

**INTERNATIONAL CO-OPERATION AGAINST  
TRANSNATIONAL CRIME: SECOND TRACK  
MECHANISMS**

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## Background

The demise of the Cold War a decade ago, accompanied by the onset of globalisation and the revolution in communications, transportation and technology, has dramatically and permanently changed the social, economic and political environment, not only in the so-called industrialized world, but also in the developing countries and in countries in transition. These changes have also ushered in challenges to state sovereignty as nations have surrendered some of their traditional powers in the interests of collective political, economic or security arrangements. At the same time, as Kofi Annan, the Secretary-General of the United Nations, has advocated, far greater emphasis is now placed on human security, which “is one of the greatest challenges facing the international community”.<sup>1</sup>

However, the opportunities which globalisation present for legitimate business in the operation of a worldwide economy exist also for the non-legitimate business of crime, with an intensification of networks of interaction, inter-connectedness and interdependence.<sup>2</sup> The transformation of organised crime from a predominantly domestic issue posing challenges to local law enforcement to a transnational phenomenon threatening national and international security has only recently been recognised.<sup>3</sup>

However, transnational crime is but one of a number of new issues which the regional political leaders, diplomats, security analysts and others have had to deal with in developing the complex and rapidly changing security architecture of the Asia-Pacific region. Events over the last three years have demonstrated that the Asia-Pacific region is anything but stable, prosperous and secure: the tensions on the Korean peninsula, the Taiwan Straits and the South China Sea, the East Asian financial crisis, the Southeast Asian “haze” problem, the demise of the Suharto regime in Indonesia and the East Timor situation have all demonstrated that our region is anything but stable and predictable.

As a result of these regional tensions, the network of bilateral and multilateral relationships within the region have frequently been strained and the task of confidence building, preventive diplomacy and crisis management has imposed considerable pressures on the Governments in the region. In recent years the Association of South East Asian Nations (ASEAN)<sup>4</sup> and the ASEAN Regional Forum (ARF)<sup>5</sup> have developed multilateralised and institutionalised regional security mechanisms at both the ministerial/official (First Track) and unofficial (Second Track) levels. At the Second Track level, the most structured and ambitious initiative has been the establishment of the Council for Security Cooperation in the Asia-Pacific (CSCAP).

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<sup>1</sup> UN Wire Report of 29 November 1999, quoting the December 1999 issue of *Choices*, a publication of the UN Development Program. According to Kofi Annan, “human security in its broadest sense touches on respect for the human rights of the individual and his or her personal dignity” including an individual’s rights to “health, education and the possibility of living life to the fullest.” Annan considers that one of the greatest achievements of the UN has been in the area of human rights “giving back dignity and respect to the individual”. [<http://www.unfoundation.org/unwire/archives/UNWIRE991129.cfm>, accessed 2 February 2000].

<sup>2</sup> Z. Smolen: “A Global Police Service is the Inevitable Consequence of Rising International Crime: Discuss” (The 1993 Queen’s Police Gold Medal Essay Competition) in *The Police Journal*, Vol. LXVIII, No. 1, January/March 1995, pp. 7 – 16.

<sup>3</sup> Phil Williams: “The New Threat: Transnational Criminal Organizations and International Security” in *Criminal Organizations* Vol. 9. Nos. 3 and 4 (Summer 1995), pp. 3 – 19.

<sup>4</sup> The membership of ASEAN currently comprises Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar (Burma), the Philippines, Singapore, Thailand and Vietnam – the so-called “ASEAN 10”.

<sup>5</sup> Membership of the ASEAN Regional Forum comprises the ASEAN 10 plus the “Dialogue Partners” Australia, Canada, China, European Union, India, Japan, Mongolia, New Zealand, Papua New Guinea, Russia, South Korea and the United States.

## **CSCAP**

CSCAP arose out of a meeting in Seoul on 1 – 3 November 1992, where representatives of some two dozen strategic studies centers from ten countries in the Asia-Pacific region decided that there was a need to provide ‘a more structural regional process of a non-governmental nature ... to contribute to the efforts towards regional confidence building and enhancing regional security through dialogues, consultation and cooperation’. Over the next eight months, the CSCAP concept was widely canvassed among both government officials and regional security analysts, and agreement was reached to formally establish CSCAP at a meeting in Kuala Lumpur on 8 June 1993. Details of the Kuala Lumpur Statement and the CSCAP Charter may be found on the CSCAP Home Page at <http://www.cscap.org>.

The current membership of CSCAP comprises Australia, Canada, China, European Union, Indonesia, India (Associate Member), Japan, Malaysia, Mongolia, New Zealand, North Korea, Philippines, Russia, Singapore, South Korea, Thailand, Vietnam and the United States. Cambodia and Papua New Guinea have also indicated an interest in becoming members of CSCAP.

Three essential themes were involved in the establishment of CSCAP. The first was that the Council should be a non-governmental institution but should involve government officials, albeit in their private capacities. This should allow for relatively free discussion of diplomatically sensitive issues which otherwise could not be raised in official fora, such as the ARF. The second theme was to encourage regional economic cooperation, mainly through the dissemination of ideas and resulting discussions; while the third was the acceptance of the need to build on extant arrangements in the region wherever possible, rather than construct new structures and processes.

CSCAP activities are guided by a Steering Committee composed of representatives of the broad-based Member Committees in each of the member countries. The CSCAP Steering Committee meets twice each year – in June in Kuala Lumpur (where the CSCAP Secretariat is located) and in December in one of the other member countries. The Steering Committee is co-chaired by a member from an ASEAN Member Committee (currently Professor Carolina Hernandez from the Philippines) and a member from a non-ASEAN Member Committee (currently Professor Han Sung-Joo from South Korea).

### **CSCAP Working Groups**

The primary mechanisms for CSCAP activity are five Working Groups, namely:

- Working Group on Maritime Cooperation (co-chaired by Australia and Indonesia)
- Working Group on Confidence and Security Building Measures (co-chaired by Korea, Singapore and the United States)
- Working Group on Comprehensive and Cooperative Security (co-chaired by China, Malaysia and New Zealand)
- Working Group on the North Pacific (co-chaired by Canada and Japan)
- Working Group on Transnational Crime (co-chaired by Australia, the Philippines and Thailand)

## **CSCAP Working Group on Transnational Crime**

The CSCAP Working Group on Transnational Crime arose out of a decision taken at the 6<sup>th</sup> Steering Committee of CSCAP in Canberra in December 1996, at which time it was agreed that, as a first step, a CSCAP Study Group on Transnational Crime would be established to determine the extent of CSCAP interest in this area. It was agreed that the objectives of CSCAP involvement in the transnational crime issue would be:

- To gain a better understanding of, and reach agreement on, the major transnational crime trends affecting the region as a whole;
- To consider practical measures which might be adopted to combat transnational crime in the region;
- To encourage and assist those countries which have recently become engaged in regional security cooperation, and which are concerned about the problem of transnational crime in the region, to endorse the United Nations and other protocols dealing with transnational crime, particularly in the narcotics area, and to develop laws to assist in regional and international cooperation to counter drug trafficking, money laundering and the like, and to encourage mutual assistance, extradition and other forms of regional cooperation.

The inaugural Co-Chairs of the Study/Working Group were –

- Professor Carolina Hernandez, Professor of Political Science at the University of the Philippines, Manila, and President of the Philippine Institute for Strategic and Developmental Studies;
- Professor Suchit Bunbongkarn<sup>6</sup>, Professor of Political Science at Chulalongkorn University, Bangkok, and Director of the Thai Institute of Security and International Studies;
- John McFarlane, Special Adviser in the Office of the Deputy Commissioner, Australian Federal Police, and AFP Fellow at the Australian Defence Studies Centre at the Australian Defence Force Academy in Canberra.<sup>7</sup>

At the 8<sup>th</sup> CSCAP Steering Committee Meeting in Tokyo in December 1997, the Study Group was elevated to a full CSCAP Working Group status.

The Study/Working Group has now met on six occasions, as follows:

1. Singapore, 25 – 26 March 1997
2. Bangkok, 10 – 11 October 1997
3. Manila, 23 – 24 May 1998
4. Sydney, 11 – 13 October 1998
5. Bangkok, 23 – 25 May 1999
6. Wollongong, 6 – 9 November 1999 (a Joint Meeting with the CSCAP Working Group on Maritime Cooperation).

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<sup>6</sup> Professor Suchit has recently been appointed as a Judge of the Constitutional Court of Thailand, but he intends to continue his involvement with CSCAP.

<sup>7</sup> Dr Sandy Gordon of the AFP has now replaced John McFarlane as the Australian Co-Chair of the Working Group.

In brief, the outcome of these Meetings has been as follows:

- The Working Group has agreed on a list of nineteen “crime types” which affect the region as a whole, of which it was initially agreed that the highest priority would be given to:
  - Arms trafficking, particularly the trafficking in firearms;
  - Counterfeiting;
  - Drug production and trafficking, including amphetamines and ecstasy;
  - International corporate/white collar criminal activities;
  - Money laundering, including property and business investment by transnational organised crime groups;
  - Smuggling of nuclear materials;
  - Technology crimes.

Developments over the last couple of years have required some changes to this list of priorities.
- Following the 3<sup>rd</sup> Meeting in Manila, CSCAP Philippines, on behalf of the Working Group, produced a book titled *Transnational Crime and Regional Security in the Asia-Pacific*, which published Working Group papers on the following subjects:
  - Overview of Transnational Crime
    - ⇒ Transnational Crime as a Security Issue (Australia)
    - ⇒ Strategic Impact of Transnational Crime (India)
    - ⇒ Crime in a Shrinking World: Implications and Policy Directions (Australia)
    - ⇒ Risk Management by Transnational Criminal Organisations: Threat or Opportunity for Law Enforcement (United States)
  - Transnational Crime and Efforts Towards Prevention
    - ⇒ How Can We Fight 21<sup>st</sup> Century Crime? International Cooperation Against Transnational Organised Crime (Japan)
    - ⇒ International Initiatives to Combat International Criminal Activity (Australia)
  - Money Laundering
    - ⇒ Money Laundering Methodologies and International and Regional Countermeasures (Australia)
  - Terrorism
    - ⇒ Political Terrorism in Southeast Asia (Australia)
    - ⇒ Terrorism in the Philippines and Its Impact on Regional Security (Philippines)
  - Illegal Immigration
    - ⇒ Illegal Migration (Canada)
  - Technology Crime
    - ⇒ Crime in Cyberspace: Trends in Computer Crime (Australia)

This publication has been given wide circulation throughout the CSCAP community, and correspondence is now being drafted to formally pass the publication to Ministers at the ASEAN Regional Forum (ARF), which has expressed an interest in being better briefed on the regional security implications of transnational crime.

- At its 4<sup>th</sup> Meeting in Sydney and 5<sup>th</sup> Meeting in Bangkok, the Working Group considered three issues:
  - The illicit trafficking in firearms throughout the Asia-Pacific region;
  - The production and trafficking in synthetic drugs in the Asia-Pacific region;
  - The impact of the Asian financial crisis on the development of transnational crime in the region.

The various papers from these meetings, together with a significant number of conclusions and recommendations are now being incorporated into a second Working Group publication for wide circulation, including to members of the ARF.

- The 6<sup>th</sup> Meeting was held in Wollongong, jointly with the CSCAP Working Group on Maritime Cooperation, at which the themes of the meeting were Human Smuggling (including the Trafficking in Women and Children) and Maritime Crime, and Law and Order at Sea. The Adviser on Trafficking to the United Nations High Commissioner on Human Rights, H.E. Mrs Mary Robinson, attended the meeting for the discussions on trafficking in women and children. As a result of this meeting a further set of recommendations has been prepared for consideration by individual governments and the ARF, and work has commenced on a CSCAP Memorandum titled “Cooperation for Law and Order at Sea”. The papers on Human Smuggling will be published with the other papers from the CSCAP Working Group on Transnational Crime by CSCAP Philippines, and the papers on maritime crime and law and order at sea will be incorporated into a publication to be produced by the CSCAP Working Group on Maritime Cooperation.

### **Support for Regional and International Initiatives Against Transnational Crime**

One of the objectives of the CSCAP Working Group on Transnational Crime is to

To encourage and assist those countries which have recently become engaged in regional security cooperation, and which are concerned about the problem of transnational crime in the region, to endorse the United Nations and other protocols dealing with transnational crime, particularly in the narcotics area, and to develop laws to assist in regional and international cooperation to counter drug trafficking, money laundering and the like, and to encourage mutual assistance, extradition and other forms of regional cooperation

#### International Initiatives

Discussions within the Working Group have placed significant emphasis on the importance of Governments endorsing such international instruments and statements as –

- The United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, concluded in Vienna on 20 December 1988
- The United Nations Declaration Against Corruption and Bribery in International Commercial Transactions, concluded in New York in December 1996, and the related Organisation for Economic Cooperation and Development (OECD) Convention on Combating Bribery of Foreign Officials in International Business Transactions, concluded in Paris on 17 December 1997
- The G8 Statement on Drugs and International Crime, issued at the end of the G8 Summit Meeting in Birmingham, England, on 17 May 1998

- The Report of the United Nations General Assembly Special Session on International Drug Control, held in New York from 8 – 10 June 1998
- The ongoing work of the United Nations Commission on Crime Prevention and Criminal Justice on drafting a Convention Against Organised Transnational Crime.

It is up to individual members of the Working Group to determine how best to advise their own government authorities on these issues, but the Working Group has been able to provide the necessary background for members to undertake this task.

At the Asia-Pacific level, there has been greatly increased interest in the threat of transnational crime. This interest has manifested itself in a number of ways:

#### Regional Policy Initiatives

- The expressed desire of Ministers at the 3<sup>rd</sup> ASEAN Regional Forum in Jakarta in July 1996 to consider “the question of drug trafficking and related transnational issues, such as economic crimes, including money laundering, which could constitute threats to the security of the countries of the region”;
- The ASEAN Ministers’ Declaration on Transnational Crime, concluded in Manila on 20 December 1997;
- The Manila Declaration on the Prevention and Control of Transnational Crime, concluded in Manila on 25 March 1998;
- The Joint Communiqué of the 2<sup>nd</sup> ASEAN Ministerial Meeting on Transnational Crime, held in Yangon, Myanmar, on 23 June 1999, including the adoption of the ASEAN Plan of Action to Combat Transnational Crime;
- The ongoing work of the Asia-Pacific Group on Money Laundering;
- The ongoing work of the International Criminal Police Organisation (INTERPOL) in the Asia-Pacific region;
- The ongoing work of ASEANAPOL.

#### Other Regional Initiatives

- The establishment of the International Law Enforcement Academy in Bangkok in 1997<sup>8</sup>
- The establishment of the Philippine Centre on Transnational Crime in Manila in March 1999
- The proposal by ASEAN Ministers to establish an ASEAN Centre for Combating Transnational Crime
- Consideration is being given by the ASEAN Regional Forum to the establishment of an Experts Group on Transnational Crime. If this were to be agreed, the Experts Group would almost certainly draw on the expertise and past work of the CSCAP Working Group on Transnational Crime.

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<sup>8</sup> The ILEA is sponsored by the United States Drug Enforcement Administration.

### Future Working Group Initiatives

Apart from publishing further papers produced by the Working Group, other future initiatives will include:

- Drawing from the discussions within the Working Group to develop national and regional-level recommendations on dealing with specific transnational crime issues;
- The development of confidence building measures (CBMs) in support of law enforcement cooperation in the region;
- Explanation of and support for the initiatives proposed in the forthcoming United Nations Convention Against Organised Transnational Crime.

### Integrating the 1<sup>st</sup> and 2<sup>nd</sup> Track Efforts Against Transnational Crime

Discussions have been held at the ASEAN Regional Forum level, within CSCAP and at the national level on the development of closer relationships between the 1<sup>st</sup> (Government to Government) and 2<sup>nd</sup> Track efforts against transnational crime. There are some political problems (which have nothing to do with combating transnational crime) which have yet to be overcome, but it is generally agreed that the expertise which the CSCAP Working Group on Transnational Crime has developed should be used in support of efforts at the 1<sup>st</sup> Track level.

### **Conclusion**

In a region currently characterised by uncertainty and tension, 2<sup>nd</sup> Track bodies, such as CSCAP have a valuable “think tank” role to perform, particularly in developing confidence building measures in areas where it is more difficult for the formal Government - to - Government initiatives to succeed. This is especially the case during periods of regional tension, when the exploitation of all the mechanisms for building trust, explaining confusion and maintaining dialogue and contact are required.

Transnational crime is now increasingly accepted at the international and regional levels as an issue affecting security and stability. It is important that Governments understand the nature and dimensions of the transnational crime threat, and what measures are required, or in place, to combat this threat. Transnational crime recognises no national borders, no legal jurisdiction and no limitation of the way in which it can exploit modern technology and communications. In such circumstances the importance of bilateral and multilateral cooperation against the common threat of transnational crime is essential, and CSCAP is one mechanism which encourages such cooperation to occur, on an informed basis.