2013 COLP Conference
Global Challenges and Freedom of Navigation
1 – 3 May 2013, Korea

Combating Piracy and Armed Robbery in Southeast Asia:
An Evolution in Co-operation?

Tara Davenport
Research Fellow
Centre for International Law
Outline

I. Types of Attacks in Southeast Asia
II. Regional Cooperation to Combat Piracy and Armed Robbery in Southeast Asia
III. Current Trends and Continuing Challenges
IV. Is Piracy and Armed Robbery in Southeast Asia still a Threat to Freedom of Navigation?
PART I:

TYPES OF ATTACKS IN SOUTHEAST ASIA
<table>
<thead>
<tr>
<th>Source:</th>
<th>Article 101, UNCLOS</th>
<th>IMO Resolution A.1025 (26)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Act:</td>
<td>Any illegal acts of violence or detention or any act of depredation</td>
<td>Any illegal act of violence or detention or any act of depredation, or threat thereof, other than an act of piracy</td>
</tr>
<tr>
<td>Motive:</td>
<td>Committed for Private Ends</td>
<td>Committed for Private Ends</td>
</tr>
<tr>
<td>Number of Ships:</td>
<td>By one ship against another ship/property or persons</td>
<td>Directed against a ship/property or persons</td>
</tr>
<tr>
<td>Location:</td>
<td>High Seas and EEZ</td>
<td>Internal waters, territorial sea, straits and archipelagic waters</td>
</tr>
<tr>
<td>Enforcement Power</td>
<td>All States have universal jurisdiction over acts of piracy</td>
<td>Only coastal State has power of arrest and prosecution</td>
</tr>
</tbody>
</table>
Gulf of Thailand
Philippines
Straits of Malacca and Singapore
Type of Attacks in Southeast Asia

Source: ReCAAP Annual Report 2012
Sources of Statistics

ReCAAP
Information Sharing Centre

ICC INTERNATIONAL MARITIME BUREAU

www.cil.nus.edu.sg
PART II:
REGIONAL COOPERATION TO COMBAT PIRACY AND ARMED ROBBERY
Total Incidents per Region 2012

Source: IMB Annual Report 2012

www.cil.nus.edu.sg
Total Incidents Per Region 2000

Source: IMB Annual Report 2000

Far East: 3
Americas: 44
Indian SC: 32
SEA: 257
Africa: 61
Increase in Attacks between 1998 - 2004

- 1997 Asian Economic Crisis
- Fall of Suharto Govt. in 1998
- Aceh Independence Movement
Threat to Safety of International Navigation and Shipping
South China Sea
Major LNG Trade Flows
Trillion cubic feet
2011
Regional Cooperation in SEA against Piracy and Armed Robbery

Threat to International Shipping

Fear of External Interference

Listing of SOMS and Indonesian Ports as a War-Risk Area (05)

Regional Cooperation Mechanisms 2004 onwards

Cooperative Mechanism for the Straits of Malacca and Singapore

Malacca Straits Sea Patrols

Malacca Straits Patrols SOP

Eyes in the Sky Aerial Patrols

Regional Cooperation Agreement on Combating P & AR in Asia 2004
Key Features of ReCAAP

- 3 Pillars of ReCAAP: Information Sharing, Capacity-Building and Co-operative Arrangements

- Information Sharing Centre (ISC) and Secretariat located in Singapore

- Formation of a Governing Council (1 Rep from each Party)

- Governing Council’s Decision by Consensus

- An International Organization (foreign staff have diplomatic immunity)

- Identification of a Focal Point (1 per Party)

- Funding: Voluntary Contributions from Contracting Parties

- Open for Accession by Any State

- Currently 18 Contracting Parties
Some Other Factors Responsible for Decline in Piracy and Armed Robbery in Southeast Asia

- Establishment of the Malaysian Maritime Enforcement Agency
- 2005 Peace Agreement with Aceh Rebels
- Technical Assistance to Indonesia from Japan and US
- Decline in Piracy and Armed Robbery from 2005 - 2009
- 2004 Tsunami
Piracy and Armed Robbery in SEA 2005 - 2008

Source: IMB Report 2009
PART III:
CURRENT TRENDS AND CONTINUING CHALLENGES TO REGIONAL COOPERATION
Incidents in SEA 2009 - 2012

<table>
<thead>
<tr>
<th>Location</th>
<th>2009</th>
<th>2010</th>
<th>2011</th>
<th>2012</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gulf of Thailand</td>
<td></td>
<td>1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Indonesia</td>
<td>19</td>
<td>47</td>
<td>49</td>
<td>71</td>
</tr>
<tr>
<td>Malaysia</td>
<td>15</td>
<td>18</td>
<td>17</td>
<td>11</td>
</tr>
<tr>
<td>Myanmar</td>
<td>1</td>
<td>1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Philippines</td>
<td>5</td>
<td>5</td>
<td>6</td>
<td>3</td>
</tr>
<tr>
<td>Singapore</td>
<td></td>
<td>2</td>
<td>3</td>
<td>2</td>
</tr>
<tr>
<td>South China Sea</td>
<td>13</td>
<td>25</td>
<td>18</td>
<td>7</td>
</tr>
<tr>
<td>Malacca/Singapore Straits</td>
<td>9</td>
<td>8</td>
<td>26</td>
<td>13</td>
</tr>
<tr>
<td>Thailand</td>
<td>2</td>
<td>1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Vietnam</td>
<td>8</td>
<td>13</td>
<td>8</td>
<td>4</td>
</tr>
<tr>
<td><strong>TOTAL:</strong></td>
<td>72</td>
<td>120</td>
<td>128</td>
<td>111</td>
</tr>
</tbody>
</table>

Source: ReCAAP Annual Report 2012
General Observations

- In 2010 and 2011, there was a general upswing in Reported Attacks, which came down slightly in 2012.
- Only 7 incidents in 2012 were Piracy (South China Sea) and the remaining were Armed Robbery against Ships.
- Majority of incidents in SEA tend to be opportunistic petty theft at anchorage or underway usually of ship’s spares, cash and equipment.
- However, more serious maritime crimes have also occurred which are cause for concern because of possible involvement of organized criminal syndicates.
Cluster Piracy

Organized Criminal Syndicates

Kidnap of Crew for Ransom

Hijacking of Tugs for Resale

Product/Cargo Theft
Cluster Piracy off Anambas Islands of Indonesia

Cluster piracy involves a group of pirates operating within a specific maritime area in a short period of time.


Occur within territorial waters and EEZ of Indonesia.

Suspected involvement of organized criminal syndicates.
## Hijacking of Tugboats for Resale

Tugboats hijacked usually off the coast of Malaysia

Crew left adrift usually within South China Sea

Tugboats proceed to final destination for re-painting and re-naming for re-sale

Suspected organized criminal syndicates behind the attacks

<table>
<thead>
<tr>
<th>Year</th>
<th>Name of Vessel</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>2009</td>
<td>PROSPAQ 1</td>
<td>Anambas</td>
</tr>
<tr>
<td>2010</td>
<td>ASTA PU 2007 ATLANTIC 3</td>
<td>Tioman Kuantan Bintan</td>
</tr>
<tr>
<td>2011</td>
<td>MARINA 26 SOLID 8 MITRA JAYA V</td>
<td>Tioman Subi Besar Kalimantan</td>
</tr>
<tr>
<td>2012</td>
<td>WANTAS 6 WOODMAN 38 ZAFIRAH</td>
<td>Sarawak Sabah South China Sea</td>
</tr>
</tbody>
</table>
### Kidnapping of Crew

Ships boarded and crew held hostage on board usually for ransom

Usually released by setting adrift at sea

Suspected organized criminal syndicates behind the attacks

<table>
<thead>
<tr>
<th>Year</th>
<th>Name of Vessel</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>2009</td>
<td>MLC NANCY 5 MARINERO PROSPAQ T1</td>
<td>Straits of Malacca Philippines Anambas</td>
</tr>
<tr>
<td>2010</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>2011</td>
<td>GM GALLANT</td>
<td>Indonesia</td>
</tr>
<tr>
<td>2012</td>
<td>0</td>
<td></td>
</tr>
</tbody>
</table>
Siphonning of Fuel

Map: Location of incidents

Legend
- Category 1 (Very Significant)
- Category 2 (Moderately Significant)

- Yunita
  - 11 Nov 12
  - 0200 hrs

- Scorpio
  - 13 Sep 12
  - 2300 hrs

- Namse Bang Dzod
  - 15 Apr 11
  - 1700 hrs

Photograph courtesy of the Southern Maritime Region, MMEA

Sea Jade alongside Scorpio
Challenges for Regional Co-operation

- INFORMATION-SHARING
- ENFORCEMENT COOPERATION
- LEGAL CO-OPERATION
Challenge No. 1: Information-Sharing

- ReCAAP has been beneficial to piracy and armed robbery reporting in Southeast Asia but has its limitations.
- Indonesia and Malaysia are still not parties to ReCAAP although it has operational level links with maritime enforcement authorities in these countries.
- Delay in reporting because it receives information directly from focal points rather than shipping companies.
- Mandate of ReCAAP is limited to piracy and armed robbery and does not extend to other maritime crimes.

www.cil.nus.edu.sg
Challenge No. 2: Enforcement Co-operation

- Majority of incidents in Southeast Asia occur within territorial waters (i.e. Armed Robbery against Ships and not Piracy)
- Only coastal States can arrest and prosecute but some coastal States such as Indonesia and the Philippines do not have necessary resources to patrol a wide geographic area
- Many islands scattered across SEA, some of which are inhabited some of which are not, where perpetrators can escape
- Even for acts of piracy in the EEZ of another State, there is a general reluctance of naval authorities to arrest, and in some cases, no powers to arrest in the EEZ of another State
Challenge No. 3: Legal Co-operation

- There has been a greater level of operational cooperation than legal cooperation
- Many of the attacks, although occurring in territorial waters, have transnational elements
- UNCLOS does not place any obligation upon a seizing State to arrest, prosecute or extradite suspected pirates
- Also no provisions for mutual legal assistance in the prosecution of piracy and other maritime crimes
- Need mechanisms in place for extradition and mutual legal assistance between seizing States and States which have an interest in prosecution
Ratification and Implementation of Other International Conventions

• In addition to UNCLOS, the ratification and effective implementation of other international conventions will greatly strengthen the legal regime against piracy and serious maritime crimes
  – 1979 Hostages Convention
  – 1988 Suppression of Unlawful Acts Against the Safety of Maritime Navigation (SUA)
  – 2000 UN Convention against Transnational Organized Crime (UNTOC)
Structure of Conventions

1. Conventions oblige States to establish specific offences in their national legislation with appropriate penalties

2. Offences cover a wide range of criminal acts, including the onshore organization and planning of attacks

3. Oblige States to take into custody alleged offenders which are present in their territory and to either extradite them to another State Party with jurisdiction or prosecute the alleged offenders for offences

4. Conventions provide for several mechanisms for extradition (even in the absence of an extradition treaty) and mutual legal assistance
<table>
<thead>
<tr>
<th>Country</th>
<th>UNCLOS</th>
<th>Hostages</th>
<th>SUA</th>
<th>UNTOC</th>
</tr>
</thead>
<tbody>
<tr>
<td>Brunei</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Cambodia</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Indonesia</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td>Malaysia</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td>Myanmar</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Laos</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Philippines</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Singapore</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Thailand</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
</tr>
<tr>
<td>Vietnam</td>
<td>Yes</td>
<td>No</td>
<td>Yes</td>
<td>Yes</td>
</tr>
</tbody>
</table>
PART IV:
IS PIRACY AND ARMED ROBBERY IN SOUTHEAST ASIA STILL A THREAT TO FREEDOM OF NAVIGATION?
Is Piracy and Armed Robbery in SEA Still a threat to freedom of navigation?

- Attacks in Straits of Malacca and Singapore have reduced dramatically over the years.
- Majority of attacks in Southeast Asia appear to be petty theft or burglary of ships’ spares, equipment and cash.
- Many take place in vessels berthed in harbors or at anchor.
- Common target are smaller vessels (usually tugs) that transit the coast of Indonesia or those on local voyages.
Piracy and Armed Robbery in SEA still a cause for concern

Organized Crime Syndicates

- Smuggling
  - Piracy and Armed Robbery
  - Trafficking in drugs, guns and people

www.cil.nus.edu.sg
Piracy and Armed Robbery still a cause for concern
Thank you for your kind attention

E-Mail: ciltmd@nus.edu.sg