coordinated rather than joint efforts.

The Action Plan for the Protection, Management, and Development of the Marine and Coastal Environment of the Northwest Pacific Region (NOWPAP) should be examined as possible template for cooperating in managing coastal ecosystems in Southeast Asia.

There is considerable concern over the lack of national-level oversight of the various agencies involved in managing ocean resources.

An important potential action in the South China Sea would be a scientific re-examination of existing shipping lanes, including marine geology and hydrographic surveys, which could potentially lead to wider latitude for ship movements and more efficient management of shipping activity, thereby enhancing safety of navigation.

The operational checklists designed by the US Coast Guard are generally recognized as the established standard for responding to maritime disasters and could be used as a model for developing more effective response to disasters by maritime forces in Southeast Asia. The US system is also seen as a model for information gathering and planning, including having written agreements and the authority to act.

There is a common perception that an “ASEAN Handbook” is needed for disaster response. To be successful, it will be necessary center regional response around a civilian agency rather than the military.

Port State Control programs have been a significant benefit in reducing past safety problems associated with unseaworthy ships flying flags of convenience. The standards created as part of the Tokyo MOU have been a major reason for the improvement.

One of the consequences of improved standards under Port State Control programs is that truly unseaworthy vessels remain in territorial waters, which creates a problem for national safety enforcement agencies in several Southeast Asian countries.

The rapid expansion of offshore oil and gas drilling, and the more recent introduction of deep-water operations, in Southeast Asia has created a new risk for significant environmental damage given the fragility of the marine ecosystems in the region. There is also a concern that many oil-spill response plans in the region are geared toward ship-based spills rather than well-based spills. This problem is exacerbated in regions of contested territorial claims.

There is an urgent need to change the way ship captains and crews are trained as ship navigation has become much more technologically sophisticated. There is some support for establishing region-wide crew training programs.

Vietnam has been particularly aggressive in seeking agreements with neighboring states as a means of gaining control over illegal fishing and better managing its fisheries.

There is an urgent concern in Southeast Asia over the lack of cooperation in managing fishing in disputed regions. China's aggressive behavior in recent years has exacerbated this problem.

The 1995 UN framework on fish stocks needs wider ratification in Southeast Asia and the need for common regional guidelines calls for ASEAN action. UNCLOS Article 43 and the ASEAN Treaty of Amity and Cooperation have been ineffective mechanisms for promoting cooperation in this area.

With multiple countries lacking significant capacity to enforce EEZs, the need for enhanced information-sharing regarding fisheries management and prevention of UUD.

There is an urgent need for better cooperation in the area of environmental protection. Without Canada as the principle funder, the South China Sea working group on the matter has largely collapsed. There is a significant lack of coherence among the countries in Southeast Asia in their approaches to environmental protection.

### **Workshop #3: “Maritime Governance and Law Enforcement”**

Partners: Malaysian International Affairs Forum / Malaysian Institute for Defence and Security  
June 13-14, 2012

**Session 1: Maritime Governance**

**Session 2: Law Enforcement Mechanisms**

**Session 3: Sub-regional Governance Issues**

**Session 4: Archipelagic States and Straits used for International Navigation**

**Session 5: Dispute Resolution Mechanisms**

**Session 6: Capacity-Building: Law Enforcement and the Maritime Domain**

#### **Key findings:**

Rather than creating new maritime governance regimes, the focus in Southeast Asia should be on implementing those that already exist.

The requirement in UNCLOS for mutual consent on disputed claims and the ability to opt out has meant that sovereignty claims in Southeast Asia remain unresolved.

There is a perceived need by most countries in the region to consolidate maritime security issues in a single coordinating body – Japan’s Ministry of Oceans was held up as a good example – to create a more integrated approach to dealing with ocean governance.

Civilian agencies and coast guards are better equipped for patrols and better suited for cooperation with their neighboring equivalents than navies and military forces.

There is significant concern and frustration in Vietnam and the Philippines regarding China’s ambiguity over its claims associated with its “9-dash line.”

There is a growing consensus in Southeast Asia that claimants to territory in the South China Sea should get ICJ rulings defining what features in the region actually constitute ‘islands’ and therefore have associated EEZ’s.

The current Declaration on a Code of Conduct (2002) has an unclear scope, overly generic provisions, a lack of mandatory confidence building measures (CBMs), and a lack of dispute resolution mechanism (DRM).

Capacity building is an important part of improving maritime governance in Southeast Asia, but there is a tendency to see capacity building in terms of equipment procurement, which in many cases has led to poor allocation of resources and reluctance to address organizational and procedural modifications that would improve the situation.

The current US-China Military Maritime Consultative Agreement (MMCA) is seen as insufficient given that it does not address non-military incidents. It might be replaced by a multilateral regime that includes both naval and coast guard vessels.

The North Pacific Coast Guard Forum framework could be applied to Southeast Asia.

There is some agreement within Southeast Asia that an “Incidents at Sea” section could be built into the Code of Conduct. There should be rules of engagement (ROE) on arresting fishing vessels in disputed waters. This should be done by coast guard rather than naval forces.

The US Coast Guard could play a useful role in capacity building in the region, either with its maritime manual or with its training, joint-exercise capacity.

## **Workshop #4 “Maritime Defense”**

Partner: The Habibie Center/Jakarta

August 28-30, 2012

### **Session 1: Naval Fleet Enhancement**

### **Session 2: Enhanced Defense of Coastal and Economic Zones**

### **Session 3: Defense of Enclosed and Semi-Enclosed Seas**

### **Session 4: Foreign Naval Activities in Archipelagic Waters and EEZs**

### **Session 5: Maritime Confidence-Building Measures (CBMs) through ASEAN**

### **Session 6: The role of US Exercises in Southeast Asia**

#### **Key findings:**

The general perception in Southeast Asia is that even though procurement of naval capabilities is increasing, it is not viewed as being caused by an arms race. Instead, most procurement is being done to modernize existing fleets and a reflection of an interest in keeping up with the neighbors.

The increased presence of submarines in Southeast Asia and the expressed interest in aircraft carriers by some countries does create concern about the intended missions of these vessels and about their intended operating areas.

There is a perception among some strategic thinkers in Indonesia that it may be necessary to expand its naval fleet to protect maritime resources.

Southeast Asian countries remain deeply committed to dialogue as a primary mechanism for resolving maritime disputes and building confidence with countries despite ongoing maritime border disputes.

Protection of EEZs will be a driver for the modernization of maritime forces in the region for the foreseeable future.

Several states in the region perceive a problem with the lack of interagency coordination in controlling maritime space, especially in outer reaches of the EEZs.

Incidents at Sea (INCSEA) Agreements similar to those established between the US and the Soviet Union during the Cold War were viewed with some skepticism. In Asia, the problem is that these agreements have not adequately addressed the issue of civilian maritime agency vessels. Also, the difference of interpretation between the US and several Asian countries regarding the rights of military vessels in EEZs will limit the effectiveness of an INCSEA, especially between the US and China.

There was concern expressed by some that the focus in the ARF on the role of the coast guards while the ADMM+ is focused navies will lead to the lack of coordination between the two groups in promoting effective CBMs in maritime Southeast Asia.



The disagreement over the rights and duties of coastal states regarding naval activities in EEZs is broader than the recent incidents between the US and China suggest. It is also a concern in the archipelagic states, especially Indonesia and its archipelagic sea lane issue.

The introduction of submarines in Southeast Asia is likely to increase the concern between the rights and responsibilities of coastal states regarding hydrographic and military surveys and surveillance.

The current US military exercise programs involving a broad range of activities beyond equipment-oriented interoperability is generally viewed as helpful and promotes confidence that the US is interested in building capacity in the region.

While the Regional Maritime Security Initiative is still viewed in a negative light, much of its substantive intent is being implemented in the region through US exercises and a better understanding of the value of joint operations.

There is a great deal of skepticism regarding the likelihood of realizing an effective Code of Conduct for the South China Sea. Specifically, participants believed that it would be difficult to retain any language in the document regarding binding dispute resolution.

China is seen as pushing hard for completing the implementation guidelines for the Declaration on Conduct in South China Sea before it engages in any discussion regarding a code of conduct.

With the growing tensions in the South China Sea, more robust confidence building measures would be more readily accepted by some in the region than before when they were more interested in “soft” measures such as ship visits and dialogue.

The Western Pacific Naval Symposium is viewed as making a positive contribution to building confidence among countries in Southeast Asia.