PACIFIC FORUM

Council for Security Cooperation in the Asia-Pacific (CSCAP)
Nonproliferation and Disarmament (NPD) Export Controls Experts Group (XCXG)
Pacific Forum
Virtual Event via Zoom
September 14 - 15, 2020 (US)
September 15 - 16, 2020 (Asia/Europe)

The Pacific Forum, in its capacity as US Member Committee (USCSCAP) of the Council for Security Cooperation in the Asia Pacific (CSCAP), convened the CSCAP Nonproliferation and Disarmament (NPD) Export Controls Experts Group (XCXG) for a two-day virtual meeting on September 14 and 15, 2020 via Zoom. Forty-some participants from the Indo-Pacific region and beyond, representing relevant government department and ministries, private sector, industry associations, academia, and civil society organizations, joined the online seminar.

The two-day virtual seminar focused on the following five topics: (1) CSCAP NPD XCXG overview and background; (2) Research findings from the study "Measuring the Economic Effects of STC Implementation"; (3) Maturity model discussion; (4) CSCAP Memorandum No. 14 update; and (5) Next steps.

Key Findings

Key findings from each of the sessions are described below.

Session 1: CSCAP NPD XCXG Overview and Background

The CSCAP WMD Study Group was established in the early 2000s to discuss matters related to the nonproliferation of biological, chemical, and nuclear weapons. In the aftermath of 9/11, there was pressure to expand and deepen the existing WMD regimes. With the adoption of UN Security Council Resolution 1540, STCs took centerstage as one of the ways these regimes could be strengthened.

The CSCAP XCXG was created in 2005 as a subgroup of the CSCAP WMD Study Group to allow for more technical discussion on the implementation of STCs in Asia. Its stated goal is to assess national export control programs, identify vulnerabilities and shortcomings, and develop recommendations for improving both individual export control capacity and mutual cooperation.

As a Track-2 forum for discussion, the CSCAP XCXG allows participants to interact with non-government members and experts in an informal way. Initially designed to assemble the same individuals throughout different meetings, the CSCAP XCXG ended up attracting a constantly changing audience, allowing for more perspectives and wider reach but losing in deep technical discussion.

Throughout the years, the promotion of STCs has faced significant pushback from different states and organizations, such as the non-aligned movement. The CSCAP XCXG aimed to address some

of the main concerns stemming from STCs adoption, discussing their importance and providing assistance for implementation.

Drafted in 2009, CSCAP Memorandum No. 14 was meant to serve as a guideline for STC implementation to be considered by the broader CSCAP community and relevant regional institutions, such as the ASEAN Regional Forum (ARF). It was the result of several discussions and summarized the main points of agreement among its members, which explains why it only contains general principles. There was general agreement among participants that changing trends and increased knowledge throughout the years have made it ripe for review.

Session 2: Research Findings from "Measuring the Economic Effects of STC Implementation"

Today only four countries in Southeast Asia – Singapore, Malaysia, Thailand, and the Philippines – possess mature or emerging STC systems. This absence stands despite the region's status as a transshipment hub, the growing manufacturing capabilities of the region, and the increasing demand for technologically advanced dual-use items the manufacturing sectors necessitate.

Policymakers in Southeast Asia have several concerns about the costs of implementation and enforcement of STC systems. There is also a lack of quantitative and qualitative data on the founding of STCs and their impact on SMEs.

Pacific Forum's research study "The Economic Benefits of STC Implementation for Southeast Asia" therefore seeks to answer the following research question: What are the challenges and opportunities associated with the implementation of STCs for ASEAN countries? The three hypotheses of the study are: 1) STCs will have no impact on a state's international trade; 2) SMEs will perceive high costs to complying with STCs; 3) Foreign entities will prefer to export to/invest in countries with STCs in place.

Building on existing literature, the research uses novel data sources and research approaches. The first phase examined the impact of STC implementation from a macroeconomic perspective – on the value of a country's exports and import – across different countries and regions worldwide. The second phase explored the challenges and opportunities associated with STC implementation through a series of surveys conducted in ASEAN member states.

The study found a 22-23 percent increase in value of total exports after the implementation of STCs, whereas import values remained almost as high. Surveyed companies in the Philippines and Thailand (states currently developing their STC systems) also provided positive feedback about the implementation of STCs as both countries implement relevant legislation and regulations.

Respondents emphasized the importance of the study's quantitative and qualitative findings. They suggested considering additional variables for further research, such as foreign direct investment (FDI) and the impact of country relationships on strategic trade.

Session 3: Maturity Model Discussion

An STC maturity model can help identify specific gaps in a state's STC system and actionable next steps to support effective export control implementation. An effective maturity model needs to be specific enough to capture the behaviors of single organizations and broad enough to capture the behaviors and interactions between organizations within potentially complex, multi-organizational systems. The World Customs Organization's Strategic Trade Control Enforcement (STCE) maturity model assesses the establishment of STC institutions using a tiered-system approach: unsupported, nascent, established, and enabled based on a state's level of STC legislation, licensing, outreach, and enforcement.

STC enforcement can be improved through the integration of supply chain security management with STCs (as done by Singapore in 2011). In addition, the export control community is an effective way to integrate industry and authorities as ASEAN member states work toward the maturity stage. It was noted that outreach and engagement with industry an important aspect of STC system maturity.

Different levels of national STC system maturity are apparent when maturity is reviewed at a granular level. Participants assessed that no ASEAN member state has reached full STC maturity. Singapore and Malaysia are at the highest maturity stage in the region, followed by the Philippines. Thailand, Cambodia, Lao DPR, and Myanmar are mid-level maturity states, while Brunei, Indonesia, and Vietnam are at the still-developing end of the spectrum.

Challenges for STC implementation in ASEAN member states include diverging priorities, little regional coordination, concerns about the economic impact of STCs, and challenges with enforcement mechanisms. Co-developing maturity models with these states may help them determine which next steps to prioritize and where they need further assistance.

Session 4: CSCAP Memorandum No. 14 Update

When it comes to the progress among ASEAN member states on STCs, there are two main stages: *Implementing* and *Exploring*. Countries such as Singapore, Malaysia, Thailand, and the Philippines are in the former group, while the other member states have yet to formalize their STCs through appropriate legislation and enforcement mechanisms. Revision of the memo must take into account the different journeys taken by ASEAN member states. Doing so requires a deeper consideration of the different needs and capabilities with respect to risk assessments, enforcement of laws, sector-specific priorities and availability of government manpower and resources. It also brings to the fore a reconsideration of the EU Control list, especially among states who are still at the exploratory stage in their STC journey.

Customs takes centerstage across all critical STC aspects. Over the last decade, Customs organizations across Southeast Asia have transformed from their original mandate of collecting revenue to enforcing nonproliferation protocols. They have become the sentinel in STC implementation, assuming more proactive front and backend roles. Customs has become the central body in STC enforcement, and thus, carries the weight of managing transactions, issuing penalties, and launching investigation and prosecution. With its expanding responsibilities, Customs is now confronting a plethora of tasks which will demand an upgrade to its existing

capabilities to include backup or contingency, technical expertise, and interagency coordination. Overall, the recalibration of roles and responsibilities among different agencies and departments involved in STC implementation must be perceived by government authorities from a balanced perspective of security and economic priorities that is commensurate to the country's national interests.

Industry has played a proactive role in complying with nonproliferation and export control regimes. High-tech companies have built trusting relationships with governments and implementing partners like Customs. Similarly, the lead agencies in charge of outreach and enforcement must regularly update industry about growing trends in nonproliferation, especially in the technology field, where advances tend to quickly supersede regulations and policies. Institutionalizing targeted as well as region-wide industry outreach in ASEAN could be explored to ease greater information sharing on best practices and formulate metrics for benchmarking.

Donor countries are key partners that drive the engine of STC implementation in the region. To effectively utilize their expertise and resources, optimizing donor countries' inherent strengths and advantages is key to addressing not only the current challenges but also to future-proof countries against unforeseen issues that may arise. Creating a database that maps out the progress of international cooperation occurring in the region will be an effective way to channel feedback and disseminate information. Taking it a step further, establishing a secretariat that manages critical information – guidance documents, memos, technical presentations – would also streamline the approach towards international cooperation.

Obtaining the perspectives of CSCAP member partners such as the United States, China, Japan, Australia, South Korea, European Union, Russia, and North Korea is vital in making any revisions to the memo. Given the current geopolitical climate dominated by the increasing tension between US and China on export-related technology, however, arriving at a consensus on the memo would face an uphill battle. This leads to the possibility of reducing the overarching aims of the memo to a narrow set of common denominators, falling short to achieve its intent to set the stage for greater maturity on STC implementation in the region.

Session 5: Next Steps

Moving forward, participants noted the following observations to pursue initiatives that will bring optimum outcomes.

The group cautioned about producing a handbook centered around STC implementation that is exhaustive and prescriptive. A handbook could be reoriented instead to compile existing "best practices" among ASEAN member states who have started with their STC journeys. Maintaining the CSCAP Memo in its current form as a "memo" will be more palatable to other countries who are still undecided on which path to take in their STC journey. Compared to a handbook, a memo provides an overarching vision that can still accommodate a country's specific profile – threat perceptions, sovereignty, economic development – and thus, leaves more space to customize its STC system. A memo can serve as a fundamental starting point that lists guiding principles as the building blocks to create a functional STC system. Such a document will permit greater flexibility on the part of ASEAN member states who are still in the exploratory stage in their STC journey. Providing guiding principles may jumpstart a more serious consideration of a robust STC system in the future.

To obtain granular knowledge on specific line items in the memo, Pacific Forum can circulate a survey among the participants. Doing so will provide ample time to reflect on the issue areas that need to be prioritized given the rapid changes in the export control landscape. Two crucial dimensions not yet included are how to manage Intangible Technology Transfer and shifting supply chains in the current pandemic. With the rapid diffusion of knowledge, skills, and technology, some speakers also highlighted the importance of engaging academia and civil society organizations in the broader STC conversation.

Participants agreed that maintaining a CSCAP Experts Group on nonproliferation and export controls is vital given the current challenges in multilateral diplomacy. The CSCAP Experts Group will be instrumental to complement discussions in other ASEAN-related venues such as the ASEAN Regional Forum.