

『Indo-Pacific Focus』 Policy Brief No.3 Issues Impacting Malaysia's Maritime Security Policies and Postures

トーマス・ダニエル (マレーシア戦略国際研究所アナリスト)

Introduction

This paper aims to address key issues that impact Malaysia's maritime security policies and postures. In order to comprehensively outline these issues and their implications, this paper will be divided into three parts.

First, it will explore the notion of Malaysia as a maritime nation, focusing on the dependence of Malaysia on its maritime environment in order to provide the context for the importance of a sound maritime security policy for the country. Second, it will explore five key issues currently impacting Malaysia's maritime policies and postures. These include the consolidation of the maritime security framework, the challenge of geography and the issue of the lack of resources. It will also cover two ongoing operational issues that arguably represent the biggest challenge to maritime security in Malaysia, namely the South China Sea dispute and securing eastern Sabah's Sulu Sea region.

Third, this paper will attempt to explore the thinking behind maritime security policymaking in Malaysia, particularly the deeper considerations that shape the overall view, concerns, and indeed, non-concerns of maritime security amongst Malaysian policymakers. Lastly, and by way of conclusion, the fourth part of this paper will seek to outline recommendations for external stakeholders in engaging with both Malaysian policymakers and operators in the field of maritime security.

1. Malaysia as a Maritime-Dependent Nation

Located smack in the middle of key trade and shipping routes in Southeast Asia, Malaysia is highly dependent on the seas to generate economic activities. Trade amounted to 126 per cent of Malaysia's gross domestic product in 2016 and a good portion of that came from maritime trade.ⁱ The often quoted figure is that around 80-95 per cent of all Malaysian annual trade is seaborne dependent at some stage.ⁱⁱ The importance of maritime trade isn't new for Malaysia. Historically, the old Malay kingdoms and sultanates that flourished were maritime-based empires that always depended on trade, especially transshipment.

Additionally, all of Malaysia's known and proven hydrocarbon reserves come from offshore fields. Malaysia is Southeast Asia's second-largest producer of oil and natural gas and the world's third-largest exporter of liquefied natural gas (LNG). It is significant for government coffers, and by late last decade, before the oil price crash, a staggering 41 per cent of government revenues depended on hydrocarbons. This has now shrunk to a still important 16-20 per cent.ⁱⁱⁱ The sea is also a source

of seafood, an important dietary component of many Malaysians that live by, or close to, coastal areas and a cheap source of protein. Up to 800,000 tons of fish were caught in Malaysian waters last year.^{iv}

Last but not least, the maritime environment generates a host of supporting economic activities such as port operations, marine tourism, shipbuilding, ship repairing, ship management, logistics, financing, trade facilitation and many others. These spill-over activities generate income, employment, investment and tremendous multiplier effects to the nation's economy.

Given the importance of the maritime environment to Malaysia and its relative prosperity in the region, one would assume that it would be obvious for Malaysia to focus on maritime security and have comprehensive policies and strategies in place. Unfortunately, as with most security policies, they are often easier drafted and discussed than actually implemented.

2. Key Issues to Consider

• Consolidation of the wider maritime security framework in Malaysia

The formation of the Malaysian Maritime Enforcement Agency (MMEA) in 2005 heralded the beginning of the transformation and consolidation of Malaysia's maritime security framework and approach. At one point in time, there were seven agencies dealing with maritime security in Malaysia, each with a different remit. Thankfully, a more streamlined approach is in place, though questions on whether it can be improved remain. The issue of operating in silos is an ever present problem.

The lead agencies now are the MMEA, which serves as the lead maritime law enforcement agency, the Royal Malaysian Navy (RMN) as the lead maritime defence agency, closely supported by the Royal Malaysian Air Force (RMAF), which conducts maritime air-patrols of its own, the Department of Fisheries and the Royal Malaysian Police's (RMP) marine police, formally known as the Marine Operations Force.

These agencies will have to deal with the three main thrusts of Malaysian maritime security: maritime crime, environmental protection and upholding the sovereignty of Malaysia's waters. Maritime crime, which includes robbery at sea and piracy, has been a longstanding problem for Malaysia and one that various agencies in the country continue to grapple with. While most domestically-based syndicates and gangs have been disrupted, incidents of such crime occurring both in Malaysian waters and close to it are still rampant, especially by those criminal organisations operating out of Indonesian waters. Malaysian security operators are often frank in their assessments that there is little they can do, even with a substantial increase in assets and presence, without the cooperation of neighbouring countries.^v

Despite an overall drop in incidents in the Straits of Malacca when compared to the previous decade,

2016 and 2017 has seen a slight uptick in incidents in the waterway, which is reflective of the general uptick in a variety of maritime crime incidents throughout the waters of Indonesia, Malaysia, Singapore and Vietnam. A key target has been the theft of fuel for the thriving illegal fuel market in Southeast Asia.

Illegal fishing is also a significant problem for Malaysia.^{vi} Since 2016, some 256 foreign vessels with assets worth RM180 million have been seized and a total of 2,199 foreign crew have been detained during the same period. They are from countries such as Indonesia, Vietnam and Thailand. Here, the Department of Fisheries continues to rely on cooperation with MMEA and RMN to both monitor and enforce the necessary laws when it comes to illegal fishing in Malaysia's territorial waters and exclusive economic zones (EEZ).

In December 2017, MMEA's position when it comes to maritime security in Malaysia received a significant boost when its mandate was expanded, making it the lead agency for coordination of air surveillance activities over the country's waters. However, this announcement raised several questions as MMEA, unlike RMN, does not have any experience in coordinating maritime air surveillance activities. At last count, it operates slightly less than 10 helicopters and two small fixed-wing aircraft.^{vii} There are on-going discussions on forming a joint committee headed by the MMEA with significant roles to be played by RMN and RMAF. It appears that the MMEA will be moving into an apex leadership position on maritime security in Malaysia. How this will play out within the internal politics of different security agencies in Malaysia is still unclear. It could, as with the early years of its formation, face various difficulties in dealing with other more established agencies.

• ***The challenge of geography***

Geography is a significant factor when it comes to maritime security for Malaysia. The totality of Malaysia's waters, including the EEZs claimed, amounts to some 574,000 square kilometres.^{viii} This is larger than Malaysia's total land mass of about 330,000 square kilometres and 4,675 kilometres of coastline. Securing such a large area, especially for a developing country such as Malaysia with less-than-optimum assets, is a huge security task.

Geography also impacts maritime security considerations in another crucial way. Malaysia is not a contiguous country and neither are its maritime zones. Malaysia is physically separated into two sizeable territories, normally termed as West and East Malaysia, by the South China Sea. At the widest points, the distance across the South China Sea between West Malaysia, the Peninsula that extends down from Thailand, and East Malaysia, where the states of Sabah and Sarawak lie at the north of Borneo, is about 1,600 kilometres. At its narrowest, the distance is about 600 kilometres.

To complicate matters, the most direct maritime and air route between the two passes through international and Indonesian waters and airspace. China's claims in the South China Sea and the de-facto changing of the status-quo with its reclaimed features further complicates things for Malaysia.

Unsurprisingly, Malaysia's defence planners have long regarded it in the country's strategic interest that no major power dominates the sea-air gap between those two major landmasses.^{ix} To guarantee a degree of effective maritime security in its waters, enough assets and resources need to be made available to cover these huge areas, as well as areas that require particular attention such as the EEZs, the Spratly Islands operational area, the Malacca, Johor and Singapore Straits, and, of course, the Sulu Sea, whose waters lie between Sabah, the Philippines and Indonesia.

• ***A lack of resources***

In Malaysia, matters of economic and social development, such as infrastructure, education, skills development, and healthcare have always taken a priority over defence and security expenditure. Malaysia's defence budget and spending have never exceeded 5 per cent of the annual budget since independence, even during the height of the communist insurgency and Konfrontasi. ^x Defence spending averaged around 1.5 per cent of GDP, well below the regional average of 2.2 per cent.^{xi}

It is important to note that Malaysia's defence budget does not include allocations for the RMP and the MMEA. Both civilian agencies are funded separately. The latter, despite being Malaysia's frontline maritime law enforcement agency, has long suffered from a lack of resources and assets to carry out its mandate.^{xii} For 2018, MMEA was allocated close to RM900 million with slightly more than half channelled towards the upgrading and procurement of new patrol boats.^{xiii} New acquisitions include six new patrol vessels and three offshore patrol vessels.^{xiv} This comes on top of the two refurbished offshore patrol ships received from the Japan Coast Guard.^{xv} Despite the increased allocations and orders, more is needed to meet the optimum requirements of the MMEA. This takes on added urgency since MMEA's mandate has been recently expanded.

As a result, fewer assets are available. Moreover, key agencies such as MMEA have not only had to make do with fewer assets, but also with existing ones that are both inadequate and out-dated. Even as recently as a few years ago, a good portion of its vessels were hand-me-downs from the navy, resulting in more funds being allocated to repairs and maintenance, instead of upgrades and new acquisitions. Some of the aging vessels possessed by the authorities are simply not quick enough to catch illegal fishermen, smugglers and pirates, which would otherwise significantly increase both the rate of actual prosecutions as well as any sort of deterrent effect that Malaysia is seeking to achieve.^{xvi}

• ***The South China Sea dispute***

Malaysia is now dealing with increased and more coordinated incursions by Chinese vessels into waters that are claimed by the former. These are carried out by a variety of agencies: the People's Liberation Army Navy, the China Coast Guard, China Fisheries Law Enforcement Command and China's maritime militia.^{xvii} They have been increasingly aggressive in their manoeuvres, especially the maritime militia, leading to a few incidents of physical contact between vessels at sea. Nearly all are unreported in the public sphere.

China's navy and coast guard still maintain an almost constant presence around the North and South Luconia Shoals. Future incidents such as the widely publicised "swarm" of Chinese fishing fleets in waters claimed by Malaysia in 2016 are a real possibility as China further tests the limits of Malaysian resolve in the South China Sea.

Additionally, the further building up and operationalisation of China's reclaimed features will be a significant problem for Malaysia. This drastically reduces the operational distance between Chinese bases in Hainan and the Paracels and Malaysian waters. How will Malaysia react to a more frequent and intense Chinese presence in the southern reaches of the South China Sea?

In response to these, the MMEA and RMN have increased their patrols by as much as 30 per cent and deployed more assets in the South China Sea.^{xviii} This has led to a shortfall of patrols and assets in other areas, especially in West Malaysia. RMAF has also deployed more aircraft, including fighters, to the island of Labuan, fronting the South China Sea in East Malaysia. Additionally, in spite of lower spending on defence, more funds have been made available for the purchase and upgrading of naval assets for MMEA and RMN, which are sorely needed in the South China Sea. There are also indications of the purchase of maritime patrol aircraft for the RMAF.

• ***Eastern Sabah's Sulu Sea region***

Currently, the main threat plaguing the area is kidnapping for ransom. ^{xix} Increased coastal patrols, beat-bases and surveillance managed to reduce the number of kidnappings from coastal resorts, fish-farms and villages. From mid-2016 however, kidnappers began to focus on maritime targets: sailors on the various trade vessels, fishing boats and tugboats that ply the busy routes between the southern Philippines, eastern Sabah and East Kalimantan. Given the vastness of the maritime region, security forces have yet to get a handle on this. By the third quarter of 2017, a total of 59 people had been kidnapped with 15 still being held hostage.^{xx}

Additional threats come from the movement of supporters and members of various armed groups, including groups associated with extremist ideologies, based in the southern Philippines.^{xxi} The Eastern Sabah Security Command, which was established in 2013, coordinates security for the region and sees multiple agencies working together: MMEA, all services of the Malaysian Armed Forces, RMP as well as various federal and state agencies.

The formation of the trilateral patrols involving Malaysia, Indonesia and the Philippines in the Sulu Sea is another key response to the various threats. It is a largely maritime-based operation although air and eventually ground-based security assets will be involved. Maritime Command Centres have been set up in Tarakan (East Kalimantan), Tawau (Sabah) and Bongao (Tawi-Tawi) to coordinate these patrols.^{xxii}

While the involvement of additional stakeholders from both ASEAN and its Dialogue Partners will most certainly aid the trilateral states in terms of training, capacity and technical building, this

should not be rushed. Having too many external players involved too soon will likely prove to be counterproductive to the ultimate aim of security in the Sulu Seas.^{xxiii}

3. Exploring the Thinking behind Maritime Security Policymaking in Malaysia

• *Does Malaysia have a tangible maritime security strategy?*

Challenges in the maritime security domain are present for every nation and agency but given the extent of the various complexities plaguing maritime security in Malaysia and the fact that Malaysia is a maritime-dependent nation, some analysts who are beginning to explore the issue have wondered if Malaysia takes its maritime security seriously. There seems to be only a general appreciation for the specifics of maritime security, especially by elected and civilian policymakers. Security operators on the other hand, often appreciate the deeper subtleties but are often not in policymaking positions.

A critical question observers should be asking is why there is not a comprehensive policy or strategy in place, especially for a maritime-dependent nation such as Malaysia. Although Malaysia has a myriad of maritime-related policies, legislations and organisations, the lack of an overarching maritime policy – perhaps until recently – has arguably led to a fragmented mechanism for maritime security. Thus, individual agencies, sometimes guided by specific legislation applicable only to the particular agency, often worked towards an interpretation of maritime security laws and policies based on their individual interests and agendas.^{xxiv}

Even with the recent consolidation within the maritime security sphere, there is no guarantee that a comprehensive and tangible maritime security policy will be successfully implemented. The focus was, and still is, on building up the capacity of individual agencies, rather than a comprehensive, overarching plan allowing greater collaboration amongst these agencies.

• *Is maritime security a national defence or law enforcement matter?*

For some observers there is a feeling that when it comes to framing security in terms of national defence, especially against major powers, there is a perception amongst policymakers that Malaysia is a small country with little capacity that is caught in the middle of a strategic region, in the midst of big power competitions and events that are ultimately not in the country's control. Thus, some policymakers believe in only doing the absolute minimum, and that too much effort and resources should not be wasted on something beyond their control. Instead, more resources should be poured into national development and social programmes, which increases national revenue and is popular with the voters, who are largely unaware and unappreciative of the costs of investment in security.

So, even if the money were available – and it is – would it make a difference? This could also explain the longstanding Malaysian policy that peace, both national and regional, is better served through development and economic growth rather than military capabilities, which is reflected in how Malaysia approaches maritime security as well.

The perception of dealing with security issues from a perspective of law enforcement though, sees a different mind-set from policymakers. There seems to be more determination to deal with law enforcement as it is seen as something that is within their control as opposed to defence. This is why there seems to be a greater determination to deal with issues such as illegal fishing, smuggling and piracy, rather than intrusions by foreign states into Malaysian waters.

This could explain the consolidation of maritime security enforcement in Malaysia under MMEA – it is an attempt to change the dynamics of how maritime security is viewed in the country. The author was left with a similar impression in conversations with MMEA officers, both policymakers and operators, on how they view maritime security enforcement, namely that they visibly exhibit a proactive attitude when compared with the navy.

4. Conclusion – the Role of External Stakeholders

External stakeholders have played a significant role in assisting the development of Malaysia's maritime security capacity and awareness – MMEA in particular has close ties to the US and Japanese Coastguards. Recently, the Japanese Coast Guard donated two vessels to Malaysia and is further offering long-range maritime patrol aircraft. While they are a much appreciated and important stop-gap measure, they are not a long-term solution. Furthermore, while capacity building is important, partners such as Japan and the US must ensure that it does not lead to a situation or mind-set of dependency by recipient countries.

External stakeholders should consider how to promote and guide further cohesiveness amongst Malaysian maritime agencies and approaches to maritime security. Additionally, external stakeholders can also continue to encourage Malaysian maritime enforcement agencies to grow cooperation with their regional and neighbouring institutions, which is lacking amongst maritime enforcement agencies in Southeast Asia, who have closer relationships with their external partners than with each other.

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