Covering Maritime Piracy in Southeast Asia

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OPENING SPEECH: COVERING MARITIME PIRACY IN SOUTHEAST ASIA

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Covering Maritime Piracy in Southeast Asia, Kuala Lumpur,
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Ladies and Gentlemen, Eminent Speakers, Distinguished Guests, Colleagues, and Friends,

I would like to extend my warmest welcome to you, and thank you for having accepted the invitation of the Media Programme Asia of the Konrad Adenauer Foundation to participate in this two-day conference.

We are extremely fortunate to have this conference on "Covering Maritime Piracy in Southeast Asia" in the capital of Malaysia, one of the littoral of the Malacca Strait, and since 1992 also seat of the International Maritime Bureau Piracy

Reporting Center.

And it is a wonderfully ironic twist of fate that this conference should coincide with last night's official Malaysia [and Singapore] launch of the second installment of the Hollywood blockbuster "Pirates of the Caribbean: Dead Man's Chest", with Johnny Depp, Keira Knightley, and Orlando Bloom in the main roles.

A far less wonderful and welcome coincidence, however, was the recent attack on three ships off the coast of Aceh in the night of 2 to 3 July 2006. These boarding attempts doubled the statistics of reported attacks in the Malacca Strait this year. Luckily there was no loss of life on the two boarded UN vessels, nor on the attacked Japanese carrier.

While the likely success of the newest adventures of Captain Jack Sparrow (alias Johnny Depp) attests to the popular appeal of swashbuckling pirates, beautiful women, and mysterious treasures, the recent spate of piracy is evidence of the continued specter of piracy in this part of the world.

However, despite piracy's grip on the popular imagination, despite the occasional news report and the even rarer in-depth feature story, relatively little is known to the average reader, or even to the average media practitioner, about the business of piracy, or the day-to-day realities of piracy pre-emption and policing.

Arguably, reporting on maritime piracy appears somewhat biased. Because of the Malacca and Singapore Straits' strategic position as a vital world trade and world energy supply route, the three boarding attempts of early July received far more attention than the altogether 19 registered attacks in Indonesian waters for the first quarter of the year 2006.

While we know very little about the pirates and their motives, surprisingly we know even less about their victims. And while we know – or rather read – a lot about [bilateral or multilateral governmental] anti-piracy initiatives, the educated public is generally unaware of some of the key players in this game.

Hence, last year, I was very surprised to learn of the existence of a London-based **Joint War Committee** responsible for fixing insurance premiums for the Malacca and Singapore Straits!

Put simply, there is a lot still to discover and to learn!

The idea underlying this conference is, therefore, to pierce through the fog of conventional coverage of piracy, its omissions and biases, in order to more fully grasp the twin phenomena of piracy and counter-piracy, the key players, the main processes and structures involved, as well as the key dynamics and issues at stake.

Our quest is not for the coveted Treasure Island of Robert Louis Stevenson, or Captain Jack Sparrow's bid for salvation from eternal damnation, but for a far more important treasure: a better, more complete and nuanced understanding of maritime piracy.

This quest will be greatly aided by today's and tomorrow's speakers.

By drawing on their vast pool of knowledge and experience of virtually any aspect of maritime piracy, I expect we can learn more about any of the following, far from exhaustive, sample of questions:

- What kinds of piracy are there? How are pirates organized? And how real is the threat of maritime terrorism?

- What are the causes of piracy? What are the push and pull factors: tradition, topography, weak government, poverty, or lack of opportunity?
- Who are the main stakeholders: ship owners, seafarers, littoral governments, the great powers, or the insurers?
- How can the main stakeholders reduce the incidence of piracy and counter the threat of maritime terrorism: at what level and through which initiatives?
- Finally: What are the pitfalls, for us as journalists, in terms of reporting? Can we do better? And how can we avoid the pitfalls of sensationalistic and one-source "spot news" journalism?

I am confident that the presentations by our six distinguished speakers, the follow-up Question and Answer sessions, and your informal discussions during coffee breaks will provide plenty of opportunity to learn, network, socialize, and – last but not least – to enjoy this two-day conference.

Once again welcome to all of you, and thank you for your attention: I hereby declare this conference open.

Werner vom Busch

THREATS TO MARITIME SECURITY IN THE MALACCA AND SINGAPORE STRAITS: INDONESIA'S WEAK STATE AND REGIONALISM

By
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Covering Maritime Piracy in Southeast Asia, Kuala Lumpur,
13-15 July 2006

On 23 November 1998, an Indonesian sailor from Sangir, Franky Kansil, boarded the *MT Pulau Mas*. The Indonesian tanker was then anchored in Malaysian waters, near Johor Baru. What was so significant was not only that Kansil brought along three Indonesian Navy officers and two thugs, but that they demanded 50,000 Singapore Dollars from the ship's owner, who happened to be his former boss.

"Mister Wong", the businessman, did not have the money and therefore had to make some phone calls. This also included a call to his Javanese girlfriend, Ayu Nani Sabri, a worker at a karaoke bar in nearby Batam, Indonesia, a small island about 30-minute ferry ride south of Singapore. "He told me about the situation and asked me to contact someone at Kodim Batam," Ayu recalled. *Kodim* is the Indonesian acronym for a district army command.

Wong claimed that he was an oil shipper. In contrast, the Indonesian government claimed that he had masterminded major acts of maritime piracy in the Malacca and Singapore Straits. By this, they meant big operations with a master ship rather than more typical acts committed by small-time pirates using one or two small boats from their bases in Belakang Panjang Island or Jemaja Island, just across from Singapore. In contrast, Wong had once allegedly paid Kansil to captain a hijacked tanker from the Malacca Strait to the Cambodian port of Sihanoukville.

To this day, Wong's real name remains a mystery. His Singaporean passport, which was seized by the Indonesian Navy, identified him as Chew Cheng Kiat. The Singapore Embassy to Jakarta, however, claims that it was a stolen passport. It was not the only passport or name he was operating under. A Batam hotelier, in whose hotel Ayu and Wong regularly stayed, told me that "Mister Wong" usually used a passport identifying him as Chong Kee Fong.

Whatever Mr Wong's true identity, both he and Franky Kansil knew each other. That night aboard the *Pulau Mas*, Wong somehow persuaded Kansil and his companions to leave the tanker and promised to solve the problem in Batam. To this day, it is not clear what that money was for: protection money, or an unsettled payment?

The following day, on 24 November, Wong returned to Batam and stayed in his regular Hotel Kolekta. He disappeared the very same day and did not resurface until 29 November. It is not known what activities he engaged in during that period. "Waiting," he said. Even his mistress and partner, Ayu Nani Sabri, did not know what he had actually done during the period.

In the meantime, Franky Kansil, his former employee, kept on the pressure by making repeated phone calls to Ayu and to the captain of the *Pulau Mas*, Arief Lasenda. He threatened to beat and to kill Wong if the Chinaman did not appear and pay a ransom.

On 29 November, Wong appeared again in Batam and decided to spend the night with Ayu at Hotel 88 rather than the Hotel Kolekta. "We saw some Navy intelligence officers at Kolekta," said Ayu.

She recalled that Wong was calm that evening. Perhaps, he was confident that the Kodim officer, whom Ayu had initially contacted, had helped solve his problem. Wong spent the nights together with Ayu until Indonesian Navy personnel raided their hotel room on 1 December.

According to Indonesian Rear Admiral Sumardi, who held a press conference after Wong's arrest, a further seven *Pulau Mas* crewmembers were held. They had allegedly produced fake immigration stamps and hijacked foreign ships such as the *MT Atlanta* and the *MT Petro Ranger* in Indonesian waters.

Admiral Sumardi said that his men had been focusing their attention on *Pulau Mas* for months as it was repeatedly sighted in Batam waters. But every time an Indonesian patrol boat approached, the vessel would sail into either Singaporean or Malaysian waters.

Through an "ex-member" of the Wong syndicate, Admiral Sumardi received information that the *Pulau Mas* would be sailing closer to Batam in late November. Inside the tanker ship, the Navy found ample evidence of criminal activity. This included 15 handcuffs, 14 facemasks, knives, fake immigration stamps, paint, and ship stamps that let the pirates convert hijacked vessels into "phantom" ships.

Captain Arief Lasenda, who was among the seven crew jailed in a Batam prison, denied the charges. He told me that Kansil had most probably had a secret arrangement with some Indonesian officers to extort money from Wong and to use the Indonesian Navy to extend their interests.

When asked about the handcuffs and facemasks, Lasenda argued that it was normal for a captain to possess such equipment: "A captain onboard his ship also functions as a policeman, a prosecutor, and a judge." He added that if the *MT Pulau Mas* really was a pirate vessel, then why were no firearms found on board?

I had the privilege to interview key witnesses or participants in this story, and to write some reports for the Bangkok-based *Nation* daily. I also had the privilege of covering this story from Jakarta, Batam, and Kuala Lumpur, a privilege that was apparently not shared by other Indonesian journalists. In contrast, the Indonesian media, and hence the Indonesian public, did not know much about the incident in the Johor Baru anchorage. In fact, even the *Sijori Pos*, Batam's local daily and subsidiary of the Tempo Jawa Pos group, never mentioned anything about Franky Kansil or Ayu Nani Sabri. Instead, they mostly quoted Navy and police officers in charge of the Wong case.

Wong was later found guilty in the Batam court. His lawyers pointed out (correctly) that his arrest did not follow

proper procedures. Some years later, Wong escaped from the prison, but was rearrested and transferred to Pekanbaru prison on Sumatra.

Like most journalists, however, I moved on and covered other stories, from the independence of East Timor to the Jemaah Islamiyah bombings in Bali. Some of the problems apparent in the Wong case, however, have remained.

ORDER IN A MESSY AND INCOMPLETE STATE

If one follows Thomas L. Friedman of *The New York Times*, this may be because post-Suharto Indonesia essentially has become a *messy state*: too big to fail, too messy to work.

This is characterized by rampant corruption and a fragmentation of power. Since the departure of Suharto, neither the military, the parliament, the executive, nor the remnants of the old order have the strength to assert their will.

"That's why in messy states, you never quite know when arms are sold, people murdered, or payoffs demanded, whether this is by design of those ostensibly in charge or because no one is in charge," writes Friedman.

A messy state, from a journalist's point of view, means big stories. And, given the size and complexity of Indonesia, which comprises thousands of islands stretching over a distance from east to west that is approximately the same as from London to Baghdad, there is no lack of them. Its 210 million people speak more than 500 different languages. 88 percent of the population is Muslim, especially on the islands

of Java and Sumatra, thus making Indonesia the largest Islamic country in the world. But it has a Christian majority in its eastern provinces.

Due to the end of the authoritarian Suharto regime and newly emerged messiness, I have had the opportunity to travel the jungles of Aceh and Papua to meet Acehnese guerrillas and Papuan freedom fighters, I have interviewed Alifuru leaders in the Maluku Islands, and visited remote islands like Miangas in the Talaud Islands or Ndana Island near Australia. I have also covered the emergence of Minahasan nationalism in northern Sulawes, and the clashes between the Malay and the Dayak ethnic groups in Kalimantan, resulting in the killing of more than 6,500 Madurese settlers between 1997 and 2001.

I covered these messy activities but still remembered the Malacca Strait. When travelling around the Sangir Islands two years ago, in 2004, I tried to find Franky Kansil in his hometown, Tahuna. He was not there. He was not even known among several Sangir sailors.

THE RED THREAD?

While there was no link back to Sangir, I consistently found a red thread connecting seemingly disjointed events, from piracy on the Malacca Strait to the sectarian wars in the Malukus: the involvement of Indonesian military officers, big or small, direct or indirect, in shadowy businesses. Mister Wong cooperated with at least one army officer. I would not be surprised if he worked with more. And it is well known that Franky Kansil cooperated with some navy officers.

The lack of state resources for the army makes it likely that they would turn to additional sources of income. In Papua and Kalimantan, the military is heavily involved in illegal logging activities. I once interviewed an Army sergeant who opened a bar with dozens of sex workers in Merauke in Papua, using his income to help pay his troops' meals.

The causes of the army's activities are well documented. In June 2006, the New York-based Human Rights Watch published a 126-page report, *Too High a Price: The Human Rights Cost of the Indonesian Military Economic Activities*, in which it describes how the Indonesian military raises money outside the government budget through a sprawling network of legal and illegal businesses. They provided paid services - their clients included multinational corporations like Freeport McMoran and Exxon Mobil - and marked up military purchases.

The main problem is that the Indonesian military's budget is insufficient to meet its needs. It has to cover at least half of its needs independently. According to Cornell University's Indonesia journal, which publishes quarterly military analyses, the army's budget is even more under-funded. Citing official revenues of only 30 percent, the remaining 70 percent has to be self-financed by the Indonesian military.

The journal reported that these funds come from three sources:

(1) military enterprises under its complex foundations or *yayasan*;

(2) security and other military services (e.g. transportation) for civilian "clients";

(3) illegal or criminal businesses orchestrated, or backed, by military personnel (and units), including protection rackets for prostitution and gambling businesses.

Type-3 business activities are mainly conducted by the lowest level in the army command structure (individuals and troops). Type-2 business activities are largely managed by the *Kodam* (army command on the provincial level) and *Korem* (under *Kodam*). The army central command in Jakarta is not in a position to supervise the type-2 and type-3 activities. It is only type-1 businesses that the army headquarters can deal with directly.

The Asian economic crisis damaged the type-1 enterprises and further exposed their weakness: endemic corruption and poor management. The Army headquarters, however, had difficulties in investigating the bankruptcies in which dozens of high-ranking officers were involved.

Only by 2001 did the Army headquarters come to understand that these bankruptcies posed a fundamental threat to the entire institution. As a result, it decided to employ foreign accounting firms to conduct a full investigation into its biggest foundation, *Yayasan Kartika Eka Paksi*. The Ernst & Young result, after an eight-month audit, was a real jolt: only two of the 38 army enterprises were generating profit.

Some of these shadowy activities seem to have continued to the present day. As late as June 2006, the late Brig. Gen. Kusmayadi was found to have amassed various weapons – enough to arm one company – in his Jakarta home. The find included 96 rifles, seven ungrooved rifles,

and 42 short-barreled rifles. In all, the 145 weapons were of varying makes: SS-1, MP-5, M-16, and AK-47. Army investigators also found 28,985 bullets, eight grenades, and 28 pairs of binoculars. Brig. Gen. Kusmayadi was obviously planning something prior to his sudden death.

While the late general's "private" arsenal was highly unusual, it highlights the strains on a chronically under-financed armed forces whose commanders often develop "creative" ways to keep their forces operational. Directly or indirectly, the 900-kilometer Malacca Strait is a source of funding potential as well as a hide-and-seek playground for the Indonesian military. They can increase patrols to minimize crimes – when the international community is closely looking on – but they can also give the green light to their underworld links.

FOREIGN CONCERNS

Who are the concerned foreign commentators?

U.S. State Secretary Condoleezza Rice said one-quarter of the world's oil and trade pass through the Malacca Strait every year. "Southeast Asia is more water than land, and maritime security is a top priority," Rice said.

"We're working with Indonesia and others to close this region's waterways to drug smugglers and human traffickers, pirates and weapon proliferators."

Tim Huxley, a London-based writer on piracy in Southeast Asia, estimates "62,000 shipping movements" through the Straits every year. Huxley doubted the Indonesian military's ability and seriousness in protecting these waters.

According to Christian LeMiere, Asia editor for Jane's Country Risk in London, territorial sensitivities about a patrol chasing suspected pirates into a neighbour's waters in so-called "hot pursuits" could make it easy for criminals to slip away.

"There are doubts about the effectiveness of these patrols," LeMiere said, adding that in some cases in Indonesia, law enforcement authorities are suspected of colluding with pirates.

Bilateral disputes as well as concerns about national sovereignty also undercut maritime cooperation. In 2005, a dispute over an oil field in Ambalat, Sulawesi Sea, triggered a tense standoff between the Malaysian and Indonesian navies. The Indonesian media played a role in creating a nationalistic brouhaha, prompting several militia groups to burn Malaysian flags and to arm themselves to go to Ambalat. The Malaysian government even threatened to file a law suit against the *Kompas* daily.

I am afraid that, as the pirates do with border issues, the Indonesian government, media and military manipulate nationalism and concerns about sovereignty in order to secure their respective narrow interests over the security of the Malacca and Singapore Straits and other territorial matters. In fact, in my view, the nation building process of Indonesia has been seriously corroded since it gained international recognition as an independent state in the late 1940s.

It has been 60 years, but killing in the name of Indonesia still takes place.

NATIONALISM AND REGIONALISM

Ethnic violence and separatist movements are escalating in a messy Indonesia. The main reasons are injustice, human rights abuses, and the growing gap between the main island of Java and the other islands. Now questions are being raised as to whether Indonesia can survive as a nation-state. Despite more than fifty years of "Indonesia", the country might still disintegrate like Yugoslavia, given that its peoples' only common history is their Dutch colonial past. Suharto managed to keep the country together by brutal means after he rose to power in 1965. But when he left power in May 1998, the institutions that he had built up also began to crumble.

Hasan di Tiro of the Free Aceh Movement in the north-western tip of Indonesia argues that "Indonesia" is the pseudonym of *bangsa Jawa*, or "Javanese nation". In his view, the concept of Indonesia was imagined and created to serve the densely populated island of Java.

In the eastern-most part of Indonesia, the Papuan freedom fighters believe that their ethnic group is dying out. They are being exploited by Jakarta's imperialism. The Papuans have remained dirt poor in their mineral-rich land and waters.

In the spice island of Ambon in north-eastern Indonesia, Semuel Waileruny said the people of Maluku had suffered tremendously under the "Javanization" program.

In Riau province, where Batam and those small islands of pirates are located, many students, activists, and intellectuals are talking about having a "sovereign Riau." They know that Riau is one of Indonesia's richest provinces

- like Aceh, Papua, and East Kalimantan - but most of its resources go to Jakarta. They are not openly fighting against Jakarta but clearly differentiate themselves as "Malay" with their "Malay cultures" rather than as "Indonesians" with "Indonesian cultures."

Indonesia's most internationally-recognized novelist, the late Pramoedya Ananta Toer, who used his literary brilliance to help build Indonesia's nationalism, told me that the mind-set among the Jakarta ruling elite is the main problem. They saw Indonesia more as a territorial matter than a nation-building process. "If Indonesia were to break up, wars would happen continuously. Java has too many people and they are mostly poor", said Pramoedya.

The security of the Malacca Strait is closely related to the rising nationalism among many "nations" in Indonesia.

PIRATES SET THE STRAITS ON FIRE...
CAUSES AND CONTEXT OF THE PIRATE ARSONS IN THE MALAY ARCHIPELAGOS SINCE THE NINETIES

By
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Today marks a special occasion for me.

First, I am with you to talk about maritime piracy – and I would like to thank the KAS for its invitation: "Ich bedanke mich recht herzlich für Ihre freundliche Einladung nach

Kuala Lumpur, um dort einen Vortrag über Seepiraterie zu halten."

Second, the 14th of July is the French national day. I will not sing the French national anthem, the *Marseillaise*, to celebrate "Freedom, equality, brotherhood" – the French motto – but the recalling of the *Révolution* allows me to introduce this paper. Like France in 1789, there are several elements in contemporary Indonesia that are similar to what many historians of the French revolution have called *"la Grande peur"*, i.e. the "big fear":

- the economic crisis,
- the very difficult democratic transition after an authoritarian reign with many unfair privileges,
- the attacks against symbols (prisons or merchant vessels),
- the spread of road or maritime robbery along the main lines of communication,
- the threat of a "Terror era".

Based on events and personal experiences in the pirate sphere around East Sabah in 2000, and the islands of Batam, Bintan, Lingga, and Anambas islands from 2002, this paper aims to understand why a seaman or a fisherman may take risks to attack vessels. Indeed, boarding incidents at night are precarious operations because pirates do not have the luxury of navigating with the aid of any Ground Positioning System (GPS) or ship floodlights which would expose their position. The backwash, caused by the propellers of the ships they are trailing, also makes the act of climbing aboard a ship extremely perilous.

To identify the main causes of modern piracy, we have to distinguish different types of piracy. However, coming to a consensus on the typology of piracy seems to be as difficult as arriving at a unanimous definition of this phenomenon. One's interest broadly determines the modes of classification. In August 1992, Eric Ellen – former director of the International Maritime Bureau (IMB) – made a distinction between attacks affecting ships and those targeting goods while Daniel Perret, a researcher in the Ecole française d'Extrême Orient (French School of the Far East), made a distinction between "artisanal" piracy and that which relied on international networks. The former mode of classification targets the personal effects of the crew and light equipment while the latter focuses more on freight and fuel. In 1995, the former Chief of the Singaporean Navy laid emphasis on the duration of hijacking, thus introducing distinctions between temporary seizures, detentions of longer duration to unload the cargo, and permanent sequestrations.

We could also refer to the 1993 IMO classification and the three types of piracy.

- "Minor armed robbery" (MAR) concerns attacks and robberies that take place in ports and in the vicinity of coasts; the victims, typically, are fishermen and yachtsmen. These opportunistic attacks along the coasts are perpetrated by bandits (maritime muggers) – often equipped with knives – on small, very rapid boats. They generally target personal valuables and cash locked up in the safe. In contrast, "Armed Robbery and Agression of Intermediate Degree" (ARAID) involves violent action aimed at pillage or theft of boats on the high seas or in territorial waters. This practice

is not as common as armed robbery at sea, but is more likely to upset navigation as the crew is overpowered for a longer time. These attacks are led by well-organised gangs that are usually heavily armed. Finally, the third IMO category of "Serious Criminal Hijacking" is defined as planned international criminal activities which take advantage of important resources and large gangs of well-trained and heavily armed men who are fully prepared to use firearms in order to hijack a ship, rename it and engage it in illegal trafficking". Besides these three types of piracy, the IMO does not forget the terrorist threat. In 2004, the Malaysian Defence Minister judiciously distinguished armed robbery against ships, hijackings, kidnappings and maritime terrorism.

Based on these analyses, we will study three types of maritime criminals for the purposes of this paper:

- The maritime muggers who light *foco*, i.e. small and scattered "pirate fires";

- The pirates who steal something else other than cash or small personal belongings, such as cargoes, vessels (hijacking) or even crewmen (kidnappings); these pirates regularly ignite light "pirate arsons" along the SLOC (Sea Lines Of Communication);

- The potential terrorists who predict "apocalypse" and who threaten the shipping community with "thunder and lightning" in order to blaze up the Straits.

The question is why and how these pirate fires have spread

along the Southeast Asian Sea lines of communication from the 1990s to 2005, especially in the Malacca Straits.

As can be seen from other transnational threats to ASEAN countries such as the big fires and the haze from Sumatra, fires can only start in a specific environment. For example, in very dry places (1), with fire powder or a detonator (2). They are also facilitated by the lack of security measures and firefighters (3). Fires also require a combustible such as wood (4) and, above all, it takes a spark in order to light the powder keg (5). For all the pirate fires – *foco*, arson, or apocalypse – we will study the context favourable to their propagation using examples noted during experiences in a pirate's den – on Belakang Padang – and in a pirate meeting point in Jemaja.

1. Place and environment favourable to piracy: the geographic factor

Other than the monsoon, which, in earlier times drove the pirates of Borneo to the vicinity of the Malay Peninsula, several geographical elements have favoured the development of piracy.

First of all, the funnel of the Malacca Straits, which shrinks to 1300 metres at the narrowest point, forces ships to reduce speed. Also, there are many obstacles like reefs and the traffic is so dense that some masters told me that full tankers cannot exceed ten knots. To make matters worse, this sea route is prone to the formation of sand banks and heavy rainfall. All the elements that are conducive for maritime guerilla warfare, attacks, ambushes and other skirmishes

recorded in the various jungles, mountains, and canyons of America and Asia, are found in the Malacca Straits.

Moreover, there is a great deal of activity and so many boats or sampans around Tanjung Pinang, Nagoya or Sekupang in Riau Islands that it is useless to search for any aggressors here. Indeed, nothing resembles a fishing boat from Riau more than another fishing boat from Riau. In addition, waters are not very deep and large patrol boats cannot navigate easily because of mangroves around Belakang Padang and corals near Jemaja. These two pirate haunts are also surrounded by three small islands where pirates can hide. Indeed, pirates know how to make full use of the opportunities offered by the 17,000 islands of the Indonesian Archipelago and the 9,000 islands of the Philippines Archipelago which constitute as many points of shelter.

Pirates can also easily watch over maritime traffic from some deserted islands nearby, where pirates sometimes move from their haunt. Pulau Dendang, 400 metres from Belakang Padang, and Pulau Mangkai, four kilometres from Jemaja, are two examples.

Unfortunately, the Malacca Straits, a veritable 937 km-long canyon, still constitutes the only passage that is economically viable. Due to their location and the lack of infrastructure, the Straits of Lombok and Sunda are secondary routes.

The geographical context also plays a very important role along the eastern coast of Sabah, which is 1,400 kilometres long and has about 500 islands close by. The proximity of the various countries also makes the escape of the pirates easier. Thus, when the forces of law and order

intervene, pirates – equipped with a motorboat – only need a few minutes to seek refuge on the other side of the border.

In this favourable environment, it takes very inflammable materials to quickly light the fire. In this context, Malay people seem to have predispositions to facilitate the start of the fire because of their history and their knowledge of shipping.

2. A highly sensitive detonator to facilitate a larger explosion

2.1. The weight of tradition

The existence of "tradition" as a factor cannot be ignored, even though it cannot be easily evaluated. In the beginning of the thirteenth century, the Chinese traveller Tchao Ju-Kua described how the authority of the Sumatran maritime power of Srivijaya controlled navigation in the region. He observed that "if a merchant ship passes through without putting into port, boats go out to attack it in accordance to a planned manoeuvre; people are ready to die (to carry out this enterprise)."

Thus, until the nineteenth century, Muslim sultanates used to live by pirate raids. They contributed to the development of strategic commercial warehouses in Malacca, Johor, and the Riau Archipelago in the heart of the Malay Straits. Maritime guerrillas regulated regional relations, as did Barbarossa in the Mediterranean.

But because of the existence of sea peoples (known in Malay as *Orang laut*), the story of Tchao Ju-Kua off Srivijaya and the novels of Joseph Conrad as *Karain*, should one

deduce an indefatigable attachment of Malay people to a maritime crime that is many centuries old? I do not think so; even less so, given that these Malay pirates were in fact privateers who attacked vessels for sultans.

This somewhat provocative question leads us to a bigger debate which is that of culturalism. I think we cannot justify the pirate activity of the Malay people by some gene or natural penchant. It is only a question of describing the often historical context which has made piracy "culturally thinkable" as Johnn Vagg said. We can only talk about predispositions because of the antecedents of maritime attacks: Hang Tuah, who defended the Malacca sultanate on the seas in the fifteenth century, stopped by the islands in the Malacca Straits or in the South China Sea and people still have a good memory of him. In fact, piracy would still be perceived in certain areas of East Asia "as an ordinary profession which is socially permitted" according to some researchers. What we can observe in some pirate dens is that people make a living legally and fishermen cohabit with pirates and smugglers. During the day, pirates work as taxi-boat drivers and can move freely. Inhabitants never talk about piracy. Crouched on his boat docked at the jetty, a sailor told me: "Pirates, they existed an eternity ago…" But what does "eternity" mean in the "*jam karet* – or elastic time – country"? This is a kind of *omerta*, the law of silence that rules triads. Pirates actually exist, but nobody dares to talk about them, although everybody knows each other, his job and his nocturnal activities for catching big fishes or small boats, and vice-versa.

Nevertheless, is this *omerta* merely the consequence of a historical or cultural tolerance? Not only. There is also fear. Indeed, all of the villagers of Belakang Padang – pirates,

smugglers, or fishermen – have to obey the local strongman, the aptly named Bulldog and his brother. These rough and brutal lords are the godfathers of the island; they command the six or seven gangs composed of around eight pirates and do not hesitate to hit people.

Last explanation: piracy can spread easily in these areas because village chiefs frequently opt for a *laissez-faire* policy – so long as the unemployed do not rebel and heavy weapons from Aceh are not involved. In this context, the acceptance of piracy is the price for social peace rather than the consequence of a maritime tradition.

That is why I think we would better consider the weight of history as one of the elements favourable to the development of piracy than as a decisive cause to explain this scourge.

2.2. The knowledge of shipping

Another element explains why piracy can blow up in this area. The sea peoples in the Malay Archipelago know the Straits and shipping very well. Because of that, subordinates and maritime muggers are recruited among these numerous fishermen, unemployed sailors and taxi-boat captains, on sampans and "pom-poms", which pullulate in Riau Archipelago. These people can also train pirates. As the old chief of a pirate den told me: "sometimes, groups of pirates came from Palembang (south of Sumatra) to be trained on the job!" To sum up, if these fishermen and sailors need money, they prefer to rob it at sea.

Because of the past and, above all, the geographic factors, the Malay archipelago seems to be very favourable to

maritime guerrilla activity, piracy, even to maritime terrorism; the "pirate bomb" is ready to explode. What is more worrying is that not only can the "pirate fire" spread easily in this environment, but there is nothing to prevent or stop it if it begins.

3. The lack of security measures

3.1. The lack of means to stop piracy and terrorism

To a large extent, the post-Cold War "power vacuum" in East Asia explains the outbreak of piracy. Indeed, as there are no more Russian or American patrols, pirates can attack vessels for big triads or for themselves as well.

At the national level, the small islands along the SLOC suffer – or suffered – from the lack of care and attention, particularly from Jakarta. A good example is Belakang Padang, off Batam, where policemen operate with only two small single-engine wooden boats, even though this is the main pirate haunt on the Riau Islands. They are supported by the Indonesian navy, who contributes four men, but no boats to this important task on the main island of Jemaja, even though they operate without any boats.

3.2. The lack of will to stop piracy and armed robbery against ships

When preventive action is taken through solidarity groups, such as religious associations or strong family ties, some

people can be saved, such as Deddy in Belakang Padang, who has just entered a catholic seminary, or Nasrul, a simple and honest fisherman in Jemaja.[1] But left on their own and faced with a latent *anomie*, young men may catch fire, like Tambil and the orphan Rosa who became pirates in Jemaja and in Belakang Padang.

On these two islands, there is no will to prevent "pirate fire". On the contrary, just as you can meet the pyromaniac fireman, you can meet pirates or criminal policemen on very small Indonesian islands.

3.2.1. In Belakang Padang

There, at the exit of the bay, a small and frail police office overlooks the bay.

No doubt that local police are fully aware of the criminal activities that are carried on by some of their neighbours.

Indeed,
- Pirates pass under their windows to go to the Straits.
- People also say that policemen collected a tax – for themselves – on boats sailing around the island a few years ago.

But, torso bare and clad in a sarong, policemen now prefer to take some fresh air in front of the police station and to visit the *filles de joie* in nearby Pulau Babi, i.e. "the Pig island".

At the same time, policemen do not disturb pirates and their chiefs as long as these gangs do not explicitly challenge the unity of Indonesia. For example, police never enter a

certain *kampung* of Belakang Padang that is set apart from the main peaceful village, even though, or rather perhaps because, a pirate named Miming resides in it who is wanted by the Batam police.

Sometimes policemen are not only tolerant but also accomplices. Some brave people tell us that some policemen are in reality the bodyguards of the two aforementioned brothers who are the main actors of this shady play.

- Both control the island, including the lair, the main village, and the market.
- They own discothèques in Batam and CD shops in the market.
- Bulldog, the more violent brother, acts like a lord vis-à-vis his serfs, i.e. the inhabitants, whom he hits when he is angry. And confirming the idea of a new version of the Middle Ages, he also acts like a lord vis-à-vis Jakarta, the very far central power, i.e. the current government. Bulldog and his brother ignore it and are the real chiefs of the island:
- They know everything;
- They have strong links with political sphere;
- Everybody has to deal with them. For example, pirates have to give them accounts of their activities.

Today, the tie-ups between certain local potentates and pirate bands may challenge the official government.

That is why Jakarta may be trapped if it is so tolerant of pirates in particular and these kind of potentates in general.

3.2.2. In Jemaja

According to former guides, now unemployed, there have not been any more yachts off Jemaja since policemen attacked them in the 1990s.

Now the blaze could spread easily in this inflammable environment but it lacks the combustible in order to supply it and the spark to light it.

4. Many ships to supply the "pirate fire"

4.1. Combustible for pirates

Pirates need ships; they consume and steal salaries, cargoes, or vessels. That is why pirate dens must be very well irrigated due to their strategic position along the main Sea Lines of communication. For example, Belakang Padang and Jemaja are located at a short distance from buoys, such as Berakit off Belakang Padang, or from lighthouses, such as at the top of Pulau Mangkai off Jemaja. It only takes ten minutes for pirates from Belakang Padang, and less than thirty minutes for those from Jemaja, to reach their numerous targets. Indeed, more than 60,000 vessels transit the Straits each year. That is why a pirate told me that they have the choice to identify and hit easy targets.

4.2. Combustible for terrorists

Potential maritime terrorists are more demanding. They target tankers (so as to cause oil slicks) or chemical tankers (in order to convert them into floating bombs). They also

choose strategic SLOC in order to cause big damage. Hopefully for them – and unfortunately for us – 40% of the world's shipping and around eleven million barrels pass along the Malacca Straits every day. Moreover, the Straits of Malacca is the shortest sea route connecting three of the world's most populous countries (China, India, and Indonesia) and is considered to be the key choke point in Asia. Because of that, it may be a very interesting target for terrorist groups.

5. The socio-economic clash between the *city* and the *kampung* to light the "pirate fire"

The socio-economic clash is certainly the decisive cause and the key factor in explaining the pirate scourge; besides, pirates have tools to light the "pirate fire".

5.1. Motivations

5.1.1. Motivations to become pirates

a. Before the economic crisis in 1997

Prior to the Asian economic crisis, there were two kinds of pirates.

Some of them were sea robbers in their "bohemian" years. One of them, Marcus Uban, told me his story in an affable tone:

"In 1987, I left Timor to try my luck in Batam, where I became a pirate in order to earn my living. Just like me, many came from miserable kampung. Singapore was rich; we were poor. We targeted cargo ships. Fishermen? They didn't have money!"

For Marcus Uban, this life was not easy but it was not such a bad a memory. He concluded: "Now, I want to become a good man and that's why I opened a karaoke." This is the second life of an Indonesian pirate. Yono, another former chief of pirates, manages the taxi-boats around Belakang Padang, where former and current pirates live in different districts.

Next to these "bohemian pirates", there were "Sea Robin Hoods". In Belakang Padang, Rozy is renowned as a legend. From what I was told, he used to burgle rich vessels after which he distributed the plunder among people in the coastal villages. The village mosque and the footbridges have thus been built thanks to his booties from robberies at sea. Rozy was the respected chief of the main pirate gang and of the village during the early 1990s until his recent demise. People say that a rival gang murdered him.

Another charismatic leader, Winang, was well appreciated since he gave money to the villagers of Jemaja: he offered drums to the young people and, in exchange, villagers hosted pirates for many months.

b. Since the economic crisis of 1997

- For sea robbers:
Today, the main spark which can set the Straits on fire is the

socio-economic crisis. Making a living is not easy for families who live in coastal villages with their children. One night we followed a fisherman in the Phillip Channel and we can confirm that it is more and more difficult and dangerous to fish in this area, especially because of pollution, over-fishing, and maritime traffic. Besides fishermen, some seamen and other transmigrants looking for a job may be affected and unemployed. As the crisis worsens, social unrest may turn into piracy in this maritime context.

This is the case in the Riau islands, especially on Batam. Some of the young pirates I interviewed in the Riau islands were 18 years of age when they began to attack vessels in 2002. These young pirates seem to be more and more desperate. Everyday, they see the arrogant skyscrapers of the opulent city. In the words of a French journalist: "the Malacca Straits are like Monte Carlo adjoining the Central African Republic, with a channel as a narrow border". The relative disparity in development and wealth between Singapore and Riau proves to be a hard reality for them to bear, especially if they aspire to the good life that they can watch everyday on TV thanks to their satellite dishes. Like many other people, they have become tired of the Indonesian Government's broken promises, reaping the dividends of the "Asian miracle" and distributing them to the people.

Indeed, the adjacent island of Batam, for one, was expected to become a new "Eldorado" at one time. Instead, about 40,000 illegal immigrants swarmed now shanty residences. The atmosphere in this "Indonesian Far East" is a heavy and sombre one.

Deprived of the benefits of any economic growth, they are forced to turn towards petty crimes. In this local circumstance, instead of becoming pitiful pickpockets or

louts, some boys choose to become pirates because of their familial background and their geographic environment, as we described earlier.

- Concerning hijackings and kidnappings:
Pirates who commit hijackings or kidnappings seek very profitable "jobs" and fast cash. Compared to armed robbers, these criminals are more professional and more ambitious. Sometimes, armed robbers can be recruited for hijackings and kidnappings by these triads or mafias – "often by Chinese people" according to Marcu Uban. Winang, for example, a Chinese from Singapore, managed a gang of pirates based on Jemaja during the 1990s. He benefited the help, as associate, of Hanang, a Chinese pirate based on Belakang Padang. For the anecdote, he told us that he had to use a wheelchair since a motorcycle crash. In fact, he broke his leg when his tie broke during a boarding attempt.

5.1.2. Motivations to become terrorists

Actually, terrorists are the true great-great-great-grandsons of Stede Bonnet, Bartolomew Roberts, and Blackbeard. Potential sea terrorists and former utopian and anarcho-nihilist pirates challenge – or challenged – the political system. They still impose their ideology on the society today by threatening the SLOC, load, and freight (whatever the color of gold, yellow or black).

5.1.3. The reasons why there cannot be a links between pirates and terrorists

Regarding these motivations for armed robbers, pirates, and

terrorists, we could exclude the threat of a link between pirates and terrorists. In the case of Belakang Padang, this village does not even have a *pesantren* (Koranic school). The basis of radical or extremist Islam sweeping the village is simply not there to start with. I tend to believe that if a *pesantren* did exist in Belakang Padang, the village chief would come to know about it. Right away, he would inform the central authorities in Jakarta, who would take a strong position against the threat of terrorist groups such as the *Jemaah Islamyah* (JI). It appears that from the possible threat of maritime terrorism, pirates (and the success of their attacks) can inspire terrorists into similar action, but it is very unlikely that pirates have a real interest in helping terrorists towards this end. Indeed, a terrorist attack could cause vast naval patrols in those areas, which would be very harmful to the pirate business. And as pirates attack vessels for economic reasons, evading capture and sustaining their trade are important imperatives. Moreover, pirates may be less educated than the members of *Al-Qaeda* or the JI (many of whom are known to be relatively well-schooled) and they infringe too many Islamic laws (such as the drinking of alcohol during Ramadan) to become suitable allies with such terrorists. This hypothetic alliance would be *lachuma* (shameful) for the militant Islamists who are seeking their goals through terrorism. Lastly, pirates prefer to meet prostitutes near Belakang Padang rather than the virgins in the "Jihadist paradise"...

Now they are motivated, pirates can light fire.

5.2. Tools

5.2.1. Tools used by maritime muggers

Generally, pirates avoid attacking during Ramadan or full moon. If they decide to attack vessels, pirates spend their time together – when it is just about sunset – by drinking and womanising with the female inhabitants on the island. They also take morphine before boarding, probably to forget the danger. A fisherman from Belakang Padang added:

> "It is at eight o'clock in the evening that the pirates begin to work. They come with an additional motor on their shoulder. They mount it on their sampan. Thus, they can easily catch up with the cargo ships that cross the Straits."

Then, they go to sea and try to catch fish while they carefully look at the traffic. This is one of the reasons why it is so difficult for naval patrols to catch pirates in the act.

Besides morphine and fishing rods, people say that they take away magic powder. Interestingly, many pirates find strength and confidence in the various "ghosts" and "spirits" they beseech. For example, off the coast of the island of Malaysia's Penang, some pirates attribute their ability to traverse these waters undetected to *Puja*, a local spirit. They believe that *Puja* allows them to suddenly vanish in a cloud of smoke. I happened to hear that even some local policemen of Penang believe this to be true of their pirate adversaries.

Once they are ready, pirates negotiate the act of boarding with the help of grapnels or big gaffs equipped with a sickle at the end – more suitable for collecting coconuts than for boarding ships moving at 25 knots.

5.2.2. Tools used by pirates and potential terrorists

For boarding vessels, the same techniques and henchmen are used by the Mafia or triads. But they also use more sophisticated equipments and weapons.

To get information, they sometimes use agents in Singaporean shipping companies. For example, an old Chinese guy, living in a beautiful white and two-storey house in Belakang Padang, supported an intelligence network between Singapore and Batam. Sometimes, pirates can listen to the radio on VHF (Very High Frequency); the village chief told me that pirates could know exactly the location of a ship and her load thanks to the Automatic Identification System (AIS). Thus one French Master explained to me, "When I enter the Malacca Straits, crewmen close all the doors; I increase speed and I switch off the AIS!"

6. Conclusion

To conclude, pirates have now collected all the elements to set the Straits on fire:

- a dry environment (because of the geographical context favourable to maritime criminality);

- a detonator – or fire-powder – very sensitive to maritime criminality because of the history and economic activities at sea;
- an area without reliable or efficient "firemen";
- an area with combustibles, along a maritime highway;
- idle people ready to light the fire.

To stop this pirate fire, one can essentially act on the "spark" and on people who light the fire. According to Jean-Luc Domenach, author of *Asia in Danger*, "the return of piracy shows how progress and danger go together in the new regional zone of East Asia. Economic development not only means more trade, but also (…) the economic differences which motivate predatory activities". It does not mean that we must stop growth and progress! But it is very likely that piracy will continue to exist at a significant level as long as unemployment remains a significant problem.

Consequently, these villages do not only need multilateral naval or aerial patrols – such as *Malsindo* or *Eyes in the sky* launched in 2004 and 2005 respectively. But these islands could also use attention, public investments, infrastructure, well-qualified staff and civil servants. In this particular context, "soft power" could complement – and not substitute for – "hard power", as Joseph Nye said; battalions of non-governmental organizations could probably be as efficient as armadas of patrol boats.

But at this moment, visitors looking for pirates of the third millennium will not find the sophistication of a space-age pirate, as depicted in the fictional character of Captain Harlock. Moreover, they will not meet black beards

or "barbarossa", but only sea-hooligans and the desperate poor. Modern Malay piracy has no romantic, anarchist, utopian, or religious roots as it did before. Maybe that is why people seem to be transferring their fears and fantasies to fundamentalist terrorists after the demise of the pirate myth. If Joseph Conrad came back to the Malay world, maybe he would draw his inspiration from terrorists, not from idle pirates. It is the same for one of my producers in France: he preferred to hear stories about big floating bombs than about everyday life among poor pirates.

However, what is happening in the Malacca Straits is very interesting as this is a new version of the "Big Fear" in France in 1789 when poor and unprofessional brigands haunted woods and roads. This is interesting not only for Western historians but also for Western politicians. Indeed, pirates haunt the Southeast Asian SLOC while young idle people attack beautiful saloon cars in dark car parks in the West. Based on this Southeast Asian experience, Western politicians have also to prevent, in their suburbs, not a maritime, but a potential urban "Big Fear".

Endnotes

[1] Not their real names.

[2] These hypotheses are based on trips in East Sabah and Riau Islands between 2000 and 2006, especially in a pirate den – off Batam – and a pirate meeting point – off Letung.

A fire requires...	Armed robbery against ships	Disappearance of cargoes, crew, vessels	Maritime terrorism
	Focos	*Arson*	*Lightning and apocalypse*
A dry environment	Straits and islands	Straits and islands	Straits and islands
A highly sensitive detonator	History and knowledge of shipping	History and knowledge of shipping	History and knowledge of shipping
No firemen	Corruption	Corruption and lack of equipment	Lack of equipment
Any combustible	Fishermen, tugboats, small merchant vessels	Tugboats, small merchant vessels, tankers	Ferries, tugboats, small merchant vessels, container ships, (chemical) tankers, supertankers
And a spark to light the powder keg! -> motivations	Despair and hope of earning money easily (cash and personal equipment)	Hope of earning a lot of money (ransom, sale of cargoes, salaries from triads)	Fanaticism, ideology
And a spark to light the powder keg! -> tools	"Craftspirates": - knife, parang - no electronic equipment	Professional pirates: - guns - electronic equipment	Highly professional criminals: - guns, WMD? - electronic equipment

Diagram 1: Propagation of the "pirate fire" off Singapore (1/2)
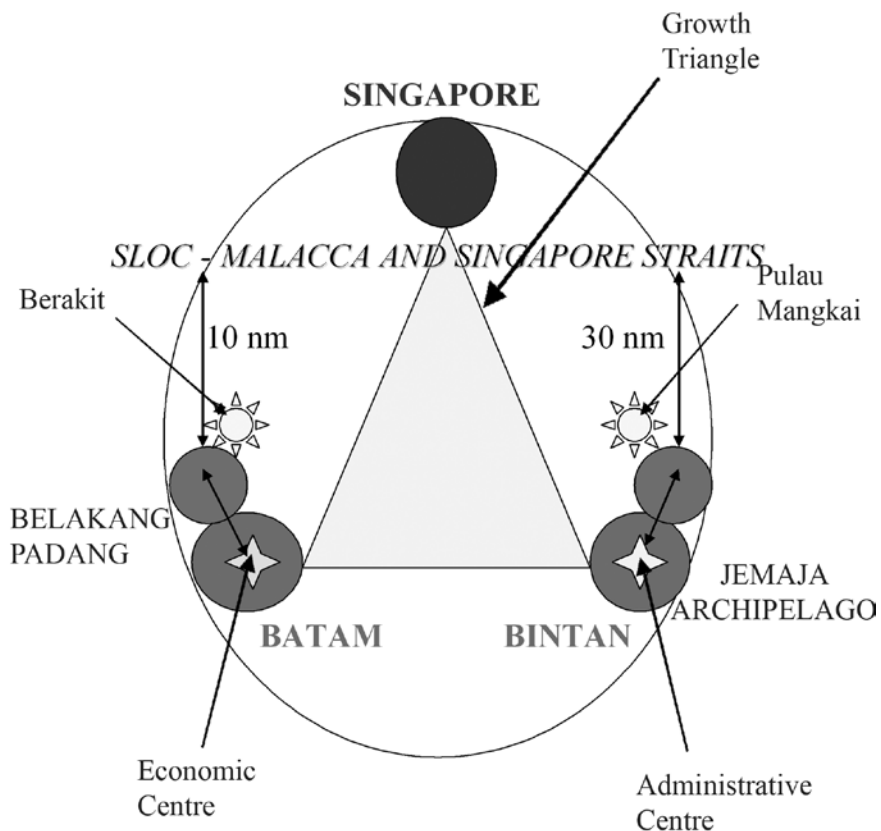
Diagram 2: Propagation of the "pirate fire" off Singapore (2/2)

SINGAPORE

High Seas

High Seas

PULAU
DENDANG

PULAU
MANGKAI

LAIR

WINANG

LAIR

BELAKANG
PADANG

JEMAJA

ROZY

MIGRANTS FROM SUMATRA
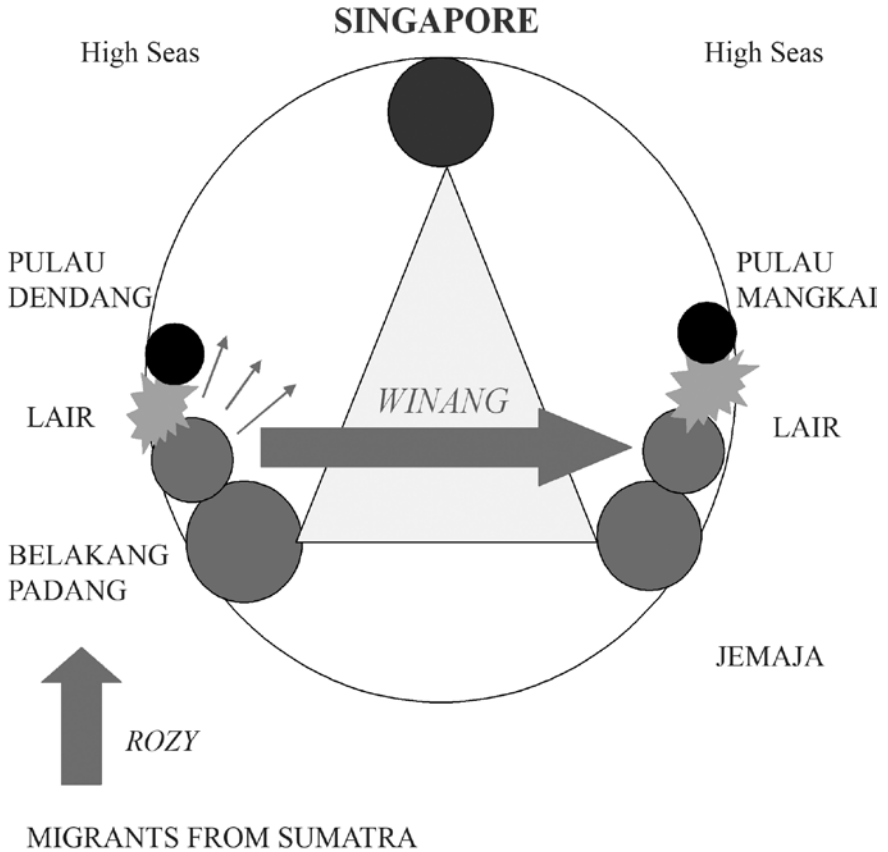
QUESTION AND ANSWER SESSION

With
Mr Eric Frécon
Centre for International Research and Studies (CERI), Sciences Po – CNRS, Paris
Covering Maritime Piracy in Southeast Asia, Kuala Lumpur,
13-15 July 2006

Eric Frécon's speech was followed by a question and answer session that focused primarily on why, in spite of measures being taken to curb piracy, incidents of piracy were still prevalent. Besides this, Mr Frécon also sought to examine the relationship between sea piracy and terrorism, if indeed there is one.

LACK OF FUNDS AS A SOURCE OF PIRACY?

The question and answer session started off with the

observation that illegal acts are often ignored and go unpunished because of social acceptance of such behaviour. Hence smuggling goes unpunished in the Indonesian Riau Islands area in spite of the fact that the responsible authorities are aware of it. In light of acceptance of such behaviour in some parts of the region, Mr Frécon was asked about efforts being made towards solving this kind of problem. He responded that there are now more patrol boats in the region, and that the US, Japan and the Netherlands provide Indonesia with some patrol boats to tackle piracy.

Positive developments included the fact that the police and the navy apparently were not involved in the collection of "taxes" any more. While these were signs that the authorities were keen to address the problem, a lasting impact would only be made possible with the help of an intelligence network. However, a more efficient counter-piracy approach remained up in the air as long as such efforts remained uncoordinated and chronically underfunded.

POVERTY AS A FACILITATING CAUSE OF PIRACY?

Since most pirates are poor fishermen and cannot rob on land, they go to sea instead: could piracy be reduced by means of an improvement of their socio-economic condition? According to Eric Frécon, piracy would always exist because it could never be entirely eradicated. He drew a comparison with other social problems such as prostitution - no matter how much one tried to do away with this social evil, at best it could be controlled, but never fully eliminated.

MEASURES TO CURB PIRACY

The next question addressed the extremely high traffic rate through the Straits, which made it particularly difficult to create a piracy-free environment. It was thus almost impossible to ensure that no incidents would occur, while the traffic rate also made it difficult to chase and then catch the pirates. This being so, Dr Sam Bateman asked whether it would not be a better idea to chase the money instead of the individuals, as is done in the case of the drug trade for example. Eric Frécon replied that the trail of money was difficult to pick up as these pirates were not always associated with big criminals and criminal networks. Having said that, however, he did not know why chasing the money was not practiced more frequently.

PIRACY, TERRORISM, AND THE JOINT WAR COMMITTEE

On being asked about the Joint War Committee's June 2005 listing of the Straits as a terrorist area, Frécon replied that he disagreed with the Committee's decision. In his view, the Straits were home to pirates who were the equivalent of snatch-and-run robbers on land, rather than terrorists. The evidence at his disposal did not allow him to suggest that the incidents at sea were acts of terrorism. In fact, he added that it was easier for terrorists to carry out their activities on land by acts such as planting a bomb in nightclubs in places such as Bali or Jakarta. He was also of the opinion that at times, acts of piracy in the region were grossly exaggerated.

ADDITIONAL MEASURES TO TAKE

The discussion then moved on from more abstract observations and words to the need for action and the pirates' perspective. What were the likely perspectives of young local children if they had experienced nothing but poverty and who did not have enough to eat because of the pollution caused by the big tankers and oil liners? Was it not the case that young children could only make ends meet by indulging in piracy? The international community, ASEAN, the neighbouring countries – nobody was doing anything for the plight of these communities. To this, Mr Frécon replied that there are actually people who make a difference, such as a French pastor who teaches and helps Catholic Indonesian children in a school.

PAX AMERICANA IN THE MALACCA STRAITS?

The session concluded with a question about America's presence and influence in the region: was the fight against terrorism a pretext for the Americans to exercise their influence in the region? In Frécon's view, the Malacca Straits are all-important for the flow of energy and trade, and therefore America may want to be in control, even by using the war on terror as a pretext for staying.

INTERNATIONAL COOPERATION IN PIRACY PREVENTION

By
Dr Sam Bateman[1]
Covering Maritime Piracy in Southeast Asia, Kuala Lumpur,
13-15 July 2006

ABSTRACT

This paper reviews relevant regimes and measures for international cooperation in piracy prevention in Southeast Asia with a particular focus on the situation in the Malacca and Singapore Straits. Despite extensive discussion of relevant issues in a host of international conferences and meetings, both Track One and Track Two, in recent years, and offers of assistance by extra-regional countries, international cooperation in piracy prevention in the region remains essentially an ad hoc

process. The paper concludes with a set of recommendations, which would assist in improving the current situation and in adding some structure to the process. The need for an agreed regime for sharing the costs of safety, security and environmental protection in regional waterways between user and littoral countries is fundamental.

INTRODUCTION

Background

Much international attention has been given recently to the security of shipping routes in Southeast Asia, particularly the Malacca and Singapore Straits. The International Maritime Organization (IMO) held a major conference on security in the Straits in Jakarta in September 2005, and there will be a follow-up event in Kuala Lumpur in September 2006. The Shangri-la Dialogue in Singapore addressed the issue both in 2005 and 2006, and there have been other regional conferences and meetings on the topic in recent years at both the Track One and Track Two levels.

Major users of the Malacca and Singapore Straits, particularly the United States and Japan, have been critical of the littoral (or straits') States, Indonesia, Malaysia and Singapore, for not doing enough to ensure the security of shipping. The high incidence of piracy and armed attacks against ships and the potential threat of maritime terrorism are used as leverage to support new security proposals, such as the Regional Maritime Security Initiative (RMSI)

announced by Admiral Tom Fargo USN, Commander, US Pacific Command, in March 2004.[2] However, the straits' States suspect that the principal objective of the major powers is to establish a strategic presence in the region and to "internationalise" the Straits.

The focus on the security of shipping routes in Southeast Asia is a consequence of the quantity of shipping traffic in the region, the strategic significance of regional straits, and perceptions of threat. The incidence of piracy and armed robbery against ships in the region, as well as the presence of terrorist groups and separatist movements, has led to assessments that there is a high risk of terrorist attack against regional ports and ships passing through the region. While most recent attention has focused on the Malacca and Singapore Straits, the various routes through the Indonesian archipelago, and the Torres Strait between Australia and Papua New Guinea, offer a range of options for ships transiting between the Pacific and Indian Oceans, albeit at additional cost, should vessels be compelled by virtue of sise or security concerns to use a route other than the most direct one.[3] Similarly, straits through the Philippine archipelago carry important trade between East Asia and North America, South America and Australia.

International Interests

The motivation for international interest in maritime security in Southeast Asia, including the prevention of piracy, tends to vary from one stakeholder country to another. Countries that are concerned about these issues, other than the regional countries themselves, include:

- Northeast Asian countries, particularly China, Japan and South Korea, which are highly dependent on energy supplies from the Middle East, as well as other shipping, which pass through shipping "choke points" in Southeast Asia;

- the United States, which is concerned about strategic mobility between the Indian and Pacific Oceans with most USN ships and submarines that operate in the Middle East and the Indian Ocean being deployed from bases in Japan, Hawaii or the West coast of the continental United States;

- India with its "Look East" policies and increasing interest in naval cooperation with Southeast Asian countries, as well as its claims to being a Southeast Asian country in its own right by virtue of the geographic location of the Andaman and Nicobar Islands;[4]

- major ship-owning countries in Europe, such as Germany, Greece and Norway, which are concerned about the risks to their ships and their crews; and

- Australia, whose major export trades in liquid natural gas (LNG), iron ore and other minerals pass through the Indonesian and Philippine archipelagos.

International interest in maritime security in Southeast Asia arises from both economic and strategic considerations. The apparent strategic aspirations of China, Japan and India suggest that in the future, these countries might also join

the United States in having an interest in strategic mobility though Southeast Asian waters. Southeast Asian countries, particularly the straits' States, are disconcerted by this level of international attention being given to the security of the Malacca and Singapore Straits, as well as potentially to other regional shipping routes. Singapore generally supports the concerns of the user States, but Malaysia and Indonesia are sometimes offended by suggestions they are not capable of providing security in what are largely their own territorial waters, and are concerned that their sovereignty over adjacent waters might be compromised.

In the late 1990s, the IMO conducted a series of missions of experts and regional seminars and workshops to investigate the problem of piracy at an international level. Some of the main problems identified were: the economic situation then prevailing in the regions concerned; certain resource constraints on law-enforcement agencies; lack of communication and cooperation between the various agencies involved; the response time after an incident has been reported to the coastal State concerned by affected ships; general problems of ship reporting; timely and proper investigation into reported incidents; the prosecution of pirates and armed robbers when apprehended; and lack of regional cooperation.[5] While these problems are being addressed at a technical level, the root causes of piracy in Southeast Asia, such as poverty and unemployment, are yet to be addressed in any comprehensive manner.

INTERNATIONAL REGIMES

The Law of the Sea

All regimes for law and order at sea, including piracy prevention, are based on the framework provided by the 1982 UN Convention on the Law of the Sea (UNCLOS). This large and complex convention provides the constitution for the oceans and the basis for the types of jurisdiction that a country may exercise at sea in its various roles as a coastal, port or flag State. It sets out the rights and duties of a State with regard to the various uses of the oceans and prescribes the regime of maritime zones that establish the nature of State sovereignty and sovereign rights over ocean space and resources. UNCLOS also provides the principles and norms for navigational rights and freedoms, flag State responsibility, countering piracy, rights of visit, hot pursuit and regional cooperation, all of which are relevant to the maintenance of security and good order at sea, including the prevention of piracy.

UNCLOS includes a specific regime for countering piracy on the high seas in its Articles 100-107. These extend to the exclusive economic zones (EEZs) of coastal States by application of UNCLOS Article 58(2). However, this regime does not apply in circumstances where the act of armed robbery or seizure of a vessel is within the sole jurisdiction of one State or another. This is the case where the act occurs within the territorial sea, archipelagic waters or internal waters (where these zones are as defined in UNCLOS), or when the act is committed by persons who are already onboard the ships as passengers, crew members or

stowaways. In the former situation, the act is within the sole jurisdiction of the relevant coastal State,[6] while the latter circumstances are within the jurisdiction of the flag State of the vessel affected. Similar considerations apply to acts of terrorism under current international law.

Article 43, the so-called "burden sharing" article of UNCLOS provides for cooperation between user States and States bordering a strait used for international navigation on the provision of navigational and safety aids and the prevention of marine pollution.[7] States adjacent to the shipping "choke points" in Southeast Asia have considerable responsibilities to provide safety and security for shipping in the region: the provision and maintenance of navigational aids and communications systems, search and rescue (SAR), offshore security services, basic vessel salvage services and marine pollution contingency arrangements. However, with the Malacca and Singapore Straits, the user States, other than Japan, have been reluctant to contribute to the costs.

Apart from UNCLOS, the main maritime regimes, which are the concern of this paper, are those provided for maritime security by the International Maritime Organization (IMO), particularly the International Ship and Port Facility Security (ISPS) Code, other amendments to the 1974 Safety of Life at Sea (SOLAS) Convention,[8] the 1988 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA) and its Protocol covering offshore facilities; and the 1979 Convention on Maritime Search and Rescue (SAR Convention).[9] All these Conventions place a significant premium on cooperation for their successful implementation.

The International Ship and Port Facility Security (ISPS) Code

The main contribution of the IMO to international maritime security, the ISPS Code, entered into force on 1 July 2004.[10] Important elements of the Code for piracy prevention include the mandatory display of a unique *Ship Identification Number* (SIN) marked either on the ship's hull or superstructure, and the requirement for flag State administrations to issue each ship with a *Continuous Synopsis Record* (CSR) providing information on the ship's name, SIN, flag State, date of registration, port of registry and classification society. The Code also requires the mandatory fitting to each "SOLAS" ship of an *Automatic Identification System* (AIS) that communicates the ship's identity, position, course and speed. The ISPS Code requirements are subject to verification by a port State when a ship enters port.

The ISPS Code applies only to the so-called "SOLAS ships", i.e. the ships over 500 gross tonnage that are employed on international voyages. Unless extended by national legislation,[11] it does not apply to fishing vessels, ships under 500 gross tonnage, or to merchant ships employed only in the domestic trade. The number of vessels to which the ISPS code does not apply is particularly large in Southeast Asia where there are large fishing fleets, many smaller trading vessels, and big domestic commercial fleets, particularly in Indonesia and the Philippines.

Furthermore and despite some rhetoric to the contrary, the ISPS Code, like other instruments of international law, cannot be enforced effectively. The IMO can monitor compliance but ultimately it all depends on the efficiency of

the flag State at establishing administrative arrangements for the Code and ensuring the compliance of ships flying its flag. And some flag States will report that arrangements are in place but in reality, these may not be effective. The IMO is attempting to establish a system of Flag State audits but these will be voluntary and only as good as the flag State is prepared to make them. Regional cooperation with implementing and verifying the ISPS code is important and the Asia Pacific Economic Cooperation (APEC) has been active in this regard. At the APEC Summit held in Santiago, Chile, in November 2004, President Bush and six other leaders launched the ISPS Code Implementation Assistance Program to assist APEC members in complying with the ISPS Code through technical assistance and grants.

Apart from enhancing the security of the international maritime transportation system generally, the ISPS Code and related measures have contributed significantly to the prevention of piracy attacks on "SOLAS ships". A ship's security plan and a security officer onboard each ship have lifted the level of security awareness onboard these ships, and the introduction of the SINs and CSRs has effectively removed the possibility of ships being hijacked and subsequently used as "phantom ships" to continue trading under a false name and identity.

SUA Convention (for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, 1988)

There are about a dozen international conventions dealing with the threat of terrorism but only the SUA Convention and its Protocol relate to terrorism at sea. The purpose of

this Convention was to close the gap created by the limited definition of piracy already mentioned. These limitations were brought to light by the *Achille Lauro* incident in 1985. This was not an act of piracy because the terrorists, who seized the ship, were traveling as passengers onboard the vessel.[12] The SUA Convention extends coastal State enforcement jurisdiction beyond the territorial limits, and in particular circumstances, allows exercise of such jurisdiction in an adjacent State's territorial sea. The fact that some Southeast Asian countries have still to ratify the SUA Convention (see Table 1) is probably due to some sensitivity to the extra-territorial aspects of the Convention.

An IMO Diplomatic Conference in October 2005 adopted new Protocols to the SUA Convention and its related protocol on Fixed Platforms. These provide an international treaty framework for combating and prosecuting individuals who use a ship as a weapon or means of committing a terrorist attack, or transport by ship terrorists or cargo intended for use in connection with weapons of mass destruction programs.[13] A mechanism is also provided to facilitate the boarding in international waters of vessels suspected of engaging in these activities. These expanded provisions of the SUA Convention through the introduction of this Protocol are unlikely to make the Convention any more attractive to those countries, which so far have chosen not to ratify it.

Long Range Identification and Tracking of Ships (LRIT)

Largely at the behest of the United States, the IMO has been discussing plans for the long range identification and tracking

(LRIT) of ships. LRIT would be part of general arrangements for enhancing maritime domain awareness to detect and monitor illegal activity at sea, including a system of situational awareness in piracy-prone areas. Several countries, including Australia and the United States, have already introduced extended offshore identification arrangements requiring ships approaching their shores to identify themselves well before they enter national waters. However, the right of a coastal State to require ships that are not entering a port in that State to identify themselves is uncertain under current international law. There is no complete consensus on the political, legal or financial implications of LRIT, and it is becoming one of the most sensitive issues confronting the international shipping industry.[14]

As well as tracking at sea, an effective international system should also include standardised reporting of shipping arrivals and departures but this might arouse both security and commercial sensitivities. And again, there will be issues with enforcing the system. For example, while the ISPS Code requires that ships be fitted with Automatic Identification System (AIS) transponders, many ships may be turning the transponders off when at sea. If queried on this, it is all too easy say that the equipment was malfunctioning.

The United States intends to develop a system that will integrate current and future surveillance and tracking resources to identify and track the world's 121,000 merchant ships of more than 300 tons.[15] It will use a data base similar to that used for tracking Soviet submarines during the Cold War. However, many other vessels using the world's oceans remain outside its scope. This inability to monitor the movement of fishing vessels, as well as cruising yachts and other private vessels, remains a major gap in international

arrangements for maritime security. It is unlikely that the ultimate system whereby ships move around the world like civil aircraft, being passed from one system of traffic control to another would contribute greatly to piracy prevention. Apart from all the problems already identified, the vessels from which attacks are launched are too small to be captured by such a system.

Search and Rescue

The 1979 SAR Convention encourages cooperation between States Parties and SAR organizations around the world with regard to search and rescue (SAR) operations at sea. Search and rescue regions are established by the concerned Parties. It obliges State Parties to provide adequate SAR services for persons in distress around their coasts. The Convention is relevant to piracy prevention because the arrangements and capabilities required for SAR are similar to those required for piracy prevention and a serious piracy attack could lead to a SAR incident.

The original SAR Convention imposed considerable obligations on Parties such as the need to set up arrangements onshore to manage their SAR responsibilities. As a result the Convention was not widely ratified and a revised Convention was approved at the IMO in 1997. This clarifies the responsibilities of Governments and puts greater emphasis on regional cooperation. Parties are encouraged to enter into SAR agreements with neighboring States involving the establishment of SAR regions, the pooling of facilities, establishment of common procedures, training

and liaison visits. However, the Convention has still failed to attract ratifications in Southeast Asia. Possible explanations include the obligation in the Convention to allow entry into the territorial sea or territory of a State by rescue units from another State for the purpose of SAR, and lack of support for the SAR regions agreed by the IMO but which do not accord with maritime political boundaries.[16]

Table 1
Status of Conventions and Agreements – Southeast Asian Countries

	UNCLOS	SOLAS 74	SAR	SUA 88	SUA 88 Protocol
Brunei	X	X		X	X
Cambodia		X			
Indonesia	X	X			
Laos					
Malaysia	X	X			
Myanmar	X	X		X	X
Philippines	X	X		X	X
Singapore	X	X	X	X	
Thailand		X			
Vietnam	X	X		X	X

Sources: IMO and UN Division for Ocean Affairs and the Law of the Sea web pages.

Status of Conventions

Table 1 shows the current status in Southeast Asia of the conventions discussed in this paper. As can be seen, there are still major gaps in the level of ratification of these important conventions in the region. Cambodia and Thailand are not parties to UNCLOS and only Singapore is a party to the SAR Convention. Furthermore, the SUA Convention and its Protocol have not been ratified by Indonesia, Malaysia, Thailand and Cambodia. Only the SOLAS Convention has been ratified by all regional countries although some of its protocols have not been.

INTERNATIONAL MEASURES

Conferences and Meetings

Shangri-La Dialogue

The 2005 Shangri-La Dialogue agreed on three basic principles of cooperation:

(a) the primary responsibility for maritime security in the Straits of Malacca and Singapore lies with the littoral States;

(b) the international community, relevant international organizations such as the IMO, and major user States have a role to play; and

(c) whatever measures countries undertake have to be in accordance with international law and respectful of the sovereignty of the littoral States.

Also at the 2005 dialogue, the Defense Minister of Malaysia, Najib Tun Razak, proposed that Malaysia, Indonesia and Singapore should conduct joint air patrols over the Straits of Malacca. This was launched in September 2005 and became known as the "Eyes in the Sky" project. The project involves routine patrols of designated areas of the Strait by maritime patrol aircraft from the participating countries. Depending on whose territorial waters the incident takes place in, patrol assets will be activated within their existing national decision-making structure to undertake the required follow-on actions. Other "friendly states and stakeholders" may later be invited to join the initiative. The three littoral states signed a pact in April 2006 to provide one overarching framework for the "Eyes in the Sky" project and the coordinated naval patrolling in the Malacca Straits that had been implemented in July 2004 (Operation MALSINDO).

Batam Tripartite Meeting

The 4th Tripartite Ministerial Meeting of the Littoral States on the Straits of Malacca and Singapore was held at Batam, Indonesia, in August 2005 to forge a common position on the Straits of Malacca and Singapore. This resulted in the Batam Joint Statement, which:

(a) reaffirmed the sovereignty and sovereign rights of the littoral States in and over the Straits of Malacca and Singapore;

(b) upheld their primary responsibility over the safety of navigation, environmental protection and maritime security in the Straits;

(c) acknowledged the interest of user States and relevant international organizations and the role they can play in the Straits; and

(d) welcomed closer collaboration with and the assistance of the user States, relevant international organizations and the shipping community in the areas of capacity building, training and technology transfer.

The Batam Joint Statement recognised the importance of engaging the States bordering the funnels leading to the Straits of Malacca and Singapore, and supported continuing discussion on the overall subject of maritime security in the Southeast Asian region within the framework of ASEAN and the ASEAN Regional Forum (ARF). It also acknowledged the good work carried out by the Tripartite Technical Experts Group (TTEG) on Safety of Navigation in the Straits of Malacca and Singapore and recognised the efforts of the Revolving Fund Committee (RFC) in dealing with issues of environmental protection in the Straits. It further recommended the establishment of a TTEG on Maritime Security to supplement the work of the existing TTEG on safety. It agreed that the issue of maritime security should be addressed comprehensively to include trans-boundary crimes, such as piracy, armed robbery and terrorism, with a need also to address the issues of trafficking in persons, and smuggling of people, weapons and other trans-boundary crimes.

IMO Conferences

In September 2005, a high level conference on the security of the Malacca and Singapore Straits was held in Jakarta. Organised by the Indonesian Government and the IMO, this meeting considered ways and means of enhancing safety, security and environmental protection in the Straits of Malacca and Singapore. It resulted in the Jakarta Statement on Enhancement of Safety, Security and Environmental Protection in the Straits of Malacca and Singapore.[17] The next IMO-sponsored conference on the security of the Straits will be held in Kuala Lumpur in September 2006, followed by a third meeting in Singapore in 2007.

The Jakarta Statement acknowledged the rights and obligations in the 1982 UN Convention on the Law of the Sea (UNCLOS), in particular Article 43 providing for burden sharing between the littoral and user States, and "invited the IMO to consider, in consultation with the littoral States, convening a series of follow on meetings for the littoral States to identify and prioritise their needs, and for user States to identify possible assistance to respond to those needs, which may include information exchange, capacity-building, training and technical support."[18]

U.S. Alameda Meeting

The United States convened a meeting of user States in Alameda, California, in February 2006 to discuss ways and means of providing assistance to the littoral States. The participants included representatives of Australia, Germany, India, Japan, Norway, the Republic of Korea, the

United Kingdom and the United States with observers from Indonesia, the Philippines, Singapore, the International Maritime Bureau and the International Council of Cruise Lines (ICCL). The objectives of the meeting were to:

(a) help determine appropriate burden sharing, inter-operability, sustainability and prevention of redundancy; and

(b) focus on planning and capacity building, information-sharing, technical assistance, training and exercises, counter-terrorism, and developing partnerships with the private sector, in preparation for the IMO follow-on meeting to be hosted by Malaysia.[19]

Despite these worthwhile objectives, several aspects of the meeting could lead the littoral States to see the Alameda Meeting as another attempt by the United States to "internationalise" the Straits. First, the littoral States were not originally invited to the meeting and were only included later as observers although Malaysia did not accept that invitation. Secondly, the meeting could be construed as an attempt by the user States to dictate to the littoral States what the needs of the latter are. The earlier Jakarta Statement established an order in which needs should be established with the littoral States first identifying and prioritizing their needs, and then the user States responding. Lastly, the Chairman's Report from the Alameda meeting contains no reference whatsoever to UNCLOS Article 43, which the littoral States see as the basis for international cooperation in the Straits on safety, security and marine environmental protection in the Straits.

TTEG Meetings

A TTEG (*Tripartite Technical Experts Group*) meeting specifically focused on the TTEG's efforts to promote international cooperation in the maintenance and enhancement of navigational safety and the protection of the marine environment from pollution from ships in the Straits of Malacca and Singapore was held in March 2006 in Singapore. The purpose of the meeting was to introduce user States and stakeholders to the work of the TTEG, as well as those with an interest in technical cooperation and joint projects. The user States and stakeholders that participated in the meeting comprised Australia, China, Denmark, Greece, Japan, the Netherlands, Norway, Panama, the Republic of Korea, the United Kingdom, the United States, the IMO, the International Chamber of Shipping and the main organization representing independent tanker owners and operators, INTERTANKO. The meeting did not consider security issues, and so far the TTEG on Maritime Security recommended in the Batam Joint Statement has not materialised.

The meeting was mainly focused on technical issues.[20] These included the maintenance of navigational aids in the Straits, some of which are falling into a bad state of disrepair, and marine environmental protection, including the maintenance of a hazardous and noxious substance (HNS) databank and relevant HNS spill combat techniques. The meeting also agreed to prepare an inventory, which would record the assistance provided by the various stakeholders and assist in identifying possible future areas for technical cooperation.

Capacity Building

Regional countries lack some of the capacity and expertise necessary to maintain maritime security and safety in the region, including piracy prevention. The requisite capacity at a national level includes the ability to provide adequate protection for maritime infrastructure (ports and port facilities), security in waters under national jurisdiction and border protection, as well as the ability to implement new international standards in ship security, cargo and port security, and seafarers' documentation and to discharge the country's responsibilities as a flag State. Capacity at the sub-regional and regional levels will include arrangements for cooperation and coordination of maritime security arrangements, information exchange, and cooperative training and education, as well as the development of protocols and systems to facilitate such arrangements.

Australia, China, India, Japan and the United States have all offered administrative, operational or technical assistance of one form or another to assist regional countries in building their capacity to counter illegal activities in their maritime zones. Clearly there is a large degree of self interest in these offers which are generally focused on the areas of greatest concern to the prospective donor countries. This is not necessarily a bad thing, providing the offers are coordinated in some way, as suggested by the Alameda Meeting, and meet the priority needs of the recipient countries.

Japan

Japan, has been extremely active in assisting regional countries with building their capacity for maritime security

and in promoting regional measures to combat piracy and maritime terrorism, and was instrumental, for example, in setting up the Regional Cooperation Agreement against Piracy and Armed Robbery at Sea (ReCAAP). ReCAAP is the most significant recent development for piracy prevention in the region. All ASEAN nations, Japan, China, Korea, India, Bangladesh and Sri Lanka are working under ReCAAP to set up an information network and a cooperation regime to prevent piracy and armed robbery against ships in the regional waters. It provides for the establishment of an Information Sharing Center (ISC) to be located in Singapore. Good progress is being made with setting up the ISC,[21] and sufficient ratifications have now been received to allow ReCAAP to enter into force on September 4, 2006.[22] However, Malaysia and Indonesia remain outside the agreement.[23]

Japan Coast Guard (JCG) ships and aircraft regularly visit Southeast Asian countries to assist local security forces through training and exercises in building their capacity to combat threats from piracy and maritime terrorism. The JCG offers training for foreign personnel in Japan; is assisting Southeast Asian countries with developing national coast guards; and has hosted Port Security Seminars in Southeast Asian countries to assist implementation of the ISPS Code.[24] In June 2006, Japan donated three patrol boats to Indonesia to help fight terrorism and piracy,[25] after earlier donating a training vessel to the Malaysian Maritime Enforcement Agency (MMEA).[26] At a higher political level, Japan has held recent talks with ASEAN on cooperation against terrorism. These talks were expected to focus on how Japan can help ASEAN to exchange information on terrorism, tighten immigration controls, strengthen maritime patrols and improve investigation technology.[27]

Australia

Australia has been extremely active in recent years extending its counter-terrorism cooperation on land with Indonesia, and with the Philippines on maritime security.[28] The focus on the Philippines reflects the economic significance of the liquid natural gas (LNG) trade between northwest Australia and China that passes through the Celebes Sea and near the Sulu archipelago; areas where terrorist groups are known to be active and which have been prone to piracy attacks. Measures funded by Australia to enhance maritime security in the southern Philippines include improvements to sea surveillance systems and port security. The Philippines-Australia Port Security Capacity Building Project involves Australian experts working with the Philippines Office for Transportation Security (OFTS) to assist the Philippines to achieve ISPS compliance for its international ports, and to implement a similar security regime for domestic ports and ships, with an emphasis on domestic passenger ferries and ports located on the southern island of Mindanao.[29]

Australia is also a member of the Five Power Defence Arrangement (FPDA) along with Malaysia, New Zealand, Singapore and the United Kingdom. FPDA is the only international agreement in the region at present, other than ReCAAP, that potentially provides for international cooperation on piracy prevention in Southeast Asia involving countries from outside the region. To meet the emerging maritime security challenges in the region, in 2005, some parts of recent FPDA maritime exercises were structured towards anti-piracy and counter-terrorism activities.[30]

India

India has been most active of late in promoting a cooperative approach to maritime security in the western part of Southeast Asia. By virtue of the geographical location of the Andaman and Nicobar island chain and Indira Point, the southernmost tip of this chain, providing the northerly limit of Six Degree Channel at the entrance to the Malacca Strait, India can make a strong case to be considered a littoral State of the Malacca Strait and fully involved in security and safety in that Strait.[31] India is also concerned that the remote location and sparse population of the Andaman and Nicobar Islands might make them vulnerable to a range of illegal activities at sea, including piracy and arms and drug smuggling.

India has been busy promoting naval cooperation in the Northeast Indian Ocean, including the *Milan* (the Hindi word for "meeting") naval gatherings hosted by the Indian Navy. *Milan 2006* held in early 2006 was the fifth and largest in this series of gatherings with the first held in 1995. Seven nations, including Sri Lanka, Bangladesh, Myanmar, Malaysia, Thailand, Singapore and Australia participated in the exercise.[32] The Indian Navy has also been involved in coordinated naval patrols with Indonesia since 2001 and with Thailand since 2005.[33] It is now understood to be negotiating similar arrangements with Myanmar and Malaysia with the objective of eventually establishing a Malacca Security System covering the northern Malacca Strait and its approaches.

United States

Despite the failure to establish the Regional Maritime Security

Initiative (RMSI), the United States continues to actively promote international cooperation in Southeast Asia against the threats of piracy and maritime terrorism. The Alameda Meeting has already been mentioned but additionally there are regular visits by senior USN officers and other American maritime security experts to Malaysia, Indonesia and the Philippines. The United States has also facilitated trilateral meetings between Indonesia, Malaysia and the Philippines to explore cooperative arrangements in the waters between Borneo and the southern Philippines where the Abu Sayyaf Group (ASAG) is known to be active and potentially presents a threat to shipping in the region.

The re-establishment of defense relations between the United States and Indonesia must also be seen in the context of American concern over the state of maritime security in Southeast Asia. The U.S. Pacific Fleet is engaged in a series of ongoing exercises with countries in the region, including CARAT (Cooperation Afloat Readiness and Training), and in May 2006 held a naval exercise in the region called SEACAT (Southeast Asian Cooperation for Anti-Terrorism).[34]

The United States has also introduced an International Outreach and Coordination Strategy to Enhance Maritime Security. This has two strategic goals:

(a) A coordinated policy for United States maritime security activities with foreign governments, international and regional organizations, and the private sector; and

(b) Enhanced outreach to foreign governments, international and regional organizations, and private

sector partners to solicit support for an improved global maritime security framework.[35]

Other Measures

Various shipping associations, ship owners, seafarers' organizations and international bodies have issued guidance on how to curb piracy and to deal with an attack on a ship, including the promulgation of measures to be taken by ships. The IMO and IMB have taken the lead here although regional shipping associations, such as the ASEAN Shipowners' Association and national associations, such as the Singapore National Shipping Association (SNSA), have also been active. IMO Guidelines provide comprehensive advice on measures that can be taken onboard to prevent attacks or, when they occur, to minimise the danger to the crew and ship.[36] Analysis has shown that larger tankers and cargo carrying vessels on international voyages are not attacked unless they slow down or stop for some reason. At their normal operating speeds, these vessels are difficult to attack, and are also more likely to be taking all the precautions recommended by the IMO and ship-owners' associations.

The IMO has also produced *Recommendations to Governments for preventing and suppressing Piracy an Armed Robbery against Ships.*[37] These detail the measures that should be considered by a coastal State for dealing with piracy and includes a format for the coastal State to use in reporting attacks to the IMO. Due to the possibility of some under reporting of piracy due to concerns by ship masters about delays due to the subsequent investigation, the IMO

encourages coastal (and port) States to make every effort to ensure that ships are not unduly delayed.

ISSUES FOR CONSIDERATION

Burden Sharing

The ongoing incidence of piracy and armed attacks on ships in the Straits and the threat of maritime terrorism have focused attention on whether Article 43 might be extended to cover the security of shipping. The United States might not support this view, and while not a party to UNCLOS, could consider that Article 43 is not part of customary international law. However, the IMO has clearly linked safety and security, particularly through the inclusion of the ISPS Code within the SOLAS Convention,[38] and the operational capabilities for both requirements are generally similar.

The mechanics of burden sharing are problematic and warrant further study. A basic problem is that of devising a mechanism for cost-recovery. Should any cost contribution come from the governments of user States, flag States, or more directly from the ship-owners? Might any contribution be in cash or in kind? These issues have been addressed over the years in many international and regional forums, but a satisfactory formula for burden sharing has not been devised. There are fundamental differences of view on what is meant by "burden sharing". Over the years, the littoral States have typically seen this as a matter of sharing the financial costs of providing safety and environmental protection under UNCLOS Article 43. But the United States,

and perhaps other user States as well, sees it as a matter of getting more directly involved in security arrangements, particularly to meet perceptions of threats from piracy and terrorism.

Piracy and the threat of maritime terrorism attract most attention from the user States. As was demonstrated by their reaction in 2004 to the Regional Maritime Security Initiative (RMSI) proposed by the United States, both Malaysia and Indonesia are sensitive to any attempt to "internationalise" management of the Malacca-Singapore Straits that might compromise their sovereignty and sovereign rights in the area. The littoral States are also concerned about other threats, such as arms trafficking at sea, illegal population movement across the Straits, and marine pollution. Anecdotal evidence points to a relatively high level of ship-sourced marine pollution in the Malacca Strait. Without an effective surveillance and monitoring system in place for detecting pollution incidents, passing ships might feel free to discharge oily waste from tank cleaning or other onboard operations. SAR services and an ability to manage cooperatively the consequences of a major disaster in the Straits are other requirements.

Reaching agreement on burden sharing will not be easy. Politics inevitably enters the debate. Japan enjoys a monopoly position as the one user State currently involved in the management of the straits. It has been rather less than enthusiastic in the past with sharing this position with other user States, particularly China, but the Nippon Foundation of Japan has recently indicated that it will put forward a new "user pays" framework for the Malacca Strait.[39]

Private Security Companies

In addressing cooperation for piracy prevention, the role of private security companies (PSCs) should also be considered. PSCs offering security services at sea in the Malacca and Singapore Straits have proliferated in recent years, and they continue to promote their services despite the fall in the number of incidents over the past year.[40] PSCs acknowledge that private security is only useful as a supplement to existing sovereign security provided by military, coastguard or police forces. They have shown interest in reaching agreement on common standards for the industry, including the establishment of an industry association.

PSCs primarily have a deterrent role in providing security for particular types of vessel. These are the more vulnerable, high value vessels, such as oil rigs, dredgers, slow moving tugs and barges, and luxury motor yachts. Clients that have engaged PSCs in the past have the following profile:

a) the asset to be protected is typically slow and vulnerable;
b) the asset is typically very expensive;
c) there may be large numbers of highly skilled personnel onboard; and
d) there are considerable financial penalties if the asset is delayed.

At present, the littoral countries have adopted varying approaches to the employment of PSCs. It would help both the companies themselves and overall security of the Straits if the littoral States were to agree on Guidelines for the

Employment of PSCs at sea in the Straits. These Guidelines might cover issues such as legal authorities, liaison with law enforcement agencies, training and security vetting of personnel, the use of weapons, and communications with sovereign authorities, record taking and evidence.

CONCLUDING COMMENTS

The Way Ahead

Measures for international maritime security cooperation in the region should not be focused solely on piracy prevention and the concomitant risks of maritime terrorism. They should also encompass the prevention of other illegal activities at sea, such as the prevention of trafficking in arms, drugs and people as well as the operational dimensions of maritime safety, SAR and marine environmental protection. In line with the comprehensive approach mentioned above, the scope of cooperation should not be limited to maritime security *per se* but should include measures for the safety of navigation and marine environmental protection. Rather than a separate TTEG (*Tripartite Technical Experts Group*) on Maritime Security, it may be better to recognise the interrelationship between requirements and broaden the terms of reference of the existing TTEG on Safety of Navigation to include security needs.

The approach to maritime security in the region should be comprehensive, cooperative and integrated. A new study from the Institute of Defence and Strategic Studies (IDSS) in Singapore adopts these principles.[41] It addresses

measures for co-operation in the Malacca and Singapore Straits between the littoral States and non-littoral countries that do not infringe on the sovereignty of the littoral States. These might range from exercises, training and support, including with information sharing and developing situational awareness, through to an operational role at sea, including both patrolling and escorting high value targets. It is important that the littoral States continue the momentum of the Batam Statement and meet regularly to identify and prioritise their needs for enhancing safety, security and environmental protection in the Straits. They need to determine in what areas and in what ways they would welcome the involvement of the user States. The greater majority of user and littoral States are parties to UNCLOS, and UNCLOS Article 43 should be the basis of effective cooperation between the littoral and user States on safety, security and environmental protection in the Straits.

As has been discussed in this paper, international cooperation for piracy prevention in Southeast Asia remains essentially an *ad hoc* process. There has been a lot of talk in international conferences and meetings, and worthwhile measures have been proposed. However, cooperation still remains "bogged down" by the divergent interests of the different stakeholders. It is essential that an appropriate diplomatic and technical structure be established to facilitate the identification of necessary cooperative measures and agreement upon them. The IMO-sponsored meeting process that began in Jakarta in September 2005 offers potential in this regard but it needs to be supported by meetings of technical experts.

Recommendations[42]

1. A comprehensive and integrated approach to piracy prevention should be adopted in the region that recognises the operational requirements of countering other forms of illegal activity at sea, providing maritime safety in regional waters and protecting the marine environment. This approach should reflect the interests of the different stakeholders, national governments, international and regional organizations, and the private sector.

2. The IMO-sponsored meeting process, which began with the Jakarta meeting in September 2005, should be strengthened to provide a regular forum for dialogue between stakeholders on security, safety and environmental protection arrangements in the Malacca and Singapore Straits. This process should be supported by appropriate technical experts' group meetings with participants from both littoral and user countries.

3. Research should be conducted into a regime for burden sharing and recovering the costs of providing security, safety and environmental protection in the Malacca and Singapore Straits which accords with UNCLOS Article 43.

4. Guidelines should be developed between the littoral countries for the employment of Private Security Companies (PSCs) in providing protection in the region against piracy and armed robbery against ships.

5. All regional countries should ratify the SAR and SUA Conventions and the Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP) as soon as possible. The lack of support for these international instruments fundamentally inhibits international cooperation for piracy prevention.

6. The littoral States should continue the momentum of the Batam Statement and meet regularly to identify and prioritise their needs for enhancing safety, security and environmental protection in the Straits.

7. A programmed of multilateral and multi-agency security exercises in the Malacca and Singapore Straits and their approaches, and involving all stakeholders, should be introduced as soon as possible.

8. The managers and administrators of ports in the region, particularly in Indonesia, should be assisted to build their capacity to suppress armed robbery against ships and other forms of maritime crime within anchorages and port approaches. While the physical security of ships and ports falls within the scope of the ISPS Code, there is still an issue of security on the waterside of ports, in the anchorages off ports and in the port approaches. Analysis has shown that many attacks occur in these areas.

9. Notwithstanding the above recommendations, there remains a fundamental need for international cooperation to redress the fundamental causes of piracy in the region, such as depressed social conditions, poverty and unemployment.

Endnotes

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[2] Major elements of the RMSI included increased situational awareness ("maritime domain awareness"), information sharing, a decision-making architecture and interagency cooperation.

[3] An APEC study concluded that a five week closure of the Malacca Strait would cost APEC economies US$1.7 billion (in 2002 dollars) in terms of oil supply disruption. Hogan, L., Fairhead, L., Gurney, A. and Pritchard, R., *Energy Security in APEC: Assessing the Costs of Energy Supply Disruptions and the Impacts of Alternative Energy Security Strategies*, APEC Energy Working Group, Report no. APEC#205-RE-01.5, Published by ABARE as Research Report 05.2, Canberra, June 2005.

[4] Rajeev Sawhney, "Redefining the Limits of the Straits: A Composite Malacca Straits Security System", *IDSS Commentaries 31/2006*, 18 May 2006.

[5] UN General Assembly, Report of the UN Secretary-General on Oceans and the Law of the Sea, 1999, document A/54/429, para.236.

[6] Most attacks on ships in Southeast Asia occur within the sovereign jurisdiction of a State, and are usually referred to as "armed robbery against ships" rather than as "piracy".

[7] However, this Article does not apply to passage through the waters of an archipelagic State under the regime of archipelagic sea lanes passage.

[8] Amendments to SOLAS Chapter V include the mandatory fitting of ship-borne Automatic Identification Systems (AIS) for all ships of 500 gross tonnage and above on international voyages.

[9] Other IMO Conventions also bear on maritime safety, particularly the 1978 International Convention on Standards for Training, Certification and Watchkeeping for Seafarers (STCW Convention), but they are less dependent on cooperation and are not discussed in this paper.

[10] This Code includes a mandatory section (Part A) and a recommendatory section (Part B). Part A requires ships to have security assessments and plans, ship security officers and certain onboard equipment, as well as permanent ship identity markings and a Continuous Synopsis Record (CSR) recording ship ownership. Ships will have to carry an International Ship Security Certificate (ISSC) indicating that they comply with the requirements of SOLAS and the ISPS Code. The ISSC will be subject to port State inspections. Similarly, ports are required to have security assessments, security plans and security officers, and to monitor and control access. Ships may also be subject to control measures if the Port State is concerned that they have visited a non-compliant port in the recent past.

[11] The Maritime Transport Security Act (Cwlth) 2003 in Australia, for example, extends ISPS provisions to all ships employed on interstate voyages but not to ones employed on intrastate voyages.

[12] The *Achille Lauro* affair occurred in the Mediterranean when Arab terrorists took over the cruise line, killing an elderly American tourist in the process. It was not an intentional terrorist act, but rather an unfortunate incident resulting after four terrorists trying to get to Israel were caught off guard when a steward entered their cabin and found them cleaning their weapons. The *Achille Lauro* affair, however, has had major consequences, including

disputes between the United States and other countries on issues of criminal jurisdiction.

[13] U.S. Department of State, "Protocols to the United Nations Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA)", *Fact Sheet*, 21 October 2005.

[14] Craig Eason, "Freedom and Security: The Dilemma of Vessel Tracking", *Lloyd's List* online, 21 April 2006.

[15] David Munns, "121,000 Tracks", *Seapower*, July 2005, pp. 10-13.

[16] Sam Bateman, Catherine Zara Raymond and Joshua Ho, *Safety and Security in the Malacca and Singapore Straits – An Agenda for Action*, Singapore, Institute of Defence and Strategic Studies (IDSS), May 2006, pp. 28-29.

[17] Republic of Indonesia and International Maritime Organization, Jakarta Statement on Enhancement of Safety, Security and Environmental Protection in the Straits of Malacca and Singapore, IMO/JKT 1/2 dated 8 September 2005.

[18] Ibid., pp. 5-6.

[19] Chairman's Report of the Meeting of User States to identify possible assistance to respond to the Needs of the Malacca Straits Littoral States, Headquarters, Pacific Area Command, United States Coast Guard, Alameda, California, 15-17 February 2006 (revised 10 March 2006).

[20] Summary Record of the Tripartite Technical Experts Group User States Cooperation Meeting, Singapore, 31 March 2006.

[21] K.C. Vijayan, "24-Hour Sea Piracy Info Center Soon", *The Straits Times* interactive, 21 April 2006.

[22] Ministry of Foreign Affairs, "Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP)", *Press Statement*, 21 June 2006.

[23] Marcus Hand, "Asian Alliance to Fight Pirates Goes Ahead Despite Dissenters", *Lloyd's List* online, 22 June 2006.

[24] For a comprehensive description of Japanese maritime security initiatives in Southeast Asia see John F. Bradford, "Japanese Anti-Piracy Initiatives in Southeast Asia: Policy Formulation and the Coastal State Responses", *Contemporary Southeast Asia*, Vol. 26, No. 3, 2004, pp.480-505.

[25] "Japan To Give Indonesia Three Patrol Boats: Reports", *Defense News* online, 2 June 2006.

[26] Leslie Andres, "Call to Share Cost of Securing the Straits", *New Straits Times*, 3 June 2006.

[27] "Japan and ASEAN Hold Talks on Fight Against Terrorism", *Channel New Asia*, 28 June 2006.

[28] Michael Richardson, "Australia and the Philippines Expand Cooperation in Sea Surveillance", *The Jakarta Post*, 4 July 2006.

[29] Devinder Grewal and Jeremy Parkinson, "Capability Sharing in Maritime Security: The Australian Experience", Paper presented at the 2006 Fulbright Symposium *Maritime Governance and Security: Australian and American Perspectives*, 28-29 June 2006, p. 7.

[30] Andrew Forbes, "Australia's Naval Contribution to Regional Maritime Security Cooperation", Paper presented at the 2006 Fulbright Symposium Maritime Governance and Security: Australian and American Perspectives, 28-29 June 2006, p. 13.

[31] Sawhney, "Redefining the Limits of the Straits".

[32] Amit Kumar, "Strait Talk in Malacca", Institute of Peace and Conflict Studies, Article No. 1936, 6 February 2006.

[33] Sawhney, "Redefining the Limits of the Straits", p. 3.

[34] Salmy Hashim, "US Has No Desire for Permanent Presence In Sea – Roughead", *Malaysian National News Agency – BERNAMA*,

11 May 2006.

[35] "Rice signs International Maritime Security Strategy", *Washington File*, EPF 304 11/23/2005.

[36] IMO Maritime Safety Committee, *Guidance to Shipowners and Ship Operators, Shipmasters and Crews on Preventing and Suppressing Acts of Piracy and Armed Robbery Against Ships*, Revised MSC/Circ.623.

[37] IMO Maritime Safety Committee, Recommendations to Governments for Preventing and Suppressing Piracy an Armed Robbery against Ships, Annex to MSC/Circ.622/Rev.1, 16 June 1999.

[38] The IMO has also recently changed its motto from "safer ships, cleaner oceans" to "safe, secure and efficient shipping on clean oceans".

[39] Marcus Hand, "Pay-as-you-go safety scheme proposed for the Malacca Strait", *Lloyd's List* online, 2 June 2006.

[40] Ian Barclay, "Private sector helps to ease piracy fear in the Malacca Strait", *Lloyd's List* online, 4 July 2006.

[41] Bateman, et al., *Safety and Security in the Malacca and Singapore Straits.*

[42] These recommendations are based on those in the Action Plan in Bateman, et al., *Safety and Security in the Malacca and Singapore Straits*, but with some additions and minor changes.

QUESTION AND ANSWER SESSION

With
Dr Sam Bateman
Professorial Research Fellow, Centre for Maritime Policy, University of Wollongong, Australia
Covering Maritime Piracy in Southeast Asia, Kuala Lumpur,
13-15 July 2006

Difficulties in implementing measures to curb sea piracy in the Southeast Asian waters, and the related problems pertaining to cooperation between the various countries, were the primary focus of the questions addressed to Dr Sam Bateman.

CONTINUED LIKELIHOOD OF LOW-LEVEL PIRACY

Dr Bateman, one of the rare breed of scholar-practitioners

as a retired Commodore of the Australian Navy, and now a leading academic expert on maritime issues, pointed out that, in spite of increased vigilance and security measures taken in the aftermath of the 9/11 terrorist attacks, maritime piracy still occurred in parts of the region. In fact, regardless of the measures taken, isolated incidents of piracy would continue to occur.

LIMITS TO INTER-STATE ANTI-PIRACY MEASURES: SOVEREIGNTY

According to Bateman, national sensitivities about sovereignty affected the effectiveness of anti-piracy measures. An effective mechanism would require not only co-operation, but also occasional operations in each others' territorial waters. The latter, however, was considered an infringement of the principle of national sovereignty, and hence a major stumbling block to a fully comprehensive anti-piracy regime.

A FURTHER LIMIT: THE BURDEN OF SHARING COSTS

Dr Bateman also emphasised that different viewpoints on financing inter-state measures against piracy imposed limits on cooperation. Which nation was to bear the expenses for patrolling the seas and other costs that come with increased security measures: the littoral states only or also the user-states? Dr Bateman suggested that states from outside the

region had a role to play in sharing some of the costs of ensuring safe and piracy-free waterways.

MARITIME STATISTICS: HOW TO READ AND MAKE THEM

The provenance and the quality of the main data about maritime piracy also came under scrutiny: was it safe to rely on the data provided by the main maker and breaker of the statistics, the International Maritime Bureau (IMB) in Kuala Lumpur? According to Bateman, the main issue was not that the highly reputable IMB is the main source of data on piracy, but rather the way this organization classified the data, for example out of 37 statistical categories for ships, only 2 concerned tankers. This was insufficient, however, as the size of tankers could vary from very big to very small.

MARITIME ACTS OF PIRACY: UNDER- OR OVER-REPORTED?

When queried whether the reluctance of ship-owners to report attacks on their ships (in order to keep insurance premiums low) actually led to an under-reporting of incidents, Bateman stated that the current data is generally correct. In his view, the key issue with regard to numbers of attacks happening and the numbers being reported was due to ambiguities about the determination of what constitutes an attack and what does not. Thus even a petty theft from a ship moored in a harbour was classified as an attack: how was

this comparable to a well-organised attack on the seas that could have resulted in death? In terms of the comparability of present and earlier data, Bateman further pointed out that the IMB did not report attempted attacks until about seven years ago.

THE INDONESIAN MEDIA'S SILENCE ON MARITIME PIRACY

The discussion then moved to the Indonesian media's coverage of piracy. There was a consensus among the participants that the Indonesian public's level of awareness of acts of piracy committed in its waters was low. One participant stated that piracy was not covered extensively in the media because reporting on piracy was too time-consuming. As a result, most of the reports that made it into the national media were those obtained from officials. Another participant added that officials often were not very forthcoming when asked about incidents of piracy. In 2000, for instance, officials had denied an incident of piracy even though he had shown them the IMB report.

THE IMPACT OF THE TSUNAMI ON PIRACY

The effects of 26 December 2004 the tsunami on maritime piracy were also briefly discussed. In the wake of the massive destruction wreaked on northern Sumatra, incidents of piracy had fallen by almost 80%, but they are on the rise once again.

LIKELIHOOD OF MARITIME TERRORISM

Post-9/11 concerns about the threats of maritime terrorism (such as the attacks on the *USS Cole* on 12 October 2000 and the French-registered oil tanker *Limburg* on 6 October 2002) to Southeast Asia, and in particular to the Straits of Malacca and Singapore, were also touched upon. With regard to one potential terrorist plan, Dr Bateman explained that the blocking of the Straits was a very difficult task as it would require an unusually high degree of precision. thus, two large ships would need to be sunk at exactly the same spot in order to ensure that the Straits were blocked. However, a more realistic terrorist ploy, and a far more serious threat to littoral states such as Singapore, would be the terrorist hijacking of smaller liquid petroleum carriers. With smaller crews of just about ten people, these ships are relatively slow and more easy to board, and thus perhaps a more realistic target for terrorists. In a worst-case scenario, such a ship could be steered into Singapore's harbour and exploded.

SHIP OWNERSHIP AND REGISTRATION

An important factor that was preventing the better policing of the seas was the disjunction between ownership and the registration of ships. According to Dr Bateman, owners would frequently register their ships in countries with open registries where taxation liabilities were less and regulations

with regard to crewing and the upkeep and the maintenance of ships were less strict or not enforced. To compound this, the structure of ship-ownership had changed: the concentration of entire fleets in the hands of a few big companies had given way to a plethora of smaller companies and sub-companies. As a result, it had become extremely difficult to hold a lot of individual ship owners to account for any unwanted acts. An efficient and unambiguous system of identifying ships – such as on land for cars with the number plate system – was being introduced through the Ship Identification Number (SIN) system now required under recent amendments to the 1974 International Convention for the Safety of Life at Sea (SOLAS) Convention.

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QUESTION AND ANSWER SESSION

With

Mr Jeffrey Chen
Centre for Maritime Piracy, University of Wollongong, Australia
Covering Maritime Piracy in Southeast Asia, Kuala Lumpur,
13-15 July 2006

The final question and answer session of the first conference day centered on the various aspects that need to be taken into consideration in the insuring of ships and the various expenses related to measures taken to improve security on ships.

ZERO TOLERANCE AS THE WAY FORWARD?

Asked about the likely effects of a zero tolerance policy taken by the United States, Jeffrey Chen argued that it was

difficult for anyone to come to a conclusion about how much crime is low enough. Even if a zero tolerance policy was taken, it would be impossible to have zero incidents of crime occurring.

INSURING AGAINST MARITIME PIRACY

Asked whether Lloyd's dominant position in the maritime insurance industry meant that its listings – such as the War Joint Committee's decision to declare the Straits of Malacca and Singapore a high-risk zone – were compulsive, Mr Chen emphasized that they were mere recommendations. As a result, shipowners were free to choose any company as their insurers. Having said that, Lloyd's long-established dominance in the insurance industry still made it difficult for emerging companies to compete with its accumulated experience and expertise. However, the speaker nevertheless saw some scope for Asian companies since they were better suited to understanding the situation in these waters than their mainly London-based counterparts.

NEW ANTI-PIRACY TECHNOLOGIES AND MEASURES...

The discussion also touched upon the effect of new technologies and security equipment on maritime security. While the cost of implementing such technology was not addressed in detail, the speaker did provide an instance

when the presence of such equipment did avert an incident of piracy. Thus a Japanese vessel was allegedly not attacked by pirates who speculated that the vessel had a member of a private security agency on board.

… AND THEIR COSTS

Given that security measures apparently deter piracy-related crimes from occurring, it came as slight surprise that few shipping companies were actually taking such measures. The speaker pointed at the costs involved and the fact that the vast majority of shipping companies were not government owned. As a result, it was most likely that the companies did not have the necessary funds to take such security measures, as opposed to, say airlines, which are often nationally owned.

PARTICULAR FEATURES OF THE SHIPPING INDUSTRY

Rejoining Chen's argument, Dr Sam Bateman mentioned that a possible reason why there were no national shipping lines could be that shipping is a much older industry as compared to airlines. As a result, when shipping began, nation-states were not the overriding authority as they had not yet developed into the all-encompassing states that they had now become. This was in stark contrast to airlines which came about only in the 1920s when governments had begun to play an important role in commerce and industry.

THE BOTTOM LINE

The overriding theme of the discussion, then, was that piracy could be prevented if proper security measures were taken by shipping companies, but at the same time, this decision of the shipping companies was dictated by the resources that they had available. Also, no matter what precautions were taken, it would be almost inevitable that isolated incidents of piracy-related crime would continue to happen. The key was their minimization.

QUESTION AND ANSWER SESSION

With

Mr Mak Joon Num
Independent Analyst specializing in Southeast Asian Maritime Issues, Institute of Southeast Asian Studies
Covering Maritime Piracy in Southeast Asia, Kuala Lumpur,
13-15 July 2006

"Pirates, Renegades and Fishermen: A Challenge to the Piracy and Terrorism Discourse in the Malacca Strait"

Based on one year's intensive fieldwork, Mak Joon Num's case study of Indonesian maritime predations against trawler fishermen from the most important Malaysian fishing community at Hutan Melintang on the Malaysian coast facing Sumatra, raised important questions about the interrelation

of local and international issues, as well as the frequency of renegade seizures.

WHY DISTINGUISH BETWEEN PIRATES AND RENEGADES?

Mak explained that his distinction between "pirates" and "renegades" was important because the "renegade" seizure of Malaysian trawlers through rogue elements of the Indonesian enforcement agencies was not reported up the higher echelons of the hierarchy. It was therefore difficult to know the number of such incidents, not least also because their victims would not operate through the official governmental or judicial channels, such as courts.

DIVERGING FIGURES

Comparing figures for the Malaysian federal state of Sabah on Borneo provided by the International Maritime Bureau (IMB) and the Malaysian Maritime Enforcement and Coordination Centre (MECC), Mak noted that there was a great difference in numbers, in particular for the period from 1993 to 1999 - 37 (MECC) as opposed to 3 (IMB) for 1993, 57 vs "0" for 1995; causing the IMB to lose out on a lot of local incidents that were not communicated to it. It was only from about 1999-2001 that numbers became more streamlined, apparently as a result of the Abu Sayyaf incident. Mak Joon Num added that more information about the statistics of piracy could be found in his online presentation at http://www.mima.gov.my/mima/htmls/papers/pdf/jnmak/piracy.pdf

Besides problems relating to definitions in the official databases, there were further restrictions. Hence, primary research through the collection of data on the ground in Indonesia was difficult for him because of the need to obtain official Indonesian permission. Moreover, victims of piracy were generally more afraid of the Indonesian Armed Forces (TNI - Tentara Nasional Indonesia) than of the pirates.

PIRATES AND RENEGADES

Fishermen who were victims of piracy had also highlighted a key difference between different kinds of pirates. Ordinary pirates apparently only wanted money; even a certain amount of socializing with their victims was not unheard of. In contrast, however, the TNI would ask: "Which sea is this? Are you in Indonesian or Malaysian waters?" If the latter was the answer, then the TNI would subject the fishermen from Malaysia to humiliations.

THE FREE ACEH MOVEMENT: PIRACY OR TAX COLLECTION?

The discussion then veered towards the question whether the Free Aceh Movement (GAM, Gerakan Aceh Merdeka) was involved in acts of piracy. Would it not be counter-productive for GAM to engage in such activities because they depended on international support? Mak replied that GAM apparently was involved in piracy because upon payment of extortion money, different groups gave their victims a "stamp"; among

the three such "authorities", one was the GAM. From the latter's perspective, however, they did not engage in "piracy" but in the collection of taxes.

THE ETHNIC IDENTITY OF PIRATES

The discussion then moved on to the topic of the ethnicity of the pirates. Was it true that even though most of the pirates appeared to be from different regions, pirate gangs were predominantly recruited from the same ethnicity (Jambi, Samir, etc).

Mak concurred that pirates often spoke in Bahasa Indonesia, but felt that this did not allow us to draw any conclusion about their ethnicity. As most of the fishermen were Chinese or Thai, they were not able to distinguish whether the pirates belonged to any particular ethnic groups. Only the aforementioned practice of stamping provided some additional clue about the identity of the pirates.

THE USE OF WEAPONRY

The next questioner wondered wheter, while GAM might not be involved in getting access to funds, it had any link to the use of weapons in the region. The amount of guns in the region had increased and GAM was known to procure a large number of weapons from southern Thailand. Did some of the weapons come via Cambodia as well?

Mak said that while some weapons did come from Cambodia, Thailand and Aceh were the main transit points.

In addition, there was no connection with Abu Sayyaf or other groups advocating violence, as everything is based on economic considerations.

LENGTH OF FISHING TRIPS

Replying to a query on the duration of a fishing trip, Mak explained that fishing trips would usually last between ten days and two weeks or more. Larger trawlers would go out up to 500 to 600 nautical miles, with each trip lasting about 20 days. On average, 4 to 5 crewmen would be on board, with the skipper generally being Chinese, the rest of the crew Thai or Myanmarese.

LOGISTICS OF AN ATTACK

The questioner wanted to know more about the characteristics of the attacks, such as whether they were planned on land, the players behind them as well as the response of the Eye in the Sky?

Mak replied that the attacks were planned. With about 400 trawlers as potential targets, the piracy grounds were divided. Despite some element of planning, the actual hitting was rather ad hoc, though the bigger targets required more syndicated planning. This was especially true if it was known that a ship was particularly valuable or with a Japanese crew member on board. In such cases, fuel-intensive speed boats were used for these attacks. Incidentally, evidence of high fuel consumption, further to intelligence, was also used by the Malaysian authorities to covertly gun down Indonesia-based pirates.

COVERING PIRACY IN THE MEDIA

By
Mr Julian Gearing
Covering Maritime Piracy in Southeast Asia, Kuala Lumpur,
13-15 July 2006

Reported incidents of piracy in Southeast Asia have dipped a little. A feared maritime terrorist attack has not materialized. Yet piracy and terrorism are still hot issues. So what is the story?

It is Singapore's worst nightmare. A massive tanker laden with thousands of tons of fuel is hijacked in the Malacca Strait by terrorists. The crew is killed. Explosives are rigged. Then the terrorists change course, steering the ship at full speed into a collision course with Singapore harbour.

Fear can be disabling. It can also galvanize people into action. In the post-9/11 era, with Lloyds of London having slapped a "war risk" premium on tens of thousands of ships steaming though the Malacca Strait, piracy and the fear of

a serious maritime terrorist attack are hot agenda items for several governments in Southeast Asia.

Whether or not Singapore's worst nightmare materializes or merely provides a plot for a Hollywood screenwriter remains to be seen. But there are real fears that terrorists will take a leaf out the pirates' manual and take to the high seas.

Piracy has plagued Southeast Asia for centuries and today poses complex criminal and security concerns for the countries that sit on the main maritime trade routes. Despite the fact that the incidents of reported piracy in the region have dropped a little over the last year or so, the local maritime authorities are concerned about the changing nature of piracy and also about fears of a "cross-over" between piracy and terrorism.

So how can reporters and editors cover the piracy story effectively? This is a tough question. If there is an answer, it probably lies in examining how reporters approach the story. This brief summary outlines some factors to keep in mind.

Let's first take a quick look at present-day media coverage. Newsrooms in Singapore, Kuala Lumpur, Jakarta, and Bangkok pump out an endless flow of news "traffic" – *Japan's patrol boats deal with Indonesia; Joint-patrols increase; International Maritime Board tells Lloyds to "get real" and dump the "war-risk" tag.* Every week we see "spot news" stories. Often these reports, which have their uses, quote only one or two sources.

Then there are the in-depth feature stories in which world trade, national security, politics, and the balance of power in Southeast Asia loom large. Piracy and the threat of terrorism in Southeast Asia are usually portrayed less in terms of local policing and human interest and more in

terms of maritime trade, macroeconomics, and the countries jostling to maintain their national security. These tend to be stories viewed from afar. When a ship's crew are killed and thrown overboard by pirates there are no heart-rending stories written about the crew's devotion to their jobs and the anguish of their families left behind. The men are faceless and nameless, mere statistics on a list. The focus is on what was stolen and the bigger picture.

If we take a look at media coverage of piracy in Southeast Asia as the weeks, months, and years go by, all these stories help to build up a picture much like adding pieces to a jigsaw. But there are pieces missing.

The No. 1 problem for reporters is access. Piracy and the threat of terrorism are important issues, but it is tough for reporters to get close to the action. Unlike the dedicated hacks who sometimes get too close to the conflict in Iraq, journalists attempting to cover piracy and maritime terrorism find it hard to get to the "frontline". The piracy "battlefield" is vast. And also it is difficult to meet the players face to face.

Think about it. What are the chances of being invited by pirates to accompany them on an attack? How easy is it to ride with a Malaysian or Indonesian naval patrol arresting pirates? What are the odds of being on a ship as pirates board it? And just how dangerous would that be?

These are important questions to consider if only to realize the limitations when it comes to getting close to the main players in this story. Sometimes it is all too easy to attend a government press briefing, enjoy the free coffee and sandwiches, and then write up a report. All reporters have experience of this type of reporting and it has its uses. But, if at all possible, it is important to try to get close to the frontline.

Apart from access, reporters may have difficulty in obtaining an overall picture of piracy and the maritime terrorism threat. If it is difficult to get close to the action, it is also difficult to step back and look at this law and order problem in perspective.

Normally, reporters do not accept things at face value. This is particularly important in covering piracy. It would be safe to say that all the players have an agenda. Pirates deny involvement in piracy. Naval officials stress security, yet keep silent about the underlying politics. Government ministers stress the importance of intergovernmental cooperation when they know their country will not allow a foreign country to make a hot-pursuit into their territorial waters. Making sense of it all and keeping a balanced view is a tall order.

Researchers can help. Experts who spend much of their time specializing in piracy, terrorism, and security issues in Southeast Asia are a useful resource. Over the years we have seen some excellent published studies of piracy in the region. These reports contain not only important statistics on the incidents of piracy, but also detailed analysis of the different forms of piracy and various responses by governments in tackling the problem.

Yet, even with these diligent efforts at research, the reporter has to keep his "thinking cap" on. For example, there is a need to be aware of the distinction between reported and unreported incidents of piracy, the different types of pirates, the unwillingness of shipping companies to report kidnap for ransom, and the cutbacks in the number of crew members. There are question marks over the political and security agendas of countries in the region, as well as those of the United States, China and India. These are just some of the issues for a reporter to weigh up.

One factor that will influence a reporter's coverage of piracy is the amount of time he or she has available to specialize in the subject. Few have the luxury of being able to spend all their time focused on piracy. It is an important issue, but not so important that editors can support a reporter covering the subject full-time. Unfortunately, given the cutbacks and changes taking place in the media, there appears to be a move away from specialization. Few have the opportunity to spend weeks or months on a story. But reporters can do themselves and their publication a favour by at least trying to specialize. This may involve covering the subject on a regular basis or planning a major story for their publication.

This brief overview is designed to raise questions. Piracy and the efforts made by governments to tackle it are complex issues to cover. But it is important to adopt a questioning frame of mind.

The irony for reporters is that it is easier to get close to the frontline of a war than the battle against piracy on the high seas. But improvements can be made in how the media reports the threats of piracy and maritime terrorism in Southeast Asia if reporters keep alert to all the reporting options.

QUESTION AND ANSWER SESSION

With
Mr Julian Gearing
Covering Maritime Piracy in Southeast Asia, Kuala Lumpur,
13-15 July 2006

SOURCES AND THEIR LIMITATION

The question and answer session kicked off with the observation that the International Maritime Bureau (IMB) was too often the only, or at least the predominant, source of information because the police or other authorities frequently were not very forthcoming with their information.

WHAT KIND OF PIRACY ARE THE MEDIA INTERESTED IN?

The next question tackled the issue of what kind of piracy incidents were actually being reported in the media, and how.

There seemed to be a trend that only terrorism-linked piracy would make it into the national headlines, whereas lesser incidents would be covered in the local media only. On top of that, many reporters at the local but also at the national level often had very little knowledge of piracy-related issues and were lacking a good network of informers. Access to sources was often another issue.

Julian Gearing replied that often situations and access to sources differed from place to place.

Adding to this, Eric Frécon highlighted regional differences in dealing with pirates, but also different approaches to obtaining information. Hence, while some French journalists had to pay to get information in order to interview pirates in the Sulu Sea, in his case, the payment was in kind. In his view, the fact that he was foreigner – a non-American foreigner – made it easier to get access to local sources.

Werner vom Busch further emphasized that buying information might lead informers to exaggerate their role, or to highlight those aspects the journalist was most interested in, thus leading to a distortion of facts. Moreover, it was often difficult in Southeast Asia to check whether the information was really true, in particular if one did not have the time to check, verify, or reconfirm the information.

THE JOINT WAR COMMITTEE

Adding on to the previous topic, was it too far-fetched to consider the possibility that media reporting could have influenced the Joint War Committee decision of June 2005 to

declare the Straits of Malacca a war risk zone? Was this the reason that piracy is a big issue in Singapore and Malaysia, but not in Indonesia?

Julian Gearing felt that the media often played things up. It was therefore important to stress the background of events and to explain the conditions under which one was reporting.

INVESTIGATIVE JOURNALISM VS TIME CONSTRAINTS

Another participant stated that Gearing's suggestion to journalists to build up a level of expertise in maritime piracy would not work in Indonesia, as most of the information in the archipelago came from a small number of papers owned by people in Jakarta.

Many of their reporters were underpaid and had to write three to seven stories each day, which did not allow them specialization in a topic such as maritime piracy. This was unlikely to change, as most papers in the post-Suharto era were interested in long-term expansion, the build-up of TV stations, as well as infotainment rather than good reporting. In this new "mediascape", despite or because of the newly-won freedom of the press, feature writers were no longer given even a few weeks to write a story. In contrast, researchers in think tanks and academics had far more time, often years, to build up a network of contacts, and to countercheck on sources to establish their reliability.

Julian Gearing agreed that the media business was changing. There was a greater emphasis on the bottom

line, job cuts, and more emphasis on entertainment. There needed to be a way to make editors and owners of newspapers more aware of the related problems. In his view, it was also questionable whether readers really wanted more entertainment, such as lifestyle information, rather than good and well-written news. Again, he emphasised the importance of allowing reporters to build up their expertise in one area over a period of time.

THE EDITORIAL LINE: TO TOE OR NOT TO TOE?

The discussion then moved on to the issue of the journalists' proper understanding of the issue of piracy and questions of writing style. Given the many undercurrents in the topic that could not be judged at face-value, coupled with the often sensitive or restricted nature of the news, should journalists write in a manner that showed only one aspect of the story, or should open reporting be allowed?

Julian Gearing felt that most journalists did not have a lot of leeway because the editorial line had to be toed. This was true not only for publications in the Southeast Asian region, but also those elsewhere. In general a change of editor or a policy decision within the paper could make all the difference.

THE NEW JOURNALISM: INFOTAINMENT RATHER THAN NEWS?

The Question and Answer Session then went back to the structural transformations of the global and regional mediascapes. On the one hand, there seemed to be a trend towards the "USA Today-ism" of journalism, where readers apparently wanted bigger and more colorful front pictures and infotainment rather than high-quality, Pulitzer-level journalism. As a result, more and more people were turning to the internet and to blogs, where people would place news that would otherwise not make it into the media.

Speaking from his own experience, Werner vom Busch observed that the traditional model of news rooms with flat structures and wealth of expertise had been replaced by a more hierarchical model in which the editor was allocating work to a much greater extent. The underlying assumption was that one could make a better paper with fewer people. In his view, the mass-produced – or rather pauper – journalism had caused many good papers to go downhill due to the thinning out of expertise. This was particularly true of the regional papers, which did not follow the lead of big newspapers anymore and had different structures. Vom Busch felt that these low-quality strategies would not last.

With reference to the International Herald Tribune, Gearing suggested that the counter-strategy to infotainment would be better story-telling and a focus on readers' genuine interest in news rather than entertainment.

One participant who had worked with Malaysia's *The Star* for 28 years said that his paper gave the readers what

they wanted. While they do in depth reporting, page 2 now contained a one-line summary of the main events with readers having to go online for more in-depth coverage. Detailed stories were mostly reserved for the weekend and they also had a bloggers section in which the bloggers were identified but not in-house.

Another participant mentioned that even though Thailand's *The Nation* was a serious paper, it closely followed overseas trends and wondered what to imitate. The problem was that people were not buying the papers, and that good journalism was very expensive. For example, a single trip to Kabul would cost several thousand US dollars.

PANEL DISCUSSION

With
Julian Gearing,
Sam Bateman,
Peter F. Gwin,
T. Selva, and
Werner vom Busch
Covering Maritime Piracy in Southeast Asia, Kuala Lumpur,
13-15 July 2006

In the opening comments, Peter Gwin thanked the Konrad Adenauer Foundation for the invitation and the participants for their insights and contributions. For his part, Julian Gearing emphasized that good journalism and good storytelling are important and a degree of specialization is needed, in particular in a time of increased competition between print journalism and new media. Unlike the National Geographic, which allowed Peter to spend an extended period in the region, the reality for most journalists was insufficient time and means for covering more complex stories.

Sam Bateman said that while attending numerous conferences can be repetitive he had learned a lot during the past two days. He pointed out that while maritime reporting is often good, loose usage of language when reporting maritime incidents hampered a better understanding of maritime issues. Likewise, the quality of policy making on maritime issues was often influenced by the fact that, unlike on land, sovereignty on the sea is qualified by the different rights and obligations of States in the various maritime zones of jurisdiction.

AIMING FOR A TANGIBLE CONFERENCE OUTCOME?

In his opening remarks, T. Selva stirred up the audience by suggesting that the conference would be incomplete without a tangible outcome. He felt that the media often sets the agenda and affects the perception of an issue or a region and it would therefore be beneficial to propose some concerted effort or even a press release in view of making a positive impact. This would perhaps make Indonesia take the piracy issue more seriously and to provide more regular reports on piracy.

PRACTICAL PROBLEMS

Selva's proposal, however, was countered by the remark that journalists had to adhere to basic professional rules, such as knowing the difference between reporting and activism. It

would hence make more sense to interview the Joint War Committee regarding its May 2005 decision to classify the region as a high-risk zone. Similarly, instead of pressuring Indonesia, it would perhaps be better to call for easier access to sources such as through easier means of obtaining a journalist's visa, not to mention research visas with LIPI, the Indonesian Institute of Sciences. The increasing concentration of the media in Indonesia, the chronic underfunding of the military, as well as the potential disintegration of Indonesia were other factors to be considered.

ADDITIONAL PROBLEMS: PIRACY NOT A MAJOR CONCERN?

A participant felt that many countries involved had more important issues to deal with than piracy. There were worries that third parties, like the United States and even Singapore, may internationalize this issue. Lack of interest in better cooperation was thus evident in the Eye in the Sky initiative which was not working properly, namely because the four people on board were not willing to share the information they got. Related to this, some people saw this issue as a waste of resources because of the continued lack of a proper legal framework, such as the still outstanding agreement on the littoral states' maritime boundaries, which was related to Indonesia's perception that Malaysia claimed more than its fair share.

CONCLUDING REMARKS

Werner vom Busch thanked the attendees and the speakers, for he had learned to appreciate that piracy was a big topic with many subfields to be aware of. As such, he emphasized that the Konrad Adenauer Foundation's mission was to assist working specialists in particular issues, and to take up issues that are of core interest in the region.

Covering Maritime Piracy in Southeast Asia
Hotel Equatorial, Kuala Lumpur, Malaysia, July 13 – 15, 2006

Programme

Thursday, 13/07/2006

During the day   Arrival of Participants

07:00 pm   Welcome Dinner
Venue: Hotel Equatorial, Poolside (open air)

Welcome Address by
Mr. Werner vom BUSCH,
Regional Representative of the Media Programme Asia,
Konrad Adenauer Foundation, Singapore

Friday, 14/07/2006

Venue: Hotel Equatorial, Cempaka Raya Room
(Mezzanine Level)

08:30 am	Registration of Participants

09:00 am   Opening remarks by
Mr. Werner vom BUSCH,
Regional Representative of the Konrad Adenauer
Foundation, Singapore

09:10 am   Keynote Speech
"Nationalism and Sea Piracy on Straits of Malacca?"

Speaker: **Mr. Andreas HARSONO,** Journalist

09:30 am   Documentary Film: ***"Piracy in the Straits"*** by Patrick Benquet and Eric Frecon

10:30 am   Morning Coffee Break

10:45 am   ***"Context and Causes of Piracy"***

Speaker: **Mr. Eric FRECON**, Centre for Advanced Marine Studies, Paris Institute of Political Studies

11:30 am	Q&A / Discussion
12:30 pm	Luncheon
	Venue: Nipah Coffee Shop, Hotel Equatorial
01:30 pm	***"International Cooperation in Piracy Prevention"***
	Speaker: **Dr. Sam BATEMAN**, Professorial Research Fellow of the Centre for Maritime Policy, University of Wollongong
02:10 pm	Q&A / Discussion
03:15 pm	Afternoon Coffee Break
03:30 pm	***"Economics of Piracy"***
	Speaker: **Mr. Jeffrey CHEN**, Adjunct Fellow, Centre for Maritime Policy, University of Wollongong
04:10 pm	Q&A / Discussion
05:15 pm	End of Day I

07:30 pm   Dinner

                  Venue: Top Hat Restaurant
                  No. 7, Jalan Kia Peng (walking distance
                  from hotel)
                  Meeting Point: Hotel Lobby 07:10pm

Saturday, 15/07/2006

09:00 am   ***"Pirates, Renegades and Fishermen:
                  A Challenge to the Piracy and
                  Terrorism Discourse in the Malacca
                  Strait"***

                  Speaker: **Mr. MAK Joon Num,**
                  Independent Analyst specializing in
                  Southeast Asian Maritime Issues,
                  Institute of Southeast Asian Studies,
                  Singapore

09:40 am   Q&A / Discussion

10:30 am   Morning Coffee Break

10:45 am   ***"Covering Piracy in the Media"***

                  Speaker: **Mr. Julian GEARING,**
                  Journalist

11:30 am   Q&A / Discussion

01:00 pm	Luncheon
	Venue: Nipah Coffee Shop, Hotel Equatorial
02:00 pm	**Panel Discussion** on Piracy and its Reflection in the Media
	Moderator: **Werner vom Busch** Panelists: **Julian Gearing, Sam Bateman, Peter F. Gwin**
02:50 pm	Conclusion and Farewell Address by **Mr. Werner vom BUSCH,** Regional Representative of the Konrad Adenauer Foundation, Singapore
03:00 pm	End of Conference

DEPARTURE OF PARTICIPANTS