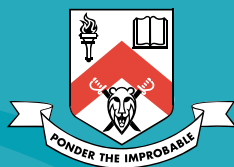


# **MARITIME SECURITY IN THE ASIA-PACIFIC**

**REPORT OF A CONFERENCE ORGANISED BY  
THE INSTITUTE OF DEFENCE AND STRATEGIC STUDIES  
(IDSS)**



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**20 - 21 May 2004  
Marina Mandarin Hotel, Singapore**





## OPENING ADDRESS



*Mr. Barry Desker giving his opening address*

**Barry Desker (IDSS)** observed that maritime security has been very much in the news. While piracy has always been a concern, maritime terrorism involving passenger liners and super tankers has been an increasing risk. The suicide bombings of the USS Cole in Aden and the Limburg near Yemen in 2000 and 2002 respectively were examples of this emergent menace. Security agencies and the international community need to develop mechanisms to prevent and respond to this threat. It is thus imperative for maritime countries to find ways to cooperate in countering such threats in the Asia-Pacific. The aim of the conference is to take a comprehensive look at maritime security by assessing the maritime environment, examining the maritime challenges, and then addressing the maritime opportunities available.

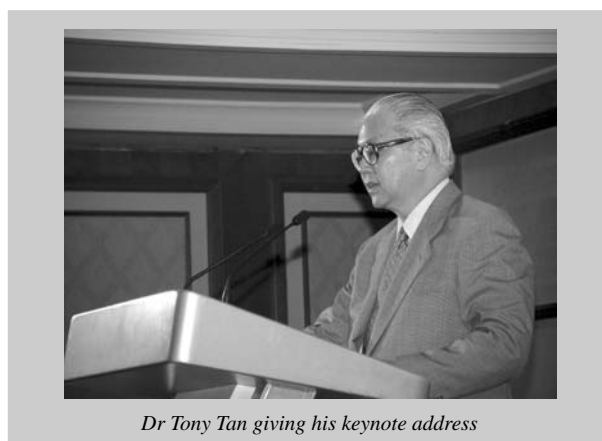
The maritime environment is becoming increasingly important to the growth of the Asia-Pacific economies. By 2015, the combined GDPs of China, India and Japan will likely surpass that of the US and the EU. Four trends indicate a shift in maritime power to Asia:

- the increasing trade flows into and within Asia, most of which are sea based;
- the continued rising energy demands of the region, which depend on sea routes for its transportation;
- the growing strength of merchant fleets across Asia with China, Japan, and South Korea possessing 78% of the global order book in terms of tonnage;

- the growth of regional navies, which were expected to double current expenditure on new naval ships by the end of the decade.

Given these trends, maritime security is therefore becoming increasingly important to the stability and economic growth of Asia. The two main maritime security challenges include ensuring that the sea-lanes remain open to the flow of goods and resources; and preventing inter-state maritime conflict that might arise out of resource or trade competition as the region and its navies grow in strength. In this respect, increased inter-state cooperation make the resolution of challenges more likely.

## KEYNOTE ADDRESS



*Dr Tony Tan giving his keynote address*

**Dr Tony Tan**, Deputy Prime Minister and Coordinating Minister for Security and Defence, drew attention to the nature of the ‘new’ terrorist threat. This ‘war’ against terror cannot be fought by any one country alone, but required concerted effort and cooperation between countries. One characteristic of terrorist organisations is their ability to regenerate, and to seek out new weak points and new targets to attack. After the hardening of land and air targets, it is only natural for terrorist to turn now to maritime targets.

What are some of the major challenges to maritime security? The greatest concern is the possible nexus between piracy and terrorism. With a large number of piracy attacks in the

region every year, it is a disturbing possibility that pirate attacks may be linked to terrorist organisations. The increasing sophistication of piracy incidents and the highly organised and coordinated nature of these incidents suggest that this may be actually happening. The rise in incidents involving the taking of hostages may also be signalling the start of serious preparations for a maritime terrorist attack. Dr Tan cited the example of the chemical tanker *Dewi Madrim* in March 2003, where pirates took over the ship and steered the vessel in the Straits of Malacca for over an hour. It is also possible for terrorists to exploit the maritime domain for the conduct of other illicit activities like the smuggling of terrorist operatives and WMD.

Maritime security is of vital interest to Singapore and the region. The SLOCs must remain safe and secure as most Asia-Pacific nations rely heavily on seaborne trade and commerce for their economic prosperity. Dr Tan stressed that nations cannot afford to wait for an incident to take place before acting, and robust measures must be implemented in order to deter both pirates and terrorists. It is in this context that Singapore seeks a proactive and multilateral approach to maritime security.

Several measures can be taken to enhance maritime security in the region, specifically the countries bordering the Malacca and Singapore Straits. Firstly, each regional country would have to tighten up the security of its port facilities, as required by the new International Ship and Port Facilities Security (ISPS) Code. Secondly, the littoral states responsible for the maritime security of the region, should take unified and concerted action to enhance the security of its strategic waterways. Thirdly, there is a need to involve key international players like the International Maritime Organisation, an organ of the UN, as well as users of the Malacca Straits, as all have a stake in the safety and security of the Straits of Malacca and Singapore. Multilateral cooperation and Track II activities such as this maritime security conference organised by IDSS all contribute to the discussion on maritime security. In conclusion,

Dr Tan pointed out that in a global economy built on integrated supply chains, any disruption to maritime commerce would be a shock to the international trading system, even if the countries were not direct users of the Straits. As such, all countries have a stake in ensuring the security of the waterways that were used for international navigation.

## INTERNATIONAL MARITIME ENVIRONMENT



*Dr Tony Tan speaking with participants at the conference*

## THE GLOBAL OUTLOOK

**James Boutilier, (Special Advisor (Policy), Canadian Maritime Forces Pacific Headquarters)** began his presentation by pointing out that the oceans of the world have gained greater and greater prominence in the post-Cold War era as globalisation has stimulated world trade, most of which moves by sea.

The first major theme outlined was the phenomenon of global growth and growth statistics. The biggest growth in demand has been in global energy flows, particularly to China, where crude oil imports are expected to treble within the next decade. The rise in trade flows has also significantly increased the demand for shipping, the most notable being the demand for bigger container ships and not just more container ships. Naval growth has also been significant in the Indo-Pacific region. In contrast to most major navies of the world, countries of

the Asia Pacific have been expanding their naval fleets by increasing the number of submarines and increasing the size of surface combatants.

The central feature of the outlook of the maritime theatres of operation is the shift of naval operations from the deep seas to the shore. A corollary of this transition has been the blurring of the distinction between the sea and the land, as naval power is projected farther inland than ever before and land-based weapons are being directed seaward. Operations in littoral waters pose their own unique challenges. Ships operating in shallow and crowded waters have to deal with issues regarding jurisdiction and constraints in navigation. Other factors that navies must address include the utilisation of purpose-built amphibious vessels and the balance between overseas deployments and 'homeland defence'. As external and internal security roles begin to merge, Boutilier posed the question of 'who should do what'. Increasingly, navies are moving towards constabulary operations, a task normally handled by coast guards or the marine police. The roles of the two security forces would have to be rationalised in the future.



*From left to right, Dr. Stein Tonnesson, Dr. James Boutilier, Mr. Michael Richardson, and Admiral (Ret'd) Premvir Das*

Boutilier then outlined the important aspects of two broad themes with respect to the global maritime environment: the development of information sharing mechanisms and the development of regulatory regimes.

- With regard to information sharing, network centric warfare is an important

development, especially the creation of the ability to interoperate between platforms of different types and from different nations. Maintaining interoperability with the USN will prove to be a big challenge due to ownership and secrecy concerns. The challenge of interoperability also exists in the civilian sector and the sharing of information across stovepipes has also proven difficult. An example is the correlation of information from diverse sources relating to the contents and security of container cargo.

- With respect to regulatory regimes, Boutilier highlighted the three current major initiatives that dealt with the enforcement of maritime security, namely the Container Security Initiative (CSI), the Proliferation Security Initiative (PSI) and the Regional Maritime Security Initiative (RMSI).

In conclusion, Mr Boutilier identified the paradoxical state of the current global maritime outlook: on the one hand, there is a booming rise in maritime trade and shipping which translates to maritime stability and prosperity, and yet on the other hand there is the countervailing trend of maritime terrorism.

In his comments, **Stein Tonnesson, (PRIO Norway)** noted the link between the rising importance of global maritime security and the transition of a country from the 'nation state' to the 'trading state'. Tonnesson presented four main reactions.

- The growth in global trade may only be the 'good side' of the message; there may be a flip side, as countries may feel more vulnerable as they become more trade-dependent and interconnected in the global trading system. In order to address such vulnerabilities, alternatives have to be examined, for example, alternative trade routes, transportation methods, energy sources and ports-of-call.

- Boutilier was correct in stating that navies of the developed nations are being reduced in numbers, but perhaps the effect of this is balanced by a parallel increase in IT and sophistication.
- The blurring of the distinction between sea and land power seems to be the opposite of globalisation, and this might be a ‘regression into history’.
- Tonnesson suggested that the perceived conflation between piracy and terrorism would interfere with the primary task of combating terrorism and so it was important to keep the distinction between the two. Piracy is not the major security concern, but the relative lack of public security concern is not acceptable either. However, this should not tempt governments to merge anti-piracy and anti-terrorism resources.

A participant asked if the blurring of sea and land boundaries is really occurring in East Asia, where regional navies are still focusing on the traditional roles rather looking at power projection from the sea or constabulary duties. Boutilier concurred and said that regional navies are in fact ‘probing further away from the shore’ and that his comments were based on observations and inferences from the developments of the US and NATO navies.

A second participant asked if the reduction in the number of deployed US ships in the region also indicates a declining capability. Boutilier noted that the decline in numbers has been offset by the increasing technological capabilities of modern naval platforms. However, he also noted that with an increasing operational tempo, the US would increasingly have to rely on its allies for personnel and equipment to fill the gaps.

A final comment from the floor suggested that the conflation of piracy and terrorism may actually be useful as it can make it easier to persuade regional countries to allow response measures.

## NORTHEAST ASIA

In his presentation, **Hideaki Kaneda, (The Okazaki Institute, Japan)** outlined the factors contributing to instability in the Asia-Pacific and the current efforts at building maritime coalitions.



*Mr Hideaki Kaneda delivering his presentation*

There are seven factors that contributed to instability in the Asia-Pacific.

- The first is the proliferation of WMD and ballistic missiles, and the failure of mechanisms to prevent proliferation has forced nations like the US and Japan to resort to developing ballistic missile defence systems as a defensive measure.
- The second factor is the growth of ‘indiscriminate terrorism’ by regional terrorist organisations that continue to thrive in spite of the on-going war against terror.
- The third factor is China’s rapid military build up, as evidenced by the increases in national defence budgets and the quick pace of its military modernization efforts.
- The fourth factor is the continued impasse on the Korean peninsula and the Taiwan Straits, both of which appear to defy resolution in the near term.
- The fifth factor is the continued existence of territorial disputes and ethnic conflicts in the region with long historical roots.
- The sixth factor is the confrontational posture adopted by regional states to

resolve conflicting ocean interests and how naval power is used to assert rights over the disputed areas.

- The seventh factor is the increasing incidences of organised piracy that continues to plague and endanger maritime traffic.

There are six different strategies and measures that may contribute to maritime security in the region.

- First, the increasing use of the term “maritime safety and security” may signal the convergence of regional views on maritime security.
- Second, given the current economic growth rates and reliance on maritime trade in the region, there is an urgent need to build a regional consensus over a ‘maritime coalition’ to provide maritime safety and security for the SLOCs.
- Third, two options for the development of a regional ‘security framework’ are to either expand on the ARF framework, or to establish a ‘binding security structure’ out of the web of existing bilateral and alliance relationships.
- Fourth, in order to proceed down either of the two tracks, regional nations must shelve the idea of ‘security only during emergencies’ and instead work to build common values, based on consensus to ensure ‘maritime safety in peacetime’.
- Fifth, it may be easier initially to develop maritime coalitions based on responses to emergencies that could then be expanded to other peacetime areas once confidence over cooperation increased.
- Finally, developing and sharing common values with respect to the management of the regional maritime domain would benefit both the individual nation and the region as a whole.

In his comments, **Lee Seo Hang (Institute of Foreign Affairs and National Security, South Korea)** began by noting the bleak outlook for



*Dr. Lee Seo Hang making a comment*

maritime security in North Asia. The sea is a domain beyond government control and where laws mean little, piracy is flourishing, and there is now a fear that WMD may pass through a port with little chance of discovery. Lee characterised the situation as ‘anarchy at sea’.

- The regional arms build-up is more than just mere upgrading and modernisation, but includes the addition of new capability with an emphasis on conventional capabilities. There is an increasing sophistication to the new acquisitions and there is also a new proliferation of submarines.
- Any focus on instability overlooks both the mixed nature of threats and the progress that had been made on some of the issues. In particular, Lee pointed to the Chinese involvement and facilitation of the Six Party Talks and the wide range of bilateral naval exercises that had been conducted as short-term successes.

How might this ‘maritime coalition’ in the SLOCs be formed? Kaneda believed that the most important first step was to establish consensus in peacetime to cope with non-military threats. This would be an easier task for states to resolve in practice and it would also produce less anxiety. More sensitive issues that contribute to inter-state conflict could be examined once confidence in the resolution of peacetime issues is developed.



## SOUTHEAST ASIA

**Rommel Banlaoi (National Defence College of the Philippines)** asserted that despite numerous discussions on maritime security, no clear definition of maritime security has emerged. Maritime security is a broad concept that includes a panoply of notions such as maritime safety, port security, freedom of navigation, SLOC security, security from piracy attacks and armed robbery. Southeast Asian nations have no accepted definition of maritime security and that ASEAN does not have its own official document to articulate the region's maritime security concerns. Regional security in Southeast Asia is predominantly maritime security.

Maritime security in Southeast Asia includes traditional security issues like territorial disputes in the South China Sea and the security impact of major power rivalries. Maritime security also incorporates non-traditional security issues such as environmental degradation, weapons proliferation, arms, drugs and human smuggling. Furthermore, Southeast Asia has the reputation of being the piracy hotspot of the world and accounts for almost 50% of all such attacks worldwide. Pirates range from opportunistic fishermen and common criminals to members of sophisticated Asian crime syndicates.

One perspective suggests that pervasive poverty, low levels of economic development and weak governance have made piracy an alternative means of livelihood in Southeast Asia, further exacerbated by long coastlines, lax port security measures, weak maritime security forces and limited regional anti-piracy cooperation. Piracy will continue to wreak havoc in Southeast Asian waters unless these causes are effectively addressed. Without these national and regional capacities to combat piracy, piracy problems will continue to escalate in the region, and with the advent of maritime terrorism, piracy could become more ruthless.



*From left to right, Dr. Andrew Tan and  
Dr. Rommel Banlaoi*

**Andrew Tan (IDSS)** began his comments by thanking Banlaoi for drawing attention to the problem of defining 'maritime security', which is an important barrier to regional cooperation. Multilateralism is needed to deal effectively with what is essentially a transnational security problem, instead of the cooperative bilateralism in the region.

Given that much of the security concerns and initiatives regarding maritime security are driven by perceptions, at least on the part of some countries, ASEAN nations need to explore the broader post 9-11 context of the war on global terrorism. Southeast Asia's huge dependency on sea-borne trade and the significance of trade in the Straits of Malacca means that any disruption there will have a wide-ranging political, economic and psychological impact. This is especially true since Al Qaeda and its regional affiliates have already demonstrated interest and capabilities in carrying out maritime terror attacks, manifested by the fact that in late 2001, the JI had planned to attack American naval vessels at Changi Naval Base.

While these factors and scenarios do not mean that an attack is imminent, the changed security environment and the clear vulnerabilities of maritime commerce confirm a need for enhanced security measures to detect and deter terrorist attacks, and to minimize the damage from actual attacks. A close examination of the

nexus between international crime and terrorism is thus required. Furthermore, joint patrols involving external powers will not take place in the region due to sovereignty issues. External powers with interests in the region will have to explore other ways to raise the national capacities of the littoral states through funding, equipment, training, the sharing of intelligence, provision of databases and the building of international and regional regulatory regimes. Finally, consequence management is imperative, that is how to mitigate the consequences of significant piracy acts that could turn out to be terrorist attacks.

One participant asked why a maritime 9-11 had not taken place in Southeast Asia despite the apparent threats highlighted in the presentation. He also enquired as to the cost for the Philippines to upgrade its forces to meet the maritime challenges. Banlaoi replied that even though no incident has occurred in the high seas in the region, Southeast Asia remains extremely vulnerable to a maritime terrorist incident, which will have catastrophic consequences for the economies of the region. Tan added that the region's vulnerability is evident from the fact that in 1995, the Hizbollah carried out reconnaissance in the Straits of Singapore. It had also planned to attack American naval vessels passing by. Fortunately, this plan was foiled. Tan also mentioned that in 2001, there were plans to destroy American naval vessels in the Changi naval base. Banlaoi said that national capacity building would be beyond the capability of the regional littoral states and that these countries relied on assistance from major external powers.

A second participant commented that the focus should shift from the sea to the land as most pirates lived and planned their operations on land. The high incidence of piracy attacks in Indonesian waters means that piracy is in reality a domestic Indonesian problem and that the international community should help Indonesia tackle this issue on the land. He mentioned that the war against piracy should be fought on land where poverty existed.

## SOUTH ASIA

**Lawrence W Prabhakar (Madras Christian College, Chennai, India)** began his analysis by highlighting the geostrategic salience of the Southern Asia Region, given that the Indian Ocean connects West Asia and East Africa on one end to Southeast Asia on the other. The maritime security environment of the Indian Ocean is further tempered by the interaction between the interests of nearby actors, including China, Afghanistan and the Central Asian states. Another key premise of Indian Ocean security dynamics is the interaction of the South Asian navies based upon broader historical and colonial heritages and regional rivalries. The final complicating factor is the extra-regional great power naval presence which itself is driven at least partly by the importance of West Asia to the global economic and energy requirements.



*Dr. Lawrence Prabhakar delivering his presentation*

Analysis of the regional maritime dynamic has to be based on the following parameters:

- The salient trends of the regional maritime dynamic evident in the evolving missions and roles of the regional and extra-regional navies;
- The nature of the alliances and coalitions in the region that would emerge from the inter-regional naval rivalries and the role of the extra-regional navies in this regard;
- The role and status of nuclear weapons in the region and its implications in a maritime context, as well as responses generated from the extra-regional navies

evident in new deployment doctrines and emergent technologies of sea-based missile defences;

- The accents of cooperative security in bilateral and multilateral aegis with emphasis on maritime CSBMs and risk reduction; bilateral and multilateral cooperation in the maritime economic dimension; proactive security measures in counter-proliferation involving the maritime based interdiction of the transfer of technologies including WMD.
- The PSI should constitute the framework of the analysis.

The structural balance of maritime power in the region is dominated by India with a modest countervailing balance of Pakistan. The asymmetry of naval capabilities is an inherent feature of the regional naval order, and is further complicated by the formidable capabilities of the extra-regional navies to intervene. The issues of SLOC security, EEZ protection and energy flows from the Persian Gulf-Middle East region that are all conditioned by the nature of access and the evident anti-access strategies. Finally, the prospects for a regional maritime balance in southern Asia are predicated on the twin forces of competitive and cooperative dynamics of maritime security.

In his comments, **Premvir Das (CSCAP India)** argued that there is no South Asia in the maritime dimension. While India has maritime boundaries with three South Asian countries, it also shares



*Admiral (Ret'd) Premvir Das making his remarks*

maritime boundaries with four ASEAN countries. The Andaman and Nicobar Islands were 800 miles away from India but were only 90 miles away from Indonesia and less than 30 miles from Myanmar. Consequently, India has focused its maritime concerns in this part of the region rather than the confines of the so-called South Asia. Furthermore, the US, China and Japan are all dependent on Middle Eastern oil for their energy needs and thus have valid security interests in the North Indian Ocean region and these are realities that India has to accept.

Piracy is not the same as maritime terrorism. Piracy is mere robbery, and it is unlikely to harm national interests. However, the moment a ship gets hijacked, the possibility of a terrorist act cannot be ignored. That it may not turn out to be so is not the issue; rather, it is that the hijacking has the potential to become a terrorist act. Related to this, India remains very concerned about WMD proliferation. Two years ago, a North Korean ship was intercepted and arrested carrying centrifuges to Pakistan. This highlights the need for an internationally accepted understanding of what is meant by WMD proliferation. India is also concerned about drug trafficking as it is clearly linked to arms smuggling, which is in turn linked to terrorism.

South Asia is more benign than it appears. While there are clear asymmetries between the capabilities of the respective South Asian states there is no rivalry. The only country with which India faces a problem in the region is Pakistan and India's approach to this is to maintain a credible and sustainable deterrent capability – this by itself is not rivalry. India's burgeoning trade relations with China preclude the possibility of a conflict and the only extra-regional player of any consequence in this region is the US.

A strategic alliance between India and the US has to be ruled out, simply because the two countries are poles apart on fundamental strategic issues, and the US is still unable to accept India as a nuclear power. Similarly, an India-Russia-

China alliance to the balance the US has to be ruled out, because it is in the vested interests of these countries to act individually in engaging the US. Finally, cooperative security was the only way forward as even the sole superpower needed the cooperation of other states to address non-conventional security challenges including that of terrorism.

One participant asked Das if it is feasible to declare a piracy incident involving the hijacking of a vessel as a terrorist incident, especially if this involved shooting down the vessel with a missile with complete disregard for the life of the people on the vessel. Das responded by saying that while this is a very serious question, some critical decisions have to be made in situations like this. It is analogous to the case in the air when a hijacked aircraft is being used as a missile to hit a land-based target.

A second participant asked that given that India is not a member of the NPT and that under the PSI it has to share intelligence on Pakistan and China with coalition members, would India then join the PSI? Prabhakar responded saying that it is imperative for India to have a Southern Asian version of it. Much of the clandestine proliferation centring on the A Q Khan incident has been sea-based and it is a major threat to India's security. However, India does not possess air interdiction capability in terms of countering proliferation through the air.

## **MARITIME DISPUTES AND FORCE MODERNISATION**

### **MARITIME BOUNDARIES AND TERRITORIAL DISPUTES**

**Peter Cozens (University of Wellington)** argued that boundaries are contentious, but they provide jurisdictional clarity and certainty. But a lack of agreed boundaries could hamper effective international cooperation, thus reducing maritime security. Cooperation is the critical ingredient of successful use of space. The



*Dr. Peter Cozens delivering his presentation*

sustainable and equitable use of resources by those states with several intersecting boundaries with others was important. Boundary delimitation in the South China Sea is complicated by China's historical-based claims and how the occupation of certain small islands could complicate the drawing of territorial, contiguous, EEZ and continental shelf limits. However, historic claims are tricky tools to use as a basis for international law.

On the state of relations between China and ASEAN over the issue of South China Sea, Cozens cited Martin Stuart Fox, "though ASEAN states may prefer to deal with China as a group, it is upon bilateral regimes that they will ultimately have to rely". Southeast Asian leaders are thus likely to give China what they believe the Chinese want- due deference, status as a great power, recognition of China's interest even while pursuing their own- in return for non-interference in their internal affairs.

China's new security concept (NSC) may reflect her growing confidence with regards to South China Sea. If the NSC is considered a harbinger of Chinese intentions, the Chinese believe that their strategy will achieve security and prosperity without the need to force their will on their neighbours. However, boundaries must be drawn to provide good order at sea and to provide for jurisdictional clarity and certainty. No matter how much ASEAN and China may agree to cooperate at various dialogues, the absence of specified boundaries reduces the effectiveness

of international cooperation. This will impair maritime security, lead to misunderstandings and compromise sustainable use of natural resources to the detriment of all in the region. It is imperative that various methods of defining and delimiting boundaries are applied to the benefit of all.

**Mark Valencia (East West Centre)** focused his comments on how the extension of maritime jurisdiction and resultant boundary dispute affect maritime security. He outlined subsets of issues such as “winners and losers”, changing military force structure, competing/conflicting claims and uncertain jurisdiction and geopolitics. With extension of jurisdiction, some countries will gain while others will gain far less. It creates inequities and adds stress to relations between states. As states strive to protect their sovereignty, sudden changes to maritime force structures can translate into a more dangerous maritime security environment.

Conflicting claims can impinge on perceptions of security and can be applied to both space and territory. There are developments that can mitigate this, such as China’s ratification of the 1995 convention to the Law of the Sea, where disputes will be resolved under legal precedence in accordance with international law. Similarly, there is also an increasing use of joint fishing or development zones where boundaries cannot be resolved or those that have been resolved, such as the Gulf of Tonkin between China and Vietnam. These are innovative and progressive developments, which lends optimism to the disputes that perhaps China will resolve these issues without the use of force.

On uncertain jurisdiction, it is in the interest of neighbouring states to resolve the issues amicably so that terrorism or piracy is not allowed to take root. Boundary disputes in the South China Sea cannot be discussed in a vacuum, but must be seen in the context of security and safety of SLOCs. As it had been noted, many states will have an interest in safe



*Dr. Mark Valencia making his comments*

and secure sea-lanes and although the nexus of interest does not directly involve these disputes, in the long term it could influence them and therefore these disputes need to be considered in this context.

One participant agreed that the lack of agreement over boundaries can hamper cooperation and affect maritime security. Maritime delimitation still has some way to go, but this is something that can be resolved peacefully through dialogue and consultation rather than the use of force. Some examples of cooperation include the 2000 China-Vietnam fishing agreement, as well as similar agreements pertaining to the Yellow Sea and East China Sea with Japan and South Korea respectively.

A second participant highlighted the importance of the Law of the Sea convention for island disputes and boundary delimitation. The Law of the Sea convention is silent with regards to the sovereignty issue. Instead, claimant states have to come to an agreement over the issue of sovereignty. Delimitation is still possible, although it is likely to take a very long for states to come to agreement; this means that enhancing security is requisite in the disputed waters.

## **MODERNISATION OF NAVAL FORCES IN THE ASIA PACIFIC**

**Derek da Cunha (ISEAS)** mentioned that the “peace dividend” in Europe brought about by the end of the Cold War has generally not been

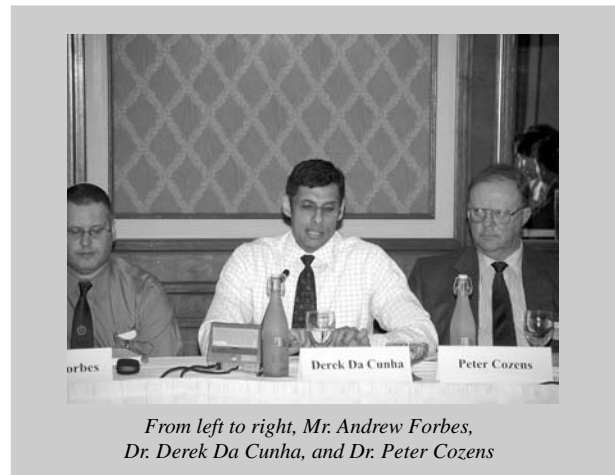
apparent in the Asia-Pacific region. In the Asia-Pacific, conventional security issues – ranging from the apparent standoff on the Korean peninsula, to the tensions across the Taiwan Strait, to overlapping jurisdictional claims to island territories across the region – still remain prominent. Over the past 15 years, a greater share of the national defence budget has been geared toward the building-up of naval capabilities throughout much of the Asia-Pacific region.

There are several reasons behind the process of robust modernization and build-up of naval forces in the region. They include the vast growth in global seaborne trade, the spectacular rise of China as a regional hegemon, perceptions of a reduced US regional presence, requirement of national jurisdiction over maritime domains covered by the UN Convention on the Law of the Sea and the increasing incidence of pirate attacks at sea. In the case of naval force modernization in three Northeast Asian states – China, Japan, and Taiwan – modernization has included the upgrading of equipment or the induction of new platforms (including naval aviation platforms), as well as the adoption of new operational concepts that allowed these navies to engage in a panoply of missions in peace time, crisis situations or in major conflict.

The acquisition of new warships, anti-ship missiles, communication and radar systems, as well as the adoption of new tactical concepts such as maritime-air operations, while impressive, had not been able to surmount the operational weaknesses of the PLA Navy. One outstanding weakness was the C<sup>3</sup>I systems that made integration of forces for large-scale operations difficult to achieve. However, the PLA Navy maintains a large submarine fleet, which has been the impetus for the ROC Navy to focus on building up its own ASW capabilities. The inclusion of P-3C Orion ASW aircraft in the announced US arms package to Taiwan is intended to meet that effort.

Finally, the growing Chinese naval power along

with a perceived decline in US naval power in the region has spurred Japan's Maritime SDF's modernization program, which included the induction of ships like the Kongo-class and the prospective "aviation-capable destroyers". Finally, the US Navy will continue to be dominant in the time being, even if its regional visibility diminishes.



*From left to right, Mr. Andrew Forbes, Dr. Derek Da Cunha, and Dr. Peter Cozens*

**Andrew Forbes (Royal Australian Navy)** argued that acquiring platforms does not necessarily equate with a capability, either immediately upon acquisition or in the medium term. The capability enablers are critical to capability delivery and are often not considered. There must be adequate logistics support, technical support including upgrades, configuration management and training just to maintain the platform. Funding for activity based operating costs, further training and doctrine are required to operate the platform and turn it into a capability. There must be the capacity to integrate that specific capability with other naval capabilities, before considering how it might operate jointly (that is with Army and Air Force capabilities) and then in coalition operations. All these factors must be considered before reaching any conclusions about the impact (or threat) of any naval acquisitions in the Asia-Pacific region.

When considering a country's naval capability, a wide diversity combined with small numbers of individual platforms is actually self-defeating, as each platform grouping has its own logistic

and training requirements, which increase overall operating and personnel costs. Mature or experienced navies are progressively moving towards larger numbers of the same platform (to get economies of scale), or to commonality of platforms (design or build) and of parts to drive down logistic support/training costs. This way limited naval funding can be better utilized to deliver greater combat capability.

One participant commented that force modernization is more than just buying platforms as it also includes training, operating, having the personnel and maintaining the systems. A second participant asked Forbes about the reflective conclusion in the RAN for the cost of outsourcing to the private sector. Has the RAN really managed to cut costs or did the RAN save money at the cost of dramatically reducing capacity? Forbes argued that when it came to saving money, one could either have efficiency or effectiveness, but not both. Australia's 1996 defence efficiency review cut the armed forces numbers by the thousands. After this review, Australia's subsequent deployment of troops in East Timor, the Solomon Islands and Iraq has led to a serious strain on the Australian armed forces.

A third participant pointed out that Da Cunha's paper primarily focused on Northeast Asian navies. Da Cunha mentioned that force modernization in Northeast Asia went beyond the simple upgrade of platforms and included force projection, precision strike and battle space knowledge including that of command and control. Some Southeast Asian navies are also involved in naval force modernization so what are the differences between Northeast Asian and Southeast Asian navies in this regard? The most obvious difference is that of scale. The modernization of Northeast Asian navies is taking place on a larger scale. In Southeast Asia, there is a sort of interactive process in the modernization of the armed forces of Singapore and Malaysia but budgetary constraints also hold back the other Southeast Asian nations from modernizing their armed forces.

## PIRACY AND MARITIME TERRORISM

### PIRACY AND ANTI-PIRACY MEASURES

**Hasjim Djalal (Special Advisor to the Minister for Maritime Affairs and Fisheries)** defined piracy as an illegal act "on the high seas or in any other place outside the jurisdiction of any state". While there is an obligation to cooperate internationally on eliminating piracy, there is no obligation to cooperate in fighting against armed robbery or sea robbery, which is regarded as within national sovereignty and jurisdiction.

Piracy on the high seas or armed robberies in Indonesian waters is a serious crime under Indonesian Criminal Law. Indonesia is a large maritime and archipelagic nation. The maritime security issues of Indonesia have recently increased owing to the following factors:

- The devolution of central power where disputes have arisen between regions/districts as to who has jurisdiction over maritime space;
- The problem of co-ordinating Indonesia's various agencies with law enforcement responsibilities and;
- Economic difficulties faced by Indonesia along with increasing crimes at sea.

The problem of piracy can be solved via bilateral or regional arrangements, especially bilateral co-operation with Singapore, Malaysia and the Philippines, either through co-ordinated or joint patrols. These arrangements have been generally



*From left to right, Dr. Hasjim Djalal, Mr. Rupert H. Burns, and Dr. Peter Chalk*

positive though much more can be done. Since 1971, the three littoral states have established modes of cooperation to deal with maritime issues arising from of the Malacca Straits. There are three levels of cooperation:

- At Ministerial level, which only took place once in September 1971.
- At the senior official level, which was active for several years until 1985.
- At the TTEG (Tripartite Technical Expert Group) level which co-ordinates on technical matters.

Existing ASEAN frameworks of cooperation are therefore sufficient to deal with contemporary issues.

Within ASEAN and the ARF, there have been initiatives mooted to tackle the issue of piracy and to enhance cooperation to deal with piracy. The Asean Security Community could possibly look into the issue of piracy. Cooperation is possible but there are sensitivities with regards to national sovereignty. As a result, regional countries should work out mechanism for cooperation and then permit interested countries outside the region to be part of this framework as “associates”.

In his comments, **Mak Joon Nam (ISEAS)** made three points:

- What does the Malacca Straits means to the littoral states and why is the issue of sovereignty important to Malaysia and Indonesia? For user states, the Malacca Straits is a single use entity. If the Malacca Straits was closed, there are alternatives like the Lombok Straits. But for Malaysia and Indonesia, it encompasses key issues such as security, economics and the environment, as well as pollution, security issues for the former as it has a porous maritime border. Singapore’s need for freedom of navigation is understandable.
- Second, the presence of external powers such as the US will only attract more

problems to the region. It is better to use the ASEAN Security Community mechanism to tackle the issue of piracy. This is because piracy and terrorism are fundamentally an ASEAN problem. Patrolling the Malacca Straits is only “managing” the problem. It is necessary to get to the root of the problem, to tackle the social and economic problems of Indonesia. In tackling piracy, good intelligence, social and economic solutions are critical to solving the problem.

- Third, there is a need to overhaul the transportation system. One current weakness is ‘flags of convenience’ where ships can be registered without any knowledge regarding their real owners. According to Mak, terrorists could make use of these loopholes to their advantage. The other weakness is the buying of shipmasters or seaman’s certificates. Thus, it is vital for transparency and to revamp the feeble transport system where dubious elements can enter the legal system.

One participant asked if the right Ministries represented at Ministerial level meetings, Djalal replied that ultimately the decision rests on the Ministers and for them to co-ordinate amongst themselves. Other Ministries can get involved subsequently. There are existing mechanisms in place. As to the query if there is contradiction between Article 43 and ASEAN Security Community Cooperation, while the Malacca Straits issue belonged to the three littoral states, ASEAN cooperation to tackle piracy is always welcomed. However, the two issues are not the same.

A second participant suggested that as Indonesia is not a great shipping nation, it did not have any real interest in tackling the piracy problem. Djalal’s response was that although Indonesia is not a great shipping nation, it does view problems of piracy and terrorism seriously. Under Indonesian laws, piracy and terrorism are both considered serious crimes.



A third participant commented that if talks of US presence are seen as provocative, are countries being too pro-status quo in hiding behind the arguments of sovereignty? Djalal replied that sovereignty issues could be worked around if coastal states can agree to cooperate. In response to a final query whether user states should help “re-activate” the co-operation of the 3 littoral states, Djalal said that it is better for the 3 littoral states to “re-activate” co-operation and then invite user states to participate in the co-operation.

## MARITIME TERRORISM

### Rupert Burns (Maritime Intelligence Group)

noted that terrorism has been a historical phenomenon conceptualised and executed largely in the ‘territorial’ parts of the world. However, in the 21<sup>st</sup> century, terrorism has become a ‘strategic’ weapon, while the maritime domain has now potentially become an ideal environment for the incubation, facilitation and prosecution of terrorist acts.



*Mr. Rupert Herbert-Burns giving his presentation*

A well-chosen terrorist attack in the maritime domain could initiate a chain reaction through the world’s trading economy with incalculable financial costs and systemic disruption. The enormous scope, variety and ‘room for manoeuvre’ offered by the physical realities of the maritime environment provide terrorists with many targets of opportunity. The ‘commercial milieu’ simultaneously affords terrorists the

ability to deploy, finance, supply, conceal and conduct operations.

Terrorist activity in the maritime domain emerged in the 1980s with various operations conducted by the IRA, extremist factions within the PLA, and the LTTE. By the mid-1990s, terrorism in this arena had begun to show signs of increasing frequency and sophistication. Some of the specific methods and tactics used include the following:

- Using a vessel as a high impact target of opportunity;
- Vessel use for logistical support;
- Attacks in the maritime domain for purposes of generation of critical finance; and
- Vessel’s leveraged as a ‘weapon-system’.

It is possible to extrapolate from the present what the future trends in terrorism in terms of intent, capability and opportunity will likely be. The declared strategic intent of international terrorist organizations is well documented and reported. Capability similarly can no longer be called into question. In the maritime realm, terrorists have both vast reach and flexibility in addition to the cover provided by commercial activities. Turning to an assessment of opportunity levels, the extent of acts of piracy reflects clearly the vulnerability of the many merchant vessels at sea, especially at several critical maritime ‘choke points’, including the Panama Canal, the Straits of Hormuz and the Straits of Malacca.

Several key measures that may be undertaken to mitigate the threat posed by maritime terrorism. While there is no ‘easy fix’ remedy for the dangers posed by terrorism in the maritime domain, three distinct and interlocking answers may be found:

- The future lay in the new generation of intensive maritime intelligence.
- There must be vigorous international and transnational cooperation between maritime trading governments, security forces and the appropriate public, as well as private bodies within the maritime industry.

- Finally, there must be some form of holistic risk management combining realistic passive and active strategies.

In his comments, **Peter Chalk (RAND)** made several observations.

- First, if the maritime world is so conducive to terrorism, then why have we not seen more attacks occurring? One possible answer is because land targets are easier to penetrate, whereas sea attacks are more difficult to carry out. There is not an automatic result and the required technical knowledge limits the operational latitude.
- Second, how typical is al Qaeda, and should we even be thinking of them at all? It is possible that al Qaeda now operates more as an idea than an organization. It may be necessary to look more at the operational capabilities and intent of affiliates that gravitate to this 'idea'.
- Third, the resources that can be reasonably allocated to defeating maritime terrorism are extremely limited.
- Fourth, global regulatory regimes are limited by their voluntary nature. The provisions as such go to the lowest common denominator so the effectiveness against terrorism may be limited to regions or 'like minded' states.
- Finally, several practical measures that should be introduced, such as indelible registration, insurance contingent on full compliance and wider use of GPS for monitoring and tracking.

In conclusion, the maritime strike capability of the LTTE may be indicative of maritime terrorism in the future. The 'Sea Tigers' have an offensive maritime capability as well as a logistical support operation. They use the cover provided by the maritime industry and have a core group with strong, indigenously developed maritime skills. They strike using 'wolf pack' like tactics and have notably perfected the means of puncturing a hull prior to detonation of a

device. They have also demonstrated considerable innovation, even developing a submersible craft. There are concerns that the LTTE may transfer these maritime skills to al Qaeda in the long term.

One participant commented that the Flags of Convenience issue may be over 'dramatised' with regard to maritime terrorism and no real links exist. Any vessel or craft may be used to prosecute an attack regardless of craft of origin or even registration at all. Similarly weak arguments had been made in relation to illegal fishing.

A second participant asked whether JI or other groups in South East Asia had demonstrated any capability or intent in the Maritime realm. Peter Chalk's answer was negative, although he noted the clear maritime traditions of regional groups.



*From left to right, Mr. Rupert Burns, Dr. Peter Chalk, and Mr Barry Desker*

Burns highlighted the fact that whilst no operations have been detected, the maritime realm is still important in the region as talent or logistics tend to be 'imported' via the sea. A final comment from the floor queried whether NATO or US forces had any real knowledge or identification on al Qaeda vessels and if any hard figures were available. Burns stated that this was not possible as vessel identification continues to be a problem.

## PORT AND CARGO SECURITY

### PORT AND CARGO SECURITY MEASURES

**Gary Quirke (P & O Nedlloyd)** said that containerisation was developed for the purpose of providing a more efficient, less expensive way to move goods, and its success is reflected in the continuing growth of the amount of international trade moved via this method. He added that this has facilitated door-to-door supply chains with great efficiency. The challenge for the industry is to continue to maintain the efficiency of the container system while implementing new security measures designed to ensure that containers are not used to move contraband and other undesirable goods that would undermine state security.



*Mr. Gary Quirke giving his presentation*

International cargo transportation presents distinct and complex challenges from a security perspective. These challenges include a number of different entities in different localities involved in a shipment; the lack of a clearly defined and coordinated information system to receive, analyse, and act on the data determined by the authorities to be necessary to pre-screen containerised shipments before they are loaded on a ship; and a lack of an established global capability to inspect containers before they are loaded on ships. The introduction of the Container Security Initiative (CSI) by the US government (and a similar approach by the Canadian government) are only first steps in

addressing some of these issues.

Ports have generally performed very well and that cooperation with the shipping lines to minimize security breaches have been excellent. In order to design and implement an effective maritime security program, cooperation, information sharing, and coordination between government and industry is required. Cargo and port interests have been very supportive of the increased security measures established through formal government initiatives and those informally within the supply chain. From a commercial perspective, the greater the level of cooperation among governments, the more cohesive the implementation of regulations are.

**Lui Tuck Yew (Maritime and Port Authority, IMO)** began his discussion by reiterating the need for better inter-governmental harmonization and improved relations between government and industry. This not only enhances security but also facilitates the movement of goods. The IMO's efforts are centred on the ISPS, which was mandatory for all governments, all ports serving ocean-going ships and all ocean-going ships over 500 gross tons.

Under the ISPS, the ships are required to carry an Automatic Identification System (AIS). An AIS would give a ship's identity to a similarly equipped ship and port. Embedded within the AIS is the ability to trigger a covert alert informing port authorities of any incident occurring on the ship. All ships will also be required to carry a Continuous Synopsis Record (CSR), ie, a record of the vessel's ownership. The goal here is to keep track of the ownership and the number of times the vessel has changed hands.

Ports are required by the ISPS to have physical barriers like fences to prevent unintended access to their facilities. In spite of this, the ISPS has a number of shortfalls. The interface between very large vessels and small vessels is particularly worrisome. Small craft that provide services, spares etc. to larger vessels do not need to comply

with the ISPS code. This is a serious gap that has to be addressed. In this respect, the MPA has developed a smaller version of the AIS for these smaller vessels.

The focus today remains very much on container security. However, supply-chain security deserves as much attention. “Content security”, that is what is inside these containers, is becoming increasingly important. There is an urgent need for the major ports to work together to identify anomalies in shipping patterns. Finally, in the long run the international community has to shift its focus from port and container security to the security of international waterways.

One participant asked how long it would be for the technology for smart and secure containers to become available and if it will be affordable enough to be for widespread use. Quirke mentioned that this technology is available today. The question is whether this technology should be implement on the seal of the container or he ship or both.

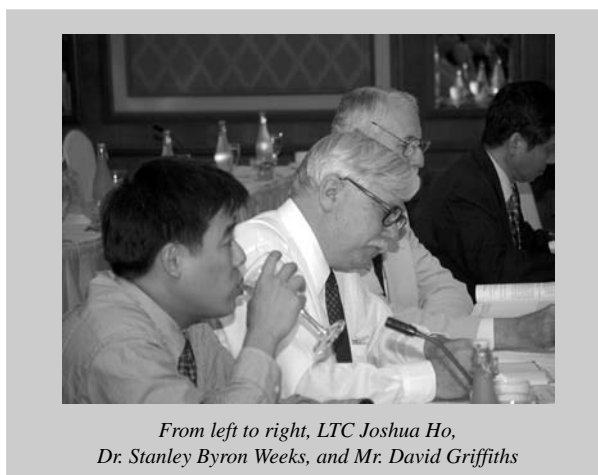
A second participant inquired about security measures at second-tier ports. Terrorist are unlikely to want to smuggle in dirty bombs at high security ports, but more likely at the smaller second-tier ports. Lui noted that even if second-tier ports were able to upgrade themselves over the next one to two years, the trust factor would still be lacking. It is doubtful that this problem will be resolved quickly. Accreditation of shippers or manufacturers may very well be

needed. In the extreme case, repacking of the article might be needed at the trans-shipment ports. The last step is a very drastic measure indeed and hence is not being offered as a recommendation straight away.

A third participant stated that there is a serious gap in the ISPS code as it does not include military vessels and fishing vessels. He asked if anything is being done to address this gap. Lui noted that there are several gaps in the ISPS code, but the international community has its hands full already complying with the stipulations of the ISPS. The international community would definitely consider these issues in the future.

A final comment agreed that the CSI must move on to cover the security of contents rather than just ensuring secure containers.

The participant cited a personal anecdote regarding shipping his personal effects from the US to his home country in 2003. The shipper had allowed him to personally load his boxes onto the pallet and to fill in the manifest form on his own. No inspections were made to verify the contents. There are grounds for scepticism about the accuracy of cargo manifests in general and whether they truly reflected the contents of the container itself. Lui replied that content security is an ongoing concern and as far as Singapore is concerned, the MPA is working with local shippers to see if there are ways to regulate the industry and provide certification for secure shipping.



## PROLIFERATION SECURITY INITIATIVE (PSI)

### LEGAL IMPLICATIONS OF PSI

**Robert Beckman (National University of Singapore)** spoke on the “legal implications of PSI”. The PSI is a US initiative to establish a coalition of willing partners to respond to the challenge posed by the proliferation of WMD. There are 11 original participating countries and 5 new participating countries. The purpose of the PSI is to develop a set of principles that would identify practical steps to interdict shipments of WMD flowing to or from state or non-state actors. The interdiction principles must be consistent with the obligations of international law governing jurisdiction over ships as set out in the 1982 UNCLOS. Furthermore, these principles must be acknowledge that ships on the high seas are subject to the exclusive jurisdiction of the flag state. Flag states can board and search vessels flying their flag, whereas Port states have the right to board and search vessels suspected of carrying WMD materials within their ports and internal waters.



For interdiction in territorial seas, the right of a coastal state to board and search foreign vessels suspected of carrying WMD in their territorial waters is “problematic” because ships of all states have a right of innocent passage. In international straits, interdiction is problematic because foreign ships have a right of transit passage, and such rights cannot be impeded. For interdiction

on the high seas or in the EEZ, ships are subject to the exclusive jurisdiction of the flag state, save for exceptional circumstances provided for in the 1982 UNCLOS or in other international treaties.

On 28 April 2004, the UN Security Council passed Resolution 1540 declaring that the proliferation of WMD is a ‘threat to international peace and security’ and is binding on all members of the UN. In short, Resolution 1540 requires all UN members to establish domestic controls including legislation measures to prevent the proliferation of WMD. Resolution 1540 also calls upon all States to take cooperative action to prevent illicit trafficking in WMD that is consistent with international law. The PSI and ship boarding agreements are examples of such co-operative action, so long as they are consistent with international law.

The proposed new Protocol would update the 1988 Suppression of Unlawful Acts at Sea (SUA) Convention in light of the threat of maritime terrorism after September 11. The proposed Protocol contains enforcement measures which are not present in the 1988 SUA Convention, where it permits the boarding and search of vessels beyond the limits of the territorial sea if such vessels are reasonably suspect to be involved in offences under the Convention, provided the flag state has consented and are consistent with the 1982 UNCLOS. It does not authorize unilateral boarding.

The US has also entered into ship-boarding agreements with Liberia on 11 February and Panama on 12 May 2004. Panama and Liberia have the world’s two largest ship registries and the agreements were inspired by the Statement of Interdiction Principles for the PSI, and are consistent with Resolution 1540. The bilateral ship boarding agreement allows the US to board and search vessels suspected of carrying WMD. It is expected that more of such bilateral agreements will follow.

If the present trend continues, it is likely that all states under international law will have to

cooperate to suppress the transshipment of WMD materials. So long as the actions taken are consistent with the 1982 UNCLOS, they pose no threat to the international legal order governing the oceans or to the sovereignty of states in Southeast Asia.

In his comments, **Martin Tsamenyi (Center for Maritime Policy, University Of Wollongong)** raised three points. Regarding the scope of PSI, few people have looked at the principles in detail as the debate has been mostly focused on interdiction. Interdiction is just a minor part of the principles of the PSI and may not happen at all. Other principles include intelligence collecting and sharing and the requirements for parties to co-operation. Focusing narrowly on interdiction may do injustice to all the principles of PSI.

It is possible to see the PSI as a manifestation of the current US tendency towards unilateralism. However, this tendency is no different from the last 500 years in international law. Key principles such as the Law of the Sea have arisen from unilateral action, but subsequently gained international acceptance.

Some have argued that the PSI may be contrary to freedom of navigation, since attempts to board or interdict a vessel without the consent of the flag state would be an infringement of the Law of the Sea. But it is also possible to see the PSI as consistent with freedom of navigation, since the PSI seeks to make international navigation safe. However the critics of PSI do not necessarily look at the issue this way.

Resolution 1540 is a treaty obligation, which thus takes the PSI beyond unilateralism, beyond the coalition of the willing to the international community instead. Essentially, the first part of the resolution states that WMD is a threat to international peace and security; member states are thereby to refrain from the proliferation of WMD and to adopt effective enforcement measures to counter WMD proliferation. Although it does not authorise interdiction, it can

be argued that enforcement action necessitates interdiction.



*From left to right, Dr. Shigetatsu Kondo, Dr. Robert Beckman, and Dr. Martin Tsamenyi*

One participant commented that Resolution 1540 generated many debates over words like “interdiction”. In some cases, there were no agreements over the terms used. In response, Tsamenyi acknowledged that there were disputes over wordings, but sometimes it is not the correct legal agreement that matters. Rather, it is having legal justification that allows one to argue one’s case and to make it legitimate.

A second participant commented the PSI is an interdiction exercise targeted at North Korea and Iran, which are states of concern over proliferation. South Korea is involved in peace talks with the North Korea. Though the South Korean government is supportive of the PSI, it has yet to come to a decision. This is because there are two schools of thought in South Korea. One argues that PSI will be helpful and will add pressure on North Korea on the nuclear issue. The other school of thought argues that South Korean participation in PSI may provoke North Korea and cause the deterioration of ongoing peace talks. Furthermore, what happens if the interdiction finds no suspicious materials. Beckman replied that it is likely that compensation would have to be made for the cause in delay. A more likely scenario is for the US to wait until the suspected vessel is in port of an ally, then to board and search the ship. Tsamenyi argued that interdiction is legally

supportable only if existing intelligence proves almost beyond any doubt the presence of WMD materials on a particular vessel. A final participant noted that the onus of proving beyond reasonable doubt of the intent of the vessel lies with intelligence related to source or supplier. The source or supplier of those materials needs to prove that the intended recipient is using the materials for peaceful means and not for dubious means.

## POLITICAL IMPLICATIONS OF PSI

**Seema Gahlaut (Center for International Trade and Security, University of Georgia)** began with the rationale for the PSI. Despite the universal commitment to disarmament, some countries have reneged on the promise not to acquire or transfer WMD. The international environment therefore needed a new and creative way to dealing with this problem. In addition, Libya and Iran were found to have more advanced nuclear activities than expected. There have also been revelations about a transnational supply network centred in a nuclear-capable state, for example the AQ Khan network in Pakistan. Intelligence about linkages between nuclear, nuclear-capable and states with nuclear ambitions has also been patchy at best. Finally, new locations in the proliferation chain have emerged, such as Malaysia and the exploitation of transshipment points through Singapore.

Will the PSI survive beyond the current phase of hyperactivity in the Bush administration, despite its many legal and political shortcomings? Three factors will determine its survival and legitimacy.

- There is a very conscious strategy of PSI to overcome the more obvious criticism.
- The fast paced institutional development of PSI makes it much more than unilateral initiative.
- There is a generally a supportive international environment.

Looking at the evolution of MECA (Multilateral Export Control Arrangements) – which includes the Nuclear Suppliers’ Group, the Missile



*From left to right, Dr. Seema Gahlaut, Dr. Anupam Srivastava, and Dr. James Boutilier*

Technology Control Regime, the Australia Group and the Wassenaar Arrangement – the PSI’s chances for survival are very good. The PSI is similar to the MECA. Both have got support from a small group of members based on common concerns. Both have also faced criticism from a larger number of opponents based on common themes, namely that they were cartels acting in their own self interest, their actions going beyond established international law and that they are a threat to established international legal order.

However, there are five critical differences between PSI and MECA:

- MECA were secretive about aims and methods, while PSI Statement of Principles were shared after its inception.
- MECA were hesitant in drawing linkages with treaty regimes, unlike the PSI, which was focus on drawing explicit linkages with treaty regimes.
- MECA focus on justifying action based on national regulations, whereas the PSI centred on search for appropriate authority in existing international legal conventions.
- MECA did not actively seek members or partners whereas PSI is seeking all types of supporters by active outreach.
- MECA have only recently begun to focus on co-operation with relevant enforcement agencies in member states, while PSI has from its inception identified such co-operation.

The international community had in the past emphasized the sovereignty principle when opposing “unilateral” action by a few members. The PSI has changed the mainstream opinion towards accepting the “international duty to intervene”. Previously, the opposition claimed that anti-proliferation efforts stymied developing countries’ efforts to develop technologically and economically. They now claim that the PSI impinges on their right to free trade.

The reason for this change of opinion has been the increasing focus on fringe non-state actors such as terror groups. In the past, members and non-members of anti-proliferation efforts had defined their allies and enemies ideologically. Now, the enemies are amorphous and often include non-state actors. There is also a growing realisation that the enemy is not necessarily “out there” but may comprise domestic and transnational networks that co-operate based on mixed motivations. Monitoring and end use-verification is difficult when technologies go to non-state actors. Thus, the PSI offers an avenue for conditional co-operation. Previously, the focus of the international community was on promoting positive side of technology-development by states entities. Now, the major concern is regarding the possible misuses of technology by unauthorised entities.

The critics of the PSI are likely to limit discussions to shortcomings as per the established legal texts. The only legitimate objections that countries are likely to raise are in the realm of application in particular instances, such as interdiction in high seas. The prevailing political context offers few means to the opponents of the PSI. States that fail to act against targeted activities have two equally unpalatable options, they either admit to complicity or admit to incompetence. This is why it is likely that the PSI will survive and thrive when other anti-proliferation activities have been less successful.

In his comments, **Anupam Srivastava (Center for International Trade and Security, University of Georgia)** focused on the issue of

legitimacy. MECA has tried to anchor itself to the NPT or some form of treaty. In contrast, the PSI has since its inception linked itself to maritime convention such as UNCLOS and UN SCR 1540. The critics of MECA have charged that it is an arbitrary regime or a “back up” when treaties fail to act or are too slow to act. Another problem with MECA are different interpretations with membership enlargements. Moreover, the PSI has legitimacy because it is acting consistently with international law. Secondly, it is a time/process/theatre bound activity based on intelligence provided by the signatories leading to successful prosecution of proliferators.

Since MECA was invented as a delaying mechanism for anti-proliferation, it is a first line of defence in anti-proliferation efforts. The PSI complements it by acting as the second line of defence. Under the PSI, the US and its coalition partners have measures to enhance the technical means of participating states. The only potential problem to this reliance on technical means is if these means become abrasive or intrusive. As such, the rules of engagement needs to be properly defined.

One participant noted that Indonesia is not against the PSI but it is not ready for it. Indonesia has difficulty in identifying materials used for WMD. The “either you are with us or against us” approach may result in such states as Indonesia being regarded as an extension of terrorist groups. Moreover, it is hard to agree to something of which they have limited knowledge. Perhaps there can be a regional agreement rather than individual countries acceding to the PSI? Although the PSI is tied to an international treaty like UNCLOS, the US has yet to ratify UNCLOS. A participant noted that the US Senate has held up the ratification of UNCLOS, but the US has followed the UNCLOS provision closely and sometimes more closely than those states which have become signatories of UNCLOS.

A third participant raised a concern regarding the PSI. The PSI was conceived out of a fear



that WMD may get into terrorists hands. The SUA convention was initiated out of fears regarding maritime terrorism. What is troubling is that in some institutions, treaty mechanisms do not facilitate the goal of non-proliferation. Beckman also noted that the problem with the PSI is not unilateralism but rather the perception that the US is creating institutions such as the PSI through a coalition of the willing, and outside the established multilateral institutions.

## MARITIME COOPERATION AND "REGIME" BUILDING

### NEW INITIATIVES FOR MARITIME CO-OPERATION

**Stanley Weeks (Science Applications International Corporation)** addressed four key areas:

- The changing requirements for Maritime Cooperation in the Asia Pacific.
- The progress made in Asia-Pacific Maritime Confidence Building.
- The new challenges arising from new threats posed, such as Maritime Terrorism.
- Maritime Operational Cooperation in the Asia Pacific.



*Dr. Stanley Byron Weeks giving his presentation*

The first post-Cold War decade focused on regional confidence and security building initiatives with significant progress. There is a need in this new decade to shift the focus to more extensive maritime co-operation to counter

growing threats to maritime security. This requires added emphasis on operational cooperation, where the focus is more co-ordinated, more multilateral and with greater interoperability.

Maritime confidence-building in the Asia-Pacific has scored some success in declaratory measures, both the bilateral (like Philippines-PRC) and multilateral (between PRC and ASEAN on the South China Sea Code of Conduct). In addition, progress on maritime risk reduction measure type of "constraint measures" such as agreement on Incidents at Sea and the US-PRC Military Maritime Consultative Agreement has been made. The greatest progress has been in transparency measures such as information exchanges, port visits, defence dialogues, military-to-military contacts and exchanges. Naval dialogue and exchanges have provided a good basis for advancement to maritime operational cooperation.

Owing to the nature of the potential maritime terrorist threat however, there is a need to move on to Operational Cooperation. The realisation of these threats would likely result in severe economic downturns for the whole of East Asia as the SLOCs are critical to regional and global economic growth. In addressing the maritime terrorism threat, there have been global initiatives such as the IMO, ISPS and the SUA convention. There is also the national level initiative such as the Maritime Port Security Code in the US. However, there is a need to enhance regional maritime operational cooperation as the problems transcend national boundaries.

In addition to national and global initiatives, regional cooperation is essential against maritime threats. The Asia-Pacific is in a good position to move to the next stage of operationalising maritime cooperation, as it can build on the years of effort spent on confidence building and transparency. Asia-Pacific maritime operational cooperation could include SLOC patrols, enhanced multinational training and exercise and

cooperation in capacity building. Furthermore, multilateral fora such as CSCAP, ARF, WPNS could be used to develop the details of Asia Pacific maritime cooperation.

Thomas Fargo first mooted the idea of an RMSI early this year. The idea is still in its planning phase and what form and part each country wants to play in it is yet to be determined. RMSI came about because there is a need to increase awareness of the maritime operating environment similar to that in the airspace environment, especially important given the fears of maritime terrorism. The goal of the RMSI is to allow for partnership with other countries if they see the need for cooperation in whatever form, essentially to have the capacity to monitor or deal with maritime threats in the Asia-Pacific.

The key to RMSI is information sharing, which can be hard to operationalize. Therefore, trust and better co-ordination between countries is needed. The RMSI might take decades to come to fruition, especially with regards to 'open' information sharing. When that happens, better maritime situation awareness will become a reality for countries in the Asia-Pacific region. Fargo's Congressional testimony, in which he mooted the RMSI idea, was also misrepresented in the media. The RMSI is not a new treaty or alliance, nor is it a standing force. No country should sign up for it if they were not comfortable with it or do not want to be a party to it. In addition, it is not a unilateral action plan for the US presence in the Asia-Pacific. Some draft principles should be ready by summer, probably with the 'best practices' taken from CSCAP, ARF and WPNS put together.

In his comments, **David Griffiths (Dalhousie University, Halifax)** made the following points. It is likely a mistake to look at CBMs by measuring outcomes, when CBMs are more about the process involved than the outcome. In moving from CBMs to operationalising maritime cooperation, extant CBMs will have to remain as concurrent processes.

There is a need to re-examine the definition of security, as security is as much about confidence as it is about enforcement as well. Security is often seen as an end state, but what is required is to be able to live with confidence in a secure environment.

Finally, the war against terrorism cannot be won through force alone. Terrorism is not a clash of civilisation but rather a war between those who are tolerant of other views versus those who hold extremist beliefs. In discussing maritime cooperation, there is a need to work together in a world that would enable us to live with greater confidence.

One participant asked what Weeks thought about the prospects of hot pursuit arrangements in the region. Weeks replied that prospects are slim, because of national sensitivities and sovereignty. A second participant asked what the end state of the RMSI would look like. Weeks replied that the regional nations would gain situational awareness of their territorial waters, develop the capabilities and skills to secure their own territorial waters and eliminate safe havens within which terrorists can operate.

A third participant asked how the RMSI can be implemented using the best practices of WPNS, ARF and CSCAP. Weeks noted that one way is to start in a non-controversial area, such as looking at co-operation in search and rescue, over issues that absolutely needs co-operation and are humanitarian in nature. Weeks also agreed that the process is more important than the results when it comes to CBMs.

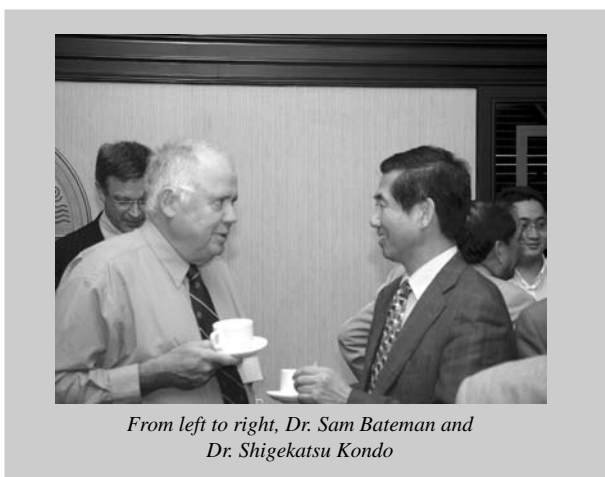
## **MARITIME "REGIME" BUILDING**

**Sam Bateman (CSCAP Australia and UOW)** began by noting that some 14 years ago, Michael Leifer wrote a seminal paper on the importance of maritime regime building in East Asia; now we are still far away from Leifer's ideal of a stable maritime regime. Thomas Fargo's RMSI proposal is simply another in a line of many attempts at building a maritime security regime

in the region. Previous attempts include the 1990 proposal by the Institute of Strategic and International Studies (ISIS) for a Regional Maritime Surveillance and Safety Regime (RMSSAR) for Southeast Asian waters.

These current and past experiences with maritime regime building are instructive with regards to possibilities in the future. “Top down” approaches are seen by some regional countries as heavy-handed, that is being imposed by major powers rather than evolving through a process of dialogue and taking into account the interests and sensitivities of all. On the other hand, “bottom up” approaches or “Track II” activities lack the authority of “Track I” fora. Nevertheless, they are useful building blocks that may pave the way towards an effective and agreed maritime security regime.

International regimes play a prominent part in the management of the oceans and maritime interests. Regimes provide benefits and reduce costs in a way that no single state party acting on its own could achieve. Regimes may be imposed and in East Asia there is special sensitivity, particularly among Southeast Asian states to anything that is construed to be heavy-handed western approaches. Conversely, regimes may also give more power to smaller states through the medium of collective action.



*From left to right, Dr. Sam Bateman and Dr. Shigekatsu Kondo*

A stable maritime regime requires the following measures:

- The objectives of the RMSI and the PSI need to be distinguished. They are primarily about threats of interest to the US and its allies and the general requirement for stability, law and order at sea. The interests of most regional countries lie more with the latter than the former. It would be helpful if the initiative could address a wider range of threats including marine environment protection.
- New maritime regimes should be discussed in both “first track” and “second track” forums to ensure acceptability.
- Developed countries need to assist the less developed countries of the region with building their capacity to deal with maritime security threats. This means not sending troops to patrol the high threat areas, but through assistance with training and resources to build up local infrastructure.
- Countries in need of assistance must feel that they are still retaining control over the waters under their sovereignty and that they have some influence over the process of maritime regime building through their collective weight.
- Multidisciplinary and multinational education and training of middle level officials in maritime affairs conducted at a regional level would contribute to building regional maritime awareness and an appreciation of the benefits of a collective regime.
- There is a need to acknowledge that some countries may now prefer to use their coast guards in implementing maritime regimes. Coast guards may be more suitable than navies for employment in sensitive areas where there are conflicting claims to maritime jurisdiction.
- There is a need to ensure that a stable maritime regime is high on the regional political agenda. There is a need to work on the difficulties identified with

maritime regime building and respect the genuine concerns of some regional countries. In addition, there is a need to include China in future regional maritime regime building efforts as China will become the major maritime power in the region.

In his comments, **Shigekatsu Kondo (NIDS)** noted that for many years, regional maritime cooperation in Southeast Asia has been hard to achieve because of the issue of sovereignty. Southeast Asian states may have legitimate grounds for concern about their sovereignty, but this has in the past been used as an excuse for inaction. Sovereignty means both rights and responsibility and often, responsibility to others is neglected.

Maritime terrorism is one issue that countries cannot cope with individually. Therefore there is a need for cooperation, both internationally and regionally. But in order for cooperation to proceed, the claims to sovereignty had to be 'soften'; this would then enable or promote cooperation. Although different people have different perspectives on maritime regime building, the urgency for maritime regime building is greater than what some might think. In discussions about security cooperation, there is a need to be patient and show tolerance. Inaction however, should not be allowed when one look at the consequence of a maritime terrorist incident.

The major maritime user states like the US, Japan, South Korea and Singapore should take the lead in maritime regime building in a comprehensive way. There is also a need for all to make shipping safe, such as through compliance with the ISPS code. User states need to intensify the maritime awareness of coastal states in the region and this can be achieved through both "first track" and "second track" processes, to soften the rigidity of the sovereignty concept and to enable greater harmonisation and cooperation. Finally, there is a need to engage China in the future over maritime regime building.

One participant cautioned against confusing search and rescue operations, which is essentially humanitarian in nature, with maritime cooperation. When one talks about cooperation, there is a higher threshold of action. There is a need to strive for multilateral cooperation albeit the difficulties involved. A first step is to have a series of bilateral relationships that can be converted into a larger web of multilateral arrangement. Japan and China are currently missing in the cooperation equation in Asia-Pacific and unless both these countries are included, this network will be incomplete.

A second participant agreed with Bateman in that there is a need to engage China in maritime affairs but the question remained whether countries should engage China individually or collectively. Also, what sort of maritime strategy is needed to engage the Chinese? What is the role of regimes in altering the value that states attach to their basic priority such as sovereignty? Bateman said he could have been a little too pessimistic but events in the last 2-3 years have affected his optimism. There is still scope for pursuing cooperation, as countries in the region have understood the need for cooperation. Conferences can have a positive effect and may encourage a breakthrough in ideas. A maritime strategy to engage China is needed. Finally, even humanitarian activities like the International Search and Rescue convention have encountered obstacles with few countries ratifying the



*Dr. Shigekatsu Kondo delivering his comments*

convention. It seemed that countries in the region are not comfortable with extra-territorial issues over search and rescue.

## SPECIAL PRESENTATIONS

### CO-OPERATIVE GLOBAL MARITIME SECURITY AGAINST NUCLEAR TERRORISM



*Dr. Charles Massey delivering his presentation*

**Charles Massey (Sandia National Laboratories)** began by noting that the UN had reported 130 terrorist groups capable of developing a homemade atomic bomb. The technology is uncomplicated. The main issue with making a homemade atomic bomb is getting access to the right material. Nuclear materials have signatures that enable its detection given the right equipment at the right place. Over the last decade, terror groups had attempted to acquire stolen nuclear weapons, materials and expertise. The IAEA had reported 17 cases of stolen Plutonium or highly enriched uranium over the past decade.

The US and the global community had responded with numerous initiatives to meet this challenge. These included the ISPS Code, PSI, Customs-Trade Partnership Against Terrorism (C-TPAT), CSI and Second Line of Defense/Megaports Initiative (SLD). The SLD programme has deployed radiation detection equipment to foreign countries to support law enforcement since 1997. This works in tandem with the US Customs' CSI to determine strategic ports of

interest in opening lines of communication.

Finally, the threats associated with WMD are an international problem. The 21<sup>st</sup> century presents threats that no nation can resolve unilaterally. Despite progress, the smuggling of weapons-usable material remains an ongoing international reality. These challenges should continue to be addressed in a spirit of cooperation and innovation. Cooperation provides opportunities to combat nuclear terrorism. However, what needs to be done is to prioritize national and international initiatives into effective global efforts to disrupt terrorist strategies.

### NAVIES: A VITAL FORCE FOR TODAY AND TOMORROW – SOME CHALLENGES AND OPPORTUNITIES

**Ronnie Tay (RSN)** asserted that navies played a vital role in protecting the territorial integrity, defending the maritime interests, enhancing diplomacy, conducting various maritime security and law enforcement duties against piracy, illegal immigration, smuggling and pollution for their respective countries.

Navies today face three main challenges.

The first challenge was the increase in the spectrum and range of maritime threats, such as trans-national maritime terrorism.

- The second challenge was the need for navies to meet the demands of their increased roles within the available budget. As a result, navies had to learn to do more with less as cost of ship platforms and systems were rising steadily.
- The third challenge was for navies to compete for talent with other public and private sector organisations. The challenge of attracting talent was more acute when the national economy was strong.

However, there are three opportunities available to navies today. Although competition for talent

is fierce, navies can still leverage on the increasingly better-educated people that are enlisting, who are more IT savvy, quicker in learning and re-learning and are able to cope with a broader variety of tasks. The advancement in military technologies also presents opportunities. Modern naval platforms are faster, more durable and equipped with more sophisticated weapons and sensors. The increasing connectedness of the world today also presents opportunities for increased interaction between navies. Increasing mutual interaction would increase the opportunities for mutual learning through exchanges of ideas and perspectives.

Although the challenges facing navies today are abundant and evolving, opportunities exist for navies to meet those challenges. What policy-makers must be cautious about is in having fixed mindsets, as navies have to constantly deal with changing and complex maritime environments. Navies are uniquely poised to take advantage of these opportunities as they are highly adaptable, flexible and nimble as a result of the varied operations they have had to conduct. It was only when navies are dexterous enough to learn, seek opportunity and respond appropriately can they then continue to contribute successfully to the national defence and security of their respective countries.



*Chief of Navy, RADM Ronnie Tay, delivering his speech*

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# CONFERENCE PROGRAMME AND AGENDA

## Wednesday 19 May 2004

0800-2359 Arrival of Delegates  
1900 Happy Hour for Delegates

## Thursday 25 February 2004

0900-0915 Opening Address  
Mr Barry Desker  
Director, Institute of Defence and Strategic  
Studies

0915-0945 **Keynote Address**  
Dr Tony Tan  
Deputy Prime Minister and Coordinating  
Minister for Security and Defence

0945-1000 Morning Tea

1000-1200 **Session One**  
International Maritime Environment I

Chairperson:  
Mr. Michael Richardson

Presenters:  
Dr. James Boutilier  
*Global Maritime Outlook*

Mr. Hideaki Kaneda  
*Maritime Outlook for NE Asia*

Discussants:  
Dr. Stein Tonnesson  
Dr. Lee Seo-Hang

1200-1330 Lunch

**Lunch Speaker**  
RADM Ronnie Tay, CNV  
*Navies, A Vital Force for Today & Tomorrow*  
– *Some Challenges and Opportunities*

1330-1530 **Session Two**  
International Maritime Environment II

Chairperson:  
Dr. Bernard Loo

Presenters:  
Dr. Rommel Banlaoi  
*Maritime Outlook for SE Asia*

Dr. Lawrence Prabhakar  
*Maritime Outlook for South Asia*

Discussants:  
Dr. Andrew Tan  
Admiral Premvir Das

1530-1545 Afternoon Tea

1545-1715 **Session Three**  
Maritime Disputes and Force  
Modernisation

Chairperson:  
Professor Amitav Acharya

Presenters:  
Dr. Peter Cozens  
*Maritime Boundary and Territorial Disputes*

Dr. Derek Da Cunha  
*Modernisation of Naval Forces in the  
Asia-Pacific*

Discussants:  
Dr. Mark Valencia  
Mr. Andrew Forbes

1900 Dinner

**Thursday**  
**25 February 2004**

0900-1045 **Session Four**  
Piracy and Maritime Terrorism

Chairperson:  
Mr. Kwa Chong Guan

Presenters:  
Dr. Hasjim Djalal  
*Piracy and Anti-Piracy Measures*

Mr. Rupert H. Burns  
*Maritime Terrorism*

Discussants:  
Mr. Mak Joon Nam  
Dr. Peter Chalk

1045-1100 Morning Tea

1100-1230 **Session Five**  
Port and Cargo Security

Chairperson:  
Mr. Mushahid Ali

Presenters:  
Mr. Gary Quirke  
*Port and Cargo Security Measures*

Discussant:  
RADM (NS) Lui Tuck Yew

Special Presentation:  
Dr. Charles Massey  
*Cooperative Global Maritime Security  
against Nuclear Terrorism*

1230-1330 Lunch

1330-1530 **Session Six**  
Proliferation Security Initiative

Chairperson:  
Dr. James Boutillier

Presenters:  
Dr. Robert Beckman  
*Legal Implications of PSI*

Dr. Seema Gahlaut  
*Political Implications of PSI*

Discussants:  
Dr. Martin Tsamenyi  
Dr. Anupam Srivastava

1530-1545 Afternoon Tea

1545-1715 **Session Seven**  
Maritime Cooperation and 'Regime'  
Building

Chairperson:  
Mr. Barry Desker

Presenters:  
Dr. Stanley Weeks  
*New Initiatives for Maritime Cooperation*


Dr. Sam Bateman  
*Maritime 'Regime' Building*

Discussants:  
Mr. David Griffiths  
Dr. Shigekatsu Kondo

1715-1730 Closing Remarks  
Mr Barry Desker  
Director, Institute of Defence and Strategic  
Studies

1730 End of Conference/Departure



A large, stylized graphic in shades of blue and teal. It depicts a hand holding a pen, with the pen nib pointing downwards. The hand and pen are rendered in a simplified, almost abstract manner, with thick lines and smooth curves. The background is a solid teal color.

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