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ENHANCING A PEACEFUL AND COOPERATIVE MARITIME ENVIRONMENT IN THE REGION

Introduction

The search for confidence building measures to enhance a cooperative regional maritime environment is engaging several forums in the Asia/Pacific region. As a maritime nation reliant on a secure maritime commons for its continued prosperity, New Zealand has a strong interest in achieving outcomes that promote good order at sea. This paper considers some options for achieving those outcomes.

Code for Unalerted Encounters at Sea:

In 1999, the Western Pacific Naval Symposium (WPNS) promulgated a Code for Unalerted Encounters at Sea known as CUES. The aim of this Code is to "offer safety measures and facilitate communication when naval and public ships, submarines or aircraft make contact".

The emphasis in CUES on communication is important as standards of English comprehension in the region still vary considerably. (As in the air, English is the international language of the sea.) The Code includes provisions for "good seamanship", such as procedures to avoid collisions and actions that could be misconstrued. It is not an international agreement or treaty and is not therefore binding under international law. As the WPNS is yet formally to endorse CUES, observance of its procedures is voluntary. The WPNS decided in 2012 to work towards the formal adoption of a revised Code at the WPNS Symposium, which China will chair in 2014.

The further development of CUES as a regional instrument that could be formally adopted to codify safety measures at sea would be a significant and timely means of building cooperation in the maritime environment.

An encouraging recent development was the decision taken by the ASEAN Defence Ministers Plus Expert Working Group (EWG) on maritime security to employ some technical aspects of CUES relating to communications and interactions at sea in the EWG's fleet training exercise held in Australia in September.

A Pan-Regional Coast Guard Forum:

Should CUES be formally adopted by the WPNS, consideration should be given to extending it to Coast Guard operations. The North Pacific Coast Guard Forum has had some success in documenting best practices among Coast Guards in areas of maritime security, fisheries enforcement, illegal migration and drug trafficking. It has a web-based information exchange system, and has published a manual for combined operations. A number of bilateral and multilateral operations and exercises have been conducted focussing on key issues related to maritime security including safety at sea, environmental protection, drug interdiction, migrant interdiction and piracy.

South-east Asia does not have an equivalent forum and existing regional information sharing centres do not have a mandate to provide a platform to improve awareness and communication across the full spectrum of activities encompassed by the North Pacific Forum. Many Coast Guards have maritime security roles including in the contested waters of the South China Sea.

One solution would be to expand the North Pacific Forum to include the South East Asian region. This could provide a region-wide framework to build confidence through professional-level interaction and regular dialogue between those operating paramilitary ships. An expanded forum could consider the application of elements of CUES to Coast Guard operations.

A second option would be to widen the membership of the annual meeting of the Heads of Asian Coast Guard Agencies and to encourage a more proactive agenda that includes the range of cooperative activities being undertaken by the North Pacific Forum along with the adoption of CUES.

Hotlines:

Incident prevention and mitigation could also be boosted by the development of bilateral hotlines, including at the operational level between Navies and Coast Guards, with the aim of preventing a minor incident from escalating to something more serious.

There has been some welcome progress this year in the development of bilateral hotlines. China and Viet Nam have agreed to set up a hotline to resolve fishing incidents in disputed South China Sea waters, and Viet Nam and the Philippines have established a hotline between their respective Coast Guard Headquarters to share information on incidents at sea and on a range of trans-national crimes. More such hotlines are needed.

Improving Regional Maritime Domain Awareness:

The establishment of the International Fusion Centre (IFC) at Changi, Singapore in April 2009 was an important step forward in promoting collective awareness of trans-boundary maritime security threats. Its centre-piece is the Regional Maritime Information Exchange System known as ReMIX. This system is a Western Pacific Naval Symposium initiative to share security-related information. The Centre was established to serve as a regional maritime information hub, to enhance maritime situational awareness, and to act as an early warning system.

 Sixteen countries now contribute Liaison Officers to the Centre. Participation includes eight of the ASEAN nations Australia, New Zealand, the United States, and India. China also intends to deploy a Liaison Officer. The Centre has established operational linkages with 62 agencies in 32 countries.

The Regional Agreement on Combating Piracy and Armed Robbery against Ships in Asia, {ReCAAP} also has an Information Sharing Centre. It was formally recognised as an international organisation in 2007. Also headquartered in Singapore, ReCAAP promotes information sharing, and capacity building arrangements to enhance regional cooperation to combat maritime piracy and armed robbery. Information sharing takes place through a secure web-based Information Network System. ReCAAP is now working closely with the Changi Centre on piracy-related information and capacity-building efforts and is engaging with the local shipping industry. A

Standard Operating Procedure was recently signed on joint cooperation between the two Centres.

China, Korea and Japan are all members of ReCAAP as are eight of the ten ASEAN's. Australia acceded to the ReCAAP Agreement in August 2013 and the United States has announced its intention to do so. ReCAAP is viewed by the International Maritime Organisation as a model of inter-governmental cooperation against piracy that other regions could very usefully emulate. It is already reaching out to other regional organisations to provide support and advice on combating piracy.

The challenge now is to further institutionalise mechanisms for maritime security cooperation. There are a couple of European examples of an incremental approach towards this goal, which demonstrate how pragmatic multilateral arrangements can meet trans-boundary challenges while preserving national sovereignty.

Perhaps of greater relevance to this region, however, is an effective regional counter-piracy coordinating arrangement that could serve as a very useful model for growing RECAAP. In 2008, several countries taking part in counter-piracy operations in the Indian Ocean formed a voluntary mechanism called Shared Awareness and De-confliction {SHADE}. Its utility lies in coordinating and de-conflicting counter-piracy activities in order to maximise the benefits from this successful counter-piracy mission, but doing so without sacrificing national identity. Both China and the United States participate in SHADE as do many other countries represented at this Conference.

Consideration might be given to a counterpart mechanism for the maritime region covered by RECAAP. Ideally, it should not be limited to counter-piracy operations important as they are. RECAAP does not cover other forms of illegal activity at sea. A wider mandate that would include all trans-national maritime crimes and establish mechanisms for the security of the numerous offshore oil and gas installations, would fill this significant void.

Some coordinated patrolling is already taking place in the region. India and Thailand conduct coordinated border patrols, as do India and Indonesia along the maritime boundaries of the Andaman and Nicobar islands, while Malaysia, Singapore, Thailand and Indonesia conduct coordinated sea and air patrols of the key Malacca Strait waterway.

There is also the suggestion put forward during the ARF's Inter-sessional meeting on maritime security held in Seoul in April, to further develop a Chinese proposal (adopted by the ARF in 2001) to establish an ARF Regional Maritime Information Centre. China has established a web-site, which is managed by its National Marine Data and information Service. The aim is to share information and intelligence among ARF participants, but it has yet to realise its full potential.

Search and Rescue (SAR) Cooperation:

The 1979 International Convention on Maritime Search and Rescue established an international system for SAR operations which gives emphasis to a regional approach to search and rescue operations.

There have been discussions between ASEAN and China about SAR cooperation, some limited table-top exercises, and a workshop was held in June 2013 on strengthening cooperation on SAR in the South China Sea. The region is still, however, far from achieving a harmonised regional approach to SAR capability.

Recent developments in the South Pacific provide a useful pointer to achieving such an approach. At a June 2013 maritime SAR workshop, Pacific Island delegates committed to accelerate acceptance of a non-binding arrangement to promote cooperation in SAR matters among 24 Pacific Island countries and territories. The Secretariat of the Pacific Community is coordinating the development of the arrangement in collaboration with SAR authorities in Australia, New Zealand, the United States and France.

A non-binding regional arrangement that facilitated preparations for a major SAR emergency in the South China Sea would be a significant and very practical confidence-building measure. It would be a further means of developing the habit of maritime cooperation.

The Security of Submarine Cables:

Submarine cables are the backbone of the international telecommunications network. They are essential to the world's banking and financial systems, email systems, and defence communications. Yet little attention has been paid to ensuring their security. The possibility of deliberate disruption is real. Since 2007 there have been three separate incidents in South-east Asian

waters involving attacks on or interference with submarine cables. Submarine cable security is not addressed in the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation known as the SUA Convention, nor does any UN body or specialised agency have primary responsibility for their regulation.

The United Nations Convention on the Law of the Sea provides that State Parties shall adopt laws and regulations to make damaging a cable either wilfully or through culpable negligence, a criminal offence, but that provision is inadequate. Only a few States have since enacted legislation that would implement this provision and their legislation does not deal with acts by foreign terrorists outside the territorial sea.

International conventions make the intentional destruction of air and ship navigation facilities an international crime among contracting parties. Submarine cables are just as important to the international community as civil aviation and maritime navigation. There is an urgent need for a similar convention to protect such cables and for States to amend their criminal laws to criminalise the intentional breaking of a cable where that cable lands in their territory irrespective of where the actual criminal act takes place. It would also make good sense for Governments to share information about suspicious cable breaks.

Conclusion:

Tensions in the maritime commons have highlighted the growing risk of incidents at sea arising from miscalculation with potentially serious complications for regional security. Several regional forums are addressing maritime security issues. In that respect, it is a very crowded seascape, but more progress needs to be made to mitigate the risk especially given the rapid expansion of naval capabilities in the region. It is with this outcome in mind that I have submitted the proposals in this paper for building mutual confidence and cooperative behaviour, and strengthening crisis management capabilities.

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