CONTEMPORARY MARITIME PIRACY
IN SOUTHEAST ASIA

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IN SOUTHEAST ASIA

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<th>Description</th>
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<tbody>
<tr>
<td>AFRAMAX</td>
<td>Average Freight Rate Assessment Maximum</td>
</tr>
<tr>
<td>ARF</td>
<td>ASEAN Regional Forum</td>
</tr>
<tr>
<td>ASF</td>
<td>Asian Shipowners Forum</td>
</tr>
<tr>
<td>BAKORKAMLA</td>
<td>Badan Koordinasi Keamanan Laut</td>
</tr>
<tr>
<td>BCV</td>
<td>Barge Carrying Vessels</td>
</tr>
<tr>
<td>dwt</td>
<td>deadweight tonnage</td>
</tr>
<tr>
<td>FASA</td>
<td>The Federation of ASEAN Shipowners' Associations</td>
</tr>
<tr>
<td>EIC</td>
<td>East India Company</td>
</tr>
<tr>
<td>FOC</td>
<td>Flags of Convenience</td>
</tr>
<tr>
<td>GPS</td>
<td>Global Positioning System</td>
</tr>
<tr>
<td>GRT</td>
<td>gross registered tonnage</td>
</tr>
<tr>
<td>GT</td>
<td>Gross tonnage</td>
</tr>
<tr>
<td>ICC</td>
<td>International Chamber of Commerce</td>
</tr>
<tr>
<td>IMB</td>
<td>International Maritime Bureau</td>
</tr>
<tr>
<td>IMB-PRC</td>
<td>International Maritime Bureau Piracy Reporting Centre</td>
</tr>
<tr>
<td>IMO</td>
<td>International Maritime Organization</td>
</tr>
<tr>
<td>INSA</td>
<td>Indonesian National Shipowner’s Association</td>
</tr>
<tr>
<td>ISC</td>
<td>Information Sharing Centre</td>
</tr>
<tr>
<td>ISPS CODE</td>
<td>International Ship and Port Facility Security Code</td>
</tr>
<tr>
<td>ITF</td>
<td>the International Transport Workers’ Federation</td>
</tr>
<tr>
<td>JSA</td>
<td>Japanese Shipowners’ Association</td>
</tr>
<tr>
<td>KPLP</td>
<td>Kesatuan Penjaga Laut dan Pantai</td>
</tr>
<tr>
<td>LNG</td>
<td>Liquefied natural gas</td>
</tr>
<tr>
<td>LPG</td>
<td>Liquefied petroleum gas</td>
</tr>
<tr>
<td>MECC</td>
<td>Maritime Enforcement Coordinating Centre</td>
</tr>
<tr>
<td>MISC</td>
<td>Malaysian International Shipping Corporation Berhad</td>
</tr>
<tr>
<td>MMEA</td>
<td>Malaysian Maritime Enforcement Agency</td>
</tr>
<tr>
<td>MOL</td>
<td>Mitsui O.S.K. Lines Ltd.</td>
</tr>
<tr>
<td>MPA</td>
<td>Maritime and Port Authority</td>
</tr>
<tr>
<td>MSC</td>
<td>Maritime Safety Committee</td>
</tr>
<tr>
<td>NOL</td>
<td>Neptune Orient Lines</td>
</tr>
<tr>
<td>NYK</td>
<td>Nippon Yusen Kaisha</td>
</tr>
<tr>
<td>OBO</td>
<td>oil/bulk/ore carrier</td>
</tr>
<tr>
<td>OOCL</td>
<td>Orient Overseas Container Line</td>
</tr>
<tr>
<td>Abbreviation</td>
<td>Full Form</td>
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<tr>
<td>--------------</td>
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</tr>
<tr>
<td>PSA</td>
<td>Port of Singapore Authority</td>
</tr>
<tr>
<td>PTP</td>
<td>Port of Tanjung Pelepas</td>
</tr>
<tr>
<td>ReCAAP</td>
<td>The Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia</td>
</tr>
<tr>
<td>RMN</td>
<td>The Royal Malaysian Navy</td>
</tr>
<tr>
<td>RMSI</td>
<td>Regional Maritime Security Initiative</td>
</tr>
<tr>
<td>RSN</td>
<td>Republic of Singapore Navy</td>
</tr>
<tr>
<td>SLOCs</td>
<td>Sea Lines of Communication</td>
</tr>
<tr>
<td>SOLAS</td>
<td>the International Convention for the Safety of Life at Sea</td>
</tr>
<tr>
<td></td>
<td>Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation</td>
</tr>
<tr>
<td>SUA</td>
<td>Singapore Shipping Association</td>
</tr>
<tr>
<td>TEU</td>
<td>twenty-foot equivalent unit</td>
</tr>
<tr>
<td>TNI</td>
<td>Tentrara Nasional Indonesia</td>
</tr>
<tr>
<td>TSS</td>
<td>Traffic Separation Scheme</td>
</tr>
<tr>
<td>UKC</td>
<td>Under Keel Clearance</td>
</tr>
<tr>
<td>ULCC</td>
<td>Ultra Large Crude Carrier</td>
</tr>
<tr>
<td>VLCC</td>
<td>Very Large Crude Carrier</td>
</tr>
<tr>
<td>VOC</td>
<td>Vereenigde Ost-Inische Compagnic</td>
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SUMMARY

This dissertation reveals the underlying reasons behind the rise and fall of contemporary maritime piracy (1990–2005) in Southeast Asia, focusing on the three littoral states of the Straits of Malacca, Indonesia, Malaysia, and Singapore, together with China. The dissertation examines three sets of interactions amongst the non-state actors and state actors: pirates and the shipping industry, pirates and states, and interstate relations on anti-piracy cooperation in Southeast Asia.

The dissertation argues that the booming seaborne trade since the 1990s, which has generated large volume of cargoes passing through the Straits of Malacca, has provided easy prey for pirates, and that dilemmas in the shipping industry have facilitated piracy. Poor economic conditions and unstable political situations in Southeast Asia, especially during and after the Asian Financial Crisis of 1997–1998, have caused a surge in incidents of piracy. Furthermore, corrupt officials in the littoral countries, who are alleged to be in collusion with pirates, have abetted piracy. Anti-piracy cooperation in Southeast Asia has been hampered by differing incentives and priorities in littoral states regarding anti-piracy operations. A lack of capabilities in some littoral states, especially Indonesia, have further reduced the effectiveness of anti-piracy cooperation.
In the aftermath of 9/11, the littoral states have made policy shifts in response to the enormous external pressure to suppress piracy. The incentives in and capabilities of the littoral states on anti-piracy cooperation have been enhanced, together with the implementation of international maritime security measures, and for these reasons, piracy in the Straits of Malacca and the South China Sea have significantly declined, with this trend continuing up to the present.

This dissertation reviews the history of piracy in Southeast Asia, and identifies four main variables behind the rise and fall of piracy: “prey, pirate, politics and place”, as well as other factors, such as incentives in and capabilities of anti-piracy operations. The dissertation concludes with a summary of the historical continuity and transformation of piracy in Southeast Asia, and offers a prediction regarding piracy trends in the near future.
CHAPTER 1

INTRODUCTION

Introduction

Reports on sea raiders and sea raiding activities pepper the pages of Southeast Asia’s long maritime history. According to the earliest historical record for the region, this phenomenon has existed since the first century.¹ Making their way into these waters in the early 16th century, the European colonisers—the Portuguese, the Spaniards, the Dutch and the British—successively seized the main entrepôts and set up their colonial domains in Southeast Asia. From 1717, the British began to use the word “piracy” to refer to those indigenous people who attempted to impede their trading in the Straits of Malacca.² This meaning of the term “piracy” reflected a European perception of indigenous people as barbarous, primitive and in need of civilising. The word “piracy”, as a loose term for crimes that take place at sea, is still commonly used today, as will be discussed in the following section that covers the definition of contemporary piracy.

The European colonizers took pains to suppress piracy, and at the same time, anti-piracy operations could be used to justify and expand their colonial state-

building activities. With the help of coercive measures and new technology, such as steamships and powerful firearms, the Europeans eventually gained the upper hand over indigenous pirates. Piracy on a large scale had dwindled by the beginning of the 20th century. This decline will be detailed in the following chapter.

After the end of the Cold War, however, piracy in Southeast Asia and the South China Sea made a spectacular comeback. According to the International Maritime Bureau’s ‘Piracy and Armed Robbery against Ships Annual Report’, the number of piracy incidents worldwide increased rapidly after the mid 1990s. The number peaked in 2000 at 469 incidents, more than five times that of 1991. The most piracy-prone areas were in Indonesian waters, the Straits of Malacca and the South China Sea.

After the terrorist attacks on New York on 11 September 2001, piracy in Southeast Asian waters has been seen in an even more serious light, as the possibility that piracy and terrorism might become synonymous in Southeast Asia has been expressed by the mass media as well as in academic journals. Intriguingly, three years later, piracy incidents had declined significantly, particularly in the Straits of Malacca, and this trend has continued up to the

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Research Questions

This study looks into what constitute the main variables in the rise and fall of contemporary maritime piracy in Southeast Asia between 1990-2005.

Piracy is a complex field of study, with its causes and effects intertwined between the interactions of state actors and non-state actors. The rise and fall of piracy reflects the political and economic transformation of the various states of Southeast Asia. After examining the rise and fall of piracy in colonial Southeast Asia (as discussed in the following chapter), I realised that an in-depth understanding of piracy could be reached from the analysis of two processes: the evolution of piracy itself, and anti-piracy operations carried out by governments. The evolution of piracy demonstrates the political and economic transformation of interactions amongst the related state actors and non-state actors, while anti-piracy operations reflect the incentives and capabilities of states in dealing with piracy issues. These two processes are examined by analysing the following three sets of interactions.

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Analytic Framework and Arguments

The three interlinked sets of interactions amongst state actors and non-state actors are: pirates and the shipping industry, pirates and states, and interstate relations on anti-piracy cooperation, as shown in the following “Chart of Analytic Framework”. This dissertation examines these interactions in the three littoral states of the Straits of Malacca, namely, Indonesia, Malaysia and Singapore, together with the part played by China as a major destination of pirate booty.

Figure 1: The Chart of Analytic Framework
The large triangle in the Chart illustrates the three interlinked relations that will be examined in this dissertation. From these three sets of relations, I identify three variables: Pirates, Prey and Politics.

The blue background indicates one more variable, “places”, or the crime scenes of piracy. These are the Straits of Malacca and the Indonesian waters, which include the seas around many islands and river networks, the perfect hangout for piracy. These variables are elaborated on in Chapter 2.

Pirates and the Shipping Industry

Pirates and the shipping industry are key adversaries in contemporary maritime piracy in Southeast Asia. They are both non-state actors, unlike their counterparts during the colonial period, when many pirates were state actors, and the shipping industry was in some cases a part of the colonial state machinery, as will be discussed in Chapter 3.

Generally speaking, East Asian and Southeast Asian countries have enjoyed remarkably high and sustained economic growth since the Second World War. The booming economic situation in East Asia has given a fresh impetus to seaborne trade, and generated a huge cargo flow of oil and industrial materials through the Straits of Malacca, providing ready prey for pirates.

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8 East Asia in this dissertation mainly refers to Japan and China, while Southeast Asia mainly refers to the Philippines, Malaysia, Thailand, Indonesia and Singapore.
Since the shipping industry is the direct victim of piracy, the surge in the number of piratical incidents is therefore of great concern to this industry. The analysis of the nexus between the shipping industry and pirates provides practical insights into contemporary piracy. For instance, modern technology now used on board ships greatly reduces the number of crew needed on board. However, this also makes it easier for pirates to seize control of such ships. Bad security administration in some ports provides opportunities for pirates to commit crimes against ships, and, furthermore, lax practices in ship registration, such as the “Flag of Convenience” practice, facilitates the re-registering of hijacked ships by international criminal syndicates, as will be discussed in Chapter 3.

**Pirates and States**

The nexus between pirates and states is more complicated than the relationship between pirates and the shipping industry, involving political and economic factors, which are the driving forces behind the evolution of piracy and anti-piracy operations.

A booming seaborne trade and the development of the shipping industry are the external prerequisites for a surge in piracy. The boom in seaborne trade has brought about a host of problems for the littoral states. For example, the degradation of fish habitats has resulted in a tremendous decline in fish stocks and a slump in fishermen’s income, with Indonesian fishermen suffering considerable
losses. This has driven some Indonesian fishermen in fishing villages along the Straits of Malacca to turn to piracy for a living. They have attacked ships in ports and at anchorage as a source of easy money. Worsening economic conditions in Southeast Asia, especially in Indonesia, which was hit hardest during the Asian Financial Crisis of 1997-1998, have also played an important role in the recrudescence of piracy.

Apart from petty piracy in ports and anchorages, there are criminal syndicates in Southeast Asia, whose aims are to rob and hijack ships and cargo travelling though the Straits of Malacca. These criminal syndicates consist of well-trained personnel using fast boats, modern weapons and sophisticated communications. These criminal syndicates have established links to the black market, where they are able to dispose of their stolen cargoes. They also engage in other transnational crimes, such as smuggling, marine fraud, drug and human trafficking, and even illegal fishing. Corrupt officials in the littoral countries, especially in Indonesia, are alleged to be in collusion with these syndicated pirates.

In this study, I will discuss anti-piracy law enforcement agencies and domestic laws against piracy in the littoral states, and draw attention to patterns of collusion between pirates and corrupt law enforcement agencies. The analysis focuses on Indonesia and China, for Indonesia is the most piracy-prone zone, and China was the main destination of pirates’ booty in the 1990s. As shown in Chapter 4, corrupt officials in Indonesia and China have aided this process by providing information and logistics support for pirates, making piracy difficult to
suppress.

**Interstate Relations on Anti-piracy Cooperation**

Piracy in Southeast Asia is generally a transnational crime involving parties or processes in more than one country. As such, the suppression of piracy requires related states to cooperate. Since the early 1990s, the littoral countries have been cooperating in anti-piracy operations. However, divergences in national interests in the littoral states have resulted in different priorities and incentives regarding anti-piracy operations. The national interests of the littoral states have formed the basis for building anti-piracy policies. For example, in the eyes of Indonesian officials, piracy in Southeast Asia is petty theft, which does not have a great impact on its national interests. In contrast, Singapore, which is highly dependent on its ports, considers piracy as a threat to its national security. Such perceptions, in turn, are reflected in the states’ priorities in and incentives for combating piracy.

In terms of priorities in and incentives for combating piracy, Indonesia has given the lowest priority to anti-piracy operations, Singapore the highest, while Malaysia falls in between these two countries. These differences are reflected in anti-piracy policies and agreements. For example, the Indonesian government was reluctant to spend money on combating piracy, which was not their priority concern as they had more important maritime issues to deal with, such as illegal fishing in territorial waters.

Anti-piracy cooperation in Southeast Asia can be divided into two phases, with
the turning point being the September 11, 2001 terrorist attacks on America (hereafter, 9/11):

Phase One (1992-2001). Anti-piracy cooperation was characterised by low-profile, bilateral and multilateral cooperation amongst ASEAN and East Asian countries. Japan played an important role in anti-piracy initiatives. However, these initiatives were not effective in suppressing piracy. On the contrary, piratical incidents continued to rise in number.

Phase Two (2002-2005). In the aftermath of 9/11, the possibility of a terrorism and piracy nexus raised worldwide concern. The United States attempted to integrate anti-piracy operations into its global anti-terrorism framework, through the Regional Maritime Security Initiative (RMSI), together with the International Ship and Port Facility Security Code (ISPS Code), created by the International Maritime Organization (IMO). At the same time, the United States dominated international conferences on maritime security issues, such as the ASEAN Regional Forum (ARF), and the Asian Security Summits (known as the “Shangri-la Dialogue”). Against this backdrop, regional anti-piracy cooperation in Southeast and East Asia was enhanced. The Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP) was concluded in 2004. The ReCAAP is the first government-level organization amongst 16 Asian countries, with an aim to enhance multilateral cooperation in anti-piracy operations (as will be elaborated on in Chapter 5).

Following 9/11, the littoral states have been under considerable external
pressure, mainly from the United States, to combat piracy. As the incentives to combat piracy were thereby raised, there were some policy shifts, more patrols began to be carried out, and piracy incidents began to decline. After three years’ efforts (2002-2004) by the littoral states and other stakeholders, piracy in the Straits of Malacca and the South China Sea has declined significantly from 2004 up to the present.

**Literature Review**

**Piracy in Southeast Asian history**

Accounts of piracy in early Southeast Asia are scattered throughout Chinese historical records. This dissertation draws heavily on these records, many of which will appear in the English language for the first time. Western scholars are familiar with Shi Faxian’s accounts of piracy in the Straits of Malacca, and Wang Dayuan’s account of piracy in Temasek (Singapore).[^9] However, there are other Chinese records of piracy in Chinese travel notes and imperial archives: for example, *Ying Ya Sheng Lan, Zhu Pan Zi* and *The Imperial Archives*. This study presents insights drawn from these newly translated materials in Chapter 2.

Much solid work, based on colonial records, has been done by scholars on piracy during the colonial period. For example, Nicholas Tarling discusses the role of anti-piracy operations in British policy in the nineteenth century.\(^\text{10}\) Carl Trocki has examined the role of the Temenggong, known as the “Prince of pirates”, and the development of Johor and Singapore between 1784 and 1885.\(^\text{11}\) Timothy Barnard has studied maritime violence and Malay identity in Siak.\(^\text{12}\) James F. Warren and Laura Junker have investigated maritime raiding and pirate-state relations in the Spanish Philippines.\(^\text{13}\) Eric Tagliacozzo has discussed piracy and state building in the Dutch Indies.\(^\text{14}\) Joseph à Campo has analysed piracy in the Dutch Indies.\(^\text{15}\)

These scholars have provided insights into piracy in colonial Southeast Asia from different perspectives, which will be set out in the following chapter. The reason for devoting a whole chapter to discussing piracy in Southeast Asian history is that we can draw lessons from the past, that will in turn inform an analytic framework for understanding contemporary piracy.

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\(^\text{10}\) Tarling, *Piracy and Politics*, 2.
\(^\text{14}\) Tagliacozzo, *Secret Trades, Porous Borders*.
From an analysis of the rise and fall of piracy during the colonial period, I have developed the analytic framework for studying piracy, which examines the interactions between the three pairs of actors. Furthermore, I have identified four variables that influence the rise and fall of piracy: Pirates, Prey, Politics and Places, as will be explained in the following chapter. Later, I will reveal several interesting historical continuities and transformations, by comparing these variables in the contemporary period with their parallels in the colonial period. Furthermore, the studying of these variables makes it possible to predict piracy trends in the near future, as will be discussed in the concluding chapter.

**Piracy in Contemporary Southeast Asia**

There are many scholarly accounts of contemporary piracy, written from various perspectives. Jack Gottschalk and Brian Flanagan provide a historical perspective on piracy worldwide, introduce its modern dimensions, and present possible solutions to suppress piracy. However, they focus on piracy in the golden ages of America and the Mediterranean, rather than on piracy in Southeast Asian history, and the parts regarding contemporary piracy in Southeast Asia leave several important gaps.16

Peter Chalk, one of the pioneering scholars of contemporary piracy in

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Southeast Asia, emphasises that state sponsorship and support has contributed to modern piracy in Southeast Asia. He notes that a variety of maritime bodies have long asserted that certain gangs in Southeast Asia are operating with official backing and training, which accounts for the quasi-military and ‘professional’ style of contemporary piracy. This dissertation incorporates these claims into its analysis. However, Chalk’s claims about a “Chinese Conspiracy” appear to be spurious, as will be discussed in Chapter 4.17

Barry H. Dubner, Alfred P. Rubin, Hasjim Djalal, Robert C. Beckman and Zou Keyuan have studied piracy from an international law perspective. Dubner has made a thorough exploration of laws relating to international maritime piracy, compiled much relevant information and responded to some of the questions posed by legal publicists.18 Rubin has looked into the origins and the evolution of the concept of piracy in England and the United States, discussed British practice on piracy in the 19th century, and has discussed the international law on piracy in the 20th century.19 Djalal has discussed the articles relating to piracy in the United Nations Law of the Sea Convention (UNCLOS) and their implications, and investigated the piracy situation in Indonesia, as well as international anti-piracy cooperation.20 Beckman has analysed the reported piracy incidents and the attempts by the international community to deal with this problem. He concludes

with various recommendations on steps that should be taken by the international community and states in Southeast Asia.\(^{21}\)

Zou Keyuan has discussed the international legal regime regarding piracy, such as the UNCLOS, the UN Convention on the Suppression of Unlawful Acts against the Safety of Maritime Navigation (the SUA Convention), and the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf (the SUA Protocol). Zou has also considered domestic laws regarding piracy in China, Japan and the three littoral states of the Straits of Malacca (Indonesia, Malaysia and Singapore), as well as in other ASEAN countries.\(^{22}\) This dissertation espouses several insights from Zou’s studies, such as the linkages amongst, and implications of, legal instruments.

Sam Bateman, who has given insights into the obstacles facing anti-piracy cooperation in Southeast Asia, also inspires this study. The present study applies his methods on the analysis of maritime security, as shown in chapter 5.\(^{23}\)

Jason Abbot and Neil Renwick, John Mo, John F. Bradford, and Adam J. Young and Mark J. Valencia have examined piracy from an international relations perspective. Abbot and Renwick considered contemporary piracy in the light of theoretical developments within international relations and new definitions of

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security. 24 Mo focused on the efficiency of suppressing maritime piracy in Southeast Asia. 25 Bradford discussed the causes of the Japanese anti-piracy initiatives and the responses of the littoral states. 26 Young and Valencia asserted that the conflation of “piracy” and “terrorism” in Southeast Asia has become common since 11 September 2001. 27 These works all give some insight into piracy in Southeast Asia, but differ in certain respects from the approach and argument made in this dissertation.

**Contribution of this dissertation to the literature**

This dissertation seeks to understand the logic behind the rise and fall of the phenomenon of piracy in Southeast Asia, by using an analytic framework that examines the interactions between the three pairs of actors. Furthermore, I think it is important to elucidate contemporary piracy in Southeast Asia by drawing comparisons with piracy in Southeast Asian history. To the best of my knowledge, few scholars have applied this approach, except for Adam Young, Ger Teitler and

James F. Warren. 28 However, these pioneer scholars have not systematically addressed the sets of interactions covered in this dissertation.

Many scholars have discussed anti-piracy cooperation and its problems, but few scholars have examined the divergent national interests, incentives and capabilities of the littoral states, which explain the long-standing ineffectiveness of anti-piracy cooperation.

Another distinguishing feature of this dissertation is the attention it pays to the ‘China factor’ in Southeast Asian piracy. Unlike western scholars who have relied almost exclusively on colonial records, I present many findings from Chinese sources in the dissertation, which might be new for many English readers. This presents the piracy phenomenon from a fresh angle; for example, from the point of view of the Chinese “pirate traders” in the South China Sea and their interactions with Southeast Asian traders and subsequently with European colonizers.

During the 1990s, China became a significant destination for pirates’ stolen ships, and many Chinese nationals were involved in piracy in Southeast Asia. For this reason, factors relating to China’s involvement in piracy in the region cannot be ignored if we are to understand the whole picture and network of contemporary piracy in Southeast Asia. However, apart from Zou Keyuan, few

scholars have carried out sufficient research in this area.\textsuperscript{29} This dissertation, using first-hand data collected in China during fieldwork, will throw new light on the Chinese dimension of Southeast Asian piracy.

\textbf{The Definition of Piracy}

A definition of piracy presents considerable controversy, both during the colonial period and the contemporary era alike. In the colonial period, the definition of piracy was mainly driven by political demands, as a justification for expansionary state action. Piracy, as maritime crime, also has many definitions in the contemporary era. Currently, two definitions are well known. One is derived from international law, and the other is the IMB definition.

Piracy is defined in the United Nations Convention on the Law of the Sea, 1982 (UNCLOS), Article 101, which states that:

Piracy consists of any of the following acts:

a) any illegal acts of violence or detention, or any act of depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft, and directed;

(i) on the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft;

(ii) against a ship, aircraft, persons or property in a place outside the jurisdiction of any State;

(b) any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft;

(c) any act of inciting or of intentionally facilitating an act described in subparagraph (a) or (b).30

This definition applies only to any of the described illegal acts committed either on the high seas or outside the jurisdiction of any state. Thus, technically, any violent and illegal acts against ships or property and people on board ships taking place in ports or inside territorial waters do not fall under the definition of Article 101. Those illegal acts taking place in ports or within territorial waters, are defined as “armed robbery against ships” by the UN International Maritime Organization (IMO):

Armed Robbery against Ships means any unlawful act of violence or detention or any act of depredation, or threat thereof, other than an act of “piracy”, directed against a ship or against persons or property on board the ship, within a State’s jurisdiction over such offences.31

The second definition of piracy is the definition by the International Maritime Bureau (IMB) of the International Chamber of Commerce of (ICC). The

IMB defines piracy as “an act of boarding any vessel with the intent to commit theft or any other crime and with the intent or capability to use force in the furtherance of that act”.\textsuperscript{32} This definition is much wider than the UNCLOS Convention Article 101.

However, many scholars argue that the current definitions are inadequate for policymakers. For example, Dillon suggests that piracy should be categorized into four types:

1. Corruption—Acts of extortion or collusion against marine vessels by government officials and/or port authorities;
2. Sea robbery—Attacks that take place in port while the ship is berthed or anchored;
3. Piracy—Actions against ships underway and outside the protection of port authorities in territorial waters, straits and the high seas;
4. Maritime terrorism—Crimes against ships by terrorist organizations.\textsuperscript{33}

In my view, these categories might cause further confusion. Corruption, for example, is surely one of the factors behind piracy, which will be elaborated on in Chapter 4, but it is difficult to identify and report this kind of crime. Furthermore, maritime terrorism is a completely different kind of violence at sea, with political aims and implications. Labelling piracy as maritime terrorism is dangerous and could lead to the abuse of anti-piracy operations, with its obvious parallel precedents during the colonial period.

Piracy is not a static crime, in that the jurisdiction that governs the crime scenes changes when pirates commit the crime within the territorial waters of one state and then move onto the high seas, or vice versa. This means that the lines drawn between piracy (as defined by UNCLOS) and armed robbery are sometimes blurred. Therefore, this dissertation adopts the most common definition of piracy, the IMB definition; that is that “piracy” refers to both “piracy” as defined under Article 101 of the UNCLOS and “armed robbery against ships”, as defined by the IMO.

Data Sources on Contemporary Piracy

Statistics

Piracy data are difficult to acquire, and currently there is no inter-governmental organization to compile such information. Furthermore, some littoral governments consider piracy as a sensitive issue, and are reluctant to publicise their data. The IMB and IMO Piracy Reports are the only two time-series reports on contemporary piracy available to the public.

The statistics data on piracy (1990-2005) used in this dissertation come from the ICC International Maritime Bureau, “Piracy and Armed Robbery against Ships

34 According to the ReCAAP agreement, Information Sharing Centre (ISC), a government-government level organization, will compile official piracy data. The ISC was set up in Singapore in November 2006.
Annual Report” (IMB Piracy Report), and the International Maritime Organization (IMO) piracy reports. However, the IMB and IMO reports only present statistical figures, which are not sufficient to cover the full dimensions of piracy, as the specifics of many cases only end up being written down after pirates have been caught.

Clues about piracy and its relationship with the shipping industry and governments can also be derived from various sources. Newspaper reports and international magazines, shipping columns, government gazettes, treaties, court cases, photographs, video reports and witness testimonials are also important sources for us to gain an in-depth knowledge of the specifics of piratical operations.

**Witness Accounts**

Most of these accounts are based on first-hand encounters with pirates. One example is the book written by Captain Ken Blyth of MT *PETRO RANGER*. This vessel was attacked by a group of pirates in the South China Sea in 1998. In another book, Robert Stuart wrote “an eye-opening account” of his meetings with real pirates in Indonesia. John Burnett provides first-hand accounts of piracy

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from the point of view of the victims. These sources reveal some first-hand information on pirates’ origins, organization and *modus operandi*. However, some accounts are fictionalized and possibly exaggerated, and should be treated with some scepticism.

**Author's Interviews**

Oral accounts acquired in interviews have also been extremely helpful sources. When I was doing my fieldwork in Indonesia, Malaysia, Singapore and China, I interviewed a number of people from the shipping industry, governments, non-governmental organizations, law enforcement agencies and academic circles, and acquired a great deal of first-hand information related to piracy. Fieldwork also provided documentary material. For example, during my fieldwork in China, I acquired court records of the *MV CHEONG SON* case and the letter of a pirate who was involved in this case. These documents provide insider views on how a pirate gang operates and help us to understand the real thoughts of pirates, as will be shown in chapter 5.

I met some informants who alleged that they had close connections with pirates, and even that they had been a member of a pirate gang. In terms of the interviews with victims of pirates, many victims were reluctant to recall the whole

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story: one of my informants told me his feeling was similar to that of a girl being raped; it was too painful or shameful for them to talk about the tragedy. Since piracy is a sensitive issue in these countries, most of my informants do not wish to mentioned by name; thus in the dissertation, some names of informants have been omitted, but the information in the interviews has remained unchanged.

Outline of the dissertation

This dissertation has six chapters. Chapter 2 reviews the history of piracy in Southeast Asia, focusing on relations between piracy, seaborne trade and the rivalry of foreign sea powers, and discusses the European colonizers’ suppression of piracy in Southeast Asia. This chapter also considers the four main variables behind the origins of piracy: “prey, pirate, politics and place”, as well as other factors, such as national interests, incentives and capabilities, which influence the outcome of anti-piracy cooperation in Southeast Asian history.

Chapter 3 explores the shipping industry-piracy nexus in Southeast Asia. This chapter reviews the shipping industry and piracy in colonial Southeast Asia, examines the development of the contemporary shipping industry in Southeast Asia, discusses the trend of contemporary piracy in Southeast Asia, and analyses the dilemmas of the shipping industry in anti-piracy operations.

Chapter 4 looks at how state actors respond to piracy. This chapter reveals different aspects of piracy, such as its origin, modus operandi and organization. It
uses the famous “CHEUNG SON Case” to illustrate pirate-state relations. The chapter then goes on to reflect on anti-piracy agencies and their capabilities in the littoral states, and the domestic laws and policies on anti-piracy cooperation. Finally it further analyzes pirate-state relations by discussing the collusion between pirates and law enforcement agencies.

Chapter 5 analyses inter-state anti-piracy cooperation. This chapter begins with an overview of anti-piracy cooperation in Southeast Asia, then moves on to exploring various international instruments in anti-piracy operations, such as the international legal framework and the measures required by international organizations. Finally, it analyses anti-piracy dilemmas amongst the Southeast Asian countries.

Chapter 6 reviews this dissertation’s explanation for the rise and fall of contemporary piracy. It explains why piracy remained at high levels from the mid-1990s to 2003, and why it has declined from 2004 up to the present. This chapter discusses the historical turning point, 9/11 in 2001, and its impact on anti-piracy cooperation in Southeast Asia. After 9/11, the incentives and capabilities of the littoral countries with regard to anti-piracy cooperation were enhanced, which has led to the subsequent significant decline in the number of piracy incidents. The chapter concludes with a summary of the historical continuity and transformation of piracy in Southeast Asia, and offers a prediction regarding piracy trends in the near future.
CHAPTER 2

PIRACY IN SOUTHEAST ASIA: A HISTORICAL REVIEW

Chapter Preview

Piracy and seaborne trade are clearly interrelated. Seaborne trade provides the prey for pirates, and shapes the patterns and scope of piracy. This chapter examines piracy and seaborne trade relations and discusses the logic behind the rise and fall of piracy in Southeast Asia up to the twentieth century. The chapter is divided into five parts: the first part reviews the history of piracy and seaborne trade in the pre-colonial period of Southeast Asia; the second part introduces the European colonisers’ piratical activities in Southeast Asia and their relations with the Chinese empires; the third part discusses Chinese pirates in the South China Sea; the fourth analyses piracy in the Malay Archipelago and how the European colonisers suppressed piracy, and the final section discusses the variables in the rise and fall of piracy in Southeast Asian history.

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1 Southeast Asia in this dissertation mainly refers to the Malay Archipelago and the South China Sea.
Part I.  Piracy and Seaborne Trade before the Colonial Period

Nanhai Trade and the Chinese Tributary System

Three centuries before the Christian era, the Chinese were already trading in Southeast Asia (hereinafter often called its Chinese name, the Nanyang) in what was termed the Nanhai trade. Historical records show that this trade route extended from China’s southern ports to western Borneo, Palembang, the Indian Ocean and eventually all the way to countries in the Roman Empire.

In the age of sail, seaborne trade was highly dependent on the monsoons. In answer to marine merchants’ needs to wait out the period between monsoons and safely conduct business, many entrepôts and kingdoms sprang up around Southeast Asia—in the Andaman Sea, the Gulf of Thailand, the Java Sea and the Straits of Malacca.

From the fifth to the ninth century, Chinese Buddhist pilgrims began to use the seaborne trade route via Southeast Asia to India. Some of them headed for the

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2 Nanyang [literally the southern ocean] and Nanhai [literally the southern sea] are the Chinese terms for Southeast Asia and Indian Ocean.
4 From April to August, monsoon winds blow northwards towards the Asian land mass; from December to March they blow southwards, from the Asian continent to the Indian Ocean and South China Sea. Traders made their long journeys during times of favourable winds and returned on the opposite monsoon. Chinese ships sailed south to the Nanyang following the northern monsoon in January or February, and returned home in June, July or August with the southern monsoon. South Indian ships sailed eastward between April and August under the southwest monsoon of the Indian Ocean. They remained in the region to trade, returning in December with the southward blowing monsoon.
Indonesian empire of Srivijaya for language study before continuing on to India (see Map 1).  

Map 1 Monsoon seaborne trade in Southeast Asia in early fifteenth century  

Source: Donald B. Freeman, The Straits of Malacca: Gateway or Gauntlet? (London: McGill-Queen’s University Press)

In the Song dynasty (960-1279), China’s Nanhai trade boomed.  

The Yuan Dynasty that followed (1271-1368) continued to promote Nanhai trade after their

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6 Shi Faxian, Fa Xian Zhuan Jiao Zhu [The Travel Notes of Faxian] (Shanghai: Shanghai Guji Chuban She, 1985).
7 Zhao Rushi, Zhu Pan Zhi [Description of the Barbarians] (Beijing: Zhonghua Shuju, 2000).
conquest of China. The Yuan government even provided loans to Chinese traders, taking a percentage of their trading profits in return.8

In 1368, the Mongol Yuan Dynasty was overthrown by the Ming Dynasty (1368-1664). The founder of the Ming Dynasty, Emperor Hongwu, suspected that the Mongol-sponsored south sea trade might be a threat to his new empire, and consequently imposed severe restrictions on any trade with Southeast Asia. Private trade with the *Nanyang* was banned; however, illicit trade with the *Nanyang* still continued, and piracy was rampant.9 This period will be discussed later in this chapter.

When the Emperor Yongle came to the Ming throne in 1402, the official tributes system of trading was revived and enhanced. The Emperor Yongle dispatched Admiral Zheng He (Cheng Ho) to Southeast Asia and the Indian Ocean. From 1405 to 1433, Zheng He conducted seven legendary voyages of diplomacy, commerce and scientific exploration. These voyages ranged as far west as the east coast of Africa, almost a century before Christopher Columbus set foot in the Americas or Vasco da Gama’s first caught sight of the coast of India.10

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**Piracy in the Early History of Southeast Asia**

The earliest historical record of piracy in Southeast Asia dates back to the first century. A famous Chinese historian in the Eastern Han Dynasty (25-220), Ban Gu (b.32, d.92) recorded that piracy existed along the seaborne trade route that stretched from China via Du Yuan Guo (Singapore) all the way to Yi Cheng Bu Guo (Sri Lanka).\(^{11}\)

The well-known Chinese Buddhist pilgrim, Shi Faxian, who travelled to India overland in 399 A.D. and returned to Guangzhou by sea via Sri Lanka in 412 A.D. recorded many incidents of piracy in the Straits of Malacca in his travel journals. He recorded that, “[in the Straits of Malacca], the sea is infested with pirates, and any passengers who encounter them will lose everything”.\(^{12}\)

The kingdom of Champa (192-1832) in modern-day southern Vietnam was notorious for its seagoing population who engaged in piracy. For fear of attack, many seaborne traders steered clear of passing too close to the Cham coast when they travelled from the Straits of Malacca to China. This weakened the appeal of Cham ports for foreign traders.\(^{13}\)

Even the great Srivijaya—the powerful Buddhist kingdom in South Sumatra during the late seventh to twelfth centuries, and whose trade links spanned from Arabia to China—was victim to the pilferage of sea marauders. Srivijaya’s monarchs were unable to keep these pirates in check, and eventually had to surrender a portion of their port revenues to some of the pirates in return for a

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\(^{13}\) Wang, *Dao Yi Zhi Lue Jiao Shi*, 55.
promise to refrain from raiding ships in the open sea.\textsuperscript{14}

At the end of the thirteenth century, Srivijaya was conquered by the Javanese Hindu Empire, Majapahit, whose centre was in East Java. Piratical attacks in its waters were recorded in a Chinese monograph on the Nanyang, \textit{Zhu Pan Zhi}, published in 1225. The author, Zhao Rusi, was a Chinese official who was in charge of foreign seaborne trade with the Nanyang in Fujian province. “The foreign ships were often attacked by pirates [near Sujiadanai, Kalimantan]”, Zhao recorded. “The captives were the favourite of pirates, since one captive can sell for 2 \textit{liang} or 3 \textit{liang} of gold, and this piracy inhibits merchants from visiting these ports”.\textsuperscript{15}

As seaborne trade increased, the southern end of the Straits of Malacca became a pirate-prone area. A famous Chinese traveller, Wang Dayuan, who visited Southeast Asia several times during the Yuan dynasty (1271-1368), described pirate attacks near Temasek [Singapore] in 1349:

The Dragon-teeth Strait [Longyamen] which resembles ‘dragon’s teeth”, lies between the two hills of the Temasek barbarians.\textsuperscript{16} Through the centre runs a waterway. The fields are barren and the rice harvest is poor. The climate is hot, with heavy rainfall in April and May. The inhabitants are addicted to piracy… When junks sail to the Western Ocean [Indian Ocean], the local barbarians allow them to pass unmolested, but when the junks reach the Jilimen [Karimun Islands]

\textsuperscript{14} Ibid., 202.
\textsuperscript{15} \textit{Liang}: A Chinese weight unit for gold or silver bullion. See Zhao, \textit{Zhu Pan Zhi}, 61.
\textsuperscript{16} The Dragon teeth Strait was the present-day Keppel Harbour passage between the south coast of Singapore island. The dragon teeth were the twin rocks overlooked the European entrance to Keppel Harbour. One of the rocks, known as Batu Belayar, was demolished in 1848, during the widening of the Strait.
on their return voyage, some 200-300 pirate prahu will converge on and attack the junks for several days. The crew of the junks have to fight with their bare hands, and raise up a cloth screen to protect themselves from arrows. Sometimes, the junks are lucky enough to escape on a favourable wind; if not, the crew are butchered and their merchandise becomes the pirates’ booty.\(^{17}\)

In the first decade of the fifteenth century, Chen Zuyi, a Cantonese outlaw of the Ming Dynasty, fled to Palembang in Sumatra, where there was a large Chinese population. Chen became the leader of the Chinese community there, and frequently robbed ships that passed through the Straits of Malacca.\(^ {18}\) The Ming Dynasty became concerned about the maritime security in the Straits of Malacca. In 1405, the Ming emperor ordered Admiral Zheng He to suppress any pirates he might meet during his voyage to the Indian Ocean. The Admiral succeeded in defeating many pirates, and Chen Zuyi, the pirate chief, was captured and beheaded in the capital of the Chinese Empire.\(^ {19}\)

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\(^ {18}\) Feng Chengjun, *Ying Ya Sheng Lan Jiao Zhu* [the Annotated Notes on Overseas Islands] (Taipei: Taiwan Shangwu, 1970), 17.

\(^ {19}\) *Ming Shi Lu*, (Taiwan: Zhongyang Lishi Yanjusuo, 1966), Vol.11, 987.
Part II. The Advent of European Colonisers in Southeast Asia

The Portuguese captured Malacca in 1511, marking the advent of European colonisation in Southeast Asia. Spanish, Dutch and British traders successively penetrated Southeast Asia. They used all means to maximise their profits, first launching piratical attacks on indigenous people in the Nanyang and merchants from China, and subsequently setting up colonies in Southeast Asia to develop a secure trade network between Europe and China.

Portuguese

A major impetus for Portugal’s overseas expansion was the spice trade—pepper, cinnamon, and the most precious and highly prized three—cloves, nutmeg, and mace. In the second half of the fifteenth century, Turkish control of the Levant forced traditional spice routes to shift, from the Persian Gulf to the Red Sea. In order to avoid dependence on and to cut out the Muslim middleman, so as to participate directly in the highly lucrative spice trade, the Portuguese searched relentlessly for a new sea route to Asia. Prince Henry the Navigator in particular lent strong support to a campaign of overseas discovery and expansion. This

culminated in Vasco da Gama's successful landing in Calicut, on the west coast of India, in 1498. In 1511, the Portuguese captured Malacca, the lynchpin of seaborne trading, and began to seek domination of the spice trade.

The Spaniards

The earliest Spanish contact with Asia was in March 1521, when Magellan’s expedition reached the Philippines. The Philippines was then under the direct jurisdiction of the Viceroyalty of Nueva Espana. Governor Miguel Lopez de Legazpi realised that there was great potential for Spanish participation in the thriving seaborne trade between these islands and China. In 1571, Legazipip moved the Spanish colonial government from Cebu to Manila to establish direct trade ties with China.

The Dutch

After the Dutch declared independence from Spain in 1579, Dutch merchants began to compete with the Portuguese in the Spice Islands. Unlike the Portuguese and Spanish expeditions, which were paid for by their crowned heads

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23 *Nueva Espana*: New Spain, present-day Mexico.
of state, Dutch merchants had to collaborate to raise sufficient money for their voyages.\textsuperscript{25}

In 1602, the Dutch formed the \textit{Vereenigde Ost-Indische Compagnie} (Chartered East India Company, also known as the VOC), an amalgamation of six regional trading firms. The company charter secured a commercial monopoly in the Far East, and conferred its members with quasi-sovereign powers to declare and wage war, conclude peace treaties and alliances, acquire colonies and establish settlements.\textsuperscript{26}

In 1619, the VOC seized the port of Jakarta (Djakarta), renamed it Batavia, and made it the company's headquarters. A decade later, the VOC succeeded the Portuguese stranglehold on the spice trade. The Dutch took Taiwan in 1624 and captured Malacca from the Portuguese in 1641.\textsuperscript{27} They also besieged Manila, but failed to defeat the Spaniards. Spain remained in control of the Philippines and the Portuguese held onto Macao, Goa, and East Timor. Apart from these strongholds, all commerce in the Far East came under the VOC’s control. However, in 1661, the Dutch lost Taiwan to the son of a Chinese pirate, named Zheng Chenggong. His story will be discussed in a later section.

\textsuperscript{25} Kristof Glamann, \textit{Dutch Asiatic Trade 1620-1740} (Copenhagen: Danish Science Press, 1958).
\textsuperscript{26} Tan Taiyong, Aileen Lau, and Laure Lau, \textit{Maritime Heritage of Singapore}, (Singapore: SunTree Media, 2005), 47.
\textsuperscript{27} Andaya, “Interactions with the Outside World,” 15.
The British

While the Dutch were forcing their way into Southeast Asia, Britain was busy forming its own East India Company, (EIC), which was founded in 1600.28 After several voyages to Southeast Asia, the British realised that British goods would not be profitable in the Malay-Indonesian archipelago, but Southeast Asian goods were essential for the barter trade with China.29

In 1786, the British leased Penang Island in Malaya from the local sultan and seized the port of Malacca from the Dutch in 1795.30 In 1819, Thomas Stamford Raffles set up Singapore as a colony, and gave Britain a dominant role in Far Eastern commerce. Raffles turned Singapore into an attractive free port, where anyone could bring cargo without paying the duties imposed in Batavia and at other Dutch ports. However, the waters surrounding Singapore soon became pirate-prone, and this will be dealt with later in this chapter.31

28 Ibid, 14.
29 Ibid.
The Relations between European Colonisers and Chinese Empires

Sino-Portuguese Relations

After the Portuguese seized Malacca in 1511, the King of Portugal sent his ambassador to China to establish a direct trade link with China. The King of Malacca, Sultan Mahmet, begged for assistance from his patron, the Chinese Emperor for help. His son, Tuan Mohammed, was sent to Peking (Beijing) to report the Portuguese outrage on Malacca:

The Franges [Portuguese] robbers audaciously came to Malacca with many men, took the land and destroyed it, killed many people, plundered them, and took others prisoner. The people that remain are under the jurisdiction of the Franges. For this reason, the king of Malacca had a sad heart and was oppressed with a great fear. He took the seal of the King of China and fled to Bentao where he remains. The ambassador of the King of Portugal who is now in the land of China is a sham. He does not come in earnest, but to deceive the country of China. In order that the King of China may show grace to the King of Malacca whose heart is oppressed, he sends a present, and begs for succour and men so that his land may be restored to him.32

The Chinese Emperor was unwilling to help the Sultan of Malacca, since the priority of the Ming dynasty at that time was to expel the Mongol raiders from

32 Chang, Sino-Portuguese Trade, 52.
Northern China, and to protect its coastal provinces from attacks by the Wokou, or Japanese pirates. In the absence of any strong action from China’s ruler, the Portuguese took every opportunity to loot and extort money from all the ships bound for and coming from China’s ports. According to Chinese historical records, the Portuguese ravaged Chinese coastal settlements, raping women, and seizing males for slaves. “The Portuguese committed the most licentious acts of piracy, and demonstrated the most shameful dissoluteness. They regard trade and piracy as almost identical: a concept which was certainly not shared by most of the Asiatic and other European peoples.”

**Spanish Colonisers and the Chinese Empire**

In 1571, the Spanish colonial government moved from Cebu to Manila and established direct trade ties with Chinese traders. Five years later, Chinese trade with the Spanish in the port of Manila began to flourish. Chinese merchants brought silk, cotton fabric, and other wares to trade with merchants from Acapulco, who in return offered silver from their American colonies. This so called “galleon trade” continued until the late eighteenth century.

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33 Ibid., 66.
34 Andaya, “Interactions with the Outside World”, 13–14
**Dutch Colonisers and the Chinese Empire**

In 1601, the Dutch sailed to Macao in an attempt to establish direct trade links with the Ming governments. However, the Portuguese proved stronger and prevented the Dutch from contacting Chinese officials, thus thwarting Dutch aims. The Dutch planned to drive the Portuguese out of Macao and defeat the Spanish fleet in Manila, with the aim of eventually establishing a monopoly on trade with China and Japan. In 1622, a Dutch fleet attacked Macao, but it was defeated by the Portuguese.

However, the Dutch seized the Pescadores (Penghu), islands off the coast of Taiwan, from China, proceeded to rob Chinese merchant ships and loot the coastal cities of Fujian. Dutch Captain Willem Bonteko, recorded these raids in his travel notes:

[1st May 1623] On our way we met with another Chinese junk, richly laden to the value of thousands, that was bound for the Manillas [Manila]. We took it, which had as much as 250 souls [on board]…We brought them all to the Pescadores; there, with the other Chinese we had brought in other ships and sloops, and we tied them together in pairs. We used them to carry earth to the fort, yea, when the fort was built, they were as much as much as 1,400 in number, who were afterwards taken to Batavia and there sold.

More than half of the captives died on Pescadores in 1623; only 571 were

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36 Ibid.
left to be shipped to Batavia, and no more than 33 disembarked alive. The commander of the expedition, Dr. Sonck, wrote to the Governor-General De Carpentier:

Our proceedings on the coast of China have so embittered the whole of China against us that we are looked upon as no better than murderers, tyrants and pirates. Our dealings with the Chinese have indeed been very hard and cruel, and in my opinion such that the desired trade could never be obtained by them.\(^{38}\)

However, the Dutch did not occupy Pescadores for long. In 1661, the Dutch were defeated and driven out of the islands by Zheng Chenggong.\(^{39}\)

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**British Colonisers and the Chinese Empire**

After several frustrated diplomatic contacts with the Chinese Empire, the British also faced commercial problems with the Chinese Empire.\(^{40}\) In order to contain European commercial expansion, the Qing dynasty (1644-1911) set up the Canton System to administer China’s trade with the Europeans. From the 1720s, Britain’s rapidly increasing tea consumption made tea its foremost import from China. As there was virtually no market for European products in China, the international tea trade saw a large amount of silver bullion flowing into China. To solve the trade deficit and re-establish the balance of Sino-European trade, the

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\(^{38}\) Ibid.,15.

\(^{39}\) Lin Renchuan, *Mingmo Qingchu Siren Haishang Maoyi [the Private Seaborne Trade in Late Ming and Early Qing Dynasty]* (Shanghai: Huadong Shifan Press, 1987), 116.

British smuggled opium into China using it to purchase tea. However, the increased inflow of opium inflow caused considerable and serious social problems. The Qing government eventually took firm measures against opium smuggling. Since the profit from the opium trade was the main income of the East India Company, the British did not hesitate to abandon its commercial efforts and resort to military force so as to protect this highly lucrative trade.\(^41\)

**Part III. Chinese Pirates in the South China Sea**

**Illicit Seaborne Trade and Chinese Pirate merchants**

During the Ming and Qing dynasties, private seaborne trade with the *Nanyang* was largely prohibited or strictly monitored by the Chinese Emperors, or with the use of the *Haijin* policy.\(^42\) The principal reason was that the Chinese Emperors wanted to monopolise trade with the *Nanyang*. Official trade was conducted using the tributes system. Foreign countries first paid tribute to the Ming emperor, and the Emperor in return showered the visitors more lavishly than the real value of the foreign tributes. This display of wealth and power was a political gesture to demonstrate that the Chinese Empire was generous and superior to the “barbarian


\(^{42}\) *Haijin*: the Chinese term for the prohibition of seaborne trade in the Ming and Qin dynasties.
states”. In short, all overseas kingdoms wishing to trade with China were made to recognise the Chinese Empire’s suzerainty.

The Chinese Emperors treated the European colonial sea powers in the same way and expected them to follow the tribute system. Thus European requests to establish regular seaborne trade relations were refused. In consequence, European colonisers resorted to dealing with illicit, profit-oriented Chinese private traders.

These Chinese private merchants came from Southern China’s coastal provinces of, Zhejiang, Fujian, and Guangdong. These traders had been engaged in the lucrative Nanhai trade for centuries. During the Haijin period, spurred by high profits, Chinese private traders armed themselves, looted sea coasts and robbed ships, and then used the booty in their illicit trade with the Nanyang. These private merchants were known as “Pirate merchants”, who had paradoxical dual identities, being merchant and pirate rolled into one. In the Ming dynasty, Chinese coastal provinces also suffered attacks the Wokou, or Japanese pirates. The Wokou phenomenon was caused by the illicit trade which stretched from Japan and China to Southeast Asia. In reality, over seventy percent of the Wokou were actually

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45 Nie Deling, *Mingmo Qingchu Haikou Shangren* [The Pirate Merchants in Late Ming and Early Qing Dynasty] (Taipei: Yangjiang Quan, 1990), 119.
46 *Wokou* is the Chinese term for Japanese pirates, literally Japanese sea robbers.
Chinese pirates from Fujian and Zhejing provinces; they simply pretended to be Japanese pirates, known for their brutality, so as to terrify coastal peoples.\textsuperscript{48}

In the Ming Dynasty, there were many pirate merchant groups who had direct trade links with Southeast Asia, the most prominent groups being Zheng Zhilong and his son Zheng Chenggong (\textit{Coxingya}), Lin Feng (Limahong) and Lin Daoqian.

Zheng’s Pirate-Merchant Group

Zheng Zhilong’s pirate merchant group was the most famous and powerful in all of China’s private seaborne trade history. Zheng Zhilong was born in a fishing village in Fujian in 1604. On reaching adulthood, he went to Macao to look for a better life. In Macao, Zhilong was baptised and accepted into the Portuguese Catholic Church, and bore a Christian name, Jaspar, also known as Nicolas Iquan.\textsuperscript{49} From the Portuguese, Zhilong also learned Lusitanian, which was the common language used by European merchants in the Far East. Zhilong worked under the Dutch as an interpreter in Taiwan for a while and went to Japan. In Japan, Zhilong got to know a wealthy Fujian merchant, Yan Siqi. Zhilong was quickly promoted to an important position and soon handled Yan’s business with the Portuguese. After Yan’s death in 1625, Zhilong took over all of Yan’s commercial fleet and turned pirate. Zheng Zhilong’s pirate-merchant group was run out of his

\textsuperscript{48} Lin, Mingmo Qingchu Siren Haishang Maoyi, 42.

hometown Fujian. In the chaotic interim period (1640-46) between the collapse of the Ming dynasty and the establishment of the Qing dynasty, this pirate group controlled nearly all Chinese seaborne trade with Japan and the *Nanyang*, as well as business with the Portuguese, the Spanish and the Dutch.\(^50\)

In 1646, Zheng Zhilong was lured to Beijing, where he was killed by Manchus officials. His son, Zheng Chenggong, alias *Coxingya*, took over the powerful fleets. Zheng Chenggong chased the Dutch out of Taiwan in 1661 and made it his new base. The Dutch continued their trade with Zheng Chenggong even after being driven off Taiwan, as they were dependent on Zheng Chenggong for access to Chinese merchandise. One example of such trade was in 1628, when Zheng Chenggong signed a contract with the VOC for the purchase of silk, under which Zheng Chenggong supplied 3000 *dan* of sugar, 6000 *dan* of silk and 5000 items of silk to the Dutch, for which the Dutch paid 3000 *dan* of pepper and a quantity of cash.\(^51\)

Zheng Chenggong’s group acted in a quasi-governmental role in the coastal provinces. They imposed taxes on private seaborne traders by issuing the “Coxingya Pass”. The cost of a “Coxingya Pass” was calculated by the tonnage of the ships, usually between 2000-3000 *liang* of silver bullion. If traders refused to pay, their ships would be robbed and destroyed.\(^52\) Nearly 3000 Chinese junks sailing to the *Nanyang* were under the control of Zheng Chenggong, who

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\(^50\) Ibid., 260.
\(^52\) Nie, *Mingmo Qingchu Haikou Shangren*, 175.
accumulated a great deal of wealth and was even as wealthy as the Chinese Emperor.\textsuperscript{53}

Since Zheng Chenggong supported the declining Ming dynasty and fought against the southward expansion of the Manchu, he was deemed a patriot in the eyes of the Han Chinese.\textsuperscript{54} After the last member of the Ming family died and the Manchu’s Qing Dynasty gained control of the mainland, Zheng Chenggong retreated to Taiwan and established a kingdom. The war with the Qing Dynasty gradually exhausted all his fortune made through seaborne trade. Zheng Chenggong’s kingdom declined, and in 1683, Zheng Chenggong’s grandson surrendered Taiwan to the Qing Dynasty.\textsuperscript{55}

**Lin Feng (Limahong)**

Lin Feng was a Cantonese pirate chief, known to the Spanish as Limahong. He began his career in illicit trade in the *Nanyang* when he was 19. In 1574, Lin Feng attacked Huilai in Guangdong, but later, his fleet was defeated by the imperial coast guard. Lin Feng was no longer able to find a safe refuge along the Chinese coast, so he attempted to move his base to Luzon and set himself up as sovereign of the Philippine archipelago. Lin Feng armed 72 junks, loaded with 2,000 soldiers

\textsuperscript{53} Lin, *Mingmo Qingchu Siren Haishang Maoyi*, 125.
\textsuperscript{54} The majority ethnic group within China is the Han Chinese. Manchu was considered as a northern barbarian ethnic group at that time.
and experts, together with 1,500 women, in an effort to set up a colony in Manila.56

In November 1574, Lin Feng’s fleet attacked Luzon, but was hindered by a storm that arose in Manila Bay. They had to land at Paranaque, south of Manila, from where they marched on and attacked Manila; they were met by strong resistance from the Spanish and indigenous people. Lin’s Japanese admiral Sioco was killed and the remaining pirates retreated to Cavite. Lin abandoned his plans to use Manila as his capital and moved to Lingayen, Pangasinan. At the end of March 1575, the Spanish besieged the Lin Feng pirate fleet. The Chinese Navy in Fujian also sent its forces to attack Lin Feng. However, in August 1575, after a battle lasting a few months, Lin Feng’s group managed to escape in small crafts under the cover of darkness. The Chinese viceroy at Fujian was annoyed with the Spanish for allowing Li Feng to escape. In consequence, the Spanish did not receive permission to establish a trading post in Amoy (Xiamen) as this had been promised in exchange for the capture of Lin Feng.57

Lin Daoqian

Lin Daoqian was a pirate chief in Guangdong. In 1566, Lin’s fleet raided Zhao’an, in Fujian province, looted and burned down hundreds of houses and killed thousands of people. Pursued by the imperial navy, Lin and his pirate fleet

56 Lin, Mingmo Qingchu Siren Haishang Maoyi, 110.
Lin fled to Penghu, Taiwan. Lin hid his treasure on nearby Mount Dagu.\(^{58}\) In 1567, Lin used his treasure to recruit followers, and traded with Cambodia, Siam (Thailand) and Annam (Vietnam). The Chinese government attempted to catch him, but failed. Lin settled down in Patani, dealing in seaborne trade with China. Later, Lin was killed in Patani when one of his home-made cannons exploded. One of the cannons he made is said to be displayed to this day in Bangkok, Thailand.\(^{59}\)

**Chinese Pirates as Vietnamese Privateers in the Qing Dynasty**

By the late eighteenth century, China was experiencing a rapid population growth, and consequently, there was increased stiff competition for resources and means of livelihood. Two Southern coastal provinces, Guangdong and Fujian, were the hardest-hit provinces. To seek a livelihood, many people from these provinces began to emigrate to the *Nanyang*.\(^{60}\)

Illicit seaborne trade between Vietnam and China was also booming at this time. A surplus of Vietnamese rice, whose export was forbidden by Vietnamese law, was illegally imported to feed the Guangdong population. The rice was imported in exchange for Chinese iron, the export of which was also banned by the Qing government. These transactions were operated by fishermen using a well-
established smuggling network.\textsuperscript{61}

At the end of the eighteenth century, the Tay-son Rebellion (1771-1802), led by the Nguyen brothers from Tay-son village in Vietnam, broke out, and lasted for several decades. The Tay-son rebels recruited Chinese pirates as privateers to acquire resources for war. These Chinese pirates were also used as the rebels’ naval forces to destroy their opponents.\textsuperscript{62} In 1792, the Tay-son rebels ordered 40 Chinese pirate ships to plunder Guangdong, Fujian and Zhejiang. In 1794, the leader of the Chinese pirates, Chen Tianbu received the accolade of “Great governor-general” from his Tay-son sponsors.\textsuperscript{63} In 1802, the Tay-son Rebellion was finally defeated by Vietnamese rivals; thus, the Chinese pirates lost their sponsors and bases, and had to return home.\textsuperscript{64}

After returning to China, the Chinese pirates divided into different gangs, squabbling and killing one another as they competed for the limited resources. These gangs finally realised that, in order to survive, it would be advantageous for them to collaborate. In 1805, seven pirate gangs signed an agreement to form a confederation. The pirate confederation numbered 50,000-70,000 pirates, and controlled trade and fishing along the coast of Vietnam and Guangdong province.\textsuperscript{65}

Chinese junks had to pay the pirates protection money when they left ports. From the coast, the pirates moved into the waterways of the interior, where they

\textsuperscript{61}Murray, \textit{Pirates of the South China Coast, 1790-1810} (Stanford, Calif.: Stanford University Press, 1987), 30.
\textsuperscript{62}A vessel owned and operated by private persons, but on maritime war under license, or letter of Marque, issued by one government or authority.
\textsuperscript{63}Murray, \textit{Pirates of the South China Coast}, 38.
\textsuperscript{64}Ibid., 47.
\textsuperscript{65}Ibid., 57.
extorted considerable sums in the form of semiannual payments from villages and towns, burning without impunity those that refused to pay.\textsuperscript{66}

The confederation also captured Europeans for ransom, with Portuguese traders moving between India and Philippines being the most vulnerable. Englishmen, Dutchmen and Americans were also occasionally seized. For example, J.L. Turner, First Mate of the ship \emph{TAY}, was captured together with six sailors on 7 December 1806. After five months of negotiations the pirates received a ransom valued at 7,150 Spanish dollars.\textsuperscript{67}

The Qing government used all possible means to suppress this confederation, even cooperating with the British and the Portuguese, and with the policy of pardon and pacification, the confederation eventually fell apart and was eliminated in 1810.\textsuperscript{68}

\textbf{Cai Qian –“the King of Pirates”}

While Guangdong waters were controlled by Zheng Yi’s pirate confederation, the Fujian coastal area suffered under Cai Qian’s pirate group. Cai Qian came from a poor family in Amoy (Xiamen), Fujian. When he reached maturity, he worked as a hired laborer, and eventually became a pirate. By 1804,

\textsuperscript{66} Ibid.
\textsuperscript{67} Ibid., 85.
\textsuperscript{68} Ibid., 151.
Cai Qian commanded a formidable force of some fifty ships.\textsuperscript{69} The imperial navy took strict measures in coastal provinces to cut off supplies for Cai Qian’s fleet. Being pursued by the imperial navy and with a lack of sufficient supplies, Cai Qian decided to seize Taiwan and make it his base. Taiwan was a main rice growing province and the capability of the imperial navy was weak at this juncture.\textsuperscript{70}

Cai Qian paid Fujian shipbuilders a large sum of money to construct giant junks, which could be converted for military purposes. When the ships were built, the shipbuilders were asked to sail the new giant junks with full cargoes loaded out the sea and handed them over to Cai Qian. The merchants then returned and claimed that the vessels and cargoes had been seized by pirates. These giant junks were much bigger and powerful than the imperial Navy ships.\textsuperscript{71}

In 1804, Cai Qian’s fleet, numbering about one hundred and ten men-of-war attacked Taiwan. Cai Qian proclaimed himself King after he settled down, and adopted the dynastic title “Guang Ming” [Resplendent Brillance] to signal his rejection of the Qing Dynasty and the symbolic restoration of the previous Ming Dynasty.\textsuperscript{72} However, their anti-Manchu sentiments and Ming restoration were useless at that time, when Qing court had begun to secure political allegiance and bureaucratic services from the majority of Han Chinese throughout the mainland.

\textsuperscript{69} Imperial Archives, \textit{Jiao Ping Cai Qian Zou Gao} [The Imperial Reports on the Suppression of Caiqian] (Photocopy Reprint, Beijing: Quanguo Tushuguan Weisu Fuyin Zhongxin, 2004), 34–56.
\textsuperscript{70} Ibid., 90–110.
\textsuperscript{71} Thomas Chung-Shen Chang, "Ts'ai Ch'ien, the Pirate King Who Dominates the Seas: A Study of Coastal Piracy in China, 1795–1810" (PhD dissertation, University of Arizona, 1983), 82–83.
\textsuperscript{72} Ibid., 95.
China. Furthermore, the administration which Cai Qian set up was dominated by maritime interests and the sea nomad life styles, lacked any attraction to the land-based people of Taiwan.\footnote{Imperial Archives, \textit{Jiao Ping Cai Qian Zou Gao}, 234.}

Cai Qian’s pirates forced merchant ships to buy \textit{Zhaopiao}, or Pass, when the ships passed through the waters their controlled. If they refused, the ships would be robbed. Furthermore, Cai Qian paid \textit{Haifeng} (literally “Sea Salary”) to corrupt officials in the imperial navy, so the officials took no action towards cutting off the logistics supply to pirates.\footnote{”Renzong Ri Huangdi Shilu”, Book 161, Jiangqing 11th Year, 5th Month (1805),” in \textit{Qing Shi Lu} [Qing Dynasty Imperial Archives] (Beijing: Zhonghua Shuju, 1987), 335.}

The Qing Court employed a wide range of tactics against the pirates, including coastal defense, pardons and enticements, and using bandits to attack bandits. By 1810, the imperial navy had succeeded in destroying Cai Qian’s fleet.\footnote{Zheng, \textit{Zhong Guo Hai Dao Shi}, 346.}

\section*{Part IV. Piracy in Colonial Southeast Asia}

By the early nineteenth century, European colonisers had seized the main strategic ports in Southeast Asia. The subsequent boom in seaborne trade with China also resulted in a fresh impetus for predators of this trade, and piracy became
The Iranun and the Balangingi

The Iranun and the Balangingi were the two dominant pirate groups in the Sulu Archipelago at the end of the 18th century to the first half of 19th century. The Iranun built up their strongholds on the shores of a lagoon on the island of Mindanao and maintained posts on the western coast of Borneo. The Iranun had the reputation, amongst Europeans, of being the most bloodthirsty and fearsome of pirates in the East. They were ever eager to plunder European ships and showed no mercy to white men.

The Iranun cruised in squadrons of thirty or forty vessels; each fleet was commanded by its own chief, and each ship had its own captain and warriors. These chiefs were proud of their hereditary position: amongst the Iranun, a pirate chief had a prestigious and high-ranking place in society. Iranun pirate fleets cruised all over the Malayan seas, aiming at two objectives: plunder from ships and the capture of slaves from coastal villages. The slave trade was already well established in Southeast Asia before the Europeans set up their colonial domains in

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78 Ibid.
79 Ibid., 32.
80 Ibid, 35.
81 Ibid., 36.
Illustration 1 Iranun Pirate in the 19th Century (Source: Tarling, *Piracy and Politics*).
Southeast Asia. Captives were sold in the slave markets or forced to work for the sea lords in such economic activities as collecting exotic products for regional trade with China.

The Balangingi pirates got their name from the place of their headquarters in Balangingi Island in the Sulu Archipelago. The Balangingi also had other settlements on the islands of Basilan, Binadan and Tawi Tawi, and even at various places on the island of Sulu itself. The Balangingi sometimes joined forces with the Iranun on their pirate expeditions.

The Iranun and Balangingi relied on the prevailing winds to navigate their prahu across Southeast Asia. The semi-annual monsoon winds governed both the direction and duration of these raiding expeditions. The monsoon winds blew between August and October, and carried pirates towards the Straits of Malacca. During these months, the Dutch and English warned their coastal towns and small craft to arm themselves against such attacks.

The piratical activities of the Iranun in the Straits of Malacca threatened the commercial interests of the Dutch and the British. British officials from Penang stressed the necessity for armed cruisers to protect the numerous native prahu that frequented its ports. The Iranun were active in the south as well; each year,

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85 *Prahus*: Malay ships.
Iranun groups sailed to the southern coast of Java to raid villages and gather birds’ nests from coastal rocks.\(^8^8\)

The establishment of a free port of Singapore in 1819 was another lure for the Iranun to haunt the Straits Settlements. Singapore’s early trade with its neighbouring Malay states was threatened by these raiders. By 1830, the situation had become so critical that traders from the east coast of the Malay peninsula (Patani, Kelantan, Pahang and Trengganu) no longer dared make their usual trips to Singapore.\(^8^9\)

Apart from Iranun and Balangingi pirates, there were other groups of pirates scattered over the Malay Archipelago, such as those in Sarawak. The Sarawak pirates were composed of two distinct groups, the Malay and the Sea Dayaks. The Sarawak pirates were suppressed in due course by James Brooke, later Sarawak’s first white rajah, and the British Navy.\(^9^0\)

**The Suppression of Malay Pirates**

At the beginning of the nineteenth century, the British East India Company backed Iranun and Balangingi privateer raids on its Dutch counterpart in Malay regions.\(^9^1\) However, these privateers were too powerful to be controlled, and the

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\(^8^8\) Warren, *Iranun and Balangingi*, 164–70.
\(^8^9\) Tarling, *Piracy and Politics*.
\(^9^0\) Rutter, *The Pirate Wind*, 94.
\(^9^1\) “Privateers” referred to men who were issued letters of commission to captain private vessels giving them the “right” to plunder enemy ships in wartime. Privateers were used to expand a government’s resources at the expense of its enemies.
various European colonisers, soon realising that piracy was their common threat in the Malay world, began to collaborate to rid the region of this menace to their business.92

In 1824, five years after they founded Singapore, the British signed a treaty with the Dutch to redefine their respective domains in the Malay world.93 The British withdrew from Java and Sumatra, and undertook to make no settlements or political connections there; in return, the Dutch acknowledged British supremacy in Malacca. The Straits of Malacca became the boundary of Dutch and British colonies. In the same document, the Dutch and British also agreed to cooperate to suppress the Malay pirates. Article 5 of the Treaty stated:

Their Britannic and Netherlands Majesties in like manner engage to concur effectually in repressing piracy in those seas: they will not grant either asylum or protection to vessels engaged in piracy, and they will in no case permit the ships or merchandise captured by such vessels to be introduced, deposited, or sold in any of their possessions.94

After the Anglo-Dutch Treaty, the British in particular took firm measures to suppress piracy.

**Naval Attacks on Pirate’s Strongholds**

In the early nineteenth century, the sultan of Borneo claimed the whole

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island of Borneo and the nearby Sulu islands for himself. However, the sultan had frequent trouble with pirates, while also undergoing a rebellion in the southwest corner of his realm, Sarawak. James Brooke called in the British navy to suppress the local pirates, who were supported by the Sarawak rebels. By around 1843, Brooke and the British Admiral Henry Keppel destroyed many pirate strongholds, including the Saribas stronghold at Padu, Paku, Rembas and the Sekrang strongholds of Patusan and Undap. 95 Between 1845 and 1848, the British attacked Iranun bases in Marudu, north-east Borneo, Tempasuk, Pandasan and Tanku. 96

In 1848, the Spanish, with the aid of steamboats, destroyed the Balangingi stronghold at Sipac and deported hundreds of Balangingi people to distant mountain valleys. The Balangingi pirates were finally eradicated during the 1860s. 97

Another dimension of this anti-piracy campaign was the elimination of slavery. In order to destroy the markets of maritime marauders, the British destroyed the slave marts at Galang and Endau in 1836. With the founding of a naval base and commercial port in Labuan in 1846, marauders could no longer sell their booty and slaves there. 98

Following the destruction of pirate groups and the markets for their booty, European colonialists established strong centralised state powers in Southeast Asia. However, small groups of pirates still existed. These pirates mingled with

95 Rutter, The Pirate Wind, 99–126.
96 Tarling, Piracy and Politics, 146–185.
97 Warren, Iranun and Balangingi, 226–306.
98 Tarling, Piracy and Politics, 121.
fishermen and traders in the Straits of Malacca, and launched sudden attacks on ships. Knowing how to distinguish these pirates and ships became a major concern for the British and Dutch. The colonisers implemented a highly effective pass system to control vessels, which will be elaborated on in the next chapter.\textsuperscript{99}

From the end of the nineteenth century onwards, incidents of piracy dropped to a very low level.\textsuperscript{100} However, throughout the colonial period, colonial authorities were never able to eradicate piracy completely.

\textit{Part V Lessons Learned from the Past}

\textbf{The Rise and Fall of Piracy in Southeast Asian History}

The purpose of studying piracy in Southeast Asian history is to search for the underlying causes behind the rise and fall of piracy in history, that can in turn help to better understand piracy in modern times. From this analysis, we can see that the rise and fall of piracy can be said to have two principal processes: the evolution of piracy itself, and anti-piracy operations carried out by governments. The boom of seaborne trade is the prerequisite of the rise of piracy, for it provides the prey for pirates. Piracy becomes rampant when the political and economic situation is in turbulence, or local governments lack the capability to suppress

\textsuperscript{99} Ibid.
piracy. Pirate activity incidents decline once the political and economic situations are stabilised, and the related states have strong capabilities and incentives to crack down on piracy. From the analysis of these two processes, four core variables emerge: pirates, prey, places and politics. These four can be seen to vary over the different historical periods of Southeast Asia.

The Evolution of Piracy

**Pirates**

In retrospect, piracy in Southeast Asia before the twentieth century can be classified into three categories: petty pirates, quasi-governmental pirates and legitimised pirates.

Petty piracy was parasitic on seaborne trade, existing in ports or at chokepoints of seaborne trade routes. Petty pirates usually operated in small gangs; most of these pirates were fishermen who combined fishing with casual piracy as a side-line to supplement their subsistence incomes. The victims of petty piracy were ships plying coastal waters. The Cham pirates and other pirates groups in the Straits of Malacca belong to this category.

**Politics**

Piracy clearly has close links with politics, as quasi-governmental and
legitimised pirate groups used piracy for both economical and political gains. Apart from plundering commercial ships, raiding coastal villages and towns for booty and slaves, these pirates were also political actors.

Such political pirates were well organised, had land bases and acted as semi-governments in the territories they controlled. The typical feature of quasi-governmental piracy was that the pirates groups extracted tolls from coastal communities and issued passes for ships. Pirate groups also participated in this lucrative illicit trade, or were sponsored by local sea lords. The Iranun and Balangingi pirates in the Sulu Archipelago and the Chinese Zhengyi pirate confederation belong to this category.

When conditions permitted, quasi-governmental pirates could turn into the legitimatised pirates, who were sponsored and legitimatised ed by state actors. The Guangdong pirates who were recruited and sponsored by the Tay-son rebels at the end of eighteenth century belong to this group. Some pirate groups legitimatised themselves as legal rulers of their controlled areas; examples are the Zheng Chenggong and Cai Qian groups. European colonisers offer the most successful examples in this category. When European adventurers first came to Southeast Asia, they were brutal pirates. After they had seized entrepôts and land in Southeast Asia, they successfully legitimatised their occupation and violence, and labelled those indigenous people who attempted to protect their own interests and land by sea-raiding, as pirates.
Prey

The ships and cargoes plying the region’s coastal waters were always the prey of pirates. It should be mentioned that, apart from ships and cargoes, human beings were a major point of piratical intent in the Southeast Asian history. Female captives were used for polygamous marriages and male slaves were put to work in agricultural and craft activities.¹⁰¹

Places

The favoured places for piratical attacks were typically located at the chokepoints of seaborne trade, where pirates could easily corner their prey. Before the abolition of slavery in Southeast Asia, pirates also attacked coastal areas and villages along inland rivers in search of slaves. For example, Iranun and Balangingi pirates, with the help of the “pirate wind”, launched regular piratical attacks on coastal villages for human booty.

Anti-piracy Operations

Incentives and Capability

The national interests and incentives of foreign sea powers in Southeast

Asia are reflected in the perceptions and policies towards piracy and seaborne trade. In his famous monograph, *The Influence of Sea Power upon History, 1660-1783*, A.T. Mahan listed six principal conditions affecting the sea power of nations: geographical position, physical conformation, extent of territory, size of population, character of the people, and character of governments”. In terms of geographical position, physical conformation, extent of territory and number of population, the Chinese Empire had advantages over European sea powers. In regard to social character, the Chinese were just as economically motivated as were the Western colonisers. However, the major difference between the two civilisations was the character of their governments, which perceived piracy and approached seaborne trade in significantly different ways.

An agrarian dominance policy was well entrenched during most Chinese empires. In consequence, the importance of sea power was ignored, and Chinese court policy towards seaborne trade was definitively negative. The various Chinese emperors attempted to monopolise seaborne trade in the *Nanyang* via the tributes system, while private seaborne trade was either banned or severely restricted. In the long run, the succeeding Chinese empires consistently shot themselves in the foot economically in their rivalries in the *Nanyang* through their policy to curb or prohibit seaborne trade.

Due to the prohibition on seaborne trade, many private traders resorted to illegal trading. Thus, they were faced with a two-fronted attack: one from the

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Chinese government, and the other from their rival traders and colonisers in the Nanyang. Inadvertently, these merchants had to arm themselves and became pirate-merchants. In the eyes of the Chinese mandarins, trade and piracy were closely intertwined. Whenever security was at risk, their first recourse was to advocate the prohibition of trade as an expedient means of restoring the status quo. Ironically, this prohibition of seaborne trade fuelled the rise in piracy. The Chinese government took pains to suppress these merchant pirates, in order to reduce the incentives of such trading activities. However, this was done at the cost of losing its opportunity of enhancing its sea powers relative to its European counterparts, causing China’s influence upon Southeast Asia to diminish.

On the European side, the European colonial sea powers resorted to piratical activities to set up their colonial domains, and labelled the indigenous people who fought for their own homelands as pirates, to justify their military activities. The colonisers accrued wealth and trained their seamen and navy in the practices of piracy. This wealth in turn supported their naval enterprises and the development of arms amidst the context of a burgeoning seaborne trade. Their incentives to carry on seaborne trade were high, and their will to crack down on any piratical activities that hampered seaborne trade were very strong.

The European colonisers were powerful in terms of their governmental capability, and their anti-piracy measures were firm and effective. They successfully controlled passing vessels through a pass system, destroying the strongholds and bases of pirates with the help of the steamships and powerful
firearms, coupling these activities with other imperialistic aims, European colonisers were successful in eventually subduing and almost eliminating indigenous piratical incidents.

**Conclusion**

After examining the rise and fall of piracy in colonial Southeast Asia, as discussed in this Chapter, we can draw a conclusion that an in-depth understanding of piracy comes from the analysis of two processes: the evolution of piracy itself, and anti-piracy operations carried out by governments. The evolution of piracy demonstrates the political and economic transformation of interactions amongst the related state actors and non-state actors, while anti-piracy operations reflect the incentives and capabilities of states in dealing with piracy issues. These two processes are examined by analysing three sets of interactions in the following chapters: pirates and the shipping industry, pirates and states, and interstate relations on anti-piracy cooperation.
CHAPTER 3

THE SHIPPING INDUSTRY AND PIRACY IN SOUTHEAST ASIA

Chapter Preview

This chapter explores the shipping industry-piracy nexus in Southeast Asia. When steamships, which were not dependent on wind, began to be used in the 19th century, the modern shipping industry emerged. The wide usage of steam ships required coal and other bunker services, thus stimulating the development of ports. After the Second World War, rapid economic growth in Asia generated a large volume of seaborne trade, and the globalisation of the world economy further promoted the shipping industry and port development, providing potential prey and crime scenes for pirates. The loopholes and dilemmas in shipping industry further encouraged pirates.

The chapter is divided into five parts: the first part reviews the shipping industry and piracy in colonial Southeast Asia; the second part introduces the development of the contemporary shipping industry in Southeast Asia; the third part examines the trend of contemporary piracy in Southeast Asia; the fourth part discusses the shipping industry’s responses to piracy; and the fifth part analyses the dilemmas of the shipping industry in dealing with the piracy issue.
Part I. Shipping Industry and Piracy in Colonial Southeast Asia

The Shipping Industry in the Colonial Era

The shipping industry propelled the development of Dutch and British empires in Southeast Asia. The Industrial Revolution began in Britain during the 1600s, and British merchants became serious competitors with the Dutch in seaborne trade and colonising. In the 1650s and 1660s, the English parliament enacted a series of protectionist shipping laws to exclude the Dutch from profitable trades.¹

By the late 17th century, British economic and naval strength shifted the centre of gravity of seaborne trade from Amsterdam to London. From the 18th century onwards, the industrial and political strength of Britain grew rapidly. This resulted in the decline of Dutch maritime supremacy and the rise of the British merchant marine in Southeast Asia.²

Seaborne trade between the British East Indian Company and China boomed in the 19th century. However, in the early 19th century, Britain had a huge trade deficit with China in the tea trade. To solve the problem, the British smuggled opium into China with which to purchase tea. The opium was grown in India and the Middle East, but there was a bottomless market for it in China.

Facing the subsequent serious silver bullion outflow and the enormous social problems caused by opium, the Chinese Qing Dynasty took firm measures to combat opium smuggling. To trade without opium was almost unthinkable for the British at that time, since it constituted the main trade income for the British Far East colonies. In 1840, the First Opium War broke out between Britain and China. The war ended with the signing of the Treaty of Nanking in 1842. China was forced to cede Hong Kong to Britain, and open five “treaty ports” to foreign trade. Following that, more Chinese ports were forced to open by the wars between China and the European powers.

After the First Opium War, the boom in the opium trade gave a fresh impetus to the shipping industry in Southeast Asia. The 19th century witnessed great changes in the shipping industry: steam ships took the place of sailing ships on trade routes from Europe to the Far East. The first scheduled steamship was launched in 1845 by the Eastern Steam Navigation Company and the Peninsular & Oriental Steam Navigation Company (P&O). In addition, the opening of the Suez Canal in 1869 greatly shortened the time and distance between Europe and the Far East. For instance, a trip through the Suez Canal shortened the former 116-day journey from London to Singapore to just 42 days.

British shipping in the Far East was challenged by other European shipping services in Southeast Asia, such as the Dutch commercial steam-

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4 Ibid., 6.
shipping packet service, the Pakketvaart, of the Dutch East Indies. By the end of the 19th century, it had developed a well-integrated network of regular services over the whole Indonesian archipelago. It was operated by three private steam shipping companies: Cores de Vries (1851-1865), the Nederlandsch-Indische Stoomvaart Maatschappij (NISM, 1866-1890) and the Koninklijke Paketvaart Maatschappij (KPM, 1891-1957). These companies made great contributions to the Dutch colonial civil service. They provided “informal surveillance over vast stretches of sea and unguarded coasts”, thus helping to provide “greater security at sea, especially to the suppression of piracy”.6

The Far Eastern Freight Conference (FEFC)

Faced with increasingly intense competition in steam shipping in the Far East, European shipowners reached a consensus to establish a cartel to protect their interests in the booming shipping industry in the Far East. In 1879, the Far Eastern Conference of shipowners was held. The Conference discussions covered trade between the Far East and Europe in broad terms. The basic freight rate was calculated on the “base ports”, which the lines served regularly, and shipments to non-base ports would be subject to an additional charge.7 The agreement was signed in London on 29 August 1879. The signatories of the first Conference agreement were mainly British shipping companies, such as

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7 Jennings, Cargoes, a Centenary Story of the Far Eastern Freight Conference, 6.
P&O, the Ocean Steam Ship Company, the Glen Line, Castle Line, the Sire line, Norris and Joyner, and Gellatly, Hankey Sewell and Company, but included a French company, *Messageries Maritimes de France*.  

**Chinese Junks and Seaborne Trade**

The Qing government lifted the ban on seaborne trade with the *Nanyang* after the suppression of pirate groups in 1727, but only allowed Amoy (Xiamen) as the legal export port. Seaborne trade with the *Nanyang* boomed for several decades. For example, in 1854, 260 junks arrived at Singapore. However, after the Second Opium War (1856-1860), China was forced to open more “treaty ports” to the Europeans, and customs regulations were made to favour Europeans, which greatly affected the interests of Chinese merchants. The number of Chinese junks arriving at Singapore declined to 134 in 1863, and 33 in 1866.  

After the Second Opium War, the Qing government still continued its agrarian dominance policy, and seaborne trade was discouraged. The Qing government had a strong perception that seaborne trade encourages smuggling and piracy activities. Thus, the Qing government had no intention of protecting

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8 The base ports in the Far East were: Penang, Port Kelang, Singapore, Bangkok, Hong Kong, Busan, Keelung, Kaohsiung, Manila, Kobe, Yokohama, Nagoya, Shimizu and Moji. The European and Mediterranean ports were: Gothenburg, Oslo, Aarhus, Copenhagen, Gdansk, Gdynia, Rostock, Bremen, Hamburg, Amsterdam, Rotterdam, Antwerp, Liverpool, London and Middlesbrough, Swansea, Cardiff, Dunkirk, Le Havre, Marseilles, Genoa, Leghorn, Naples, Trieste, Venice, Rijek, Split, Port Said and Gibraltar. The Gulf of Aden and Red Sea ports were: Aden, Djibouti, Jeddah, Massawa, Port Sudan and Suez. Ibid., 24.

9 Chen Xiyu, *Zhongguo Fanchuan He Haiwai Maoyi* [the Chinese Junk and the Overseas Trade] (Xiamen: Xiamen University Press, 1991), 228.

10 Ibid., 229.
Chinese seaborne traders and their junks.\textsuperscript{11}

Lacking government protection, Chinese junks became easy prey for pirates.\textsuperscript{12} As the main carriers of merchandise, Chinese junks were usually fully loaded; their speeds were slow and dependent on the wind, making them very vulnerable to pirate attacks. Even though a junk might be heavily armed, when it encountered pirates, and the wind was not favourable, it was hard for the vessel to escape from the hundreds of oar-driven pirate \textit{prahu}.

Chinese and Arab merchants from Singapore suffered great losses due to piracy in the adjacent area of the Straits of Malacca. In 1833, the losses caused by piracy amounted to 20,000 Spanish dollars, nearly 1\% of the whole trade value of the Straits Settlements.\textsuperscript{13} Furthermore, many merchants were forced to pay protection fees to pirate gangs: 400 Spanish dollars for \textit{Nanyang}-bound ships for example, and 800 Spanish dollars for China-bound ships.\textsuperscript{14} Because of the Chinese government’s unfavourable policies on seaborne trade and their technical disadvantages, Chinese junks gradually lost their share of the long distance seaborne trade to the European ships.

\section*{European Ships}

Compared to the Chinese junks, the European ships had better manoeuvrability and speed, and were equipped with more powerful firearms. These features made the European ship difficult for pirates to attack. For

\textsuperscript{12} Chen, \textit{Zhongguo Fanchuan He Haiwai Maoyi}, 229.
\textsuperscript{14} Chen, \textit{Zhongguo Fanchuan}, 228.
example, almost all Dutch East Indies Company ships were armed with powerful firearms:

The biggest vessels, the square-stern ships, carried the heaviest armament: 22 iron cannon, 8 to10 swivel-guns\textsuperscript{15}, and about 40 snaphaunces\textsuperscript{16}. Shallops\textsuperscript{17} were armed on average with 4 cannon, 1 swivel-gun, and 7 snaphaunces. It is estimated that the total number of firearms on board vessels in the private sector in Java must have amounted to about 5,000 cannon and 20,000 snaphaunces, which is quite astonishing.\textsuperscript{18}

Even more importantly than these technical advantages, European ships were strongly protected by their colonial governments, unlike the competing Chinese junks. For example, the above-mentioned Dutch shipping companies were a part of the Dutch civil service, and were protected by Dutch gunboats.\textsuperscript{19}

\textbf{The Shipping Industry and Piracy}

In the early 19\textsuperscript{th} century, the booming Far East trade provided easy targets for pirates. As mentioned above, piracy in Southeast Asia was rampant and the pirates’ main prey were Chinese junks. Those most responsible for carrying out acts classed as piracy by colonial and Chinese actors were indigenous sea raiders, who used vessels known as \textit{prahu}.

\textsuperscript{15} A gun or cannon, usually a small one, mounted on a swivel (sense 1b) so as to turn horizontally in any required direction.
\textsuperscript{16} An early form of flintlock used in muskets and pistols.
\textsuperscript{17} A boat, propelled by oars or a sail, for use in shallow waters or as a means of effecting communication between, or landings from, vessels of a large size; a dinghy.
\textsuperscript{19} Joseph N. F. M. à Campo, "Engines of Empire: The Role of Shipping Companies in British and Dutch Empire Building", 64–73.
The *prahu* was the most common Southeast Asian vessel. Its hull was built by joining planks to the keel, without using iron nails or a frame. A big *prahu* carried a crew of 150-200 men with 68 oars in two banks, and was steered with two rudders. The Iranun and Balangini pirates relied on these high speed and manoeuvrable *prahu* to attack Chinese junks.

**Steamships and Anti-piracy Operations**

Between 1836 and the 1860s, in support of efforts to suppress piracy, increasing numbers of steamships were dispatched to the Straits Settlements, the Dutch East Indies and the Spanish Philippines by their European colonisers, which brought about a significant decline in piracy at the end of 1860s. Apart from the steamships, various maritime institutions, such as lighthouses, gaslight buoys and beacons were constructed in the Straits Settlements and the Dutch Indies. After these navigation aids were set up, the British and the Dutch could identify the ships that sailed through their dominions at night.

**Pass System for Vessels**

Apart from the gunboat policy, one important measure implemented by the colonial governments was a pass system for vessels. The purpose was to identify small groups of pirates, who mingled with fishermen and traders in the Straits of Malacca and launched sudden attacks on ships. The Straits

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Settlements and the Dutch Indies reached an agreement on a pass system for all vessels after the Anglo-Dutch agreement in 1824.22

The pass system required the principal local chiefs on the coast of the Malay Peninsula and the island of Sumatra and neighbouring islands to issue passes to vessels from their ports. The vessels should carry flags and register the arms and equipment on board. If a ship “after a given date to be fixed any armed prahu or vessel navigating without papers and without cargo or showing a flag to which it is not entitled and refusing to account for its equipment may be dealt with as a pirate and an enemy.”23 The pass system proved to be an effective way of controlling ships and ports. Its contemporary parallel is the IMO International Ship and Port Facility Security Code (ISPS Code) implemented after 9/11, which will be discussed in Chapter 5.

Part II. The Development of the Contemporary Shipping Industry in Southeast Asia

Due to its colonial legacy, the shipping industry in Southeast Asia was dominated for years by companies that were headquartered in Europe. For example, the above-mentioned Far Eastern Freight Conference (FEFC)

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22 Tarling, Piracy and Politics, 55–76.
23 Letter from Prinsep to Murchison, 4 May 1836. Board’s Collections (B.C.) of East India Company and India Board Records, B.C. 69433, 156, quoted in Tarling, Piracy and Politics in the Malay World: A Study of British Imperialism in Nineteenth-Century South-East Asia, 76.
continued to be dominated by its European founding members. During World War II, the shipping industry was controlled by colonial governments for war purposes. After World War II, the shipping industry gradually transferred to private hands. For example, in the turbulent 1940s, the region’s ethnic Chinese businessmen purchased a large number of landing craft and confiscated Japanese vessels from British colonial authorities. These vessels were engaged in sea trade between the Dutch Indies and the Straits Settlements. The British encouraged this trade, but the Dutch labelled it as smuggling. By the end of the 1940s, Singapore had over twenty shipping companies dealing with seaborne trade across the Straits, while there were six ethnic Chinese shipping firms in Sumatra on the other side of the Straits.

In the aftermath of World War II, many independent nation-states emerged in Southeast Asia. Indonesia declared its independence from Holland in 1945, the Philippines regained its independence from the United States in 1946, Malaya gained its independence from Britain in 1957, and Singapore became independent state in 1965. These newly-independent states have vigorously promoted marine transport through various means, such as setting up shipping registries, establishing state-owned shipping lines, and adopting policies that favour national shipping companies.

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26 Ibid.
Fleet Development in Southeast Asia

Indonesia

Indonesia’s fleet has been growing steadily since Indonesia declared its independence in 1945. The Dutch KPM was nationalised and forced to suspend operations in December 1957. There are six Indonesian shipping lines operating in the international liner trade: P.T. Admiral Lines, P.T. Djakarta Lloyd, P.T. Gesuri Lloyd, P.T. Karana Liners, P.T. Samudera Indonesia and P.T. Trikora Lloyd.

The Indonesian government invested in shipping earlier than other Southeast Asian countries. N.V. Djakarta Lloyd was incorporated in August 1950, changed into state-run P.N. Djakarta Lloyd in 1961, and converted into a limited liability shareholding company in 1974. Throughout, the company remained wholly owned by the government. In 2004, three state-owned enterprises operated shipping services: PT Djakarta Lloyd operated container vessels in a number of international liner trades; PT Pelni operated passenger and cargo services between the islands of the Indonesian archipelago, while PT Bahtera Adhiguna operated a number of bulk carriers.

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30 Brooks, *Fleet Development and the Control of Shipping in Southeast Asia*, 61.
Indonesia has implemented a closed ship registration system, which dictates that registered vessels must be owned by Indonesian citizens or by a company “existing under the Law of Indonesia,” and that the ship must be manned by Indonesian nationals. Indonesia does not allow a second register.\(^{32}\) However, foreign investment requirements for shipping companies in Indonesia are loosely worded and their implementation and enforcement is not strictly applied. Certain shipping companies can easily by-pass regulations by enlisting the help of corrupt officials.\(^{33}\) Indonesia reserved national flag carriers for government cargo: in the 1990s, imported cargoes of state-owned enterprises had to be carried by Indonesian-flag vessels.\(^{34}\)

**Malaysia**

Malaysia has a long-term programme to promote the growth of its national fleet. The Malaysian government places emphasis on its shipping services being independent.\(^{35}\) In order to build up its national shipping fleet, the Malaysian government established Malaysian International Shipping

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\(^{32}\) A second register is a vessel registered in one state is permitted to fly the flag of a second state for a specified period. This situation generally arises as a result of a bareboat charter, whereby a vessel registered in State A is chartered for a fixed period to nationals of State B who, during the charter period, operate the vessel under the flag of the latter state. During the period of the charter period, the primary registration in State A is cancelled or suspended, but it becomes fully effective once again upon termination of the charter. Richard M. F. Coles and Nigel P. Ready, *Ship Registration*, Lloyd's Shipping Law Library. (London; Hong Kong: LLP, 2002), 35.

\(^{33}\) A senior manager in an Indonesian shipping company, in discussion with the author, 5 June 2004, Jakarta, Indonesia.


Corporation Berhad (MISC) in 1968, as a joint venture between the government and private entrepreneurs. MISC was backed up by a government loan for fleet expansion. In 1970, MISC joined FEFC and engaged in pooling arrangements with conference members. In 1987, MISC was listed on the main board of the Kuala Lumpur Stock Exchange. In 1990s, MISC diversified its business into ship building, repairing and engineering. In 1997, Petronas acquired a 29.3% stake of MISC and took control of its management. In 1998, MISC acquired the assets of Konsortium Perkapalan Berhad & PNSL Limited and merged with Petronas tankers Sdn. Bhd., increasing Petronas’ stake in MISC to 62.01%.

The above mentioned P&O, the former British colonial shipping company, still operated in Malaysia after War World II. In 1996, P&O merged with a Dutch logistics service company, Royal Nedlloyd, and changed its name to P&O-Nedlloyd.

According to the Merchant Shipping Ordinance on shipping registration, to fly the Malaysian flag, a vessel must be 51% Malaysian owned. In order to increase employment and national tonnages, Malaysia implemented a second register, the Malaysian International Shipping Registry, in 1997.

Features of the Malaysian second register are as follows:

36 Jennings, Cargoes, a Centenary Story of the Far Eastern Freight Conference, 69.
37 The abbreviation for Petrolim Nasional Berhad, Malaysia’s national petroleum corporation established on 17 August 1974. Wholly-owned by the Government, the corporation is vested with the entire oil and gas resources in Malaysia and is entrusted with the responsibility of developing and adding value to these resources.
40 PDP, Promoting Efficient and Competitive Intra-ASEAN Shipping Services – Malaysia Country Report, 2.
The company owning the vessel must be incorporated in and have an office in Malaysia; the ship manager must be a Malaysian citizen or corporation; the company must have a paid up share capital of 10% of the value of the ship or one million Ringgit, which ever is higher; and tankers or bulk ships must be less than 15 years old, and other ships less than 20 years.41

Singapore

The Singaporean government promoted the development of a national flag fleet soon after independence. Singapore’s government-owned national shipping line, Neptune Orient Lines (NOL), was incorporated in 1968. The company was listed on the Singapore Stock Exchange in 1981, but was still managed by a government-owned investment company, Temasek Holdings Limited, which owned 69% of NOL’s stock.42 NOL grew dramatically in 1997, when it bought American President Lines (APL), a company nearly twice the size of NOL, and America’s oldest shipping firm. Currently, the NOL group has a presence in more than 140 countries, and a staff of more than 10,000.43

Singapore provides an “open registration” mechanism for its fleet development. According to the 1968 Merchant Shipping (Amendment) Act, from 1969 onwards, a shipowner of any nationality could register their vessels under the Singaporean flag. By 1979, the Singapore registry of ships had

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42 Brooks, Fleet Development and the Control of Shipping in Southeast Asia, 27.
grown to nearly 8,000,000 gross registered tonnage (GRT), 450% of the figure in 1969. In 1980, registry requirements were tightened up: foreign-owned ships had to be no older than 15 years, and should weigh more than 1600 GRT. The open registration system will be elaborated below.

Globalisation and the Southeast Asian Shipping Industry

The shipping industry of Southeast Asian countries has followed global trends towards privatisation, alliances and acquisitions. Amongst those that were privatised and transformed from state actors with many functions into non-state actors were the state-owned shipping companies, the Malaysian International Shipping Corporation (MISC) and Singapore's Neptune Orient Lines (NOL). In 1996, the Port of Singapore Authority (PSA) also corporatised its terminal operational function to PSA Corporation, in order to take part in this highly competitive environment.

Facing the challenges of intense competition, shipping lines formed several groups of alliances: the first group included the Maersk (Denmark)-Sealand (USA) arrangement, Mitsui OSK (Japan), Orient Overseas Container Lines (Hong Kong), Nedlloyd (Netherlands) and MISC; the second group included Hapag Lloyd (Germany), NOL (Singapore), NYK (Japan) and P&O (UK); and the third group included the alliance between Hanjin (Korea), DSR-Senator (Germany), Cho Yang (South Korea) and United Arab Shipping Company.

Port Developments

The development of the shipping industry has brought about the rapid growth of ports. Since the 1960s, containerisation has been the dominant mode of cargo transportation. Containerisation has had a profound effect on the operation of seaports and terminals.\(^{46}\) The high volume and speed of container movements spurred the development of terminals.\(^{47}\) The introduction of computerisation and the Electronic Data Interchange (EDI) has greatly improved communications in the industry, and made savings in terms of manpower.\(^{48}\) Since the 1960s, Indonesia, Malaysia and Singapore have developed many ports, as described below.

**Indonesia**

Indonesian ports are categorised into two kinds: public ports and special ports. Public ports are for common users, while special ports are developed for manufacturing, forestry, fisheries, mining and tourism. In 1999, it was reported that Indonesia had 656 public ports and 1,233 special ports.\(^{49}\) Of the public ports, 110 are managed by four port corporations, *Pelabuhan Indonesia* or


\(^{48}\) Ibid., 18.

Pelindo I to IV.\textsuperscript{50} The remaining 546 public ports are managed by the national government on a non-commercial basis.\textsuperscript{51}

\section*{Malaysia}

Malaysian ports are classified as major or minor. The six major ports are Port Klang, Bintulu, Johor and Port of Tanjung Pelepas (PTP), Kemaman, Kuantan and Penang. These major ports are controlled by the Federal Port Authorities (FPAs).\textsuperscript{52} Port Klang and Penang are major centres for cross-Straits of Malacca bulk trade. In 2000, PTP became operational as a transshipment centre. Kuantan was developed as a port specialised in the import and export of petrochemical products.

In 1995, the Malaysian government introduced measures to encourage Malaysian shippers to use Malaysian ports rather than Singapore’s. For example, the government doubled duties on full-loaded trucks leaving Malaysia. These measures greatly reduced the volume of Malaysian cargo handled by Singapore. The percentage of Malaysian cargo handled by Singapore went down from 90% in 1995 to 20-30% 2005.\textsuperscript{53}

\begin{footnotesize}
\begin{itemize}
\item \textsuperscript{50} Pelindo I administers the ports in Aceh, North Sumatra and Riau; Pelindo II, covers West Sumatra, Jambi, South Sumatra, Bengkulu, Lampung and Jakarta; Pelindo III covers Central Kalimantan, South Kalimantan, West Nusa Tenggara and East Nusa Tenggara; Perlindo IV covers Sulawesi, Maluku and Irian Jaya.
\item \textsuperscript{51} PDP, \textit{Promoting Efficient and Competitive Intra-ASEAN Shipping Services – Indonesia Country Report} (REPSF Project No. 04/001).
\item \textsuperscript{53} PDP, \textit{Promoting Efficient and Competitive Intra-ASEAN Shipping Services – Malaysia Country Report} (REPSF Project No. 04/001), 8.
\end{itemize}
\end{footnotesize}
**Singapore**

Singapore is the world’s busiest container port. In 1996, the Maritime and Port Authority of Singapore (MPA) was set up to take over the Port of Singapore Authority (PSA) regulatory functions.\(^{54}\) In 1997, PSA Corporation Limited took over the terminal operation function previously carried out by the PSA. The PSA Corporation has become the world’s single largest container terminal owner-operator, handling about one tenth of the world’s containers. For example, in 2005, the PSA Corporation handled more than 23,192 million Twenty-foot Equivalent Unit (TEU) containers.\(^{55}\) However, Singapore is facing cutthroat competition from other Southeast Asian ports, such as Tanjung Priok (Indonesia), Port Klang and Tanjung Pelepas (Malaysia), Manila (Philippines) and Laem Chabang (Thailand).\(^{56}\)

**Seaborne Trade Routes and Chokepoints**

Cargo flowing into Asia typically includes containerised goods, dry bulk goods such as grain, coal, and iron ore from North America and Australia, as well as oil from the Middle East. Crude oil is the biggest single cargo in terms of volume through Southeast Asia to East Asia, while finished consumer goods are the principal cargo being transported back via Southeast Asia to India, the

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\(^{55}\) PSA, *Powering Global Gateways* (PSA International PTE Ltd., 2005 [cited April 26 2006]).

Middle East and Europe (see Map 2).

The major sea lines of communication (SLOCs) via Southeast Asia are constricted at several key straits, the most important of which are located in the Straits of Malacca, Sunda, Lombok, and Makassar. These SLOCs cross the waters of several countries, including Malaysia, Indonesia, and Singapore, with Singapore’s port facilities serving as a major node for refuelling and transhipment. More than half of the world's annual merchant fleet tonnage passes through the Straits of Malacca, Sunda, and Lombok.57

**Managing Shipping Flows**

The earliest regulatory measures were primarily concerned with controlling shipping flows, thereby minimising the risk of collisions and resultant marine and coastal pollution. In 1977, a safety agreement was signed in Manila during an Association of Southeast Asian Nations (ASEAN) meeting, which included “a traffic separation scheme incorporating two deep water channels”.58 The same year, at another ASEAN meeting, Indonesia, Malaysia and Singapore reached an agreement on the Traffic Separation Schemes (TSSs). The maximum tonnage of ships permitted to pass through the Straits of Malacca was limited to 230,000 dwt with an Under Keel Clearance (UKC) of at least 3.5 metres at all times; any ships larger than 230,000 dwt must use the Lombok and

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Makassar Straits. In 1981, this routing system was adopted by the IMO. These TSSs were agreed jointly by the three littoral states of Indonesia, Malaysia and Singapore. To enhance safety, further measures were recommended by the three parties, including the extension of the TSS from One Fathom Bank to Pulau Pisang, and a joint resurvey of critical areas, wrecks and shoals in the Malacca and Singapore Straits. The TTS extension, as well as changes to the existing routing system, came into force in December 1998. As far as the Straits of Singapore is concerned, the modified system included:

- Classing a new deepwater route (DWR) off Tanjung Medang as a precautionary area where ‘ships must navigate with particular caution, and within which the direction of traffic flow may be recommended.’
- A reduced speed limit of 12 knots for VLCCs in specified areas.
- The implementation of a compulsory reporting system, known as STTAITREP, to facilitate traffic control. This is now obligatory for all ships exceeding either 300 Gross Tonnage (GT) or 50 m in length entering the operational area.

**The Straits of Malacca**

The Straits of Malacca have been the main seaborne trade gateway since the early history of Southeast Asia. The Straits of Malacca remains the shortest sea route from the ports of India and the Persian Gulf to ports on mainland East Asia (see Map 3).

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59 Ibid.
Map 2 Commodity Flow and the main Straits
Source: Atlas of the world.
Nowadays, tanker traffic through the Straits of Malacca is more than three times that of Suez Canal traffic, and well over five times that of the Panama Canal. Each year, more than 1,100 fully laden super tankers pass eastbound through the Straits, many with only a meter or two of clearance between keel and sea bottom. About 9.5 million barrels of oil transit the Straits every day.\(^{62}\)

The geographical boundary of the Straits of Malacca area is defined as follows:

The northwest boundary is a line from Ujong Baka (540’ N, 95 26’E), the north westernmost point of Sumatra, to Laem Phra Chao (7 45’N, 98 18’E), the southernmost point of Ko Phukit, Thailand. The southeast boundary is a line from Tanjung Piai (1 11’N, 103 31’E), the southernmost part of Peninsular Malaysia, to Pulau Iyu Kecil (1 11’N, 103 21’E), thence to Pulau Karimun Kecil (1 10’N, 103 23’E) and onward to Tanjung Kedabu, Sumatra (106’N, 102 59’E).\(^{63}\)

The maximum tonnage of ships allowed to pass through the Straits of Malacca was limited to 230,000 dwt with an Under Keel Clearance (UKC) of at least 3.5 metres at all times, according to the Traffic Separation Schemes, which will be discussed later. Ships larger than 230,000 dwt must use the Lombok and Makassar Straits.


Map 3 The Straits of Malacca and Singapore

The Lombok and Makassar Straits

The Sunda and Lombok-Makassar routes are superior in terms of depth and width to the Straits of Malacca, but lack good navigational aids and infrastructure. Furthermore, ships using these straits have to navigate a longer distance (1000 nautical miles) and more time (2-3 days) than passing through the Straits of Malacca, and the freight rate would also increase nearly 20-30%. In terms of freight costs, these straits are not the ideal choice for shipping companies.

National Maritime Interests of Littoral Countries

Singapore

Singapore is the world’s busiest international container port, attracting on average 140,000 vessel calls annually. Singapore initially built itself up as an entrepot port, and has since been highly dependent on foreign trade, as the country has few natural resources of its own. Its port and related maritime services contribute around 6% of Singapore’s Gross Domestic Product (GDP).

64 Richardson, *A Time Bomb for Global Trade*” 41.
**Malaysia**

Malaysia is heavily dependent on the ocean, and the maritime sphere has become increasingly important in economic and security terms. Maritime resources contribute substantially to Malaysia's economic prosperity, with petroleum and gas constituting Malaysia's single largest export commodity. Significantly, all its natural gas and crude oil are found offshore. More than 90% of Malaysia's export trade is seaborne, while the fishing industry provides jobs for 2% of the labour force.

Being a littoral state, the economic activity of the country is dependent to a large extent on its marine resources, supporting industries such as fishing, coastal transportation, seafood processing and marine leisure. Its port and shipping sectors provide a backbone to its trade and economic affluence. Malaysia’s ports have grown rapidly in the past decade, Port Klang becomes the world’s 12th largest container handling port, and the Port of Tanjung Pelepas is the fastest growing transshipment port in the world.

**Indonesia**

Indonesia is the largest archipelago state in the world, with

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68 Ibid., 14.
69 Ibid., 10.
70 From the Keynote Address by YAB Deputy Prime Minister at the 2nd Asia Maritime and Logistics Conference, Kuala Lumpur, 6 October 2003.
approximately 17,508 islands and islets and an 81-thousand kilometre coastline. Indonesia is rich in maritime natural resources, and has a great deal of economic potential yet to be explored.\textsuperscript{71}

Unlike Singapore and Malaysia, Indonesia has a huge proportion of its population under the poverty line. In terms of national maritime interest, the development of maritime sectors and fisheries to feed the people is a priority for the country. To achieve this goal, the Indonesian government maritime policy is designed to improve the welfare of fishermen and fishpond farmers, and improve the role of maritime and fishery as a source of economic growth.\textsuperscript{72} However, since the 1980s, the degradation of fish habitats and excessive commercial fishing in Indonesian waters, especially by illegal Thai trawlers, have been causing great economic losses for Indonesia, and a slump in profits for fishermen. Many Indonesian fishermen have had no choice other than to turn pirate, and this will be elaborated on in Chapter 4.\textsuperscript{73}

\textit{Part III. Contemporary Piracy in Southeast Asia}

\textbf{The IMB Piracy Reports}

During the Cold War, from the late 1970s to 1980s, piratical attacks against Vietnamese boatpeople fleeing the Communist regime in Vietnam were


In 1992, in response to the escalating number of incidents of piracy, the IMB Regional Piracy Centre (ICC-RPC), a non-government agency of International Chamber of Commerce (ICC), was established in Kuala Lumpur. IMB-RPC has been financed by voluntary contributors from ship-owners’ associations and insurance companies. In 1998, the IMB Regional Piracy Centre was renamed the IMB Piracy Reporting Centre (IMB-PRC). The IMB-PRC provides weekly updates on pirate activities via the Internet and publishes comprehensive quarterly and annual reports detailing piracy statistics.\footnote{ICC-IMB, "Piracy and Armed Robbery against Ships" (United Kingdom: ICC International Maritime Bureau, 2004).}

The first IMB-RPC Piracy report (1992) came out in 1993, and had only seven pages.\footnote{The information of piracy was compiled from: victim vessels, shipowners, associations of shipowners, reports in the international press and local media, and the Department of Energy, United States of America.} The IMB Piracy Report (1992) only contains the number, time and place of attacks. The report lacks details as to the exact location of attacks,
time of attack, description of pirates, number of pirates, number of pirate crafts, ship call signs and ship communication numbers.

From 1994, the IMB Piracy Annual Report (1993) began to attach the details of piratical attacks, with the date, vessel name, flag, vessel type, time of attack, position (latitude-longitude), waters and the map of known pirate locations.80

From 1996, the IMB Piracy Annual Report (1995) began to analyse the trends of piracy and add a brief narration of each piratical attack.81 The IMB piracy annual Report (1996), released in 1997, began to classify piratical incidents into different categories, such as “types of attacks”, “types of weapons used by the pirates” and “types of violence to crew”.

In 1998, the IMB Regional Piracy Centre was renamed as the IMB Piracy Reporting Centre (PRC), and the piracy report changed its name to “Piracy and Armed Robbery against Ships”.82

Since it published its first piracy report in 1993, the IMB has been criticised by some shipping associations for its definition of piracy. The IMB Regional Piracy Centre defines piracy as: “an act of boarding any vessel with the intent to commit theft or other crime and with the capability to use force in the furtherance of the act”.83 The shipowners complained that IMB defined all attacks, on ships at sea or at anchor, as piracy, which “artificially inflated the

82 ICC-IMB, "Piracy and Armed Robbery against Ships: Annual Report (1 January–31 December 1997)."
numbers and gave shipping a bad name”.  Furthermore, some piratical attacks were only attempts, and did not cause any loss or damage. The IMB responded to the complaints from the shipping industry, and separated actual and attempted attacks in “Piracy and Armed Robbery against Ships (1998)”, released in 1999. The report added a new section on “observations,” to highlight the number of serious attacks, and reported some piracy news at the end of report. In the annual report of “Piracy and Armed Robbery against Ships (1999)”, “Warnings” (for piracy prone areas) was added, to warn mariners to take necessary precautionary measures when passing through these areas. The voluntary financial contributors to the IMB Piracy Reporting Centre were revealed for the first time in “IMB Piracy and Armed Robbery against Ships (2000)”. Since 2000, the IMB piracy reports have retained the same format.


According to the IMB Piracy reports, the number of incidents of piracy and armed robbery against ships worldwide kept increasing in the 1990s,

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86 These contributors are: Britannia Steam Ship Insurance Association Limited, UK; GARD P&I, Norway; International Operations S.A., Athens Branch, Greece; Japan P&I Club, Japan; Oman Insurance Company (P.S.C), Dubai-UAE; Petroships Pte Ltd, Singapore; Seaarland Shipping Management Geselleschaft mbH, Austria; SKULD; Standard Steamship Owner’s Protection and Indemnity Association (Bermuda) Limited; Target Marine S.A, Greece; The North of England P&I Association Ltd., U.K. The Swedish Club, Sweden; United Arab Shipping Company (SAG), Kuwait; Vietnam Insurance Corporation-BAOVIET, Vietnam; West of England Ship Owners Insurance Services Limited. See ICC-IMB, "Piracy and Armed Robbery against Ships Annual Report (1 January–31 December 2000)," (Essex: ICC International Maritime Bureau, 2001), 2. Since the funding is on voluntary base, the list contributors have some minor changes from year to year.
culminated in 2000, and declined after 2004. The number of piracy incidents in 2000 reached 469, more than five times that of 1991. From 2004 to 2005, piratical incidents worldwide declined; the reasons for this decline will be explained in later chapters. The most piracy-prone areas are still in Indonesian waters, the Straits of Malacca and the South China Sea.

According to Captain Noel Choong, director of the IMB Piracy Reporting Centre in Kuala Lumpur, at least fifty% of piratical attacks are not reported. Considering the huge extra cost that may occur when a ship is being investigated after a piratical incident, and the possibility of an increase in insurance premium on future voyages, shipowners would rather leave the piratical incident unreported. This will be discussed in a later section.

Table 1 Actual and Attempted Piracy Attacks in Southeast Asia (1992-2006)

<table>
<thead>
<tr>
<th>Years</th>
<th>Incidents</th>
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<tbody>
<tr>
<td>1994</td>
<td>0</td>
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<tr>
<td>1995</td>
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<tr>
<td>2005</td>
<td>50</td>
</tr>
<tr>
<td>2006</td>
<td>0</td>
</tr>
</tbody>
</table>

Source: IMB Piracy Reporting Centre.

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87 ICC-IMB, "Piracy and Armed Robbery against Ships: Annual Report (1 January–31 December 2004)."
88 Noel Choong, (Regional Director of the IMB Piracy Reporting Centre), in discussion with the author, Kuala Lumpur, 13 March 2004.
The Victim Ships

Bulk carriers are the favourite targets of pirates in Southeast Asia. Nearly a third of all vessels attacks in Southeast Asia belong in this category. The reason is simple: bulk carriers travel at a limited speed and their freeboards are low, which makes it easier for pirates to board them when they are underway.89

The other types of popularly targeted vessels are general cargo ships, container ships and oil tankers. In the Straits of Malacca and Singapore, these vessels are most likely to be attacked, because they have to slow down when passing through the Straits. Furthermore, there are numerous ships that frequently ply closer to the coast, thereby making them easy targets for pirates.90

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89 Freeboard: the distance between the water line and the uppermost full deck of a ship.
## Table 2 Types of Ships Attacked, January–December 1994–2005

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<tr>
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<td><strong>Total for the year</strong></td>
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<td>158</td>
<td>228</td>
<td>248</td>
<td>202</td>
<td>300</td>
<td>469</td>
<td>335</td>
<td>370</td>
<td>445</td>
<td>329</td>
<td>276</td>
</tr>
</tbody>
</table>

Source: ICC-IMB Piracy and Armed Robbery against Ships—Annual Report 2005
Part IV. Shipping Industry Response

The Federation of ASEAN Shipowners’ Associations (FASA)

ASEAN shipowners respond quickly to piracy in Southeast Asian waters through the Federation of ASEAN Shipowner’s Associations (FASA). The FASA is an ASEAN non-governmental organisation, which was approved at the fifth meeting of the 14th ASEAN Standing Committee in Manila on 21 May 1981. The current members of FASA are: Filipino Shipowners’ Association (FSA), Indonesian National Shipowners’ Association (INSA), Malaysian Shipowners’ Association (MASA), Myanmar Five Star Line (MFSL), Singapore Shipping Association (SSA), Thai Shipowners’ Association (TSA) and Vietnam Shipowners’ Association (VSA).91

Regarding piracy in Southeast Asia, these shipping associations have given advice to shipowners and masters of vessels plying through piracy-prone areas, brought piracy to public attention, and lobbied governments to take effective measures to combat piracy. For example, the Singapore Shipping Association (SSA) has advised its ships to take the following measures:

- Increase surveillance and vigilance during the hours of darkness;
- Maintain constant visual and radar watch;

• Establish radio contact (VHF) and agree on attack emergency signals with crew, ships in the vicinity and shore-based authorities;
• Install special security equipment which activates an alarm system;
• Install properly concealed video cameras to record on film any incidence of attack or robbery;
• Seal off all means of access to accommodation areas of the vessel;
• Install searchlights on the bridge wings, bow and stern, so that their beam could be directed overboard in the direction of attack;
• Have on standby water hoses or other equipment which could be used to repel potential boarders;
• Secure all personal belongings in locked containers;
• Nominate a secure area for crew members to retreat to, in the event that a large number of armed robbers should succeed in boarding the vessel;
• Keep crew well informed of security and action plans.92

The Asian Shipowners Forum

In the face of increasing piracy attacks, the Asian Shipowners Forum (ASF), which consists of the Shipowner Associations of Australia, China, Chinese Taipei, Hong Kong SAR, Japan, Korea and the FASA, accepted the proposal by the Japanese Shipping Association (JSA) to exchange views on piracy issues at its annual meetings.

Anti-piracy measures were reaffirmed in the document entitled, “Asia

Anti-Piracy Challenge 2000,” that was adopted at the Regional Conference on Combating Piracy and Armed Robbery against Ships held in 2000. ASF activities on piracy problems can be summarised in chronological order:

- 1992—A resolution was adopted for ASF to appeal to various governments against the sharp increase of ship robbery incidents in the Straits of Malacca and Singapore;
- 1993—The ASF sent a letter to governments concerned, as well as the IMO, requesting their cooperation in further efforts to eradicate these acts;
- 1994—The ASF reaffirmed the understanding declared at the Second Meeting that piracy is the common enemy of mankind, and requested governments concerned as well as the International Maritime Organisation (IMO) to enhance the safety of maritime navigation.
- 1995—The ASF reached a consensus that the voluntary ship reporting regime for ships passing through the Straits of Malacca and Singapore should be made mandatory;
- 1996—The ASF requested regional governments to be more vigilant against piracy and ship robbery in the South China Sea, especially in the triangular area within straight lines connecting Hong Kong, Vietnam and Luzon Island. The ASF noted with satisfaction the effective role of the governments of Malaysia, Singapore and Indonesia in combating ship robbery crimes in the Straits of Malacca and Singapore.
- 1997—While piracy acts in the South China Sea have reportedly declined, the number of thefts against ships at anchor or in loading/discharging mode has increased. In this connection, the ASF
requested all governments and their law enforcement agencies concerned to increase vigilance through patrols, and to ensure that ships in ports are always safe.

• 1998—The ASF praised the joint efforts of the governments of the Philippines and Malaysia in cracking down on piracy in the Sulu Sea. The ASF requested all governments to increase patrols by police or naval vessels to eradicate acts of piracy and armed robbery against ships in their own territorial waters and neighbouring areas.

• 1999—The ASF expressed serious concern over the frequent occurrence of piracy and armed robberies, and also took note of a number of hijacking incidents in Asian waters. The ASF requested law enforcement agencies in the coastal states to make thorough investigations into these incidents, and make public their results. The Forum also requested the coastal states to increase patrols and strengthen their cooperative measures.

• 2000—The ASF expressed its gratitude to the Japanese government for convening the “Regional Conference on Combating Piracy and Armed Robbery against Ships” in which police agencies, maritime policy agencies, and private organisations from Asian countries were present. It also stressed the necessity for respective Asian countries to enact appropriate legislation to deal with the crime of piracy. In addition, the ASF recommended that Asian governments ratify the 1988 Rome Convention for the Suppression of Unlawful Acts against
the Safety of Maritime Navigation, or Convention on Hijack Prevention. 93

For the past few decades, the ASF has been making persistent demands on governments in the region and the IMO to take positive and effective steps to eliminate acts of piracy, and to enhance the safety of maritime navigation. At the same time, the Forum urged individual shipping companies to take whatever preventive measures they could to protect themselves. Furthermore, the Forum appealed to all other stakeholders, including littoral states, flag states and international organisations to fulfil the obligations mentioned by UNCLOS and other international legal instruments; this will be dealt with in Chapter 5. 94

Given that so many organisations have been involved in protecting ships and that so many anti-piracy measures have been taken, why is it that pirate attacks are still on the increase? There are yet inherent dilemmas in the shipping industry which cause ships to be vulnerable to pirates.

**Part V The Dilemma of the Shipping Industry**

The shipping industry faces a cost and effect dilemma. In order to reduce operation costs, many shipping companies register their ships under Flags of Convenience (FOC). However, the lax administration of the FOC provides an opportunity for pirates to re-register stolen ships.

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94 Ibid., 166.
Flags of Convenience

A Flag of Convenience (FOC), or “open registry” is: “the flag of any country allowing the registration of foreign-owned and foreign-controlled vessels under conditions which, for whatever the reasons, are convenient and opportune for the persons who are registering the vessels.” ⁹⁵

The use of flags of convenience can be traced back to the use of the Spanish flag by English merchants in order to avoid Spanish monopoly restrictions on trade with the West Indies in the 17th century. However, the widespread use of flags of convenience began in the 1920s. In 1922, two cruise liners, the RELIANCE and the RESOLUTE, had their flags changed from United States flags to Panamanian ones, in order to avoid prohibition regulations which prevented the sale of liquor on board American vessels. ⁹⁶

Since World War II, the number of flags of convenience has increased tremendously. The leading open registry countries are Panama, Liberia, the Bahamas, Malta and Cyprus. ⁹⁷ For example, at the end of 2000, the number of ships flying Panamanian and Liberian flags reached 7,741, totalling

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⁹⁶ Ibid.
⁹⁷ The following countries and territories were considered to be FOC states by the International Transport Workers’ Federation (ITF), which spearheads opposition to the open registry system, in June 2001: Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, Bermuda, Bolivia, Burma/Myanmar, Cambodia, Cayman Islands, the Cook Islands, Cyprus, Equatorial Guinea, Gibraltar, Honduras, Lebanon, Liberia, Luxembourg, Malta, the Marshall Islands, Mauritius, the Netherlands, Antilles, Panama, St Vincent and the Grenadines, Sri Lanka, Tuvalu and Vanuatu. Jamaica, Sao Tome and Vietnam are under consideration for a similar designation. In addition, the ITF designates as FOC vessels an individual basis, those ships that are registered in Hong Kong, the Philippines or Singapore. Furthermore, ships flying the flag of countries not mentioned above will be treated as FOC ships, if the ITF receives information that they are beneficially owned in another country.
165,833,187 GT, more than a quarter of global tonnage.\textsuperscript{98} Japan has the second largest tonnage of vessels in the world, but over 86% of its ships were registered under a foreign flag of convenience in 2002.\textsuperscript{99}

**Reasons for Flagging Out**

The reasons why shipowners register their ships under FOC flags, or “flag out”, is based principally on economic considerations. FOCs are easy to register; for example, a ship may be registered at a consul’s office abroad, and a transfer from one registry to another is not restricted. Taxes on a ship’s income are low or may not even be levied. A registry fee and an annual fee, based on tonnage, are normally the only charges made. For example, under Panama registration, a ship of 15,000 dwt, need only pay US$3,000 for initial registration, and subsequently pays only US$1500.00 annually in tonnage tax (10 cents per ton) and an annual survey tax fee of US$1,000.\textsuperscript{100} In comparison to a ship, which costs at least several million U.S. dollars, this amount is very small indeed.

From the shipowners’ point of view, their ultimate aims are to maximise profit and minimise operation costs. Flags of Convenience (FOC) meet this demand. Under the registration of FOC, shipowners can avoid taxes and benefit from lower crewing costs. For example, annual crewing costs for a United Kingdom-registered tanker with a British crew are estimated at

\textsuperscript{98} Ibid., 18.
US$908,000. In the case of a Hong Kong-registered ship (FOC) with a Hong Kong crew, that figure could be reduced to US$396,000.101

Furthermore, under FOC, shipowners enjoy anonymity.102 Owners can change their identities to avoid being identified, especially when their ships have been blacklisted by an insurance company. There are always conflicts of interest between shipowners and insurance companies, which will be discussed in a subsequent section entitled, “piracy and insurance”.

However, the FOC system lacks a union structure, which is arguably essential for the application of safety and social standards in countries of normal registry; specifically, it lacks a national trade union of the flag state that represents the interests of national seamen on board vessels owned by owners who have economic links with the flag state. FOC owners are in a better position to put pressure on masters and officers to take risks, since there is no appropriate government to which shipboard personnel can complain. FOC countries are typically small states that have neither the power nor the administrative machinery to impose effective governmental or international regulations on ships under their registration. Furthermore, FOC countries’ principal aim is to earn money from registration, and they have no intention or power to protect ships under their registration.103 Thus, those ships under a FOC have questionable security measures, and are vulnerable to piratical attacks.

The loophole of FOC has long been used by pirates for re-registering

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101 Coles and Ready, Ship Registration, 46.
102 Ibid., 20.
stolen ships. The *modus operandi* is quite simple. The criminal groups use their network to find a suitable ship to be hijacked at sea. The cargo on board is downloaded, and disposed of through their smuggling network on the black market. The crew are either killed or abandoned. A typical illustration of this kind of attack is the “*Cheung Son Case*”, which will be elaborated on in Chapter 4.\(^\text{104}\)

The ship becomes a “phantom ship.” It can then be registered under several names with different particulars, making the task of tracing the ship very difficult. Its shipping documents can even be obtained prior to a “phantom” shipowner physically taking control of a ship, as will be discussed in the “*Cheung Son Case*”.\(^\text{105}\)

The phantom identity enables the owners of phantom ships to commit maritime fraud. Firstly, the phantom shipowner offers competitive freight rates to shippers who are not aware of the conspiracy. After the cargo has been loaded, the ship is diverted to another destination, and the cargo is off-loaded and sold to pre-arranged buyers. The ship is then re-registered with yet another phantom identity, and the crime is committed all over again. It is difficult to trace these ships because none of their registration details are accurate.\(^\text{106}\)

According to IMB reports, 136 ships have been hijacked and have then disappeared. Many of these ships were probably turned into phantom ships.\(^\text{107}\) The phantom ship phenomenon will be further discussed in Chapter 4.

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\(^{\text{105}}\) Ibid.
\(^{\text{106}}\) Ibid., 33.
**Piracy and Insurance**

To avoid losses from piratical attacks, one solution for shipowners is to buy an insurance policy with piracy coverage. In global insurance markets, piracy is usually covered under hull and machinery risks.  

If piracy risk is included under hull and machinery risk, in the case of hulls, the Institute Hull Clause treats piracy as an ordinary marine peril under clause No. 6.1.5. However, an insurance policy always has a “deductible amount” term. The insured has no right to claim for any reimbursement when the loss incurred is less than the deductible amount.  

**Conflicts of Interest**

Most pirate attacks in Southeast Asian waters are made with the intent of robbing the crew of cash and property. The economic losses made in these attacks are usually insufficient to exhaust the deductibles on most marine insurance policies. This means that shipowners have to cover the entire loss without getting any reimbursement from their insurance company, or get a fixed maximum reimbursement, for example, US$20,000, as in the Hellenic Club's 1988 rules. This is the main reason why up to half of piracy incidents are under-reported. If shipowners report that their ships being attacked by pirates,

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they might lose time and money in waiting for the insurance company to investigate the case, and even after all that, they might not succeed in obtaining sufficient reimbursement. Furthermore, the shipowner might acquire a bad reputation of being vulnerable, and their insurance company might require a possible increase in premium.

Insurance coverage is only helpful when a ship is hijacked or damaged by pirates. In this case, the shipowner will definitely report the piratical case, but shipowners have to cover the loss of the deductible amount under their own expense, and will not be reimbursed the full value of the ship.

The brutal nature of contemporary maritime piracy creates an atmosphere of terror in which it is much more difficult for shipowners to crew their vessels, particularly those ships plying Southeast Asia waters. As a consequence, shipowners are forced to offer better pay and increased benefits to their sailors in compensation for the greater physical risk, and this of course results in an increase in shipowners’ operating costs. To remain in business, such shipowners will need to cut prices and reduce margins to compensate merchants for their own added risk of delay or loss. In order to avoid having to reduce profit margins and to stay in business, shipowners are compelled to employ anti-piracy measures. Implementing more effective measures often costs more than shipowners are currently willing to spend.111

One example involves the problems and costs of hiring a group of private armed escorts. There is a private security company, “Malacca Straits Maritime Security”, which provides security escorts through the Straits of

111 The author’s interview with a captain of a Singaporean shipping company, 18 May 2004, Singapore.
Malacca. The service costs between US$10,000 and US$100,000 a day. The US$10,000 service consists of a group of four to six armed Gurkhas on a small escort vessel. The full service includes an armed Gurkha squad on board, fast craft and helicopter scouts, and an additional patrol craft escort.

However, the necessary maritime legislation and multilateral coordination have not yet been worked out to facilitate the operations of such private armed escorts. Furthermore, a regional licensing regime must be established in order to distinguish between reputable private security companies and those with a more mercenary inclination. ¹¹²

As previously mentioned, insurers are responsible only for losses sustained that exceed the amount of the deductible. A lower deductible amount means a higher premium, to compensate for the insurer’s added liability. In most piratical attacks in Southeast Asian waters, the losses from piracy are less than the policy deductible, so insurers indemnify such losses only on rare occasions.

Insurers are keen to collect data on losses caused by pirate attacks. Based on this data, insurers have begun to charge increased premiums because of the piracy risk in some regions; for example, it is more difficult to obtain hull insurance in Indonesia than anywhere else in the region. ¹¹³

Although piracy incidents have declined significantly since 2004, on 20 June 2005, the Straits of Malacca and adjacent ports, including other Indonesian ports (Ambon, Balikpapan, Jakarta and Poso), were listed as war-risk areas by

¹¹² Tracy Sua, “For Hire: Guardians of the Sea—Several Firms Now Offer Armed Escort Vessels and Mercenaries,” The Straits Times, 15 April 2005.
the Joint War Committee of the London Insurance Market, without any announcement to the shipping industry beforehand. According to international practice, when a vessel sails into a so-called war-risk area, its insurance coverage can be cancelled by the insurers. If a vessel intends to travel into this war-risk area, the shipowner will have to pay an extra premium to reinstate the ship’s insurance cover.

War risk premiums are calculated as a percentage of the total value of an individual ship’s hull and machinery. For example, after the Tamil Tiger terrorist attack on Colombo’s airport, war risk premiums for ships calling at Colombo’s port climbed as high as 0.7% of a ship’s value, i.e. US$500,000 per single port call for the largest containerships. This means that shipowners whose vessels transit the Straits of Malacca or call at Indonesian ports may have to pay for additional insurance coverage. This will greatly increase costs for the shipping industry.

**Conclusion**

The shipping industry is the direct victim of pirates; the analysis of the nexus between shipping industry and piracy provides first-hand knowledge on contemporary piracy. The booming international sea trade following the Cold

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114 The Joint War Committee (JWC) represents the interests of the London marine insurance community and comprises members of the Lloyd’s Market Association (LMA) and the International Underwriting Association (IUA). Chairman of JWC is Rupert Atkin, Director of Underwriting at Talbot Underwriting. See SSA, Joint War Committee War Risk Listed Area (Singapore Shipping Association 2005 [cited 1 Nov 2005]); available from www.ssa.org.sg.

War brought about the rapid development of the shipping industry, and the shipping industry stimulated the development of ports. In the Southeast Asian context, the increased number of ships and ports provides the prey and the places for pirate activities.

The shipping industry has met with a cost and effect dilemma. In order to maximise their profits, shipowners try their best to minimise operation costs. Many shipowners register their ships under Flags of Convenience (FOC). The FOC countries have no “genuine link” with the ships carrying their flags; most importantly, they have no capability and intention to protect these ships. Ships without strong flag states’ protection are vulnerable to pirates. Modern technology installed on ships greatly reduces the number of crew needed on board; this also makes the ships easier for pirates to seize.¹¹⁶

Poor security administration in some ports provides an opportunity for pirates to commit crimes against ships. Furthermore, lax ship registration, such as the practice of the flag of convenience, facilitates the re-registering of hijacked ships by international criminal syndicates.¹¹⁷

No panacea for the complicated dilemmas in the shipping industry has yet been found. In the meantime, shipowners have been taking steps to prevent their ships from being attacked by the pirates, and have taken collective action to urge their respective governments to take firm action to combat piracy.

Who are these pirates? How do they operate? How do they interact with

the region’s states, and how do the states respond to them? These questions will be answered in the next chapter.
CHAPTER 4

PIRATES AND STATES

Chapter Preview

This chapter examines the interaction between pirates and states. After the Cold War, the tension in Southeast Asia was eased. Seaborne trade and the development of the shipping industry are external prerequisites for piracy. However, we might ask, what were the developments that precipitated the upsurge in piracy in Southeast Asia during the 1990s? The answers to this question lie in the internal political and economic factors of the littoral states. This chapter elucidates these internal factors, which include poverty, corruption, and the capability of law enforcement agencies, which foster piracy.

The analysis covers three littoral states and China, with a focus on Indonesia and China, for Indonesia is the most pirate-prone zone, and China was the main destination for pirate booty in the 1990s. Furthermore, the armed forces and law enforcement agencies in these two countries have many striking similarities, such as involvement by the armed forces in commercial activities, and allegations brought against them that they were both in collusion with pirates.

This chapter is divided into three parts: the first part reveals the different
aspects, such as the origin, organisation, and modus operandi of pirates; the second part introduces the anti-piracy law enforcement agencies and domestic laws against piracy in the littoral states; and the third part analyses pirate-state relations, focusing on the collusion between pirates and corrupt law enforcement agencies.

Part I. The Pirates

Small Pirate Gangs

The majority of piratical attacks in Southeast Asia are perpetrated by small-scale criminal gangs. Their targets are mostly vessels in ports or at anchorage, especially those in Indonesia. Most small pirate gangs carry knives or machetes, although occasionally guns may also be used, and their attacks are less organised and more opportunistic.¹

Those suspected of being involved in small-scale pirate attacks in and around the Straits of Malacca are mainly Indonesian fishermen, living in coastal villages, who use piracy as a way of supplementing their inadequate livelihoods. The main reason that drives them to piracy is the drastic decline in fish stocks and a slump in their income from fishing.

Since the end of the 1980s, fish stocks in Indonesian waters have been sharply declining. The blame lies in a combination of the degradation of fish

habitats and excessive commercial fishing. It is estimated that 80% of Indonesia’s coral reefs are damaged, with greatly reduced fish stocks. In addition to the destruction of the coral reefs, pollutants such as petrochemicals, human sewage, silt from forest clearance and agriculture, especially sawdust from east Sumatra, have caused the degradation of fish habitats, and a slump in the profitability of fishing.

Several decades ago, for example, a traditional Belawan fisherman caught about 200kg of fish per week, earning about 3,300,000 rupiah (US$ 330), excluding operational costs, which were about 700,000 rupiah (US$ 70) per week. Nowadays, the size of catches has dropped considerably to 70kg per week, equivalent to earnings of 500,000 rupiah (US$ 50) per week. To make matters worse, operational costs have soared to 1,200,000 rupiah (US$120) per week. This means that even though they can sell their fish, they still make a loss.

To make matters worse, Indonesia is afflicted by illegal trawling. Although the Indonesian government issued a decree banning trawlers in July 1980, illegal trawlers still go unchecked in Indonesian waters. Each year, more than 3,000 Thai trawlers fish illegally in Indonesian seas. Indonesian law enforcement officials were alleged to “allow the Thai fleets to avoid hefty

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license fees and taxes in return for bribes”. It is estimated that illegal fishing has robbed Indonesia of US$ 1.2 billion to US$2.4 billion worth of potential catch.  

Some extremely desperate fishermen have turned to piracy for quick money, attacking ships in port or at anchorage. They know that crew on board these ships do not carry guns, and are told not to resist when attacked, as was discussed in Chapter 3. For these reasons, Belawan remains one of the most piracy-prone ports in Indonesia. From 1992–2005, in Belawan alone, there were 82 incidents of armed robbery against ships. In June 2005, Belawan was blacklisted by the Joint War Committee (JWC) of London Insurance Market, which meant that ship owners had to pay an additional insurance premium for calling at Belawan. 

In Indonesia, many coastal communities suffer the same problem, forcing fishermen or unemployed sailors into crime. These people, who have nautical skills, are suffering economic hardship, and are likely to be hired by pirate gangs to launch opportunistic attacks on ships for quick money. For example, Anderson, a 39-year-old unemployed Indonesian sailor, and his companions were promised 25 million rupiah (US$2,755) each to hijack the barge Kapuas 68, laden with 3,000 tonnes of palm oil. These pirates were arrested in Bintan by the Indonesian navy when their engine died and their boat ran aground on a coral reef. When Anderson was jailed, he still claimed that he “never meant to

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5 Anucha Charoenpo, Illegal Thai Fishing Robbed Indonesia Off Billions of Catches and Cash.  
6 Ibid.  
8 JWC, "Hull War, Strikes, Terrorism and Related Perils Listed Areas, Jw 2005/001”(London Joint War Committee, 2005).
be a pirate”.9

There are several pirate gangs that operated in Indonesian territorial waters along the Straits of Malacca, where more than 500 vessels pass by every day. They attacked foreign ships heading towards Singapore. In 2002, for example, the Indonesian Marine Police from Riau Regional Command arrested a six-member gang. The gangs operated around Batam Island, were only armed with knives and swords, and just took valuables and ships’ safes from captains’ cabins.10

There was a pirate gang operating around Palembang and the Bangka Straits of South Sumatra. This gang was said to be the most ruthless, as the pirates did not hesitate to injure their hostages. In 2003, they made eight attacks in this area.11

International Criminal Syndicates

Starting in the mid-1990s, a serious type of hijacking of ships, which was perpetrated by international criminal syndicates, became quite common in the Straits of Malacca and the South China Sea. These syndicates hijacked ships on the high seas, sold the stolen cargoes, repainted the ships, re-registered them with fake registration papers, and turned these ships into phantom ships, as described in Chapter 3. The phantom ships were used for all kinds of illegal activities, such as smuggling, drug or human trafficking, and marine fraud. In

9 McCawley, "Sea of Trouble", 50–53.
11 Ibid.
terms of marine fraud, for example, the syndicates offered unsuspecting shippers attractive freight rates to carry rice, rubber, aluminium ingots or palm oil. Such shippers would then find that their cargo had gone missing. Phantom ships changed their name each time they left port. It was reported that one phantom ship could earn US$40-50 million per year. Thus, the economic losses of shipowners and shippers were enormous, and these syndicates were a real threat to the shipping industry.

These criminal syndicates featured well-trained personnel, using fast boats, modern weapons and sophisticated communications. These groups had established links in the black market, where they would be sure to dispose of their stolen goods. To support their operation, the criminal syndicates were often in collusion with local law enforcement officers. This will be elaborated on in the third part of this chapter.

In recent years, according to the IMB, five criminal syndicates were responsible for most of the larger-scale hijackings in the Straits of Malacca. These syndicates, with mafia-style dons in Indonesia, the Philippines, Hong Kong SAR and China, made money from piracy on a regular basis.

On 20 November 1998, an Indonesian intelligence body (Guskamar Armabar) arrested the mastermind of an international ship hijack syndicate, Mr. Chew Cheng Kiat, alias Mr. Wong, a Singaporean citizen, at Batam Island in

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13 Ibid.
Indonesia, 45 minutes by ferry from Singapore. Mr. Wong was charged with hijacking tankers in the Straits of Malacca and Singapore Straits.¹⁵

According to Mr. Wong’s confession, when a vessel was hijacked, he and his men would change her appearance and shipping documents. They used a small tanker, *MT PULAU MAS*, as their operations centre, to change the appearance of hijacked ships. Mr. Wong confessed that, between 1996 and 1998, his syndicate had been involved in the hijacking of *MT ATLANTA, MT SUCI, MT PETRO RANGER, MT PENDOPO* and *MT PLAJU*.¹⁶

According to the Indonesian police, Mr. Wong’s international network was located in China, Hong Kong, the Philippines and Malaysia. Based on evidence gathered from police investigations, all hijacked vessels and their cargoes were sent to China. Mr. Wong’s boss was a Hong Kong businessman, based in China, named Ling Sau Pen, whose key men included Tan Chan San in Johor Bahru, Chang Kee Ming in Hong Kong and Wang Yi Lung in Taipei. This syndicate usually not only robbed crew members, but also took over their ships.¹⁷ Mr. Wong sometimes had paid informants on the target vessel. His informants on board informed him of all the ship’s details before they launched an attack.¹⁸

Ironically, before Mr. Wong was arrested, Indonesian naval officers had reportedly initially tried to blackmail him. After one week of bargaining, Mr.

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¹⁷ Harsono, "Dark Alliance Rules the High Seas", *Nation*, 13 April 1999.
Wong finally ended up in a naval detention centre in Batam. The Indonesian navy denied the allegation of blackmailing, but also declined to reveal the real story behind the Wong arrest.  

The *Modus Operandi* of Pirates

The *modus operandi* of pirates in Southeast Asia can be classified into: attacks against ships in harbour or anchorage; attacks against vessels under way; hijack-turned-phantom ship and kidnap-for-ransom.  

*Attacks against Ships in Harbour or at Anchorage*

Pirates attack ships in harbour or at anchorage in search of cash and valuables. In the early hours of the morning, pirates climb aboard ships by using grappling lines and then ransack cabins and ships' safes. If the pirates are few in number, they steal whatever they can get, and escape without the knowledge of the crew. These criminals are called *copet laut* in Indonesian, (literally “sea pickpockets”). If pirates operate in a larger gang, they use weapons to extort more money from the captain and crew.  

Pirates are generally armed with rudimentary weapons, such as knives, pistols and machetes, known as *parang* in the region, and operate from small, manoeuvrable dinghies or other similar light craft. This type of piracy reflects

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19 Harsono, "Dark Alliance Rules the High Seas."
21 Philips J. Vermonde, (Research Fellow, Centre for Strategic and International Studies, Jakarta), in discussion with the author, 12 May 2004.
the relatively lax security measures in Southeast Asian ports. Indonesian ports are notorious for this kind of attack. The average loss in this type of incident ranges from US$5,000 to US$10,000. The following is a typical account of this attack reported by IMB-PRC:

Date: 19.05.2004. Time: 0020LT.

AGATE, a Singapore tanker, 5003 DWT, IMO No. 8413461, was attacked by pirates at anchorage in Balongan, Indonesia. While at anchor, three armed robbers boarded the tanker. One of the robbers held an oiler at knifepoint; the other two ransacked the engine room store and escaped with ship’s stores and property at around 0200 LT. The oiler received no physical injury, but was in a state of shock. [The] Master contacted the Indonesian Navy Western territory, via telephone, but the operator was unable to speak [or understand] English. At 0520, Port security officials boarded for investigation.

In terms of direct economic losses, these piratical attacks do not appear to pose a very great threat to the shipping industry; however, the human casualties and the traumatic impact on surviving seafarers raises serious.

Attacks against Vessels Underway at Sea

The targets of pirates are the ships underway at sea. This kind of piracy is principally interested in cash and valuables on board; known as “hit and run”

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25 Noel Choong (Regional Director of IMB Piracy Reporting Centre), in discussion with the author, Kuala Lumpur, 8 May 2004.
attacks, or “Asian piracy”. This kind of operation requires more advanced weapons and boats. The pirates prefer using wooden high-speed boats which do not show up on the merchant ship’s radar. These boats usually have 3–4 outboard motors installed, giving them a speed of 40-60 knots, faster than a naval patrols boat. When pirates draw alongside a ship underway, they board it using grappling hooks, and then demand cash and valuables from the ship’s safe and the crew. In some incidents, pirates may use several vessels to intercept a target, and open fire on the ship, forcing it to stop.

Nowadays, most shipmasters do not keep much money in the ship’s safe, since shipping companies usually pay their crews by depositing salaries into home bank accounts. However, if pirates find no money in a ship’s safe, the frustration of going away empty-handed can make them physically aggressive towards the captain and crew, who are at risk of being tortured and harmed. Many masters keep some money, usually US$4,000-5,000, as a pirate pot in case of piratical attacks. In this style of attack, the value of the stolen goods can be between US$10,000 and US$20,000.

Hijack-turned-phantom Ship

Pirates of this type are after the cargo and the ships themselves. These

28 Economist, "South Sea Piracy: Dead Men Tell No Tales," 87–89.
29 The author’s interview with a Singapore coast guard, on 15 April 2005, Singapore.
30 Captain Li Wenqing (IMC Shipping Co. Pte Ltd.), in discussion with the author, 16 May 2005, Singapore. There is a similar reference in John S. Burnett, Dangerous Waters: Modern Piracy and Terror on the High Seas (New York: Plume, 2003), 94.
pirates hijack the vessel, and turn it into phantom ship, as described above. This kind of operation is usually carried out by criminal syndicates. Pirates need secure ports to download the stolen cargo, and transfer cargo to other ships. These operations are usually done in hidden locations—unofficial anchorages, known as “rat harbours”, in Indonesian waters.\(^{32}\)

Apart from the above-mentioned marine fraud, phantom ships are usually put to use for smuggling purposes. The syndicates have a ready business network through which to sell their booty. In Southeast Asia, particularly in the late 1990s, the favourite prey was oil, which was easily smuggled into a booming black market in China.\(^{33}\)

The following \textit{MV CHEUNG SON} case is a famous hijack-turned-phantom ship case. The following account is written based on the Chinese court records and author’s interviews.

\textit{MV CHEUNG SON CASE – (Chinese Serious Crime Case No.9901)}\(^{34}\)

\textit{One of China’s most brutal cases of piracy in the South China Sea, involving the murder of 23 Chinese seamen on board the MV CHEUNG SON, whose bodies were dumped overboard, ended with 13 pirates (one Indonesian and 12 Chinese nationals) being sentenced to death. The MV CHEUNG SON trial had a significant deterrent effect on pirates, and their choice of China as a destination for stolen cargo.}

\(^{32}\)McCawley, "Sea of Trouble," 87-89.
\(^{34}\)Apart from those cited specifically, the source of this case comes from the Guangdong Higher Court, "Court Judgement Of ‘The Case of Wei Siliang and Soni Wee and Others, Total 38 Suspects’", in \textit{Renmen Fayuan Caipan Wenshu Xuan} [The Selected Court Judgements] (Beijing: Falu Chubiarshe, 2001).
Prelude

In August 1998, Soni Wee, an Indonesian pirate from Batam, went to Shenzhen, China to meet his Chinese accomplice, Zhu Yousheng. Soni Wee, whose boss was a member of a Chinese criminal syndicate based in Indonesia, had got information that an oil tanker would set sail for China. They searched for a suitable ship to rob in the South China Sea, and soon located Weng Siliang’s steel-hulled ship.

Weng Siliang was a Chinese millionaire in Shanwei, Guangdong. He had made his fortune from a contract with the Chinese marine coast guard over anti-smuggling activities. In the early 1990s, smuggling was rampant in the Southern China’s coastal provinces (as will be discussed further in the third section of this chapter). The local law enforcement agency, Chinese marine coast guards, did not have the capability to combat smuggling. They issued permits to private shipowners, who provided ships and crew at their own expense to catch the smugglers. The private shipowners were entitled to a certain percentage of the total value of the contraband confiscated as a reward. If these private shipowners seized a smuggling ship with a high value of contraband, or “elephant”, as they call it, the small percentage reward in fact turned out to be a huge sum of money. Their ships had legal law enforcement licenses for anti-smuggling operations.

However, in 1998, Chinese President Jiang Zemin announced the creation of a crack anti-smuggling police force, in a bid to stamp out smuggling operations that were destabilising a number of state industries, particularly the
oil industry. Licences for private anti-smuggling ships were withdrawn.

Weng Siliang’s ship, named “Marine Coast Guard-D4220” which had a legal anti-smuggling license, soon became a “Three No’s” ship—“No Permit, No Certificate and No Registration Number”. Weng’s cash flow was cut off. To make the matters worse, he had to pay a large amount of money for the maintenance of his ship. Weng soon found himself trapped in financial difficulties. It was at that time that Soni Wee and Yousheng approached him. They soon reached an agreement to use Weng’s ship, disguise themselves as an anti-smuggling task force to catch an “elephant” at sea, and then to share the booty equally amongst them.

Various tasks were assigned to each of them: Soni Wee was in charge of operations, including gathering intelligence, buying weapons and tools, navigating the ship, contacting foreign buyers, and commanding piratical activities at sea; Zhu Yousheng provided the funding, RMB10,000, to buy weapons, tools and other logistics support; Weng Shiliang provided the ship and crew.

Apart from Chinese pirates, Soni Wee recruited 12 Indonesian crew in August 1998. These were assigned to take over the ship that was to be hijacked. One hardened Chinese pirate, Jia Hongwei, who will be discussed in more detail later, was in charge of weapons and tools; he spent RMB 20,000 given to him by Zhu Yongsheng on a hunting rifle, a pistol, handcuffs, knives, sticks, police uniforms and other equipment.

On 5 September 1998, Soni Wee and the other pirates set sail from the wharf of the Port Authority Shanwei, Guangdong. Weng Siliang stayed at
home, using a radio telephone station, to give orders to the pirates at sea.

On 7 September 1998, at 2:00 a.m., in the open sea, Soni Wei and other pirates put on Chinese marine coast guard uniforms or camouflage uniforms, pretending to be members of an anti-smuggling task force. According to information they had received from their overseas boss, there would be an oil tanker passing by their area soon, and so they kept a continual radar watch for their target.

On 9 September 1998, at 7:00am, at the position 22:04N, 118.49.8E, the pirates spotted a Singaporean oil tanker, *MV LOUISA*. When the two ships drew close, Soni Wee ordered the *MV LOUISA* to stop for inspection. The pirates boarded the ship, and ransacked the safe and valuables. All the crew were handcuffed and locked in a cabin.\(^{35}\) Soni ordered the 12 Indonesian pirates to sail the *MV LOUISA*, and he and the other Chinese pirates sailed their own ship back to Shanwei in China.

The *MV LOUISA* was laden with 5564 tonnes of refined palm oil, with an international market price of US$700.00 per tonne. Soni Wee contacted his overseas boss to sell the goods, but the boss only offered one-third of the market price, which was far lower than they had expected. The pirates delayed their decision for a few days.

However, a few days later, Soni Wee was informed that the owners of the *MV LOUISA*, who also had a wide network amongst law enforcement agencies and criminal syndicates, had sent their men to negotiate with the

Indonesian pirates on board *MV LOUISA*. Furthermore, thanks to the captain of the *MV LOUISA*, who had sent off an SOS signal to the IMB before the pirates took over the ship, the IMB had forwarded an alert to all port authorities to search for the stolen ship. The pirates had to abandon the ship on 15 September 1998, north of Sulawesi in Indonesia. When the *MV LOUISA* was recovered, her name had been changed to the *MV HOLLY* and she was flying the Panama flag.  

Soni Wee and the other Chinese pirates did not earn any money from hijacking the *MV LOUISA*, and were thus frustrated and desperate. A month later, the pirates used the same *modus operandi* to plunder a Korean ship, carrying sugarcane juice. The pirates gained little—just some cash and cheap equipment. Therefore, the victim ship did not report the piratical attack to the IMB; the details of this attack were only acquired from the testimonies of the pirates in the later *MV CHEUNG SON* trial.

**Hijack of MV CHEUNG SON**

After several months of bad luck and with no money in their pockets, the desperate pirates could not wait for instructions from their overseas boss. On 15 November 1998, Soni Wee and the other pirates sailed out again in search of prey. The next day, at position 22:20 N; 118:49E in the South China Sea, the pirates found a bulk carrier, flying the Panama flag, the *MV CHEUNG SON*. The ship had left Shanghai port several days earlier, and was bound for

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Port Klang, Malaysia, carrying a cargo of furnace slag. Soni Wee and the other pirates, in marine coast guard uniforms, pursued the *MV CHEUNG SON* at high speed, and fired guns to stop the vessel. As the launch drew alongside, Soni shouted, “This is the Chinese Marine Coast Guard. You are ordered to stop for inspection for contraband …” In their hurry, the pirate’s ship crashed into *MV CHEUNG SON* and the pirate ship’s stem was seriously damaged.

Once on board, the pirates shut down all communications equipment and took control of the ship. The pirates handcuffed 23 of the crew in a cabin, and ordered the four engineers in the engine room and two cooks to continue to work in their positions. Soni was disappointed about the goods on board, and ordered seven other pirates to sail the damaged pirate ship back to Shanwei with a sample of the furnace slag.

Weng Siliang received the sample and passed it on to a foreign buyer, alias “Roger”, a Chinese Indonesian based in Singapore, for chemical tests and evaluation. “Roger” informed Weng later by phone that the furnace slag had no market value, but he offered to buy the ship, *MV CHEUNG SON*, for a price of US$300,000. The *MV CHEUNG SON* was 146m in length, 10,373 dwt; together with cargo, her market value was over three million $U.S. dollars. The pirates had no choice but to sell the ship at this cheap price. On 23 November 1998, “Roger” sent 16 of his men from Indonesia to take over the ship.

The next step for the pirates was to empty the ship. Since the *MV CHEUNG SON* was owned by a Hong Kong shipping company, all the crew members on board had been hired from Guangdong by the Chinese Overseas

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Shipping Company (COSCO). For fear of being identified by the Chinese crew, Soni Wee decided to kill all the crew members.

**Dead Men Tell No Tales**

On 25 November 1998, Soni Wee and some other pirates sailed the *MV CHEUNG SON* to a position of 22 N; 116 E, and told the other pirates that the crew of the *MV CHEUNG SON* had to be eliminated; everybody had to kill at least one man. That night, Soni Wee taped the mouth of the Captain, dragged him out on deck and hit him on the head with an iron bar. He tied a weight to the corpse, and threw it into the sea. The other pirates followed suit, killing the other 22 crew members one by one before dawn.

Having killed 23 crew members, the pirates sailed *MV CHEUNG SON* into Guangdong waters to pick up the Indonesian crew, who had been waiting to take over the ship. The Indonesian crew boarded the ship with a complete set of fake shipping documents, and the *MV CHEUNG SON* vanished into the blue.

The *MV CHEUNG SON* has never been recovered: the ship must be somewhere in the world, but no one knows her current name or where she is. Later, Weng Siliang received the first payment from “Roger”, RMB 970,000, and shared the money with the other pirates.

In December 1998, 12 corpses were found in Guangdong waters. All were identified as crew members of the *MV CHEUNG SON*. The Chinese Ministry of Public Security took the case very seriously, and assigned a team to investigate the case immediately. The case was later labelled Serious Crime Case No. 9901.
Even before the corpses had appeared, the police had received intelligence that a gang of pirates using a former anti-smuggling private ship had robbed a ship on the high seas, and earned a lot of money by selling the ship. The police began to investigate former private anti-smuggling ships. Subsequently, they found a ship with a damaged stem, and eventually tracked down and arrested the pirates.

Illustration 2Weng Shiliang caught by the Chinese Police. (Photo: Wang Wei)
Epilogue

The *MV CHEUNG SON* case attracted international attention. Thirty-eight defendants were convicted of hijacking and killing the crew of the *MV CHEUNG SON*. Among the defendants, 13 pirates, Soni Wee, Weng Siliang, Jia Hongwei and others were sentenced to death, but the head of the syndicate and the foreign buyer, “Roger” are still at large. On 28 January 2000, thousands of people gathered outside the Sanwei courthouse to see the “Doomsday of the evil monster of the sea”, as the pirates were led away to the execution grounds.

This case illustrates many of the issues discussed earlier in this chapter: the role of the pirates, the syndicates, and how they operate. The *MV CHEONG SON* case gives an unparalleled glimpse into the lives and contexts of the pirates and their prey. However, if the pirates had had accurate intelligence
about the ship from a syndicate, they would not have been caught so easily.

There are several key elements in this kind of attack:

1. Information

   The information on a ship and its cargo are crucial for pirate operations. Pirate syndicates gain this information from their informants within shipping companies, port authorities and corrupt law enforcement officials. In the attack on *MV LOUISA*, the pirates had information about her in advance, and so easily succeeded. In contrast, in the *CHEONG SON* case, the pirates did not have any information about her: if they had known that the ship was only carrying cheap furnace slag, they would not have attacked her, or killed so many of her crew members. If pirates had not been so desperate for money, and if they had had accurate intelligence about the ship from a syndicate, it would have been difficult for the Chinese police to have ever caught them.

2. Smuggling Network

   Syndicates rely on a ready smuggling network to dispose of stolen goods. Usually, they choose a lucrative product as their prey, and one which will be easy to sell through their smuggling network or on the black market. For example, refined palm oil, as in the *MV LOUISA* case, kerosene and diesel fuel, rubber, steel, copper and aluminium. In the 1990s, a great number of these stolen products flooded the black market or were smuggled into booming Chinese markets.
3. Shipping Documents and Crew

Syndicates supply a ready set of shipping documents and crew for the hijacked ships. The lax administration of FOC allows pirates to get their hands on shipping documents easily, as was discussed in Chapter 2. Different pirates are assigned to do different kinds of jobs; some are responsible for hijacking ships, while others are in charge of false documentation for the phantom ship.

4. Logistics Support and Collusion with Corrupt Officials

Pirates have a strong logistics support from land, and are also frequently in collusion with corrupt officials, as will be elaborated on in a later section.

5. A Pirate’s Confession

Pirates involved in hijack-turned-phantom ship operations are usually more professional than the small pirate gangs. Jia Hongwei, the hardened pirate in the *MV CHEONG SON* case, was a retired army officer and an amateur writer. While in jail, he wrote a letter to his parents, confessing the crime he had committed. From this letter, we can really get some insight into a pirate’s mind and hear his own voice:

I deeply regret that I did not listen to your advice; I regret that I mingled with bad guys and walked on the road that led to crime. But it is too late. I, your son, owe you too much; if I were set free, I would repay your compassion, which is deep and broad like the sea.
Mom, please do not overwork. Your son deserves this punishment; you do not need to make any effort to rescue me. There are too many temptations and too much cheating in society. Do not let my younger brother and sister try to find a fortune in the outside world. If they aren’t careful, they could fall into the same trap as I did.

You used to tell us, “Gold and silver nests are no better than our own grass nests.” Over the past few years, I have enjoyed these gold and silver nests, but I realise now that the grass nest is the one I really belong to.

Illustration 4 Jia Hongwei (left), Soni Wee (middle) and Weng Shiliang (right) in court, Shanwei, 1999 (Photo: Wang Wei)

It was Shenzhen where your son first faltered. [After he retired from the army, Jia Hongwei went to Shenzhen, a Special Economic Zone in Guangdong province, near Hong Kong.] What kind of a place is Shenzhen? A window for
reform and opening up to the outside world? A paradise for adventurers? A dye vat? Outsiders do not read its real face: they only look at its luxurious surface, and cannot see the murderous motives behind the glossy facade, the corrupt and dirty money at its core. At that time, I rushed into her with a crazy, cavalier attitude: she was so charming. But in just a few years, I was defeated and had lost my armour in this arena, because I could not resist temptation.

When I first came to Shenzhen, do you know how difficult it was to establish a business? I asked my friends and relatives to help me, hoping that they would give me a hand when I was in trouble. However, all I could see were their cruel and greedy faces. I was disappointed. I began to learn the rules of the real world, struggling in a bitter-sea-like real world. I could not feel the sense of crying, even though I cried very sadly at that time.

I was determined to climb the social ladder: I did not want to beg from anybody. I worked hard and struggled desperately. In order to fulfil my ambition, I had to break up with Jing [his girlfriend]. I was not a betrayer. I only wanted to prove that I was a real hero. I chose a road of no return; I did not want to get her into trouble. I wanted to prove that I was not a loser, but a tough guy.

Because of my job [selling wine], I went in and out of all kinds of luxurious places of entertainment. My perception of values had completely changed. I was a hard-working guy and had a good reputation for loyalty. I was soon established in Shenzhen’s entertainment circles. I got to know a lot of domestic and foreign friends. Some of them were businessmen, some were
from secret societies. I was seduced by some foreign friends and became addicted to drugs. From then on, I could not control myself.

However, I was under pressure, as the easy money I got changed me from being a slave of money into a master of money. After I got rich, I was afraid to contact our family, and dared not send you any money. I knew you would not allow any child to get rich by bad deeds, for we come from common, diligent and thrifty peasant stock without any ambition. My distorted mind drove me crazy in spending money. I spent one million RMB in one month, one million RMB—such a crazy amount! This made me bankrupt and I had no choice but to go the doomed way to death. When I finally woke up, it was too late; I could not control my destiny.

I feel guilty for the damage I have done to our family. I do not know what to say. Perhaps the media will describe me as a demon with a green face and flanks. Let it be, it is propaganda. In fact, your son is a guy with responsibility and a kind human nature. Please take care of your health and withstand pressure from all directions.

Your son now has no hope. I am a criminal who deserves the punishment of the law. I do not blame anyone. It is my destiny to suffer this punishment. If I am pardoned by the government and do not have to die, I will be a nice and respectful man. If not, do not feel sorry for me. If our neighbours ask where I am, just reply that your unfilial son has gone abroad, had a car accident and has died. He will never come back.
Your son has made up his mind, so please do not worry about me. Let it be. Let
this go with the wind, and do not keep it in mind. Eat well, sleep well, and take
care. There will be sunshine after a rainy day.39

Later, Jia Hongwei was given the death sentence by the Intermediate
People’s Court in the Southern port of Shanwei in Guangdong province. In jail,
Jia Hongwei tried to finish a memoir of his pirate life, “Tears of a Pirate: The
Confessions of a Pirate awaiting Execution”. However, he could not make it
before his execution date.

The Decline of Phantom Ship Incidents

The phantom ship type of piracy began to decline at the end of the
1990s. This change occurred due to two factors: one was the firm measures
China took on smuggling along coastal provinces (to be discussed in the
following section), and the other was the adaptation of IMO regulations on ship
registration and identification, and the instalment of ship tracking devices on
board ships.

In 1998, the Chinese government banned all military involvement in
business and took firm measures to crack down on smuggling and piracy in
coastal provinces. Pirates lost their main black market in China, and for fear of
being executed, turned to other destinations for their fortunes.40

In 2002, the International Maritime Organization (IMO) adopted several

39 The letter [in Chinese] was quoted in Hao Jiangtang, Haidaolei [The tears of a Pirate]
(Beijing: Huawen Press), 213–15. This version was translated into English by the author.
40 ICC-IMB, "Piracy and Armed Robbery against Ships: Annual Report (1 January-31
December 2004)."
regulations of the International Convention for the Safety of Life at Sea 1974 (SOLAS). A new amendment of the Regulation 5, requires that every ship must be issued with a Continuous Synopsis Record (CSR), which is “intended to provide an on-board record of the history of the ship with respect to the information recorded therein…The CSR shall be issued by the Administrations of flag states.” These requirements facilitate law enforcement agencies and port authorities to identify stolen ships, and also prevent pirates from getting a complete set of shipping documents without any form of evidence.

In addition, the IMO adopted a modification to SOLAS Regulation XI/3 regarding the Ship Identification Number Scheme (SINS), introduced in 1987. The new regulation required a “ship’s identification number (SIN) to be permanently marked in a visible place either on the ship’s hull or superstructure. Passenger ships should carry the marking on a horizontal surface visible from the air. Ships should also be marked with their ID numbers internally.” This regulation deters pirates from re-registering a hijacked ship.

Furthermore, the IMO also requires all vessels of more than 500 Gross Tonnage (GT) to be equipped with a Ship Security Alert System (SSAS), which can send an alert from ship to shore in case of a piracy or terrorist attack on board a vessel.

Apart from all IMO measures, the IMB promotes a simple transmitter called ShipLoc, which can continually transmit a ship’s position. These devices are installed by shipowners, and even the captain and crew do not knew where they are located. This tracking device can report a vessel's position up to 15

42Ibid.
times a day, and costs about US$60 to US$70 a month per vessel, depending on the number of units fitted.\textsuperscript{43} Shipowners can also log on to a specific website to locate their ship. Many ships now have \textit{ShipLoc} installed on board.

The implementation of these IMO regulations and instalment of new tracking devices on ships has helped shipowners and law enforcement agencies to track down hijacked ships. These measures strongly deter pirates from hijacking re-registering ships, and turning them into phantom ships. These measures, together with the Chinese anti-piracy campaign in coastal provinces, which have destroyed the black market for pirates, has brought about the decline of phantom ships.

\textbf{Kidnap-for-ransom}

After the decline of phantom ship piracy, pirates changed their tactics from hijacking to kidnap-for-ransom. From 2002–2005, there were 99 kidnap-for-ransom attacks in the Straits of Malacca and the Singapore Strait.\textsuperscript{44} Pirates take over the vessel by force in the operation, and abduct the captain and crew, who are held during ransom negotiations. The IMB Piracy Reporting Centre (IMB-PRC) plays an important role in helping shipowners negotiate with pirates. Usually, the kidnapped crewmembers will be released after the ransom has been paid by the crew’s employers. Ransoms demanded for the

\textsuperscript{43} Straits Times "Secret Trackers Helped Vessel Recovery," \textit{The Strait Times}, 7 February 2005.

release of crew members can range from US$100,000 to US$200,000.45

An example of such a case was IDATEN, a Japanese tug that was attacked by pirates with while plying Indonesian waters on 14 March 2005. The pirates in three fishing boats were well armed, with guns and rocket-propelled grenades (RPG). After firing at the tug, they boarded it, seized three crewmembers (the Master, Chief and Third Engineers) and made off with them. A week later, the Japanese shipping firm that owned the tug paid the pirates 10 million Yen (about US$ 100,000) for the release of the hostages.47

Pirate Weapons and Equipment

Pirates in Southeast Asia are equipped with all kinds of items needed to carry out attacks, such as knives, machetes, ropes, pistols, amongst others. Since the 1990s, computers and other emerging technologies have enhanced pirate capabilities as much as they have those of national navies. In recent years, pirates have begun making use of hand-held Global Positioning System (GPS) receivers, satellite phones, ultra-fast speedboats, high-powered telescopes, automatic weapons, and rocket-propelled grenades (RPGs).

These weapons usually come from small arms and light weapons (SALW) smuggling networks set up in the region. 48 In Southeast Asia, Cambodia is one of the biggest suppliers of small arms on the black market. Large quantities of small arms also come from China, Vietnam and Myanmar, as well as states outside the region. Singapore and Thailand are import transit ports of small arms. Small arms smugglers are active in Southeast Asia’s long maritime and continental frontiers, which are extremely difficult to monitor and police. Small arms are easy to get hold of on the maritime borders of Indonesia, East Malaysia and the Philippines. Pirates buy weapons to attack fishing vessels, while fishermen are armed to protect themselves against pirates.49

On the black market, SALW can be bought at a low price; for example, an AK-47 or M-16 assault rifle might cost US$400-500, or it could even be rented from between one to three million rupiah. Indonesian navy and police are alleged to be involved in the transfer of illegal arms.50

In terms of boats, pirates usually prefer wooden boats powered by several outboard motors, which allow them to travel at almost three times the speed of tankers, and which are hard to spot from the merchant ships by radar.

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48 Small arms comprise various types of guns/rifles, including handguns, carbines, assault rifles and sub-machine guns. Light weapons consist of various heavy calibre guns, such as machine guns, and anti-tank weapons, such as rocket-propelled grenades, etc. See David H. Capie, Small Arms Production and Transfers in Southeast Asia, Canberra Papers on Strategy and Defence, No.146. (Canberra: Australian National University Strategic and Defence Studies Centre, 2002).

49 Capie, Small Arms Production, 24.

Pirates sometimes make use of modest radar systems to help them locate their targets. 51

**Part II. Anti-piracy Operations by Littoral Governments**

Anti-piracy operations are dependent on the capacity for maritime security in the littoral states, which is subject to two basic elements, as maritime expert Sam Bateman points out: (1) law enforcement agencies and their operational capabilities, and (2) appropriate national legislation providing for regulation enforcement in maritime zones and of maritime activities. 52 The following section analyses maritime security in the littoral states from these two aspects.

**Anti-piracy Law Enforcement Agencies and their Capabilities**

**Indonesia**

The Indonesian Navy and Indonesian coast guard are the two main law enforcement agencies responsible for combating piracy. The Indonesian Navy has set up Navy Control Command Centres (*Puskodal*) in the pirate-prone areas, Batam and Belawan, to combat piracy and ensure maritime security in the Straits of Malacca and Singapore Strait. The *Puskodal* gather and submit

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reports on piracy to the IMB. They also give orders to the Navy units in their field to carry out anti-piracy operations or coordinate with their Malaysian and Singaporean counterparts. However, the Indonesian navy is notorious for its corruption and collusion with pirates, and ships passing through the Straits of Malacca and Singapore Strait are reluctant to ask the Puskodal for help. This will be discussed in the third part of this chapter.

Indonesia’s marine police and coast guard, the Kesatuan Penjaga Laut dan Pantai (KPLP) share responsibility for law enforcement in territorial and archipelagic waters. The KPLP is Indonesia’s primary anti-piracy agency. However, despite fairly extensive foreign assistance from Japan, the capabilities of both units are insufficient.

Besides these two law enforcement agencies, there is an inter-agency law enforcement body, the National Coordination Board for Sea Security (Badan Koordinasi Keamanan Laut, BAKORKAMLA), handling law enforcement activities at sea. The BAKORKAMLA was established in 1972 by the Armed Forces Command of the Ministry of Security and Defence, the Ministry of Communications, the Ministry of Forestry, the Ministry of Judicial Affairs and the Superior Court. It is funded by the Ministry of Security and Defence. The aim of BAKORKAMLA is to optimise maritime laws and cooperation with neighbouring countries. However, the BAKORKAMLA is

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54 Ibid., 10.
56 Dewan Keamanan Laut Indonesia, "Keputusan Bersama Menteri Pertahanan-Keamanan/Panglima Angkatan Bersenjata, Menteri Perhubungan, Menteri Keuangan,
being criticised by the shipping industry for lack of efficiency, particularly since the separation of the police from the armed forces.  

Indonesia’s huge geographical extent and its armed forces’ central Wawasan Nusantara doctrine require a sizable and modern navy. Indonesia’s fleet currently consists of 126 warships and 120 other vessels, of which only about 25 vessels are currently operational at sea at any given time. In the word of the Indonesian Navy’s Admiral Sondak, ‘the new ships cannot shoot, the old ships cannot sail’. Of some 60 aircraft, including helicopters and fixed-wing aircraft, about 40% are not operational. Rear Adm. Bijah Soebijanto, Director of the State Intelligence Institute, said that Indonesia needed to spend an estimated US$ 2.7-trillion on at least 176 more warships and 110 more coast guard aircraft to fulfil its mission. The Indonesian Navy has begun to plan for its reconstruction following President Susilo Bambang Yudhoyono’s taking office on 20 October 2004. However, the requirements to modernise the navy substantially exceed any realistic expectation of budget allocation for the 46,000-man navy and marine corps.


58 The doctrine stresses the vital importance of the integrity of the country’s island and maritime territory.


The development of the Indonesian navy was hindered during the 1990s by a combination of funding restrictions and eccentric decision-making plans. The Indonesian navy now faces maritime security challenges that are more acute than at any time since the 1960s. For example, in March 2005, following the maritime dispute with Malaysia over the resource-rich Ambalat area off Borneo, which escalated into a naval standoff in the Sulawesi Sea, Indonesia, realised that its naval capability needed urgent strengthening. In June 2005, Indonesia’s new Chief of Naval Staff, Admiral Slamet Soedijanto, published the ‘TNI-AL Blueprint 2004–2013’, which aims at achieving ‘green-water’ capability by 2020. With a new naval blueprint, the present eastern fleets in Surabaya and western fleets in Jakarta will combine to become one fleet based in Surabaya, and with subordinate command points in Riau (west), Papua (east) and Makassar (central). The bases at these points will be upgraded. Other locations for the fleet at Kupang in West Timor and Tahuna in North Sulawesi will also receive a facelift. Other areas of improvement include the strengthening of the Marine Corps, and the setting up of a third brigade in Sumatra. A fourth brigade is planned in 2008 in Papua.

Ambitious navy procurement was announced in the “TNI-AL Blueprint 2004–2013”, which highlights the importance now attached to maritime defence. The Indonesian naval procurement programme currently involves four new Sigma-class corvettes, four Korean-built Landing Platform Dock (LPDs); Chinese C-802 anti-ship missiles and four Todak-class large patrol boats.

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63 Staff-Report, "Indonesia Moves to a New Strategic Age."
65 Ibid, 256.
However, it will take several years before this equipment is operational, and most machines in the naval procurement are not used for anti-piracy operations or combating smuggling and other illegal activities at sea.

**Malaysia**

A number of Malaysian government agencies are responsible for maritime security. These agencies include:

- The Malaysian Armed Forces (primarily Royal Malaysian Navy);
- Royal Marine Police (RMP);
- The Department of Fisheries (Marine Resources Protection Unit and Marine Parks Unit);
- Royal Malaysian Customs;
- The Marine Department under the Ministry of Transport; and
- The National Security Division, Prime Minister's Department.66

In 1985, Malaysia established a Maritime Enforcement Coordinating Centre (MECC) under the National Security Division of the Prime Minister’s Department to enhance inter-agency cooperation in managing maritime security, especially in surveillance and enforcement functions.67

The Royal Malaysian Navy (RMN) has been concentrating on building blue-water and war-fighting capabilities since the 1990s. In November 2005, the Malaysian Maritime Enforcement Agency (MMEA) was established as a national coast guard, with assets and personnel drawn from the police, customs

67 Ibid.
and fisheries department as well as the navy.\footnote{Langton, ed., \textit{The Military Balance} 2006.}

The MMEA’s responsibility for maritime security extends 200 nautical miles to the Exclusive Economic Zone (EEZ) limit. Marine police will continue to be responsible for security within 12 nautical miles of Malaysian territorial waters.\footnote{Ibid., 225.} The MMEA’s current focus is to ensure security and that the Straits of Malacca are free from such crimes as piracy. By July 2006, the MMEA will deploy 72 vessels, which will include 15 ex-RMN patrol boats. The MMEA also includes an air component, which aims to deploy 20 helicopters and both amphibious and conventional aircraft in the near future.\footnote{Ibid.} In 2006, the Royal Malaysian Navy gave 1,300 officers and 17 vessels to the MMEA. However, the maritime capability of Malaysia has not yet been equal to the challenges it faces at sea.\footnote{New Straits Times, “Navy is Seriously Short of Men and Ships”, \textit{New Straits Times}, 27 April 2007.}

\textbf{Singapore}

The Singapore Police Coast Guard is in charge of combating piracy in its territorial waters. The Police Coast Guard (PCG) is made up of six patrol squadrons and a fleet of more than 80 vessels. The PCG works in collaboration with the Republic of Singapore Navy (RSN). The Coastal Command of the RSN is the agency directly involved with deterrence and prevention of acts of piracy and maritime terrorism in Singapore’s territorial waters. It is composed of patrol vessels, inshore fast boats and mine counter-measure ships. The
Coastal Command collaborates closely with the Police Coast Guard, the Maritime and Port Authority (MPA) and the Port of Singapore Authority (PSA) to combat piracy. Furthermore, the Republic of Singapore Air Force provides maritime air surveillance support. Singapore has been strengthening its coastal patrol capabilities over the last few years on a continual basis by purchasing new equipment and vessels.\footnote{72 Singapore Ministry of Defence, \textit{Defending Singapore in the 21st Century} (Singapore: Ministry of Defence, 2000).}

Singapore’s new maritime security measures include the creation of Accompanying Sea Security Teams (ASSeT), which are tasked with boarding and escorting vessels singled out through shipping data analysis, in order to detect and deter any criminal activity on board these vessels and to ensure that the threat is neutralised. Singapore has just completed the installation of new radars at Changi Naval base to increase the radar coverage of its territorial waters. In addition it has increased navy and coast-guard patrols in its waters.\footnote{73 Ibid.}

Some years earlier, in 1988, Singapore adopted the “SAF2000” modernisation project, which emphasised the Singapore Armed Forces’ enhancement of technological advantages over potential adversaries. In particular, it mentions advanced systems for command, control and communications (C3), intelligence, surveillance and reconnaissance (ISR), and enhanced logistic capabilities.\footnote{74 Ibid.}

The maritime component of SAF 2000, “Navy 2000”, consists of mine hunters, maritime patrol aircraft, submarines and new patrol vessels and landing ships. Since the 1990s, the Singapore government has been enhancing naval capabilities. Under \textit{Project Delta}, Singapore will procure six \textit{Formidable}-class...
frigates (3200 tonnes, 114m), Harpoon anti-ship and MBDA Aster 15-point
defence missiles; such advanced weaponry will significantly boost the state’s
ability to protect its Sea Lines of Communication (SLOCs).75

Singapore’s current naval procurement programmes consist of plans to
acquire six S-70B Seahawk multi-role helicopters for the frigates, and two ex-
Swedish Type A17 Västergötland-class submarines, a Landing Ship Tank (LST),
Hydroid REMUS underwater systems and Unmanned Aerial Vehicles
(UAVs).76 After 9/11, the maritime security of Singapore has further been
enhanced with the help of the United States navy.

**China**

In China, there are two governmental agencies directly in charge of anti-
piracy operations: The Ministry of Public Security (MPS) and the Ministry of
Communications. The Criminal Investigation Division of MPS investigates
piracy cases, while the Frontier Police Division of MPS patrols, monitors and
combats piracy in its coastal waters. The Maritime Security Administration of
China Maritime Bureau, a division of the Ministry of Communications, handles
maritime information gathering and communication with the IMB Piracy
Reporting Centre. Chinese maritime capability is improving rapidly, and its on-
going military modernisation programme has given the United States some
cause for unease. Chinese marine coast guard units have over 200 patrol boats
to implement maritime security tasks, which, in terms of anti-piracy operations,

76Ibid, 254–58.
is sufficient to meet current demand.  

### Assessment on Capabilities of Maritime Security in the Littoral States

In terms of maritime capability, Singapore ranks first among the three littoral states, due to its highly developed economy and intensive interaction with armed force defence industries and R&D establishments in the United States. Malaysia is the second in terms of naval capability. Indonesia’s naval capability ranks the lowest of the three. Naval capability development is not an easy task for Malaysia and Indonesia: it not only demands a huge defence budget, but also requires adequate planning for infrastructure, logistics support and necessary training to make it operational. Apart from naval capabilities, paramilitary maritime security forces, such as the marine police coast guards of Malaysia and Indonesia are still not able to meet the challenges posed by illegal operations in their territorial waters. The Singapore Police Coast is well equipped and well trained. However, Singapore’s jurisdiction is only limited to three nautical miles around Singapore, which only covers a small area at the southern end of the Straits of Malacca.

The most obvious and easiest way to solve problems relating to a lack of capability is to request assistance from foreign navies. Singapore is open to offers of foreign aid, but Indonesia and Malaysia, with a concern for a threat towards sovereignty over their own territory, strongly oppose any foreign navy

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77 Jing Guoli (Deputy Director of the Criminal Investigation Division, Ministry of Public Security), in discussion with the author, 26 July 2006.
Domestic Laws on Maritime Piracy

There is no explicit domestic law on piracy in Indonesia. Piracy is prosecuted under the Indonesian Criminal Code (Kitab Undang-undang Hukum Pidana, KUHP). Similarly, Malaysia and Singapore have not enacted explicit laws against piracy; piratical acts are usually subject to the penal code.

After the ratification of the Convention on the Suppression of Unlawful Acts against the Safety of Maritime Navigation (hereafter called “the SUA Convention”) in 2004, Singapore enacted the “Maritime Offences Act,” to give effect to the provisions of the SUA Convention in Singapore’s territorial waters. Activities such as the hijacking, destruction or damage of ships, and other acts endangering or likely to endanger safe navigation, are listed as maritime offences in the Act. However, the Act does not use the term “piracy”, although in vernacular terms, these offences are considered to be piratical attacks.

The SUA Convention is another important international convention on combating piracy, along with the United Nations Convention on Law of Sea (UNCLOS). Indonesia and Malaysia ratified the UNCLOS, but they are not signatories for the SUA Convention. The UNCLOS and SUA Convention will be further detailed in Chapter 5.

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78 Andrew I. Sriro, Siro’s Desk Reference of Indonesian Law (Jakarta: Equinox Pub., 2006).
China has no explicit laws on piracy, either. Piratical acts come under robbery or homicide offences within Chinese criminal law. In the MV CHEUNG SON trial in 2000, discussed above, the Chinese court imposed the death sentence on 13 out of 38 suspects for killing 23 MV CHEUNG SON crew members, pursuant to robbery and homicide offences in Chinese criminal law.81

The recently amended Chinese Criminal Law (2005, 5th amendment) stipulates that “for crimes defined in international treaties, concluded or acceded to by the People’s Republic of China, which are under the jurisdiction of the People’s Republic of China, within the framework of treaty obligations, this law shall apply.”82 China is the signatory of both the UNCLOS and “the SUA Convention”; this means that piracy can be punished under Chinese criminal law.83

Interestingly, two other countries in Southeast Asia, the Philippines and Thailand, have enacted domestic laws on piracy. The Philippines anti-piracy legislation can be traced back to colonial times. Piracy was an offence in the Spanish Penal Code of 1887.84 In the Revised Penal Code of 1930, piracy was punished under “the Crimes against National Security and the Law of Nations”. In 1974, the Revised Penal Code was modified by the enactment of Presidential Decree No.532, or “The Anti-Piracy and Anti-Highway Robbery Law.” The penalty of death was imposed for piracy. Even though the death penalty was

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81 Chinese Shanwei Court, "Court Judgement Of ‘The Case of Wei Siliang and Soni Wee and Others, Total 38 Suspects,” 128–49.
82 Zou, "Seeking Effectiveness for the Crackdown of Piracy at Sea."
83 Ibid., 124.
84 Jay Batongbacal, "Piracy under Philippine Criminal Law,” in Combating Piracy and Ship Robbery: Charting the Future in Asia Pacific Waters, ed. Hamzah Ahmad and Akira Ogawa (Kuala Lumpur The Okazaki Institute, 2001), 198–215. The following sentences of this paragraph are based on this source.
generally abolished by 1987, piracy, as a heinous crime, retained the death penalty.

Piracy is a criminal offence in the first Thai Penal Code (1908); however, the offence of piracy was deleted in the Thai Penal Code in 1956. In the late 1970s, hundreds of Vietnamese “Boat People”, fleeing the communist regime during the Vietnam War, were brutally attacked by Thai pirates while they were passing through Thailand’s territorial waters and Exclusive Economic Zone (EEZ). In 1981 alone, for example, 349 boats were attacked by Thai pirates at an average of three times each, 578 women were raped, 228 women were abducted, and 881 people were killed or went missing.

The UN High Commission for Refugees (UNHCR) appealed to the UN Secretary General for concerted international action on the problem of piracy against asylum seekers at sea, particularly in the Gulf of Thailand. This resulted in the UN General Assembly Resolution 36/125 of 14 December 1981, calling for “greater international efforts in the suppression of piracy on the high seas, in accordance with their international obligations, and to take appropriate action to protect asylum seekers from acts of violence at sea.”

In 1982, the Thai government signed an “Anti-Piracy Arrangement” with the UNHCR. Thailand’s National Security Council was authorised to coordinate two law enforcement agencies, the Royal Thai Navy and the Royal Thai Police, to combat piracy in Thai waters. The project continued for several years.

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years. In the fifth year, the Royal Thai Navy proposed that the Thai government should enact a separate law referring to the suppression of piracy. In 1991, the “Act on the Prevention and Suppression of Piracy B.E. 2534” was enacted. This act adopted the UNCLOS definition of piracy, although Thailand is not a signatory of either the UNCLOS or the SUA Convention.88

In short, the capabilities of maritime security for a country can be assessed through its capability in law enforcement, and its appropriate national legislation. Indonesia and Malaysia do not have relevant laws to combat piracy; therefore, pirates are prosecuted under light offences, such as theft or robbery, and such prosecution do not prove to be significant deterrents for piracy.

**Part III. Interaction between Pirates and States**

Piracy requires strong logistics support from land bases, and a smuggling network to dispose of the booty. Logistics support includes weapons and equipment, funding and networking. As this section details, there are grounds for believing that pirates have in some cases operated in collusion with local law enforcement officials.

**Collusion between Pirates and Law Enforcement Officials**

**Indonesia**

Indonesian law enforcement agencies are criticised by members of the

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shipping industry and the international media for being involved in piracy. Corrupt officers are alleged to receive bribes or salaries from pirate gangs. In return, they acquiesce to piracy by not taking action; sometimes, they are even directly involved in piracy.

For example, on March 17 2004, an Indonesian Navy patrol boat intercepted a general cargo ship while it was underway off Jayapura, Irian Jaya. According to the Master’s report, the patrol boat fired her guns and ordered the general cargo ship to stop. The Master and the third officer were ordered to board the patrol boat for the inspection of cargo documents. They were beaten and the naval officer demanded US$5,000 in exchange for their release. The Master negotiated this demand down to about half the amount, and added other provisions. The third officer of the ship was held captive until the Master handed over the ransom money. The patrol boat was identified by the Master as the KAL YOUTEFA with the pennant number KAL-I-502.

Another incident involved a bulk carrier sailing south of Dumai. A group of pirates made attempts to board the ship, and despite the crew gathering on deck to prevent them, the gang continued to pursue the ship for twenty minutes. The bulk carrier requested for help through their VHF and signal light projectors, but even though Indonesian naval ships were just two miles away,

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89 Peter Chalk, Grey-Area Phenomena in Southeast Asia : Piracy, Drug Trafficking and Political Terrorism, (Canberra: Strategic and Defence Studies Centre Research School of Pacific and Asian Studies, Australian National University, 1997).
they ignored these messages.\textsuperscript{92}

In some logging areas in Indonesia, shipowners are asked for some “coffee money” by Indonesian naval officials before their ships leave port. According to a businessman involved in the timber business, if the shipowners refuse, their ships will shortly be robbed by pirates.\textsuperscript{93}

\textit{\textbf{China}}

In the mid-1990s, the South China Sea became a popular region with pirates, particularly the Hong Kong-Luzon-Hainan Island Triangle, and the waters off the Philippines. China was alleged to be a haven for pirates and hijacked vessels. This allegation was based on the \textit{MV PETRO RANGER} case, which can be related as follows. On 16 April 1998, the oil tanker \textit{MV PETRO RANGER} sailed from Singapore, with a cargo of gas, oil and kerosene bound for Vietnam. The \textit{MV PETRO RANGER} was pursued by heavily armed pirates in balaclavas in a speedboat. Captain Blyth and his 20 crew were forced to surrender. The gang leader told Captain Blyth that he worked for a multinational syndicate with bosses in Indonesia, Singapore, China and Hong Kong.\textsuperscript{94} After a further five days at sea, two tankers came alongside the \textit{MV PETRO RANGER} and offloaded the cargo of fuel, worth about US$3 million.

When the \textit{MV PETRO RANGER} sailed into the waters close to the Chinese port


\textsuperscript{93} The author’s interview with a businessman, involved in the timber business in Indonesia, Jakarta, 26 May 2004.

\textsuperscript{94} Blyth and Corris, \textit{Petro-Pirates: The Hijacking of the Petro Ranger} (St Leonards: Allen & Unwin, 2000).
of Haikou, a Chinese patrol boat boarded the tanker to check the ship’s documents. The Chinese authorities alleged that the vessel was engaged in smuggling operations. They questioned the 12 Indonesian pirates and the crew for over two weeks. Subsequently, the ship’s crew were accused of smuggling. The gas, oil and kerosene on board were confiscated. On 15 October 1998, the pirates were sent back to Indonesia without being prosecuted.95 The cargo was confiscated by the Chinese authorities. The shipowner, Petroships Pte Ltd had to pay a hefty fee to get their ship back, without its valuable cargo.96

Another example of alleged collusion was the *MV TENYU* case. The *MV TENYU* was a Panamanian-flagged bulk carrier, carrying aluminium ingots to South Korea. It was hijacked and disappeared in the South China Sea in September 1998. The ship was eventually found in Zhang Jia Gang Port. The *MV TENYU* had been repainted and renamed *SANEI 1*, bearing a Honduran flag. Her cargo and original crew, two South Koreans and 13 Chinese crewmembers, had vanished.97 However, the 16 Indonesian pirates found on board the ship in Zhang Jia Gang Port were repatriated, even though at least two of them were identified by the International Maritime Bureau as having taken part in the hijacking four years earlier of the *MV ANNA SIERRA*.98 The Chinese authorities claimed that they had no evidence to prosecute the crew. However, later, one South Korean, Lee Dong-Gul, who was jailed in South Korea for selling aluminium that came from the ship’s cargo, admitted in court that he had

96 Alan H. J. Chan (Chairman of Petroships Pte Ltd.), in discussion with the author, 28 May 2005 in Singapore.
98 ICC-IMB, Piracy and Armed Robbery against Ships: A Special Report.
bought the ship and cargo from a couple of Indonesians and had sold them to a Chinese company.\textsuperscript{99}

\textbf{Part IV. Roots of the Collusion}

Why have the Indonesian National Army (\textit{Tentara Nasional Indonesia}, TNI) and the Chinese People’s Liberation Army (PLA) been accused of to being in collusion with pirates, while the law enforcement agencies from other littoral countries, such as Singapore and Malaysia, have not faced a similar charge? Upon examination, I found that were many striking similarities between the TNI and the PLA. Firstly, both the TNI and the PLA face financial constraints in their budgets.\textsuperscript{100} Secondly, the PLA and the TNI are both involved in commercial activities. Those were the main reasons for their collusion with pirates. Insufficient budgets forced some in the armed services to seek extra money. The armed forces in Asia typically lead privileged lives, and enjoy easy immunity from civilian monitoring and prosecution. When they are involved in commercial activities, they were likely to take advantage of these ready-made opportunities to engage in corrupt activities.\textsuperscript{101}

\textsuperscript{101} Bilveer Singh, \textit{The Indonesian Military Business Complex: Origins, Course and Future} (Canberra: Strategic and Defence Studies Centre Australian National University, 2001).
**Indonesian National Army (TNI)**

Under the doctrine of *dwifungsi*, or ‘dual function’, the Indonesian armed forces have been involved in both civilian and military domains. The *dwifungsi* concept led to the development of the Indonesian Military Business Complex (IMBC), with the principal object of generating financial resources for the Indonesian military. It was estimated that at least half the Indonesian military budget came from extra-budgetary sources. The IMBC could be classified into two types: formal and informal. The formal IMBC participated in business activities through *Yayasan* or foundations. These foundations and their networks operated both at central and regional levels.

It has been alleged that military officials have collected “protection money” from the ethnic Chinese community, in return for ensuring the security of their business operations. In coastal areas, some military officials, mostly naval officers, were involved in illegal extortion from companies dealing with logging, fishing, oil and minerals. Under these circumstances, the corrupt officers had no incentive to combat piracy, and some officers, as discussed above, have even participated in piracy, smuggling, drug trafficking and other illegal activities. Although Indonesia launched a great many initiatives to reform its armed forces after the fall of Suharto in 1998, and restricted many of

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102 Ibid., 12.
105 Ibid., 22; the following sentences of this paragraph are based on this source.
TNI’s institutional privileges, the territorial command structure of TNI is still maintained. The territorial command system is “the power base of the armed forces in the regions, allowing them to tap into economic resources at the grassroots and defend their role as a significant player in local politics.”

Chinese People’s Liberation Army (PLA)

The PLA has a long history of being engaged in civilian activities since China’s revolution (1921-1949). In December 1978, Deng Xiaopeng became the paramount leader in the historic Third Plenum of the 11th Central Committee, which was regarded as the opening of Chinese economic reform. In order to carry out economic reform, the budget of the PLA, which accounted for an average of 17.2% of state fiscal expenditure before reform, was drastically reduced. The PLA was said to have voluntarily subordinated itself to the interests of the nation’s economic development. The PLA was told that its defence budgets would eventually increase as China’s economy became more developed.

The PLA had to seek for other sources for its budget. Initially, the PLA engaged in industrial consolidation and agricultural production. Later, it set up a Military Business Complex (MBC), and directly participated in the national

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108 Ibid.
economy. However, the Chinese military’s participation in the economy, in turn, provided ready-made opportunities for corrupt activities. From the end of the 1980s to the late 1990s, many of these privileged MBCs used the PLA infrastructure and transportation network for smuggling. In coastal provinces, many MBCs were in collusion with state-owned enterprises, private companies and criminal syndicates, and engaged in smuggling oil and other commodities into China’s fast-growing markets.109

The PLA was involved in the nation’s largest corruption scandal, the Xiamen Yuanhua Smuggling case. The Yuanhua Group, in collaboration with other individuals and firms, smuggled into the country an estimated 53 billion yuan (US$ 6.38 billion) worth of goods during a four-year period, from 1996 to 1999. This smuggling represents the evasion of an estimated 30 billion yuan (about US$ 3.6 billion) in taxes, equivalent to the nation’s revenue from tariffs for the first half of 1998.

Most of the smuggling involved refined oil. The amount of refined oil alone was enormous, equivalent to a ship containing over 100,000 tons of oil coming into port every three days, and far exceeding the nationwide figure of 350,000 tons of smuggled refined oil reported by customs for 1996 and 1997 combined.110 Top leaders and members of the investigative team have stated that the smuggling of oil by Yuanhua distorted national oil prices, and had an adverse impact on production, leading to the closure of numerous enterprises

109 Ibid.
across the nation.\textsuperscript{111}

Many PLA generals and officials and public security forces were involved in the case. The highest ranking military officer implicated in the Yuanhua case was General Ji Shengde, the head of military intelligence in the General Staff Department. The PLA navy was alleged to have escorted the smuggled goods into Xiamen port. This kind of smuggling was rampant in other coastal provinces as well.\textsuperscript{112}

Where did such enormous amounts of refined oil come from? They mainly come from the black market. Who provided the cargo? It was not all, but at least partially, cargo stolen by pirates. These were the reasons why pirates targeted oil tankers and China became a popular destination for pirates in the 1990s.

As discussed above, the high profile trial of the \textit{MV CHEUNG SON} pirates in 2000, in which 13 pirates were sentenced to death, showed the Chinese government’s firm attitude towards combating piracy. Thanks to the anti-smuggling campaign and anti-piracy measures, the pirates lost their main black market in China. For fear of being executed, the pirates turned to other destinations, and thus, since 2000, China has no longer been a haven for pirates.\textsuperscript{113}

\begin{thebibliography}{9}
\bibitem{Ibid} Ibid.
\bibitem{ICC-IMB} ICC-IMB, "Piracy and Armed Robbery against Ships: Annual Report (1 January–31 December 2004)."
\end{thebibliography}
Malaysia and Singapore

Malaysian and Singaporean armed forces are quite different from the armed forces of Indonesia and China in terms of history and systems. Compared to Indonesia and China, the salaries of Malaysian and Singaporean military officials are higher, and the economic pressure for military officials is lower. The Malaysian police and navy are far from corruption-free: in fact, the Malaysian police, according to the Malaysian Transparency Perception Survey, are “perceived to have the lowest level of integrity and transparency compared with other public agencies”. Singapore is not squeaky clean either; however, the collusion between pirates and law enforcement agencies in Malaysia and Singapore are not as endemic as their counterparts in Indonesia.

Conclusion

The booming seaborne trade of the 1990s provided tempting targets for pirates, as well as a market for their booty. The origins of petty piracy, especially in Indonesian waters, lay in the deteriorating livelihoods of fishermen in coastal villages. Larger-scale piracy, orchestrated by international criminal syndicates, was driven by the economic gains it yielded.

Roots of collusion exist in those armed forces that deal with commercial activities. Enjoying privileges and immunity from civilian monitoring and prosecution, they are likely to become corrupt. These officials have been involved in all kinds of moneymaking activities, such as piracy and smuggling.

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With the help of these corrupt officials, Indonesia became a piracy-prone area—the supply end—providing the stolen cargo, and China became the pirates’ preferred destination—the demand end—the market for the stolen cargo. In terms of anti-piracy operations, if law enforcement officials can make profits from piracy, there is no motivation for them to combat piracy. This attitude on the ground will, in return, impact on a country’s political will in bilateral and multilateral anti-piracy cooperation, the subject of the next chapter.
CHAPTER 5

INTERSTATE ANTI-PIRACY COOPERATION

Chapter Preview

This chapter explores the interactions between state actors on anti-piracy cooperation. After the Cold War, the tension in Southeast Asia was eased. Former superpowers, the Soviet Union and the United States, substantially reduced their military presence in Southeast Asia, which led to a security vacuum in Southeast Asian waters. The maritime capabilities of the littoral states had yet to meet the challenges from non-state actors at sea, such as piracy. Piracy in Southeast Asia is characterised as a transnational crime. The suppression of piracy requires cooperation amongst the states concerned. Since the early 1990s, the littoral countries have been cooperating in anti-piracy operations. Anti-piracy cooperation in Southeast Asia can be divided into two phases:

Phase One (1992-2001). Anti-piracy cooperation was characterised by low-profile, bilateral and multilateral cooperation amongst ASEAN and East Asian countries. Japan played an important role in anti-piracy initiatives. However, the effectiveness of anti-piracy cooperation was hampered by divergent national interests, priorities and incentives towards piracy in the littoral states.
Phase Two (2002-2005) The watershed for this period was the 11 September 2001 terrorist attacks on America (hereafter, 9/11). After 9/11, allegations of a terrorism and piracy nexus raised much concern in the maritime world. The United States has dominated international conferences relating to maritime security issues, such as the ASEAN Regional Forum (ARF) and the Asian Security Summits, known as the “Shangri-la Dialogue”. Many measures regarding maritime security have been implemented, such as the Regional Maritime Security Initiative (RMSI), together with the International Ship and Port Facility Security Code (ISPS Code), which was created by the International Maritime Organization (IMO).

Against this backdrop, the perceptions and policies of regional anti-piracy cooperation in Southeast and East Asia have changed. The incentives and capabilities of anti-piracy cooperation have been enhanced, and after three years of concerted effort (2002–2004), piracy incidents in Southeast Asia have significantly declined.

This chapter has four parts: the first part looks at anti-piracy cooperation in Asia and international legal instruments on anti-piracy cooperation; the second part covers anti-piracy cooperation in Southeast Asia; the third part examines the problems in anti-piracy cooperation in the littoral countries; and the final part analyses the changes in international anti-piracy cooperation after 9/11, and the reasons for the decline in piratical incidents after 2004.
Part I. Anti-piracy Cooperation and International Legal Instruments

Anti-piracy Agreements and Implementation

Anti-piracy cooperation is not a new phenomenon in Southeast Asia. In the 19th century, British and Dutch colonial authorities in Southeast Asia cooperated in several anti-piracy operations. Anti-piracy cooperation consists of two aspects: governmental anti-piracy policies and agreements, or international legal instruments, and then their implementation. Governmental anti-piracy agreements stipulate general principles of cooperation, such as patrols and information sharing, which are the guidelines for implementation. An example of this would be the anti-piracy cooperation articles in the Anglo-Dutch Treaty in 1824, which was discussed in Chapter 2.¹

The implementation of anti-piracy agreements is always dependent on the capabilities of law enforcement forces. In the colonial era, anti-piracy cooperation was difficult to implement, for it was hindered by the limitation of communication, navigation techniques and weaponry. In the contemporary era, with the help of such modern technology as satellite communication systems, Global Positioning Systems (GPS) and advanced weaponry, anti-piracy cooperation is easy to implement in terms of technology. However, there remain other hindrances to anti-piracy operations in Southeast Asia, which will be elaborated in the third part of this chapter.

¹ See page 55, footnote no. 94.
International Legal Instruments


The United Nations Convention on the Law of the Sea (UNCLOS) is the main international law governing law enforcement on piracy. The UNCLOS, which has 149 signatory states, provides the legal basis for international anti-piracy cooperation. The three littoral states, namely Indonesia, Malaysia and Singapore, together with China and Japan are signatory parties. Among the ASEAN states, only Cambodia and Thailand are not signatory parties.²

Piracy is defined in Article 101 of UNCLOS, as cited in Chapter 1. The definition of piracy consists of five elements: (1) Illegal acts of violence, such as robbery, murder, assault or rape; (2) Crimes committed on the high seas, outside the jurisdiction of any state; (3) Such crimes are perpetrated by private or public ships; (4) The aims of the crimes are for private ends; and (5) An action which involves at least two ships.³ However, piracy perpetrated by terrorists for political ends at sea is excluded.

In Article 100, the UNCLOS re-affirms the duty and obligation of every state to act against piracy: “All states shall cooperate to the fullest possible extent in the repression of piracy on the high seas or in any other place outside

Article 105 of UNCLOS provides the right of seizure of a pirate ship or aircraft:

On the high seas, or in any other place outside the jurisdiction of any state, every state may seize a pirate ship or aircraft, or a ship or aircraft taken by piracy and under the control of pirates, and arrest the persons and seize the property on board. The courts of the state which carried out the seizure may decide upon the penalties to be imposed, and may also determine the action to be taken with regard to the ships, aircraft or property, subject to the rights of third parties acting in good faith.\(^5\)

Article 110 provides the right of warships to visit a foreign ship on the high seas when the ship is suspected of engaging in piracy. Article 111 stipulates the right of hot pursuit, which provides a legal basis for responding to attempted acts of piracy.

The SUA Convention and the SUA Protocol

After the \textit{ACHILLE LAURO} incident occurred in 1985, the SUA Convention and the SUA protocol were signed in 1988 to cover unlawful acts with political ends.\(^6\)

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\(^5\) Ibid.

\(^6\) On 3 October 1985, \textit{ACHILLE LAURO}, an Italian cruise liner, set sail for Egypt and Israel with 750 passengers on board. Most disembarked in Alexandria for a tour; the rest and the crew, numbering 400 in all, sailed off to Port Said but shortly after leaving Alexandria, outside Egypt’s territorial waters, four Palestinian terrorists from the Palestinian Liberation Front (PLF) seized the ship. The hijackers demanded the release of 50 Palestinians held in Israel in return for the release of the passengers. They ordered the ship to sail to Syria, which refused them port entry. The hijackers then (on 8 October) killed Leon Klinghoffer, an elderly American passenger and threw his body overboard. The ship was refused entry to Cyprus, and returned to
As supplements to the UNCLOS, the SUA Convention and the SUA Protocol expand the definition of piracy to include unlawful acts committed on board a ship or on fixed platforms (the SUA Protocol), particularly if the act is likely to endanger the safety of navigation.7

The SUA Convention requires state parties to criminalise any unlawful acts under national law, and to cooperate in the investigation and prosecution of such perpetrators.8

The important difference in the SUA Convention, in comparison with the UNCLOS, is in the scope of application: the SUA Convention also applies to territorial waters. Article 4 of the SUA Convention states that the Convention applies if “the ship is navigating or is scheduled to navigate into, through or from waters beyond the outer limit of the territorial sea of a single state, or the lateral limits of its territorial sea with adjacent states.”9 This means that the right to board and search a suspect ship stipulated in the UNCLOS Article 105 can be exercised within the territorial waters of a signatory state. It empowers law enforcement agencies with a greater right to crack down on piracy. However, the two key littoral states of the Straits of Malacca, Indonesia

15 miles off Port Said, where, on 9 October, Egyptian and PLO officials negotiated a safe passage from Egypt for the terrorists in return for the release of the hostages and the ship. The Egyptian authorities disclaimed any knowledge of any killing on board and refused to detain or extradite the Palestinians. US navy fighter planes intercepted the Egyptian aircraft carrying the hijackers and forced it to land at a US-Italian NATO military base in Sicily, thus bringing the hijackers within the jurisdiction of Italy whose ship they had seized. The Italians thereupon arrested and charged them. See Malvina Halberstam, "Terrorism on the High Sea: The Achille Lauro, Piracy and the IMO Convention on Maritime Safety," The American Journal of International Law 82, no. 2 (1988).

7 Zou, Keyuan, "Seeking Effectiveness for the Crackdown of Piracy at Sea," 117-34.
9 Ibid.
and Malaysia, have not ratified the SUA Convention. The reasons for this will be discussed later in the third part of this chapter.

Part II. Anti-piracy Cooperation in Southeast Asia (Phase 1, 1990–2001)

Since the early 1990s, there have been a number of bilateral and multilateral cooperation initiatives amongst the littoral countries.

In 1992, bilateral agreements were signed between Singapore and Indonesia on coordinated naval patrols, and these states conducted periodic anti-piracy exercises in the Straits of Malacca and Singapore Strait.

There was a similar arrangement between Indonesia and Malaysia. In December 1992, the two countries established an operational co-coordinating border arrangement, to deal with maritime issues arising along their common border, including coordinated maritime patrol operations in the Straits of Malacca. The arrangement also aimed at enhancing bilateral cooperation in combating illegal activities.

There was similar cooperation between Malaysia and Singapore, in which the police departments of the two countries shared information and

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discussed maritime issues and criminal activities.\textsuperscript{13}

In 1993, the Malaysian and Philippine governments established a Philippines-Malaysia Border Patrol Coordinating Group, which conducted coordinated border patrol operations in the maritime areas known for piracy and other illegal activities.\textsuperscript{14}

**ASEAN and Anti-piracy Cooperation**

The issue of piracy in Southeast Asia was raised at workshops conducted in 1990 and 1991 on Managing Potential Conflicts in the South China Sea.\textsuperscript{15} In 1996, ASEAN countries continued to discuss piracy, together with other transnational crimes at a number of ministerial meetings, and agreed to hold the first ASEAN Conference on Transnational Crime, in Manila in December 1997. At that conference, the participating countries signed the ASEAN Declaration on Transnational Crime, the first such document to include piracy as an issue for the entire membership to consider. The Declaration also called for the establishment of an ASEAN Centre on Transnational Crime, which would coordinate the region’s efforts to curb transnational crimes through intelligence sharing and the coordination of operations.\textsuperscript{16}

In 2001, ASEAN decided to set up the Special Projects Division on


\textsuperscript{16} Ibid., 109.
Transnational Crime at the ASEAN Secretariat to facilitate regional and international cooperation to suppress piracy. The division deals with eight types of transnational crime: piracy, terrorism, trafficking in drugs, trafficking in persons, arms smuggling, money laundering, international economic crime and cyber crime.  

However, little progress was made on the piracy issue; meanwhile, piratical attacks continued to increase in Southeast Asian waters at the end of the 1990s.

**Japanese Anti-piracy Initiatives**

Japan is greatly dependent on the flow of resources through the pirate-infested waters of Southeast Asia. The sea lanes passing through Southeast Asia are of vital importance to Japan because they deliver strategic commodities such as petroleum, coal, uranium, grain and iron ore, and carry Japanese manufactured goods to Europe, Australia, the Middle East and Africa. The Straits of Malacca alone carries 80% of Japan's petroleum imports.  

Japanese policymakers regard piracy as a direct threat to Japan's comprehensive security, including economic and energy security, and the safety of Japanese citizens.  

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Since the late 1960s, a wide variety of programmes have been implemented by the Japanese to improve navigational safety and security in Southeast Asia. The Japanese have been funding coastal states in the installation and maintenance of navigational aides and buoys, and have been helping the littoral countries to upgrade marine safety data management systems and execute hydrographic surveys. These assistance programmes are carried out both by the Japanese government and a private organisation, the Nippon Foundation.

The Japanese media has given much coverage to reports on piracy, highlighting the human causalities, and seeing Japanese citizens and companies as victims in such assaults. Intensive media coverage was given in Japan on the hijackings of ships related to Japan, such as the MV TENYU (1998), MT GLOBAL MARS (2000), ARBEY JAYA (2001) and MV ALONDRA RAINBOW (2002).

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22 Ibid.
23 The TENYU case was discussed in Chapter 4. *MT GLOBAL MARS* is a Japanese-owned chemical tanker. On 22 February 2000, *MT GLOBAL MARS* departed Port Klang in Malaysia and bound for Haldia, India, with 6,000 mts of palm oil products on board. She was attacked and hijacked by a group of pirates on 23 February 2000. The crewmembers were blindfolded, transferred to another boat the following day, and kept captive for 13 days. The crew were released and put in a small boat on 7 March 2000, and were later rescued by a fishing vessel. Later, *MT GLOBAL MARS* was found anchored off Dangan Island, near Zhuhai by the Chinese authorities. The ship was renamed BULAWAN. Her new crewmembers, 11 Filipinos and 9 Burmese were arrested but subsequently released. The ship was subsequently released to her owners. For details, see ICC-IMB, "Piracy and Armed Robbery against Ships Annual Report (1 January–31 December 2000)," 15.
In 1997, Japan proposed the establishment of a standing ocean-peacekeeping (OPK) fleet to conduct multinational patrols in both territorial and international waters in Southeast Asia. The proposal suggested that related states should set up a task force as a standing body, which would provide comprehensive maritime security in both international and territorial waters. The proposal was rejected by Southeast Asian coastal countries and China.24

In November 1999, at the ASEAN+3 Summit in Manila, Japanese Prime Minister Obuchi proposed that Japanese Coast Guard (JCG) vessels should carry out joint patrols with Southeast Asian maritime forces. The proposals included:

- establishing a regional coast guard presence,
- strengthening state support for shipping companies,
- improving cooperation of regional responses to attacks.25

The following year, two anti-piracy conferences were held in Tokyo. Delegates from 17 countries, regional maritime law enforcement agencies, shipowners associations and the International Maritime Organization (IMO) were present at these conferences. The conference results did not reflect the reported initial

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enthusiasm for Obuchi’s suggestions. No state supported Japanese patrols in foreign waters. However, the representatives adopted three documents:

- “Asia Anti-Piracy Challenges 2000”, which expressed the participants’ intention to cooperate in anti-piracy operations;
- “The Tokyo Appeal”, which called for information exchange between governments, and endorsed the establishment of national action plans;
- “The Model Action Plan”, which suggested specific countermeasures for states and shippers.”

In addition, Japan reached bilateral arrangements with the coastal states of the Philippines, Malaysia, Singapore and Indonesia, by offering anti-piracy training. In November 2000, the Japanese Coast Guard (JCG) conducted anti-piracy training exercises with India and Malaysia.

In 2001, the Japanese proposed a regional “Maritime Coalition,” which would include Japanese Maritime Self Defence Force (JMSDF) vessels in a multinational maritime security force. However, the proposal was declined by the respective countries.

Assessment

The first phase of anti-piracy cooperation was mainly implemented

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28 Ibid.
amongst the ASEAN and the East Asian countries, namely China and Japan. Japan was enthusiastic about anti-piracy cooperation and put forward many anti-piracy proposals. The Japanese constitution restricts the Self Defence Force (SDF) from operating in a traditional military manner, and the Japan Coast Guard is also restrained by antimilitarist prohibition. China was suspicious of Japanese intentions regarding its anti-piracy proposals, and claimed that Japan was attempting to use piracy as an excuse to flex its military muscles in Southeast Asia. In 2000, at the Mumbai ASEAN Regional Forum anti-piracy meeting, China opposed a Japanese proposal for joint patrols and multilateral solutions.30

The littoral states, namely Indonesia, Malaysia and Singapore, considering Japan as a useful counterbalance of power with China, have been willing to cooperate with Japan for pragmatic reasons. However, Indonesia and Malaysia are concerned about any threat to their sovereignty and reputation in anti-piracy cooperation. These perceptions are reflected in their rejection of Japanese proposals for a standing ocean-Peacekeeping (OPK) fleets and joint patrols. Singapore, as a city-state, is keen on cooperating with the Japanese, because it stands to gain a great deal and has relatively little to lose in anti-piracy cooperation.31

In terms of outcomes for anti-piracy cooperation, as we can see in the table on piracy trends in Chapter 3, piracy incidents kept on growing and remained at a high level from 1992–2001, indicating that anti-piracy cooperation was not

30 Xu, Ke, "Maritime Piracy in Southeast Asian Waters and Regional Security,"
effective; what went wrong? This lack of control was due to problems in anti-piracy cooperation in the littoral states.

**Part III. Problems in Anti-piracy Cooperation in the Littoral States**

**Divergent National Interests, Priorities and Incentives**

**Indonesia**

Indonesia, Malaysia and Singapore are signatory parties of the UNCLOS and Indonesia is one of its beneficiaries. For instance, the archipelagic principle, for which Indonesia has struggled for recognition since 1957, was confirmed in the UNCLOS (1982). Pursuant to the UNCLOS, Indonesia’s marine resources base has been considerably extended. Prior to its recognition as an archipelagic state and other concepts under the UNCLOS, Indonesia’s land-based resources covered an area of about 1.9 million m$^2$; following the UNCLOS (1982), Indonesia’s resources base now covers an area of about eight million m$^2$.

However, Indonesia lacks sufficient capability of law enforcement to protect its vast maritime territory, as was discussed in Chapter 4. Hence, Indonesian policymakers have to make full use of its limited capability to protect its priority aims.

As mentioned in Chapter 3, the Indonesian government’s priorities are

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to feed its huge population by developing its maritime sector and fisheries, and to protect its maritime resources. Illegal fishing in Indonesian waters, as discussed in Chapter 4, has robbed the nation of a great deal of income. The Indonesian government loses an estimated US$ two billion a year in illegal fishing.\textsuperscript{33} There are many other urgent matters that need to be attended to, such as smuggling, illegal logging and sand exploitation, all of which have caused great losses for Indonesia: US$ one billion per year from smuggling, 30 trillion rupiah per year from illegal logging, and 2 trillion rupiah each year from illegal sand exploitation.\textsuperscript{34}

As a consequence, anti-piracy operations are not on the Indonesian priority list. According to an IMB report, only a few victim ships of piratical attack belong to Indonesia, and the economic loss caused by piracy is minimal.\textsuperscript{35} Indonesian policymakers reject the prospect of devoting significant resources to what is perceived as such a low priority problem. For example, an Indonesian representative at a piracy conference in Tokyo in 2000 dismissed the value of fighting piracy as irrelevant in the face of "so many islands, so many problems".\textsuperscript{36}

Indonesian government officials have strongly opposed the IMB definition of piracy, which states that piracy is “an act of boarding any vessel with the intent to commit theft or any other crime and with the intent or

\textsuperscript{33}MoD, \textit{Defending the Country Entering the 21st Century} (Jakarta: Ministry of Defence, Indonesia, 2003), 30.
\textsuperscript{35}ICC-IMB, "Piracy and Armed Robbery against Ships (1 January-31 March 2005)" (Essex: ICC International Maritime Bureau, 2006).
\textsuperscript{36} Bradford, "Japanese Anti-Piracy Initiatives in Southeast Asia: Policy Formulation and the Coastal State Responses," 480-505.
According to this definition, piracy not only refers to a criminal or illegal act perpetrated on the high seas, but also includes those committed in territorial waters. Indonesian officials argued that “piracy” as defined in the IMB report refers to cases of petty theft or burglary perpetrated in Indonesian ports and anchorages. Indonesian officials reiterate this argument in international conferences and media. They insist that the definition of piracy should be pursuant to Article 100 of UNCLOS: piracy is an illegal act on the high seas or in any other place outside the jurisdiction of any state. In their view, the unlawful acts, which take place in waters under national jurisdiction, are not “piracy”, but “armed robbery” or “sea robbery”, which should be dealt with exclusively by the littoral states.

The Indonesian Navy Admiral at that time, Bernard Kent Sondakh, claimed that according to the UNCLOS definition, “there is no piracy in the Straits of Malacca.” Sondakh also argued that the piracy situation in the Straits of Malacca had been deliberately exaggerated, and that it was part of an international strategy to justify foreign intervention in Indonesia, by portraying the country as weak and incapable of looking after its own waters. The Director of Treaties for Policy Security and Territorial Affairs, Department of Foreign Affairs, Arif Havas Oegroseno also shared this opinion.

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39 Ibid., 6.
40 Ibid., 8.
41 Ibid., 5.
42 Arif Havas Oegroseno, "The Straits of Malacca and Challenges Ahead: Indonesian Point of
The other reason for Indonesia’s lack of incentive to prioritise anti-piracy operations is the cost. The immediate cost of anti-piracy operations is too high for Indonesia. For instance, just to set up an anti-piracy command and control centre between the Strait of Singapore and Jakarta would cost Indonesia about US$ 38.5 million.43

Indonesian representatives frequently cite the UNCLOS Article 43 requirement that user and coastal states share the responsibility for navigational safety in international straits, and complain that, apart from Japan, no user state is fulfilling its aid responsibilities.44 However, for fear of threats to national sovereignty, Indonesia strongly rejected the United States’ Regional Maritime Security Initiative (RMSI), which would allow the U.S. navy to patrol in the Straits of Malacca.45

Furthermore, as discussed in Chapter 4, many corrupt law enforcement officials on the ground are in collusion with pirates. These corrupt officials receive bribes from pirates or gain profits from piracy, as well as other illegal activities, such as smuggling. Anti-piracy operations would reduce their income, and thus they have no incentive to combat piracy.

**Malaysia**

Malaysia has extended its maritime boundaries incrementally since

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1960s. In 1979, Malaysia published a New Map (Peta Baru), which was characterised by the use of straight baselines. In 1980, Malaysia proclaimed its EEZ to 200 nautical miles from these baselines. However, their proclamations were unconfirmed later in the UNCLOS in 1982.46

Malaysia’s economy relies heavily on the seaborne trade passing through the Straits of Malacca and the South China Sea. The Malaysian government aims to redirect cargo traffic that is being shipped through the Port of Singapore. For example, Tanjung Pelapas Port, located about 45 minutes from Singapore, was set up to compete with Singapore as the region’s hub port. The Malaysian government also envisages Port Klang as a hub port for national and regional traffic.47 These two main ports are located in the Straits of Malacca; thus, maritime security in the Straits of Malacca has a direct impact on Malaysian economic prosperity. Furthermore, from the perspective of internal trade, Malaysia’s two geographically separated landmasses require a safe passage through the South China Sea.

To safeguard security in the Straits of Malacca and the South China Sea is a priority task for the Malaysian government. A new inter-agency Malaysian Maritime Enforcement Agency (MMEA) commenced operations in November 2005. The new agency, made up of personnel from the navy, police and other government agencies, is responsible for ensuring the security of the country’s

47 Chia, Goh, and Tongzon, *Southeast Asian Regional Port Development: A Comparative Analysis*, 41.
maritime zone against such threats as piracy and terrorism.48

**Singapore**

As discussed in Chapter 3, Singapore depends on maritime trade for its economic survival. Maritime services are increasingly economically important for Singapore. According to Singapore's Minister for Foreign Affairs and Law, “freedom of navigation through the Malacca and Singapore Straits as well as the South China Sea is fundamental to the survival and prosperity of Singapore.”49 To safeguard the sea lanes passing through the Straits of Malacca is its top priority. Singapore has high incentives to combat piracy in the Straits of Malacca, and so swiftly ratified the SUA Convention on 3 May 2004.50 The divergence of national interests, priority and incentives in the littoral states has led to different policies on anti-piracy cooperation.

**Anti-piracy Policies and Agreements**

Malaysia and Indonesia are not signatory states of the aforementioned anti-piracy legal instrument, the SUA convention. What is the reason behind their refusal to sign?

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As discussed in the first part of this chapter, the SUA Convention empowers signatory states to go in hot pursuit of suspected pirate ships into other countries’ territorial waters, and to extradite or prosecute pirates arrested in their territorial waters for crimes committed under the jurisdiction of other countries. The SUA Convention removes the obstacle of jurisdiction that has often hampered states from prosecuting pirates, who found sanctuary in their territory, under the UNCLOS. Indonesia and Malaysia both have vast maritime territories; hence they are concerned that their sovereignty might be eroded if they ratify the SUA Convention.

Implementation of Anti-piracy Cooperation

Sovereignty concerns are reflected in the bilateral and multilateral anti-piracy patrols amongst Indonesia, Malaysia and Singapore. In contemporary Southeast Asia, there are two forms of anti-piracy patrols. One is known as a “coordinated patrol”, which means that the various nations’ law enforcement agencies coordinate while patrolling within their own territorial waters, but they cannot cross national sea borders. Each law enforcement agency has its own commander. The other form is the “joint patrol,” in which the law enforcement agencies of all the participating countries constitute one task force and patrol together under one commander; this task force is empowered to cross national sea borders.\[^{51}\]

In Southeast Asia, all bilateral or multilateral anti-piracy operations are coordinated patrols rather than joint patrols, which do not allow the pursuit of

pirates into a neighbour’s territorial waters. The Malaysian Maritime Enforcement Coordinating Centre (MECC) declared, “Under no circumstances would we intrude into each other’s territory. If we chase a ship and it runs into the other side, we let the authorities there handle it”\textsuperscript{52}

However, this practice is very problematic. Following this principle, the law enforcement agencies in the Straits of Malacca are likely to miss the best chance to catch pirates red-handed. In fact, in many cases, by the time the foreign counterparts arrived at the scene, the pirates had disappeared into the blue\textsuperscript{53}

The shipping industry strongly criticised coordinated patrols as “a potential cause for confusion, inefficiency and misallocation of resources.”\textsuperscript{54} Under this pattern, pirates can take advantage of jurisdictional limits and commit their crimes in territorial waters of one state, then flee into another country’s territory waters. In contrast, if the patrol were a joint patrol, law enforcement agencies could go in hot pursuit of pirates into other countries’ territorial waters, and the pirates would not be able escape so easily.

In short, the coordinated patrol protects the sovereignty of coastal countries, but reduces the effectiveness of the patrol. Joint patrols would obviously be more effective, but owing to Malaysia and Indonesia not being signatory parties to the SUA Convention, they cannot be implemented.

The shipping industry and international communities have been appealing

\textsuperscript{52} Chalk, "Contemporary Maritime Piracy in Southeast Asia,” 87-112.
\textsuperscript{53} Interview with Singapore Marine Coast Guard, Capt. Lim Hean Yew, in Singapore, 24, March 2005.
to Malaysia and Indonesia to ratify the SUA Convention. However, there have been no signs of further progress towards ratification by these two countries.

Part IV. International Anti-piracy Cooperation (Phase 2, 2002–2005)

ASEAN Regional Forum (ARF)

The ASEAN Regional Forum (ARF), which began in Bangkok on 25 July 1994, is an informal multilateral dialogue group of 25 members that seeks to address security issues in the Asia-Pacific region. The objectives of the ARF are “to foster constructive dialogue and consultation on political and security issues of common interest and concern; to make significant contributions to efforts towards confidence-building and preventive diplomacy in the Asia-Pacific region.” ARF countries, comprising the ten ASEAN countries, China, Japan, South and North Korea, Mongolia, India, Pakistan, New Zealand, Australia, Russia, Papua New Guinea, Timor Leste, the United States, Canada and the European Union, represent approximately 80% of global GDP and trade.

Before 9/11, piracy issues had been addressed at the ARF. In the two ARF Experts Group Meetings on Transnational Crime held in October 2000

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56 Ibid.
57 Ibid.
and April 2001, the experts recognised that piracy was an increasingly serious transnational crime with regional security implications.

After 9/11, the ARF adopted the Statement on Cooperation against Piracy and Other Threats to Maritime Security at its ministerial meeting in Phnom Penh in June 2003. The participants agreed to combat piracy according to the following legal instruments and guidelines:

- The Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation 1988 (the SUA Convention);
- Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf (the SUA Protocol);
- The International Maritime Organization's recommendations and guidelines for preventing and suppressing piracy and armed robbery against ships at sea;
- The International Convention for the Safety of Life at Sea 1974 (the SOLAS Convention), particularly the new Chapter XI-2 and the International Ship and Port Facilities Security (ISPS Code).

**Asian Security Summit (Shangri-la Dialogue)**

In May 2002, the Asian Security Summit or Shangri-La Dialogue, organised by the London-based International Institute of Strategic Studies, was

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58 Ibid.
held in the Shangri-la Hotel in Singapore. Participants included defence ministers and security officials from India, Japan, Indonesia, the Philippines, Malaysia, Singapore, Thailand, South Korea, Australia and New Zealand, together with US Deputy Defence Secretary Paul Wolfowitz, British Defence Minister Geoff Hoon and the Director-General of China’s Foreign Affairs Bureau, Major-General Zhan Maohai. Since the inaugural meeting in 2002, the Shangri-la Dialogue, which is dominated by the United States, has become a key event in Asian defence diplomacy.\(^\text{60}\)

At the third Shangri-la dialogue in June 2004, the United States expressed its intention not only to retain its “forward presence” in the Asia-Pacific region, but also to seek to update its military-strategic doctrines. Some time earlier, in March 2004, Admiral Thomas B. Fargo, the U.S. Pacific Command commander, unveiled the US Regional Maritime Security Initiative (RMSI) in the course of his annual U.S. PACOM posture testimony to the United States House of Representatives. The goal of RMSI was to partner the region’s nations, of all manner of differing capabilities, to create a relationship to observe, monitor and intercept any transnational threats in their waters, with the use of existing international and domestic legislation.\(^\text{61}\) Singapore welcomes American involvement in maritime security in the straits of Malacca, but Indonesia and Malaysia rebuffed U.S. offers to provide intelligence, conduct joint patrols and


send U.S. Marines into their territorial waters.\textsuperscript{62}

In the aftermath of 9/11, the perception of piracy in Southeast Asia has changed dramatically, especially after the alleged piracy and terrorism nexus was proposed by American policy analysts.\textsuperscript{63} The alleged piracy and terrorism nexus speeded up the pace of cooperation on anti-piracy operations by the littoral states and other countries in the region.

**Littoral States’ Responses**

In 2002, the Malaysian and Philippine navies conducted a 6-day joint military anti-piracy exercise. Furthermore, in 2002, Indonesia, Malaysia and the Philippines signed a trilateral security pact to enhance cooperation on transnational crime issues. In February 2003, Indonesia and the Philippines conducted anti-piracy drills with Japan, similar to those held between Malaysia and the Philippines.\textsuperscript{64} On 20 July 2004, Malaysia, Singapore and Indonesia launched new coordinated patrols, the Trilateral Coordinated Patrols, or *Malsindo*, in the


\textsuperscript{63} Young and Valencia "Conflation of Piracy and Terrorism in Southeast Asia: Rectitude and Utility", *Contemporary Southeast Asia* 25(2003): 269-283.

\textsuperscript{64} France-Presse Agence, "Malaysia, Philippines Begin Maritime Exercises," *Jakarta Post*, 13 May 2002.
Straits of Malacca; these new coordinated patrols involved year-round patrols using ships from the littoral states. 65

On 27 May 2005, the Republic of Singapore Navy (RSN) and the Indonesian navy officially launched Project SURPIC (Surface Picture) in Batam. SURPIC is a sea surveillance system, which allows the RSN and Indonesian navies to share a common real-time sea situation picture of the Singapore Strait. 66

In 2005, a number of new measures were implemented in the region. The three littoral states, with Thailand as an observer, began coordinated air patrols over the Straits of Malacca to boost security in this waterway. The three states each donated two planes for the patrols, which were known as the ‘Eyes in the Sky’ patrols. The aerial patrols provided a valuable supplement to the Trilateral Coordinated Patrols, or Malsindo, carried out by the navies of the littoral states.

One significant advantage of the aerial patrols is that they are able to fly for up to three nautical miles inside the territorial waters of the participating states. Whereas in sea patrols, the navies are limited to patrolling in their own territorial waters; that is, operating as coordinated and not joint patrols. 67 In 2005, Malaysia announced that its navy planned to buy up to 60 modern patrol vessels over the next decade in order to strengthen maritime security in its

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65 AFP, "Indonesia, Malaysia, Singapore Agree to Joint Malacca Strait Patrols," *Jakarta Post* 30 June 2004.
67 Ibid.
Piracy was also discussed at the Senior Officials Meeting on Transnational Crime (SOMTC) in Kuala Lumpur in May 2002. The meeting introduced an action plan for each work program. Regarding piracy, the initiatives include:

- Establishing a compilation of national laws and regulations of ASEAN member countries pertaining to piracy and armed robbery at sea;
- Compiling national studies to determine trends and modus operandi of piracy in Southeast Asian waters;
- Considering the feasibility of developing multilateral or bilateral legal arrangements to facilitate apprehension, investigation, hot pursuit, prosecution and extradition, exchange of witnesses, sharing of evidence, inquiry, seizure and forfeiture of proceeds of a crime, in order to enhance mutual legal and administrative assistance among ASEAN members;
- Enhancing cooperation and coordination in law enforcement and intelligence sharing on incidents of piracy and armed robbery at sea activities.\(^{69}\)

These measures were expected to be implemented within three years.


However, due to ASEAN’s non-intervention policy, these measures are not likely to have significant effects.

**China Marches On**

In 2002, China and ASEAN reached consensus on the Declaration on the Conduct of Parties in the South China Sea, which not only reaffirmed both sides’ commitment to maintain peace and stability in the region, but also their willingness to enhance cooperation on maritime environment protection, maritime transport and navigational safety, and fight against transnational crimes at sea.

In accordance with the Joint Declaration of China and ASEAN on Cooperation in the Field of Non-traditional Security Issues, released at the 2002 China-ASEAN Summit, China and ASEAN signed a Memorandum of Understanding (MOU) on Cooperation on Non-traditional Security Issues in 2004. The objective of the MOU is:

To develop practical strategies in accordance with their national laws and regulations to enhance the capacity of each individual country and the region as a whole in dealing with such non-traditional security issues as trafficking in illegal drugs, people smuggling, including trafficking in women and children, sea piracy, terrorism, arms smuggling, money laundering, international economic crime and cyber crime.  

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70 ASEAN Secretariat, “Memorandum of Understanding between the Governments of the Member Countries of the Association of Southeast Asian Nations (ASEAN) and the Government of the People’s Republic of China on Cooperation in the Field of Non-
In 2003, China ratified the UN Treaty against Organized Crimes. In 2004, the China-ASEAN Prosecutors-General Conference was held in China, and both sides agreed to work together in the fight against crimes, including transnational maritime crimes.\(^{71}\)

**ReCAAP**

In November 2001, at the ASEAN+3 Summit in Brunei, Japanese Prime Minister Junichiro Koizumi proposed the establishment of a government-level working group to study the formulation of a regional anti-piracy cooperation agreement. Negotiations on this issue continued for three years. Eventually, the Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP) was concluded in Tokyo in November 2004 among representatives of the ten ASEAN states and China, Japan, South Korea, India, Sri Lanka and Bangladesh.\(^{72}\)

The key pillar of the ReCAAP was the establishment of the Information Sharing Centre (ISC). The ISC is a government-level international organisation that aims to facilitate communication and information exchanges between member countries, and improve the quality of statistics and reports on piracy and armed robbery against ships in the region. The ISC, located in Singapore,


will be run by an Executive Director with a staff of 10–12 drawn from member countries. In 2005, Singapore, Japan, Laos and Cambodia became the first four states to formally adhere to the ReCAAP. As soon as an additional six more participating states have signed up, the ReCAAP will come into force.

Assessment

In the second phase of anti-piracy cooperation, the United States, in place of Japan, began to push initiatives to combat piracy and the threat of maritime terrorism in Southeast Asia. Since piracy in Southeast Asia does not have a direct impact on the United States, however, the argument of there being the possibility of an existence of a piracy and terrorism nexus, provides the United States with an excuse to intervene in Southeast Asia in the name of anti-terrorism. More importantly, China’s economic boom in the recent decade has made it necessary for the United States to re-energise its relationship with Southeast Asia. US policymakers have been taking into reckoning China’s desire for a blue-water fleet, which will operate beyond its shores to protect its access to oil, most of which will be shipped through the Straits of Malacca. Control over the Straits of Malacca could not only combat alleged terrorism, but might also cut off the vital energy supplies to China, thus deterring China’s intention to launch cross-strait operations against Taiwan.

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73Ibid.
IMO and Anti-piracy Cooperation

IMO took an initiative on anti-piracy cooperation at its general meeting in 1983. The meeting adopted IMO Resolution A545, which aimed to take “measures to prevent acts of the piracy and armed robbery against ships,” and urged governments concerned to “take, as matter of the highest priority, all measures necessary to prevent and suppress acts of piracy and armed robbery against ships in or adjacent to their waters, including strengthening of security measures.”

Furthermore, the IMO requested its member governments to inform the IMO of any act of piracy or armed robbery committed against a ship flying their flags, indicating the location and circumstances of the incident and the action taken by the coastal states. The Maritime Safety Committee (MSC) publishes monthly, quarterly and annual reports on piracy activities.

As part of its anti-piracy measures, the IMO set up a working group in 1992, comprising experts from ten member states, including the three littoral states of the Straits of Malacca, to create a report concerning the safety of navigation, communication, search and rescue operations, and the threat of piracy or armed robbery. Based on the working group report, the MSC issued two main circulars to all member states and the shipping industry on the

77IMO, Introduction to IMO. www.imo.org.
suppression of piracy.\textsuperscript{78}

One of the circulars is No.MSC/Cir.622/Rev.1, entitled “Piracy and Armed Robbery against Ships: Recommendations to Governments for preventing and suppressing piracy and armed robbery against ships”.\textsuperscript{79} The other is circular No. MSC/Circ.623/Rev.3, “Piracy and Armed Robbery against ships: Guidance to ship owners and ship operators, shipmasters and crews on preventing and suppressing acts of piracy and armed robbery against ships”.\textsuperscript{80} These circulars prescribe detailed measures against piracy, including establishing a security plan, applying preventive measures at anchor or in port, taking measures during watch-keeping and on-board patrols, and taking required measures during a pirate attack, and afterwards in terms of report filing.

Of special note, the IMO strongly discourages the carrying and use of firearms for personal protection or protection of a ship. The rationale behind this advice is:

The carriage of arms on board ship may encourage attackers to carry firearms, thereby escalating an already dangerous situation, and any firearms on board may themselves become an attractive target for an attacker. The use of firearms requires special training and aptitudes and the risk of accidents with firearms carried on board ship is great. In some jurisdictions, killing a national may have unforeseen consequences

even for a person who believes he has acted in self defence.\textsuperscript{81}

However, this policy, in some sense, has encouraged pirates to be more daring in attacking ships, for the risk of the crew defending themselves is lower.

**IMO Responses after 9/11**

In the wake of 9/11, in November 2001, the IMO Assembly called for a review of the existing international legal and technical measures to prevent and suppress terrorist acts against ships at sea and in port.\textsuperscript{82}

After the IMO Assembly, a Diplomatic Conference on Maritime Security was held at the London headquarters of the IMO from 9–13 December 2002, which was attended by 109 governments contracted to the 1974 International Convention for the Safety of Life at Sea (SOLAS Convention).\textsuperscript{83}

The Conference adopted a number of amendments to SOLAS and implemented the new International Ship and Port Facility Security Code (ISPS Code).\textsuperscript{84}

**ISPS Code**

The ISPS Code is “a comprehensive set of measures to enhance the security of ships and port facilities developed in response to the perceived threats to ships and port facilities.”\textsuperscript{85} The aim of the ISPS Code is to “provide a

\textsuperscript{81} Ibid.
\textsuperscript{82} IMO, "IMO Assembly Resolution A.924 (22),” (London: International Maritime Organization, November 2001).
\textsuperscript{83} IMO, "Consideration and Adoption of the International Ship and Port Facility Security (ISPS) Code, Consideration and Adoption of the Resolutions and Recommendations and Related Matters (Solas/Conf.5/34),” (London: International Maritime Bureau, 2002).
\textsuperscript{84} Ibid.
standardised, consistent framework for evaluating risk, enabling governments to offset changes in threat with changes in vulnerability for ships and port facilities through determination of appropriate security levels and corresponding security measures.”86 The ISPS Code contains detailed security-related requirements for governments, port authorities and shipping companies in a mandatory section (Part A), together with a series of guidelines about how to meet these requirements in a second, non-mandatory section (Part B). The ISPS Code applies to ships “engaged on international voyages” and port facilities serving these ships.87 All the ships and port facilities belonging to this category were required to comply with the ISPS Code before 1 July 2004.

In 2004, Southeast Asia witnessed the implementation of the ISPS Code. The implementation of the ISPS code not only significantly increased security awareness in the shipping industry, but also effectively deterred the source that threatens the security of ships and port facilities. For this reason, amongst others, piratical attacks in ships, ports and anchorages declined significantly after 2004.88

**Conclusion**

The suppression of piracy calls for international cooperation. From 1990–2001, anti-piracy cooperation in Southeast Asia was mainly limited to ASEAN and East Asian countries. In terms of interstate anti-piracy cooperation, many

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86 Ibid.
87 IMO, ISPS Code, Part A, 3 Application.
international cooperation agreements have been discussed in international forums and conferences, and much bilateral and multilateral anti-piracy cooperation has been implemented. However, in the first phase, (1990–2001), anti-piracy cooperation in Southeast Asia was hampered by the divergence of national interests and incentives in the littoral states, which are reflected in anti-piracy policies and agreements. At the same time, the incapability of law enforcement agencies in some littoral states has caused ineffectiveness in the implementation of anti-piracy operation.

In the aftermath of 9/11 in 2002, the intriguing piracy and terrorism nexus in Southeast Asia has evoked widespread international concern. In the name of anti-terrorism, the United States has attempted to re-establish its influence over Southeast Asia. Southeast Asia, especially the Straits of Malacca, has once again become the hot-zone for rivalry amongst foreign sea powers.

There have been some paradigm shifts in the littoral states on anti-piracy policies, and incentives and capabilities of the littoral countries have been enhanced. The littoral states, Malaysia and Indonesia, in particular, enhanced their maritime capabilities, in order to show that they were capable of safeguarding their own waters and to prevent foreign navies from intervening in the name of protecting the Straits of Malacca. In addition, the implementation of the IMO’s ISPS Codes has significantly reduced opportunities for crimes committed at ports and anchorages. After three years efforts, (2002–2004), piracy incidents have declined significantly in Southeast Asia after 2004 until today.

89 Tommy Koh, (Ambassador-at-Large of Ministry of Foreign Affairs Singapore), in discussion with the author, October 2006.
CHAPTER 6

CONCLUSION

This dissertation explains the rise and fall of piracy in contemporary Southeast Asia, and focuses on two processes of contemporary piracy: its evolution, and anti-piracy cooperation in the littoral states. The analysis of the evolution of piracy explains why piracy increased in frequency from 1990–2004; while the identification of problems facing states in their anti-piracy actions helps explain why piracy remained at high levels during these years, and also explains the later significant decline in piracy incidents from 2004 until now, as these problems have been partially resolved.

Explaining the Evolution of Contemporary Piracy

Piracy in contemporary Southeast Asia was fostered by interrelated political and economic factors.

Firstly, the external political economic factors; after the Cold War, the tension in Southeast Asia was eased. Former superpowers, the Soviet Union and the United States, substantially reduced their military presence in Southeast Asia, which led to a security vacuum in Southeast Asian waters. The maritime capabilities of the littoral states had yet to meet the challenges from non-state
actors at sea, such as piracy. At the same time, economic development in East Asian countries had been generating a large volume of cargo passing through the Straits of Malacca, which provided tempting targets for pirates.

Secondly, the poor economic situation in Southeast Asia played an important role in the recrudescence of piracy. The massive amount of sea traffic passing through the Straits of Malacca not only led to navigational congestion in the Straits, but also imposed a negative impact on the local maritime environment, such as the degradation of fish habitats, and a slump in profits from fishing. Consequently, this aggravated the economic crisis of coastal and especially Indonesian fishermen. Poverty provided strong incentives for coastal people to turn to piracy as an alternative source of income. The Asian Financial Crisis in 1997–1998 further exacerbated the Indonesian economic situation, and led to a dramatic increase in piratical incidents in 2000.

Thirdly, apart from the poor, small-time pirates in the Straits of Malacca, criminal syndicates were also much involved in piracy. These syndicates had a long history in dealing with smuggling and other criminal activities, such as piracy. They were equipped with advanced weaponry, and had well developed international networks through which to dispose of stolen goods. These syndicates were capable of dealing in “big stuff”—the hijacking of ships, disposal of stolen cargoes and re-registration of ships as phantom ships. Pirate attacks were aimed at the ships, cargo and crew. In modern times, the crew on board a ship are

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substantially reduced in number, and for fear of escalating the situation, the crew have been discouraged from fighting back. This has encouraged pirates to be more daring in their attempts to seize ships.²

Fourthly, maritime geographies in Southeast Asia, especially in the Straits of Malacca, have made it easy for pirates to operate. The Straits of Malacca, one of the world’s busiest sea-lanes, surrounded by many islands and river networks, is an ideal place for pirates to launch attacks from small swift boats, and retreat to the nearby islands and inland rivers without ever being found.

The above-mentioned factors have contributed to the evolution of contemporary piracy. However, why is it that piracy went unchecked before 2001? This was due to dilemmas in the shipping industry and problems in anti-piracy cooperation in the littoral states.

**Dilemmas in Shipping Industry**

The shipping industry is the direct victim of piracy; maritime security and safety are its priority concern. However, shipowners in the shipping industry have met with a cost and effect dilemma. In order to maximise their profits, shipowners try their best to minimise operation costs. Many shipowners register their ships under Flags of Convenience (FOC). The FOC countries have no genuine link with

the ships carrying their flags; more importantly, they have no capability and intention to protect these ships. Ships without strong flag state protection are vulnerable to pirates, such as Chinese junks in colonial Southeast Asia, as was discussed in Chapter 3.

On the contrary, FOC registration makes ship fraud highly convenient for pirates. Pirates have been able to take advantage of the lax administration of FOC, hijack ships, re-register them and turn them into phantom ships. Later, these phantom ships were used to commit all kinds of illegal activities, such as smuggling, human and drug trafficking and maritime fraud.

Apart from phantom ships, as discussed in Chapter 5, most piratical attacks in Southeast Asian waters were said to be petty theft, aiming at stealing cash and valuables on board ships. The economic losses incurred in such attacks were usually insufficient to cover deductibles on marine insurance policies, which meant that shipowners had to cover the entire loss without being reimbursed by insurance companies. Fearing the reputation of being vulnerable and facing a possible increase in insurance premium, many shipowners were reluctant to report these kinds of piracy incidents. This impeded law enforcement authorities from understanding the real situation at sea.

**Incentives regarding anti-piracy operations in the littoral states**

The littoral states have the main responsibility for cracking down on piracy. The national interests of the littoral states form the basis for building their anti-
piracy policies. The three littoral countries have differing perceptions of piracy, and therefore different diagnoses of the problems it presents. For example, in the eyes of Indonesian officials, piracy in Southeast Asia is petty theft, which does not have a great impact on its national interest. In fact, they have a point: the majority of victims' ships are foreign ships, not Indonesian ones. The Indonesian government is reluctant to spend money on protecting these foreign users of their shipping-lanes, who do not contribute to the cost of safeguarding maritime security in the Straits of Malacca.

The Malaysian government is also unwilling to spend money on “free riders;” however, the main Malaysian ports, such as Port Klang and Tanjung Pelepas Port, are situated along the Straits of Malacca, and maritime safety and security in the Straits of Malacca are important for the Malaysian economy. The Malaysian government cannot ignore the interests of shipping industry nor their appeal for protection. Facing similar budget constraints and insufficient maritime capability to Indonesia, the Malaysian government has appealed for a “Burden-Sharing Scheme”, urging other users of the Straits of Malacca, together with Japan, to share the cost of maintaining and enhancing maritime safety and security in the Straits of Malacca.3

Singapore, as a city-state, is greatly dependent on its ports, and considers piracy as a serious threat to its national security. Although Singapore has the

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3 The “Burden-sharing Scheme” is not discussed in this dissertation; however, this topic became very hot in the media while I was finishing the dissertation in July, 2006. For more background information on the “Burden-Sharing Scheme”, see Abd. Rahim bin Hussin, ”The Management of Straits of Malacca: Burden Sharing as the Basis for Cooperation” (paper presented at the LIMA International Maritime Conference 2005, Awana Porto Malai, Langkawi, Malaysia, 2005).
highest incentive to combat piracy, however, only the southern tip of the Straits of Malacca is under Singapore’s jurisdiction, and thus, Singapore cannot be of much help.

In short, incentives regarding anti-piracy operations differ in the littoral countries. Piracy was rampant in the countries where the government had little incentive to combat it, and this is most true of Indonesian waters.

Capabilities

Maritime capacities have long been a problem in Southeast Asia: the constraints in defence budgets have hampered their capabilities; the lack of funding for anti-piracy operations constitutes a bottleneck for some poor countries like Indonesia in implementing anti-piracy operations. For example, the Indonesian navy chief said of the Indonesian navy: “Old ships cannot sail, new ships cannot shoot”.\(^4\) With their current material capabilities, the law enforcement agencies of Indonesia cannot successfully implement anti-piracy operations. In terms of maritime capability, Indonesia is the lowest, Singapore is the highest, and Malaysia comes somewhere in between.

Furthermore, the collusion between law enforcement agencies and pirates obviously reduces the effectiveness of anti-piracy operations. As discussed in Chapter 5, corrupt officials get paid from pirates by taking no action, or providing

information and logistics supports to pirates; not surprisingly, such corrupt officials have no incentive to combat piracy even if they were requested to do so, since they stand to gain.

In terms of law implementation, sovereignty is the main concern in bilateral and multilateral anti-piracy patrols involving Indonesia, Malaysia and Singapore. As discussed in Chapter 5, all the multilateral patrols in the Straits of Malacca at present are coordinated, not joint patrols, showing that trust and confidence among the littoral countries have yet to be established.\(^5\)

**Historical Turning Points and the Fall of Piratical Incidents**

The first turning point relating to piracy in Southeast Asia was in 1998. That year, the Chinese government first banned the People’s Liberation Army (PLA) from engaging in business activities. The PLA companies were notorious for their involvement in coastal smuggling. The Chinese government then took firm measures to crack down on smuggling in coastal provinces, as well as on piracy in the South China Sea. Pirates lost their favourable destination for offloading stolen or contraband goods. These measures had an immediate impact on piracy in the South China Sea. In addition, with the aid of advanced ship tracking devices installed on ships since then, the most serious type of piracy, phantom ship piracy,

\(^5\) Coordinated Patrol: the law enforcement agencies coordinate while patrolling within their own territorial waters, but they cannot cross national sea borders. Each law enforcement agency has its own commander. Joint Patrol: all law enforcement agencies of the participating countries constitute one task force and patrol together, under one commander; this task force is empowered to cross national sea borders.
has declined. However, this did not lead to an immediate decrease in piratical accidents: on the contrary, the total number of piratical incidents drastically increased and reached a peak in 2000. This phenomenon was due to the unexpected Asian Financial Crisis in 1998, which seriously hit Southeast Asian countries, particularly Indonesia. Desperate and financially ruined, many poor coastal fishermen and unemployed sailors subsequently turned to piracy.

The shipping industry has been taking actions on combating piracy, as mentioned above. Shipowners have fixed high-tech devices on ships to deter pirates. At the same time, they have urged the littoral governments to take greater action on the suppression of piracy. Under great pressure from ship industry, the littoral states have begun to deal with the problem. Some unilateral actions have been taken in Indonesia, Malaysia and Singapore, as was discussed in Chapter 5. However, the suppression of piracy needs all of the littoral states to cooperate. Due to problems in anti-piracy cooperation, which led to ineffectiveness in anti-piracy operations, piracy incidents continued to increase until the critical turning point in 2001.

This turning point was the terrorist attacks on the United States on 11 September in 2001 (known as 9/11). In the aftermath of 9/11, the allegation of a terrorism and piracy nexus, yet to be proved, raised world concern. The United States has led the global anti-terrorism campaign, and integrated anti-piracy policies as a part of its maritime security project.

As discussed in Chapter 5, after 9/11, piracy was high on the agenda of many
international government level forums and meetings, such as the ARF and ASEAN meetings and Asian security summits. There were paradigm shifts in the littoral states on anti-piracy policies. Incentives and capabilities in the littoral countries were enhanced. The littoral states, Malaysia and Indonesia in particular, enhanced their maritime capabilities, in order to show that they were capable of safeguarding their own waters, and so as to prevent foreign navies from intervening in the name of protecting the Straits of Malacca. From 2002 onwards, the littoral states enhanced bilateral and multilateral patrols, with such initiatives as Malsindo patrols and the “Eyes in the Sky” project, which were sufficient to reduce piracy on the open sea. In addition, the implementation of the IMO’s ISPS codes, which provide a standardised and consistent maritime security framework for ships and port facilities, has significantly reduced the opportunities for crimes to be committed at ports and anchorages, as was discussed in Chapter 5. After three years efforts, (from 2002–2004), pirates lost their crime scenes at ports, anchorages, and on the open sea. Eventually, piracy declined significantly in Southeast Asia after 2004 until today.

Historical Continuity and Transformation

There are many intriguing parallels between piracy in contemporary Southeast Asia and piracy in Southeast Asian history.

---

**Continuity**

Piracy is caused by complicated political and economic factors. Piracy has been common in the chokepoints or sea-lanes of booming seaborne trade, at times when local governments lack the capability or interest to suppress it. In terms of anti-piracy strategies, there are many interesting similarities in these two periods: firstly, governments took firm measures to control ships, cargoes and ports, and then patrolled in the chokepoints and in the open sea. For example, the implementation of the ISPS codes is very similar to the pass system implemented by colonial ports, which focused on ships and ports. Anti-piracy cooperation agreements were signed between the littoral states to cooperate in anti-piracy cooperation, for example, the 1824 Anglo-Dutch Agreement, and its counterpart in the contemporary era, the ReCAAP agreement.

In Chapter 2, four variables influencing piracy were discussed: prey, pirates, place and politics. Table 3 below notes the similarities amongst these four variables.
Table 3 The Continuity of Piracy in Southeast Asia

<table>
<thead>
<tr>
<th>Variables</th>
<th>The Colonial Era and the Contemporary era</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pirates</td>
<td>Piracy rises in times of booming seaborne trade.</td>
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<td></td>
<td>Piracy becomes rampant when the prey is vulnerable and the risk of being avenged or prosecuted is low.</td>
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<td></td>
<td>Piracy and smuggling are interrelated.</td>
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<td>Poverty provided strong incentives for coastal people to turn to piracy.</td>
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<tr>
<td>Prey</td>
<td>Ship, cargos and crew.</td>
</tr>
<tr>
<td>Place</td>
<td>Piracy is committed in ports, at chokepoints of seaborne trade, coastal waters and the high seas</td>
</tr>
<tr>
<td>Politics/economic</td>
<td>Political economy shapes the scopes of piracy, determining whether governments have the incentive and capacity to combat it.</td>
</tr>
<tr>
<td>Anti-piracy measures</td>
<td>Anti-piracy cooperation agreement, naval patrols, information gathering and sharing, focusing on ships, ports and the open sea, legal actions.</td>
</tr>
</tbody>
</table>

**Transformation**

A major difference between past and present is the definition of piracy. The definition of piracy in colonial times was politically coloured, serving to justify colonising activities. Thus, many so-called pirates in the colonial era were privateers or state actors, who had bases and strongholds, and who acted as semi-governments in their controlled areas. At the height of the colonial period, the
colonisers expanded their colonial domains through the suppression of piracy, as was discussed in Chapter 2. In the early 20th century, large-scale piracy was extinct; piracy or sea raiding, although never eradicated, dwindled to a low level.  

After the Second World War, Malaysia, Singapore and Indonesia gained their independence from Britain and Holland. From the 1950s to the 1960s, in some parts of the southern Philippines and East Malaysia, piracy and sea robbery still existed. However, in the contemporary era, pirates are non-state actors, aiming at economic gains. See the following Table 4 for major changes since the colonial era.

Table 4 The Transformation of Piracy in Southeast Asia

<table>
<thead>
<tr>
<th>Variables</th>
<th>Colonial era</th>
<th>Contemporary era</th>
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<tbody>
<tr>
<td>Prey</td>
<td>Chinese junks and ships (usually armed)</td>
<td>Unarmed ships</td>
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<td>Large number of crew</td>
<td>Small number of crew</td>
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<td></td>
<td>Human beings for slavery</td>
<td>Valuables, cash and equipment on ships. Crew for ransom</td>
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<td>Victims fought back</td>
<td>Victims are discouraged from fighting back</td>
</tr>
<tr>
<td>Pirates</td>
<td>State actors, privateers or sea lords, quasi-governmental pirate groups</td>
<td>Non-state actors: fishermen, gangsters, international criminal syndicates</td>
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<td></td>
<td>Large scale</td>
<td>Small in number</td>
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<tr>
<td></td>
<td>With strongholds and land bases</td>
<td>Difficult to locate</td>
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<tr>
<td>Places</td>
<td>River mouths, coastal villages and villages along inland rivers (for slave-hunting)</td>
<td>Ports, anchorages, coastal waters, EEC and the high seas</td>
</tr>
<tr>
<td>Politics/Economic</td>
<td>European colonisers: British, Dutch and Spanish; remaining semi-independent indigenous polities until early 20th century</td>
<td>Indonesia, Malaysia, Singapore and China</td>
</tr>
<tr>
<td></td>
<td>Attack pirate bases and strongholds by brutal killing in the name of anti-piracy operations.</td>
<td>Patrons, GSP ship tracking system, ISPS code</td>
</tr>
<tr>
<td></td>
<td>Strong incentives to suppress piracy and strong capabilities by the late colonial era</td>
<td>Divergent incentives in the littoral states, low capabilities in some local governments</td>
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</tbody>
</table>
In a nutshell, these four variables contribute to the rise and fall of piracy. By examining these four variables, we can predict piracy in future. In terms of the prey, East Asian economies will continue to grow rapidly, providing an increasing potential prey for pirates. However, the politics and pirates variables changed significantly after 9/11, as the incentives and capabilities of the littoral countries have been enhanced; thus, the trend in piracy incidents will continue to decline, at least in the foreseeable future.

Intriguingly, the place variable might be changed in future. The main users of the Straits of Malacca have been considering using alternative routes to reduce their dependence on maritime security in the Straits of Malacca. For example, China wants to build an oil pipeline in a deep-water port in Myanmar, linked to China’s Yunnan province by 2007, which will reduce China’s dependency on imported oil shipped via the Straits of Malacca. Thailand also plans to dig the Kra Canal, or to build up a “Land bridge” for transporting goods from the Indian Ocean to the South China Sea without using the Straits of Malacca. Recently, Malaysia also proposed a multi-billion dollar project for the construction of an oil pipeline across northern peninsular Malaysia. If these proposals are realised, the importance of the Straits of Malacca will be diminished and the piracy-prone areas will assuredly be relocated.

---

9 Xinhua, “Construction of China-Myanmar Oil Pipeline Expected to Start This Year” 21 April 2007.
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Suara Pembaruan
The Jakarta Post
The New Strait Times
The People’s Daily
The Star
The Straits Times
APPENDICES


2. Piratical Attacks in Southeast Asia, Indian Subcontinent and the Far East, 2005

### Locations of Actual and Attempted Piratical Attacks (Jan. to Dec. 1994-2005)

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Total for the year: 99 111 221 218 201 200 169 316 270 248 257

Source: ICC-IMB Piracy and Armed Robbery against Ships—Annual Report 2005
4. Nine Locations Shared More than two third of the total Reported Incidents

5. Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP Agreement)

The Contracting Parties to this Agreement,

Concerned about the increasing number of incidents of piracy and armed robbery against ships in Asia,

Mindful of the complex nature of the problem of piracy and armed robbery against ships,

Recognizing the importance of safety of ships, including their crew, exercising the right of navigation provided for in the United Nations Convention on the Law of the Sea of 10 December 1982, hereinafter referred to as "the UNCLOS",

Reaffirming the duty of States to cooperate in the prevention and suppression of piracy under the UNCLOS,


Noting the relevant resolutions adopted by the United Nations General Assembly and the relevant resolutions and recommendations adopted by the International Maritime Organization,

Conscious of the importance of international cooperation as well as the urgent need for greater regional cooperation and coordination of all States affected within Asia, to prevent and suppress piracy and armed robbery against ships effectively,

Convinced that information sharing and capacity building among the Contracting Parties will significantly contribute towards the prevention and suppression of piracy and armed robbery against ships in Asia,

Affirming that, to ensure greater effectiveness of this Agreement, it is indispensable for each Contracting Party to strengthen its measures aimed at preventing and suppressing piracy and armed robbery against ships,

Determined to promote further regional cooperation and to enhance the effectiveness of such cooperation,

Have agreed as follows:
Part I Introduction

Article 1
Definitions

1. For the purposes of this Agreement, "piracy" means any of the following acts:

(a) any illegal act of violence or detention, or any act of depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft, and directed:

(i) on the high seas, against another ship, or against persons or property on board such ship;

(ii) against a ship, persons or property in a place outside the jurisdiction of any State;

(b) any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft;

(c) any act of inciting or of intentionally facilitating an act described in subparagraph (a) or (b).

2. For the purposes of this Agreement, "armed robbery against ships" means any of the following acts:

(a) any illegal act of violence or detention, or any act of depredation, committed for private ends and directed against a ship, or against persons or property on board such ship, in a place within a Contracting Party’s jurisdiction over such offences;

(b) any act of voluntary participation in the operation of a ship with knowledge of facts making it a ship for armed robbery against ships;

(c) any act of inciting or of intentionally facilitating an act described in subparagraph (a) or (b).

Article 2
General Provisions

1. The Contracting Parties shall, in accordance with their respective national laws and regulations and subject to their available resources or capabilities, implement
this Agreement, including preventing and suppressing piracy and armed robbery against ships, to the fullest extent possible.

2. Nothing in this Agreement shall affect the rights and obligations of any Contracting Party under the international agreements to which that Contracting Party is party, including the UNCLOS, and the relevant rules of international law.

3. Nothing in this Agreement shall affect the immunities of warships and other government ships operated for non-commercial purposes.

4. Nothing in this Agreement, nor any act or activity carried out under this Agreement shall prejudice the position of any Contracting Party with regard to any dispute concerning territorial sovereignty or any issues related to the law of the sea.

5. Nothing in this Agreement entitles a Contracting Party to undertake in the territory of another Contracting Party the exercise of jurisdiction and performance of functions which are exclusively reserved for the authorities of that other Contracting Party by its national law.

6. In applying paragraph 1 of Article 1, each Contracting Party shall give due regard to the relevant provisions of the UNCLOS without prejudice to the rights of the third Parties.

Article 3
General Obligations

1. Each Contracting Party shall, in accordance with its national laws and regulations and applicable rules of international law, make every effort to take effective measures in respect of the following:

(a) to prevent and suppress piracy and armed robbery against ships;

(b) to arrest pirates or persons who have committed armed robbery against ships;

(c) to seize ships or aircraft used for committing piracy or armed robbery against ships, to seize ships taken by and under the control of pirates or persons who have committed armed robbery against ships, and to seize the property on board such ships; and
(d) to rescue victim ships and victims of piracy or armed robbery against ships. 2. Nothing in this Article shall prevent each Contracting Party from taking additional measures in respect of subparagraphs (a) to (d) above in its land territory.

Part II Information Sharing Center
Article 4
Composition

1. An Information Sharing Center, hereinafter referred to as “the Center”, is hereby established to promote close cooperation among the Contracting Parties in preventing and suppressing piracy and armed robbery against ships.

2. The Center shall be located in Singapore.

3. The Center shall be composed of the Governing Council and the Secretariat.

4. The Governing Council shall be composed of one representative from each Contracting Party. The Governing Council shall meet at least once every year in Singapore, unless otherwise decided by the Governing Council.

5. The Governing Council shall make policies concerning all the matters of the Center and shall adopt its own rules of procedure, including the method of selecting its Chairperson.

6. The Governing Council shall take its decisions by consensus.

7. The Secretariat shall be headed by the Executive Director who shall be assisted by the staff. The Executive Director shall be chosen by the Governing Council.

8. The Executive Director shall be responsible for the administrative, operational and financial matters of the Center in accordance with the policies as determined by the Governing Council and the provisions of this Agreement, and for such other matters as determined by the Governing Council.

9. The Executive Director shall represent the Center. The Executive Director shall, with the approval of the Governing Council, make rules and regulations of the Secretariat.

Article 5
Headquarters Agreement
1. The Center, as an international organization whose members are the Contracting Parties to this Agreement, shall enjoy such legal capacity, privileges and immunities in the Host State of the Center as are necessary for the fulfillment of its functions.

2. The Executive Director and the staff of the Secretariat shall be accorded, in the Host State, such privileges and immunities as are necessary for the fulfillment of their functions.

3. The Center shall enter into an agreement with the Host State on matters including those specified in paragraphs 1 and 2 of this Article.

Article 6
Financing

1. The expenses of the Center, as provided for in the budget decided by the Governing Council, shall be provided by the following sources:

   (a) Host State financing and support;

   (b) Voluntary contributions from the Contracting Parties;

   (c) Voluntary contributions from international organizations and other entities, in accordance with relevant criteria adopted by the Governing Council; and

   (d) Any other voluntary contributions as may be agreed upon by the Governing Council.

2. Financial matters of the Center shall be governed by a Financial Regulation to be adopted by the Governing Council.

3. There shall be an annual audit of the accounts of the Center by an independent auditor appointed by the Governing Council. The audit report shall be submitted to the Governing Council and shall be made public, in accordance with the Financial Regulation.

Article 7
Functions
The functions of the Center shall be:

(a) to manage and maintain the expeditious flow of information relating to incidents of piracy and armed robbery against ships among the Contracting Parties;

(b) to collect, collate and analyze the information transmitted by the Contracting Parties concerning piracy and armed robbery against ships, including other relevant information, if any, relating to individuals and transnational organized criminal groups committing acts of piracy and armed robbery against ships;

(c) to prepare statistics and reports on the basis of the information gathered and analyzed under subparagraph (b), and to disseminate them to the Contracting Parties;

(d) to provide an appropriate alert, whenever possible, to the Contracting Parties if there is a reasonable ground to believe that a threat of incidents of piracy or armed robbery against ships is imminent;

(e) to circulate requests referred to in Article 10 and relevant information on the measures taken referred to in Article 11 among the Contracting Parties;

(f) to prepare non-classified statistics and reports based on information gathered and analyzed under subparagraph (b) and to disseminate them to the shipping community and the International Maritime Organization; and

(g) to perform such other functions as may be agreed upon by the Governing Council with a view to preventing and suppressing piracy and armed robbery against ships.

Article 8
Operation

1. The daily operation of the Center shall be undertaken by the Secretariat.

2. In carrying out its functions, the Center shall respect the confidentiality of information provided by any Contracting Party, and shall not release or disseminate such information unless the consent of that Contracting Party is given in advance.

3. The Center shall be operated in an effective and transparent manner, in accordance with the policies made by the Governing Council, and shall avoid duplication of existing activities between the Contracting Parties.
1. Each Contracting Party shall designate a focal point responsible for its communication with the Center, and shall declare its designation of such focal point at the time of its signature or its deposit of an instrument of notification provided for in Article 18.

2. Each Contracting Party shall, upon the request of the Center, respect the confidentiality of information transmitted from the Center.

3. Each Contracting Party shall ensure the smooth and effective communication between its designated focal point, and other competent national authorities including rescue coordination centers, as well as relevant non-governmental organizations.

4. Each Contracting Party shall make every effort to require its ships, ship owners, or ship operators to promptly notify relevant national authorities including focal points, and the Center when appropriate, of incidents of piracy or armed robbery against ships.

5. Any Contracting Party which has received or obtained information about an imminent threat of, or an incident of, piracy or armed robbery against ships shall promptly notify relevant information to the Center through its designated focal point.

6. In the event that a Contracting Party receives an alert from the Center as to an imminent threat of piracy or armed robbery against ships pursuant to subparagraph (d) of Article 7, that Contracting Party shall promptly disseminate the alert to ships within the area of such an imminent threat.

Article 10
Request for Cooperation
1. A Contracting Party may request any other Contracting Party, through the Center or directly, to cooperate in detecting any of the following persons, ships, or aircraft:

(a) pirates;

(b) persons who have committed armed robbery against ships;

(c) ships or aircraft used for committing piracy or armed robbery against ships, and ships taken by and under the control of pirates or persons who have committed armed robbery against ships; or

(d) victim ships and victims of piracy or armed robbery against ships.

2. A Contracting Party may request any other Contracting Party, through the Center or directly, to take appropriate measures, including arrest or seizure, against any of the persons or ships mentioned in subparagraph (a), (b), or (c) of paragraph 1 of this Article, within the limits permitted by its national laws and regulations and applicable rules of international law.

3. A Contracting Party may also request any other Contracting Party, through the Center or directly, to take effective measures to rescue the victim ships and the victims of piracy or armed robbery against ships.

4. The Contracting Party which has made a direct request for cooperation pursuant to paragraphs 1, 2 and 3 of this Article shall promptly notify the Center of such request.

5. Any request by a Contracting Party for cooperation involving extradition or mutual legal assistance in criminal matters shall be made directly to any other Contracting Party.

Article 11
Cooperation by the Requested Contracting Party

1. A Contracting Party, which has received a request pursuant to Article 10, shall, subject to paragraph 1 of Article 2, make every effort to take effective and practical measures for implementing such request.
2. A Contracting Party, which has received a request pursuant to Article 10, may seek additional information from the requesting Contracting Party for the implementation of such request.

3. A Contracting Party, which has taken measures referred to in paragraph 1 of this Article, shall promptly notify the Center of the relevant information on the measures taken.

Part IV Cooperation
Article 12
Extradition

A Contracting Party shall, subject to its national laws and regulations, endeavor to extradite pirates or persons who have committed armed robbery against ships, and who are present in its territory, to the other Contracting Party which has jurisdiction over them, at the request of that Contracting Party.

Article 13
Mutual Legal Assistance

A Contracting Party shall, subject to its national laws and regulations, endeavor to render mutual legal assistance in criminal matters, including the submission of evidence related to piracy and armed robbery against ships, at the request of another Contracting Party.

Article 14
Capacity Building

1. For the purpose of enhancing the capacity of the Contracting Parties to prevent and suppress piracy and armed robbery against ships, each Contracting Party shall endeavor to cooperate to the fullest possible extent with other Contracting Parties which request cooperation or assistance.

2. The Center shall endeavor to cooperate to the fullest possible extent in providing capacity building assistance.
3. Such capacity building cooperation may include technical assistance such as educational and training programs to share experiences and best practices.

Article 15
Cooperative Arrangements

Cooperative arrangements such as joint exercises or other forms of cooperation, as appropriate, may be agreed upon among the Contracting Parties concerned.

Article 16
Protection Measures for Ships

Each Contracting Party shall encourage ships, ship owners, or ship operators, where appropriate, to take protective measures against piracy and armed robbery against ships, taking into account the relevant international standards and practices, in particular, recommendations adopted by the International Maritime Organization.

Part V Final Provisions
Article 17
Settlement of Disputes

Disputes arising out of the interpretation or application of this Agreement, including those relating to liability for any loss or damage caused by the request made under paragraph 2 of Article 10 or any measure taken under paragraph 1 of Article 11, shall be settled amicably by the Contracting Parties concerned through negotiations in accordance with applicable rules of international law.

Article 18
Signature and Entry into Force

1. This Agreement shall be open for signature at the depository referred to in paragraph 2 below by the People's Republic of Bangladesh, Brunei Darussalam, the Kingdom of Cambodia, the People's Republic of China, the Republic of India, the Republic of Indonesia, Japan, the Republic of Korea, the Lao People's Democratic Republic, Malaysia, the Union of Myanmar, the Republic of the Philippines, the
Republic of Singapore, the Democratic Socialist Republic of Sri Lanka, the Kingdom of Thailand, the Socialist Republic of Viet Nam.

2. The Government of Singapore is the depository of this Agreement.

3. This Agreement shall enter into force 90 days after the date on which the tenth instrument of notification by a State listed in paragraph 1, indicating the completion of its domestic requirements, is submitted to the depository. Subsequently it shall enter into force in respect of any other State listed in paragraph 1 above 30 days after its deposit of an instrument of notification to the depository.

4. The depository shall notify all the States listed in paragraph 1 of the entry into force of this Agreement pursuant to paragraph 3 of this Article.

5. After this Agreement has entered into force, it shall be open for accession by any State not listed in paragraph 1. Any State desiring to accede to this Agreement may so notify the depository, which shall promptly circulate the receipt of such notification to all other Contracting Parties. In the absence of a written objection by a Contracting Party within 90 days of the receipt of such notification by the depository, that State may deposit an instrument of accession with the depository, and become a party to this Agreement 60 days after such deposit of instrument of accession.

Article 19
Amendment

1. Any Contracting Party may propose an amendment to this Agreement, any time after the Agreement enters into force. Such amendment shall be adopted with the consent of all Contracting Parties.

2. Any amendment shall enter into force 90 days after the acceptance by all Contracting Parties. The instruments of acceptance shall be deposited with the depository, which shall promptly notify all other Contracting Parties of the deposit of such instruments.

Article 20
Withdrawal
1. Any Contracting Party may withdraw from this Agreement at any time after the
date of its entry into force.

2. The withdrawal shall be notified by an instrument of withdrawal to the
depository.

3. The withdrawal shall take effect 180 days after the receipt of the instrument of
withdrawal by the depository.

4. The depository shall promptly notify all other Contracting Parties of any
withdrawal.

Article 21

Authentic Text This Agreement shall be authentic in the English language.

Article 22

Registration This Agreement shall be registered by the depository pursuant to
Article 102 of the Charter of the United Nations. IN WITNESS WHEREOF, the
undersigned, being duly authorized thereto by their respective Governments, have
signed this Agreement.

(Source: http://www.recaap.org/publish/recaap/about/agreement.html)