

The Global Maritime Security and the Japan-U.S. Alliance

*Report of the Study Project
Challenges and Prospects of Japan-U.S.
Cooperation in Non-Traditional Security:
Focusing on Anti-Piracy Cooperation*



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Preface

In the wake of the Cold War period, globalization and the information revolution have widened the areas of security, where diverse range of issues, including terrorism, pandemics, climate change and environmental destruction, have emerged as new threats, known as non-traditional security issues. Especially, piracy has now become a global problem that requires global effort to counter. In light of the events of September 11 and the subsequent global war on terror, piracy can no longer be considered just a criminal matter. It is now a part of the national security threat. With our economy deeply integrated within the international community, it is imperative that peace on oceans is secured to guarantee uninterrupted trading.

Under the banner of the Japan-US partnership, both countries should deploy multiple approaches involving different instruments of power to control this threat of piracy. Both Japanese and US governments should, through their active presence, enhance the safety of commercial maritime routes and international navigation along the Malacca Straits and also off the Horn of Africa and enhance the global maritime security.

With this awareness in mind, the Japan-U.S. joint research project entitled “Challenges and Prospects of Japan-U.S. Cooperation in Non-Traditional Security: Focusing on Anti-Piracy Cooperation” was launched in April 2009 by the Japan Forum on International Relations (JFIR) with the support of the Center for Global Partnership (CGP) of the Japan Foundation, which was completed on 30 August, 2010. The Japanese and the U.S. research teams of this project were comprised of the following:

The Japanese Research Team

Leader: ITO Go

Members: KANEDA Hideaki

KOTANI Tetsuo

YAMADA Yoshihiko

Secretariat: YANO Takuya

The U.S. Research Team

Leader: Sheldon W. SIMON

Members: John BRADFORD

James MANICOM

Neil QUARTARO

Secretariat: Tim COOK

The Japanese research team was set up to conduct this project on April 8, 2009, and held the first meeting on June 8, 2009. The It held the second meeting On August 4, 2009, with participation of Ms. Raelyn CAMPBELL, then Senior Project Director, The National Bureau of Asian Research(NBR), who was in charge of this project on the U.S. side

(Later, Tim COOK, Project Director, Political and Security Affairs, NBR, succeeded Ms. CAMBELL as officer in charge of this project.) . Then Prof. ITO Go who heads the Japanese team visited Washington D.C. from 23 to 28 of August, and had a meeting with U.S. Study Team at the office of NBR. On the other hand, the members of the U.S. research teams had many occasions to meet and exchange views among themselves in the U.S. on the Japan-U.S. Alliance and its role in counter-piracy as international public-goods.

As the culmination of this project, “International Workshop” was held on May 13, 2010, which was followed by “Open Symposium” “Japan-U.S. Dialogue: Promoting Japan-U.S. Cooperation in Non-Traditional Security: the Case of Counter Piracy” on May 14, 2010, in Tokyo, where members of the Japanese and U.S. research teams jointly presented their views on how the Japan-U.S. alliance could contribute jointly to addressing piracy, as well as to enhance international maritime security cooperation. It was organized as a panel discussion with 10 members from each of the Japan and U.S. Study Teams, including Professor of Meiji University ITO GO and Professor of Arizona State University Sheldon W. SIMON, and also joined by 81 participants from the public at large. The further details are available on the website of the GFJ. (<http://www.gfj.jp/jpn/dialogue/36/main.pdf>)

It is my pleasure to hereby present this Report of the Japan-U.S. joint research project entitled “Challenges and Prospects of Japan-U.S. Cooperation in Non-Traditional Security: Focusing on Anti-Piracy Cooperation.” Upon publication, I would like to thank Prof. ITO Go, Leader of the Japanese Team, and Prof. Sheldon W. SIMON, Leader of the American Team, for their initiatives and contributions to this research project. I would like to thank CGP for supporting this project. It goes without saying that without their support, this project could not have been possible.

August 30, 2010

ITO Kenichi
President, JFIR

Executive Summary

This project was launched right after the June, 2009 passage as well as the July, 2009 enactment of the “Law Concerning Punishments and Counter-Measures against Acts of Piracy (hereafter the Counter-Piracy Law).” While the fundamental agenda in any counter-piracy measures has been how coastal states can make their efforts to lessen the number of piracies, this project, funded by Japan Foundation’s Center for Global Partnership, aimed to couple possible contributions made by both the Japanese and the U.S. governments with the established counter-measures of the coastal states. It had the following three purposes

First, it sought to look for the ways in which not only coastal states but rather ship owners and crews can assure the innocent passage of ships. Second, for this purpose, this project looked for the possibilities of joint contributions by the Japanese and the U.S. governments. Finally, regarding the geographical areas, this project thought of widening the Japan-U.S. joint counter-piracy contributions in the high sea as well. That is, given the widening of piracies in the high sea beyond the eastern areas of Somalia’s Gulf of Aden, this project thought of the possibilities of Japan’s making more global contributions.

In this year-long project, the Japanese team consisted of four distinguished fellows, all of whom have conducted a variety of researches on security cooperation between Japan and the United States, and their application to anti-piracy issues. In conducting the project, we identified three stages. The first was to secure the safety of maritime transportation, including those of civilian ships. These topics come approximately under the jurisdiction of the Ministry of Land, Infrastructure, Transport and Tourism (MLIT) of Japan and the Japan Coast Guard. Prof. Yoshihiko YAMADA focused on this issue, referring to his past experiences as the director at the Nippon Foundation in charge of maritime security.

The second was to extend the geographical scope of the activities of the first agenda to the global outreach, and to coordinate concomitant diplomatic relations with other countries concerned. This comes approximately under the jurisdiction of the Ministry of Foreign Affairs (MOFA) of Japan, and Dr. Tetsuo KOTANI worked on these

activities, and conducted a survey on the prospects of policy shift in Japan's maritime security, after the recent change of Japan's administration.

The third was to take actions against heavily-armed adversaries in practicing the maritime security activities. This comes approximately under the jurisdiction of the Ministry of Defense (MOD) of Japan. Retired Admiral Hideaki KANEDA focused on this section, namely, Japan's maritime security with a view to the role of the military as well as the Japan-U.S. alliance. In his paper, he paid due attention to the U.S.-Japan "Global Maritime Partnership."

The final role as the research team leader was to direct and coordinate researches of each of the Japanese Research Team members, in accordance with the overall research scheme of this project agreed upon with the American research team. I, Go Ito, worked on the redefinition of Japan's alliance with the United States in the sense that the alliance has had dual phases: one for the security of Japan and the Far East, and the other for the enlargement of U.S.-Japan cooperation on non-traditional security issues like counter-piracy. Thus, I sought to contain the possibility of Japan's greater roles in the global society under the banner of the U.S.-Japan partnership.

Statistically speaking, the percentage of a ship inflicted by piracy has been 0.005%, that is, one out of 20,000 trips. That is, for ship owners and crews, the most convenient method, when they are caught by pirates, has been to pay ransom to them, and to have their ships returned. However, the lack of having incentives on the part of ship owners and crews toward the countermeasures will invite the relentless increase in piracy, which implies that piracy can be a "low-risk, high-return business." Therefore, this project looked for several methods of how the coastal states and ship owners can cooperate together for the entire reduction in piracy.

In the final international workshop and symposium, conducted on May 13 and 14, 2010, both the Japanese and the U.S. teams made lively discussions. They were exemplified by (1) what will be the effective punishments against pirates once they are caught, (2) whether we could find out the geographic division of labor between the United States and Japan regarding the counter-piracy activities, and (3) how the stability of the high sea will be maintained, that is, to what extent can powerful countries can be a benign power in the public sea area.

As a consequence of intensive discussions, following five points have been agreed between the Japanese and US teams. (a) Anti-piracy measures should be taken at

the governmental levels as well as at the private levels. Private companies have little motivation to deal with pirates but to run away. This is because they will be compensated by insurance companies when they are damaged by pirates. (b) Theoretically, the most effective way for preventing piracies off the coast of Somalia is the blockage of the Gulf Aden. In reality, however, sovereign states over the Gulf make it difficult for countries concerning the piracies in the region to carry out this countermeasure. (c) Japan-U.S. alliance has developed globally after the end of the Cold War. When thinking about counter piracy measures, in the same way, Japan and U.S. need to cooperate in context of such a global perspective. (d) Pirates off the coast of Somalia are heavily armored. This means countermeasures taken against pirates in Malacca Straits do not hold water on its own for rovers off the coast of Somalia. (e) The number of pirates has been increasing in the South China Sea. Although Japan and U.S. need to work with China as well, it is unclear whether or not China will move in step with its counterparts.

Moreover, the audience, whose background was quite varied, asked such questions as the division of responsibilities between governments and private ship owners/crews regarding the counter-measures, the balance between state sovereignty and the maritime security, a combination of carrot-and-stick methods in the actual counter-measure implementation, and so forth. Given the “low cost, high return business” nature of piracy, our discussions were focused on how the more stable international environment can be created where poor fishermen do not have to play as pirates, and on how coastal states can have the “cost” part of piracy raised so that there will be much less incentives for pirates to become rogue in their originally working place.

Lastly, but not least, as the team leader of the Japanese side, I would like to convey the greatest thanks to the Japan Foundation for its financial contributions to this project. Without their support, the project could not have been completed.

By ITO Go, Japanese Project Team Leader

Part I:

Promoting Japan-U.S. Cooperation

Chapter 1

The Establishment of U.S.-Japan Comprehensive Approaches to Counter-Piracy

ITO Go

Professor, Meiji University

This paper first points out the need of multiple approaches with which both the Japanese and the U.S. governments should control threats of piracy. Secondly, the paper introduces several mechanisms for combat piracy, which is being used or under consideration in the Gulf of Aden (GOA). Thirdly, it argues that the international community should extend to the GOA and Somali waters the lessons from Southeast Asia in the practice of counter piracy.

I. Counter-Piracy and Japan's Relations with the United States

Piracy is a global problem that requires global effort to counter. In light of the events of September 11 and the subsequent Global War on Terrorism, piracy can no longer be considered just as a criminal matter. Due to its growing partnership with terrorism, it is now a national security threat. With the global economy deeply integrated with each other, it is imperative that security on oceans remains undeniable in order to provide uninterrupted trade routes and secure access.

Under the banner of the U.S.-Japan partnership, both governments recognize that there will be no one answer to fighting piracy, and realize that it will need to use multiple approaches involving different instruments of power to control this threat. For these reasons, both governments must develop a multi-faceted comprehensive counter-piracy policy that coordinates its international efforts along with its inter-agency efforts.¹

Both governments should, through their active presence, enhance the safety of commercial maritime routes and international navigation along the Maracca Straits and also off the Horn of Africa. They will assume a high visible profile, conducting surveillance tasks and providing protection to deter and suppress piracy and armed robbery. The utility and flexibility of the

¹ A variety of approaches have been pointed out in the webpage of Japan's Foreign Ministry. www.mofa.go.jp/mofaj (accessed various times during 2009).

counter-piracy system, if successfully constructed, will clearly demonstrate the importance of the bilateral and multilateral cooperation on issue of counter-piracy, and will also become the proto-type of the international maritime cooperation.

II. Mechanisms for Combating Piracy

A range of options exists for combating maritime piracy, but experts stress that most of the current tactics are defensive in nature, and do not address the state instability that allows piracy to flourish. The mechanisms used or under consideration in the most prevalent piracy area, the Gulf of Aden, can be classified as follows:

(1) Onboard deterrents:

Individual ships have adopted different onboard deterrents. Some use rudimentary measures such as fire hoses, deck patrols, or even carpet tacks to repel pirates. Others use a nonlethal electric screen with a loudspeaker system that emits a pitch so painful it keeps pirates away. Most do not arm their crews, both because ship workers tend to be unskilled and because many do not want to carry weapons, fearing that pirates will target them if they are armed. Those ships willing to spend more to protect their cargo employ private security guards onboard, though such guards have a mixed record of piracy deterrence. Inreality, this option is unrealistic because the average percentage of being victimized by piracy has been less than 0.01, which can be covered by insurance.

(2) Naval deployments:

By January 2009, an estimated thirty ships were patrolling an area of about 2.5 million square miles. More than a dozen countries--including Russia, France, the United Kingdom, India, China, and the United States--had sent warships to the Gulf of Aden to deter pirates. There were also two multinational anti-piracy patrols in the area: the European Union's military operation, which began in December 2008; and a multinational contingent, known as Combined Task Force 150, which was originally tasked with counterterrorism efforts off the Horn of Africa. The success with which the navies in the Gulf of Aden have deterred attacks is unclear. By some measures, pirates are finding it harder to hijack ships: The number of successful attacks has been reduced by roughly half since the patrols began, and there was a six-month lull in successful attacks in the Gulf of Aden from July until the end of 2009. Still, piracy attacks in 2009 were nearly double the number in 2008, and pirates successfully hijacked four ships in a single week at the start of 2010.

(3) Regional anti-piracy patrols:

This regional patrol has been exemplified by the ReCAPP for the safety of the Malacca Straits. Some experts have suggested that East African and Middle Eastern countries should work together to patrol the coast of Somalia and the Gulf of Aden. Such patrols could be modeled on those that the navies of Indonesia, Malaysia, Singapore, and Thailand conducted in the Malacca Strait. Western navies could provide technical assistance and secondhand ships.

(4) Establishing effective coast guard:

Experts unanimously stress that the only effective long-term piracy deterrent is a stable state. When Somalia was briefly under the control of the Islamic Courts Union in 2006, piracy stopped completely. Until recently, sovereignty prevented outside states from targeting inland pirate infrastructure. A UN resolution passed on December 2, 2008, allows states to enter Somalia's territorial waters in pursuit of pirates, and another resolution passed on December 16, 2008, implicitly authorizes land pursuit.

This project, funded by the Japan Foundation, has emphasized the third category of the anti-piracy mechanism, while at the same time seeking to include the second category. Like usual robberies, pirates tend to rob others of greater benefits than what they can have for themselves. Thus, it should be the principle of pirates to get the greater benefits with less cost.

In this terms, it is our mission to think about the way to raise the cost of piracy, and to look for how to lessen their benefits when piracy occurs. This project seeks to look for the possibilities of conducting cooperative projects with the United States for a variety of maritime security issues.

III. The Opposite Side of the U.S.-Japan Alliance: Non-Traditional Security Issues

Our bottom line is that the military might is not the only viable option to foster and maintain international order and peace. In order that Japan could contribute to the order formation and rulemaking in East Asia especially in the area of non-traditional security issues as well as traditional ones and thus could project a duly responsible presence in regional and global arena, it is imperative that Japan seeks close cooperation with the U.S. and that Japan and the U.S. as allies assume responsibilities on a equal bases towards the regional order in East Asia.

Unlike conventional precedent researches on multilateral security frameworks in the area, this paper will focus not on the numbers of actors involved in the order formation and

rulemaking in East Asia, but rather on the natures of issues addressed in the region as well as on the multi-faceted nature of regional security.

The Article II of the US-Japan Security Treaty says that “the Parties will contribute toward the further development of peaceful and friendly international relations by strengthening their free institutions, by bringing about a better understanding of the principles upon which these institutions are founded, and by promoting conditions of stability and well-being.” That is, the US-Japan alliance seeks to cover the ways towards international order and peace that both countries could cooperate on global issues as well as the elimination of armed conflict.

In other words, the U.S.-Japan alliance stresses the importance and potentiality of the crossroads of bilateral and multilateral frameworks in the region. Therefore, it expects that Japan-US Alliance which is of multi-faceted nature, jointly contribute to international order and peace in the region, covering such non-traditional or non-military areas as trade, investment and finance, energy and environment, and so forth.

That is, in view of the synergy effect of the allies in the region, it is expected that this project shed light on the unconventional areas of cooperation of the two countries other than traditional security issues. Taking into account the aggrandizing presence of China in the region as well as global security, it is expected to be beneficial both to Japan and the U.S. that the two countries exert influence on East Asia in non-traditional security issues as something between hard and soft powers. More specifically, along with the dispatch of Japan's Self-Defense Forces for joint operations in hot spots in the world, the substance of the alliance will enable Japan to play somewhat leading roles in East Asia. That is, by making use of technological advance and the potential capacities to transfer it to the region-wide rulemaking activities, Japan can become a more reliable partner for the US.

IV. Malacca and Somalia

While corresponding to the above third category referring to the regional anti-piracy patrols, the following two cases differ significantly over the extent to which the coastal states need to prepare the coercive elements of power

(1) The Malacca Strait

Today, about 40% of the world's trade passes through the Malacca strait on 50,000 vessels that ply its waters every year. Oil exported from the Persian Gulf flows east to China and Asia's

other voracious economies, which in turn send back manufactured goods to the Middle East and Suez Canal.

In this situation, it's no wonder that the strait has long been a popular hunting ground for pirates. The sheer quantity of ships passing through its two kilometer space makes spotting potential targets easy for pirates. Right after the year 2000, the waterway's piracy problem reached crisis levels. Attacks ranged from small-scale robberies by lightly armed desperados to highly organized hijackings of giant vessels by teams of professionals. According to the International Maritime Bureau of the International Chamber of Commerce, the Strait of Malacca suffered 38 actual or attempted pirate attacks in 2004, the second highest total in the world after Indonesia. In 2005, the London insurance market added the strait to its list of areas at risk of war.

But today, it's the pirates who are on the run. While piracy in Africa has become a major international security concern, the problem in the strait has been almost completely eradicated. Only two attacks were attempted there in 2008, even as the global total reached a record high. In the first quarter of 2009, the bureau reported that the number of pirate attacks around the world nearly doubled, to 102 incidents, compared with the same period last year; only one of them occurred in the Strait of Malacca.²

Maritime security analysts say a combination of factors — both on sea and land — contributed to the pirates' near total defeat. Most significantly, the success in the strait shows how concerted and well-coordinated action by regional governments can prevent pirate attacks on commercial shipping.

Until recently, the deterrent factor simply didn't exist in Malacca. In the past, the main countries along the route — Malaysia, Indonesia and Singapore — were not working together. With their militaries distrustful of one another, the governments almost never shared information on pirate activities, allowing them to operate unchecked. But in 2004, the piracy problem became so severe that it was threatening local economies — especially Malaysia and Singapore, which rely heavily on trade for economic growth. Fears were also raised in regional capitals that outside powers — whose own trade was being affected in the seizures — would intervene in the strait if the local governments didn't solve the problem themselves. A new spirit of cooperation took hold along the strait. That is, the fear not of the piracy itself, but rather of the intervention by powerful states outside of the coastal states led the three countries

² A variety of maritime incidents related piracy can be found in the data made by the International Chamber of Commerce. See <http://www.icc-ccs.org/>.

to find their need to cooperate on the anti-piracy measures.

The results were a series of measures taken collectively, mainly by Singapore, Malaysia and Indonesia, with some cooperation from Thailand, that significantly improved security in the strait. Beginning in 2004, the local armed forces organized coordinated sea patrols. Each side polices its own territorial waters, but they communicate with one another on potential pirate activity, greatly enhancing the effectiveness of the patrols. In 2005, they added regular sorties of airplanes to scout the strait for pirates. The flights are undertaken by crews with nationals from the different countries so they can better share information. Intelligence gathered on pirates is also disseminated among governments, including on a web-based network for quick and easy access. These actions, taken together, made it far more costly and difficult for the pirates to operate.

The littoral states' efforts included the Eye in the Sky and Malacca Strait Patrols involving coordinated and sometimes joint Indonesian, Malaysian, Singaporean as well as Thai air and sea surveillance and considerable information exchange. And they have invited co-operation from outside powers as long as it is on their terms and does not involve the independent use of armed force. For example, India and Indonesia have conducted joint patrols in the northern Malacca Strait, and Indonesia and Singapore have engaged in anti-piracy exercises with the United States. Japan has contributed to capacity building via training and gifts of equipment. But this has all been part of a purposeful strategy on the part of Indonesia and Malaysia to placate the maritime powers and keep them at arms length, preserving the notion --- if not the reality --- that their sovereignty reigns supreme.

It is believed that some of Malacca's pirates came from the Indonesian territory of Aceh on the far western tip of the island of Sumatra. That region had been torn apart by a three-decade battle between a local Islamic separatist group and the Indonesian military, isolating Aceh and annihilating economic opportunities. Desperate Acehnese took to piracy as the only way to earn a living, while arms-smuggling operations spawned by the conflict added an organized, criminal element to the strait. But in 2005, the two parties finally signed a peace accord and normalcy returned to Aceh, opening up less-risky job options on land. Then, the impetus for piracy began to change.

The case of Malacca gives at least a glimmer of hope that the piracy problem in Africa can also be tackled. The success in the strait clearly shows how committed and carefully orchestrated naval action can combat pirates. But analysts warn that the lessons of Malacca also tell us how much more difficult fighting the Somali pirates will be, because of the very different conditions

on shore in Africa. The countries along the strait possess the resources and organized governments necessary to stand up to piracy. Those crucial elements are lacking in destitute and disorderly Somalia, where most of the pirates that are terrorizing the Gulf of Aden. Piracy, whatever happens at sea, is symptomatic of a different problem — the instability of the political situation in Somalia.. As the nations along the Strait of Malacca learned, fighting pirates in the long term takes a lot more than some swashbuckling.

(2) Somalia and the Gulf of Aden

In the case of Somalia, both unilateral and multilateral initiatives to deter piracy in the waters off Somalia and in the strategic Gulf of Aden (GOA) have been treated as a great leap forward in the fight against piracy. Indeed this robust approach is gathering steam and participants at a remarkable rate. But, there is also a concern that it may turn out to be only a stop gap, short term response that satisfies some countries strategic goals but fails to address the root cause of the problem while setting an undesirable precedent for some developing states bordering piracy-prone waters.

There is no question that piracy off Somalia and in the GOA is now perceived as a serious problem by the shipping industry and the maritime powers. In 2008 alone, pirates attacked some 111 vessels and hijacked 42 of them for ransom. The cumulative amount of ransoms paid thus far has exceeded USD150 million and increased insurance premiums have added a cost up to USD 20,000 per trip through the GOA. In addition to the high costs incurred and the disruption of the flow of international trade, the threat to life, limb and liberty of crew members and to the victimized ships and their cargo is very real.

The attacks have provided an opportunity for naval powers to demonstrate their capabilities, feel each other out, and establish the precedent of unilateral individual and group intervention in such situations. Several countries have dispatched warships to the GOA to protect their own and other flag vessels. This includes Japan, the U.S., the U.K., France, Germany, China, India, Malaysia, and Saudi Arabia.

Moreover, an international anti-piracy force of some 20 countries has been formed and headed by the US Rear Admiral. And in late January 2009, at an International Maritime Organization adopted a Code of Conduct Concerning the Repression of Piracy and Armed Robbery Against Ships in the Western Indian Ocean and the GOA.

Although those in the navy sent to the GOA have been generally well meaning and been welcomed by the shipping community, it could have serious ramifications regarding the manner in which piracy is fought as well as for littoral states in other piracy prone areas.

Prompted by the maritime powers, the UN Security Council (UNSC) has passed four resolutions authorizing - with some important qualifications foreign intervention to repress piracy off Somalia and in the GOA. In December 2008, the UNSC passed the latest Resolution 1851 authorizing the hot pursuit onshore of pirates operating off Somalia. The US was the leading proponent.

But it was forced to compromise when Indonesia objected to including authorization to enter Somalian air space. Further clouding the issue and seemingly contradicting the former Secretary of State Condoleezza Rice's unqualified support for the initial draft, US Defense Secretary Robert Gates said that the US lacks sufficient intelligence to pursue the fight against pirates ashore. Moreover from a political and logistical standpoint, naval forces are much better missioned to prevent hijackings than to resolve hostage situations once a ship and crew have been taken.

The clash between the maritime powers and straits states as exemplified by Indonesia's opposition to the initial wording of UNSC Resolution 1851 was not the first in this ongoing complexity. A similar struggle - with a similar outcome - presaged the adoption of the first of the UNSC's resolutions on the GOA, Resolution 1816, which stated that states cooperating with the country's transitional Government would be allowed, for a period of six months, to enter the territorial waters of Somalia and use all necessary means to repress acts of piracy and armed robbery at sea, in a manner consistent with relevant provisions of international law. This latter qualification is all important to some. Indonesia made it clear that the resolution must be consistent with international law, especially the 1982 UN Convention on the Law of the Sea and not create a precedent for intervention in other waters where piracy is common.

The Indonesian government insisted that the resolution only apply to the territorial waters of Somalia, and that the Somali government such as it is must give prior consent for such intervention. Vietnam concurred. This was not knee-jerk paranoia. And even if it was, paranoid nations have real concerns too. Indeed, a draft of the first resolution introduced by the US implied that if the intervention was successful off Somalia, it or the principle could be applied elsewhere, e.g., in the Malacca Strait.

The concerns voiced by Indonesia and the resultant compromises are indicative of the ongoing struggle between proponents of two different concepts of national sovereignty - the traditional Westphalian construct in which national borders are sacrosanct, and the US doctrine of justifiable intervention in situations, as often occurred in the Bush administration,

in which it decides a sovereign state cannot control internal strife, endangering either its own citizens or others outside the state.

There are also many unanswered legal questions regarding such interventions. For example, can a foreign naval vessel legally fire on a ship believed to be under the control of, or carrying pirates? On 18 November 2008 this question became a practical reality when an Indian navy vessel the INS Tabar fired on and sank a Thai fishing boat the - Ekwat Nava 5 - which it mistook for a pirate mother ship. The vessel had been hijacked by heavily armed pirates and the crew tied up. The pirates escaped in speed boats while 14 of the fishing boats crew died in the incident. In its defense the Indian navy said the ship was a pirate vessel in description and intent and had fired at the Tabar.

The commander of the U.S. Fifth Fleet, Vice Admiral William Gortney has urged that ship owners engage private security companies (PSCs) to guard commercial vessels transiting the area. But what if the sinking of the Thai fishing boat had been perpetrated by PSCs? Who would be accountable? And if a ship is seized without adequate grounds by anti-piracy forces, how will the owners seek redress? Moreover if pirates are arrested, which country has jurisdiction and who can or should prosecute the pirates, the arresting country, the flag country of the pirated ship, or the pirates' home country?

Finally, according to some legal interpretations, piracy occurs only on the high seas, i.e., outside the jurisdiction of any state, and only begins when the perpetrators, without permission, try to board a boat. Under this definition, many of the incidents off Somalia are not piracy but armed robbery at sea and the perpetrators may not legally be fair game to the intervening foreign navies.

But legal uncertainties are not the driving force behind Indonesia's concerns. Rather, it is colonial and recent history. During Indonesia's struggle for independence from Holland, and subsequently for unity, the Dutch supplied their forces as well as separatist movements using Indonesias straits and territorial waters with impunity, including the Malacca Strait. This is why Indonesia holds near sacred its archipelagic concept of the nation as consisting of both the land and the intervening waters. The transit passage regime allowing foreign vessels unimpeded passage through straits used for international navigation like the Malacca Strait and the Lombok Strait is still seen as a derogation of its sovereignty. Malaysia feels the same way.

And this is why both states reacted so negatively to the US proposal under its now defunct Regional Maritime Security Initiative --misinterpreted as it may have been-- to place

US forces in the Malacca Strait to ensure its safety and security vis a vis pirates. Both straits states have also refused to join the Proliferation Security Initiative out of similar legal and sovereignty concerns. So it is no surprise that they would be wary of intervention proposals and resolutions that might set precedents and be applied to their waters. They also view the independent operation of private armed guards in their waters as illegal and thus a threat to their sovereignty.

This interventionist movement in the GOA has attracted the support and participation of China and Japan, much to the consternation of several nations in Southeast Asia. Both Beijing and Tokyo want to demonstrate their blue-water naval capability. And they have both frequently and publicly stated their long term strategic interests in the safety and security of the Strait of Malacca. In times of conflict, they can be expected to protect their vessels transiting the Strait carrying much of their energy supplies and imports, and to try to deny access to their adversaries. Indeed, Japan has in the past proposed an international force to ensure safety and security in the Strait of Malacca, and China has expressed its interest in assisting the littoral states to maintain the safety and security of the Strait in any way it can.

Of course there are drastic differences between the situation in Somalia and that in the Malacca Strait. Off Somalia, pirates run rampant because Somalia has a weak, ineffective, and a failed government. It is not just a question of lack of enforcement at sea but of disorder on land and the growth of land-based networks and infrastructure even feudal-like fiefdoms supporting the pirates operations. This does not exist to the same degree in Southeast Asia. The Somali pirates have also rationalized their activities by arguing that they are collecting fines for foreign illegal use of Somalia waters particularly tuna fishing that puts locals out of work. They also resent their neighbor Egypt for making a great deal of money from ships through payment for the use of the Suez Canal while Somalia gets nothing from the same ships using its waters. In other words some pirates view themselves as justified today's Robin Hoods.

This disorder and sense of victimization gives rise to an uncommon brazenness. Well-organized military-type attacks in broad daylight with displays of heavy weapons hundreds of miles out to sea using mother ships have become common. In Southeast Asia pirates are not nearly as well organized, are more opportunistic, and generally much less grandiose in their targets and choice of weapons.

(3) Lessons from the Strait of Malacca and the Gulf of Aden

It is this strategy which must be pursued with increased vigor and vigilance if piracy and the

new bogeyman of maritime terrorism are not to become internationally accepted excuses for foreign interventions. Rather than extend the Somali intervention lessons to Southeast Asia, the international community should extend to the GOA and Somalian waters the lessons from Southeast Asia. This means assistance to enhance political and social stability, economic development, as well as anti-piracy technology and training with the goal of indigenous control of the anti-piracy response.

V. In Relations to this Counter-Piracy Project

At this time, the Japan Foundation's Center for Global Partnership has provided us with a grant on this counter-piracy project with an eye to making meaningful collaborations between Japan and the United States on this counter-piracy project. Our starting point is to identify the American interests for their intervention to counter-piracy issues in the Malacca Strait. Sheldon Simon, the American team leader, delineates the overall picture of piracy as well as counter-piracy measures in the Southeast Asia. In his "Safety and Security in the Malacca Straits: Problems and Prospects," he delineates the dilemma that littoral states in the Strait have had over many years to conduct counter-piracy measures. That is, regarding the sustainability of the Malacca Straits Patrols (MSP), various external aids to the Straits States, ReCAPP, and other programs, the Straits states will continue to resist sovereignty infringements, even while they remain dependent on financial and other assistance from user states.

From a Japanese perspective, the lack of the financial assets has been partly supported by the Japanese government. Respecting the sovereignty of the coastal states, the Japanese government has provided a variety of logistical supports to the ReCAPP system. If the belligerency of the pirates' unlawful actions exceeds what the coastal states can manage, the current contributions by the Japanese government will become short of appropriate actions, which will need more powerful counter-measures

Thus, this project classifies various aspects of piracy into (a) commercial issues, (b) diplomatic aspects before the stage of exercising coercive power, and (c) the stage amounting to the use of military power to contain piracy. From a Japanese perspective, these categories correspond to the works managed by the Ministry of Economy, Trade, and Industry (METI), the Ministry of Foreign Affairs (MOFA), and the Ministry of Defense (MOD).

Chapter 2

Safety and Security in the Malacca Straits: The Limits of Collaboration

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Introduction

The Straits of Malacca and Singapore—520 nautical miles long and extremely narrow at numerous places—comprise one of the world’s busiest waterways, linking the Indian Ocean and the South China Sea. Commercial traffic from Europe and the Arabian Gulf passes through the Straits on the way to Northeast Asia; and maritime trade from the western Pacific rim reciprocates destined for South and West Asia as well as Europe. Tankers and bulk carriers move vast quantities of coal, iron ore, and minerals to manufacturing centers in Southeast and Northeast Asia, while container ships laden with consumer goods flow in the opposite direction. These constitute more than half the world’s merchant fleet tonnage. Because of shallow reefs and many small islands, combined with over 70,000 ships per year, maritime traffic in the Straits must transit at greatly reduced speeds, making them vulnerable to maritime crime and piracy—a hazard that has plagued the Malacca Straits for centuries. Between 1999 and 2008 traffic in the Straits increased by 74 percent. Japan’s Ministry of Land Infrastructure and Transport estimates that 114,000 ships will use the Straits by 2020.¹

The geopolitical and legal complexities of the Malacca Straits may be found in the disputes that encompass the Straits’ internal waters, territorial seas, contiguous zones, and exclusive economic zones (EEZs)—all under the 1982 UN Law of the Seas. Overlapping

¹ For general background on the Malacca Straits’ role in international commerce, see Joshua Ho, ed., *Realising Safe and Secure Seas for All: International Maritime Security Conference 2009* (Singapore: S. Rajaratnam School of International Studies, 2009); and by the same author, “Enhancing Safety, Security, and Environmental Protection of the Straits of Malacca and Singapore: The Cooperative Mechanism, *Ocean Development and International Law* (40) 2009. pp.233-234. Also see Sam Bateman, Joshua Ho, and Jane Chin, “Good Order at Sea in Southeast Asia,” (Singapore: S. Rajaratnam School of International Studies Policy Paper, April 2009). pp.11-12.

jurisdictions have led to complaints by Straits states against one another, for example, Jakarta has protested Malaysia's use of straight baselines to measure its territorial seas because of alleged encroachment on Indonesian waters.² These disputes alongside the varying capabilities' of the littoral states to maintain good order in the Straits have led user states to regard the Malacca Straits as an area of instability, lurking threats, and ineffective law enforcement. Littoral states see the situation differently. As demonstrated in their 2004 reaction to the American-proposed Regional Maritime Security Initiative (RMSI), Malaysia and Indonesia—though not Singapore—were opposed to any effort to “internationalize” management of the Straits that could compromise their sovereign rights. Piracy and terrorism are priority challenges for Singapore but not for Malaysia and Indonesia which are much more concerned with their fishing interests in the area, environmental threats from ship-sourced pollution, as well as human, arms, and drug trafficking across the Malacca Strait.³

In 2007, a Cooperative Mechanism for the Straits of Malacca and Singapore was formally launched to encourage user states and shippers voluntarily to assist the littoral states in their responsibility to enhance safety, security, and environmental protection in the Straits. Possessing sovereign rights in the Straits, the littorals—Singapore, Malaysia, and Indonesia—have the primary duty for the maintenance of good order. The Cooperative Mechanism is a device by which users can assist in meeting these responsibilities in the areas of safety and environmental protection but not in maritime security. Indonesia and Malaysia have refused to include security cooperation in the Cooperative Mechanism (discussed below).

Major Actors in the Malacca Straits

The three most important players determining how safety and security in the Malacca Straits are to be achieved include the littoral states, user states, and shippers. The littoral states have the right to prescribe rules for navigation safety and security, prevent accidents, and provide regulations for marine pollution. These rights are set out in the International Convention for the Safety of Life at Sea (SOLAS), International Regulations for Preventing Collisions at Sea (COLREG) and the 1982 UN Law of the Sea. These provisions are limited, however, by the

² 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 Policy Paper, May 2006). pp. 2 and 9.

³ *Ibid.*, pp.31-32.

rights of transit passage for user states' vessels passing through the Straits contained in the UN Law of the Sea. The littoral states have taken a number of measures to promote the safety and security of navigation through the Straits (discussed below), though they are not sufficient to eliminate the Straits' vulnerability to piracy, terrorism, environmental spills, and accidents. Shippers are major beneficiaries of littoral states' safety and security procedures. Commercial shippers, whether bulk cargo or energy carriers, desire to reach their destinations as cheaply and expeditiously as possible. The UN Law of the Sea (Art. 26) provides that fees may be levied upon a foreign ship passing through a territorial sea for services rendered to the ship. However, this provision cannot be made compulsory through unilateral action by the littoral states. When shippers use port facilities, fees are standard; and some of these fees have been used to help maintain the Straits' navigational aids. However, no mandatory charges have yet been established for transit because that would violate freedom of passage.⁴

At a 2005 meeting in Batam, Indonesia, the three littoral states met to lay out their views of the respective roles of littoral states, user states, and shippers with respect to safety and security. The 2005 Batam Statement reaffirmed the sovereign rights of the littoral states and their primary responsibility for ensuring safety and security in the Straits. The Statement goes on to acknowledge the interests of user states and notes that the littorals welcome the assistance of user states, international organizations, and the shipping community in the areas of capacity building, training, and technology transfer. A follow-on International Maritime Organization (IMO) meeting that September in Jakarta authorized the Tripartite Technical Experts Group (TTEG) to establish a mechanism for regular meetings of user states and the shipping industry to facilitate cooperation in matters of the Straits' safety and security. In effect, the TTEG could become the venue to negotiate aid from user states and shippers.⁵

There is, however, an underlying difficulty among the littoral states. Their views of best practices for the Straits do not always coincide but may vary according to national threat perceptions, sovereignty concerns, national capabilities, and nonaligned orientation. Singapore, with the smallest sea space and busiest port, possesses a state of the art ship tracking system that employs coastal radars to track several thousand vessels simultaneously. Malaysia's

⁴ "Current Legal Developments: Straits of Malacca," *The International Journal of Marine and Coastal Law*, (21, 4) 2006. pp.543 and 547.

⁵ Robert Beckman, "Maritime Security and the Cooperative Mechanism for the Straits of Malacca and Singapore," a paper presented to the S. Rajaratnam School of International Studies—National Maritime Foundation Conference, November 18-19, 2008, Singapore. pp.2-3.

Maritime Enforcement Agency with 70 patrol craft and six helicopters maintains a considerable presence but is less concerned with piracy than illegal fishing and the development of tourism; and Indonesia's waterborne trade goes through the Lombok and Makassar Straits more than Malacca. Moreover, maritime border disputes with Malaysia, smuggling, illegal fishing, and environmental degradation trump piracy and maritime crime as Indonesia's concerns. Jakarta's anemic maritime budget means that it lacks sufficient ships to patrol the waters around its 17,000 islands. Exacerbating these differences are a range of maritime coastal organizations among the littorals that only interact with difficulty. Indonesia has a complicated maritime command network encompassing nine agencies that often share neither intelligence nor resources. Local jurisdictions in Indonesia (provinces) rather than the central government have primary responsibility for their coastal waters. Nevertheless, by 2008, Jakarta with Japanese assistance had created a coast guard. Finally, neither Malaysia nor Indonesia belong to the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation which provides for coastal states where crimes are committed to have jurisdiction for their prosecution even if the perpetrators flee to other countries. This Convention is particularly germane to the Malacca Straits where maritime criminals can move rapidly among the littoral states' waters.⁶

Looking more closely at the capacities and policies of each Strait state helps to understand some of the obstacles to better collaboration. Singapore has the most integrated arrangement of the three with an interagency Maritime and Port Security Working Group that brings together the navy, coast guard, and port authority. This Working Group controls ship movements within the port. Employing electronic navigational displays and synchronized voice, track and data recording, up to 5000 ships can be monitored simultaneously. Given the complexity of these activities, Singapore is a vocal advocate of international cooperation and has also provided armed sea marshals who board and accompany high value vessels that use the port.⁷

Neither Malaysia nor Indonesia has anything comparable to these capabilities. While Kuala Lumpur is acquiring new patrol vessels, they will be deployed in the South China Sea

⁶ The foregoing analysis is based on the author's interview with Lt. Colonel Joshua Ho of the Singapore Navy, who is also Senior Fellow and Coordinator of the Maritime Security Program at the S. Rajaratnam School of International Studies, October 27, 2009.

⁷ Major Victor Huang (Singapore Navy), "Building Maritime Security in Southeast Asia: Outsiders Not Welcome?" *Naval War College Review* (61,1) Winter 2008. pp.89-90; and Jeremy Chow, "Navy Revamps Coastal Command," *Straits Times* (Singapore) February 13, 2009.

off the east coast of the peninsula to patrol Malaysia's EEZ and not in the Malacca Strait.⁸ However, Malaysia has built a string of radar tracking stations along the Straits and has placed armed police officers on some tugboats and barges in these waters. After 2005, Kuala Lumpur established a centralized coast guard—the Malaysian Maritime Enforcement Agency—its creation in part a reaction to Lloyds maritime insurance addition of the Straits to its “war list.”⁹ Lloyds decision raised shippers' insurance rates through the Straits and motivated Singapore, Indonesia, and Malaysia to create a joint patrol arrangement (discussed below) that led the British insurance company to remove Malacca a year later.

Of the littoral states, Indonesia gives the least attention to the Malacca Straits. With land-based security concerns involving separatist movements and communal strife, piracy is low on its list of priorities. Through 2006, Indonesia was home to the most pirate-infested waters in the world. Frequently, fishermen with bleak economic prospects due to overfished waters in the region and possessing the boats and nautical skills to engage in sea robbery operated from small islets within the Straits, sometimes with the assistance of local police and port officials. Moreover, Indonesia's navy is more concerned with illegal fishing on the eastern end of the archipelago than piracy in the Malacca Straits. Few ships moving through the Straits call at Indonesian ports. In 2004, the Indonesian navy estimated it would need 302 warships and 170 aircraft to effectively monitor the seas around its 17,000 islands. While the navy is acquiring new ships, their numbers remain well below those needed for effective surveillance. In 2008, Indonesian Defense Minister Juwono Sudarsono estimated that only 60 percent of the fleet of 124 ships is operational. Additionally, as a result of the global recession, Indonesia's defense budget in 2009 reached only US\$3.2 billion of a requested US\$10.5 billion, leaving the navy with insufficient fuel for Malacca Straits patrols. To compensate, the authorities are asking local fishermen to report illegal fishing and other crimes.¹⁰

Of the user states, the United States and Japan have been the primary contributors to the promotion of safety and security in the Straits, with South Korea, China, and India more recently becoming involved. Extra-regional countries assist in capacity building, training and

⁸ *Bernama* (Kuala Lumpur) December 9, 2009.

⁹ Yun Yun Teo, “Target Malacca Straits: Maritime Terrorism in Southeast Asia,” *Studies in Conflict and Terrorism* (30) 2007. pp.547-548.

¹⁰ Ian Storey, “Securing Southeast Asia's Sea Lanes: A Work in Progress,” *Asia Policy*, (6) July 2008. pp.110-111; Yun Yun Teo, “Target Malacca Straits,” pp.550-551; Major Victor Huang, “Building Maritime Security in Southeast Asia,” p.91; and “Naval Base Lacks Fuel, Uses New Strategies to Guard Waters,” *The Jakarta Post*, November 7, 2009.

technical assistance on a bilateral basis. The United States has provided surveillance radars along the coast of Sumatra; Japan has contributed patrol craft and trained regional maritime police; China has offered help in capacity building to both Indonesia and Malaysia; and India has conducted joint patrols with Indonesia along the Andaman Sea entrance to the Straits.¹¹

Washington has emphasized that it has a major interest in safe and secure passage through the Straits. At the IMO Kuala Lumpur meeting in 2006, the United States called for enhanced cooperation between user and littoral states and urged the latter to increase their “operational presence” to enhance deterrence against piracy and terrorists and to more effectively share information. However, Washington also warned that any new security measures should not impair the right of transit passage through the Straits.¹² In 2006, the U.S. National Defense Authorization Act provided assistance for the improvement of maritime security and counter-terrorism under the Global Train and Equip Program. Through 2008, Washington dispersed \$47.1 million to Indonesia and \$16.3 million to Malaysia. Indonesia has been provided with five coastal radars along the Malacca Strait (and an additional seven in the Makassar Strait and Celebes Sea which now experiences more piracy than the Malacca waterway). Sensitive to nationalist sentiments in Jakarta and Kuala Lumpur, this U.S. aid has been provided in a low-key manner.¹³ The U.S. Pacific Fleet also exercises annually with the littoral states’ navies through Cooperation Afloat and Readiness Training (CARAT) and Southeast Asian Cooperation for Anti-Terrorism (SEACAT). Finally, in pursuit of its anti-terrorism goals, American naval officials would like to equip ships electronically so that their positions, speed, registrations, destinations, and manifests could be precisely tracked, comparable to the global air traffic control system.¹⁴

Japan has been the most active user state in assisting littoral countries for safety,

¹¹ Lt. Colonel Joshua Ho, “Cooperative Mechanisms in the Malacca Straits,” in Joshua Ho, ed., *Realising Safe and Secure Seas for All: International Maritime Security Conference 2009* (Singapore: S. Rajaratnam School of International Studies, 2009). P.174

¹² Robert Beckman, “Maritime Security and the Cooperative Mechanism for the Straits of Malacca and Singapore,” p.9.

¹³ Ian Storey, “Calming the Waters in Maritime Southeast Asia,” *Asia-Pacific Bulletin* (29) (Honolulu: East-West Center, February 18, 2009). P.2.

¹⁴ David Rosenberg, “The Political Economy of Piracy in the South China Sea,” *Naval War College Review* (62,3) Summer 2009. p.54; and John B. Haseman and Eduardo Lachica, “Getting Indonesia Right: Managing a Security Partnership in a Nonaligned Country,” *Joint Forces Quarterly*. (54) 2009. p.89.

security, and environmental protection measures in the Straits. For many years it was the only user state to do so. As early as 1997, the Japan Coast Guard (JCG) participated in creating a Traffic Separation Scheme for the Malacca Straits. Also, from the 1990s, the JCG invited Southeast Asian maritime police for training in Japan. In 2005, the new Malaysian Maritime Enforcement Agency (MMEA) asked the JCG to help train its personnel. And, the JCG is also helping Indonesia create a coast guard.¹⁵

Tokyo's concerns about the Malacca Straits significantly increased in 2005 after a Japanese tugboat crew was abducted in the Strait. In addition to offering Indonesia high speed patrol boats for anti-piracy missions in the Straits, Japan proposed multi-national patrols for the waterway, an idea rejected by Indonesia and Malaysia as violations of their sovereignties, though Singapore was receptive.¹⁶

While commercial shippers are clearly concerned about safety in the Malacca Straits for they are the main beneficiaries of a smooth voyage through the waterway, they oppose any mandatory fee that would contribute to the Straits' safety as contrary to the 1982 UN Law of the Sea's transit passage provision. Their objection would be supported by the United States, Singapore, and other states that rely heavily on ocean commerce.¹⁷ Article 26 of the UN Law of the Sea Treaty stipulates that coastal states can only charge for services rendered in territorial waters, for example, pilotage. However, Malaysia has pointed out that Article 43 of the Treaty calls for user and littoral states to cooperate to enhance safety; this Article could be a basis for imposing fees designated for Straits' improvement on users.¹⁸ Since more than half of the commercial ships transiting the Straits do not make port calls, in effect they are free riders on fee-based improvements made by the littoral states with funds from those ships using Strait states' services.

¹⁵ Masahiro Akiyama, "Regional Maritime Security Engagements: A Japanese Perspective," in Joshua Ho, ed., *Realising Safe and Secure Seas for All*, pp.90-93; and author's interview with Col. Jackson Chia, Commander of the Maritime Security Task Force, Singapore Armed Forces, October 26, 2009.

¹⁶ Andrew T.H. Tan, "Singapore's Cooperation with the Trilateral Security Dialogue Partners in the War Against Global Terrorism," *Defense Studies* (7,2) June 2007. p.200.

¹⁷ Author's communication with Australian maritime expert Sam Bateman, September 2009.

¹⁸ Statement by Mohammad Nizam Basiron, Maritime Institute of Malaysia, at the Conference: "Between Rising Naval Powers: Implications for Southeast Asia of the Rise of Chinese and Indian Naval Power," Singapore, November 18-19, 2008. p.14. Also see Sam Bateman, "UNCLOS and Its Limitations for a Regional Maritime Security Regime," (Singapore: Institute of Defense and Strategic Studies, April 2006.) pp.13-14.

In some cases, international maritime law has required shippers to improve safety practices. The IMO, through the ISPS Code of 2004, requires all commercial vessels over 300 gross tons to be quipped with Automatic Identification System (AIS) transponders. Singapore goes even further, insisting that all ships within its port limits carry low cost transponders. These devices permit real time tracking but have only a limited range, though sufficient to be followed in the Malacca Straits.¹⁹

Challenges in the Malacca Straits: Piracy, Maritime Crime, and Terrorism

While piracy and maritime crime in the Malacca Straits significantly declined after 2005, there has been an uptick in two areas beginning in 2008, attributed in part to problematic maritime enforcement due to disputed maritime boundaries. One area is the Riau archipelago south of Singapore along the East-bound Traffic Separation Scheme. The other is at the northern Malacca Strait between Sumatra and the west coast of Malaysia where there is no agreed EEZ boundary between the two countries. Most maritime crime is small scale robbery, involving ships at anchor and entering or leaving a harbor and could be countered by more effective policing by port authorities.²⁰

Piracy analysts note the contributing economic factors, particularly on the Indonesian side where overpopulation, unemployment, and the absence of infrastructure to encourage investment all contribute to piracy's appeal. Field research in Batam among former pirates, who in 2009 had legal, land-based jobs at about S\$6.00 per day said that as pirates in a group, they could make between S\$13,000 and S\$20,000 for a successful strike.²¹

There is a distinction between piracy and sea robbery. The latter occurs in national waters and is a domestic issue; the former takes place in international waters and requires international cooperation. Where sea robbery within national waters tends to be petty theft at ports and anchorages, piracy tends to be carried out by organized groups who are well

¹⁹ Rear Admiral Chew Men Leong, "Realising Safe and Secure Seas for All," in Joshua Ho, ed., *Realising Safe and Secure Seas for All*, pp.14-15.

²⁰ Sam Bateman, Joshua Ho, and Jane Chan, "Good Order at Sea in Southeast Asia," (Singapore: S. Rajartnam School of International Studies Policy Paper, April 2009). p.17 and 27.

²¹ Eric Freon, "Beyond the Sea: Fighting Piracy in Southeast Asia," *RSIS Commentaries*, (Singapore) December 21, 2009. p.2.

equipped with weapons and fast craft. They may take bulk cargo to sell on the black market and kidnap crew members for ransom. In rare cases, ships may be hijacked. In piracy cases, corrupt local officials may be directly involved by issuing false papers and identity cards to perpetrators and by looking the other way when contraband is transferred.

Indonesia and Malaysia have frequently asked shipping companies to share the costs of policing the Malacca Straits against pirates. For the most part, the shippers have demurred. Moreover, the littoral states also want shippers as well as user states to accept burden sharing in the Straits, including safety and environmental measures. Only Japan has regularly contributed. Shippers' reluctance to commit to expensive anti-piracy measures may be based on economic analysis of piracy costs to them. The Organization for Economic Cooperation and Development (OECD) has estimated that new security measures to counter the threat of piracy or terrorism at sea would cost ship operators at least US\$1.3 billion and increase annual operating costs by \$US730 million. However, the relatively low cost of actual piracy may not warrant such expensive outlays. In 2005—a year of relatively high piracy in Southeast Asia—over 63,000 ships went through the Malacca Straits. The IMB reported only 12 cases of piracy or a probability level of .019 percent. Moreover, many of these reported attacks were petty theft against ships at anchor. Shippers probably underreport pirate attacks, though, because they may cause vessels to be detained in ports for investigations, with the costs of such delays frequently exceeding the losses incurred by the piracy attacks. Arming merchant ships is discouraged by both owners and trade unions in the belief that firearms will put crews' lives at greater risk. Moreover, both Indonesia and Malaysia prohibit armed guards on merchant vessels passing through their territorial waters, though Kuala Lumpur has relented to the extent that such ships may pass through its section of the Straits as long as the passage is continuous. Singapore requires any armed guards on merchant ships in its territorial waters to disassemble their weapons and lock them away.²²

Further complicating piracy suppression in the Straits is the proximity of the littoral states' territorial waters. Pirates can attack a ship in Singapore waters and then flee to Malaysian or Indonesian jurisdictions. An answer to this problem may be found in the 1988 Rome Convention on the Suppression of Unlawful Acts Against the Safety of Marine Navigation (SUA). The Convention extends coastal state jurisdiction where a crime has been

²² David Rosenberg, "The Political Economy of Piracy in the South China Sea," p.47; Charles Glass, "The New Piracy: Terror on the High Seas," *The London Review of Books*, December 18, 2008; and Lok Vi Ming and Laura Chang, "Maritime Insurance Against Piracy: A Shield or a Sword," in Joshua Ho, ed., *Realising Safe and Secure Seas for All*, p.160.

committed to foreign territorial waters and provides guidelines for the extradition of suspects back to the coastal state where the crime was committed. However, of the Malacca littoral states, only Singapore is a signatory, meaning that the same jurisdiction does not yet extend either to Malaysia or Indonesia.²³

Because of a number of changes designed to deter maritime crime in the Malacca Straits over the past decade (discussed below), incidents of piracy have moved into the adjacent South China Sea. Unlike the 1990s, however, when gangs operating from China and Thailand hijacked ships, forced crews to leave, took the vessels to complicit local ports where they were repainted, provided with counterfeit documents, and sold to buyers who were unaware of the ships' provenance, now sea robbers tend to be ex-fishermen from Indonesian village who use small vessels with limited fuel capacity, so they rob and get back to shore quickly.²⁴

Additional Challenges in the Malacca Straits

In addition to piracy and related to it are navigational safety and environmental protection problems in the Straits concerning the maintenance and replacement of aids to navigation such as lighthouses, buoys, and radar installations. Through the TTEG the littoral states have agreed on six specific projects to enhance safety and environmental protection, requesting user states to support these projects. The six projects are:

- (1) the removal of six shipwrecks in the traffic separation scheme (TSS) at a cost of US\$5 million per wreck
- (2) cooperation and capacity building with respect to the Protocol on the response to hazardous and noxious substances at a projected cost over two years of US\$3.5 million, which by 2008 had 21 signatories, including Japan and Singapore;
- (3) the provision of a demonstration project of class B automatic identification system (AIS) transponders on small ships;
- (4) setting up tide, current, and wind measurement systems over a period of six years at US\$ 774,000 plus an annual maintenance cost of US\$833,000;
- (5) the replacement and maintenance of aid to navigation at US\$28.2 million for ten years;
- (6) the replacement of aids to navigation damaged in the December 2004 tsunami at a cost of

²³ Yun Yun Teo, "Target Malacca Straits," p.544.

²⁴ Mavis Toh, "Your Money, Not Your Life," *The Straits Times* (Singapore) September 27, 2009.

US\$2.6 million.²⁵

The foregoing constitute an ambitious agenda that, if fulfilled, would insure the Malacca Straits' future. To provide just a single example of their potential efficacy, in recent years, tugs have been favorite targets of pirates because most do not have AIS transponders. They can be seized at sea, and maritime law enforcement will not know their subsequent locations. Once taken, they can be used in a variety of criminal activities, particularly those favoring small vessels in port. Yet, as Catherine Raymond points out, though user states and shippers have been willing to support some of these projects on a bilateral basis, there is little interest in any long term institutionalization of the process (discussed below). Moreover, while Singapore favors a multilateral enterprise for the Straits, neither Malaysia nor Indonesia concur; and for political reasons, Singapore does not want to press the others.²⁶

In a November 2009 Report, the Maritime and Port Authority of Singapore released a preliminary assessment of traffic through the Malacca Straits, noting that the number of collisions in the Singapore Strait—the narrowest point in the Straits (1.2 miles wide)—has remained the same over the past three years although traffic volume increased. Thus, the Straits could well bear more traffic without significantly endangering ships if safety and security measures are taken.²⁷

Current Measures for Improving Safety and Security in the Straits

The Malacca Straits Patrols (MSP)

Arguably the most effective cooperative security mechanism to suppress piracy in the Malacca Straits, the MSP (formerly known as Malaysia-Singapore-Indonesia or MALSINDO) is Southeast Asia' only indigenous multilateral ongoing military arrangement, involving the coast guards, navies, and air forces of the littoral states and since 2008, Thailand as well. A joint

²⁵ Joshua Ho, "Enhancing Safe, Security, and Environmental Protection in the Straits of Malacca and Singapore: The Cooperative Mechanism, pp.237-238.

²⁶ Catherine Zara Raymond, "Piracy and Armed Robbery in the Malacca Strait," *Naval War College Review*, (62, 3) Summer 2009. p.40; and author's interview with Colonel Jackson Chia, Commander of the Singapore Maritime Security Task Force, October 26, 2009.

²⁷ Government of Singapore Press Center, "Working Paper for 'Carriage Capacity of the Straits of Malacca and Singapore,'" October 28, 2009.

coordinating committee of the MSP meets twice a year, and intelligence is also shared among the participants. However, the MSP is more coordinated than joint with each country responsible for patrolling its own sector and each ship under national command. After a 2006 agreement was reached, ships in the MSP have the right of hot pursuit up to five nm into the sovereign waters of a neighbor, though there are as yet no plans for joint patrols.

The Eyes in the Sky (EiS) component of the MSP of which Thailand is a member involves aircraft patrols from the four states, though only six sorties per week. Each flight carries personnel from each of the participating armed forces, who report “suspicious activities” to Monitoring and Action Agencies (MAA) in each of the countries. However, the EiS patrols are conducted only in daylight hours, while most piracy and sea robbery occurs at night. Experts estimate that at least 70 sorties per week are necessary to provide 24 hour coverage. EiS provides only a small fraction of that number. Nevertheless, with MSP’s 2005 inauguration, the number of reported piracy incidents declined from a high of 38 in 2004 to just four in 2008. Interestingly, the EiS agreement contains a provision that could permit extra-regional countries to participate in the air patrols, though this has not been activated, probably because of the low level of piracy currently experienced in the Straits.²⁸ However, in a May 7, 2008 briefing to the Japan Society in New York City, then U.S. Pacific Commander Admiral Timothy Keating stated that the United States “has one plane on patrol” in the Straits. If true, little has been publicized about this deployment.

External Aid to the Straits States

While external states are not generally involved in patrolling the Malacca Straits, they do play an important role in helping the littorals build capacity. The United States, Japan, Australia, South Korea, India and most recently China are assisting or—in China’s case—have offered to assist the littorals in improving safety and security practices. The United States is supplying five coastal radars on the Indonesian side of the Strait and is donating 30 patrol boats to the Indonesian marine police. Through CARAT and SEACAT exercises, the U.S. navy provides training opportunities for all three littorals. And the American Coast Guard conducts training with their maritime law enforcement agencies. Washington is also funding a tactical communications center in Jakarta. The legislative basis for U.S. capacity building is the 2006

²⁸ Ian Storey, “Securing Southeast Asia’s Sealanes,” pp.114-117, and 119; Rear Admiral Chew Men Leong, “Realising Safe and Secure Seas for All,” pp.12-13; and Joshua Ho, “Cooperative Mechanisms in the Malacca Straits,” pp.170-173.

Global Train and Equip Program through which Washington has provided US\$47.1 million worth of equipment for Indonesia and US\$16.3 million of Malaysia.²⁹

Japan has the longest involvement in supporting Malacca Straits safety with projects going back to 1969. Tokyo's private Malacca Strait Council backed by the Nippon Foundation has donated US\$ 130 million over 40 years for such projects as wreck removal, dredging, upkeep of navigational aids, and the compiling of channel charts. In the late 1990s, the JCG helped create the Traffic Separation Scheme for the Straits; and the JCG has trained littoral states' maritime police both in Southeast Asia and in Japan for decades. In addition to providing three patrol vessels in 2007 to the Indonesian Sea Police, the Nippon Foundation has funded maintenance vessels for Indonesia and Malaysia and a training ship to Malaysia in 2006. More recently, in February 2009, a Tokyo grant to Malaysia's Maritime Enforcement Agency led to the installation of laser cameras and laser direction finders which both enhance traffic safety and help to detect illegal activities in the Straits.³⁰

Over the past decade, the JCG set up a network of 14 Asian Coast Guards to exchange information on piracy on a daily basis. The JCG also conducts more joint exercises with their Southeast Asian counterparts than any other coast guard, including the United States. Despite Japan's "Peace Constitution" that constrains the kind of military relationships its regular armed forces can maintain, because the Coast Guard is a police agency, its training activities and equipment transfers are not considered military actions.³¹

Japan has also pressed ship owners to do their share of contributing to a fund for ensuring safety in the Straits. The Nippon Foundation, which has borne one-third of the cost of maintaining Straits' navigational aids, has asked ship owners to ease the financial burden of the littoral states. While Japanese ship owners have chipped in, most of the shippers from other countries have refrained, saying once again that international waterways should be free and that they would have to increase freight charges if they were to contribute. Nevertheless, in November 2008, shipping industry members and user states agreed to contribute US\$5.4

²⁹ "Southeast Asia Winning Malacca Straits Battle for Now," *Agence France Presse*, November 20, 2008; and Ian Storey, "What's Behind Dramatic Drop in Southeast Asian Piracy?" *The Straits Times*, January 19, 2009.

³⁰ Masahiro Akiyama, "Regional Maritime Security Engagements: A Japanese Perspective," pp. 90, 91, 93, and 94; and "maritime Agency to Improve Surveillance," *Bernama* (Kuala Lumpur) March 20, 2009.

³¹ Rujie He, "Coast Guards and Maritime Piracy: Sailing Past the Impediments to Cooperation in Asia," *The Pacific Review* (22, 4) December 2009. pp.680, 682, 685, and 686.

million for navigational safety in the Straits via an Aids to Navigation Fund.³²

Finally, China has entered the roster of those offering to improve navigation in the Straits. Under IMO auspices, the PRC offered to help finance the replacement of navigational aids damaged by the 2004 tsunami and to help the littoral states in general capacity building; India has tendered similar offers.³³ While most of these recent donations by user states and shippers are modest financially, they establish precedents and a base for future efforts as well as an understanding that the littoral states will continue to present a list of projects they would like to see funded.³⁴

A Successful Multilateral Institution: The Regional Cooperation Agreement on Combating Piracy and Armed Robbery Against Ships in Asia (ReCAAP)

Seen as the most successful example of multilateral maritime security in Southeast Asia, ReCAAP was launched in Singapore in 2006 to provide more timely and accurate reports of maritime crime against ships in the region while facilitating best practices among the states concerned. Sixteen Asian states covering South, Southeast, and Northeast Asia belong, though neither Indonesia nor Malaysia are members. ReCAAP's Information Sharing Center (ISC) in addition to distributing data on illegal activities against shipping also assists in capacity building and cooperative arrangements. The ISC comprises four departments: Operations, Research, Programs, and Administration. Each member state has designated an internal agency as a Focal Point that will manage and coordinate all actions dealing with maritime crime against ships in their jurisdictions as well as coordinate with neighboring Focal Points when necessary. Japan was the original architect of ReCAAP through its Coast Guard; and ReCAAP's Focal Points include Coast Guards, Marine Police, Navies, and Port Authorities. One of ReCAAP's achievements has been to break down the jurisdictional silos within each country with respect to maritime affairs, largely through capacity building initiatives such as exercises

³² "Ship Owners Urged to Help Keep the Malacca Straits Safe," *Agence France Presse*, November 24, 2008; and Vivian Ho, "Agreement Reached on Payment for Safety Upkeep of Malacca Strait," *Kyodo*, November 24, 2008.

³³ Ian Storey, "Securing Southeast Asian Sea Lanes," p.124.

³⁴ *Ibid.*

and training workshops. Partner organizations also include shippers associations such as the Asian Shipowners Forum, the Baltic and International Maritime Council (BIMCO), the IMO, and the International Independent Tank Owners Association (INTERTANKO).³⁵

Despite its collaborative achievements, ReCAAP has its limitations, the most significant being that neither Malaysia nor Indonesia have ratified the Agreement. Although both countries have expressed support for ReCAAP, they have refrained from formally participating because of the belief that to do so would undermine their claims of sovereignty in archipelagic waters and territorial seas. Moreover, Malaysia further objects to ReCAAP's Singapore venue, creating an unnecessary competitor to Kuala Lumpur's International Maritime Bureau (IMB) Piracy Reporting Center.³⁶ However, that Center has generated its share of complaints from Indonesia. Jakarta claims that the IMB attributes the location of piracy incidents in Indonesian waters when, in fact, they occurred on the Malaysian side of the Malacca Strait.³⁷

ReCAAP incident response could also be improved by urging the shipping industry to encourage ships to report to the ISC first rather than to their flag states and their focal points. ReCAAP could then alert the respective operations centers of its member countries that have the responsibility to deploy patrol ships. Currently, the ISC has no authority to render assistance to a victim ship, being exclusively an information sharing center.³⁸

ReCAAP's primary strength is as a reporting and analytical center. Its assessments of piracy and maritime crime discern patterns of attacks and their locations, thus helping states allocate their patrol resources. For example, ReCAAP reports have revealed that most Southeast Asian piracy either occurs in Indonesian waters and/or is conducted by pirates from Indonesian villages. ReCAAP workshops have been an impetus for states' focal points to share information and contact each other on their own initiatives without necessarily having to first

³⁵ Joshua Ho, "Combating Piracy and Armed Robbery in Asia: The ReCAAP Information Sharing Center," *Marine Policy* (33) 2009. pp.432-434.

³⁶ Sam Bateman, "Regime Building in the Malacca and Singapore Straits: Two Steps Forward, One Step Back," *The Economics of Peace and Security Journal* (4, 2) 2009. p.40.

³⁷ John F. Bradford, "The Growing Prospects for Maritime Security Cooperation in Southeast Asia," *Naval War College Review* (58, 3) Summer 2005. p.69.

³⁸ Joshua Ho, "Combating Piracy and Armed Robbery in Asia: The ReCAAP Information Sharing Center," p.433; the author's discussion with ReCAAP officials, Singapore, October 28, 2009; and Thomas Timlen, "The Use of SOLAS Ship Security Alert Systems," Working Paper No. 154, S. Rajaratnam School of International Studies, Singapore, March 5, 2008. p.16.

go through the ISC.³⁹

Finally, it worth noting that in at least one case ReCAAP analysts put together information on the September 2008 hijacking of a Singapore-registered tug boat from the boat's crew that was originally provided in a police report. The ReCAAP assessment was sent to focal points in Cambodia, Thailand, and Vietnam. Within two weeks, the Thai Marine Police apprehended the hijackers who had renamed and repainted the boat in a Thai port.⁴⁰

Other Forms of Malacca Straits Cooperation

Other forms of international cooperation on the Straits exist—the most notable being the “Cooperative Mechanism.” A 2007 agreement engendered by the IMO, the Cooperative Mechanism is supposed to enhance navigational safety, security, and environmental protection in the Straits. Particularly notable is a dialogue forum among littoral states, user states, and shippers—a first for Malacca Straits policy making. The Cooperative Mechanism has also created a committee to coordinate and manage six designated joint projects on navigational security as well as an Aids to Navigation Fund that accepts voluntary contributions. The Cooperative Mechanism is currently the only venue in which all three Malacca Straits principals meet regularly to determine joint projects for safety and security and establish the means to fund them. As of 2009, Australia, the United States, Germany, Japan, India, South Korea, the UK, Greece, the UAE, and INTERTANKO have all either committed financing or expertise.⁴¹ However, at the October 2009 Cooperative Mechanism meeting in Singapore, the BIMCO representative reminded those attending that any measures relating to shipping in the Straits should have the approval of the shipping industry as well as states. And, indeed, as of 2009, contributions to the Aids to Navigation Fund have been made by states and foundations but not by private companies. The latter may fear that voluntary contributions could create a precedent for setting up similar schemes for other straits.⁴²

³⁹ Author's discussion with ReCAAP officials, Singapore, October 28, 2009.

⁴⁰ Jermyn Chow and Carolyn Quek, “Close Asian Cooperation Keeps Attacks Down,” *The Straits Times*, February 16, 2009.

⁴¹ Heather Gilmartin, “EU-US-China: Cooperation in the Malacca Strait,” (a paper prepared for the Institute Fur Friedensforschung und Sicherheitspolitik, Hamburg, November 2008). Pp.25-26; and Joshua Ho, “Enhancing Safety, Security, and Environmental Protection in the Straits of Malacca and Singapore,” pp.242-242.

⁴² Author's interview with Thomas Timlen, Asia Liaison for BIMCO, Singapore, October 27, 2009; also see Robert Beckman, “Maritime Security and the Cooperative Mechanism for the Straits of

The Information Fusion Center (IFC) inaugurated by the Singapore Navy in 2009 exhibits the kind of multilateral cooperation that Singapore prizes. Located at the Changi C2 Center, IFC houses a number of information sharing arrangements, including the Western Pacific Naval Symposium (WPNS) and MSP Information System. IFC also works closely with ReCAAP. IFC's purpose is to provide participating navies and maritime agencies with a complete regional maritime picture, thus enabling the identification of potential threats. The regional groups that are located in the IFC are invited by the Singapore Navy to attach International Liaison Officers to the Center. The IFC also has an anti-terrorist brief based on the belief that the sharing of a variety of nations' maritime experiences can fuse these data and make better sense of them than just individual countries by themselves. The end product would be "delivering actionable information to our partners to cue operational responses." To realize this outcome, IFC has set up a 24/7 operation run by an integrated team composed of International Liaison Officers and Singapore Navy personnel. Although Indonesia and Malaysia are not represented at the IFC, they coordinate with it informally. IFC reports also go to regional shipping companies. At the IFC's heart is a data base on more than 150,000 vessels and a software tool designed to flag suspicious ships. The MSP Information System is linked to this data base. Finally, the IFC coordinates Proliferation Security Initiative exercises designed to interdict ships and aircraft transporting WMD material.⁴³

Conclusion

This study has addressed prospects for enhanced multilateral cooperation (cooperative security) among large states, small states, and the private sector shipping industry for improving safety and security in the Straits of Malacca. The underlying premises of the research are that (a) more safety and security in one of the world's busiest waterways constitutes a positive sum outcome for all of the actors; (b) a cooperative division of responsibilities among the littorals, user states, and shippers would be an efficient process for maintaining the Straits; and (c) that political and commercial obstacles to sharing the costs and

Malacca and Singapore," p.8.

⁴³ Singapore Ministry of Defence Press Release on the Inauguration of the Information Fusing Center, April 27, 2009; rear Admiral Tan Wee Bang, "Enhancing Maritime Security Through Singapore's Maritime Security Task Force (MSTF)", in Joshua Ho, *Realising Safe and Secure Seas for All*, pp. 191-192; Sam Bateman, Joshua Ho, and Jane Chan, "Good Order at Sea in Southeast Asia," p.34; and the author's interview with Col. Jackson Chia, Commander of the Singapore Maritime Security Task Force and affiliate of the IFC, October 26, 2009.

responsibilities for enhanced navigation could be transcended because the payoff for all involved is so important. Our review has demonstrated that there already is significant collaboration along several dimensions by the littorals, for example, through the MSP, from user states to littorals through a variety of assistance arrangements, from littorals to shippers via safe navigation arrangements in the Straits, and most recently by all of them through the 2007 Cooperative Mechanism for the Straits of Malacca and Singapore. The Cooperative Mechanism constitutes the most significant step toward regime building for the Straits because it acknowledges joint responsibility for safety and security.

Nevertheless, for the most part, the foregoing arrangements are ad hoc and incomplete. There is no single international council that brings the stakeholders together, determines priorities for safety and security in the Straits, raises funds to meet the identified needs, and allocates tasks among its members. Nor does such a council seem likely in the future. One reason is that littoral and user states have divergent priorities. Malaysia and Indonesia are more concerned about smuggling, illegal fishing, and human trafficking than Singapore which focuses on navigation through the Straits. The littorals insist that maritime security be locally initiated and led. Yet their maritime organizations do not easily mesh. While Singapore and Malaysia have coast guards (or the equivalent), Indonesia possesses no central maritime police. That function is divided among bureaucracies and provinces rather than central government offices. User states, too, have different priorities: in the Bush years, the United States was primarily concerned with maritime terrorism, Japan with piracy, and Australia with general capacity building for the littorals. In the southern one-third of the Malacca Strait which narrows, sovereignty has yet to be determined because the territorial seas of Malaysia and Indonesia overlap. And, in the northern part of the Straits, Malaysian and Indonesian EEZs overlap so that enforcement against illegal fishing is complicated as Indonesia claims the median line to be its boundary while Malaysia insists the boundary is coincident with the continental shelf.⁴⁴ If a Malacca Straits regime is to be formed some time in the future, the Cooperative Mechanism will be its progenitor. While its 2009 budget is small at US\$8 million, the mere fact of its existence shows that the principle of shared responsibilities among littorals and users has taken hold.⁴⁵

By the end of 2009, work was ongoing on several Straits projects: (1) the Marine

⁴⁴ David Rosenberg and Christopher Chung, "Maritime Security in the South China Sea," pp.61-65; and Sam Bateman, "Regime Building in the Malacca and Singapore Straits," p.41.

⁴⁵ Sam Bateman, "Regime Building in the Malacca and Singapore Straits," p.39.

Electronic Highway was proceeding with Indonesia installing navigation equipment purchased with World Bank funds; (2) Malaysia had identified 11 critical wrecked ships that required removal for navigation safety; (3) Singapore's demonstration project on the utility of AIS transponders for small ships successfully identified their locations in the crowded Singapore Strait; (4) the U.S. Coast Guard conducted a program on dealing with Hazardous and Noxious Substances to enhance preparedness and response capacities of the littoral states against ship-sourced incidents; and (5) China has agreed to fund the replacement of navigation aids destroyed in the 2004 tsunami.

Nevertheless, while The Cooperative Mechanism improves safety and environmental protection, it does not include measures to enhance maritime security in the Straits. Users have tacitly agreed that the littoral states' defense forces are responsible for maritime security through the MSP. Moreover, there are other venues for maritime security discussion, including the Meeting of the Chiefs of Defense Forces of the three littoral states, meetings of the ARF, and ReCAAP activities that bring representatives of several states together. ReCAAP may be the most promising mechanism for enhancing multilateral security cooperation. It could expand its purview to include arms and human smuggling; and it should increase its efforts to convince Malaysia and Indonesia to join—going beyond their informal cooperation that delays information-sharing with the other members.

On balance then, safety and security in the Malacca Straits will continue to involve a potpourri of arrangements, ranging from individual littoral states' capacities, bilateral aid arrangements from users to littorals, limited multilateral protection arrangements among the littorals (MSP), and multilateral maritime information collection and diffusion (ReCAAP, The Cooperative Mechanism, and Singapore's IFC). Together, they have created a reasonably effective, decentralized way of keeping the Malacca Straits open to international traffic. Absent a major catastrophe in the Straits, these several, uncoordinated arrangements are unlikely to change.

Postscript: Are There Any Lessons from the Malacca Straits for Piracy off the Gulf of Aden?

While maritime crime seems under control and a number of safe transit procedures are in place in the Malacca Straits, the world's attention has turned to the Gulf of Aden (GOA) and the western Indian Ocean where piracy is ubiquitous. In 2008, pirates attacked 111 vessels in

and around the GOA; and increased insurance premiums added US\$20,000 per trip in the region.⁴⁶ The question arises whether any arrangements for safety and security in the Malacca Straits developed over the past 20 years may be applicable in the GOA? Unfortunately, any isomorphism seems remote. The geography of the two regions is quite different. The GOA opens into the vast western Indian Ocean, while the Malacca Straits are much narrower and connect small bodies of water—the Andaman and South China Seas. Sociological conditions differ. For the GOA and environs, pirates originate from Somalia, a failed state, where they have created safe havens. In the Malacca Straits, the littoral states collaborate to suppress piracy and maritime crime that comes primarily from small fishing villages in Indonesia where local economies have been bleak. The Malacca Straits states have successfully suppressed maritime crime on their own; East African states are unable to do so, leading to the creation of an anti-piracy force of navy contingents from some 20 countries coordinated by the United States.

The United Nations Security Council passed four resolutions authorizing foreign intervention to suppress piracy off Somalia and the GOA—one in December 2008 even authorizing hot pursuit on shore of pirates operating from Somalia. However, Indonesia—a UNSC member at the time—objected to authorization for entering Somali airspace and insisted that any foreign navies operating in Somalia’s territorial waters abide by the 1982 Law of the Sea and not create a precedent for intervention in other waters where piracy is common.⁴⁷

Malacca Straits cooperation also includes arrangements to promote collaboration among users and the littorals—ReCAAP for piracy and the Cooperative Mechanism whereby users aid the littorals to improve safety. Their achievements can be attributed to the fact that the Straits states are politically, economically, and militarily energetic. Somalia meets none of these criteria. In other words, in the African case, there is no base from which to create an indigenous safety and security regime.

⁴⁶ Mark Valencia and Nazery Khalid, “The Somalia Multilateral Anti-Piracy Approach: Some Caveats,” *The Nautilus Institute*, February 12, 2009.

⁴⁷ *Ibid.*

Part II:

*Lessons and Challenges of
Counter Piracy*

Chapter 3

“The Challenge of the Jolly Roger: Industry Perspectives on Piracy”

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Introduction

Piracy is not a new problem for maritime commerce, though it has been rare in modern times. There has been a recent upswing in attacks, commencing about 15 years ago with ship boardings and robberies in the Straits of Malacca region, and continuing today, most notably off Somalia. Piracy has many forms, and so there are some varying definitions. One of the broader definitions, supplied by the International Maritime Bureau (“IMB”), is that piracy is “the act of boarding any vessel with an intent to commit theft or any other crime, and with an intent or capacity to use force in furtherance of that act”, which is a suitable definition for this article.

To put the problem in perspective, there were over 400 attacks worldwide in 2009, with 217 in the Gulf of Aden (“GOA”) off Somalia. South America saw 37 reported attacks, while Nigeria had 28 attacks. Indonesia and the South China Sea accounted for another 28 attacks, while the Straits of Malacca saw only 2. The attacks off Somalia have been particularly troublesome, as they have often involved the hijacking and ransom of the victim ship. Nearly 700 crew were taken hostage in the GOA in 2009, a record for the region. An unknown amount, but certainly in excess of \$20 million, was paid in ransoms to pirates based in Somalia to free these vessels and hostages.

The international security response to these predations in the GOA has been the deployment of naval forces from a number of countries and coalitions, including the North Atlantic Treaty Organization and the European Union. Commercially, many vessel owners and operators have responded by taking more robust measures to deter the boarding of their vessels, to the point of employing armed guards in some instances. The combination of these responses has pushed the pirates further out to sea, with the result

that attacks have occurred over 1,000 km from the Somali coast, far out into the Indian Ocean. Such a large geographic area is difficult to patrol, especially for the ubiquitous small fishing vessels the Somali pirates tend to use as motherships for their attacks.

With over 20,000 vessels a year transiting the GOA, the piracy problem in this area poses a significant threat to international commerce. A comparison can be found in the piracy incidents that have occurred in the Straits of Malacca region, which is also a very important strategic waterway. In that case, the cooperation of the neighboring states was crucial to reducing the number of incidents and restoring a measure of peace to the waterway. As this paper explores, there are significant structural differences between the two situations, but this should not preclude looking to the Straits of Malacca experience as providing important guidance in reducing piracy in the GOA region.

Stakeholders in the marine transportation system have responded in various ways to the problem of GOA piracy. This paper also offers a canvas of the responses of certain non-stakeholders to the GOA situation and compares some of these responses to those in the Straits of Malacca.

1. Key non-State stakeholders in the global marine transportation system

There are numerous stakeholders in addition to nation-states in the international marine transportation system. Given the disparate threats posed by piracy to these interests, it is perhaps not surprising that they do not have a common level of concern in addressing the issue or taking measures to avoid piracy incidents. Moreover, each stakeholder in the international marine transportation system is actually comprised of a number of individual interests, so that each stakeholder generally has a range of concerns and issues regarding piracy.

For the purpose of this paper, the non-nation-state stakeholders in the international marine transportation system are comprised of: (1) Vessel owners and operators; (2) Charterers and cargo interests; (3) Crew; (4) Protection and indemnity clubs and marine insurance. While this list is by no means exhaustive, each of these stakeholders can fairly be defined as a “commercial stakeholder” in reference to their underlying pecuniary motivation for involvement in the international marine transportation system (which is different than the underlying national security and strategic concerns that primarily

motivate nation-states). In addition to these commercial stakeholders, all of whom have been in existence in some form for millennia, is a relative new-comer, the private security company ("PSC"). In its most typical seafaring role, PSCs provide armed guards, usually former military servicemen, for vessels transiting areas where the risk of piracy is high, especially the Gulf of Aden ("GOA") area off the coast of Somalia. A number of PSC's are currently actively providing security services to, in particular, shipowners.

2. Straits of Malacca experience

Piracy in the post-WW II era has been exceedingly rare until recently. That said, incidents of post-WW II can be divided into two basic types: robbery of the target vessel's supplies and the hijacking of an entire vessel, cargo, and crew for ransom. The former type has probably always existed, and likely always will. Ports, by their nature, tend to be somewhat lawless places that are difficult to police with so many people, vessels and goods constantly coming and going. Ships at anchor in or near port offer an opportunity for suitably-minded locals to illicitly board and steal whatever can be had, and such robberies are common in countries such as Nigeria, Brazil, the Philippines, and Indonesia.

In particular, ship robbery has been endemic in South Asia, with certain exceptions including Singapore. This is notable because Singapore sits at the bottom of the Straits of Malacca, a long and narrow body of water also bounded by Malaysia and Indonesia, which functionally separates the Indian Ocean from the Pacific. Well over 50,000 commercial vessels per year transit the Straits of Malacca, and it has been estimated that a quarter of the world's goods traded by water go through this area. The Straits of Malacca are widely considered one of the most important maritime strategic chokepoints in the world. It is thus somewhat ironic that the more pernicious form of modern piracy, involving the boarding and hijacking of vessels, began its resurgence in this highly sensitive waterway.

A series of attacks beginning in the 1990s took place in the Straits of Malacca, with the attacking pirates coming alongside in small boats and boarding vessels underway. Once aboard, the pirates restrain the crew and steal whatever they can, usually focusing on the master's safe. Japan, which receives a large portion of its energy supplies through the Straits of Malacca, took the lead in establishing regional cooperation to combat this problem. This effort resulted in the 2004 Regional Cooperation Agreement on Combating

Piracy and Armed Robbery against Ships in Asia (“ReCAAP”) between the 10 ASEAN nations and Japan, China, Republic of Korea, India, Sri Lanka and Bangladesh. ReCAAP calls for “cooperation among member countries, based on three main pillars of information sharing, capacity building and operational cooperation, with information sharing as the main pillar”. To this end, ReCAAP established the Information Sharing Center (“ISC”) in Singapore. The ISC has proven effective in coordinating responses to piracy reports, and the ReCAAP agreement has been credited with general reduction of piracy in the Straits of Malacca region.

In recent months, there have been an increased number of piracy incidents just outside the Straits of Malacca, in the area East of Malaysia. These attacks appear to have the pattern typical for the area, with vessels boarded by knife-wielding while underway, cash and valuables stolen, and the vessel then abandoned back to the crew. These recent incidents have largely involved tug boats and tows, which present particularly easy boarding targets due to their low freeboard and slow speeds. There have also been some recent robberies of more sizable ocean-going vessels: on April 7, 2010 the 17,000 dwt M/V Theresa Libra was boarded and robbed while underway, and on April 9, 2010 a cape-sized bulk carrier, M/V Star Ypsilon, was boarded and robbed. These incidents highlight an increase in attacks in the region, particularly off Indonesia, where 8 vessels have reported attacks in the first quarter of 2010, compared to just one in 2009.

3. Piracy in the Gulf of Aden Region Compared to the Straits of Malacca

The most immediate difference between piracy in the GOA and the Straits of Malacca is of course the presence of a failed nation-state, Somalia. The lack of central authority and the rule of law along the majority of Somalia lengthy, rugged coastline is often cited as the root cause of piracy in the GOA, as well as the primary reason that it can’t be stopped. While Somalia’s neighbors have largely been as cooperative as their means allow, the GOA is a large physical area of open ocean, beyond the means of any or all of the countries in East Africa to effectively control.

This is fundamentally different from the situation in the Straits of Malacca in the 1990s or now. There, all of the neighboring states have functioning governments, albeit with different levels of resources and ability to control the Straits and their environs.

Certainly, the writ of Jakarta or Kuala Lumpur may not always be present in the more remote areas at all times, but both of those central governments are perfectly capable of extending their authority at any time they choose. Additionally, the geographic area of coverage is smaller, and more conducive to patrolling with the smaller vessels typical of the Indonesian, Malaysian and Singaporean militaries. In contrast, the GOA area covers over 1 million square miles, most of it open ocean, rendering it hard to effectively police.

Another key difference between piracy in the two areas is the nature of the attacks. While both Somali and some of the attackers in the Straits of Malacca boarded and took control of vessels while they were underway, the South East Asian experience was still largely limited to robbery of the ship's stores and the contents of the master's safe (which usually contains cash). Occasionally cargo would be taken, and in a few cases the entire ship disappeared, but this was the exception not the norm. In the GOA incidents, the entire object of piracy is usually to take control of the ship, crew and cargo for a prolonged period of time in order to negotiate a ransom.

Piracy in the GOA is also quite fluid and dynamic compared to elsewhere. The presence of a large naval force offshore, including vessels tasked by the EU to Operation Atalanta, NATO's operation Ocean Shield, and other forces, has clearly deterred prospective attacks, halted some that were underway, and allowed some captured vessels to be recovered. This military presence has forced Somali pirates to change tactics, most notably by heading out further from shore in order to prey upon unsuspecting vessels. Spatial analysis of Somali pirate activity in 2009 shows an ever-increasing number of attacks far from the immediate coast of Somalia, with several vessels taken well over 1,200 km from the coast (and hence outside of the maritime patrol areas).

Politically, GOA piracy is impacted by myriad factors not present in the Straits of Malacca region, most notably the situation on the ground in Somalia. The cooperation of the Somali transitional federal government has largely been limited to allowing other forces to interdict pirates inside Somali waters, but the transitional government has a very limited capacity to take action on its own and its authority does not extend to the areas where the pirates are based. Fortunately, the Somali transitional government has invited foreign forces to assist it in preventing piracy emanating from Somalia, with the practical result that the U.N. Security Council has authorized foreign forces cooperating in the fight against piracy to enter Somali waters.

Complicating the cooperation of the Somali transitional government is the

radical Somali Islamist group al Shabaab. Al Shabaab has links to various Islamist organizations identified as terrorist organizations, and is itself considered a terrorist organization. Although al Shabaab has publicly stated that it will prevent piracy from areas under its control, the relationship between al Shabaab and the various clans that engage in piracy is not clear. Notably, al Shabaab appears to have made recent military gains that may allow it to control Harardhere, long a pirate-controlled town, the threat of which apparently led pirates in that town to flee North to Hobyo, along with three hijacked vessels under their control.

These differences should not, however, lead to the automatic conclusion that regional cooperation agreements such as ReCAAP have no place in combating GOA piracy. In fact, countries in the GOA region have looked to ReCAAP as a model for certain issues already, such as for the definition of acts considered to constitute piracy. Agreements similar to ReCAAP in the GOA region are likely to assist in reducing and eliminating piracy in this area as much as possible and lend legitimacy to, in particular, Western naval forces operating in political environment where the colonial legacy remains a sensitive topic. Practically, Kenya's acceptance of a number of piracy suspects for prosecution has been a welcome example of such cooperation.

Further, while capacity and geographic issues in the GOA may prevent the region's littoral states from stemming piracy on their own, a regional agreement may also add a moral imperative to challenging Somali pirates. As the attack on M/V Maersk Alabama demonstrated, many of the vessels sailing close to the Somali coast are transporting food aid to East Africa. Recipients of this aid, which include Somalia, would be particularly good candidates for a regional agreement because their national and humanitarian interest in safeguarding food shipments is unchallengeable and makes them stakeholders in the safety and security of vessels in the GOA. While it may be too much to ask these countries to contribute military or other resources, vocal criticism of the GOA pirates and continued political support for anti-piracy operations will lend further legitimacy to international efforts to address this problem.

At some level, there is already a significant level of regional cooperation. The Code of Conduct on the Suppression of Piracy and Armed Robbery against Ships in the Western Indian Ocean and the Gulf of Aden (usually called the "Djibouti Code of Conduct") was adopted by a regional meeting on the issue, and has been adopted by many of the states in the area. Essentially, the Djibouti Code of Conduct requires signatories to

criminalize piracy and armed robbery against ships, to investigate incidents where possible, and to prosecute alleged offenders. While the ability of the signatories to capture pirates in the GOA is limited, and the Djibouti Code of Conduct does not set up an information center the way the ReCAAP agreement does, the idea is a good one. Capacity may improve to capture or accept pirates for trial, and a good information sharing center already exists, so that an exact mirror of ReCAAP would not be appropriate for the GOA region.

There are also the widely-reported agreements with Kenya, under which Kenya has agreed to prosecute pirates and imprison those convicted. A number of alleged pirates have been brought to Kenya for this purpose, but Kenya has just announced that its capacity to handle such cases is limited to those currently in custody, with the result that other countries, such as the United States, have begun to prosecute alleged pirates under their national laws. From the perspective of commercial stakeholders in the marine transportation system, any organized defense to piracy is probably a good thing, since commercial stakeholders are typically the first line of defense when pirates attack.

4. Commercial Stakeholder Positions Regarding Piracy Ship owners and operators

The primary concerns of ship owners and operators are generally the continued generation of revenue by their vessels and the safety of the asset. The former concern may relate to not just revenue generation, but to the ability to satisfy underlying debt obligations, such as ship mortgages. In the Straits of Malacca incidents the robberies were fairly brief in duration, there was seldom any threat that control of the vessels attacked would be surrendered for more than a brief time, and the monetary loss to the owner was usually low. A successful attack in the GOA usually removes a vessel from service for some time, and entails significant operating and other costs in the interim, as well as an eventual ransom payment in the millions of dollars. For example, the owner of the hijacked M/V *Amiya Scan* paid a \$1 million ransom to Somali pirates, but incurred a total cost of over \$5 million for intermediaries, lawyers, and the logistics of the money drop. Given the potentially high cost to shipowners, and their access to resources, it is not surprising that many have reacted to the threat in the GOA in a robust way.

The most common response by shipowners appears to be the use of routes that

avoid the Somali coast and offer some degree of cover from the various military forces deployed in the GOA. Many vessels transiting the GOA are doing so as part of a voyage that takes them through the Suez Canal, either en route to Europe or the Middle East and Asia. Accordingly, many of the incidents reported prior to mid-2008 occurred in the waters between Somalia and Yemen. With the August, 2008 implementation of the Maritime Security Patrol Area ("MSPA"), anti-piracy efforts were concentrated in a corridor along the coast of Yemen, which allowed military forces to concentrate on a smaller geographic area than the entire GOA. Also, vessels can travel in convoys, which are much easier to protect than a number of vessels travelling separately.

For various operational reasons, the MSPA was changed in February, 2009 to the Internationally Recommended Transit Corridor ("IRTC"), which also incorporates a vessel traffic separation scheme. The MSPA now refers to the larger area covered by anti-piracy patrols, while the IRTC is the corridor in which commercial traffic should travel along the Yemeni coast. The establishment of the MSPA and IRTC had a marked effect on GOA piracy, with the result that an increasing number of attacks occurred outside of these areas, including attacks far out in the Indian Ocean. The IRTC, which remains in effect, is used by a significant portion (but not all) of the ocean-going vessels transiting from the Red Sea to points East, and vice-versa.

The second most common response by shipowners appears to be the use of 'low tech' measures while transiting the GOA. Many of these measures have been recommended by industry groups that represent or take into account the needs of shipowners. The Oil Companies International Marine Forum ("OCIMF") is typical of such organizations, and has, in conjunction with other shipowner-friendly organizations including the International Maritime Bureau ("IMB"), INTERCARGO, and INTERTANKO, prepared a series of practical recommendations to avoid, deter or delay piracy attacks (the "OCIMF Recommendations"). The IMO has also published a guidance for shipowners that is widely referenced, and MARAD has issued a number of notices on the topic.

The OCIMF Recommendations are focused on a vessel's Ship Security Plan ("SSP"), which is essentially a series of contingency plans for various security scenarios. Under the ISPS Code, which is enforced by the flag state, every ship must have a SSP. In order to help address the GOA piracy problem, leading flag states Liberia, Panama, the Marshall Islands, and the Bahamas issued the New York Declaration, the cornerstone of which is the requirement that SSPs include internationally-recognized best practices to

avoid, deter or delay acts of piracy (i.e. the OCIMF Recommendations or their equivalent).

Typically, the SSP calls for increased watchkeeping while a vessel is in an area considered at “high risk” for incidents of piracy, and it is typical for ships in the GOA region to post extra watches and to communicate regularly with naval forces in the area. In the event of attack, vessels are advised to immediately increase speed and begin evasive maneuvering, which makes boarding more difficult and occasionally capsizes the small boats typically used by the pirates. Vessels that believe they may be imminent victims of an attack or which are being attacked are further advised to immediately contact the maritime organizations that liaise with naval units in the GOA, particularly the United Kingdom Maritime Trade Operations (“UKMTO”). The UKMTO is a sort of clearing center for reports of piracy and can assist in vectoring available military assets to a vessel if an attack occurs.

Other recommendations include the use of alarms to notify the crew of an attack and to demonstrate to the attacking pirates that the vessel’s crew is aware of the attack. The use of deck lighting after dark is suggested to deny attackers the cover of night where possible, and to assist in determining if a successful boarding has occurred. The use of physical barriers to deter boarding, such as razor wire or electric fencing placed around the ship’s perimeter is also suggested. Some vessel owners and operators have also invested in water cannons to deter boarding, and a number of attacks have been deterred when the ship’s crew directed high pressure water from fire hoses at pirates attempting to board. Rigging fire hoses to spray down the hull to deter boarding is a commonly-used technique, though it has a mixed record of preventing illicit boarding.

In the event a boarding has occurred, the OCIMF Recommendations advise that access to the ship’s accommodation and machinery spaces be controlled, so that if pirates board they cannot easily penetrate the vessel’s interior or superstructure. The IMB in particular has recommended a strategy called the “citadel defense”, in which the crew of a vessel under attack or boarded by pirates can be alerted and directed to muster in a part of the vessel that is protected and relatively secure. Such a “citadel” should be capable of communication with other parts of the vessel (especially the bridge and engine room), contain basic supplies and a bathroom, and be able to communicate with the outside world. An ideal place to establish a citadel is the steering gear room, since the crew can also disable the vessel’s steering apparatus from this location, and will have likely shut down the main engine prior to retiring to the citadel. It is also recommended that the ship’s

tools and equipment be secured so that boarders cannot use these items.

Some vessels have been fitted with secure rooms (usually hidden) where the crew can assemble and hide from the attackers. This latter strategy has been used successfully a number of times, as it prevents the pirates from controlling the vessel (they usually need the crew to do this) and gives time for a military response to arrive. Direct resistance by the crew is not recommended (but frequently occurs, with leading examples being the courageous resistance offered by the crews of M/V Maersk Alabama and M/V Zen Hua 4).

Much less publicized than the OCIMF Recommendations has been the deployment of guards aboard commercial vessels transiting the GOA region. The use of guards from various third party PSCs generally breaks down into two types: armed and unarmed. The unarmed guards are typically equipped with less-lethal equipment, such as devices that project sonic waves designed to cause attackers inordinate distress (these are sometimes called long range acoustic devices, or LRADs). The use of such measures has a mixed track record, especially in light of the fact that the attacking pirates are usually armed with automatic rifles and RPGs. Unfortunately, non-lethal devices such as the LRAD have failed to deter attacks in some instances, such as the attack and seizure of M/T Biscaglia in the fall of 2008. In that incident, the U.K. guards deployed an LRAD device, but were unable to prevent the boarding of M/T Biscaglia by the attacking pirates. The guards wisely jumped off the ship and were subsequently rescued by a German naval helicopter.

It has been estimated privately that at least 20% of the merchant vessels going through the GOA have armed guards. The subject is, however, somewhat delicate, as shipowners and operators are reluctant to advertise their willingness to use armed private guards (it should be noted that these are generally supplied by PSCs and do not consist of armed crew). Complicating the use of private armed guards is the uncertain legality of using lethal force in certain circumstances and problems embarking and dis-embarking private armed guards. Since many countries do not allow the possession of firearms, it is difficult for a vessel with armed private security force to call in certain countries. The author understands that some private guards embark just outside the GOA area and disembark once the subject vessel has cleared the area, so that the guards are not on-board during any port calls.

Despite the difficulties posed by the use of armed private guards, their use

appears to be increasing and has undoubtedly been effective: To date, no vessel with armed guards has been captured by pirates in the GOA. Incident reports involving vessels that have armed guards aboard often have a common narrative that once the guards return fire at the attacking pirates the attack is broken off. The reluctance of pirates to attempt boarding vessels while under fire is understandable, and while the use of firearms to deter attacking pirates certainly implicates a lethal outcome, only 1 pirate has been reported killed by armed guards (a larger number have been killed by military forces). Interestingly, the vessel involved in that incident, M/V Almezaan, had been successfully attacked by pirates on two previous occasions (May 1, 2009, and November 8, 2009) as she was delivering aid to Somalia. The third attempt, where lethal force was used, occurred on March 24, 2010, and did not result in the capture of the vessel.

There is a great range of opinion among ship owners and operators regarding which measures are best taken to avoid pirate attacks in the GOA region. Some owners and operators are taking every possible measure to protect their vessels in this area, while others literally take no precautions at all. The majority of owners and operators probably fall into the middle, taking some precautions but not enacting others (the use of armed guards is probably the largest point of contention). However, as certain measures are proven to be effective, particularly the citadel concept and the use of armed guards, more and more owners and operators will adopt them. As these measures are refined and become more effective, it may be that a standard of protection begins to develop. If effective, such a standard could be informally adopted by a significant portion of the tonnage going through the GOA region, which will likely deter attacks in this area (though this success may only push the high risk area even further from Somalia).

Cargo and Chartering Interests

The interests of crew and cargo interests are largely the same as owners, except that the primary concern of most cargo and chartering interests is the timely and efficient delivery of goods. For vessels that have been time-chartered (a time charter is an agreement to provide a ship and crew for an-agreed period of time, with the ship's travels, but not operation, directed by the charterer), the time charterer is usually responsible for the expenses of preparing a vessel to transit the GOA area. Currently, the BIMCO draft piracy clause for time charters puts most of the onus and cost for such a voyage on the charterers.

The BIMCO draft allows owners to refuse to sail through areas they believe to be high risk, and for charterers. Often, owners will be able to insist that certain measures be taken, but this will essentially be a commercial negotiation, the outcome of which will depend on the relative bargaining position of each side. Both owners and charterers have a common interest in preventing a successful attack, since the time charterer will likely remain responsible for hire if the ship is hijacked and the owner will have to pay the ransom and costs of the ship (insurance, crew wages, class dues, etc.) while she is detained.

Crew

The primary interest of vessel crews undergoing an attack or captured by pirates is of course personal physical safety. Since the typical pattern of attack involves the use of a number of small boats wildly firing AK-47s and RPGs at the targeted vessel, with the fire concentrated on the bridge and accommodation spaces, there can be no doubt that an attack poses significant physical risk to those aboard a targeted vessel. If a vessel is captured, it is usually taken to the Somali coast and anchored until the pirates agree to release it. During this time, the physical environment for the crew is difficult but it is unlikely that the pirates will harm the crew. Thus, the primary risk posed to crews in the GOA is during an attack and boarding of their vessel, with the physical risk declining after a vessel is taken.

The Somali pirates have apparently been sensitive to crew dynamics, often reassuring the crew that the pirates just want to be paid by the owner or operator and have no animus to the crew. To the extent possible, pirates appear to accommodate certain crew needs, in particular arranging for food and supplies that can be consumed by the crew, particularly non-Somali food. The rationale for this behavior by the pirates is clear, as crews are less likely to resist if they believe that physical harm is unlikely. Though Somali pirate violence towards crew may be low by historical standards, crew are frequently injured and occasionally killed, and any period of captivity is extremely stressful and difficult for crew and their families. No amount of accommodation can set a captured crew at ease before they are freed.

Most of the recommendations for the GOA, including the OCIMF Recommendations and the IMO guidance (but not the MARAD notices), advise that crews should not actively resist pirates. However, certain forms of passive resistance,

particularly retiring to a vessel's citadel to wait the arrival of a military response, are advised under certain circumstances. The use of force against pirates by crews has largely been a red line, at least for crew representative organizations. The general position (and this is true of many in the maritime industry) is that the use of any force to deter pirate attacks is likely to increase the amount of force used by the pirates and will hence increase the risk to crews. This position largely seems to be supposition, as the use of force against pirates in every instance reported has either prevented the capture of the target vessel or resulted in her liberation.

The fact that armed resistance by PSCs has been so effective has led to a revision of policy by one of the leading seafarer representative organizations, the International Transport Workers' Federation ("ITF"). Initially opposed to the deployment of armed guards aboard vessels in the GOA, the ITF has recently moderated its position and now supports the use of armed military personnel in order to deter attacks. Whether or not this extends to PSCs is not clear, but the ITF has been increasingly vocal in calling on countries with significant maritime sectors to step up anti-piracy efforts in general, and it may well be that the ITF also moderates its position in respect of PSCs. It is crucial to note that the position of the ITF and most in the industry is that seafarers should not be armed, and that any force should be deployed only by security forces. It is difficult to argue with this for a variety of reasons, including the lack of training and compensation for taking on such a skilled and dangerous assignment and the possibility that crew who should be performing crucial vessel-related work may become distracted by the additional guard duties.

Of course, there are some crews that either arm themselves with whatever they can or are considered to be quasi-military and thus authorized to use firearms to protect their vessel. In particular, U.S. Military Sealift Command vessels are crewed by sailors trained in the use of small arms, and such vessels usually carry a small store of firearms and protective equipment. Also, some crews, though essentially unarmed, have resisted boarders quite forcefully. The crew of M/V Zen Hua 4, for example, locked the accommodation tower and deployed to the uppermost weather deck on the vessel. They brought along several cases of Heineken beer in cans, and prepared a number of Molotov cocktails. When the pirates assembled on the main deck, the crew began throwing the full cans of beer and firebombs down at the pirates, who inaccurately returned fire. After some efforts to get into the vessel's superstructure, the pirates eventually gave up and left.

The defensive effort was well-documented by a crewmember who took photos of the entire incident (and which can be viewed online).

Perhaps more famously, the crew of M/V Maersk Alabama concealed themselves in the interior of their vessel when attacked, having first disabled the bridge controls and turned off the interior lights. When one of the pirates searched for the missing crew, they were able to capture him. Unfortunately, in the meantime the pirates had captured the vessel's master, with the result that a swap was proposed whereby the pirates agreed to leave the vessel. The swap did not go as planned and the pirates did not release the master, but they did leave M/V Maersk Alabama in one of her powered lifeboats. U.S. naval special forces subsequently killed three of the four pirates and rescued the master in a widely-reported action. However, it was clearly the crew's initial resistance that made this outcome possible.

These accounts are not to suggest that all crews should resist pirate attacks directly, but they do illustrate that active resistance, while dangerous, has deterred attackers. Certain crew, particularly British and Americans, have particular concerns about being captured by Somalis. These crew have a much greater incentive to resist, as the consequences of capture may be much more severe than, say, crew from the Philippines. Crew from certain other countries, particularly North Korea, have fought pitched battles with attacking pirates and successfully retained control of their vessels. For example, the crew of M/V Chon San Bong Chong Nyon Ho, a North Korean-flagged general cargo ship, fought a pitched battle with Somali pirates at the end of March, 2010. The heavy fighting started a fire aboard the vessel and resulted in a number of crew being treated for serious injuries caused by gunfire and grenades, but the crew's defense of their ship prevented her capture.

Protection and Indemnity Clubs and Marine Insurance

Protection and indemnity clubs ("P & I") and marine insurance both offer shipowners protection from risk and liability, but in different ways and for different exposures. P & I is a pooled risk group, in which an owner's expenditures for certain types of liability will be repaid by the P & I. P & I coverage includes crew loss of life and injuries, cargo claims, wreck removal, and possibly pollution. Marine insurance is simply third party liability insurance in favor of the owner, with policies such as hull and machinery insurance ("H &

M"). An H & M policy pays an owner if the engine fails or the vessel sinks.

Neither P & I nor marine insurance policies typically pay for damages stemming from a pirate attack or the payment of ransom, although war risk policies often contain coverage. From the ship owner perspective, damages are most likely to consist of lost revenue from the ship's seizure and the cost of any ransom payments. The former concern is often alleviated where a vessel is time chartered, as the time charterer directs the movement of the vessel and usually remains liable for hire in the event a vessel is seized (at least for a time). Ransom payments are normally the owner's problem, but a contribution can often be obtained from the cargo interests. It should be noted that some marine insurers have begun to offer kidnap and ransom policies, but these are not normally carried and are quite expensive. Moreover, their applicability to the GOA piracy problem, as well as potential cargo contributions and war risk policy payments has been recently blunted in an interesting way.

On April 13, 2010, U.S. President Obama issued Executive Order 13536 "Blocking Property of Certain Persons Contributing to the Conflict in Somalia", which prevents any kind of payment to a number of people known to be involved in GOA piracy, as well as al Shabaab. The stated rationale is that GOA piracy poses a threat to U.S. national security, but the Executive Order has caused considerable concern in the maritime industry, particularly among insurers. While there has been some clarification that only payments to those named in the order are prohibited, 2 of the persons on the list reportedly control over 1,000 Somali pirates. It is thus not yet clear how this Executive Order will impact the payment of ransoms, but it certainly adds a complication. If a company subject to U.S. jurisdiction does become involved in a ransom situation, they will need to coordinate closely with the U.S. government before taking any action.

Chapter 4

Dangerous Sea Areas Where Many Cases of Piracy Take Place

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Preface

A total of 99% of goods imported and exported to and from Japan are transported by ship. It is not an exaggeration to say that the Japanese economy depends on shipping. Ensuring safe sea lanes, or maritime routes connecting Japan and other countries around the world, is very important for Japanese people's lives. Key sea lanes which are the center of the current worldwide attention are the Straits of Malacca and Singapore and the Gulf of Aden. These two areas of sea are well known as places where many cases of piracy occur, as well as places that many ships navigate through. Let us study the current state of security at sea, focusing on these two areas.

Shipping Boom that Started Collapsing

The world shipping sector had been in the best shape ever in recent years. The total sales of Japan's three major shipping companies (NYK Line, Mitsui O.S.K. Lines and "K" Line) exceeded 5 trillion yen and their ordinary income in total was as much as 600 billion yen for FY2007. The shipping boom, however, has started to wane rapidly. It is said that the three shipping companies had no choice but to downwardly revise their bottom lines for FY2008 and have a pessimistic outlook for FY2009. One reason is the worldwide recession caused by the U.S. subprime lending fiasco, and the other is the declining growth rate of the Chinese economy that has been influencing the global movements of goods. The EU announced that its economy was still sluggish, and Asian countries are eager to defend their own currencies as they are worrying about the rapid depreciation of the Korean won. And to make the matters worse, many cases of piracy are taking place in the Gulf of Aden and off the coast of Somalia in the Indian Ocean along the route connecting Europe, the Middle East and Asia. Pirates are hijacking ships and holding sailors to ransom. Some major shipping companies in Europe and Asia have instructed their ships to go around the Cape of Good Hope, and not sail through the Gulf of Aden where pirates are waiting for them. It takes a big tanker about an extra fifteen days and costs an extra

100 million yen to go around the Cape of Good Hope when going from Europe to the Persian Gulf. And this detour requires Europe to double the number of ships in order to transport the goods that it needs.

Somalia is called the Horn of Africa because it is located at the northeastern tip of Africa and its peninsula juts out into the Indian Ocean. Its northern side faces the Arabian Peninsula across the Red Sea and the Gulf of Aden. It was 2005 when the number of cases of piracy started to increase in the Somali area of the sea. They rapidly increased from 2007 to 2008, and pirates now have a dominant position in the sea off Somalia.

Areas of Sea Where Piracy Occurs

When asked about areas of sea where piracy occurs, many people may think of the waters off Southeast Asia such as the Straits of Malacca and Singapore. More cases of piracy, however, have been taking place in the Gulf of Aden and off Somalia to the northeast of Africa since 2005. The Gulf of Aden is one of the most important sea routes in the world, located at the entrance to the Suez Canal which nearly 20,000 ships sail through every year. Many cases of piracy in those waters constitute a serious obstacle to world shipping, and may cause a further downturn in the European and world economy.

According to data published by a private organization called the IMB (the ICC International Maritime Bureau) that collects and announces worldwide information about piracy and anti-piracy measures, 406 cases of piracy were committed in the world in 2009. Of these, the largest number took place in the Gulf of Aden and off Somalia where 211 cases of piracy occurred.

Japan is in no way immune to Somali pirates. In 2008, five ships associated with Japan were attacked by pirates, and two of them were hijacked in Somali waters. On April 21, a Japanese tanker called Takayama (150,000 gross tons) was attacked with an anti-tank rocket launcher while navigating in the Gulf of Aden, and a rocket hit it between a ballast tank and a fire wall.

There was also a case where a Japanese sailor was held hostage. On November 14, a Chinese deep-sea fishing boat called Tianyu No. 8 was attacked while sailing off Kenya, and taken away to a port in the south of Somalia by pirates. The captain of this boat was Japanese. In 2009, about 1000 sailors held hostage. They come from a variety of countries including the Philippines, China and India.

On September 25, 2008, a shocking event took place. A Ukrainian Roll-on/Roll-off ship called Faina that was navigating in the sea and heading for Kenya was attacked and hijacked by pirates. There were 21 sailors on board and the ship was carrying arms such as 33 T-72 type tanks made in Russia, rocket launchers and ammunition. It is said that these arms were to be exported to Kenya and resold in Africa. Until then, few Roll-on/Roll-off ships had been attacked by pirates because their gunwales are high. But in this case, it seems that information about an unguarded ship carrying arms had been

leaked to the pirates.

The pirates demanded a ransom of 35 million US dollars to return the ship, which they later reduced to 20 million US dollars. The pirates demanded swift payment, releasing a photo showing hostages lined up in a row on the deck through mass media such as the BBC; and they also provided a photo showing their attack on the ship to some of the mass media. They seemed to obtain the ransom effectively by making use of the mass media.

Actual Conditions of Somali Pirates

The main reason why many pirates are rampant off Somalia is that a state of anarchy has been continuing in Somalia since the collapse of the socialist military despotic government in 1991. There is serious antagonism among tribes and there is no central government to control it in Somalia. Though the Somali Transitional Federal Government has its capital in Mogadishu and tries to rule the nation somehow, it is helpless to control and patrol its coastal zone, which allows pirates to do whatever they like.

It seems that at the beginning, local Somali fishermen and militiamen of tribal forces were collaborating to practice piracy, and that pirates of various nationalities good at piloting boats have also conspired recently as cases of piracy have taken place in the sea more than 350 nautical miles from the coast. These pirates attack ships, take them and the sailors to ports along Somalia by force and demand ransoms. Many of the hijacked ships are forced to anchor near ports along the Indian Ocean such as Eyl Harbor, and wait to be released after the ransom has been paid.

There are a number of organizations of Somali pirates. Organizations rampant on the side of the Gulf of Aden seem to be different from those on the side of the Indian Ocean, but there is a fair possibility that the two groups share information with each other. For example, after a warning shot had been fired at the Japanese tanker on the side of the Gulf of Aden as stated before, pirates then attacked a Spanish cargo ship on the side of the Indian Ocean, taking advantage of the unguarded state on the latter side as the security force were focusing on the former side.

Pirates are roaming the Indian Ocean and the Gulf of Aden, using ships such as trawlers built in Russia as the mother ships. They make full use of radar, automatic identification systems (AIS) and various communication tools installed in such ships to look for possible victims and watch movements of vessels from various countries that are patrolling the waters. It is said that the total number of pirates near Somalia is now around 300. A group of 30 to 50 pirates are onboard each mother ship, and they separate into platoons of 4 or 5 smaller boarding boats to get onto the ships they are attacking. After pirates have gained control of such ships using weapons including assault rifles

(AK-47s) and anti-tank rocket launchers (RPG-7s), they force the ships to sail off the coast of Somalia. Pirates aim to earn a ransom, and rarely injure sailors unless they put up resistance. The amount of ransom per attack ranges from approximately 100 million to 300 million yen, and they have earned at least 3 billion yen since the beginning of this year. Somali pirates are practicing piracy as a business.

Countermeasures against Somali Piracy

Asked to take measures against Somali piracy by member states, the Security Council of the United Nations adopted a resolution on June 20, 2008 that called upon the member states to take every possible countermeasure against piracy. This resolution allows member states to take any countermeasure against piracy in Somali territorial waters after obtaining the consent of the Somali Transitional Government and reporting to the Secretary-General of the United Nations.

Currently, navies from the Combined Task Force centering on those from the U.S., NATO, the EU, Russia and India are patrolling the coast of Somalia in order to combat piracy. They also advise ships navigating through the Gulf of Aden to use the navigation zone under special alert where they regularly patrol, with the U.S. playing a key role.

In spite of these efforts, the number of cases of piracy is not declining at all, presumably because the area in which pirates are active is too wide for the patrol vessels to control, and they cannot act rashly when a large number of sailors are being held hostage.

Number of Cases of Piracy

Year	2004	2005	2006	2007	2008	2009
Worldwide	329	276	239	263	293	406
Southeast Asia	158	102	83	70	54	45
Straits of Malacca and Singapore	46	19	16	10	8	11
Somalia and the Gulf of Aden	10	45	20	44	111	211

(Sources: IMB reports)

Straits of Malacca and Singapore

The safe transit of ships through the Straits of Malacca and Singapore has more influence on Japanese society than through other world-famous straits. For example, about 86% of the oil imported into Japan is transported by ships sailing through the Straits of Malacca and Singapore. Therefore, these areas are called the Japanese lifeline. According to a survey by the Ministry of Land, Infrastructure and Transport and The Nippon Foundation in 2004, 93,755 ships sailed through the Straits of Malacca and Singapore in one year. Of these, 14,198 were substantially controlled by Japanese shipping companies, the largest number for one country in the world. Japan is typical of countries that benefit from shipping through the Straits of Malacca and Singapore.

The oil spill from the Japanese tanker Showa-maru in the Straits of Malacca and Singapore in 1975 raised the problem of their safety, and the International Maritime Organization (IMO) established the "Navigation System in the Straits of Malacca and Singapore" in 1981 under which a Traffic Separation Scheme (TSS) was set up. In addition, the Mandatory Ship Reporting System came into effect in 1985 under which any ship navigating through the Straits of Malacca and Singapore must report to a Malaysian or Singaporean control station. However, two ships called Orapin Global and Evoikos collided causing 28,463 tons of C heavy oil to spill in 1997. This required safety measures to be enhanced, and consequently TSS was expanded by 500 km westward off Singapore in 1998.

Beacons are necessary to maintain TSS. There are now 51 beacons such as lighthouses, light beacons and light buoys in the Straits of Malacca and Singapore, and they are managed by the coastal states. While the coastal states bear the expenses for the beacons in principle, Japan has shouldered the expenses for establishing 30 out of these 51.

If ships cannot navigate through the Straits of Malacca and Singapore because a vessel has had an accident, they will use either the Sunda Strait between Java and Sumatra (Indonesia) or the Lombok Strait east of Bali (Indonesia) as an alternative route. Navigation control systems, however, have not yet been established in these two straits, and ships have to sail much further when using these two straits than when using the Straits of Malacca and Singapore, which inevitably increases costs.

In the case of a big tanker in the 200,000-ton class, it takes an additional three days to sail via the Lombok Strait. So the importance of the Straits of Malacca and Singapore is obvious from the viewpoints of both safety and economy. Furthermore, neither the Sunda Strait nor the Lombok Strait of Indonesia, which are considered alternate routes when the Straits of Malacca and Singapore are closed, is sufficient in terms of route-maintenance and navigation control: no safe alternative route has been completed.

Number of Ships and Countries That Substantially Own Them in 2004

	Country	No. of ships	%
1	Japan	14,198	15.1
2	Singapore	12,323	13.1
3	Germany	9,199	9.8
4	Greece	7,761	8.3
5	China including Hong Kong	7,593	8.1
6	Indonesia	5,448	5.8
7	Taiwan	3,866	4.1
8	Malaysia	3,555	3.8
9	South Korea	2,945	3.1
10	Thailand	2,940	3.1

(Sources: Japan Association of Marine Safety)

Victims of Piracy in the Straits of Malacca and Singapore

Ships are paying attention to the Somali pirates these days, but the Straits of Malacca and Singapore were called the straits of pirates around 2000.

The year 2000 was a record year with 469 cases of piracy in the world since IMB started publishing statistics on piracy. In those days, international syndicates practicing piracy were active behind the scenes, seajack-type piracy in which ships with their cargo are taken by force was at its peak and there were many cases of piracy from the Straits of Malacca and Singapore to the South China Sea in particular.

In September 1998, the ship Tenyu with its cargo of aluminum ingots, owned by a Japanese shipping company, disappeared in the Strait of Malacca. She was found in Chengjia Harbor at the

middle reaches of the Changjiang River of China in December of the same year, but her name had been changed and her cargo, aluminum, had also been replaced with palm oil. Her crew members are still missing.

In 1999, the ship *Alundra Rainbow* which was also carrying 7,000 tons of aluminum ingot, disappeared in the same strait. The Japanese captain and chief engineer, and 15 Philippine sailors were put in a life raft and left in the Strait of Malacca. They were rescued by a Thai fishing boat and had a narrow escape from death after drifting for 11 days. *Alundra Rainbow* herself was found by the Indian Coast Guard later, and a group of Indonesian pirates were arrested after they were shot at. Part of the cargo was sold to the Philippines.

With this incident, an international system to combat piracy in Asian waters was established, led by the Japan Coast Guard. An international conference on how to combat piracy was held in 2000 in Tokyo, which led to the beefing up of patrols along coasts in accordance with the agreement among maritime security agencies of Asian countries at the conference, and the number of cases of piracy fell for a while. These patrols, however, got into a rut, and the number of cases of piracy increased again to 445 in 2003. Asian countries had a sense of crisis again, facing increasing cases of piracy, and strengthened their patrols and promoted international cooperation, including sharing information, with Japan playing a key role. This pushed down the number of cases of piracy to 325 in 2004, 276 in 2005 and 239 in 2006. One reason for the drastic decline in 2005 was that the tsunami caused by the earthquake off Sumatra damaged pirates' bases in the sea off Indonesia, which kept them from practicing piracy.

While the number of cases of piracy was on the decrease, piracy was becoming more brutal. For example, *Idaten*, a Japanese ocean-going tug boat, was attacked by pirates in the Strait of Malacca in 2005. The captain and chief engineer were kidnapped, and a ransom was demanded; the pirates were carrying assault rifles and an anti-tank rocket launcher.

Though the number of cases of piracy in the Straits of Malacca and Singapore was declining as the Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia entered into force and coastal states strengthened their patrols, there are concerns that the worldwide economic downturn may cause cases of piracy to increase again. We should be fully cautious, and remember the many cases of piracy that occurred after the Asian currencies crisis in the 1990s.

Other Areas of Sea Where Piracy Often Takes Place

Piracy off the coast of Nigeria in Africa is as brutal and well-organized as that off the coast of Somalia.

Though it has not been reported in Japan as no ship associated with Japan has been attacked, the most dangerous type of piracy, including robbery at sea, kidnapping and shooting, is committed off Nigeria. Pirates attack ships and take money and goods by force from time to time in the Gerasa Strait of Indonesia and near the Anambas Islands in the South China Sea. In Peru and Brazil in South America and in Bangladesh in South Asia, many sneak thief-type pirates creep onto mooring ships and commit theft.

Threat of Terrorism at Sea

It is difficult to tell terrorism at sea from piracy. Since 2001, typical groups of pirates in the Strait of Malacca combined with anti-government organizations and groups of terrorists, thereby integrating piracy and terrorism at sea into a new type of marine crime. In June 2001, a spokesman for the Free Aceh Movement, an Indonesian anti-government organization, declared that ships sailing through the Strait of Malacca should obtain permission from the Free Aceh Movement, which attacked small tankers. Thus the number of cases of piracy by anti-government organizations increased in the Strait of Malacca from 2001 to 2004. Pirates cooperating with anti-government organizations are armed with machine guns and rifles, they attack small tankers, tug boats and fishing boats, and they abduct sailors and demand ransoms. The appearance of such pirates has called for countermeasures that span borders.

On October 6, 2002, Islamic terrorists charged a small boat at a big French tanker called Limbourg (158,000 gross tons), and blew up their own boat off Yemen in the Gulf of Aden. Since many countries have only poor capacities for patrolling their coasts in Asia and Africa in particular, terrorists' intrusion from the sea and acts of terrorism along coasts are feared. It was found that offenders involved in the terrorist explosions in Mumbai in India in November 2008 entered via the sea. It was also found that North Korean agents entered Japan from the sea and committed unlawful acts including abductions. Singapore has been strengthening its sea patrols as it is worried that terrorists may destroy oil refinery plants in the port. It is alerting ships carrying dangerous substances such as LNG tankers. Though the coastal zones of Asian countries have taken few measures against terrorism at sea so far, more and more Asian ports are going on the alert in the same way as Singapore.

Training for patrolling at sea and for catching ships carrying weapons of mass destruction are carried out in order to prevent acts of terrorism at sea: this is the joint training for Proliferation Security Initiative (PSI) that was started in 2003 at the U.S.'s proposal. PSI is a framework for cooperation among countries around the world to prevent the proliferation of weapons of mass destruction and missiles, and products related thereto from states sponsoring terrorism. More than 60

countries have joined this framework, with 15 countries including Japan, the U.S., the UK and Russia being core members. In August 2005, joint training was held off Singapore in which vessels of the Japan Coast Guard and the Japan Maritime Self Defense Force participated.

While the United Nations Convention on Law of the Sea has international provisions on piracy, the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (“SUA Convention”) has provisions on how to deal with terrorism at sea and piracy.

The SUA Convention was adopted in 1988 following the incident of the Achille Lauro, an Italian cruise ship that was hijacked by Palestine guerillas in the Mediterranean Sea in 1985. Japan acceded to this convention in 1998. In this case, the offenders demanded the release of their comrades and one U.S. passenger was killed. Thereafter the SUA Convention was adopted, led by the United States. It stipulates that countries other than coastal states may also control serious crimes such as piracy and acts of terrorism at sea that involve the territorial waters of two countries or more. There are, however, only a small number of countries that have ratified the SUA Convention as many consider it to violate their jurisdiction.

Areas off Yemen, along the coast of Sri Lanka, off the southern Philippines and along the coast of Bali are considered to be at danger from terrorism at sea in Asia.

There are marine areas other than the Straits of Malacca and Singapore and off Somalia where caution is needed. One is along the coast of Sri Lanka, where acts of terrorism at sea were committed by Liberation Tiger of Tamil Eelam, an anti-government organization of Sri Lanka. In 2007, a speedboat carrying a bomb rushed into the port in Colombo, the capital of Sri Lanka. This organization is also known to practice piracy. Similarly, Abu Sayyaf is an anti-government organization that commits acts of terrorism at sea and piracy in the south of the Philippines. Acts of terrorism at sea and attacks on ships are also likely by Islamic extremists in the south of Thailand and in the sea near Bali, Indonesia.

Countries around the world are calling for strengthened patrols at sea, led by the IMO, but the seas of the world are too wide to take care of in reality. Somali piracy has made us realize the limits of patrolling the sea. We need to strengthen new systems for patrols at sea, including ships’ self-defense measures from now on. Japan also needs to consider establishing cooperative systems between the Japan Maritime Self Defense Force and the Japan Coast Guard, overcoming their sectionalism, including legal systems.

Chapter 5

Japan's Role in Strengthening Maritime Security in Southeast Asia

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Piracy in Southeast Asia, the onetime scourge of the region, may in time be remembered as an example of regional cooperation on an issue of broad regional importance. The IMB reported zero attacks in Straits of Malacca in the first quarter of 2010.¹ Piracy in Southeast Asia is a complicated challenge because it pits the interests of the user states of regional Sea Lanes of Communication (SLOCs) – such as Japan, China and the United States – against the interests of the coastal states composed of the Philippines, Malaysia, Indonesia and Singapore. Further complicating the matter is that neither user states nor coastal states are united in their preferred approach to combating maritime piracy. Nevertheless, there is no doubt that the regional response to the peak of piracy in the first half of the decade is in some way responsible for the decline in the frequency, severity and cost of pirate attacks in Southeast Asia. This paper explores Japan's efforts in this regional response.

The importance of Southeast Asian sea lanes to Japan's national security cannot be overstated. As a resource poor island nation Japan relies on secure seas to provide for the wellbeing of its citizens. Japan imports 99% of its oil, 80% of which travels through the Malacca Straits. Likewise, Japan imports most of its food; 60% of its caloric intake. Also, as a trading state, 99% of Japan's trade by value travels by sea. Therefore policing its maritime approaches and its SLOCs is the cornerstone of the military dimension of Japan's "comprehensive national security."² It is thus unsurprising that Japan led the response of user states to the rise in the incidence of piracy in the Malacca Straits. This paper examines the impetus for Japan's efforts

¹ ICC International Maritime Bureau, *Piracy and Armed Robbery against Ships: Report for the Period 1 January - 31 March 2010*, April 2010, p. 5.

² Tsuneo Akaha, "Japan's Comprehensive Security Policy," *Asian Survey* 31, no. 4 (1991), p. 328.

to improve the security of Southeast Asian waters, with specific reference to the Straits of Singapore and Malacca, and assesses how these initiatives have been received by coastal states. The paper argues that the bulk of Japan's efforts have been aimed at treating the symptoms of maritime piracy (broadly defined) rather than the root causes. By contrasting Japan's efforts with its efforts to combat piracy off the coast of Africa, the paper argues that Japan could do more to build state capacity and foster development in Southeast Asia, which could reduce the incidents of piracy. The paper concludes with policy recommendations in this vein.

Japan's interests in sea lane security

While sea lane security is no doubt vital to the perpetuation of the Japanese state, after the end of the Cold War and the dissolution of the primary state-based threat to Japan's sea lanes, SLOC security retained its policy relevance for two reasons. First, as an island state, Japan's navy had developed the status of *primus inter pares* among the three branches of the Self-Defence Forces (SDF). The demise of the primary *raison d'être* for an expanded role for the SDF presented a challenge to the Japanese security establishment.³ The continued salience of SLOC security after the Cold War ensured continued funding for this institution, particularly the navy. Secondly, the end of the Cold War brought renewed pressure from Washington for Japan to take on a greater share of the burden for its own defence. External developments in the late 1990s including the emergence of China as a regional power and a perceived vulnerability to pirate attacks further reinforced the salience of SLOC security to Japanese society. This continues to underwrite Japan's commitment to Southeast Asian sea lane security.

During the Cold War the reliance of the Japanese economy on secure sea lanes combined with the limits imposed on Japan's military by its Constitution created an engrained sense of insecurity on the part of Japanese military officials. US pressure on Japan to take on a greater share of the defence burden and the expectation in Washington that allies would defend their own convoys if necessary highlighted critical deficiencies in Japan's naval force structure.⁴ This was compounded by concerns that attacks on Japanese shipping were deemed to be the most likely form of Soviet aggression.⁵ As a consequence the protection of vital sea

³ Hisahiko Okazaki, "Japanese Security Policy: Time for a Strategy," *International Security* 7, no. 2 (1982), pp. 188-197.

⁴ James E. Auer, *The Postwar Rearmament of Japanese Maritime Forces, 1945-71* (New York: Praeger, 1973), p. 150.

⁵ Hideo Sekino, "Japan and Her Maritime Defense," *US Naval Institute Proceedings* 97, no. 819 (1971),

lanes became a priority mission for the Maritime-Self-Defense Force (MSDF) by the late 1970s.⁶ According to Mihara Asao, then Director-General of the Japanese Defense Agency (JDA), Japan was prepared to defend its sea lanes as far as 1000nm offshore as early as 1977.⁷ In a departure from convention, this objective was later alluded to in public by Prime Ministers Suzuki and Nakasone. It was outlined more explicitly in the 1983 defence white paper with the expectation that sea lane security beyond 1000nm was the responsibility of the United States.⁸ While, the end of the Cold War removed the threat of Soviet interference to Japan's sea life lines, SLOC security retained its policy relevance in Tokyo for four reasons.

The first reason SLOC security remained relevant was structural. No one knew what to make of the post Cold War security environment. Following the 1991 Gulf War, Japanese strategists set about contemplating what the future would hold in an era of unipolarity and strategic uncertainty. The prevailing academic wisdom was that East Asia would become a dramatically less stable environment as old animosities, long buried under shared Cold War prerogatives, resurfaced.⁹ Low level conflict was expected over disputed land and maritime boundaries, and the region's marked growth in military spending was also a cause for concern.¹⁰ The 1993 Korean crisis and the possibility of Japanese participation in a blockade of the peninsula further reinforced these threat perceptions. In 1994, the Higuchi report argued that cooperation would be the defining characteristic of the post Cold War world, but that several security challenges would endure that necessitated continued military spending. Importantly, the report identified the continued interference with maritime shipping as a potential threat to Japan noting that sea lane security was "a matter of life and death to Japan".¹¹ In this context, the emergence of maritime piracy in East Asia reinforced the perception in Japan that its SLOCs were vulnerable. Southeast Asia emerged as the most piracy

p. 119.

⁶ Japanese Defense Agency, "Defense of Japan," (Tokyo: Japanese Defense Agency, 1977), pp. 12-29.

⁷ Peter J. Woolley, *Japan's Navy: Politics and Paradox 1971-2000* (Boulder, Co: Lynne Rienner Publishers, 2000), p. 29

⁸ Japanese Defense Agency, "Defense of Japan 1983," (Japanese Defense Agency, 1983), p. 76.

⁹ Aaron L. Friedberg, "Ripe for Rivalry: Prospects for Peace in a Multipolar Asia," *International Security* 18, no. 3 (1993/94), pp. 5-33.

¹⁰ Richard K. Betts, "Wealth, Power, and Instability: East Asia and the United States after the Cold War," *International Security* 18, no. 3 (1993/94), pp. 34-77.

¹¹ Higuchi report quoted in Euan Graham, *Japan's Sea Lane Security 1940-2004: A Matter of Life and Death?* (London: Routledge, 2006), p. 177.

prone region in the world witnessing 501 attacks in 1991, predominantly in the Malacca and Singapore Straits.¹²

The second reason was institutional. The MSDF had undergone a dramatic modernization in an effort to meet the objective of defending shipping as far as 1000nm off its shores. As a result, the importance of sea lane defence as a justification for improved naval capabilities ensured that sea lane threats remained a prominent theme in Japanese defence circles. Indeed, Japanese defence publications did not abandon the possibility of Russian interference with Japanese shipping until the mid-1990s despite the atrophy of the Russian Far East fleet after the Cold War.¹³ The Higuchi report is credited with maintaining the bulk of the MSDF force structure intact despite pressure to downsize. In the context of debates over what Japan's post-Cold War security policy should look like, there were several sectors of Japan that pushed for a more active Japanese defence posture, either as a peacekeeping nation or as a 'normal' military power.¹⁴ In either case, these constituencies, as well as the MSDF and Coast Guard, stood to benefit from the perpetuation of the SLOC defence mission. According to one author, these institutions helped ensure that post Cold War issues such as piracy, were interpreted through a security lens for popular consumption.¹⁵

The third reason was that Japan was increasingly viewed as a victim of piracy. As attacks became more frequent during the 1990s, the threat of piracy was perceived as one that disproportionately affected Japanese shipping interests, and more importantly Japanese people. The hijacking of the *Alondra Rainbow* was a watershed event for Japanese threat perceptions.¹⁶ The ship was hijacked in October 1999 and the Japanese captain and chief engineer were among the 17 member crew that was cast over board and left to drift. The vessel was later found in waters off India under a Belize flag and different name.¹⁷ Attacks like this, and the

¹² Peter Chalk, *Grey-Area Phenomena in Southeast Asia: Piracy, Drug Trafficking and Political Terrorism*, Canberra Papers on Strategy and Defence No. 123 (Canberra: Strategic and Defence Studies Centre, Australian National University, 1997), p. 28.

¹³ Graham, *Japan's Sea Lane Security 1940-2004*, p. 175.

¹⁴ These views are surveyed in Mike M. Mochizuki, "Japan's Search for Strategy," *International Security* 8, no. 3 (1983-84), pp. 152-179; Richard J. Samuels, "Securing Japan: The Current Discourse," *Journal of Japanese Studies* 33, no. 1 (2007), pp. 125-152.

¹⁵ John F. Bradford, "Japanese Anti-Piracy Initiatives in Southeast Asia: Policy Formulation and the Coastal State Responses," *Contemporary Southeast Asia* 26, no. 3 (2004), p. 287.

¹⁶ Takashi Ichioka, "Traffic Pattern, Safety and Security in the Straits of Malacca," in *Asian Energy Security: The Maritime Dimension*, ed. Hongyi Harry Lai (Houndmills: Palgrave Macmillan, 2009), p. 173.

¹⁷ This description draws on Graham, *Japan's Sea Lane Security 1940-2004*, p. 187; Bradford,

resultant media attention, raised the profile of piracy issues in Japan.

A final impetus for Japan's preoccupation with SLOC security was the emergence of China, particularly the mounting and direct threat posed by China's growing military and naval ambitions. Incidents of suspected Chinese state-sponsored piracy attacks in the East China Sea in the early 1990s eventually gave way to more concrete concerns as Chinese strategists began to overtly claim the right to project power beyond the Japanese islands into the Pacific Ocean. One side effect of China's ambitions to control the 'first island chain' is that this includes the bulk of the sea lanes used by Japan. This concern was first articulated in the mid-1990s, but is now repeated in defence publications as an issue of concern for Japan.¹⁸ Secondly, according to a prominent Japanese think tank, Japan's activism on sea lane security, particularly its overtures to ASEAN states, were part of its desire to be perceived as a leader in the region.¹⁹ The latter part of the 1990s and early part of the 21st century were characterised by a highly competitive process of regionalisation between China and Japan. As a by-product, Japan's quest for regional leadership at the expense of China dovetailed with its interest in SLOC insecurity.

Japan's Efforts to Combat Maritime Piracy

As product of these pressures, Japan embarked on a concerted effort to combat piracy in Southeast Asia, with a focus on the Malacca and Singapore Straits. As a product of the media attention from the Alondra Rainbow incident, its efforts were initially ambitious, state-centric and heavy handed. These were tempered by the reluctance of the coastal states to admit that there even was a piracy problem in Southeast Asian waters, much less that this problem required a solution imposed from the outside.

Prior to 1999 the bulk of Japanese anti-piracy efforts focused on Track Two initiatives to raise awareness and as well as private sector assistance to improve navigational safety. Following the Alondra Rainbow affair, Prime Minister Obuchi Keizo proposed that Japan Coast Guard (JCG) vessels patrol the Straits in partnership with patrols by the coastal states. In

"Japanese Anti-Piracy Initiatives in Southeast Asia," p. 486.

¹⁸ Shigeo Hiramatsu, "China's Naval Advance: Objectives and Capabilities," *Japan Review of International Affairs* 8, no. 2 (1994), pp. 118-132; Japanese Defense Agency, "Defense of Japan 2006," (Japanese Defense Agency, 2006), pp. 48-49.

¹⁹ National Institute for Defense Studies, "Southeast Asia - toward a New Unity," in *East Asian Strategic Review 2003* (Tokyo: National Institute for Defense Studies, 2003), p. 213.

time a regional coast guard force would be formed. The idea was reportedly well received and was the subject of two subsequent conferences. However, the concept collapsed as coastal states remained reluctant to accept foreign interference in their territorial waters. Perhaps as a symptom of regional power jockeying, Beijing also resisted the idea. A Chinese delegate at one conference wondered why joint patrols of the Straits were necessary at all.²⁰ Japan subsequently opted for a less direct path, using the "Tokyo Appeal" that resulted from the conference as a pretext for greater bilateral and multilateral collaboration with coastal states on issues such as information sharing, capacity building and technical assistance. While piracy remained hostage to Chinese opposition at ASEAN related meetings, Japan concluded bilateral agreements on anti-piracy training exercises with a host of regional states. The JCG was the lead organization and has held training exercises with two or more Southeast Asian states, as well as with India every year since 2000.²¹ Japan hosts officers from regional navies and coast guards at its coast guard academy and training school.

Building on these bilateral moves, in January 2002 Prime Minister Koizumi Junichiro proposed an ambitious multilateral plan to address regional maritime security. Japanese academics had previously proposed variations of multilateral initiatives under the auspices of the Ocean Peace-Keeping (OPK) concept tabled by the National Institute of Defense Studies in 1996. The concept called for joint JCG patrols with coastal state forces, which was particularly ambitious in light of the restrictive interpretation of Japan's Constitution at the time. Koizumi's proposal, accentuated by the perceived link between terrorism and piracy, called for a further strengthening of cooperation between the JCG and regional enforcement bodies. The Regional Cooperation Agreement on Combating Piracy and Armed Robbery Against Ships in Asia (ReCAAP) was signed between the ASEAN + 3 states as well as Bangladesh, India and Sri Lanka. ReCAAP called for the establishment of an information sharing centre (ISC), which was (eventually) set up in Singapore in 2004.²² The ISC is tasked with the collection, analysis and dissemination of reports of incidents of piracy in the region. ReCAAP is a truly multilateral initiative having been the subject of two resolutions in the UN General Assembly as well as two meetings of the International Maritime Organization's (IMO) Maritime Safety Committee.

Japanese initiatives have been received with mixed feelings by coastal states.

²⁰ Bradford, "Japanese Anti-Piracy Initiatives in Southeast Asia," pp. 489-491.

²¹ See Ibid., p. 492

²² John F. Bradford, "The Growing Prospects for Maritime Security Cooperation in Southeast Asia," *Naval War College Review* 58, no. 3 (2005), p. 69.

Singapore has by far been the most receptive, while Malaysia and Indonesia have been more cautious.²³ Neither of the latter states has ratified ReCAAP for instance. According to one scholar this is because neither party trusts Singapore to the extent that they are willing to share information and because Indonesia believed that it was entitled to host the ISC given its status in the region.²⁴ As a product of this mistrust coastal states have been far more receptive to bilateral aid designed to improve navigational safety and build capacity. Central among the concerns for coastal states is the perception of external interference into what is effectively a domestic issue. As will be illustrated below, piracy is a product of weaknesses in governance in these states compounded by uneven economic development. Furthermore, from an enforcement standpoint, the Straits pass through the territorial waters of the three coastal states and no party was willing to accept the presence of foreign authorities within their sovereign waters. Indeed, according to one scholar it was not until the US Pacific Command proposed its own Regional Maritime Security Initiative (RMSI), which the coastal states perceived as cover for US patrols of their waters, that the three began the joint policing operations that would become the Malacca Strait Patrols.²⁵

Another concern for all coastal states is the risk of being caught up in the growing geopolitical manoeuvring between China and Japan. While China was initially hostile to Japan's maritime security initiatives, it has recently become more attuned to its 'Malacca Dilemma'; 80% of China's oil imports travel through the Strait as do a significant portion of the exports that drive its growth. China's concerns over the security of the Malacca Straits have a much more statist dimension given its concerns about an American blockade of its sea lanes and delimitation disputes with its neighbours. According to one analyst "it is difficult to separate, from a strategic standpoint, Chinese concerns over Malaccan security from the ongoing legal status of two nearby maritime regions, the South China Sea and the East China Sea."²⁶ Consequently, all three coastal states are wary of the geopolitical consequences of regional power games.²⁷ These concerns exacerbate the inherent conflict of interest between

²³ Bradford, "Japanese Anti-Piracy Initiatives in Southeast Asia," pp. 481-482.

²⁴ Ian James Storey, "Securing Southeast Asia's Sea Lanes: A Work in Progress," *Asia Policy* 6 (2008), p. 115.

²⁵ Joshua Ho, "The Security of Sea Lanes in Southeast Asia," *Asian Survey* 46, no. 4 (2006), p. 571.

²⁶ Marc Lanteigne, "China's Maritime Security and The 'Malacca Dilemma'," *Asian Security* 4, no. 2 (2008), p. 154.

²⁷ Storey, "Securing Southeast Asia's Sea Lanes," pp. 124-125.

coastal states and user states.²⁸

Despite these fits and starts, there is evidence that piracy in the Malacca and Singapore Straits is on the wane. Furthermore, it appears that Japanese initiatives like ReCAAP bear some of the responsibility for this. In light of the resistance from coastal states on direct Japanese involvement in patrols, the bulk of governmental assistance from Japan has been in the areas of capacity building. ReCAAP for instance is designed to raise awareness of piracy threats. Likewise, through its considerable ODA outlays to Southeast Asian countries, Japan has sought to build capacity in other areas. Funded by grant aid under the Program for Cooperation on Counter-Terrorism and Security Enhancement, Japan gave 1,921 million yen for three patrol vessels to Indonesia in June 2006; 609 million yen to upgrade maritime security communication systems in the Philippines; and 476 million yen to Malaysia to enhance maritime security in Malaysia in January 2008.²⁹ This was followed with 5,573 million yen to upgrade the Vessel Traffic System to collect data on traffic patterns in the Malacca Straits.³⁰ In 2007 Japan trained 2,000 Philippine coast guard officials in various aspects of maritime security operations, which included combined exercises with the JCG.³¹

It is clear that Japan's capacity building efforts have contributed to the reduction in the number of piracy attacks in the Malacca and Singapore Straits. According to one scholar, the reduction in incidents of piracy in Southeast Asian waters has been the product of regional initiatives like ReCAAP and the Malacca Strait Patrols, as well as the 2004 Boxing Day tsunami that devastated much of Southeast Asia's coastlines, including known pirate havens in places like Aceh.³² That a natural disaster could have such a profound effect on the incidence of piracy is a reminder that the roots of piracy are on land, not sea. Indeed, others have pointed out that the effect of the MSPs has been to drive pirates into other waters in Southeast Asia; hence the rise in attacks in the South China Sea.³³ Combined these trends indicate a further

²⁸ Nazery Khalid, "With a Little Help from My Friends: Maritime Capacity-Building Measures in the Straits of Malacca," *Contemporary Southeast Asia* 31, no. 3 (2009), pp. 425-426.

²⁹ Ministry of Foreign Affairs, *Japan's International Counter-Terrorism Cooperation* (Tokyo 2008), p. 7.

³⁰ Khalid, "With a Little Help from My Friends," p. 432.

³¹ Ministry of Foreign Affairs, *Japan's ODA White Paper 2008: Japan's International Cooperation* (Tokyo 2008), p. 92.

³² Catherine Zara Raymond, "Piracy and Armed Robbery in the Malacca Strait: A Problem Solved?," *Naval War College Review* 62, no. 3 (2009), pp. 31-42.

³³ Vijay Joshi, "Ship Attacks in South China Sea Hit Five-Year High," *Associated Press*, September 22 2009.

area where Japan could pursue a broader antipiracy role.

What More Can Japan Do?

It is widely accepted that the next step in the fight against piracy is to shift from addressing the symptoms of piracy – attacks on vessels – to addressing the roots of piracy. Piracy is a consequence of the nexus of several factors including a populace that is disenfranchised and marginalized from the mainstream state identity, experiences a high degree of socio-economic imbalance, lives proximate to a busy international waterway and is of a seafaring nature.³⁴ Furthermore, the state is often incapable of addressing these issues because of weaknesses in governance, endemic corruption, and financial constraints. Indonesia is particularly striking in this regard. According to published fieldwork from the Riau Islands, the lack of opportunity in the fishing industry compounded by failed industrialization projects has created a core of young under-employed men with knowledge of the sea and easy access to passing ships. Local officials are either poorly equipped to combat pirates or are complicit in their activities. In particular the author relates a sense of frustration that the benefits of the ‘Asian Miracle’ have passed the region by, which reveals a sense of marginalization.³⁵ Addressing the root of the piracy problem therefore “will have the greatest ultimate value in terms for improving capacity and countering piracy.”³⁶

With this in mind, this paper proposes that Japan directly target ODA funding to reduce poverty, improve governance and address human security challenges in known pirate havens. Such an effort would not run into coastal state resistance on the grounds of national sovereignty; these states are among the leading recipients of Japanese ODA. In addition to addressing the root of the piracy problem, if applied to several pirate havens in Indonesia, the Philippines and Malaysia it could address the rise of pirate attacks elsewhere in Southeast Asia, away from the strength of enforcement measures. While the bulk of the capacity building measures noted above have come from ODA funding, it remains unclear what ODA funding, if

³⁴ Adam J. Young, *Contemporary Maritime Piracy in Southeast Asia: History, Causes and Remedies* (Singapore: Institute of Southeast Asian Studies, 2007), chapter 3; Eric Frécon, *The Resurgence of Sea Piracy in South-East Asia* (Calcutta: Sampark, 2006), chapter 2.

³⁵ Eric Frécon, "Piracy and Armed Robbery at Sea Along the Malacca Straits: Impressions from Fieldwork in the Riau Islands," in *Piracy, Maritime Terrorism and Securing the Malacca Straits*, ed. Graham Gerard Ong-Webb (Singapore: Institute of Southeast Asian Studies, 2006), pp. 68-83.

³⁶ John F. Bradford, "Shifting the Tides against Piracy in Southeast Asian Waters," *Asian Survey* 48, no. 3 (2008), p. 488.

any, has been targeted at poverty reduction in known pirate havens. These include coastal communities in Sumatra, the southern Philippines and the Riau Islands.

Addressing the roots of piracy is broadly consistent with the aims of Japan's ODA charter. As one analyst has pointed out, piracy is ultimately a human security issue.³⁷ This dovetails with the human security focus of Japan's ODA charter. While ODA has traditionally been understood as a mechanism for the pursuit of Japanese commercial or geo-economic interests, recent research indicates that MOFA has adopted a more humanitarian approach to the dispersal of grant aid in particular with aim of reducing the economic disparities within ASEAN states.³⁸ However, while in a general sense it is clear that Japan's ODA to the Philippines, Indonesia and Malaysia is aimed at national poverty reduction, it is unclear whether these programs are targeted at areas that would affect the piracy "labour pool".³⁹ There is certainly recognition in Japan that sociological and economic issues lie at the heart of maritime piracy. According to one official, "factors such as poverty and high unemployment rate...lie in the background of maritime armed robberies in Asia."⁴⁰ According to one expert ODA is the primary vehicle through which these problems are addressed.⁴¹ For instance, in November 2000, at the ASEAN +3 meeting, Prime Minister Mori Yoshiro proposed a program that would target poverty reduction along the Malacca Straits.⁴²

However, it remains unclear what became of this program. Japan's 2009 white paper on ODA notes that Japan's efforts to counter piracy are aimed at "strengthening maritime policing capacity of coastal states, stabilizing the situation in Somalia, enhancing information sharing, and developing human assistance."⁴³ These are broadly consistent with Japan's

³⁷ Graham Gerard Ong-Webb, "Conclusion: Building Upon the Research Agenda," in *Piracy, Maritime Terrorism and Securing the Malacca Straits*, ed. Graham Gerard Ong-Webb (Singapore: Institute of Southeast Asian Studies, 2009), p. 247.

³⁸ Dennis D. Trinidad, "Japan's ODA at the Crossroads: Disbursement Patterns of Japan's Development Assistance to Southeast Asia," *Asian Perspective* 31, no. 2 (2007), pp. 95-125.

³⁹ This term is from Young, *Contemporary Maritime Piracy in Southeast Asia*, p. 57.

⁴⁰ Ministry of Foreign Affairs, "Opening Speech by Mr. Tetsuma Esaki, Senior State Secretary for Foreign Affairs Regional Conference on Combating Piracy and Armed Robbery against Ships," <http://www.mofa.go.jp/policy/piracy/speech0004.html>. Accessed April 27 2010.

⁴¹ Christopher W. Hughes, *Japan's Security Agenda: Military, Economic and Environmental Dimensions* (Boulder, Co.: Lynne Rienner Publishers, 2004), p. 224.

⁴² Frécon, *The Resurgence of Sea Piracy in South-East Asia*, p. 62.

⁴³ Ministry of Foreign Affairs, *Japan's ODA White Paper 2009: Japan's International Cooperation* (Tokyo 2009), p. 65.

capacity building efforts in Southeast Asian states noted above. Based on available data compiled from the Ministry of Foreign Affairs and the Embassy of Japan in Indonesia and in the Philippines, it is unclear whether root-cause efforts are a priority in Japan's ODA policy. ODA projects that build capacity to police maritime piracy, increase maritime awareness and improve communication in the Straits can be clearly identified.⁴⁴ Other efforts that could be interpreted as having an impact on the incidence of piracy are efforts to reform the Indonesian National Police and efforts to upgrade security at airports and seaports. Following from the Mori pledge in 2000, 7,669 million yen were allocated for the education of Indonesian seafarers, but this project was located in Central Java and South Sulawesi. Also, in 2003 5,567 million yen were earmarked for the installation of the Global Maritime Distress and Safety System and the Automatic Identification System: an important capacity building measure, but not one that is aimed at the root-cause of piracy.⁴⁵

It is thus unclear what percentage of Japan's considerable ODA budget in Indonesia is earmarked to address poverty reduction in pirate havens including the Riau islands and the coastal communities of Sumatra. For instance, the comprehensive website on ODA of the Embassy of Japan in Indonesia does not list any development aid projects targeted for the Riau islands, South Sumatra, Jambi, or the province of Riau itself that appear to alleviate poverty or address unemployment. The bulk of the projects are infrastructure projects, or technical cooperation. In North Sumatra, the Human Resource Development for Local Governance appears to be aimed at reinforcing governance structures and addressing corruption. Likewise, the comprehensive list of projects targeted at Aceh clearly indicates an effort to build state capacity, alleviate poverty and provide training.⁴⁶ This is unsurprising in light of the ongoing peace process. One reason for this gap may be administrative. Projects labelled "Development Policy Loans", described as promoting macro-economic stability and supporting anti-corruption efforts are nation-wide, are co-financed by the World Bank and distributed by the Ministry of Finance in Jakarta. Therefore, they may not be identified on a provincial basis; this makes it difficult to ascertain whether these funds are being used in pirate havens. However, a survey of Japan's anti-piracy initiatives in the Gulf of Aden reveals plans for a more balanced approach to combating piracy.

⁴⁴ See Ministry of Foreign Affairs, "Japan's ODA Data by Country: East Asia," http://www.mofa.go.jp/policy/oda/data/01ap_ea01.html. Accessed April 16 2010.

⁴⁵ Embassy of Japan in Indonesia, "Official Development Assistance from Japan to Indonesia," <http://www.id.emb-japan.go.jp/oda/en/index.htm>. Accessed April 27 2010.

⁴⁶ Ibid.

Japan's posture towards piracy in the Gulf of Aden emphasizes both capacity building and root-cause efforts. Japan's efforts to combat piracy off the coast of Somalia began with the deployment of MSDF vessels and aircraft to escort the nearly 2,000 Japanese vessels that transit these waters per year. Following the implementation of the Anti-Piracy Measures Law in June 2009, MSDF vessels escorted ships of all flags. In addition to these enforcement mechanisms, Japan has also made a rhetorical commitment to ameliorating the root causes of poverty in the region. According to then Prime Minister Aso Taro, "Japan is...expending its utmost efforts in support for security and people's livelihoods as a means of remedying the underlying issues...This includes the restoration of security, job creation and improvement of the humanitarian situation."⁴⁷ In ODA terms, this has meant funding for capacity building and maritime security efforts in Yemen and Djibouti and humanitarian aid to Somalia.⁴⁸ Indeed, the \$67 million provided to the Somalia Transitional Federal Government was earmarked for security and 3.6 billion yen is to be divided between IMO related capacity building measures, such as the establishment of a piracy reporting centre in Kenya, and support for the African Union peacekeeping operation in Somalia.⁴⁹ Until 2006, Japanese grant aid to Somalia amounted to 360 million yen through the World Food Program.⁵⁰ Elsewhere, Tokyo views state building as part of the regional maritime security project. Japan's ODA plan for Yemen for instance includes basic and vocational educational programs, agriculture and clean water assistance as well as coast guard training.⁵¹ The author was unable to find explicit evidence of similar programs in known pirate havens in Southeast Asia.⁵²

⁴⁷ Prime Minister Aso Taro, "Japan's Diplomacy: Ensuring Security and Prosperity" (Japan Institute of International Affairs, June 30 2009).

⁴⁸ See Ministry of Foreign Affairs, "Japan's ODA: Rolling Plan for Djibouti," http://www.mofa.go.jp/policy/oda/rolling_plans/region/djibouti.pdf. Accessed April 14 2010.

⁴⁹ Maritime Security Policy Division, "Japan's Actions against Piracy Off the Coast of Somalia," ed. Ministry of Foreign Affairs (Tokyo 2009).

⁵⁰ Ministry of Foreign Affairs, "Japan's ODA Data by Country: Somalia," http://www.mofa.go.jp/policy/oda/data/05ap_af04.html#SOMALIA. Accessed April 22 2010.

⁵¹ Ministry of Foreign Affairs, "Japan's ODA Rolling Plan for Yemen," http://www.mofa.go.jp/policy/oda/rolling_plans/region/djibouti.pdf. Accessed April 14 2010.

⁵² This does not include the ODA funds for peace building initiatives in Mindanao and Aceh.

Conclusion

This paper has argued that Japan has done a great deal, more than other user states, to provide for the maritime security of Southeast Asia. The paper argued that the bulk of Japan's efforts have been aimed at treating the symptoms of piracy, particularly capacity building to improve the enforcement of coastal state jurisdiction. This indirect approach is a product of coastal states' concerns about violations of national sovereignty. Recent developments indicate that this approach, combined with resolve on the part of coastal states, has led to a reduction in the incidence of piracy in the Malacca and Singapore Straits. However, incidents of piracy are on the rise elsewhere along the SLOCs to Japan. The paper argued that one way to address this issue, without interfering in the sovereignty of coastal states, would be for Japan to address piracy at its source. By targeting ODA for poverty alleviation schemes in known pirate havens, such as the Riau islands, coastal Sumatra and the southern Philippines, Japan could further reduce the incentive structure that makes piracy appealing.⁵³

Whether such initiatives are feasible for Japan remains to be seen. If Japan's economic growth remains stunted, its ODA budgets will suffer. Furthermore, direct poverty alleviation in pirate havens will likely be a long-term project and may not survive internal audits for progress in the context of declining ODA funds. Finally, it may also be the case that such initiatives are simply not worth the money. Aside from the crippling effect of the 2004 tsunami, the dramatic progress made on combating piracy has been made on the enforcement side of the coin.⁵⁴ Indeed, Indonesia itself has made impressive progress in its efforts to combat piracy through increased patrols and intelligence gathering operations in coastal communities. While the cost of piracy is difficult to ascertain, it appears unlikely that it will become so prohibitive as to undermine global trade or present an existential threat to the Japanese economy. In an era of belt tightening, it may be that further efforts to address the root causes of piracy through poverty alleviation schemes and improved governance are simply not worth it. While such a perspective does fall into the trap of being complacent, particularly if economic conditions in coastal communities worsen as a result of the global recession, the alternative may simply be more than user states like Japan are willing to pay.

⁵³ Not all pirates may be bought off in this way, particularly "political pirates". See Stefan Eklöf Amirell, "Political Piracy and Maritime Terrorism: A Comparison between the Straits of Malacca and the Southern Philippines," in *Piracy, Maritime Terrorism and Securing the Malacca Straits*, ed. Graham Gerard Ong-Webb (Singapore: Institute of Southeast Asian Studies, 2006), pp. 52-67.

⁵⁴ Ian James Storey, "Calming the Waters in Maritime Southeast Asia," *Asia Pacific Bulletin*, no. 29 (2009).

Part III:

Counter Piracy and the Japan-U.S. Alliance

Chapter 6

Japan's Counter-Piracy Policy and the U.S.-Japan Partnership

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Piracy: Implications for the U.S.-Japan Alliance

Outbreak of piracy is a barometer of hegemonic power. History tells that piracy thrives when the power of a hegemon declines, and continues to flourish until addressed by firm measures. There were no pirates running wild in the Mediterranean during the Pax-Romana, but this Roman inland sea became a piracy hotspot after the fall of the Roman Empire.¹ The North African states, known as the Barbary States, became virtually independent from the declining Ottoman Empire, and Barbary corsairs captured American merchant ships and sailors in the Mediterranean that lost the protection of the Royal Navy after the American independence. The United States sent the newly-established Navy and Marines to defeat the Barbary pirates under the slogan “Millions for defense, but not one cent for tribute,” and secured the safety of American merchant ships.²

Almost 200 hundred years after the Barbary Wars, the threat of piracy has emerged as a destabilizing factor in the maritime domain again. Recent outbreak of piracy in Southeast Asia and then in the Horn of Africa indicates the relative decline of the U.S. sea power. The United States still maintains the strongest navy in the world, but it now has only 282 ships compared with 6,678 in 1945 and 570 in 1990.³ Given that maintaining one ship on station typically requires three ships—one on maintenance, one on training, and one on deployment—the U.S. Navy can never deploy more than 100 ships at sea at any given time, and these ships are spread all over the globe.⁴ Although the 2007 Cooperative Strategy for 21st

¹ See Nanami Shiono, *Roma Naki Atono Chichukai Sekai* [The Mediterranean world after the fall of the Roman Empire] (Tokyo: Shinchosha, 2008).

² See E. B. Potter, *Sea Power: A Naval History*, 2nd ed. (Annapolis: U.S. Naval Institute Press, 1981), Chapter 9.

³ Keiko Iizuka, “Japan-U.S. Sea Power Dialogue Special: Japan-U.S. Alliance Key to Maritime Peace,” *Daily Yomiuri*, May 27, 2009.

⁴ See James Kraska, “How the United States Lost the Naval War in 2015,” *Orbis* (Winter 2010), 39.

Century Seapower (CS21) aims to maintain credible combat forces in the Western Pacific and the Indian Ocean, these two regions are the world's primary piracy hotspots now.

Under the U.S.-Japan alliance, the United States provides extended deterrence and long-range sea-lane protection for Japan, while Japan provides bases for U.S. armed forces. This alliance structure is premised on U.S. hegemony in Asia. However, the United States is losing its dominance, although it is still an indispensable power. Japan cannot enjoy free and safe sea-lanes any longer under the alliance. Japan is one of the primary beneficiaries of the free trade system under U.S. leadership and needs to contribute to securing the sea-lanes, taking the leadership with the United States in the "1,000-ship" navy.

Japan's Counter-Piracy Efforts in the Straits of Malacca and Singapore

Southeast Asian waters are critically important for world's shipping. Japan has special interest in maintaining good order at sea in Southeast Asian waters, especially in the Straits of Malacca (and Singapore)—the shortest sea route between Gulf oil suppliers and the Asian markets such as Japan, China and South Korea with an estimated 15 million bbl/d flow in 2006.⁵ If the Straits were blocked, nearly half of the world's fleet would be required to reroute around the Indonesian archipelago through Lombok Strait, located between the islands of Bali and Lombok, or the Sunda Strait, located between Java and Sumatra.⁶ For example, it is estimated that the alternative route via Lombok will take three more days and about \$300,000.⁷ The waters in the Straits are territorial waters of either Indonesia or Malaysia, and they are designated as a strait for international navigation, although Indonesia and Malaysia still possess jurisdictions over the waters.

Piracy has been posing a constant threat to shipping through this sea area since the 1990s. Piracy attacks in the Straits of Malacca reached a peak in 2000 with about 80 attacks, and dropped after there were 37 in 2004.⁸ After the Japanese cargo ship, *Alondora Rainbow*, was hijacked by pirates in the Straits in October 1999, Japan took initiative to develop a multilateral framework to repress piracy in the region. Japan hosted a series of international antipiracy

⁵ Energy Information Administration, U.S. Department of Energy, "World Oil Transit Chokepoints," http://www.eia.doe.gov/cabs/World_Oil_Transit_Chokepoints/pdf.pdf, 3.

⁶ Ibid, 4.

⁷ The Institute for Ocean Policy, *Kaiyo Hakusho 2005* [white paper on ocean policy 2005] (Tokyo: Ship & Ocean Foundation, 2005), 99.

⁸ Ibid.

efforts inviting regional law enforcement agencies, maritime policy agencies, the International Maritime Organization (IMO), and ship-owners. Those efforts included Regional Conference on Combating Piracy and Armed Robbery against Ships (2000), Mission for Combating Piracy and Armed Robbery against Ships (2000), Asian Cooperation Conference on Combating Piracy and Armed Robbery against Ships (2001) and financially supported by the Nippon Foundation, a private philanthropic organization. A product of this multilateral approach was the ReCAAP (Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia), the first intergovernmental antipiracy agreement adopted by 16 regional countries, including Japan, ROK, China, India, and ASEAN member countries, in 2004. ReCAAP went into force in 2006 and an Information Sharing Center (ISC) was established in Singapore.⁹

At the same time, Japan contributed to capacity building of coastal states. For example, the Japan Coast Guard (JCG), in cooperation with the Japan International Cooperation Agency (JICA), provided assistance for the establishment of regional law enforcement entities, such as the Malaysia Maritime Enforcement Agency (MMEA) and the Indonesian BAKORKAMLA, a law enforcement coordination body.¹⁰ Japan provided three patrol boats to the Indonesian Marine Police in 2006.¹¹ The Nippon foundation also provided a training ship to MMEA in 2006.¹² The JCG took the lead in organizing the annual Head of Asian Coast Guard Agencies Meeting after 2004, inviting 18 Asian countries, including ASEAN member countries to enhance response capabilities for antipiracy and counter-terrorism.¹³

Lessons from the Straits of Malacca

The multi-layered regional approach, augmented by national measures, has led to a dramatic decline in the maritime piracy in the Straits of Malacca. According to the 2009 IMB annual report, there were 12 piracy incidents reported in the Straits of Malacca in 2005, 11 in 2006, 7 in 2007, and 2 in 2008 and 2009.

⁹ Ocean Policy Research Foundation, *Kaiyo Hakusho 2009* [Ocean White Paper 2009] (Tokyo: Ocean Policy Research Foundation, 2009), 70.

¹⁰ Ibid.

¹¹ Ministry of Foreign Affairs of Japan, "Grant Aid to Indonesia for the Project for Construction of Patrol Vessels for the Prevention of Piracy, Maritime Terrorism and Proliferation of Weapons," June 16, 2006, <http://www.mofa.go.jp/announce/announce/2006/6/0616-3.html>.

¹² James L. Huffman, "The Nippon Foundation donates Training Ship to Malaysia," The Nippon Foundation HP, June 1, 2006, http://www.nippon-foundation.or.jp/eng/news/2006/brief_dtl/2006753/20067531.html.

¹³ Japan Coast Guard, *Kaijo Hoan Repoto 2006* [Japan Coast Guard Annual Report 2006], <http://www.kaiho.mlit.go.jp/info/books/report2006/top.html>.

ReCAAP's unique and important role in the region deserves special mention. ReCAAP ISC has a status of international organization with local and overseas staff. Funding for the ISC comes from voluntary contributions from the contracting parties. Its operations are supervised by the Governing Council with one representative per contracting party. ReCAAP requires each member state to have a focal point, and each focal point acts as a point of information exchange with the ISC and coordinate surveillance and enforcement with neighboring focal points within its jurisdiction, while promoting interagency cooperation within each member state. ReCAAP ISC also conducts research and analysis and holds capacity-building seminars to share best practices with focal points and shipping industries.¹⁴ Norway joined ReCAAP as the 15th contracting and first non-Asian party in 2009.¹⁵ ReCAAP has its limitations, too. Malaysia and Indonesia, two original signatories, have not ratified the Agreement, despite the fact that many of armed robbery occur within Malaysian and Indonesian territorial waters. The effectiveness of ReCAAP is limited without their participation, although ISC is trying hard to establish working-level linkages with the two countries.¹⁶

The littoral states of Indonesia, Malaysia, and Singapore have all taken independent and coordinated steps to address piracy and armed robbery. All increased naval presence and patrol and maritime domain awareness. Indonesia and Malaysia introduced strings of radar along the Straits of Malacca and other waters, while Singapore established sophisticated surveillance and information network to monitor sea traffic. The three states also conducts the Malacca Strait Patrols (MSP) with Thailand after 2004. The MSP comprises of sea and air patrols under the Joint Coordinating Committee. The three littoral countries have also developed the Malacca Strait Patrol Information System, a data sharing system that allows users to share information about shipping to boost security in the Malacca Strait.¹⁷ It is believed that these initiatives by the littoral states are the fundamental factor that led to the decline in piracy and armed robbery in the Straits of Malacca.

Behind Japanese leadership in the regional approach is the fact Japan has developed sufficient soft power in the region. Since it was the only major user of the Straits after the 1960s, Japan took initiative to secure navigational safety and environmental protection in the Straits

¹⁴ Ibid.

¹⁵ *Fairplay* 24, August 31, 2009.

¹⁶ Joshua Ho, "Combating Piracy and Armed Robbery in Asia: Boosting ReCAAP's Role," *RSIS Commentaries*, June 23, 2008, 2-3.

¹⁷ Joshua Ho, "Piracy in the Gulf of Aden: Lessons from the Malacca Strait," *RSIS Commentaries*, January 22, 2009, 1-3.

after due consultation with the three coastal states of Malaysia, Indonesia and Singapore. The Nippon Foundation and other Japanese private organizations established the Malacca Strait Council in 1969, and this Council has conducted navigational safety and environmental protection projects—hydrographic survey, chart compiling, wreck removal, dredging, installation and replacement of aids to navigation, donation of buoy tenders, oil spill countermeasures, and so on—a total of JPY 16.1 billion (USD 150 million) contribution with the Nippon Foundation covering 3/4 of the cost.¹⁸ Japanese private sector also contributed JPY 400 million to set up a Revolving Fund in 1981 with the littoral states to combat oil spill in the Straits. It initiated the formation of the Oil Spill Preparedness and Response (OSPAR) Team as well.¹⁹ Japan also worked with the three littoral states to establish the Cooperative Mechanism, which facilitates dialogue and cooperation among coastal and user states and, more importantly, user industries.²⁰

On the other hand, the United States has not developed sufficient soft power in the region. The U.S. Pacific Command (PACOM) launched a Regional Maritime Security Initiative (RMSI) in 2004 as a cooperative approach to counter transnational threats such as terrorism and piracy by helping willing states to build their maritime capabilities. However, Indonesia and other regional countries regarded the deployment of U.S. naval forces under the RMSI concept as a challenge to their sovereignty.²¹ The U.S. tsunami relief effort in 2004 was well-received by the region, but the goodwill was offset by negative reactions to President Bush's reelection in 2004 and the continuation of the Iraq War.²² In addition, states continue to be reluctant to see foreign troops stationing on their soil even for disaster relief/humanitarian assistance.²³

Japan took a right approach to counter-piracy measures in the Straits of Malacca when the United States suffered from negative image of unilateralism. Respecting the sovereignty of coastal states, Japan has taken multilateral approaches in accordance with the law of the sea. For maritime security, Japan focused on information sharing and regional

¹⁸ *Kaiyo Hakusho* 2005, 100.

¹⁹ Nazery Khalid, "Burden Sharing, Security and Equity in the Straits of Malacca," *Japan Focus*, ID: 2277, <http://www.japanfocus.org/-Nazery-Khalid/2277>.

²⁰ Ocean Policy Research Foundation, *Kaiyo Hakusho* 2009 [Ocean White Paper 2009], 68.

²¹ Lena Kay, "Indonesian Perception of the U.S. and Their Implications for U.S. Foreign Policy," *Issues & Insights* Vol. 5- No. 4, August 2005, 4-5.

²² "U.S. Image Up Slightly, But Still Negative American Character Gets Mixed Reviews," 16-Nation Pew Global Attitudes Survey, released on May 23, 2005, <http://pewglobal.org/reports/pdf/247.pdf> (accessed February 15, 2010), 4.

²³ Barbara Demick and Esther Schrader, "Indonesia Wants All Foreign Troops Out by March," *The Los Angeles Times*, January 13, 2005, A-7.

capacity building. In addition, Japan assisted the littoral states to build capabilities to secure navigational safety and environmental protection. Another unique feature of Japan's approach is public-private partnership. Japanese private sector has cooperated with the government providing valuable knowledge, ideas and financial assistance.

The United States learned a lot from Japanese counter-piracy initiatives in Asia. First, Japanese initiatives opened a way for U.S. involvement in counter-piracy capacity building in the region. For example, the United States is assisting Indonesia in building a string of radar along the Straits, and has conducted anti-piracy exercises with Indonesia involving the boarding and inspection of shipping.²⁴ The United States also donated patrol boats to Indonesia for patrolling the Malacca Straits.²⁵ Second, the United States is applying the "Malacca model" to counter-piracy measures in the Horn of Africa. For instance, recognizing the effectiveness of ReCAAP, the United States initiated the UN Security Council Resolution 1851, which called for efforts to fight piracy by sharing intelligence and working with partners through a common point of contact.²⁶ U.S.-led counter-piracy efforts in Eastern Africa also focus on regional capacity building.

The Development in Japan's Counter-Piracy Policy

The Gulf of Aden, where 2,000 Japanese-related ships pass, is another important sea route for Japan, and the outbreak of violent pirate incidents off the coast of Somalia posed a serious challenge to Japan and the international community. The collapse of the central government in Somalia and disparate economic situation along its coastline is the primary reason for the outbreak of piracy. The International community was quick responding the piracy outbreak. The U.S.-led naval coalition, EU, NATO, and individual countries such as India, Russia, Malaysia, ROK and China dispatched naval forces to protect seaborne shipping in the area in accordance to a series of UN Security Council Resolutions.

Japan's response was rather slow, so the private sector took the initiative. In 2008,

²⁴ Ho, 'Piracy in the Gulf of Aden,' 2.

²⁵ "US Donates Patrol Boats to Indonesia for Malacca Strait Security," *BBC Monitoring International Reports*, December 5, 2005, <http://www.accessmylibrary.com/article-1G1-139463410/us-donate-patrol-boats.html> (accessed May 9, 2010).

²⁶ Danielle Skinner, "UN Security Council Authorizes Pursuit of Pirates Ashore in Somalia," US AFRICOM Public Affairs, December 17, 2008, <http://www.africom.mil/getArticle.asp?art=2362&lang=0> (accessed February 16, 2010).

three Japanese ships were attacked by pirates.²⁷ Japanese Ship-Owners' Association asked the government to protect merchant ships several times in 2008. The Nippon Foundation and Ocean Policy Research Foundation submitted a policy recommendation to the government in November 2008, calling for immediate dispatch of naval ships under maritime security order and the enactment of antipiracy law.²⁸ Accordingly, Japan sent two JMSDF destroyers to the Gulf of Aden to escort Japanese-related ships in March 2009 and two P-3C patrol aircraft in May 2009 under maritime security order. Under maritime security order, the JMSDF can protect only Japanese-related ships and its rule of engagement is restrained—the use of force is allowed only for emergency evacuation and self-defense.²⁹ To deal with piracy threats more efficiently, Japan enacted the Law on Punishment of and Measures against Acts of Piracy in June 2009.³⁰ Under this law, the JMSDF can protect any ship regardless of its nationality and fire gun to stop a suspicious ship. The Law defined piracy as a crime and punishment includes death penalty. The Headquarters for Ocean Policy, established by the 2007 Basic Act on Ocean Policy, played an important role in enacting the Law, coordinating views of relevant ministries and agencies.

Although the enactment of the antipiracy law was an epoch-making progress in Japan's maritime security policy, the future direction of Japan's counter-piracy policy is unclear because of the change of government from the Liberal Democratic Party (LDP) to the Democratic Party of Japan (DPJ) in August 2009. It was a DPJ member who first urged the Japanese government to take measures to counter pirates in the waters off Somalia in November 2008. The DPJ basically agrees with the LDP on the importance of counter-piracy contributions along essential trade routes for Japan. The DPJ objected to the LDP government's antipiracy bill, however, preferring that the mission involve coast guard cutters rather than naval vessels. Although the DPJ voted against the LDP's anti-piracy law, the 2009 DPJ election platform stated that the JMSDF could be used for anti-piracy missions if the situation is beyond the Japanese coast guard's capabilities. Moreover, DPJ party leader Yukio Hatoyama recognized in the debate among party leaders in August 2009 that the situation in the waters off Somalia was beyond the coast guard's capabilities.³¹ Nevertheless, DPJ's coalition with

²⁷ See Ministry of Foreign Affairs of Japan Website, <http://www.mofa.go.jp/mofaj/Gaiko/pirate/africa.html> (accessed February 16, 2010).

²⁸ *Kaiyo Hakusho* 2009, 70.

²⁹ Ministry of Defense, Japan, *Nihon no Boei* 2009 [Defense white paper 2009], 108-111.

³⁰ English text is available at http://www.sof.or.jp/en/topics/pdf/09_01.pdf.

³¹ Leif-Eric Easley, Tetsuo Kotani, and Aki Mori, "Electing a New Japan's Security Policy" Examining Foreign Policy Visions within the Democratic Party of Japan," *Asia Policy*, No. 9, January 2010, 58-59, and 61.

social democrats might have negative effect on DPJ's counter-piracy policy.

Proposals for U.S.-Japan Partnership

When piracy is ignored in a particular region, it tends to proliferate; conversely, when it is addressed by coastal states and the international community, it tends to decline. In the contemporary era, this phenomenon reflects the "broken window" theory of law enforcement, first developed by James Q. Wilson and George L. Kelling.³² In addition, warships, UN Security Council resolutions, and multilateral cooperation are all part of the solution to piracy, but any political commitment to repressing piracy and safeguarding a region's waters must, for lasting effectiveness, emanate from coastal and affected states.

Although the number of piracy and armed robbery in the Straits of Malacca is decreased, the 2009 ReCAAP annual report says that the number of armed robbery incidents in Bangladesh, Vietnam, Malaysia, and Indonesia is constant or even increasing. Enhanced surveillance and enforcement efforts are necessary in those areas. Since only coastal states have jurisdictions over those armed robbery incidents, Japan and the United States should coordinate their capacity building programs for those states. In this regard, Japan needs to relax its armed export policy so that it can provide necessary equipment to coastal states. It is also urgent to strengthen the ReCAAP by encouraging Indonesia and Malaysia to ratify the agreement. ReCAAP ISC should upgrade the current unofficial cooperation into official and seek the establishment of operational centers in both countries. Doing so would open U.S. participation in the ReCAAP.

There is more room for U.S.-Japan cooperation in counter-piracy measures in the Horn of Africa than in the Straits of Malacca since regional capacity is still too weak. For example, Japan and the United States should take measures to solve the root causes. Behind the outbreak of piracy off Somalia is illegal fishing by foreign ships in Somali exclusive economic zones and illegal dumping of toxic waste by foreign companies. The United States and Japan therefore should take the lead to regulate these illegal activities. On the other hand, both countries should consider operational cooperation in addition to cooperation in regional capacity building. One idea is Japan's refueling for U.S.-led CTF-151 ships, which will enhance the operation tempo of the CTF-151. Other areas of cooperation include the apprehension, custody and prosecution of pirate suspects.

³² See George L. Kelling and James Q. Wilson, "Broken Windows," *The Atlantic Monthly* (March 1982), 29-38.

Chapter 7

A Cooperative Strategy for 21st Century Seapower

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In October 2007, the Chiefs of the United States Navy, Marine Corps and Coast Guard issued a new American maritime strategy, *"A Cooperative Strategy for 21st Century Seapower."* This document, now referred to in short-hand as "CS21," articulates the first comprehensive U.S. maritime strategy published since 1986. Given the degree to which the world has changed in the more than two decades that passed between the developments of these two strategies, it is not surprising they incorporate marked differences. Perhaps most immediately noticeable, the 1986 Maritime Strategy pertained to the Navy only while CS21 provides a common strategy for all three maritime services. Furthermore, whereas the 1986 Maritime Strategy was a classified assembly of sensitive threat assessments and response plans, CS21 is entirely unclassified and was developed in partnership with the national public through a series of "conversations with the country," townhall-style meetings that brought together cross-section representatives of American society to openly discuss the future roles of the Navy, Marine Corps and Coast Guard in protecting the homeland and working with global partners to prevent war. Reflecting the transparent nature of CS21, the three service chiefs officially unveiled CS21 in a joint presentation before an assembly of nearly two hundred international Navy chiefs at International Seapower Symposium 18 in Newport, Rhode Island. A video of that briefing session and the entire document are available on the Navy's website.¹

A Cold War product, the 1986 Maritime Strategy was focused on defeating the Soviet blue water threat. Admiral James Watkins explains in the 1986 book published by the U.S. Naval Institute to provide "the most definitive and authoritative statements of the Maritime Strategy that are available in unclassified form"² that, "the goal of the overall

¹ <http://www.navy.mil/maritime/>

² James A. Barber, ed. *The Maritime Strategy*, Annapolis, Maryland, U.S. Naval Institute, January 1986, p. 2.

Maritime Strategy is to use maritime power, in combination with efforts of our sister services and forces of our allies, to bring about war termination on favorable terms.”³ In contrast, CS21 prioritizes the prevention of wars as equal to prevailing in war. CS21 also directs that maritime forces be employed in times of peace to build confidence and trust among nations through collective maritime efforts that focus on common threats and mutual interests. In doing so, CS21 stressed the need for U.S. maritime forces to work not just with formal allies, but with a wide range of partners in order to successfully meet these challenges.

CS21 also contrasts with the previous maritime strategy by specifically affirming the value of U.S. maritime forces’ constabulary and civil assistance missions. In fact, CS21 elevates Maritime Security and Humanitarian Assistance and Disaster Response (HA/DR) to core capabilities, placing them together with four “hard power” capabilities: Deterrence, Power Projection, Forward Presence and Sea Control. HA/DR represents a mission set that U.S. maritime forces have always performed, but for the first time, the maritime strategy dictates these capabilities will be central to planning.⁴ Far from signaling a shift away from Mahanian concepts of Seapower toward the notions of law enforcement and humanitarianism, CS21’s new emphasis is a logical extension of the Navy’s need to address the diversity of the challenges of today’s operating environment most effectively.⁵

CS21 observes that in an increasingly interconnected world, it is not feasible for any nation to operate independently when confronting the challenge of ensuring safety, security, and stability of the global commons. Therefore, the strategy embraces a flexible vision of voluntary partnerships of varying levels of formality, scope and capability to meet the world’s needs. Much of the Navy’s ability to contribute to the prevention of war and improve security in times of peace will be predicated on these flexible cooperative relationships and more formally established alliances, partnerships, and coalitions. CS21 places specific importance on working with international partners and broadening the range of those partners to build mutual understanding and respect with all maritime stakeholders. As a result, CS21 calls upon U.S. maritime forces to strengthen their efforts to cooperate with

³ James D. Watkins, “The Maritime Strategy,” in *The Maritime Strategy*, James A. Barber, ed., Annapolis, Maryland, U.S. Naval Institute, January 1986, p. 24

⁴ “Maritime Strategy Fact Sheet,” Feb 2008, www.navy.mil/maritime

⁵ James Kraska and Brian Wilson, “The Co-operative Strategy and the Pirates of the Gulf of Aden”, *Rusi Journal*, April 2009 Vol. 154, No2. p.75.

foreign navies, coast guards, maritime law enforcement bodies, international organizations, non-government organizations, private companies, and the general public.

Global Maritime Partnerships (GMP) is a concept by which the Navy fosters and sustains cooperative relationships, especially in support of CS21's increased emphasis on Maritime Security and HA/DR. GMP embraces a cooperative approach to promoting maritime safety, security, and stability in concert with the rest of the United States government, the international community, and non-governmental organizations (NGOs). The strength of any GMP activity is in the cooperative partnership that it establishes. The flexible nature of the GMP concept allows maritime stakeholders to come together, at times without formal agreement, in response to emergent crises such as natural or manmade disasters. It also allows maritime stakeholders to combine efforts to solve maritime problems that require long- term effort such as building regional maritime capacity. GMP can be accomplished in a manner that complements existing alliances, partnerships, and coalitions without necessarily establishing a new organization or governing body, as long as the challenge addressed is of mutual concern.⁶ GMP represents the implementation of a key observation found in CS21: "Although our forces can surge when necessary to respond to crises, trust and cooperation cannot be surged."

The Strategic Importance of Maritime Southeast Asia

CS21 specifically mentions two regions as places where maritime forces must focus their energies, the Western Pacific and Arabian Gulf/Indian Ocean. Both of the regions are areas where the United States maintains presence in order to reduce contingency response times and thereby assure allies while dissuading and deterring those actors that might otherwise seek to disrupt the balance of power. U.S. maritime forces also maintain force presence in these regions to build trust and cooperation among friends and allies and to improve partner capacity.⁷

Southeast Asian nations are centered on peninsulas and islands, but their dense populations spill onto the sea. Throughout the region's littorals, entire towns are built on

⁶ Robb Bennet and Brian Kawamura, "Global Maritime Partnerships: The Navy's Lessons Learned," unpublished manuscript, Sept 2009.

⁷ Rear Admiral Richard Landolt, USN, "Presence and Capabilities Creating Opportunities: Task Force 76 Operations during 2009," conference presentation, *Sea Power 2010*, Sydney, Australia, 28 Jan 2010. Transcribed provided by Sea Power Center, Australia.

stilts, clusters of fishermen live in houses hundreds of meters from dry land, and nomadic sea gypsies regularly migrate from across national borders. Fishing is an economic activity of central importance and most of the region's protein consumption comes from seafood. Southeast Asia's terrestrial economies also rely upon the export and transshipment of natural resources and manufactured goods, almost entirely by sea. In this paper, the term "maritime Southeast Asia" refers to these littoral areas where the populations' cultures, economic welfare, or political power are linked to those waters framed by the Indian Ocean to the west, the Pacific Ocean to the East, the Asian continent to the north and Australia to the south. Therefore it includes areas beyond the Association of South East Asian States (ASEAN) such as the South China Sea coasts of China and Taiwan and the northern coast of Australia. This differs from the U.S. State Department's use of "maritime Southeast Asia" which is defined at the sub-region comprised of Malaysia, Singapore, Brunei, the Philippines, Indonesia, and Timor Leste.

When addressing the senior naval officers gathered for the International Maritime Seminar in Manado, Indonesia on 18 Aug 2009, Admiral Roughead, Chief of Naval Operations, described Southeast Asia as "a critical maritime region for commerce, for communication and for resources; three vital areas in which the oceans connect our nations."⁸ Perhaps most importantly, Southeast Asian straits provide some of the world's most important sea lines of communication. In particular, the Malacca Strait serves as the primary link between the Indian and Pacific Oceans. An estimated 50,000 vessels transit this route each year carrying about a third of the globe's total trade.⁹ However, the world's largest ships, mostly supertankers, draw too much draft for the Strait of Malacca and these ships that exceed "Malaccamax" typically transit between the oceans via Indonesia's Lombok Strait or Sunda Strait. Other Southeast Asian waterways such as the Makassar Strait, Sibiu Passage, and Mindoro Strait also carry huge volumes of trade. These trade lanes are not only tremendously important both because of the volume they transport and because of the critical nature of the cargo. For example, Japan imports 98 percent of the petroleum it consumes and about 80 percent of that supply passes through the Strait of Malacca.¹⁰

⁸ Admiral Gary Roughead, conference remarks, International Maritime Seminar, Manado, Indonesia, 18 Aug 2009.

⁹ *The National Strategy for Maritime Security*, Washington D.C., The White House, 2005, p. 15 and Catherine Zara Raymond, "Piracy and Armed Robbery in the Malacca Strait: A Problem Solved?," *Naval War College Review*, Summer 2009, pp. 31.

¹⁰ <http://www.eia.doe.gov/emeu/cabs/Japan/Oil.html>

Similarly, approximately 85 percent of Chinese oil imports transit the same strait.¹¹ South Korea and Taiwan are also reliant on Southeast Asian waterways for their energy needs. Beyond petroleum, the sea lanes passing through maritime Southeast Asia bring the industrial engines of East Asia raw materials from Africa and Australia and carry their exports to important markets in Europe, the Middle East, Africa, and Australia.

The busy nature of these sea lanes has enabled the ports of maritime Southeast Asia to become exceptionally successful transshipment hubs. Standing ahead of the rest, the world's leading transshipment port, Singapore, carries about twenty percent of the world's total container throughput.¹² According to a 2004 DeutscheBank report, four other maritime Southeast Asia ports were among the world's busiest: Hong Kong (second); Kaohsiung, Taiwan (fourth); and Tanjung Pelelpas, Malaysia (sixth).¹³ Without the activity of these ports, global commerce would literally grind to a halt.

By their geographic nature, these straits and ports are also chokepoints and therefore represent strategic vulnerabilities. If these straits states were to be closed the economic fallout would be catastrophic. Although the United States is not directly reliant upon these waterways for its energy needs (most Middle East oil bound for the U.S. crosses the Atlantic), its critical interests in a stable East Asia dictate that it be fully invested in freedom of navigation through Southeast Asian sea lines of communication. As a result, the United States has long taken an active interest in regional maritime security. Acting on similar strategic drivers, Japan has taken increasingly robust initiatives to help guarantee the free flow of shipping through these waters for more than thirty years.¹⁴ More recently,

¹¹ Andrew Erickson and Lyle Goldstein, "Gunboats for China's New "Grand Canals?" *Naval War College Review*, Spring 2009, Vol. 62, No. 2.

¹² <http://www.singaporepsa.com/>

¹³ "Container Shipping Overcapacity Inevitable Despite Increasing Demand" Deutsche Bank Research, April 25, 2006, http://www.dbresearch.com/PROD/DBR_INTERNET_DE-PROD/PROD0000000000198081.PDF

¹⁴ Tsuneo Akaha, "Japan's Response to Threat of Shipping Disruption in Southeast Asia and the Middles East," *Pacific Affairs*, Vol. 59, No. 2 (summer 1986), pp. 255-77; Peter Woolley, *Japan's Navy: Politics and Paradox, 1971-2000*, London, Lynne Rienner Publishers, 2000, p. 70; and John F. Bradford, "Japanese Anti-Piracy Initiatives in Southeast Asia: Policy Formulation and

Chinese security planners have also begun actively discussing solutions to this vulnerability, something that Chinese writings commonly refer to as the “Malacca Dilemma.” The rise of China’s blue water capabilities are likely motivated, at least in part, by a desire to find alternative solutions to this dilemma.¹⁵

The strategic importance of Southeast Asia stretches beyond the importance of its sea lanes. Southeast Asia’s growing economies, large populations, and rich cultures are directly linked to the U.S. economy. The region is rich in petroleum and minerals that are extracted from both onshore and offshore sites. Other Southeast Asian exports, manufactured goods such as electronic components and textile good, are important to the United States’ consumption-based economy. This U.S.-ASEAN trade totals to over \$200 billion annually. Deputy Assistance Secretary of Defense Robert Scher summed up the geostrategic importance of Southeast Asia in testimony to the Congress, “[Southeast Asia] is a region that is central to the continued peace and stability of all Asia-Pacific as well as the continued economic prosperity of the United States.”¹⁶

Security Threats to Maritime Southeast Asia

Given the strategic importance of maritime Southeast Asia, its security is of utmost importance to the United States. Fortunately, from a geopolitical standpoint, the region appears relatively stable. Southeast Asian nations share common strategic interests and have developed robust consultative mechanisms, most notably ASEAN and its associated forums such as the ASEAN +3 and ASEAN Regional Forum. As a result, although tensions exist around a handful of issues such as maritime boundary disputes, the risk of interstate war in Southeast Asia is minimal. Indeed, the most likely source of interstate conflict in Southeast Asia appears to be linked to future shifts in the balance of power within neighboring regions. In contrast, non-traditional security challenges are of more immediate concern in to maritime Southeast Asia. The region is deeply vulnerable to natural disasters and non-state actors such as pirates and terrorists pose real threats to shipping and human security in the

Coastal State Responses,” *Contemporary Southeast Asia*, Vol. 26:3 (Dec 2004).

¹⁵ Erickson and Goldstein, p. 43.

¹⁶ Robert Scher, “China’s Activites in Southeast Asia and the Implications for U.S. Interests,” testimony before the U.S.-China Economic and Security Review Commission, 4 Feb 2010.

littorals.

As a result of its location at the junction of the Eurasian, Pacific, and Indo-Australian Plates, Southeast Asia is seismically unstable and home to an unusually high concentration of active volcanoes. This geological activity has resulted in some of the worst natural disasters in human history. Two examples clearly illustrate the tremendous power of this security threat. On 27 August 1887, the volcanic island Krakatau erupted producing the greatest detonation (equivalent to 200 megatons of TNT) and loudest sound in recorded history (heard 3,500 km away in Perth, Australia). Dutch colonial authorities counted more than thirty thousand deaths in the immediate area while the tsunamis and global climate change triggered by the blast caused casualties and altered lives across the world.¹⁷ More recently, on 26 December 2004, an earthquake under the Indian Ocean triggered the most destructive tsunami in recorded history, a natural disaster that demolished cities, permanently reshaped coastlines, and killed hundreds of thousands of people.¹⁸ Other deadly seismic events of the last decade include the 2006 Java earthquake and 2009 Sumatra earthquake, both of which caused tsunamis that killed thousands.

Maritime Southeast Asia is also vulnerable to weather-related disasters, most notably the cyclones that blow in from the Indian Ocean and typhoons that come west off the Pacific Ocean. Recent examples include Typhoon Morakot (2009) that ravaged Taiwan and Cyclone Nargis (2008) that landed in Burma killing over 100,000 people. In addition to the violent storms, heavy rains regularly destroy crops, flood cities, and cause follow on damage. For example, in 2006 torrential rains led to a landslide in the Philippines that killed more than a thousand people.

While Mother Nature poses the greatest security threat to maritime Southeast Asia, transnational human actors also create strategic risks that concern the United States. During the 1990's and early twenty first century, Southeast Asia was assessed to be the world's most piracy prone region accounting for about half of global attacks reported to the International Maritime Bureau (IMB) each year. The threat became so significant that from July 2005 to August 2006, international insurers included the Strait of Malacca on their list of "Hull War, Strikes, Terrorism and Related Perils Areas." Since then, regional actions have

¹⁷ Simon Winchester, *Krakatoa: The Day the World Exploded*, London: Penguin Books, 2003, pp. 5, 264, 294-5

¹⁸ Bruce Elleman, "Waves of Hope: The U.S. Navy's Response to the Tsunami in Northern Indonesia," *Newport Papers*, no. 28, Naval War College Press, Newport, Rhode Island, United States, 2007, p. vii, 4.

taken significant action to address this risk and substantially reduced piracy rates, especially in the Strait of Malacca.¹⁹ Whereas, the IMB counted 75 attacks in that critical waterway in 2000, the IMB recorded only two attacks in 2008 and two in 2009. Still the piracy problem remains unsolved. In 2009 the International Maritime Bureau counted sixty-eight acts of piracy and armed robbery in all of maritime Southeast Asia. Comparatively, this is more than the number of attacks counted in the entire Western hemisphere. Only the waters around Somalia and the Gulf of Aden are more piracy prone, where more than two hundred attacks were reported in 2009.²⁰

Maritime terrorism is another area where Southeast Asia seems to have stemmed the tide, but one cannot assume that the threat has been routed. In the first five years of the twenty-first century, terrorist organizations executed a number of serious attacks on targets in maritime Southeast Asia. Most tragically, the February 2004 bombing of SuperFerry 14 sunk the ship in Manila harbor and killed 116 people. In April 2003, an aluminum nitrate bomb placed by a barbeque stand at the Davao City wharf was timed to maximize casualties as the large ferries SuperFerry 15 and Filipina Princess embarked and disembarked their passengers. The blast killed 16 people and injured more than fifty others. In 2000 and 2001, the Abu Sayyaff Group (ASG), operating by boat, kidnapped local citizens and international holiday makers from resorts on Sipadan and Palawan Islands. Also in 2000, two explosive devices hidden in coaches carried by the ferry Our Lady Mediatrix exploded while the ship was docking in Ozamiz City. The ensuing fire, stoked by a truckload of dried copra, killed 52 people and wounded more than 40.²¹ Such maritime violence has not been limited to the Philippines. On 11 December 2001, the ferry Kalifornia was bombed in the Maluku Islands of Indonesia, killing 10 and injuring 46.²²

Reports from regional governments and admissions by captured members of

¹⁹ For further discussion see Ian Storey, "Securing Southeast Asia's Sea Lanes: A Work in Progress," *Asia Policy*, July 2008, pp. 99-100, 109, 126; Raymond, pp. 31-42; and John Bradford, "Shifting the Tides Against Piracy in Southeast Asian Waters," *Asian Survey*, May/June 2008, pp. 474-5.

²⁰ International Maritime Bureau, *Piracy and Armed Robbery Against Ships Annual Report, Jan-30 Dec 2009*, Jan 2010 and International Maritime Bureau, *Piracy and Armed Robbery Against Ships Annual Report, Jan-30 Dec 2005*, Jan 2006.

²¹ Tanner Campbell and Rohan Gunaratna, "Maritime Terrorism Piracy and Crime," *Terrorism in the Asia-Pacific: Threat and Response*, Rohan Gunaratna, ed., (Singapore: Eastern University Press, 2003) and Ryan Rusaro, "Victims of Ferry Blast Long For Justice," *Inquirer News Service*, 26 Feb 2003.

²² International Crisis Group, "Indonesia: The Search for Peace in Maluku," 8 Feb 2002.

transnational terrorist groups such as Al-Qaeda and Jemaah Islamiyah described several other attacks planned in maritime Southeast Asia. These led authorities to worry that terrorists would take advantage of Southeast Asia's choked straits and busy ports to launch attacks against military vessels or commercial shipping. Indeed, Al-Qaeda's former "Prince of the Sea," Abdul Rahim Mohamed Hussein Abda al-Nasheri, who admitted to his role in organizing the attacks on the USS Cole and Limburg, also described plans for similar attacks in Southeast Asia. These included a plot to strike a U.S. warship visiting Port Kelang, Malaysia in 2000.²³ Similarly, terrorist Omar al-Faruq, captured in June 2002, explained his plans to attack a U.S. Navy ship visiting Surabaya, Indonesia. The Singapore government tells us that when it cracked down on the Jemaah Islamiyah network in December 2001, it discovered plans for suicide attacks on U.S. warships visiting Singapore.²⁴

Although the Southeast Asian states appear to have been quite effective in crippling the regional activities of transnational terrorist groups such as Al-Qaeda and Jemaah Islamiyah, the current threat cannot be disregarded. Indeed, the 17 July 2009 attacks on western hotels in Jakarta demonstrated that these groups have not been eliminated. These groups may also retain maritime capabilities. Validating the continued vitality of such maritime terror threats, in March 2010, Indonesia, Malaysia, and Singapore announced increased security measures in response to a warning that terrorists were planning to attack oil tankers or other traffic transiting the Malacca Strait.²⁵

CS21 as the Appropriate Strategy for Maritime Southeast Asia: Lessons from the Malacca Strait

The strategic concepts found in CS21 are especially appropriate to maritime Southeast Asia. It is noteworthy that the primary security threats in maritime Southeast Asia correlate to the two "lower tier" capacities CS21 identifies as core elements of maritime power, maritime security and HA/DR. Furthermore, the cooperative tenets of CS21 are particularly relevant

²³ Michael Richardson, *A Time Bomb for Global Trade: Maritime-Related Terrorism in an Age of Weapons of Mass Destruction*, Institute of Southeast Asian Studies: Singapore, 2004, p. 19.

²⁴ Campbell and Gunaratna, pp. 77-9.

²⁵ Neil Chatterjee, "Singapore, Shippers Raise Security over Malacca Threat" *Reuter*, 5 Mar 2010; "Patrols will Deter Malacca Strait Terror Attacks: Watchdog," *AFP*, 5 Mar 2010; and "Patrols Increased to Counter Terror Threats," *Jakarta Post*, 6 March 2010.

to achieving strategic goals in maritime Southeast Asia. These tenets include the importance of partnership-building, the advantages of building trust before crises begin, and sustained respect for sovereignty. Two particular experiences, both from the Straits of Malacca, are particularly useful to illustrate evidence of the “right thinking” behind CS21. The first example is the 2004 Indian Ocean tsunami response. The second is the efforts to curb piracy in the Malacca Strait.

When the Indian Ocean tsunami crashed ashore on 26 December 2004, the United States was quick to deploy maritime forces to participate in the relief operations. Almost immediately, the ABRAHAM LINCOLN Carrier Strike Group sailed from Hong Kong and the BONHOMME RICHARD Expeditionary Strike Group surged from Guam, both bound for Southeast Asia. While ground forces focused their effort on operations in Thailand, U.S. maritime forces took the lead in Aceh. Within ten days of the tsunami, twenty-five U.S. ships and over fifty helicopters were on station delivering relief. As this group assembled, USNS MERCY, a Cold War-era hospital ship in a Reduced Operating Status that had not deployed since the end of the First Gulf War joined the mission. Departing San Diego on 5 January, MERCY arrived in Acehnese waters on 2 February with a unique crew of military, Public Health Service, and NGO personnel. Once on station, U.S. maritime forces partnered with a coalition of relief actors from Indonesian agencies, International Organizations, over three hundred NGOs, and more than twenty partner governments.²⁶ Indonesian Minister of Defense Juwono Sudarsono described the U.S. maritime force as, “the backbone of the logistical operations providing assistance to all afflicted after the disaster.”²⁷

While no amount of aid could correct the damage that was done, the tsunami relief operation was successful in a number of important ways. The response provided assistance to thousands of people, stemmed the spread of disease, and helped create the political space that assisted reconciliation of the three decade-old civil war in Indonesia’s Aceh province.²⁸ The disaster relief efforts also provided strategic opportunities for the United States to strengthen its critical relationship with Indonesia. Prior to the tsunami relief

²⁶ *ibid.*, pp. 39, 69.

²⁷ As quoted in *Asia-Pacific Defense Forum*, Special Edition, 2005, available at: http://forum.apan-info.net/05_special_ed/indonesia_6.html, accessed 24 Feb 2010.

²⁸ Matthew Davies, *Indonesia’s War over Aceh: Last stand on Mecca’s Porch*, Routledge, London, 2006, p. 236 and Micheal Renner and Zoe Chafe, “Beyond Disasters: Creating Opportunities for Peace,” Worldwatch Institute, Washington D.C., p. 3.

operations, the popular perception of the United States in Indonesia had been extremely low. In 2003 only 15% of the Indonesians surveyed by the Pew Foundation reported positive opinions of the United States.²⁹ A few months later, Pew Foundation Polls discovered that 79% of Indonesians had developed a more favorable view of the U.S. as a result of its relief efforts.³⁰ The value of such soft power gains cannot be understated given that fact that Indonesia is the world's largest Muslim-majority nation and third largest democracy.

Several lessons from the Aceh experience directly informed the creation of CS21. For one, HA/DR was validated not just as a worthy use of maritime forces, but as a strategic priority. Furthermore, the United States Navy had gained further evidence that its hard power assets, such as nuclear aircraft carriers and their escorts, had the fungible capacity to address "lower tier" missions such as HA/DR. It also learned about the value of acting with diverse partnerships. The mission in Aceh would not have been a success had it not been for the synergy of cooperation between international humanitarian community, national governments, non-governmental organizations (NGOs), private industry, and individual citizens. At the same time, differences in organizational cultures, unfamiliarity, and planning shortfalls prevented this coalition from maximizing its effectiveness.³¹ This experience taught the entire response community that long-term investments, commitment, and relationships between development programs, disaster response actors, and the recipient community are essential to maximize success.³² Its Aceh experience prompted the Navy to take a more proactive stance toward building partnerships.

Lessons from counter-piracy efforts in the Strait of Malacca also reinforce the aptness of CS21's tenets. In this case, piracy has been curbed primarily by the actions of the littoral states, Malaysia, Singapore, and Indonesia. In recent years these countries have not only strengthened their unilateral efforts to fight piracy and sea robbery within their territorial borders, but they have strengthened cooperative efforts to deal with piracy and sea robbery as a transnational phenomenon. The most visible of these efforts is the Malacca

²⁹ "The Pew Global Attitudes Poll," report by Pew Research Center, 23 June 2006.

³⁰ *ibid.*

³¹ Elleman, pp. 28, 84.

³² *After the Tsunami- Harnessing Australian Expertise for Recovery*, summary report, National Academies Forum, Canberra, 31 March 2005.

Straits Patrols, a trilateral arrangement begun in 2004.³³ At first these were only coordinated surface patrols, but since then the program has been expanded to include cooperative airborne patrols, intelligence exchanges, standard operating procedures, and, according to a briefing given by the Indonesian Navy 2006, limited “hot pursuit rights” into each other’s territorial waters.³⁴

The littoral states took these actions on their own and extra-regional states have not been directly involved in patrols or other law enforcement activities. Indeed, direct constabulary activity by foreign maritime forces was neither necessary nor welcome.³⁵ Illustrating this point, when the United States Regional Maritime Security Initiative was mistakenly understood in the region to include an effort to deploy forces to provide security in the Strait of Malacca, Malaysian and Indonesian officials reacted with strong language to reassert their sovereign control over the waterway. Although the regional understanding of this effort was misplaced, the very public and impassioned nature of the discourse clearly put the United States on the diplomatic defensive.³⁶

Rather than pursuing efforts to directly involve their forces in the provision of security, the United States has praised the regional effort and supported this effort through training and capacity building programs tailored to the needs and desires of the coastal states. For example, when addressing the International Maritime Seminar in Indonesia, Admiral Roughead noted,

The growing cooperation among Southeast Asian navies is a superb example of how we can effectively work together. The regional efforts to eliminate piracy are an outstanding demonstration of how that unique cooperation has benefited all of us. Where challenges to common safety and security exist, relatively small numbers of countries must sometimes form partnerships that benefit not only themselves but many others.³⁷

³³ Victor Huang, “Building Maritime Security in Southeast Asia: Outsiders Not Welcome?” *Naval War College Review*, Winter 2008, Vol. 61, No. 1., p. 97.

³⁴ “TNI-AL Presentation” (paper presented at the Military Operations [MILOPS] Conference, Kuala Lumpur, July 19, 2006), cited in Storey, p. 119.

³⁵ Huang, pp. 93-6.

³⁶ Huang, pp. 87-88 and Lena Kay, “Indonesian Perceptions of the U.S. and Their Implications for U.S. Foreign Policy,” *Issues & Insights*, Vol. 5, No. 4, Aug 2005, pp. 4-5.

³⁷ Admiral Gary Roughead, conference remarks, International Maritime Seminar, Manado, Indonesia, 18 Aug 2009.

Indeed these regional efforts to curb Southeast Asian piracy illustrate the potential for maritime partners to find win-win solutions as described in both CS21 and GMP.

U.S. Navy Partnership Activities in Maritime Southeast Asia

As called for in CS21, U.S. forces are actively engaged in maritime Southeast Asia working with partners to strengthen capacity and promote a safer, more secure, maritime domain. This engagement takes a variety of forms. U.S. forces do not perform constabulary functions but are actively involved in the provision of security through disaster relief operation and humanitarian and civic assistance (HCA) missions. U.S. forces also work to enhance partnership capacity through exercises, technological assistance programs, and by supporting regional cooperative ventures. These programs are designed to promote local capacity, strengthen interoperability, and accelerate the “speed of trust” so that partners can come together more quickly and more effectively in response to security needs.

In the last few years, the most visible U.S. maritime operations in maritime Southeast Asia have been disaster relief operations. Since the 2004 Indian Ocean tsunami response, U.S. maritime forces have deployed in response a number of disasters including the 2006 Java earthquake, the 2006 Philippine mudslides, the 2008 Cyclone Nargis, the 2009 Sumatra earthquake, and the 2009 Typhoons Morakot, Ketsana, Parma, and Fengshen. In each of these cases, these forces came at the request of the host nation and acted in concert with the local and international relief actors.

In addition to conducting disaster response, U.S. maritime forces have been actively building sustainable relationships with diverse partners through cooperative HCA missions. These HCA missions seek to eliminate some of the root causes of instability by addressing the medical, dental, veterinary, and engineering needs of underserved populations. When conducting HCA operations/activities, the U.S. forces serve as facilitators and a conduit for partner nations and other organizations to build local capacity and assist with humanitarian endeavors in close consultation with the host nation.

The most significant of these HCA missions in Southeast Asia is the PACIFIC PARTNERSHIP mission which evolved directly from the unprecedented international disaster response for countries devastated during the 2004 Indian Ocean tsunami.³⁸ In 2006, USNS MERCY returned to Southeast Asia as the PACIFIC PARTNERSHIP flagship on a

³⁸ http://community.apan.org/training/pacific_partnership/default.aspx

mission to strengthen relationships with host, partner nations, and other partner organizations; build partner capacity to conduct peace, stability, and consequence management operations; improve U.S. and partner Humanitarian Assistance/ Disaster Relief capacity; and improve security cooperation among partner nations. Since then the U.S. has conducted PACIFIC PARTNERSHIP missions in Southeast Asia and Oceania on an annual basis. Under the auspices of this campaign, engineering support units and healthcare professionals from partner governments, U.S. interagency actors, and NGOs have joined to provide robust services and training to host governments and local communities. When executing PACIFIC PARTNERSHIP, the U.S. Pacific Fleet adopts the “by, with, and through” approach to providing medical, dental, veterinary, and engineering assistance to underserved populations—everything is provided by invitation of the host nation, with host nation involvement/participation, and through the host nation government.

Of course, U.S. commitment to maritime capacity building is not limited to HA/DR programs. The U.S. is also concerned with more traditional security missions. To this end, combined exercises play an important role in building both capability and interoperability of regional fleets. Some of the U.S. exercise series are relatively new inventions, while others date back to the Cold War. However, all are increasingly tailored to focus on immediate security concerns such as disaster relief and maritime security. The two most visible U.S. annual exercises in Southeast Asia are COBRA GOLD, which is co-hosted by Thailand, and BALIKATAN, which is co-hosted by the Philippines. Both COBRA GOLD and BALIKATAN originated as exercises between treaty allies during the Cold War when regional threat perceptions focused on the spread of communism. In recent years, both have shifted focus toward the “lower tier” operations such as peacekeeping, maritime security, and disaster response which are more relevant to maritime Southeast Asia’s near-term needs. Both of these exercises have expanded their participation to include forces from additional countries and non-traditional partners such as NGOs. Similarly, the Navy’s Cooperation and Readiness Afloat Training (CARAT) exercises focus on the training goals of each partner and grow more complex each year. Anti-piracy, counterterrorism, and humanitarian assistance are specific growth areas for the CARAT exercises. Similarly, the annual Southeast Asian Cooperation Against Terrorism (SEACAT) exercise was begun in 2002 to contribute to regional coordination efforts that support cooperative responses to terrorism and

transnational crimes at sea including piracy.³⁹

The United States also provides allies and partners in Southeast Asia with training and equipment, from radars to patrol craft, to enhance their ability to assert control over waterways that have been used by smugglers, pirates, and terrorists. Training programs are primarily delivered via the International Military Education and Training (IMET) program that makes U.S. government training courses available to individuals from partner militaries. The U.S. also organizes Mobile Training Teams (MTTs) that deploy in support of specific training objectives. Each MTT is stood up with a specific set of training objectives and delivers training tailor to the needs of individuals or groups specified by the recipient nation.

U.S. technology transfers to maritime South East Asia have been completed both through the Foreign Military Sales system and direct grant programs such as the “1206” funding program. One especially important focus area for such technology transfers has been in the field of Maritime Domain Awareness (MDA). Regularly referred to by Admiral Roughead as “glue” that binds CS21 activities together, MDA is the effective understanding of anything associated with the maritime domain that could impact the security, safety, economy or environment of a nation.⁴⁰ Successful MDA requires surveillance data to be gathered, collated, and understood—a hefty task, especially for resource-constrained states with vast sea territories. In maritime Southeast Asia, the United States has helped with this challenge by funding projects such as the establishment of radar stations along key sea lanes in Thailand, Indonesia, and the Philippines and the upgrading of Malaysian coastal surveillance stations with the Integrated Maritime Surveillance System.⁴¹ Fully owned and operated by the recipient nation, these stations have been linked to domestic MDA systems and provide significant service to partner security forces.

Another element of CS21 activity in maritime Southeast Asia has been support for regional cooperative organizations and dialogues. These organizations and dialogues afford

³⁹ Bradford, John F. “The Growing Prospects for Maritime Security Cooperation in Southeast Asia,” *Naval War College Review*, vol. 58, no. 3, summer 2005., 00. 485-6.

⁴⁰ This definition draws from the U.S. *National Plan to Achieved Maritime Domain Awareness*. Whereas that definition is specific to the United States, in the spirit of CS21, the MDA definition applies equally to partner nations.

⁴¹ Chris Rahman, *The Global Maritime Partnership Initiative: Implications for the Royal Australian Navy*, Papers in Australian Maritime Affairs, No. 24, Canberra, The Seapower Center- Australia, 2008, p. 34.

opportunity to build confidence between partners and provide springboards to launch cooperative ventures and are therefore essential venues forging the stronger relationship called for in CS21. One such organization is the Western Pacific Naval Symposium (WPNS). All Southeast Asian Navy chiefs are members of this dialogue that also includes neighbors from Northeast Asia, Australia, New Zealand, Canada, and nations with Pacific Island territories such as the United States and France. The United States is a strong supporter of WPNS, participating not only in the meetings, but taking part in WPNS-sponsored activities such as co-hosting a HA/DR table-top exercise with Indonesia in 2007 and deploying ships to the WPNS At-Sea Exercise hosted by Singapore in May 2009. The United States places similar priority on supporting the maritime activities of multilateral frameworks such as the ASEAN Regional Forum Maritime Senior Officials Meetings, the Council for Security Cooperation Asia-Pacific Maritime Working Group and Asia-Pacific Economic Cooperation (APEC) Working Group on Maritime Security.

Conclusion: Opportunities for U.S.-Japan Cooperation in Maritime Southeast Asia

The United States and Japan share common strategic interests in maritime Southeast Asia. In particular, both these two close allies rely upon the safe and secure sea lines of communication that pass through the region. Therefore, it is natural for the United States and Japan to look for opportunities to increase their cooperation in maritime Southeast Asia. Fortunately, good relations with the coastal states, the flexible nature of CS21, and Japan's strategic outlook create substantial opportunities for such cooperation so long as it is implemented in concert with host nation priorities.

One area where the United States and Japan might focus their energies in the near term is HA/DR. U.S. Secretary of Defense Robert Gates challenged the two nations to do just this while visiting Japan in October 2009. He said,

"As you look around this part of the world and recent developments in places like Indonesia and the Philippines, the greatest enemy seems to be Mother Nature, and we have the capabilities to deal with the consequences of some of

these disasters, working together."⁴²

HA/DR is an area where the United States and Japan are already cooperating. For example, the forces Japan sent to provide disaster relief after the January 2010 Haiti earthquake operated from U.S. bases and with U.S. logistic support. The first Japanese aircraft to deliver aid into Haiti departed with a cargo of U.S. citizen evacuees.⁴³ In Southeast Asia, U.S. and Japanese forces have cooperated when responding to disasters such as the 2004 Indian Ocean tsunami, the 2006 Java earthquake, and the 2009 Sumatra earthquake. However, there are additional steps that the U.S. and Japan could take to strengthen their cooperative HA/DR capacity. For example, according to a 2010 study completed by Colonel Tatsuo Tarumi, Japan Ground Self Defense Force, during a fellowship at the Stimson Center in Washington D.C., the two nations should establish better organization frameworks in order to streamline cooperation and could improve interoperability by expanding their bilateral and multilateral HA/DR training programs.⁴⁴

Japan and the U.S. can also strengthen their cooperation where executing pre-planned HCA missions. Taking an important step in this direction, Japan has announced its intention to deploy an OSUMI-class Maritime Self-Defense Force amphibious landing ship as an HCA "Boat Friendship and Amity." According to Prime Minister Yukio Hatoyama this maritime expedition will demonstrate, "that the Japanese government is proactively extending humanitarian assistance."⁴⁵ In 2010, this ship plans to visit Cambodia and Vietnam in conjunction with USNS MERCY during PACIFIC PARTNERSHIP.⁴⁶ This experience can be a first step to bigger things. For example, Japan could begin a recurring HCA partnership-building mission series of its own and invite the United States to support with expertise or material assistance.

Japan would also be an excellent nation to host a regional disaster relief

⁴² Robert Gates, Speech, 21 Oct 2009.

⁴³ Japan, Ministry of Defense, "Japan Self Defense Force (JSDF) Disaster Relief Operation Republic of Haiti January 2010 Earthquake," http://www.mod.go.jp/e/d_policy/ipca/pdf/haiti02.pdf

⁴⁴ Tatsuo Tarumi, U.S. Japan Cooperation in Humanitarian Assistance and Disaster Relief," presentation, Henry Stimson Center, Washington D.C., 5 Mar 2010.

⁴⁵ "Japan may use MSDF Vessels to Provide Medical Assistance to Disaster—Hit Areas Abroad," *Mainichi Daily News*, 17 Nov 2009.

⁴⁶ Tarumi and Japan Ministry of Defense, "Pacific Partnership Overview," press release, 04 Feb 2010.

training and logistics center. Such a center could fill the region's need for a focal point for training, information sharing, and disaster response activities. Several features make Japan uniquely suited to host such a center. Most importantly, it has the capacity. Its government agencies and self-defense forces have robust disaster relief capabilities and its NGOs are emerging as global experts, especially in the area of earthquake readiness and response. In addition, Japan's geographic location adjacent to maritime Southeast Asia situates it well as a staging area for relief forces. Finally, Japan appears to have the political will for such activities; the current Japanese government's foreign policy is based on the principals of "Friendship and Amity" and includes planks saying that Japan should play a more proactive role in disaster relief operations. The United States could support this center through a formal or informal partnership as desired by the government of Japan.

These are just a few examples of next steps the U.S. and Japan might take as they seek to strengthen their cooperative activities in maritime Southeast Asia. In this region, the two nations share closely aligned interests and complementary maritime strategies. So long as they continue to appreciate the different needs and preferences of the littoral states and act to find win-win solutions for all parties, the potential for cooperation should continue to expand. Given the tremendous strategic nature of maritime Southeast Asia, such cooperation will benefit not only the region, but the world.

Chapter 8

Fusing US's New Maritime Strategy & Japan's Maritime Defense Strategy: Focusing on Response against Non-Traditional Threats

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1. New Maritime Strategy of the US

In October 2007, the United States announced a New Maritime Strategy “A Cooperative Strategy for 21st Century Sea Power” under the names of top leaders in the Navy, Marine Corps, and Coast Guards. This New Maritime Strategy is a “Unified Maritime Strategy”, jointly developed by the Navy, Marine Corps, and Coast Guards under the initiative of the Navy. It is the first time these three different organizations developed a joint strategy, signifying the importance of mutual coordination among these organizations in this era following the 9.11 terrorist attacks of 2001.

(1) Out Line of the New Maritime Strategy of the US

The New Maritime Strategy can be summarized as to “integrate sea power with other elements of national power, as well as those of our friends and allies” under the rapidly changing environment of global maritime security due to the expansion of globalization seen in various regions of the world. It is a strategy with an aim to defend and maintain an international system consisted of mutually dependent global networks linked through seas and oceans. The Strategy covers vast fields of a global system, including trade, finance, information, legislation, civil societies, and politics.

From the military perspective, the Strategy is the extension of the Naval Power 21 (Sea Power 21 of the US Navy and Marine Corp Strategy 21 of the Marine Corps), which was issued by the US Navy in 2002. It asks for the sustenance of “hard power” in war domain, such as the forward deployment strategy to take actions at key locations, the maintenance of deterrence capability, and the reinforcement of alliances. At the same time, it stresses the importance of “soft power” in non-war domain, such as the strengthening and promoting the

cooperation with allies and friends in the fields of piracy control and international humanitarian aids at the time of disasters, in accordance with the “Global Maritime Partnership” initiative, which replaced the “1000 Ship Navy” initiative issued in 2005.

The New Maritime Strategy does not clearly address the Global Maritime Partnership initiative itself, but describes several aspects of the initiative, for example, it says that: the initiative is an informal agreement to send a strong message to enemy powers through the cooperation with other countries; it is a multi-lateral coordination approach for “Maritime Security” in order to promote “the rule of law” in non-war domain against any illegal activities such as piracy, terrorism and the proliferation of weapons; and the execution and pursuit of the initiative can work as a catalyst in improving the inter-operability of forces in the international community for the purpose of supporting cooperative maritime security activities.

During the Cold War, the strategies the US Forces adopted always assumed the possible confrontation against former Soviet Union, as typified in the “Maritime Strategy” of the US Navy set about 21 years ago. After the collapse of the Soviet Union, however, the US Forces became the world’s only superpower. The New Maritime Strategy acknowledges that “no one country can secure the safety and security of entire seas and oceans of the world” in the responses against varied forms of conflicts and confrontations, which may occur as the globalization continues and further expands at multi-dimensional levels, while fighting against emerging unlawful nations and international terrorism. It also emphasizes the importance of building the Global Maritime Partnership initiative with allies and friendly nations, since “the mutual trust and cooperation cannot be made overnight”, although the US Forces have sufficient capability to make global response, when needed.

(2) Characteristics of the New Maritime Strategy

The New Maritime Strategy embraces several unique characteristics. First of all, the Strategy is to provide a Maritime Strategy long-sought by the US Navy ever since the end of the Cold War (still on the way to completion). Unlike the Maritime Strategy of 21 years ago, which was a “fixed” strategy, the New Strategy is a “living” strategy to be developed for the future. Secondly, it is designed to adapt to various changes and transformation brought by ongoing multi-dimensional globalization. Thirdly, although the Strategy does not directly refer to it, it assumes to counter the build-ups of Chinese naval forces and their strategy toward the Indian Ocean and Africa. Fourthly, it emphasizes not only the “homeland security” and “victory in war” but also “prevention of war.”

Fifthly, it recognizes that, in building-up armed forces, there is the competitive

relationship between the implementation of peacetime missions and the execution of wartime operations. Sixthly, it acknowledges the possibility that the sustenance of anti-terrorism war in the Afghanistan and other areas may provide the benefits of mitigating competitive and confrontational relationships, leading to the improvement of MOOTW implementation capabilities. The seventh characteristic is, as in the case of all Strategy documentations in the US, its aim to raise awareness on the values of maritime forces, thereby securing necessary budget for the build-ups of such forces. In this term, however, the Strategy does not present satisfactory effects at present. Finally, the Strategy attempts to reduce the burden of the US Navy, to improve and sustain forward deployment capabilities, and hence to deter the wars. At the same time, it demonstrates willingness to promote cooperative relationships with other countries, further strengthening mutual relationships with these countries.

2. New Maritime Defense Strategy of Japan

Japanese strategy that may correspond to the US's New Maritime Strategy can be "Japan Maritime Self-Defense Force (JMSDF) in a new maritime era" announced in August 2008. This report describes strategy of JMSDF for the achievement of its objective to respond against situation and states projected for the future. It divides the strategy to "Engagement Strategy" to be adopted by JMSDF from the peacetime, and "Response Strategy" to respond against crisis. This report will mainly discuss the latter Response Strategy.

(1) Objectives of Japan Maritime Self-Defense Force (JMSDF)

The existing National Defense Program Guidelines adopted in 2004 defines Japan's national security objectives as "to prevent any threat from reaching Japan and, in the event that it does, repel it and minimize any damage", and "to improve the international security environment so as to reduce the chances that any threat will reach Japan in the first place." In addition, it defines the role of the defense forces in achieving such objectives as "effective response to the new threats and diverse situations", "preparations to deal with full-scale invasion" and "proactive efforts to improve the international security environment."

To achieve these objectives and to fulfill its role, JMSDF needs to constantly conduct patrol and surveillance in the surrounding waters in peace time, and to prevent the emergence of situations, while maintaining a system that enables immediate response once the situation arises.

Generally naval forces (including JMSDF) are granted various privileges under the international laws from peace time, enabling them to act freely as the embodiment of nation's

sovereign, to navigate necessary waters without impairing the rights and interests of surrounding countries, and to demonstrate national wills when the situation calls for. Moreover, naval forces possess self-completion capability that enable them to take actions for a long period of time, so that they can provide a broad range of options for the attainment of national objectives, as they can take actions not only in the surrounding waters but also in far distant oceans, for long temporal axis extending from peace time to emergency situation.

JMSDF needs to utilize these characteristics to secure the safety and stability of overseas maritime trade and cargo transportation, which are lifeline of Japan. For this, it needs to actively promote international cooperation with the US as an ally and other reliable partners for maintaining relevant major international systems and the security of sea lines of communication.

From these viewpoints, the objectives of JMSDF for the attainment of national security objectives shall be as follows:

- i Defense of surrounding waters
- ii Establishing freedom of maritime use
- iii Contribution for the development of stable security environment

(2) Strategy to Achieve the Objectives

In order to achieve above objectives, JMSDF needs, in addition to exerting its own efforts, to promote cooperation with not only the US as its ally, but also the reliable naval forces of countries sharing common interests and values, as well as regional countries and the international community. Especially the joint efforts between JMSDF and the US Navy should form the foundation of such efforts as the US Navy shares common values in democracy and fundamental interests such as the fight against terrorism or piracy, and the security and stability in surrounding waters and beyond.

The strategy of JMSDF in attaining its objectives against projected situations and states can be divided into Engagement Strategy and Response Strategy.

Engagement Strategy involves issues and policies JMSDF needs to address during peace time. Mainly it concerns the efforts to maintain necessary preparation in surrounding waters based on the joint links with the US Navy to prevent the occurrence of confrontations, etc., and to ensure freedom of maritime use in cooperation with relevant countries. In this regard, it needs to develop close cooperation with stakeholder countries to sustain the stability and security of sea lines of communication connecting the Middle-East and Japan. In addition, the strategy will call for the efforts to actively seek cooperative maritime actions against mainly

low intensity and non-traditional threats in order to prevent the manifestation of high intensity threats, and to improve the stability of security environment.

Response Strategy concerns issues and policies to be taken when the deterrence power collapses and the threat reaches Japan and aims to provide swift response to, and elimination of, realistic threats against the nation. Concerning the theme of this report, we shall discuss mainly the Engagement Strategy.

(3) Engagement Strategy

Engagement Strategy is, first of all, a strategy to build more advantageous security environment for Japan in peace time, in order to prevent and deter the occurrence of any defense situation.

Generally speaking, peace time duties are extremely important for naval forces and are sometime considered as their *raison d'être*. Unlike the time of the Cold War when an enemy and ally were easily identified, today's increasingly fluid international situation further raises the importance of building more advantageous environment in peace time before the outbreak of war or confrontational situation. This will eventually lead to "victory without fight."

It is absolutely essential to secure freedom in maritime activities from the peace time, such as the safe and stable use of maritime navigation, development of ocean bottom resources, and fisheries. This can be attained directly and indirectly, when JMSDF takes an initiative in participating consecutive Japan-US combined naval exercises, various defense exchanges or exercises with the navies sharing common interests and values, and multilateral cooperative framework for maritime security.

Although regional maritime security is essentially dependent on the efforts of coastal countries, it is easy to assume in today's environment of extensive globalization in the world of maritime transportation and activities of international terrorist organizations or piracy that these coastal countries may not be able to fulfill such duties, thereby calling for multilateral coordinative efforts in maritime security.

For Japan, the oceans to cover in terms of securing freedom of maritime use involves the energy route areas extending from surrounding waters of Japan to the Middle-East through South East Asia and Indian Ocean. Instead of considering them as a widely unified region, however, it is more appropriate to divide them into four regions of different regional situations, such as North-East Asian region, South-East Asian region, South Asian region, and Middle-East region. The improvement of security environment and Engagement Strategy are two sides of the same coin and mutually complementing each other. In other words, the efforts to defend a

nation and surrounding waters and to secure freedom of maritime use can improve security environment, and measures to improve security environment can lead to the defense of surrounding waters and the securing the freedom of maritime use.

(4) To Secure the Freedom of Maritime Use

Today, sea lines of communication are considered and recognized as one of the “Global Commons” and various countries are to cooperate each other to secure the safety of such sea lines of communication from peace time. For Japan, to secure the safe and stable maritime navigation is the very foundation of the nation’s existence.

There are various measures to secure the safe and stable maritime navigation, including direct measures of immediate effects, such as the provision of naval escorts to commercial ships in pirate-prone waters through the cooperation among national organizations and navies of countries surrounding sea lines of communication. More indirect and slow to manifest measures involve international cooperation to ensure overall peace and stability of regions and waters, which may provide higher and more practical effectiveness in terms of strengthening ties with relevant countries.

To be specific, JMSDF, in close coordination with Japan’s diplomatic agencies, can take initiative to engage in the efforts to maintain regional maritime security along the energy route extending to the Middle East. It can also deepen the interrelationship with navies of other nations through defense exchange activities, to further develop friendly and trustful relationship. For those, JMSDF needs to make further integrated efforts to coordinate with national foreign policies.

(a) North-East Asian Region

In Japan’s surrounding waters, we can find many surrounding nations with increasingly strong interests in maritime rights. In the East China Sea, especially, the regional countries of Japan, China, Taiwan and South Korea are continuing the negotiation on maritime resources and fishing rights and interests. Presently, there is not much likelihood of related nations causing interferences and frictions with Japan over fishery activities and maritime resource development. Still it will be critical for JMSDF to strengthen ISR system with the US Navy, Japan Coast Guard, and other related organizations of Japan, in order to maintain the stability in the region.

This North East Asian region is where sea lines of communication connecting the world and Japan converge. The region presents less likelihood of non-state entity activities occurring, such as piracy and terrorism, but it embraces traditional instability factors. Therefore,

what JMSDF should do in this region is to take every opportunity to implement combined exercises with the US Navy, and to maintain its continuing presence in major waters through patrol and surveillance, and various naval exercises, thereby contributing to the securing of regional stability. At the same time, it needs to actively pursue defense exchange activities with regional countries, including China, so to build mutual confidence.

(b) South East Asia and Oceania Region

Geographical concept of this region covers South East Asia (south of Bashi Channel) and Oceania, holding important points of maritime navigation with major sea lines of communication passing through. Many instability factors exist in this region, including Islam militants building bases, terrorist groups and armed piracy making attacks. Very recently, Chinese aggressive advancement toward South China Sea calls legislative, political, economical and military frictions with surrounding countries. For North East Asian countries like Japan deeply dependent on energy resources transported from the Middle-East, the continuation of peace and stability in this region has a vital importance.

Regional countries are making efforts to maintain order and implementing various measures for regional stability in multiple levels through bilateral and multilateral frameworks involving regional or non-regional countries. Except few countries, regional countries usually hold guard against any interference by superpowers from out of this region, such as the US or China, being wary of accepting foreign armed forces to station within a country. Yet, the maritime security measures under multilateral frameworks including the US, Japan and Australia are gradually taking roots within the region.

In this region, therefore, JMSDF needs to cooperate with regional countries of common values, and to participate integrally in various security measures in cooperation with various national agencies including Japan Coast Guard, which has been participating in anti-piracy measures. Moreover, by the engagement in these measures, it needs to contribute to the build-ups of regional navies, in order to secure the safety of vital sea lines of communication existing in this region.

(c) South Asian Region

Geographical concept of this region is the Indian Ocean region extending from the west end of Malacca Strait to Middle-East. In the west side of this region, the war against terrorism is still progressing, while Islamic fundamentalist groups are increasingly deepening radicalism. The existence of national border conflicts adds to many instability factors of this region. Moreover,

the regional countries' economic growths have led to more build-ups of military forces, which may create another new instability factors such nuclear weapon development and the proliferation of ballistic missile technologies. On the other hand, there have been extensive efforts made for regional stabilization. Pakistani Navy is a sole Islam country that participates in the war against terrorism, and holds multi-national naval exercises. Indian Navy also holds multi-national naval exercises, and creates a forum of Indian Ocean Naval Symposium (IONS) to discuss the stability of surrounding region, while taking new various multilateral initiatives. Since India has rapidly growing its national power, it is likely to take central role in the security of this region.

Therefore, the appropriate way of JMSDF in this region will be to start with continuous and independent engagement in multi-national exercises initiated by regional countries, then to gradually deepen the relationship taking every opportunity, and repeating mutual visits by defense airplanes and vessels.

(d) Middle-East Region

The fight against terrorism ongoing in this region seems to take many more years. Also, one cannot deny the possibility of situation arising at the Strait of Hormuz due to Iranian nuclear development program. Moreover, the region finds many instability factors such as ever-more active Islam fundamentalists, frequent terrorist attacks on the seas using small high-speed boats, and the possibility of deterioration in Palestine related situation. Regional waters extending from the east side of Arabian Peninsula, through the Strait of Babel Mandeb, to Suez Canal are frequented by piracy attacks based on Somalia.

NATO and other navies are conducting Operation Active Endeavor in their fight against terrorism, also NATO, EU and other navies are conducting operations against piracy in the Gulf of Aden and off the coast of Somalia. The key for engagement by JMSDF in this region will be the link with navies of NATO and EU members in cooperation.

Therefore, a proper strategy for JMSDF in this region will be to approach regional countries with emphasis on Japan's diplomatic position being different from those of the US and Europe, and to develop relationships with them, as well as NATO, EU member and voluntary participating countries. It will be also appropriate to expand the engagement in this region through the opportunities of visits by defense vessels, including overseas training squadron.

(5) Contribution to Build Stable Security Environment

World's responses to regional conflicts and transnational issues are increasingly taken through

coordinative and cooperative efforts of the international community. JMSDF can provide various forms of support activities to aid natural disaster stricken areas based on international peace cooperation activities, making use of naval characteristics, such as maritime transportation of materials or units of Japan Ground Self-Defense Force (JGSDF), medical support, and information collection activities. Since these activities are expected to provide the effects of shrinking terrorist- or piracy-prone areas, it may be appropriate to combine and integrate such activities with other Engagement Strategy.

In addition, visits by overseas training squadron and other defense vessels, or regularly held bilateral and multilateral joint exercises and other defense exchanges including personal exchanges can contribute to build better security environment, the JMSDF needs to implement such activities from strategic viewpoints.

3. Strategic Coordination of Japan-US Alliance

How Japan must consider the implications of the New Maritime Strategy of the US, and how they should respond to it? Japan needs to actively assess and appreciate this strategy as one proposal for the Japan-US alliance, especially because this alliance is essentially characterized as the “maritime alliance.”

To be specific, Japan should make efforts to establish “Japan-US Allied Maritime Strategy” by the combined efforts with the US. Firstly, the actual output of such combined efforts should be an allied maritime defense strategy. Secondly, both countries need to create a road map to realize multi-dimensional maritime security cooperation initiative centered on Japan and the US, as its concrete form of the Global Maritime Partnership initiative of the New Maritime Strategy of the US. Then, both countries need to promote this initiative through close mutual coordination.

(1) Military Features of Japan-US Alliance

The military relationships between Japan and the US have been the very foundation of Japan-US alliance. During the Cold War, this solid Japan-US military alliance supported Japan and secured the nation from its crisis of existence. Especially during the late 1970's and 1980's, when both countries were at the height of economic and trade frictions (“war”), the Japan-US Alliance made efforts to develop military power by modernizing the equipment and operation capabilities of Japan's Self-Defense Forces in response to the rapid capacity build-ups of Soviet's naval and air forces, in order to enclose Soviet and to halt its advancement in the Pacific Ocean

theater. It is a universal view that these efforts contributed to the eventual victory of the West in the Cold War. Particularly, the joint capacity build-ups of naval forces provided the true foundation for the Japan-US Alliance.

After the end of the Cold War, there were unprecedentedly varied forms of military crashes and confrontations, so the US and the international community welcomed Japan's military cooperation as the one to help stabilize international community. The international cooperation activities of Japan's Self-Defense Forces, such as the first-time international activities by dispatched mine sweepers just after the cease-firing of the Gulf War in 1991, successfully mitigated the anxieties against the dispatching of Self-Defense Force units to overseas. In the viewpoint of national politics, such activities raised awareness among Japanese nationals about the values of international military cooperation.

From the viewpoint of the world, their activities let the US and the international community realize the basic power of Japan's "military" forces, and raises the expectation for their contribution to the stabilization of international community, despite the fact that the dispatched units of Japan's Self-Defense Forces had to sustain a number of constraints in actions, unlike the activities permitted to ordinary military forces. Such significant constraints still continue today. The international community, including the US, expects Japan to improve the situation.

(2) Solid Deterrence System and the Stabilization of Security Environment

In North-East Asia, China is growing and expanding its military power, Russia is trying to regain the status of military superpower, North Korea has developed nuclear weapons, ROK is rapidly building its naval force and anti-ground attack capabilities, and Taiwan's new administration has openly demonstrated its anti-Japan policies with apparent inclination toward mainland China. Under such increasingly unstable and unclear status of regional security, Japan must maintain and further enhance Japan-US Alliance in order to develop a solid never-wavering system of deterrence as a non-nuclear weapon country.

What is the ultimate deterrence Japan can and must take against the multiple levels of threats and crisis factors, while not abandoning the status of non-nuclear power? The most appropriate deterrence system is a multiple system that combines conventional weapons and nuclear weapons of the United States. In order to establish a seamless deterrence structure from defensive stage to offensive stage, it is essential that Japan itself possesses denial (offensive defense) capabilities using conventional weapons, rather than possessing nuclear weapons in the future, while developing a solid foundation of close coordination and linkage with the US.

For the survival and continuous prosperity in the world of progressive globalization, Japan should subjectively participate in multilateral coordination efforts to stabilize global security environment, including the one to secure the safety of sea lines of communication. For this, the best measure will be to maximize the effects and benefits of Japan-US (maritime) Alliance.

(3) Japan-US Allied Maritime Strategy

The Japan-US Alliance is essentially a maritime alliance, and so the establishment of “Japan-US Allied Maritime Strategy” that conforms to the New Maritime Defense Strategy of JMSDF and the New Maritime Strategy of the US Navy, and promotes the national interests of Japan as well as the US, would be strongly desired and essentially needed.

In this case, both Japanese and the US authorities need to promote the dialogue in two aspects: one is “Allied Maritime Defense Strategy” that covers the original subject of the Alliance, i.e. war carrying domain, and; “Multi-Dimensional Maritime Security Cooperation” initiative of regional and global scope as the extension of original subject of the Alliance, i.e. non-war domain (MOOTW) against non-traditional threats. Needless to say, the latter aspect concerns the Global Maritime Partnership initiative proposed in the US’s New Maritime Strategy.

Japanese Government should aggregate all their efforts and wisdoms to address this issue with an aim to develop and incorporate such strategy into its newly revised “National Defense Program Guideline” as a national policy. From the domestic viewpoint, all the relevant ministries and agencies of the Japanese Government, not only the Ministry of Defense and the Self-Defense Forces, but also the Cabinet Office, Ministry of Foreign Affairs, and the Ministry of Land, Infrastructure, Transport and Tourism at least, should be involved in an appropriate manner to develop and enforce the Japan-US Allied Maritime Strategy.

4. Development of Japan-US Allied Maritime Strategy

The development of Japan-US Allied Maritime Strategy means to develop the Allied Maritime Defense Strategy in war domain, and set a road map for the realization of Multi-Dimensional Maritime Security Cooperation initiative in non-war domain.

(1) Development of “Allied Maritime Defense Strategy”

To develop the Allied Maritime Defense Strategy between the US Navy and JMSDF in war domain will be vitally important in the security and defense of both Japan and the US. It is a

wonder why such a strategy has not been developed until now. Even today, however, it is not too late to develop such allied strategy.

The development of the allied strategies in Security, Defense and Military level between Japan and the US will take natural course as both countries strive strongly toward the implementation of “2+2 Dialogue” agreed in May, 2006, or the review of the roles of alliance in the discussion of the new National Defense Program Guideline of Japan or the new “Guidelines for Japan-US Defense Cooperation.” Then the moves and actions to develop the Allied Maritime Defense Strategy will be emerged naturally as a part or an even first of these allied strategies.

Moreover, if the opportunity ripens, both countries should further develop such strategies into broader perspectives centered on the Japan-US Alliance. For example, it can be developed into a “Maritime Cooperative Strategy” for “Semi-Alliance”, hopefully among Japan, the US and Australia. Also, it can be expanded to a similar strategy for “Maritime Security Cooperative Partnership”, such as among Japan, the US, and India.

(2) Multi-Dimensional Maritime Security Cooperation...“Maritime Security Coalition”

In regards to the Multi-Dimensional Maritime Security Cooperation initiative in non-war domain, the formation of a “Maritime Security Coalition” which I have proposed at every opportunity should be considered as a concrete example of such an initiative.

The Maritime Security Coalition is an informal multilateral cooperation approach and one of the concrete form of the Global Maritime Partnership initiative of the New Maritime Strategy of the US Navy as well as Engagement Strategy of the New Maritime Defense Strategy of JMSDF, which can promote cooperation in the field of maritime security for the purpose of promoting the “rule of laws”, in order to control illegal activities categorized as non-traditional threats on the seas, such as piracy, terrorism, and proliferation of WMD. The Maritime Security Coalition shall be defined as the “global or regional nation-to-nation coalition with the objective to maintain and secure safe and freedom of maritime use from the peace time.”

One precondition for accession to such Maritime Security Coalition will be whether a country can share three basic maritime interests with other countries. Those are, in the maritime domain: (i) to cooperate in maintaining the security of the region from peace time as well as in emergency or crisis (Existence); (ii) to cooperate and to prosper together in the commerce and trades as well as marine resource development (Prosperity), and (iii) to sincerely pursue the conservation and development of various benefits the seas can provide in terms of marine

environment protection and marine resource control (Value).

In short, the basic requirement to join the coalition is that “a country has no severe dispute over maritime interests or territories, economic conflicts, or objections toward environmental conservation or the development of marine resources.” Even if there is a seed of dispute, to build a coalition among countries that allow fair and democratic way of solving disputes is essential for maintaining the coalition. More importantly, the coalition needs to be built on the national action principle of each participant as “service to the others,” which is based on the idea of democracy.

The Maritime Security Coalition as a form of Multi-Dimensional Maritime Security Cooperation, shall be consisted, at the moment, of the US allied nations or reliable partners (democratic maritime nations sharing the views on three indices of survival, prosperity and values), with an addition of a group of democratic maritime nations that fulfill the required conditions in these three indices. First, this coalition shall be launched at regional level as a “Regional Maritime Security Coalition”, then later expanded to a “Broader Maritime Security Coalition”, and eventually becoming a “Global Maritime Security Coalition” in the future. This will be the best way to develop such a system.

Each Japan and the US, possibly cooperating with Australia or India, has high motivation to be a “Responsible Stakeholder” for sharing a role to secure “Broad Sea Lanes through the Expanded Asia” and may hold very positive will and eagerness to constitute the Regional Maritime Security Coalition.

(3) Challenges in Terms of Coordination in Coastal Sea Lane Protection

Lastly, the most important challenge will be how to secure sea lane safety along the coasts where sea lanes converge. This issue will remain, even if a broader framework can be developed over broader seas and oceans. The Global Maritime Partnership initiative does not clearly state what measures the US proposes to address this issue. Coastal waters usually have histories of territorial disputes as well as confrontations over maritime interests. The examples of such cases can be seen in the relationships between Japan and surrounding nations, including China, ROK, and Russia. These waters can be subjected to the intertwined net of stakes and interests each relevant country claims, so that it is extremely difficult to develop a cooperation system over troubled waters.

However, it is possible to develop the opportunities to resolve the issues in the future, if the (regional) coastal countries are to aim for the “(Regional) Maritime Security Coalition”, starting with cooperation in the area of maritime security in non-war domain against

non-traditional threats (MOOTW). During the process of developing such coalitions, there will be many opportunities to develop mutual confidence even between countries with disputes, and to cooperate with each other to attain the common goal.

(4) Cooperation of Maritime Forces between Japan and the US

When developing a Maritime Security Coalition, it is vital to promote close cooperative relationships between four parties of JMSDF, Japan Coast Guard, the US Navy, and the US Coast Guard, as the important constituents of such system led by Japan and the US to promote Global Maritime Partnership or Engagement Strategy. Comparing to the closeness of relationships between the US Navy and JMSDF, the one between the Japan Coast Guard and JMSDF has been rather distant.

The reasons of this may relate to the history of establishing JMSDF or the domestic political environment surrounding JMSDF after its establishment, as well as the competitive nature of inter-ministry relationships. However, the legislation of the Basic Law of Oceans in April 2007 has resulted in the rising trend to view maritime security as a part of more comprehensive national policy on “maritime safety”. Moreover, the reform of the Ministry of Defense is expected to improve the policy-making functions of relevant ministries, so that these organizations will be able to develop national defense and security policies from more integrated viewpoints.

In addition, the revision of National Defense Program Guideline due to take place during this year may draw attention to the importance of maritime security. All these trends are culminating to develop more favorable environment for addressing the challenges in maritime security from more pragmatic viewpoint, while gathering every possible effort of a nation. Japan must use this ideal moment to promote further improvement in these issues.

A good example of maritime security response can be the anti-piracy activities currently ongoing off the coasts of Somalia. As known well, those JMSDF vessels participating in anti-piracy activities have Japan Coast Guard officers on board for law enforcement activities. The US Navy and the US Coast Guard are said to have similar relationships. Then, these anti-piracy activities, in which these four group officers participate, may provide a good opportunity to further develop close cooperative relationship among four maritime forces of Japan and the US, contributing to further and steady development of Global Maritime Partnership or Engagement Strategy.

Conclusion

The fight against piracy at the Malacca Strait led to the development of several different plans among regional coastal countries and major user countries such as Japan and the US. Some failed due to territorial disputes like the case of RMSI (Regional Maritime Security Initiative), but several others succeeded. Although the trend is moving gradually, coastal countries and major user countries are implementing effective measures, which have successfully contained piracy incidents to limited areas.

Such experiences are quite valuable and can be applied or extended to other regions of piracy activities, such as archipelago of the Philippine or Indonesia, North Western Indian Ocean, East African including Somali and West African coasts. Yet these non-traditional threats are hard to eradicate. Piracy criminals constantly change their tactics to avoid law enforcement, and, if the law enforcement cut down its efforts even for a moment, the successes built up to that moment will soon evaporate.

Focusing on the efforts to control piracy off the coast of Somalia, the current anti-piracy activities enforced by multi-national naval units are necessary but tentative measures and cannot be the activities to eradicate piracy activities. For piracy eradication, what we need is to stabilize the nations that provide hotbeds to pirates, to strengthen their maritime law enforcement capabilities, and to heighten cooperation with surrounding countries.

For maritime user countries like Japan and the US, on the other hand, it is essential to cooperate with other reliable maritime countries that can be trusted and share common values on “service to the public,” in order to secure the global commons of sea. In addition, it will be necessary to continue exerting and devoting efforts in humanitarian activities that can benefit regional stability, such as the US initiated “Pacific Partnership”, and “Friendship and Amity Boat” initiated by Japan.

What we, the maritime forces of both Japan and the US, need for the future is a long term various efforts to reduce, deter, and properly respond to non-traditional maritime threats like piracy, by cooperating with other maritime forces of the countries that share common values on “service to the public”, while establishing robust Japan-US Allied Maritime Strategy.

Appendix

Contributors

【U.S. Side】



Sheldon W. SIMON

Professor, Arizona State University

Received Ph.D. from University of Minnesota. Served as a chair of the Political Science Department at Arizona State University and subsequently served as the Director of The Center for Asian Studies at the University. Held faculty appointments at the Universities of Hawaii, British Columbia, and Kentucky as well as at George Washington University, Carleton University (Ottawa), The Monterey Institute of International Studies, and The American Graduate School of International Management.



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Received B.A. in International Relations from York University and J.D. from Fordham University. Currently practices in the International Litigation group in the New York office of Watson, Farley & Williams. Also lectures at Columbia University and serves on the research team at Center for Energy, Marine Transportation & Public Policy (CEMTPP). Co-chairs the New York State Bar Association (NYSBA) International Section Committee.



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Received B.A. from Cornell University and M.S. from Rajaratnam School of International Studies in Singapore. Served in three navy warships, as the Combat Systems Officer and Chief Engineer in USS STETHEM (DDG63), Navigator in USS FORT MCHENY (LSD 43), and First Lieutenant in USS JOHN S. MCCAIN (DDG 56). Also completed an assignment as the Assistant Plans Officer on the Commander Naval Forces Japan staff.

【Japanese Side】



ITO Go

Professor, Meiji University

Graduated from Sophia University. Received Ph.D. at the Josef Korbel School of International Studies, University of Denver in 1997. Served as Associate Professor at Meiji University in 1998, and Promoted to Professor in 2006. Also served as Adjunct Professor (International Security) at Waseda University as well as Sophia University, and as Adjunct Researcher of the House of Councilors. Recipients of the Eisenhower Fellowships in 2005 and the Nakasone Yasuhiro Award in 2006.



YAMADA Yoshihiko

Professor, Tokai University

Received Ph.D. in Economics from Saitama University. Served as a Trader, Bond Market Section, Finance Securities Department, Toyo Trust and Banking Company, Limited in 1989-1991. Served as the Director of Maritime Department at the Nippon Foundation in 1991-2008. Currently serves as Professor at Tokai University.



KOTANI Tetsuo *Research Fellow, the Ocean Policy Research Foundation*

Served as Visiting Fellow at the Center for U.S. -Japan Studies and Cooperation at Vanderbilt University in 2003-2006. Also a member of the International Advisory Council of the Project 2049 Institute, and a book review editor of the Journal of Indian Ocean Region. Recipient of the Japanese Defense Minister Prize of 2003 and the 2006-2008 Research Institute for Peace and Security (RIPS) Security Studies Fellowship.



KANEDA Hideaki

VADM (ret), Director of the Okazaki Institute

Graduated from the National Defense Academy in 1968, and the Maritime War College in 1983, and U.S. Naval War College in 1988. Served as Senior Fellow of Asia Center and J. F. Kennedy School of Government of the Harvard and Guest Professor of Faculty of Policy Management of Keio University. Director for the Okazaki Institute, Adjunct Fellow of Japan Institute of International Affairs (JIIA), and trustee of Research Institute of Peace and Security (RIPS).

(In order of appearance)

Secretariat

【NBR】



Tim COOK *Project Director, Political and Security Affairs,*
The National Bureau of Asian Research (NBR)

Received B.A. from Carleton College and M.A. from the University of Washington in International Relations. Entered The National Bureau of Asian Research (NBR) in 2006 as a member of the inaugural class of Next Generation Leadership in Asian Affairs fellows. Served as the Assistant Director of Political and Security Affairs, and Assistant Director of Washington, DC Office.

【JFIR】



YANO Takuya *Research Coordinator, The Japan Forum on*
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Graduated from the Faculty of Literature of Keio University in 1998. Received Master of Law from Keio University in 2000. Completed Doctoral Program at Keio University in 2004. Served as Associate Research Fellow and Research Fellow of The Japan Forum of International Relations (JFIR). Held the current position since 2009. Concurrently serves as Executive Secretary of The Global Forum of Japan and Executive Secretary of The Council on East Asian Community.

An Introduction to The Japan Forum on International Relations (JFIR)

[Activities]

[History and Purpose]

The Japan Forum on International Relations, Inc. (JFIR or The Forum) was founded on March 12, 1987 in Tokyo on the private initiative of Dr. OKITA Saburo, former Foreign Minister, Mr. HATTORI Ichiro who contributed the endowment, and 61 other independent citizens from business, academic, political, and media circles of Japan, recognizing that a policy-oriented research institution in the field of international affairs independent from the government was most urgently needed in Japan. JFIR celebrated its 20th anniversary on March, 2007.

The Forum is a private, non-profit, independent, and non-partisan organization dedicated to improved understanding of Japanese foreign policy and international relations. The Forum takes no institutional position on issues of foreign policy, though its members are encouraged not only to analyze but to propose alternatives on matters of foreign policy. Though the Forum helps its members to formulate policy recommendations on matters of public policy, the views expressed in such recommendations represent in no way those of the Forum as an institution and the responsibility for the contents of the recommendations is that of those members of the Forum who sign them alone.

[Organization]

JFIR is a membership organization with four categories of membership, namely, ① corporate, ② associate corporate, ③ individual and ④ associate individual. It is governed by the **Board of Directors**, which is in charge of the management, and is supervised by the **Board of Trustees**, which elects the Directors and advises the Board of Directors. The **Steering Committee** coordinates the annual work program while fundraising and financial matters are handled by the **Financial Committee**. Advisors give advice at Board of Directors meetings, while Counselors serve the President as his advisors. The Chairman, President and Executive Director are elected for two-year terms by the Board of Directors and are eligible for reelection.

[Board of Directors]

The members of the Board of Directors are:

[Chairman] IMAI Takashi, [President] ITO Kenichi,
[Vice President] HIRABAYASHI Hiroshi,
[Members] HANDA Haruhisa, TAKUBO Tadae,
WATANABE Mayu.

Policy Recommendations :

The fundamental purpose of JFIR is to promote policy-oriented research. Therefore, all the activities of JFIR are directed towards that purpose. Two Councils were set up specifically for this. One is for the policy recommendations in the long-term perspective and the other is for those in the short-term and immediate perspective. The former is the *Policy Council* and the latter is the *Emergency Policy Council*. In the case of the Policy Council, a Task Force headed by a member of the Policy Council and staffed by research fellows of JFIR serves the Plenary Council as assistants for making an intensive in-depth analysis of the issue and working out a draft of the policy recommendations. When more than two thirds of the full members of the Policy Council endorse the draft or its revision, it is approved and becomes the recommendations of those members of the Policy Council who sign it. Please note that in this and other cases, the Forum takes no institutional position on issues of foreign policy, though its members are encouraged not only to analyze but to propose alternatives on matters of foreign policy. Though the Forum helps its members to formulate policy recommendations, the responsibility for the contents is that of those members of the Forum who sign them alone. Since 1988 the Policy Council has publicly announced 32 policy recommendations and presented them to the Prime Minister of Japan. Recent Policy Recommendations have covered themes such as "Positive Pacifism and the Future of the Japan - U.S. Alliance," "Japan's Strategy for its Agriculture in the Globalized World," "Nature of Russian State and Japan's Strategy towards Russia," "India's Leap Forward and Japan," "Japan and China in the Changing Asia," and "The Establishment of an International Energy Security System." Currently JFIR is preparing new recommendations on "Japan's Response to Global Terrorism," and "Prospects and Challenges for the Acceptance of Foreign Migrants to Japan."

Internet Activities : In tandem with the core activities of policy recommendations, another important pillar of our activities is the BBS "Hyakka-Seiho" (<http://www.jfir.or.jp/cgi/m-bbs/>) started on April 12, 2006



Internet Activities : In tandem with the core activities of policy recommendations, another important pillar of our activities is the BBS “*Hyakka-Seiho*” (<http://www.jfir.or.jp/cgi/m-bbs/>) started on April 12, 2006. The BBS is open to the public, functioning as an interactive forum for discussions on foreign policy and international affairs. All articles posted on the BBS are sent through the monthly e-mail magazine “*Meru-maga Nihon Kokusai Fōramu*” in Japanese to 10,000 readers. Furthermore, articles worth attention are translated into English and posted on the English website of JFIR as “*JFIR Commentary*,” as well as introduced in the e-mail magazine “*JFIR E-Letter*” in English as “JFIR Commentary of the Month.” “JFIR E-Letter” is delivered monthly to 5,000 readers worldwide.

International Exchanges : Through policy-focused international exchange, JFIR not only keeps abreast of global public opinion, but strives to play a part in the formation of a public opinion that reflects Japan's positions. With this in mind, JFIR has been sponsoring international dialogues, meetings, symposia and workshops. As of September 2010 JFIR has held 75 such international exchange meetings. The latest event was “Japan-U.S. Roundtable to commemorate the 50th anniversary of the revision of the Japan-U.S. Security Treaty,” under the theme of “The Japan-U.S. Alliance at 50: Crossroads or Continuity?” in Tokyo on 24 May, 2010. In addition, JFIR supports similar activities of its sister organization, The Global Forum of Japan (GFJ).

Foreign Policy Briefing : Foreign Policy Briefing meeting is organized monthly to provide an occasion for members of JFIR to meet, in an informal and confidential manner, senior officials of the Japanese Government and other authorities in the field of international affairs. Speakers are invited to give a talk and is followed by questions and answers. The meeting is conducted in Japanese. Foreign Policy Briefing meeting is held under the co-sponsorship of JFIR with its sister organizations, GFJ, and The Council on East Asian Community (CEAC).

Diplomatic Roundtable : Diplomatic Roundtable meeting is organized, taking advantage of an occasion of a visit to Japan of a person prominent in various fields of activities abroad, for the purpose of providing an occasion for the visiting speaker to meet and exchange views with members of JFIR. Unless the speaker agrees to speak in Japanese, English is, in principle, the language used in the Roundtable and no Translation is provided. Diplomatic Roundtable meeting is held under the co-sponsorship of JFIR with its sister organizations, GFJ and CEAC.

Regular Research Programs : JFIR's various researchers from both Japan and abroad are engaged in research projects either collectively or individually, and the results of their research are published in a series of reports. Currently JFIR is carrying out several Research Programs including on “the U.S.-Japan Alliance and Japanese Diplomacy in the Era of ‘Smart Power’,” and “New Perspective on East Asian Regional Cooperation and Challenges of Japan's Policy.” The former explores the future visions of the U.S.-Japan alliance and its implications for Japanese foreign and security policies in an era when the spectrum and the characteristic power in international relations is transforming to include both hard and soft powers. The latter explores and proposes Japan's future policies from new -points of view toward East Asia where a regional community is being created.

Special Study Projects : In addition to the Regular Research Programs cited above, JFIR organizes multi-year Special Study Projects on an ad hoc basis to conduct research, exchanges, and recommendations on international and diplomatic issues that demand attention, with the results announced to the public. The main projects which have been conducted recently are as follows:

1. “Japan-U.S. Joint Research Program on Counter Piracy” aims to explore how the Japan-U.S. relations could contribute in addressing piracy, which in recent years has become a source of threat to the international community.
2. “Study Group on Japan's National Strategy” aims to play the role of a bridgehead for strengthening strategic way of thinking in Japan. The members of the Study Group consisted of scholars, politicians and government officials.
3. “Network of East Asian Think-tanks (NEAT)” aims at the creation of a network of think-tanks in ASEAN+3 nations, for research collaboration on the integration of the East Asia region.
4. “East Asia Forum (EAF)” aims at enhancing understanding and cooperation among industry-government-academia in ASEAN+3 nations.
5. “Russian Study Group” aims to study Japan's strategy toward Russia, particularly in relation to the Northern Territories issue.
6. “Chechnya Study Group” aims to raise understanding and awareness of the Chechnya issue in Japan. It invited to Japan an eleven member.



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