

ASEAN-Japan Strategic Partnership in Southeast Asia: Maritime Security and Cooperation

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SOUTHEAST ASIA IS often described as a region in which “the land divides but the sea unites,” not because simply because of the predominance of the sea in the geography of the region, but because of the importance of maritime issues to the very existence, stability, and security of the states in the region, as well as to the relations between those states. The maritime domain of the South China Sea also straddles East Asia’s busiest sea lines of communication, providing maritime connectivity that is vital to regional as well as global trade and prosperity. Moreover, the importance of maritime issues to Southeast Asia has turned critical in recent years due to the nearly simultaneous “maritime moment” in the development and security strategies of both intra- and extra-regional countries.

This chapter examines the role of maritime security and cooperation in building an ASEAN Political-Security Community (APSC) as well as Japan’s contributions to strengthening maritime security in Southeast Asia, and it proposes measures to promote ASEAN-Japan cooperation in this field.

MARITIME SECURITY AND COOPERATION IN BUILDING THE APSC

Maritime Security Threats and Interests in ASEAN

There is neither a legal definition of nor a consensus on what the term “maritime security” means. For practical purposes, however, it is widely

accepted that the term refers to the “traditional” issues of protecting sovereignty and territorial integrity in the maritime domain, as well as such “nontraditional” issues as “security of shipping and seafarers; protection of facilities related to maritime affairs; port security; resource security; environmental security; protection against piracy and armed crimes at sea; protection of fisheries; safety and freedom of navigation and over flight; regulation of maritime affairs; and maintenance of law and good order at sea.”¹ Nonetheless, the definition and scope of maritime security remains debatable, as some ASEAN members, for example, do not feel comfortable including environmental threats under the category of maritime security.²

Maritime security and cooperation is one of the most important components of the APSC. The sea covers 80 percent of the region’s geographical surface and is home to the busiest international sea lines of communications, one of the richest biodiversity areas, and vast proven and unproven oil reserves. It is also of strategic military significance. To several individual ASEAN member states, maritime security is also critical to their security and development. The Philippines and Indonesia are both archipelagic states whose unity and stability depends on a stable maritime environment. Malaysia, Indonesia, and Singapore heavily rely on the security of the Malacca Strait for their trade and development. Vietnam has a long coastline facing the South China Sea, and it needs a secure maritime environment if it is to meet its target of producing 60 percent of GDP from marine-based economic activities by 2020.

The most prominent maritime security issues facing Southeast Asia include competing territorial and jurisdictional claims; the maintenance of freedom and safety of navigation, especially in the Malacca Strait and the South China Sea; competition for resources; and piracy, armed robbery, and maritime crimes. Many of these threats are on the rise. The territorial disputes and overlapping maritime claims in the semi-enclosed South China Sea, for example, continue to be the most complex globally and have been further complicated in recent years by the rapid rise of China and its geopolitical consequences. Piracy has risen substantially again since 2010 after a brief period of easing from 2005 to 2009, earning Southeast Asia a reputation for being one of the most pirate-infested areas of the world.³ Increasing commercial, paramilitary, and military traffic in the regional sea lines of communication (SLOCs) heightens the risk of incidents at sea, threatening safety and freedom of navigation.

Recognizing the importance of maritime security to Southeast Asia’s well-being, the Declaration of ASEAN Concord II (the Bali Concord II), adopted in 2003 to chart out the vision of the ASEAN Community by 2020, envisioned that “maritime issues and concerns are transboundary in

nature, and therefore shall be addressed regionally in holistic, integrated and comprehensive manner. Maritime cooperation between and among ASEAN member countries shall contribute to the evolution of the ASEAN Security Community.”⁴

To realize that vision, ASEAN decided in 2009 on the following measures, as spelled out in the APSC Blueprint:

- (i) Establish the ASEAN Maritime Forum;
- (ii) Apply a comprehensive approach that focuses on safety of navigation and security concerns in the region that are of common concern to the ASEAN Community;
- (iii) Take stock of maritime issues and identify maritime cooperation among ASEAN member countries; and
- (iv) Promote cooperation in maritime safety and search and rescue (SAR) through activities such as information sharing, technological cooperation and exchange of visits of authorities concerned.⁵

ASEAN Cooperation on Maritime Security

Despite the critical nature of the problems, ASEAN has been slow to implement cooperation on maritime issues. It took ASEAN seven years following the 2003 Bali Concord II to organize the first ASEAN Maritime Forum. ASEAN cooperation on maritime issues was difficult for several reasons, most notably the remaining overlapping claims among member states and between several member states and China, and the lack of capacity and expertise in the region, for example on how to conduct joint patrols and exercises. ASEAN has, however, undertaken cooperation on several functional areas with maritime-related activities, such as cooperation on transportation and on counter-terrorism and transnational crime. Since maritime security issues cut across all three pillars of the ASEAN Community and various areas of ASEAN cooperation, ASEAN has been promoting maritime cooperation under various frameworks and mechanisms, most notably through the ASEAN Regional Forum (ARF), ASEAN Transport Ministers Meeting (ATM), ASEAN Defense Ministers Meeting (ADMM) and the East Asia Summit (EAS). At the Track 2 level, the Council for Security Cooperation in the Asia Pacific (CSCAP) promotes regional dialogue and offers ideational input into mainstream maritime security discussions. Despite these efforts, there is still no single framework to oversee all of these cooperative activities. This is still the case today, even after the official establishment of the

ASEAN Maritime Forum, which is thought to be the “one-stop shop” for everything maritime-related in ASEAN.

The major achievement of ASEAN to date in terms of maritime security and cooperation has been to forge a common understanding among its members on various issues and aspects of maritime security. Beginning with a common understanding helps build confidence and allows individual member countries to coordinate policies and activities, which can then lead to cooperative activities to enhance maritime security.

The first common understanding achieved is on the principles guiding maritime activities. These include the necessity to build and maintain a maritime order in Southeast Asia that is based on international law, and particularly on the 1982 UN Convention on the Law of the Sea (UNCLOS). ASEAN member states have also agreed on the ASEAN norms of respecting each other’s sovereignty, resolving disputes by peaceful means, and respecting and protecting freedom of navigation.

Second, consensus has been reached among ASEAN member states on the commonality of maritime security threats to the region as a whole, meaning that these threats are transboundary in nature and therefore countries must cooperate in order to eliminate the threats.

Third, maritime security involves both traditional and nontraditional threats, requiring both comprehensive and distinct solutions to each type of threat.

Fourth, extraregional countries are stakeholders with legitimate interests in some maritime security issues in the region and therefore a cooperative framework must be established with these interested parties.

Based on this common understanding, ASEAN has been able to agree on a number of approaches to manage the threats, including enhanced information and intelligence exchange; creation of an inter-agency cooperative framework through bilateral and regional arrangements; implementation of international laws and standards for security measures, such as the International Ship and Port Facility Security Code; capacity building for national law enforcement; and the formation of codes of conduct to govern and guide behavior on sovereign and jurisdictional disputes.

Operationally, ASEAN member countries have managed to agree on several measures, such as coordinated patrols by their respective navies; hot pursuit arrangements; the development of standard operational procedures and interoperability; exchanges on port security measures; the use of advanced technology; the establishment of a Marine Electronic Highway; the establishment of a network of maritime focal points; tactical training and exercises; and so on. Most of the maritime cooperative activities until very recently have been onshore. But ASEAN is now moving its activities

offshore, with the first field exercises undertaken in the Philippines in 2009. Indeed, this expansion to offshore field operations is probably the most significant progress in ASEAN maritime cooperation in recent years.

Maritime Security Prospects and Challenges

Looking ahead to 2015 and beyond, maritime security will arguably remain the most critical challenge to the APSC and to the ASEAN Community as a whole, with the potential to severely affect ASEAN's unity as well as credibility if not properly managed. Nontraditional security issues have generally been the focus of regional security cooperation in recent years. However, it is territorial disputes and major-power competition over maritime space that has brought maritime security to the center stage of regional affairs since 2009, mostly due to China's official announcement of its U-shaped line, which effectively lays claims to 80 percent of the South China Sea,⁶ China's proclamation of the South China Sea as one of its "core interests," and its increasingly assertive actions to protect its claims in the South China Sea. By 2013, the maritime security environment in Southeast Asia had deteriorated significantly in terms of the number of parties directly involved and the geographical scope of incidents, the danger of militarization of the disputes, and the growing signs of negligence and disregard for international law by some claimants. The arms dynamic observed in both Southeast Asia and Northeast Asia has also deepened regional concerns. This has led to growing mistrust, which has undone many years of confidence building by ASEAN.

The maritime environment in Southeast Asia has also become more complex and challenging because of the changing nature of disputes from territorial to maritime and jurisdictional claims between a larger number of parties, and to geostrategic competition between China, the United States, and other major powers. The complexity of the issue has led different ASEAN member states to have different interests. The failure of ASEAN to clearly articulate its voice on the situation has damaged its credibility as the only multilateral mechanism to manage disputes on this issue. The rising tensions in the South China Sea have heightened the risk of incidents or even confrontations occurring in the area, which could severely affect the safety and freedom of navigation, therefore posing the greatest risk to regional peace, stability, and community-building efforts as a whole.

Nontraditional maritime security issues are also expected to become more complex in the coming years. Despite regional efforts to combat piracy, for example, the issue is still far from being eliminated and seems

to return whenever local economies suffer a downturn. For example, the International Maritime Bureau (IMB) observed a rise in piracy attacks in 2012 compared to 2011.⁷ Maritime-related transnational crimes such as smuggling, illegal migration, robbery, thefts, terrorism, and other petty crimes affecting port security and safety of navigation continue to occur at high rates in Southeast Asia and will become more complicated as regional economic activities and integration increases. The risk of the proliferation of weapons of mass destruction and threats to nuclear security via sea trade will increase as countries in the region are increasingly relying on nuclear power. Transboundary environmental issues from overfishing or irresponsible fishing practices, from industrial and scientific research activities, or from accidents such as oil spills will continue to rise correspondingly. Southeast Asia is also a region increasingly prone to severe disasters as a result of climate change, heightening the need for humanitarian assistance and disaster relief operations.

ASEAN-JAPAN COOPERATION ON MARITIME SECURITY ISSUES

Japan's Interests in Maritime Security in Southeast Asia

Japan's primary maritime security interest is the safety and freedom of navigation. Some even argue that this is a matter of life and death for Japan, given that Japan's economy heavily depends on the safe passage of ships through the Malacca Strait and the South China Sea.⁸ At least 80 percent of Japan's crude oil imports are transported via Southeast Asian sea routes. James Manicom of the University of Waterloo has pointed to four reasons why Japan is so obsessed with SLOCs safety. The first is the structural insecurity of the regional maritime environment given the historical animosities and complex geostrategic environment. The second is an institutional reason, whereby Japan, as an island nation that is heavily dependent on trade, has developed institutions that help keep the issue high on its national security agenda. Third is the actual threat of piracy to commercial activities. As Manicom points out, Japan is the most frequent target of piracy attacks, and piracy has disproportionately affected Japanese shipping interests and Japanese people. The number of attacks was observed to be increasing after the Asian financial crisis of 1997–1998, and the Malacca Strait was the hottest spot.⁹ Fourth is the rise of China, especially its military expansion and ambitions both in the South China Sea and East China Sea.¹⁰ Here again, the recent rise in tensions in the South China Sea is worrisome to the Japanese

as it directly affects the cost and safety of their shipping. According to one estimate, in the case of moderate tensions in the area, the average insurance cost for a commercial ship will increase by approximately ¥10 million (approximately US\$100,000) per day when going through the area. If tensions run high and ships need to divert to the next shortest route via the Lombok Strait, it adds another 10 days to the journey, substantially increasing the cost of transportation and the cost to the Japanese economy.¹¹

Apart from the direct interests in safety of navigation, Japan also has a broader interest in sustaining the “freedom of the ocean” and a rules-based order at sea, particularly in the faithful interpretation and application of international laws such as UNCLOS in the region. At the first Expanded ASEAN Maritime Forum, held in Manila on October 5, 2012, Japan’s deputy minister of foreign affairs stated,

More efforts should be made to establish maritime order and rules depending on characteristics of each region in accordance with relevant international laws including UNCLOS. Of course these efforts must be made through peaceful talks. We should firmly reject any idea justifying that ‘might is right.’ This is an unyielding and invincible principle for the sea that can connect the people and lead them to prosperity.¹²

Japan therefore has an interest in ensuring that the norms and mechanisms under international law to resolve maritime disputes are working, for example the use of peaceful means or tertiary institutions such as the International Tribunal for the Law of the Sea. Japan also has an interest in strengthening the multilateral security architecture as the necessary framework to effectively promote cooperation. Japan particularly supports ASEAN’s centrality and ASEAN-driven mechanisms relevant to maritime security and cooperation, such as the ARF, ADMM Plus Eight (ADMM+8), EAS, and Expanded ASEAN Maritime Forum.

Japan-ASEAN Cooperation on Maritime Security

Combatting piracy was initially the primary driving force for Japan’s interest in cooperation with ASEAN member states, especially in the aftermath of the Alondra Rainbow incident in 1999, when a Japanese-owned cargo ship was reportedly hijacked and the captain and crew were held captive on another boat for a week and then set adrift in the ocean.¹³ The Malacca Strait has been the focus of Japanese anti-piracy efforts and Malaysia, Singapore, and Indonesia the prime partners for cooperation. Japan has long cooperated with these three countries in the area of navigation safety and seabed

mapping through joint research, sharing of equipment, and training. The Japan International Cooperation Agency (JICA) funds the Japan Coast Guard's seminars to train maritime authorities in Southeast Asia, and Japanese aid is critical in helping to create maritime patrol authority where local capacity is lacking (especially in the Philippines and Indonesia). Japan wanted to establish a regional coast guard force for joint patrolling of the Malacca Strait, but due to the littoral states' perception of foreign interference, as well as their fear of geopolitical imbalances, the proposal was perceived as being too sensitive to be implemented. Following a similar effort by the United States to propose a Regional Maritime Security Initiative in 2004, which again raised fears of foreign intervention in the Malacca Strait, the littoral states decided to launch their own policing operations under the framework of the Malacca Strait Patrols to counter piracy.¹⁴

Japan's major initiative has been a proposal to establish the Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP), launched in 2006. ReCAAP is a mechanism to facilitate communications and information exchange; provide statistical analyses on piracy and armed robbery incidents in Asia; facilitate capacity building to improve the capability of member countries in combating piracy and armed robbery in the region; and cooperate with organizations and like-minded parties on joint exercises, information sharing, capacity-building programs, or other forms of cooperation.¹⁵ While the initiative received widespread support regionally, the inclusion of both piracy and "armed robbery in territorial water," the latter legally under the jurisdiction of littoral states, was the main reason that Malaysia and Indonesia declined to ratify the ReCAAP agreement.¹⁶

After the establishment of ReCAAP, Japan channeled most of its anti-piracy aid to the region through that mechanism.¹⁷ It also continued to provide assistance to these littoral states through technical assistance, information sharing, and capacity building, including training exercises. Under the government's grant program for "Cooperation on Counter-Terrorism and Security Enhancement," Japan gave ¥1.92 billion to Indonesia for three patrol vessel in 2006, as well as ¥609 million to upgrade maritime security communication systems in the Philippines, and ¥476 million to enhance Malaysia's maritime security. There was also a separate grant of ¥5.57 billion to upgrade the vessel traffic system to collect data on traffic patterns in the Malacca Strait.¹⁸

Japan has been promoting anti-piracy cooperation under other multi-lateral frameworks as well. For example, Japan financed the International Maritime Organization's efforts to track and study piracy incidents. In concert with the Asia Pacific Economic Cooperation (APEC)

Counter-Terrorism Task Force, Japan launched the Heads of Asian Coast Guard Agencies (HACGA) Meetings, the first of which was held in Tokyo in June 2004. And Japan's Ocean Policy Research Foundation provided seed money for the IMB Piracy Reporting Centre in Kuala Lumpur. Japan has also been instrumental in other important initiatives to improve regional maritime security, including the Cooperative Mechanism for Maritime Safety and Environmental Protection in the Malacca and Singapore Straits.¹⁹

Up until recently, Japan seemed to avoid working directly with ASEAN in the area of maritime security cooperation, with the exception of initiatives in the transportation sector, where Japan has actively cooperated with ASEAN to support ASEAN integration. Japan has not viewed ASEAN as a viable security partner because ASEAN member states' interests are too diverse, and reaching consensus among all 10 ASEAN member states is difficult to achieve. Japan therefore has considered mini-lateral settings among like-minded countries to be a more effective option for security cooperation. Nevertheless, the 2011 Joint Declaration for Enhancing ASEAN-Japan Strategic Partnership for Prospering Together (Bali Declaration), ASEAN and Japan set out a broad vision to maritime cooperation by agreeing to

promote and deepen ASEAN-Japan cooperation on maritime security and maritime safety in the region in accordance with universally agreed principles of international law such as freedom of navigation, safety of navigation, unimpeded commerce and peaceful settlement of disputes, including the 1982 United Nations Convention on the Law of the Sea (UNCLOS) and other relevant international maritime law.²⁰

The concomitant ASEAN-Japan Plan of Action (2011–2015) laid out the following measures related specifically to maritime security:

- Support the outcome of the ASEAN Maritime Forum, ASEAN-Japan Transport Ministers Meeting (ATM+Japan), ASEAN-Japan Senior Transport Officials Meeting (STOM+Japan), ASEAN-Japan STOM Leaders Conference, and other relevant forum and foster cooperation through the use of these mechanisms
- Promote cooperation among maritime agencies, coast guards and relevant authorities, through, among others, conducting training exercises, information sharing, technical cooperation and capacity building
- Intensify cooperation in the field of maritime connectivity and development of ports facilities in the ASEAN Member States, among others but not limited to, Roll-on/ Roll-off (RoRo) Network and Short Sea Shipping and Port Electronic Data Interchange²¹

The Plan of Action also envisioned enhanced defense cooperation on maritime security.²²

Driven by its strong economic interests, Japan has been supporting the Master Plan on ASEAN Connectivity, including maritime transportation connectivity through the ASEAN- Japan Transport Ministers Meeting mechanism. It initiated the ASEAN-Japan Regional Action Plan on Port Security under the ASEAN-Japan Maritime Security Transport Programme and it sponsored the ASEAN-Japan Seminar on Maritime Security and Combating Piracy to review progress made by the ASEAN countries on the implementation of the International Ship and Port Facility Security Code. Japan has also conducted training courses for maritime law enforcement officials from ASEAN countries, together with those from China and South Korea.

Despite the strategic importance of the Malacca Strait and the South China Sea, Japan has so far only been promoting and supporting civilian cooperation. Under the Japanese constitution, Japan can only use the Maritime Self-Defense Force (SDF) for specific tasks in the region related to disaster relief operations. Japan also strictly controls its official development assistance (ODA), not allowing use of its aid to support the military. Politically, Japan has also been very careful about engaging the Maritime SDF in the region because activity by Japanese forces in Southeast Asia continues to be an extremely sensitive issue. But the changing threat perception in Japan has led it to become more engaged with ASEAN, more active in joint military exercises and training in Southeast Asia, and more flexible with its ODA and export rules. Japan has been notably more active in participating in joint exercises, humanitarian assistance, disaster relief, and noncombatant evacuation operations in the region. And Japan conducted its first joint maritime military exercise with the United States and Australia in the South China Sea in July 2011. Japan has also been more flexible in the use of its ODA and is now permitting it to be used in more security-oriented ways. Japan's foreign minister, Koichiro Genba, is now vocally promoting the "strategic use of ODA" to develop a nexus between Japan's aid and regional security.²³

Moreover, Japan has been paying more attention to the traditional security side of maritime security in ASEAN cooperative frameworks in recent years, especially since tensions in the South China Sea and East China Sea started becoming the prime attention of the ASEAN-led meetings. Japan has been a strong advocate and supporter of a regional code of conduct to maintain rules-based order in the South China Sea. Japan has also been making stronger statements in regional forums, such as the ARF, demanding respect for international law (UNCLOS),

freedom of navigation, and the need for parties concerned to make and clarify their claims in accordance with international law. Japan supported ASEAN's inclusion of maritime security in the agendas of the ADMM+8 process, as well as the expanded EAS, with the inclusion of the newly admitted United States and Russia. Japan also proposed the expansion of the ASEAN Maritime Forum to include Japan and other ASEAN dialogue partners, resulting in what has now become the Expanded ASEAN Maritime Forum, the first meeting of which was held in Manila, Philippines, in October 2012.

Bilaterally, Japan has stepped up its support to several ASEAN member states to enhance their law enforcement capabilities by supplying both the necessary hardware (e.g., coast guard ships) and software (e.g., training and techniques). In December 2011, Japan lifted its self-imposed ban on arms exports to allow overseas transfers of defense equipment for maintaining peace and international cooperation. Japan is also gearing up to consider exporting its patrol vessels, crafts, and multipurpose support ships for developing ASEAN's maritime security capacity. For example, Japan decided to provide 12 brand new patrol boats to the Philippines in 2012, a move that would previously have proven difficult under stringent Japanese export controls.²⁴ In his visit to the Philippines in July 2013, Japan's Prime Minister Shinzo Abe announced that Japan will provide 10 patrol vessels to the Philippines coast guard as part of its development assistance program.²⁵ Japan agreed to build a training and education center to enhance Vietnamese capacity to police its maritime zones.²⁶ The Japan Coast Guard also held joint search and rescue training exercises with the Vietnam Marine Police for the first time in September 2012.

PROPOSALS FOR POST-2015 COOPERATION BETWEEN ASEAN AND JAPAN

It should be noted that as ASEAN cooperation on maritime security has widened and deepened in recent years—especially since 2010, in response to the increasing maritime competition in Asia Pacific—ASEAN and Japan cooperation has moved in a similar direction. This is a positive sign and is what should be expected from an enhanced partnership between ASEAN and Japan. However, given the enormous challenges facing ASEAN and Japan and the interests involved, the level and effectiveness of cooperation remains inadequate. ASEAN does not yet have a clear objective or overall work plan for maritime security, even among its own members. Japan does not yet have a clear goal or strategy in its engagement with ASEAN on

the issue either. This is partly because Japan is not yet fully convinced of ASEAN's role on maritime security cooperation, and also because Japan still maintains its traditional preference for bilateral and mini-lateral efforts among like-minded countries.

ASEAN and Japan, therefore, are advised to consider the following to boost their maritime cooperation:

1. ASEAN and Japan both need to recognize that the maritime security environment of Asia Pacific is holistic, interconnected, and continuous from the Indian Ocean to the Malacca Strait, and from the South China Sea to the East China Sea. It affects the security and prosperity of the whole region. It is therefore in the interests of ASEAN and Japan to promote regionwide cooperation to help ensure the security and stability of the Indo-Pacific maritime belt.
2. ASEAN and Japan need to cooperate to strengthen the principles of and respect for international law, especially UNCLOS, as the basic framework for the regional maritime order. ASEAN and Japan should continue to jointly call for full respect for international law; and promote cooperation to narrow differences on the interpretation, application, and implementation of UNCLOS. ASEAN and Japan should work together to encourage the region to identify areas and issues particular to East Asia that UNCLOS has not been able to address, or has addressed but inadequately. Such areas and issues need to be identified and prioritized for cooperation.
3. In order to strengthen the rules-based order at sea, Japan should fully support ASEAN's Six-Point Principles on the South China Sea, particularly ASEAN's efforts to conclude a code of conduct on the South China Sea. Japan and ASEAN should jointly conduct confidence-building activities in accordance with international law.
4. ASEAN and Japan need to extend maritime cooperation beyond traditional areas such as counter-piracy, armed robbery, and ensuring transportation safety and security, to include new areas such as combating maritime crimes, terrorism, illegal migration, disaster relief, search and rescue, scientific research, environmental protection, environmental crisis management, and so on.
5. Japan should further extend assistance to ASEAN to help enhance ASEAN's capacity to maintain maritime order in waters under their jurisdiction, as this will contribute to overall regional security and stability. The assistance should continue to be in the form of hardware (e.g., patrol boats, surveillance equipment, telecommunication equipment) and software (e.g., awareness promotion, training, joint exercises). Japan might

consider extending the use of its ODA to the region more for strategic uses such as these.

6. ASEAN and Japan need to closely cooperate to strengthen the current security architecture's role in dealing with maritime security issues. ASEAN and Japan need to maintain close coordination and cooperation under such frameworks as the ARF, ADMM+8, EAS, and Expanded Maritime Forum to promote maritime security cooperation.
7. Japan and ASEAN should be open and encourage ASEAN member states and Japan to conduct more joint maritime operations involving the coast guards or defense forces, which could include port visits, joint patrols, search and rescue operations, disaster relief, scientific research, joint military exercises and training, and so on in order to build confidence and strengthen regional capacity.

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