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14. ABSTRACT Maritime piracy in the Strait of Malacca has dramatically increased since 1998. Efforts by regional countries to combat pirates have had limited success. If left unchecked, piracy could severely affect global trade, regional stability and the flow of oil to Asia. Analyzing current and previous efforts to combat piracy in the Straits of Malacca and Singapore will determine what worked and did not work to reduce the number of attacks against ships. The examination will show that increased coordinated and combined patrols as well as improved intelligence sharing will significantly reduce the number of pirate attacks in the Strait of Malacca. Indonesia, Malaysia, and Singapore do not have the full resources available to accomplish this alone and will require the assistance of a coalition of willing partners with a stake in the region. This paper will propose that because only the U.S. has the resources, capabilities, and experience to bring countries together, it is the nation best suited to lead such an effort. Under US Pacific Command's Regional Maritime Security Initiative (RMSI), the United States can lead a successful effort that will reduce piracy and armed robbery in the Straits.					
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***Can U.S. Led Efforts Reduce Piracy
in the Malacca and Singapore Straits?***

by

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A paper submitted to the faculty of the Naval War College in partial satisfaction of the requirements of the Department of Joint Military Operations.

The contents of this paper reflect my own personal views and are not necessarily endorsed by the Naval War College or the Department of the Navy.

Signature:_____

10 February 2004

Abstract

Maritime piracy in the Strait of Malacca has dramatically increased since 1998. Efforts by regional countries to combat pirates have had limited success. If left unchecked, piracy could severely affect global trade, regional stability and the flow of oil to Asia.

Analyzing current and previous efforts to combat piracy in the Straits of Malacca and Singapore will determine what worked and did not work to reduce the number of attacks against ships. The examination will show that increased coordinated and combined patrols as well as improved intelligence sharing will significantly reduce the number of pirate attacks in the Strait of Malacca. Indonesia, Malaysia, and Singapore do not have the full resources available to accomplish this alone and will require the assistance of a coalition of willing partners with a stake in the region. This paper will propose that because only the U.S. has the resources, capabilities, and experience to bring countries together, it is the nation best suited to lead such an effort. Under US Pacific Command's Regional Maritime Security Initiative (RMSI), the United States can lead a successful effort that will reduce piracy and armed robbery in the Straits.

Introduction

11 June 2004, in International Waters in the Strait of Malacca. “About ten pirates (suspected GAM rebels) in a speedboat opened fire on ship while at anchor and six of them armed with guns boarded ship and herded all crew members into the messroom. They seized all ship's documents and forced Master to contact Managers for ransom and there was no response as it was out of office hours. Radio Officer sent a distress message to the Indonesian Navy and as patrol boat approached ship, the pirates fled in their speedboat and those remaining onboard hid in the engine room on seeing Naval personnel board ship. A gun battle ensued thereafter which left three pirates dead and the fate of the other three pirates is not known.”¹

The report above exemplifies the very real and current danger for merchant ships transiting the waterways of Southeast Asia. Armed pirates, who have no problem using deadly force, wait for merchant ships that are easy and profitable prey. This time, the Indonesian Navy was in the area to answer the call for help. Even more alarming is the blurring of lines between pirates and terrorists in a region of porous borders and extensive shorelines. In the highly congested waterways of the Straits of Malacca and Singapore (referred to hereafter as the Straits), small vessels of pirates easily hide amidst merchant shipping, fishing traffic and along the isolated coasts of Indonesia and Malaysia. While “the chances of being attacked [by pirates] are 1:1000,”² piracy* in the Straits is not a problem that will go away on its own. In this age of globalization, the free-flow of goods through this important Sea Line of Communication (SLOC) is vital for stability and economic prosperity not only for our regional allies but also for the United States. The U.S., whose businesses are the third largest owners of ships that transit the Straits (see Appendix A – Shipping and Economic Importance of the Straits), has an interest in keeping the Straits open for trade and commerce to support the global economy.³ An increase in pirate attacks could severely impact the world economy as well as regional security and stability unless there is an

* In keeping with the international legal definition of piracy, this report will use the terms piracy for incidents on the high seas and armed robbery for incidents in port areas and territorial waters. The term pirate(s) will apply to persons who commit or attempt to commit acts of piracy or armed robbery against legitimate shipping.

integrated and concerted effort to not only keep the threat in check but to reduce the number of attacks.

What is the best way to solve this problem? First the threat must be examined, as well as current issues of piracy in international law. The Straits nations, Malaysia, Indonesia and Singapore, have undertaken collaborative efforts to reduce piracy and armed robbery at sea through loosely coordinated patrols, with mixed results. These and other initiatives as well as proposals and recommendations from outside the immediate region will be examined for their effectiveness, applicability and practicality against piracy trends in the Straits. The analysis will evaluate what worked and what did not work. It will show that multi-lateral coordinated patrols and information sharing are the most effective means of combating piracy and armed robbery at sea, but that current initiatives may not be adequate. This leads to the conclusion that only a multinational effort will bolster current anti-piracy initiatives, as well as reduce the threat of piracy and armed robbery in the Straits.

What is the solution to accomplish this and where should the leadership come from?

Any effort needs to be able to

...enhance [regional] capabilities and leverage capacities through unity of effort to identify, monitor, and intercept transnational maritime threats consistent with existing international and domestic laws...[such a] cooperative effort will maximize the application of available resources...⁴

ASEAN and the ASEAN Regional Forum (ARF) have addressed the problem but other than rhetoric have done little to take active measures against piracy. Indonesia, Malaysia and Singapore have recently renewed cooperative efforts, but have not achieved the level of coordination required to make a serious impact and are hampered by the limited assets of their navies and maritime police forces. This paper will propose that because only the U.S. has the resources, capabilities, and experience to bring countries together, it is the nation best

suited to lead such an effort. Under US Pacific Command's Regional Maritime Security Initiative (RMSI), the United States can lead a successful effort that will reduce piracy and armed robbery in the Straits. The proposed framework will be compared to previous anti-piracy initiatives to validate this solution and propose refinements. An expected ancillary benefit would be a reduction of terrorists and others engaged in illegitimate transnational activities using the Straits to transport personnel and equipment between the Asian mainland and Southeast Asian islands.

Analysis

The Threat

Just what is the piracy threat in the Straits area? Typically, pirates are small-time operators looking for easy prey and quick money. Any vessel in the Straits today, especially smaller boats with capable engines, could be a pirate vessel. There is little to distinguish a boat full of fishermen one moment from pirates wielding machetes or machine guns sneaking up the stern of a ship the next. Michael S. McDaniel notes that there are three types of modern day pirates. The unorganized groups finding victims of opportunity, the "...second pirate type is a more sophisticated organized crime group...", and the quasi-military types that briefly flourished in the People's Republic of China in the South China Sea,⁵ and has since appeared to have died out after a crackdown by the PRC government. A majority of attacks in 2000 involved armed groups of 2-12 people boarding vessels from speedboats who stole cash and other valuables owned by the crew. On several occasions, hostages were taken for ransom. Ransom and larceny are what most pirates are after. The "increased criminal incentives"⁶ are believed to have resulted from the Asian financial crisis and the "political instability in Indonesia which led to massive unemployment"⁷ at the end of the last century.

By no means though, are these modern day pirates adverse to using violence. In six of the fifteen successful acts of piracy or armed robbery and seven of eighteen unsuccessful attempts of piracy or armed robbery in the Straits in 2003, violence was used against crew members.⁸

In 2000, the Panama tanker *Global Mars* became one of the infamous ‘Phantom Ships’, where a ship hijacked by pirates assumes a new identity. Organized criminal elements are able to register the ships they obtain under new names and identities. Surprisingly the vessel, hijacked in the Straits, was recovered five months later in Hong Kong, with the help of the International Maritime Bureau (IMB), under a new name with some of the original cargo still onboard.⁹ While this type of story can make international news, it is very difficult to “quantify the scale of the problem...most of the information concerning such ships is held individually by lawyers, loss adjusters and underwriters, and not centralized or collated.” In fact, the IMB has uncovered just over 25 cases of Phantom Ships.¹⁰ These types of activities only underscore the importance of stopping illegal activities against shipping in the Straits.

There is also a fourth kind of pirate not previously considered that is of increasing concern – pirates with terrorist links. Members of the Free Aceh Movement (GAM), an acknowledged terrorist organization, are suspected of acting in a piratical role against targets of opportunity for financial gain. Their tactics are the same as pirates. Their acts of piracy and armed robbery are not designed to bring about an immediate political gain, but a financial one. A report by Herbert-Burns and Zucker, contends, “lumping these activities with the activities of traditional pirates, motivated purely by ‘private gain’, is misleading and dangerous.” They further explain that because of the long-term strategic aims of the GAM pirates, they are more terrorists than pirates.¹¹ This is one of the many grey areas in

combating maritime piracy, one that also leads to confusion and added policy debate on the international scene. Acts of terrorism can be hard to agree on in the international arena because of the lack of a common definition. Using the definition proposed by the UN Secretary General's High-level Panel on Threats, Challenges and Change,^{*} most of the acts by members of the GAM can be considered as piracy. Furthermore, because of this distraction, countries and agencies combating piracy need to concentrate on piratical acts, regardless of the people committing them. This leads to the issue of defining piracy.

Piracy Definitions and International Law

One of the problems encountered in the international arena in combating maritime piracy is the actual definition of piracy. Article 101 of the United Nations Law of the Sea Convention (UNCLOS) states:

Piracy consists of any of the following acts:

- (a) any illegal acts of violence or detention, or any act of depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft, and directed:
 - (i) on the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft;
 - (ii) against a ship, aircraft, persons or property in a place outside the jurisdiction of any State;
- (b) any act of voluntary participation in the operation of a ship or

^{*} 164. That definition of terrorism should include the following elements:

- (a) recognition, in the preamble, that State use of force against civilians is regulated by the Geneva Conventions and other instruments, and, if of sufficient scale, constitutes a war crime by the persons concerned or a crime against humanity;
- (b) restatement that acts under the 12 preceding anti-terrorism conventions are terrorism, and a declaration that they are a crime under international law; and restatement that terrorism in time of armed conflict is prohibited by the Geneva Conventions and Protocols;
- (c) reference to the definitions contained in the 1999 International Convention for the Suppression of the Financing of Terrorism and Security Council resolution 1566 (2004);
- (d) description of terrorism as "any action, in addition to actions already specified by the existing conventions on aspects of terrorism, the Geneva Conventions and Security Council resolution 1566 (2004), that is intended to cause death or serious bodily harm to civilians or non-combatants, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a Government or an international organization to do or to abstain from doing any act".

United Nations Secretary General's High Level Panel on Threats, Challenges and Change, A More Secure World: Our Shared Responsibility, United Nations, (New York: 2004), 48.

of an aircraft with knowledge of facts making it a pirate ship or aircraft;
(c) any act of inciting or of intentionally facilitating an act described in subparagraph (a) or (b).¹²

However, the IMB, the maritime component of the International Chamber of Commerce and sponsor for the Piracy Reporting Centre (IMB-PRC) in Kuala Lumpur, defines piracy as “the act of boarding any vessel with the intent to commit theft or other crime and with the capability to use force in the furtherance of the act.”¹³ This definition specifically “includes the *insurance* concept of the crime and the popular media or media perception of the action”¹⁴(emphasis in the original) and does not take into account whether an action or crime has been committed in international or territorial waters or in port areas. This disparity leads to confusion. State actors follow the UNCLOS definition because of the issues of “...‘hot pursuit,’ interdiction and jurisdictional incursion...”¹⁵ into another nation’s territorial waters. Civilian actors (NGO’s, academics, etc) do not have these concerns, and many academics prefer the IMB definition, though even then there is not a full consensus. State actors are limited to enforcement only in their territorial waters and the high seas. Many nations, especially Singapore, “would ... prefer the use of the term ‘Robbery at Sea’(ROS) to ‘piracy’”¹⁶ in those instances where an incident was within territorial waters. In fact, the UN’s International Maritime Organization (IMO) data differentiates between piracy and armed robbery in their piracy reports. “The problem with the current international regime to suppress piracy, is that the majority of situations involving piracy-like offenses [especially in the Straits] would not be covered.”¹⁷

Piracy trends

Using the Annual Reports from the IMO, there has been no persistent trend in the number of incidents of piracy or armed robbery at sea in the past 14 years. In 1992, Indonesia

signed a series of bi-lateral agreements with Singapore and Malaysia (further discussion below) when there was a reduction in reported incidents in the Strait of Malacca as shown in Figure 1. However, this could either be due to the efforts of the three Straits nations or might be because “in the highly competitive shipping market, the carriers often decide not to report incidents of piracy”¹⁸ especially when nations are taking an active interest in combating pirates and might be more prone to holding up ships to conduct proper investigations. Since 1999, there is a noted increase in the number of incidents in both international waters and territorial waters. This rise has been primarily attributed to the Asian financial crisis and Indonesia’s political turmoil.¹⁹ The year 2000 appears to have been an anomaly with over 75 reported acts or attempted acts of piracy/armed robbery in the international waters of the Straits and 27 incidents in territorial waters (25) and port areas (2). Figure 2 shows that the reported number or attempts of armed robbery decreased in territorial waters and port areas. Meanwhile attempts in international waters increased.

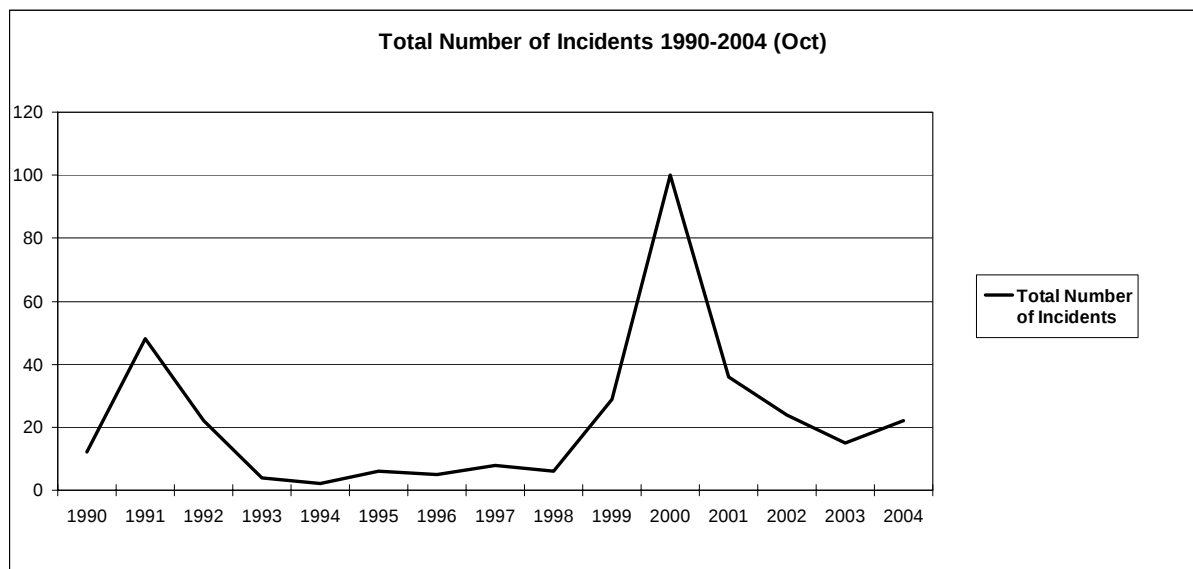


Figure 1. Total Number of Piracy and Armed Robbery Incidents in the Strait of Malacca (1990-Oct 2004)

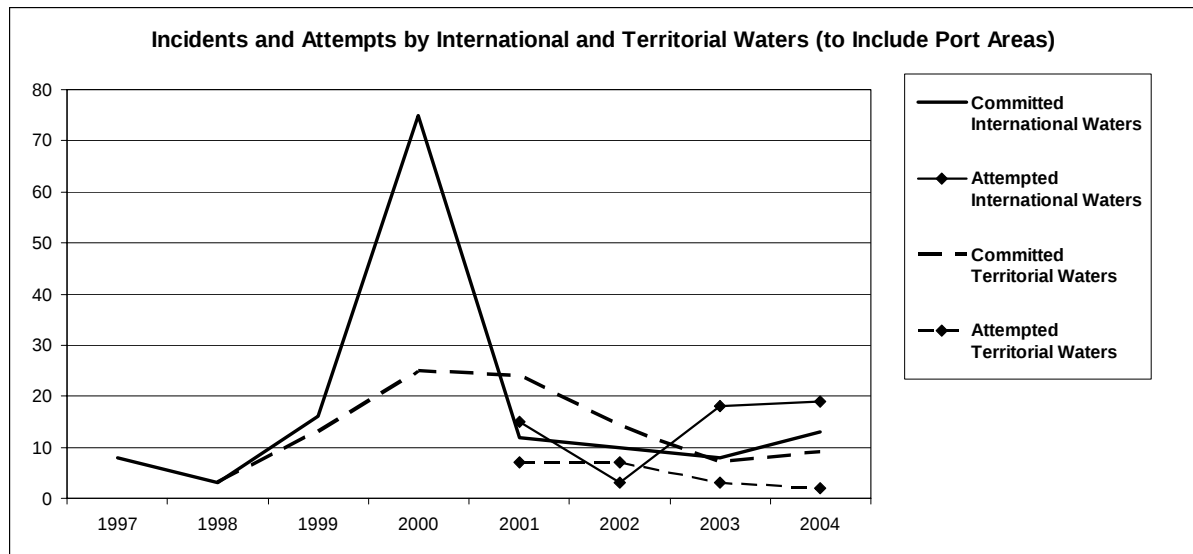


Figure 2. Incidents and Attempts by International and Territorial Waters (includes port areas) in the Strait of Malacca 1997- Oct 2004

Regional Anti-Piracy Initiatives in the Straits

In 1992, Indonesia signed the Indonesian-Singapore Coordinated Patrol (ISCP) bi-lateral agreement with Singapore and a bi-lateral agreement with Malaysia called Optima Malindo as a result of the rising number of pirate attacks in the Straits. While the details are confidential, the heart of the agreements provided for “coordinated patrols.”²⁰ This mostly meant informing the other country when and where they were conducting patrols, which remained within that nation’s own territorial waters or international waters. Additionally, there are also procedures for “vessels in pursuit to cross territorial boundaries with the permission of the other state.”²¹ However, given the detail of the latest effort in July 2004 by all three nations, discussed below, it can be inferred that each country has always been very sensitive to allowing the authorities from one of their neighbors into their territorial waters and this is not a common practice. How effective were the coordination efforts? As Colonel Santa Maria, RSN, stated, “we began operations in September that year [1992] and in October the number of robberies had been reduced to nil.”²² Over the course of six years,

pirate attacks averaged less than ten incidents (successful or attempted) per year in the Straits (see Fig 1.) and 1992 saw a dramatic reduction compared to the previous year. The conclusion is that the coordinated efforts were successful in suppressing piracy and armed robbery in the Straits from 1992 through 1998. However, as previously discussed, 1999 saw a rise in attacks. There is no specific data available on the number of patrols conducted by Indonesia, Malaysia, and Singapore, but it is inferred that the numbers of patrols probably did not exceed those since 1992 when the first agreements were signed, and so the number of patrols were no longer an effective deterrent to pirate attacks. This is especially true for Indonesia. “As one security specialist noted: ‘Since the [1998] fall of Suharto the capacity of Indonesia’s security forces [to combat the piracy problem] has, if anything, gone backwards.’”²³ This rising trend peaked in 2000 at 112, but pirate attacks have since averaged around 15 incidents per year.

In 2001, there was a renewed effort to suppress piracy by Malaysia and Singapore. There were 58 reported pirate attacks that year.²⁴ The IMB noted this improvement over the previous year was “due to the patrols and constant operations by the relevant authorities, particularly the Royal Malaysian Marine Police.” The IMB also noted that Indonesia had not done as much as its two neighbors had.²⁵

Early the following year in 2002, Indonesia stepped up their efforts in the Straits. First Admiral Kayhatu, IN, stated, “We have deployed three warships [out of 26 conducting daily patrols throughout the rest of Indonesia’s waters] on a permanent basis to guard the waters off Aceh to prevent arms smuggling and three others to contain pirate attacks on cargo vessels passing through the Malacca Straits.”²⁶ This seems to have helped reduce pirate attacks in 2002 to 34, almost two-thirds that of the previous year.²⁷

2004 saw an even more invigorated approach by the three nations to reduce piracy. In April “Malaysia even began to offer naval escorts for commercial vessels deemed to be at high risk.”²⁸ In July, Singapore, Malaysia and Indonesia began a re-concerted combined effort to combat piracy and armed-robbery on ships in the Straits. The primary outcome of this new “security initiative...called the Tri-lateral Co-ordinated [sic] Patrols Malacca Straits, codenamed MALSINDO,”²⁹ is a commitment by each nation to provide five to seven ships conducting “...round-the-clock naval patrols in the countries’ respective territorial waters, [and] improved coordination through the setting up of a hotline linking the three naval command centres in Batam, Lumut and Changi.”³⁰ However, as LTG Chung, Malaysia’s Chief of Navy said: “If there is an incident where ‘hot’ pursuit occurs, we will establish communication and will conduct a handing-over kind of operation, rather than pursuing the contact.”³¹ How effective has MALSINDO been to date? From July through October 2004 there were 6 reported acts of piracy or armed robbery in the Straits and six attempts.³² Compared to the first and second quarter of 2004 where there were nine successful pirate attacks each quarter and eight and six attempts for each quarter respectively. While technically the third quarter and October were down by one-third over the first two quarters, the numbers only differ by three attacks and do not appear to be a significant change.³³

What were the deficiencies of the measures taken as a result of the 1992 agreements? Patrols were loosely coordinated and not combined. There was no central coordination of the patrols, only notification of when and where patrols would occur. Because the patrols were not combined patrols, “hot pursuit” could not be arranged at the tactical or on-scene level. There was no indication of increased intelligence sharing and reporting on pirate operations between the nations. Limited patrol assets will always be a factor for Indonesia and Malaysia

due to the large area of operations (especially Indonesia) versus the finances to support large coastal patrol forces. While patrol efforts have increased as a result of MALSINDO and there is better coordination (though not combined), there are still issues with “hot pursuit” and limited information sharing.

International Efforts and Recommendations

Since 2000 there has been greater interest in maritime security in the Straits from outside the immediate region, mostly by India and Japan. In 2000 and 2001, as a result of the increase in reported pirate attacks, Japan, whose oil flows through the Straits, offered assistance in combating piracy to include offering Japanese Coast Guard ships and aircraft to patrol the Straits. Japan also hosted a number of conferences to “discuss medium and long term vision”³⁴ on this issue. While patrols were not welcomed, mostly due to historical concerns, the Japanese Coast Guard did participate in a number of exercise with India and Malaysia. India has already conducted a number of combined exercises with Malaysia designed to enhance interoperability in patrolling the Straits and both countries are in serious discussion about conducting combined anti-piracy patrols.³⁵

The U.S. has also taken an interest in countering illegitimate use of the waterways in Southeast Asia, which led to the development of USPACOM’s Regional Maritime Security Initiative. RMSI is a multi-faceted attempt to “deny the use of the maritime domain by those who pose a threat to the Asia-Pacific region’s maritime security, including...criminal.” The four tenants of RMSI are:

- Increased situational awareness and information sharing
- Responsive decision-making architecture
- Enhanced maritime interception capability
- Agency, ministerial and international cooperation.

RMSI will be accomplished through interaction with regional governments, international organizations (especially ASEAN and ARF, the IMO and IMB) and the private sector. RMSI is seen as a cooperative effort and is focused on “a committed long-term...effort necessary to build regional capacities that counter these...threats.” To bring all of these areas and efforts together, USPACOM is developing a maritime security concept that would incorporate the four tenants as illustrated in Figure 3 below. The goal of RMSI is not to increase U.S. presence in Southeast Asia, but to bring resources together, many of which are already in place, in a unified effort.³⁶

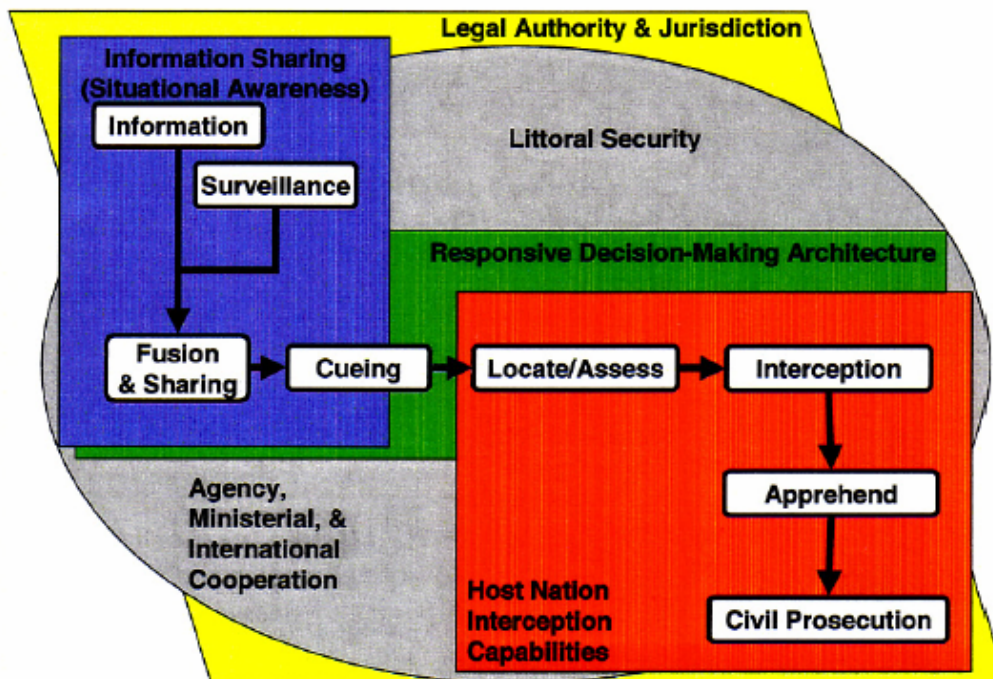


Figure 3. USPACOM Maritime Security Operational Model³⁷

Both Indonesia and Malaysia have been highly critical of this U.S. initiative and of Singapore’s support for it. “Indonesian Navy chief, Admiral Sondakh, stated that the establishment of a US military presence would not be required in the effort to secure the Malacca Straits ...[and] Malaysia repeatedly rejected the idea of US anti-terrorism patrols in

the Straits.”³⁸ Malaysia has agreed in principle to expanding information sharing with the U.S. and to conduct exercises with US forces, but not coordinated patrols.

In the past several years there has been much discussion throughout the world regarding piracy. The IMO and IMB are both committed to the reduction of piracy and armed robbery at sea. Both institutions have hosted international working groups and publish extensively on current threats (IMB-PRC and IMO provide monthly, quarterly and annual reports that help identify trends) and what the shipping industry can do to protect itself.

In June 1999, the IMO published an extensive circular titled Recommendations to the Governments for Preventing and Suppressing Piracy and Armed Robbery Against Ships. The result of an international working group, it calls for coastal states to

establish [bi or multi-lateral] co-operation agreements...[to] include the co-ordination of patrol activities...[establish] how information would be disseminated [see Fig 4 below], establish joint command and control procedures...ensure effective communications; set policies for joint operations and entry and pursuit³⁹

as well as working with all agencies concerned with piracy and armed robbery at sea. The most forward thinking recommendation is “to allow for the extension of entry and pursuit into the territorial sea of the State(s)...” and to ensure procedures are in place to allow crossing jurisdictions.⁴⁰ That same year, the IMO also submitted a similar circular with recommendations to the shipping industry on actions that ships could take to protect against pirate attacks.⁴¹ The report was revised in 2002 and now many of those recommendations are required to be implemented by the shipping industry through the IMO’s International Ship and Port Facility Security Code (ISPS) which came into effect 01 July 2004. Some of the more important initiatives include standing ship protection plans overseen by a designated security officer aboard each ship.⁴²

The IMB-PRC is financed by members of the shipping industry and can receive reports of pirate attacks from merchant shipping anywhere in the world. The IMB-PRC in turn notifies appropriate local law enforcement authorities. The IMB-PRC also provides a daily broadcast over INMARSAT on piracy “hotspots.” Additionally, one of two initiatives the IMB-PRC is supporting is SHIPLOC: a (hidden) transmitter linked to a PC with internet access allows the vessel’s geographic position to be known at any time. SHIPLOC complies with the ISPS and had an early success in helping to recover a hi-jacked tanker, M/V

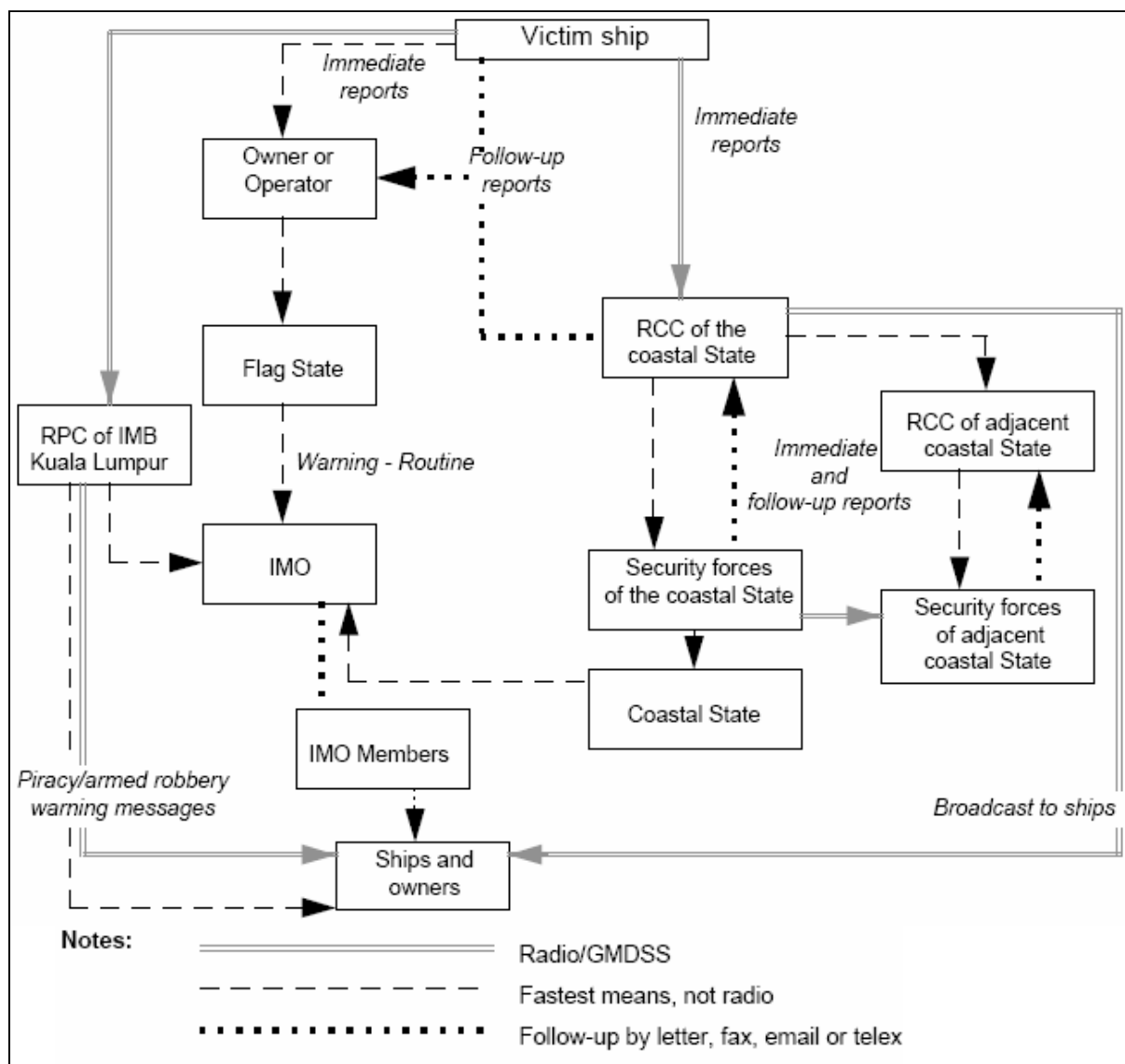


Figure 4. IMO Flow Diagram for Attacks in Coastal Waters⁴³

Selayang, in June 2001. The IMB-PRC is also promoting Secure-Ship, which “is a non-lethal, [collapse-able] electrified fence surrounding the ship” that will give “an unpleasant non-lethal shock,” sound alarms and activate floodlights if tampered with. However, the system cannot be used on any vessel carrying flammable cargo, which precludes use on the most important shipping: the Very Large Crude Carriers (VLCC) and other oil tankers.⁴⁴ The IMB-PRC has been successful on several occasions when countries have worked with it to track down Phantom Ships. The M/V *Alondra Rainbow*, which had been attacked by pirates and subsequently hi-jacked in the Straits in 1999, was recovered by the Indian Navy due to “a sustained intelligence-based operation, involving both private and governmental agencies.”⁴⁵ The *Global Mars* was recovered because of similar “coordination of intelligence reports”⁴⁶ which allowed Chinese authorities to find the vessel and take it into custody.

In the academic world, there have been multiple articles written on piracy including recommendations for nations to take. Robert Beckman calls for governments to adopt the IMO recommendations for governments (discussed above) and for the states in turn to “encourage” the shipping industry to adopt the IMO’s recommendations for the industry. He also calls for enhanced bi-lateral and regional cooperation, to include “making any attacks against ships exercising rights of passage in the strait an offence under their laws, punishable... no matter in whose territorial sea the offence was committed,” streamlining extradition procedures, investigating piracy related crimes and increased regional cooperation between the three Straits nations to adopt “national legislation dealing with piracy and armed robbery against ships...[and would] provide for serious penalties for attacks on ships...”⁴⁷

John Mo goes a little farther than Beckman in his recommendations. He recommends “ASEAN...produce concrete plans to combat maritime piracy in Southeast Asia.” This

would be done through an agreement that sets out “the principles for joint piracy control...and establish a special task force which should be managed separately through relevant national headquarters under the same code of conduct and communications systems.” This is very far forward-leaning, but clearly he does not fully understand unity of command issues in stating the force should be managed separately by each nation. Mo does note that the cost of such an undertaking would pose difficulties because

when a country balances the public interest of combating piracy and the public interest in limiting public expenditures, the latter is given weight since the long term damage to a national economy is not as easily identifiable as the immediate financial burden placed upon the public...⁴⁸

for expensive piracy operations. Like Beckman, Mo proposes to strengthen or add agreements to international legal frameworks regarding piracy related crimes to make it easier to prosecute pirates and identify them.⁴⁹

Would these recommended solutions have an increased effect in reducing piracy? Revamping bi-lateral agreements on jurisdiction would allow pirates to be prosecuted easier once caught. However, there is still the problem of actually capturing pirates. Adopting the IMO Recommendations to Governments would undoubtedly have a huge impact. As observed after 1992 when the Straits nations began concentrated efforts to suppress pirates in the Straits, piracy fell dramatically off. If states could conduct “hot pursuit” into other territorial waters, as recommended by the IMO, at least until the appropriate state authorities arrived on scene, there is a chance more pirates would be caught and ultimately prosecuted instead of being chased away. Better coordination of patrols (instead of merely informing the other nation of patrol times) would allow a concerted and unified effort by more than one nation. Only increased patrols though will lead to greater presence and ability for coastal agencies to respond to ships being attacked.

Proposed Solution

How can the Straits be secured from pirates for the world's commercial shipping? Historically, piracy has been stamped out by going into the den of pirates (once the political, military and economic will were in place) and forcibly closing down their base of operations. The pirates in the Straits are not a single cohesive group operating from bases of operations and they do not appear to be withering away on their own. The Straits' nations face "an enormous task"⁵⁰ trying to cover a large geographic area with limited assets and resources. To best combat piracy, a U.S. coordinated effort involving Indonesia, Malaysia and Singapore with other nations and organizations holding an interest in regional security such as ASEAN, Australia, Japan, India and even the People's Republic of China would reduce piracy to minimal levels. The U.S. is uniquely placed to be at the forefront of an international effort for those nations who have a very high interest in keeping the Straits open for the free-flow of goods. The U.S. has the experience of bringing agencies of multiple nations together to work toward a common objective. The U.S. also has the systems and technology to enhance information sharing which will make current efforts more effective. Increased and centralized coordination of patrols, interdictions and intelligence capabilities, with U.S. leadership and resources backing it, would bring increased security in the Straits and lead to a reduction in pirate attacks.

The proposed method to execute such a solution would be conducted under RMSI. This proposal expands on the goals of RMSI and provides more detail to better accomplish the objective. While Admiral Fargo stated that RMSI will not "result in a standing naval force patrolling the Pacific,"⁵¹ the reality must be that RMSI should not preclude U.S. forces from actively participating in efforts to suppress piracy and armed robbery, whether in a

nation's territorial waters (with appropriate agreements and permissions in place) or in international waters. Equally, other participating nations would be able to provide patrols, assist in any interdictions that may arise and analyze intelligence.

The proposed command and control arrangements (see Fig. 5) would appoint Commander, U.S. Seventh Fleet as the Executive Agent. The U.S. Navy commander responsible for Southeast Asia, Commander, Logistics, Western Pacific (CLWP) would be the Commander Combined Task Force - Piracy (CCTF-P) and coordinate multi-national agency efforts, patrols, communications, and intelligence. Given CLWP's headquarters in Singapore and access to U.S. intelligence, he is the perfect choice to lead the efforts to combat piracy and armed robbery in the Straits. A Lead Nation Coalition Command Structure would be best suited for such an operation with the exception that countries would not always subordinate "their forces to a single partner."⁵² However, the combined staff would be "representative of the entire coalition...[with]...designated deputies or assistant commanders, planners and logisticians"⁵³ coming from each participating coalition member. Because of the high political sensitivities to U.S. and certain other countries presence in the Straits, command and control would be by coordination rather than the CCTF-P exercising OPCON or even TACON over non-US forces. This is in keeping with the RMSI. Instead of an actual headquarters exercising direct control, it would be a Combined Piracy Coordination Center (CPCC) similar to the Friendly Forces Coordination Center (F2C2) function in the COMUSNAVCENT HQ in Manama, Bahrain.* While this might result in reduced unity of command, one of the key roles of CCTF-P would be to maintain unity of effort.

Because of the maritime aspect of piracy and armed robbery at sea, forces depicted are

* F2C2 at COMUSNAVCENT is where coalition naval liaison officers coordinate their countries maritime efforts in support of OEF and represent their navy at COMUSNAVCENT.

primarily maritime in nature. This is not meant to preclude law enforcement agencies such as the Royal Malaysian Maritime Police and Singapore Coastal Police nor other state agencies, police forces or armed forces from participating.

The IMB-PRC is included because of their extensive involvement with piracy in the region and established communication pathways with merchant ships. Their location in Kuala Lumpur is ideal to receive reports in the area and to quickly alert national authorities and the CPCC which would help coordinate efforts of multi-national agencies and forces in the Straits. The CPCC would play a role in instances where attackers are either in international waters or may cross the boundaries of one nation's territorial waters into another nation's. A crucial function of the CPCC would be intelligence collation of transnational maritime threats and dissemination to national authorities and operational forces.

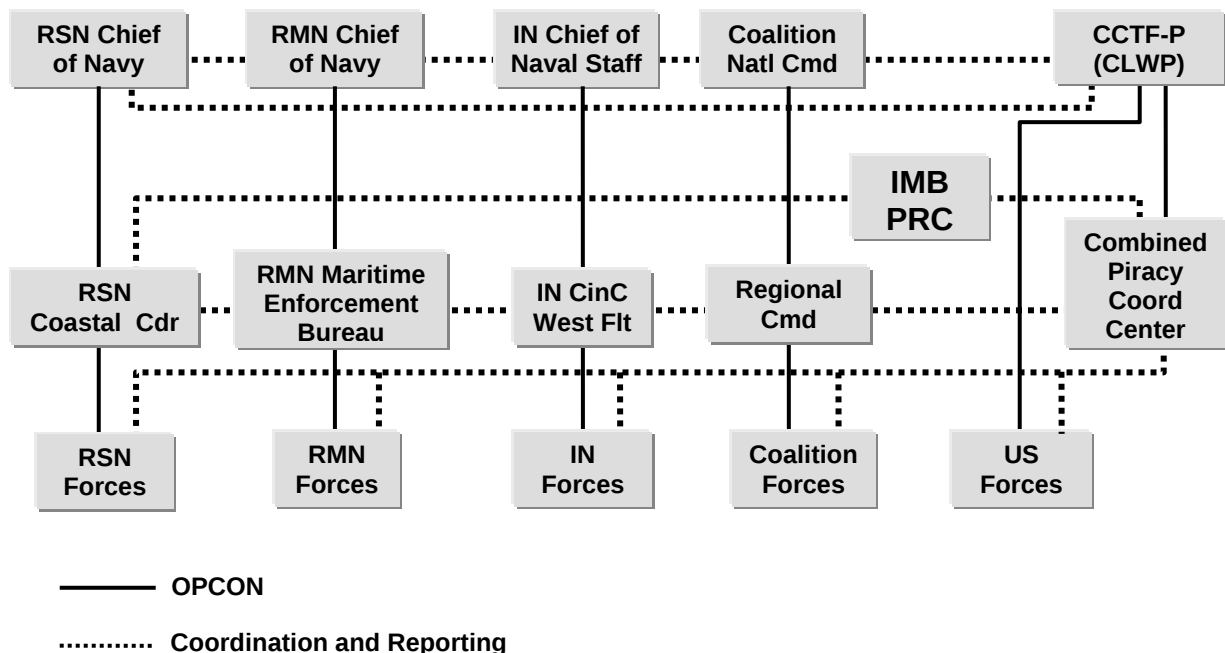


Figure 5. Proposed Command and Control

Through a series of exercises, coordinated primarily by the U.S., these patrols would lead to truly combined patrols with two or more nations; whether only from Straits nations or other participating nations. Combined patrols would also solve issues that may arise during the hot pursuit of a suspected pirate transiting into another nation's territorial waters. U.S. participation would range from one or two surface ships, maritime patrol aircraft, and Naval Special Warfare Units with their Special Boat Units and Special Operations Craft-Riverine units, depending on the exercise, patrol or a specific operation. U.S. participation would occur as forces are available or required and would not be permanently assigned to Southeast Asia to conduct anti-piracy patrols.

What are the minimal prerequisites that would allow such a scheme to occur? A regional agreement (using the IMO's recommended draft as a basis) among the three nations allowing for ships to conduct patrols throughout each other's territorial waters (perhaps best done with liaison officers onboard) within the Straits and allowing cross-border hot pursuit must be in place. The agreement should also include provisions that allow other nations to participate in exercises, patrols and eventually interdiction based on what the situation requires. If patrols in territorial waters prove too sensitive, then other nations could easily provide presence through transits of the Straits in a purely transit passage regime with the obligation to assist any mariner in distress. Effective communications architecture for reporting and coordination with other state's agencies needs to be established. In addition to voice communications which can utilize equipment already in use by each nation's forces, a Coalition Wide Area Network (COWAN) terminal should be located at each national headquarters to allow for rapid dissemination of intelligence and further enhance

coordination efforts. Intelligence and information sharing among participating nations also needs to be in place

Would such a scheme succeed in suppressing piracy and armed robbery at sea? When compared to the beginning efforts by the three Straits nations in 1992, it is argued that increased coordination and patrols will reduce incidents in the Straits. Since MALSINDO started in July 2004, there does not seem to be a significant reduction in the number of incidents in the following quarter, though there has been a drop. Intelligence coordination between governmental agencies and the shipping industry through the IMB has proven effective on at least two different occasions in locating hi-jacked ships. If the threats can be tracked down or intercepted, pirates will be deterred from engaging in these illegitimate activities.

Conclusion

The United States has a real interest in suppressing piracy and armed robbery in the Straits of Malacca and Singapore. The economic and thus military stability of our partners and allies in Asia are dependent on the free flow of goods through this important SLOC. U.S. businesses own a significant amount of the vessels transiting the Straits, though this is often clouded by the fact that their vessels fly flags of convenience. Increasing regional partnerships to suppress pirate attacks through RMSI will increase cooperation and interoperability amongst maritime military and law enforcement agencies. This collaboration will have a positive effect in the Straits to reduce piracy and armed robbery to insignificant levels.

Appendix A – Shipping and Economics Importance of the Straits

Why are the Straits important to the United States, the region and the rest of the world? In 1993, when the Center for Naval Analysis (referred hereafter as the CNA study) conducted an in-depth study of traffic flow through the Straits, US interests owned 6.2 percent of the tonnage that passed through the Straits accounting for 5.5 billion dollars in exports and 2.7 billion dollars in imports.⁵⁴ As the Commander of US Pacific Command, Admiral Tom Fargo stated, “one-third of the world’s shipping and half of its oil pass each year”⁵⁵ through the straits of Southeast Asia. While piracy will probably never reach the point of actually closing the Straits, it does cause a disruption of commercial flow and, if left unchecked, would certainly increase; as would shipping costs for carriers that decided to take alternate routes through the Lombok and Sunda Straits and insurance costs for those who kept routing through the Straits. These “increased costs from piracy serve as a non-tariff barrier to trade.”⁵⁶ Even carriers that use Lombok and Makassar to the South China Sea via the Sulu Sea are not safe from piracy and other forms of illegitimate enterprises to include terrorism. The Straits are also important in near and long-term strategic security and economic prosperity. As John Noer and David Gregory from the Center of Naval Analysis put it,

...if closure requires ships to steam longer distances, certain US trading partners [primarily Japan] and allies also might be adversely affected. World markets link us all together, and give us all an interest in peace and stability.⁵⁷

The CNA study, conducted by Noer and Gregory, closely examined the amount and type of shipping and trade transiting through the Straits in 1993. Table 1 below shows the annual flow, by vessel type, through the Strait of Malacca. Japan received over half of the oil transiting the Straits and is the biggest beneficiary of trade flowing through the Straits. Of

note, 22 percent of oil went to Singapore, a major center for refining in Asia. While Very Large Crude Carriers (VLCC), which can draw more than 19-22 meters when fully laden, are supposed to honor a 1-meter clearance from the bottom, many do not and transit the Straits, which ranges from 21.1 to 22.9 meters. The cost of eastbound ships going around Sumatra and Java and through the Lombok and Makassar Straits was calculated to be about an additional \$146,000 per voyage. Over the course of a year, such detours could cost over 1.3 billion dollars. “However, these vessels are carrying a lot of oil. When the extra voyage costs are spread over the value of the cargoes, detours add less than 1 percent to the price of oil landed at destination.”⁵⁸ The total cost passed on to the consumer was estimated to be only an additional 0.2% in what the CNA study calls an “average tax equivalent.”

The CNA study also looked at, by country, who owned the vessels transiting the Straits. Japanese business owned the largest number of ships in terms of “capacity-owned” ships transiting the Straits in 1993, owning over 432 Million Deadweight Tons (MDWT) of capacity. The United States came in third (after Greece) with 97 MDWT of capacity. Great Britain and Singapore rounded out the top five with 90 MDWT and 88 MDWT respectively. Of particular note is that almost 70 percent of all of these ships fly flags of convenience (77 percent for U.S. owned ships). The ships owned by the businesses of these five nations alone accounted for over 16,000 voyages.⁵⁹

Table 1. Annual flows (1993) by vessel type and direction via Malacca⁶⁰

Eastbound	Voyages (note 1)	MDWT
VLCCs (crude > 160K DWT)	1,122	286
Tankers (crude < 160K DWT)	1,895	80
Large Bulk (> 100K DWT)	130	19
Bulk (< 100K DWT)	2,589	88
Product (petroleum & chemical)	2,514	74
Combo (wet & dry bulk)	82	10
Cellular (container)	3,611	86
General Cargo	6,174	65
Special (note 2)	2,801	64
Total eastbound	20,918	773

Total westbound	20,591	793
Total transits	41,509	1,566

Note 1: Includes only interregional ship movements of vessels over 1,000 DWT on international voyages. Does not include ferries, passenger liners, fishing vessels, warships, or any vessels not carrying cargo (such as new vessels in delivery).

Note 2: Special includes Ro/Ro, gas tankers, reefer, vehicle carriers and others

How much of that data in the CNA study has changed? If there is less reliance on the Straits then why be concerned about a few incidents of piracy or armed robbery every month? While the report was conducted in 1996 using 1993 data, there is a trend of increased usage of the Straits. The Maritime Port Authority of Singapore estimated about 72% of “all east-bound laden tankers use the Straits of Malacca...” with the remaining (VLCC’s exceeding 3000,000 DWT) using the Straits of Lombok and Makassar based on port calls to Singapore. Furthermore, though “it is difficult to estimate traffic volumes in the Straits because of the huge variety of ships using [them]...,” it is estimated approximately 139,000 vessels transited the Straits in 1996, up from 110,500 in 1995.⁶¹ This upward trend would support the increased use of the Straits as an important commercial throughput.

NOTES

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² Eric Ellen, ed., Shipping at Risk (Paris: ICC Publishing SA, 1997), 47.

³ John H. Noer and David Gregory, Chokepoints – Maritime Economic Concerns in Southeast Asia (Washington, D.C.: National Defense University Press, 1996), 80.

⁴ US PACIFIC Command, Strategy for Regional Maritime Security, (November 2004), 1.

⁵ Micheal S. McDaniel, <http://www.cargolaw.com/presentations/pirates.html#types_pirates>, 20 November 2000, [27 Dec 2004].

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⁹ Mark Bruyneel, "MT Global Mars Attack," 31 July 2004, <<http://home.wanadoo.nl/m.bruyneel/archive/modern/global.html>>, [27 December 2004].

¹⁰ Ellen, 62.

¹¹ Rupert Herbert-Burns and Lauren Zucker, "Drawing the Line Between Piracy and Maritime Terrorism," Jane's Intelligence Review, 01 September 2004. <http://www4.janes.com/subscribe/jir/doc_view.jsp?K2DocKey=/content1/janesdata/mags/jir/history/jir2004/jir01043.htm>, [03 December 2004].

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¹⁴ Ibid.

¹⁵ Neil Renwick and Jason Abbott, "Piratical Violence and Maritime Security in Southeast Asia," Security Dialogue, 30, no. 2, (June 1999), 192.

¹⁶ Richard Scott, "Safeguarding the Singapore Straits," Jane's Navy International, Vol 107, Nr 4, (01 May 2002): 32.

¹⁷ Hugh R. Williamson, "Legal Issues: Stowaways, Piracy and Other Criminal Activities", in The Changing Strategic Importance of International Shipping, ed Ann L. Griffiths (Halifax, Nova Scotia: Dalhousie University, 1997), 86.

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¹⁹ "Piracy in Southeast Asia Getting Out of Control," Jane's Terrorism & Security Monitor, 01 November 2000, <http://80-www4.janes.com.ezlib.nwc.navy.mil/K2/doc.jsp?t=Q&K2DocKey=/content1/janesdata/mags/jtsm/history/jtsm2000/jtsm0161.htm@current&QueryText=%3CAND%3E%28%3COR%3E%28%28%5B80%5DPiracy+%3CIN%3E+body%29%2C+%28%5B100%5D%28%5B100%5DPiracy+%3CIN%3E+title%29+%3CAND%3E+%28%5B100%5DPiracy+%3CIN%3E+body%29%29%29%29&Prod_Name=JTSM&>>, [29 January 2005].

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²¹ Robert Beckman, "Combating Piracy and Armed Robbery Against Ships in Southeast Asia: The Way Forward," Ocean Development and International Law, 33 (December 2002), 330 and 337.

²² Scott.

²³ Anthony Davis, "Piracy in Southeast Asia Shows Signs of Increased Organisation," Jane's Intelligence Review, <http://www4.janes.com/K2/doc.jsp?t=A&K2DocKey=/content1/janesdata/mags/jir/history/jir2004/jir00963.htm@current&QueryText=%3CAND%3E%28%3COR%3E%28India++%3CAND%3E++Piracy+%29%29&Prod_Name=JIR&>>, (01 June 2004), [01 February 2005].

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³⁷ Ibid, 11.

³⁸ Tucker-Jones.

³⁹ International Maritime Organization, Piracy and Armed Robbery Against Ships - Recommendations to the Governments for Preventing and Suppressing Piracy and Armed Robbery Against Ships, IMO Circular MSC/Circ.622/Rev. 1 (London: 16 June 1999), 1-16.

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⁴⁴ Pottengal Mukanden, "Piracy Threat Dictates Need for Intelligence-led Solution," Jane's Navy International, 01 November 2004, <http://www4.janes.com/subscribe/jni/doc_view.jsp?K2DocKey=/content1/janesdata/mags/jni/history/jni2004/jni01460.htm>, [05 December 2004].

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⁴⁷ Beckman, 329.

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⁵⁴ John H. Noer and David Gregory, Chokepoints – Maritime Economic Concerns in Southeast Asia (Washington, D.C.: National Defense University Press, 1996), 68.

⁵⁵ Fargo..

⁵⁶ Dillon, 2.

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