
Piracy is a global phenomenon but not a global problem. It is a phenomenon with many shared features, but how they are ordered and how they relate to one another is specific to each locality or region. There is an international dimension, which in some cases is significant, and when it is it is primarily political.

What are pirates after?

Pirates are criminals. They want money. At the lowest level they prefer cash, which they will take from ships’ safes and from the crew. They will also take anything of value that can be sold readily and turned into money. They will take ships’ stores such as paint and rope. They will take ships’ equipment such as radios and navigational aids. They will take equipment from the crews’ quarters such as televisions and DVDs. They will take the crews’ personal possessions such as clothes and their valuables such as jewellery and watches. While they are doing these things there is always a risk they will take crew members’ lives.

Piracy is a small group or gang crime. The idea of a lone pirate is slightly absurd. Being a gang crime, it has the quality of an enterprise. More organised pirate gangs steal larger and more valuable items including whole cargos. This could mean they will break into containers to get what they are looking for or, more usually, take control of a ship and unload its cargo—which will tend to be some sort of readily disposable commodity such as refined oil or metal bars—onto another ship or barge. They might then abandon the original ship, try to sell it or, in those cases where piracy merges with maritime fraud, use it to try and obtain other cargoes that they
will then steal in turn. This is known as a “lost” or “phantom ship” fraud. In these cases a ship is registered on the basis of false information including the falsification of its previous names, tonnages, dimensions and owner’s identity such that, once the crime has been committed, it is difficult and often impossible to trace it, its owners, its cargo and often its crew. Registration is facilitated by lax or corrupt registration authorities while ownership is hidden behind “paper companies” that are often set up only a few days ahead of an operation and based in temporary offices.¹ These sorts of sophisticated hijackings and frauds have been a feature of Far Eastern piracy, although incidents also occurred in the Mediterranean during the Lebanese civil war. Other pirates might simply steal boats or ships to sell. In 2006 the Indonesian authorities captured a gang that did this.² Pirates might also kidnap crew members for ransom; incidents such as this took place in the Malacca Straits and the Sulu Sea, and have also occurred off Nigeria. They can hijack whole ships and demand ransom for the ship, cargo and crew together, but because this requires a safe anchorage where the ship can be moored without any risk of its recapture, in recent years this form of piracy has been unique to Somalia.

Reasons for piracy

Piracy is a low-risk, criminal activity that pays well.³ It occurs for one overriding reason: opportunity. It is often suggested that poverty is the main motivator, but this is simplistic.⁴ Not everyone who is poor becomes a

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⁴ John S. Burnett, Dangerous Waters: Modern Piracy and Terror on the High Seas. New York: Dutton, 2002, p. 117. He notes that the increase in Malacca Straits and South China Sea piracy coincided with the Asian financial crisis of the 1990s. Peter Chalk, ‘Threats to the maritime environment: Piracy and terrorism’, Presentation to RAND Stakeholder Consultation, 28-30 Oct., 2002, p. 3, while acknowledging the same correlation adds that the crisis also meant that regional states were forced to reduce the resources they made available for surveillance. If anything this problem became worse after 9/11, which focused security measures on land. As a consequence, countries such as the Philippines and Indonesia had
criminal. Furthermore, to draw the conclusion that because people are poor they will try piracy as readily as they will turn to street crime or vehicle theft overlooks the inherent difficulty that men cannot survive or operate at sea without specific skills and in the absence of even a rudimentary support network to sustain them.

Economic dislocation has, however, had a role. Significant changes in trade flows have driven piracy in the past and even today changes in circumstances have encouraged some to try their hand. The criminologist Jon Vagg points out that “developing economies frequently suffer high crime rates, partly because development leads to structural changes in the economy and the dislocation of segments of the working population”.\(^5\) The consequence of uncontrolled migration from areas of low investment to areas of high investment can reach the point where the numbers of migrants outstrip the available employment. People who have been given the hope of a new life have seen that hope dashed; furthermore, in the process of uprooting themselves and moving to live amongst strangers they have left behind the social and family networks than might have sustained them through disappointment. The men who Eric Frécon calls the “new” pirates on the Indonesian island of Batam are arguably one product of such migration.\(^6\)

The Batam Industrial Development Authority (BITA) was created under President Suharto in 1978 to turn the island into a major industrial and free trade zone. Suharto appointed his then protégé—and eventual successor—B.J. Habibie to be its head. Along with the factories and harbours came golf courses, resorts and hotels designed to attract Singapore’s money and commercial spirit, the Batam development also attracted Singaporeans eager to let their hair down.\(^7\) It became, in Peter Gwin’s words, Singapore’s “dark sister”.\(^8\) The proximity of the city-state, coupled with the

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5 Vagg, ‘Rough seas?’ p. 66.
laissez-faire attitude Habibie encouraged, brought in legitimate investment mainly from Singapore, Japan and Taiwan but also less welcome elements: prostitution, gambling, organised crime and corrupt money. The corruption that welcomed these investments was home grown. As was the way under Suharto, Habibie, his family and his associates made a great deal of money. The poor from other parts of Indonesia who rushed to what promised to be an El Dorado ended up chasing too few jobs. Some turned to crime, including piracy. Data from arrest records during the 1990s shows that most pirates were men in their thirties with secondary school education who came from other parts of Indonesia. Frécon describes the life of Marcus Uban (not his real name), who drifted from Timor to Jakarta and then, like so many others, was lured to Batam where he eventually became a pirate. “Singapore was rich; we were poor,” Uban told Frécon; to escape “a miserable kampong life...we targeted cargo ships.” Gwin in his investigation described men with similar experiences lured to piracy partly for the money but also, as one put it, because “it is fun, an adventure, like James Bond”. One that would lead to a “happy, happy” time: after major hijackings the pirates would spend their money on the expensive delights of Jakarta; after attacks on smaller ships they would end up in the clubs and karaoke bars of Batam. Poor kampong dwellers almost certainly lacked the skills necessary to board ships, but the Batam development arose close to old pirate haunts such as Nagoya (known formerly as “Lubak Bajak” or...
the “pirate mire”) where the practice was well established and the skills did exist.\textsuperscript{17} Former pirates, as Frécon discovered when he visited the islands in 2002, were not averse to teaching a younger generation: one group reportedly travelled from Palembang in the province of South Sumatra to become “apprentices”.\textsuperscript{18}

This group would not have been unusual; the coast of South Sumatra is another pirate area and several pirates captured in the Riau islands in the 1990s came from there.\textsuperscript{19} The experience of Syaiful Rozi bin Kahar appears to be indicative: he moved from South Sumatra to Batam in 1981; after drifting for a while from job to job he was introduced to Abdul Rachman, a taxi boat driver who doubled as a pirate at night. Rozi joined his gang first as the man who bailed water from the boat before graduating to a raider. He eventually became the chief of the most successful pirate gang on the island. Rozi described Rachman and two others, Mohammad Rasim and Adi Buldog (sic), as the first generation of modern gang leaders who possessed at least some understanding of modern cargo vessels acquired, in at least one case, from personal experience as a crew member. They based themselves in Belakang Padang, a group of small islands north of Batam and close to the Phillip Channel.\textsuperscript{20} Rozy is also described by Frécon, who mentions him as a “Robin Hood” character who built a mosque and walkways in the village, together with another pirate, Winang, who moved his base from Belakang Padang to the north of Jemaja in the Anambas archipelago where he would operate amongst the local fishermen for several months at a time before he and his gang returned to their families in South Sumatra.\textsuperscript{21} Frécon reports that Rozy was murdered and Winang also died mysteriously, but below

\textsuperscript{17} Frécon, ‘Piracy and armed robbery at sea along the Malacca Strait’, p. 72.

\textsuperscript{18} \textit{Ibid.}, p. 71.

\textsuperscript{19} Eklöf, \textit{Pirates in Paradise}, p. 49.


\textsuperscript{21} For the accounts of Rozy and Winang see Eric Frécon, ‘Pirates set the straits on fire: Causes and contexts of the pirate arsons in the Malay Archipelagos since the nineties’, paper prepared for the conference on ‘Maritime piracy in Southeast Asia’ hosted by the Konrad Adenauer Foundation, Kuala Lumpur, 13-15 July 2006, p. 31. He is also mentioned in Frécon, ‘Piracy and armed robbery at sea along the Malacca Strait’, pp. 71-2 where he is named ‘Nasrul’. On Winang’s peripatetic pattern see Eric Frécon, ‘Piracy in the Malacca Straits: Notes from the field’, International Institute for Asian Studies (IIAS) \textit{Newsletter}, Number 36, March 2005, p. 10. Also author’s correspondence with Eric Frécon, Nov. 2007.
them was a second layer of experienced subordinates who could in turn draw on a third layer consisting of local fishermen, taxi boat operators, petty criminals and the like. As of 2005, Buldog and his brother had control of six or seven gangs on the island each of about eight pirates, and although his brother reportedly remained, Buldog himself retired in comfort to a town in East Java.

Sustained predation requires, at the very least, men like Rozi and Winang with organisational and leadership skills. While these gangs are nowhere near as powerful or as well-resourced as the gangs that hijack whole ships, they nonetheless exist on the same continuum as they are better equipped than ordinary fishermen and can have contacts in the legitimate business world and arrangements with corrupt officials. Organised gangs capable of conducting it as a business have dominated piracy in the past and the same is true today. Organised gangs are sensitive to risk: they have capital employed and want to protect it just as any business would. The extent to which piracy is organised is therefore important.

There are seven major factors that encourage piracy, lessen the risk of capture or detention and help protect pirate capital:

1. Legal and jurisdictional opportunities
2. Favourable geography
3. Conflict and disorder
4. Under-funded law enforcement/inadequate security
5. Permissive political environments
6. Cultural acceptability/maritime tradition
7. Reward

These reasons act and react with and on each other, and although one might predominate at any one time and in any one place they are all usually

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23 On Rozy’s murder see Frécon, ‘Piracy and armed robbery at sea along the Malacca Strait’, p. 72; on Buldog see Frécon, ‘Pirates set the Straits on fire’, p. 25 (where he refers to him as ‘Bulldog’), and ‘Piracy and armed robbery at sea along the Malacca Strait’, pp. 77-8 (where he refers to him as ‘Deddy’). Also correspondence with the author, Nov. 2007.

present to some degree; the cards remain the same but the deck is shuffled differently.\(^{25}\)

**Legal and jurisdiction opportunities.** The legal and jurisdictional difficulties faced by law enforcement agencies, which were examined in Chapter One and revolve largely around issues relating to state sovereignty, are significant in lowering the risk factor wherever piracy is a problem. These difficulties exist in national and international law. The weaknesses with the international Law of the Sea (UNCLOS) treaty’s approach to piracy can be summarised as:

- The restriction of the definition of piracy to “private”, as opposed to “public” or “political” acts, which excludes the actions of terrorists and insurgents
- The geographical restriction of piracy to the high seas
- A mechanism to enable hot pursuit into a state’s territorial waters
- The “two-ship” requirement that excludes internal seizure from the definition of piracy
- The lack of a requirement that states enact domestic anti-piracy legislation
- The lack of a requirement that states cooperate in anti-piracy measures
- The lack of an mechanism to penalise states that do not fulfil their anti-piracy obligations
- The lack of a disputes procedure.

However, if legal impediments were the only factor then piracy would be far less widespread.

**Favourable geography.** The popular image of piracy—courtesy of Hollywood—is of a fast ship bearing down on a slow, lonely merchantman on the high seas, an image that in turn derived from the so-called “golden age of piracy” when pirates did indeed sail from the West Indies and the Atlantic seaboard of North America to the Indian Ocean and back, plundering as they went. In reality and for the most part, piracy has taken place close to coasts or, at most, in the narrow seas that adjoin them such as the Caribbean, the Mediterranean, the English Channel or the South China Sea.

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This was certainly the method of Muslim and Asian piracy over centuries. Much the same applies today: contemporary piracy is land-based and concentrated in a limited number of areas, principally the narrow seas close to Southeast Asia, the Bay of Bengal, Somalia and Tanzania, the West African coast (Nigeria in particular) and parts of South America.26

Piracy is only sustainable in places that offer a combination of rewarding hunting grounds, acceptable levels of risk and proximate safe havens.27 Ships that are stationary in ports, harbours or anchorages are the favoured targets. In most cases the level of thieving is minor, although it can be violent and is always distressing to the victim. More than one expert has characterised this type of attack as “maritime mugging”.28

When ships are under way, attacks take place in the narrow seas generally but straits, bays, estuaries and archipelagos, where vessels are forced to move close to shore for navigational or commercial reasons, offer the best opportunities.29 Narrow seas are more crowded than the high seas, which means there are more targets. Crowded seas also force large ships to move slowly, which means they are easier to board and find it more difficult to take evasive action. In most cases what proximity to land does not mean is that calls for help will be answered quickly or at all. While it is true that Malaysia and Singapore have striven to improve their response times in those parts of the Malacca and Singapore Straits for which they are responsible, in most other piracy prone areas seamen should assume that any call for assistance is likely to be ignored.

**Conflict and disorder.** Piracy—and criminality at sea generally—can thrive when coastal regions are troubled by war or civil disturbance, or their aftermath. The piracy that plagued the Gulf of Thailand between 1975 and the early 1990s fed on the refugees fleeing the imposition of Communist rule

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28 For example, Jayant Abhyankar, deputy director of the IMB, quoted in *ibid.*, p. 88.

after the Vietnam War. Lebanon during the civil war from 1975 to 1990 became a haven for criminal activity; “unofficial” ports sprang up along the coast to handle stolen cargo and refit stolen ships. Similarly the sundering of Somalia into warring fiefdoms following the collapse of General Mohamed Siad Barre’s dictatorial regime in January 1991 appears to have triggered the country’s piracy problem.

*Underfunded law enforcement/inadequate security.* Many states find it impossible to sustain adequate levels of security in their coastal waters. In Southeast Asia the financial crisis of the 1990s meant that regional states were forced to reduce the resources they would have allocated to surveillance. After 9/11 the problem became worse as attention was focused on security on land, which meant that states such as Indonesia and the Philippines had even less available to spend on security at sea.

Inadequate state funding and training for enforcement organisations, whether these are the judiciary, police, coast guard or navy, allows pirates the freedom to operate. Many states simply cannot afford the personnel, equipment, and command and control apparatus that is required or, like Indonesia, believe what resources they do have should be expended on other priorities. The police post on the pirate island of Belakang Pedang, for example, was equipped with only two under-powered wooden boats and

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31 The first recorded piracy incident off Somalia took place on 12 Jan. 1991 and involved a ship named the *MV Naviluck.* According to the report it was attacked by three boatloads of pirates off Xaafuun. Three of the crew were taken ashore and killed. The remainder were forced overboard and were later rescued by a trawler. National Geospatial Intelligence Agency, ‘Anti-Shipping Activity Message’, 1991-4 [hereafter referred to using the formula ‘NGA ASAM’, Ref. no. Reports are available at http://www.nga.mil/portal/site/maritime/]. Although this was the first piracy report as such, the waters off Somalia had clearly become lawless before then. In 1989 there was a report of Somali Nationalist Movement (SNM) boats seizing three ships. The SNM was the movement that eventually overthrew the Barre regime. General Aideed was one of its leaders. NGA ASAM 1989-19, 5 Dec. 1989.


33 With regard to Indonesia see, for example, the comments of Eric Frécon in Langit-Dursin, ‘Indonesia key to end piracy in Malacca Straits’.
the four Indonesian Navy personnel assigned to the police post on Jemaja had no boats at all.\textsuperscript{34}

Enforcement is expensive; there are huge sea areas to be covered which require boats and aircraft well-equipped with radar, communications and, above all, trained and honest crews, shore-based command and coordination facilities, reliable information about ship movements and cargoes, and sound local knowledge of the waters and the weather, coupled with reliable intelligence about pirate activity. To be truly effective, however, surface search and interdiction need air support for surveillance, reconnaissance and, if necessary, deployment of police or marines who can be dropped onto suspect craft. None of this is cheap and, to all intents and purposes, none of the cost can be recovered from the crews and ship-owners it is designed to protect.\textsuperscript{35} In 1989 an official from Nigeria, an OPEC member and one of the world’s most important oil exporting countries wrote:

We recognise that large resources have to be diverted from areas of pressing need, particularly in the developing economies of the west coast of Africa for [the purpose of piracy control]. The question therefore is how many countries faced with the problem can afford the cost of effective policing of their territorial sea, not to mention their EEZ and contiguous zone. In the Nineteenth century Great Britain’s supreme control of the sea allowed her to use her naval strength and massive wealth to suppress piracy, [but now the Law of the Sea] “imposes on coastal states, regardless of their resources, an undue burden for providing security in large stretches of sea”.\textsuperscript{36}

It is against this background of limited resources that Indonesia, and to a lesser extent Malaysia, have sought to use Article 43 of UNCLOS as a lever to persuade states whose ships use the Straits of Malacca to contribute to the cost of security. This Article, which was drafted with the Malacca Straits in mind specifically, encourages states that use straits to cooperate with the states that border them to provide navigational and safety aids

\textsuperscript{34} Frécon, ‘Pirates set the Straits on fire’, p. 26; also ‘Piracy and armed robbery at sea along the Malacca Straits’, pp. 73-4.

\textsuperscript{35} In 1992, for example, Indonesia, Malaysia and Singapore adopted a policy of aggressively patrolling the Straits of Malacca, which resulted in the virtual elimination of pirate activity. Despite this success it had to be abandoned after six months because it was so expensive. See Hunter, ‘The growing threat of modern piracy’, p. 75. On the issue of non-recovery of costs see Sam Bateman, Catherine Zara Raymond and Joshua Ho, ‘Safety and security in the Malacca and Singapore Straits’, Policy Paper, Singapore: IDSS, May 2006, p. 6 and Lee Cordner, ‘Maritime terrorism: The next “soft target”’, \textit{Defence and Foreign Affairs Daily}, 9 Dec. 2003.

and other improvements, and to prevent, reduce and control pollution. Conferences held in Singapore in 1996 and 1999 brought user and coastal states together with the IMO and others to examine cooperative arrangements. It was agreed, consensually, that it was inequitable to expect the coastal states to bear all the responsibility for maintaining the Straits, that the user and coastal states should seek suitable cooperative arrangements and that funding mechanisms should be developed in order to fulfil the Article’s requirements.\(^{37}\) In fact, as far as the Straits are concerned, the limited range of technical activities which the Article covers have been funded by Japan (and Japan alone), through the Nippon Foundation, for the past 35 years, to the tune of around $100 million. Much of this equipment is now coming to the end of its service life. It is probably no coincidence that while Japan was prepared to be the sole benefactor so long as it was the primary beneficiary of safe passage through the Straits, the fact that China and other competitors such as Taiwan and South Korea are now equally dependent on secure passage through the Straits for their oil supplies might have prompted the Nippon Foundation to once again float the idea that user states should contribute to the cost. If a legal basis is needed it would likely be Article 43 (rather than an attempt to create a \textit{sui generis} solution), although just how it could work remains unclear. Nonetheless, the Foundation appears confident that an agreement will be reached before the end of the decade.\(^{38}\)

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This confidence was strengthened by the outcome of an IMO conference convened in Kuala Lumpur in September 2006 at which a number of user states, including China, India and the United States, pledged support for a variety of maritime safety projects for the Malacca Straits such as wreck removal, hazardous incident response capacity, a project to demonstrate the feasibility of installing AIS transponders on small ships, navigational aids replacement, and a tide and wind management system.\(^{39}\) It was suggested before the conference that the littoral states might ask for security assistance, but when the measures were announced none, with the possible exception of the AIS responder demonstration programme, were security related.\(^{40}\) Although much of this support was more rhetorical than actual, it did appear that progress was made.\(^{41}\) The IMO Secretary-General, Efthimios Mitropoulos, moreover made it clear that there was no plan to make ship owners pay a toll for using the Straits.\(^{42}\) Since the conference concluded, however, Indonesia has suggested that a special fund should be

\(^{39}\) Joshua Ho, ‘The IMO-KL meeting on the Straits of Malacca and Singapore’, IDSS Commentaries, 5 Oct. 2006; Marcus Hand, ‘Landmark deal for Malacca Strait safety’, Lloyd’s List, 19 Sept. 2006. Since the conference, Malaysian ship owners have put forward the view that a voluntary finding arrangement will not prove workable and will have to be made mandatory, but without making it clear how this could be achieved. Marcus Hand, ‘Malaysian owners call for mandatory Malacca security funding’, Lloyd’s List, 3 Oct. 2006.


established for security purposes exclusively. Safety and environmentally related cooperation took a step forward in September 2007 when the three littoral states agreed to establish a formal “Cooperative Mechanism” which was implemented in May 2008.

At the same time fingers have been pointed at the shipping industry for not doing enough to protect its own ships. Clearly, sensible precautions can and should be taken when ships pass through known piracy areas such as standing extra watches, priming fire hoses so they are ready to be used to douse suspicious small craft if they come too close, and fitting secure locks to doors. More sophisticated equipment such as high-voltage “fences” installed out board of the ship’s rail and electronic tracking devices are also available. This equipment, however, is far too expensive for the operators of most of the small ships that constitute pirates’ most common prey.

The alternative is to allow ships’ crews to exercise their right of self-defence. Almost nobody wants this to happen. Many states place severe restrictions on what arms can be carried (if any) while the ISPS Code demands that any arms on board be declared when entering a port. The primary purpose of carrying arms would be to deter. If, however, the crews laid down their arms and surrendered then the concept of arming crew would lose credibility. If fire were exchanged—particularly across an in-

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44 S. Ramesh, ‘Malaysia, Indonesia and Singapore set up cooperative mechanism’, ChannelNewsAsia, 4 Sept. 2007. The suggestion was quickly made that this might provide a model for other coastal areas: Marcus Hand, ‘Framework could be copied in other regions’, Lloyd’s List, 7 Sept. 2007. The UN has suggested that this mechanism could also enable user states and the shipping industry to be involved and ‘make contributions’: ‘UN-backed project to boost safety, security in vital Malacca shipping lane’, UN News Service, 18 Sept. 2007. In May 2008 the three littoral states announced the inauguration of the Cooperative Mechanism for the Straits of Malacca and Singapore. ‘Malaysia, Singapore and Indonesia implement cooperative mechanism to safeguard Straits’. Bernama, 27 May 2008.
47 Steven W. Haines, ‘Criminal violence at sea: Observations on the threat and
international border from one jurisdiction to another—the legal difficulties would worsen and multiply if there were fatalities. There are practical difficulties too: time would need to be set aside for training which would need to be repeated regularly if the crew were not to become more of a danger to themselves than to any pirate who attempted to get on board. Nor do merchant crewmen want to deal with the tiresome business of declaring the arms they are carrying every time they visit a port. They no longer see themselves as fighters.

Nonetheless, some of the fishing boats operating illegally off Somalia are clearly armed and in South East Asia some ship owners—particularly the owners of vulnerable vessels such as tugs, barges, dredgers and oil rigs under tow—are reported to have taken matters into their own hands and contracted with private security companies (PSCs) to provide either on-board armed guards or escort vessels. These companies assert that their presence alone, whether it is in the form of an on-board guard force or a clearly identifiable escort vessel, is sufficient to deter pirates. To date at least there is nothing in the public domain to show that this belief has ever been tested. Pottengal Mukundan of the IMB has reportedly said that he believes guards, armed or not, have only a limited deterrent effect, although they have apparently been employed successfully by Filipino tuna fishermen to deter pirates from stealing their catches. Little is known about the companies’ actual activities, as compared with their claims and press rumours.

However, in a letter to the Jakarta Post, the managing director of Background Asia Risk Solutions (BARS) provided some detail. He explained that his company concentrated on route planning, the provision of early warning to the appropriate authorities if an attack occurred and the execution of unspecified “measured tactics and strategies to suppress the attack”, actions that would presumably be in line with the right to self-defence, while waiting for the authorities’ response. Companies also appear to be in-

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48 With regard to Somalia see ‘Battle against illegal fishing off east Africa’s coast’, The Economist, 3rd August 2006. For a useful introduction to PSC operations in Southeast Asia see Carolin Liss, ‘Private security companies in the fight against piracy in Asia’, Perth, Western Australia: Murdoch University, Working Paper no. 120, June 2005.

49 Ibid., p. 6.

volved in risk assessment, crew training, the recovery of hijacked vessels and their crews, and fishery protection.\textsuperscript{51} One commentator has suggested that the various PSCs appear to have performed successfully and therefore, to a degree at least, are operating in cooperation with the states bordering the Malacca Straits, the Java Sea and around the southern Philippines.\textsuperscript{52} Given the questions that have been raised about their activities, this is certainly the message that various companies have endeavoured to put across. Singapore has admitted that it has licensed a small number of companies to operate in its waters which, because it only claims a three-mile territorial limit, are very small, but Malaysia and Indonesia have not.\textsuperscript{53} The two countries initially issued stern warnings against such practices but their subsequent responses, particularly those of Malaysia, became less rigid in the light of the concerns being expressed by the often internationally-owned companies operating vulnerable shipping in the region.\textsuperscript{54} The pattern now appears to be that these states are “informed” about planned operations, money changes hands and “permission” is granted, though rarely in writing.\textsuperscript{55} The essence is discretion. Malaysian authorities reacted angrily to two articles about PSC operations that appeared in the \textit{Straits Times} in April 2005 and the discovery in May of that year that one PSC, Glenn Defense Marine, had conducted an exercise on board its ship the \textit{Glenn Braveheart} while it

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\textsuperscript{51} Liss, ‘Private security companies’, p. 3; see also ‘Private navies combat Malacca Strait pirates’, \textit{WorldNetDaily}, 31 July 2005.

\textsuperscript{52} Ian Barclay, ‘Private sector helps ease piracy fears in Malacca Strait’, \textit{Lloyd’s List}, 4 July 2006.


\textsuperscript{55} Carolin Liss, ‘Maritime security in Southeast Asia: between a rock and a hard place?’ Murdoch University, Asia Research Centre \textit{Working Paper no. 141}, Feb. 2007, p. 18.
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was moored in Malaysia’s most important port, Port Klang.\textsuperscript{56} The company immediately suspended operations pending “clarification”.\textsuperscript{57} Within a matter of days Malaysia conceded that provided such companies abided by the requirements of the international straits regime it had no authority to control the operations of PSCs in international waters, but was nonetheless only willing to allow them to “pass through” Malaysia’s territorial waters under strict conditions.\textsuperscript{58}

\textit{Permissive political environment}. To flourish, piracy requires not only weak law but also lax law enforcement.\textsuperscript{59} This laxity is almost always the consequence of state weakness. In the absence of a hegemonic power this has been the normal condition on the high seas throughout most of human history.

Most conflicts cause refugee flows. The Vietnam War was no exception. When it ended in the mid-1970s it left behind a permissive environment that ended in tragedy. The imposition of Communist rule in 1975 led people to flee Vietnam. Many left by sea, so many, in fact, that they became known as the “boat people”.\textsuperscript{60} The international response—driven largely by guilt—was initially sympathetic but while they were at sea the refugees were sailing in a political vacuum. From almost the very beginning those fleeing what had been South Vietnam were preyed upon by pirates. This predation was well known but no systematic attempt was made to suppress it. The Socialist Republic of Vietnam had unequivocal standing in international law to act, or to ask others to act, to protect its citizens but did nothing, although it took vigorous action if pirates attempted to use its own territorial waters.\textsuperscript{61} That said, Communist navy boats did commit acts

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\textsuperscript{57} Malakunas, ‘Armed escorts in high demand at sea’.


\textsuperscript{59} A point confirmed by Pottengal Mukundan in his interview with the author, April 2004.


\textsuperscript{61} Vo, \textit{The Vietnamese Boat People}, p. 144.

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of piracy. Other states had no standing to act directly. As the willingness of Western states to resettle victims declined, so the nations of Southeast Asia became less receptive to the victims’ plight. Malaysia and Singapore gained a notorious reputation for turning boats away. The attitude of the Thai authorities could best be described as ambivalent. On the one hand they tried to house the refugees and aid their resettlement. On the other, while it might be true that investigations were hampered by an apparent code of silence in tightly knit fishing communities, passivity on the part of the police, navy and judiciary at the national level led to speculation that the pirates might have benefited from some form of semi-official sanction. By 1980, for example, courts in Thailand were handing down three-day prison sentences to fishermen who tried to help the refugees by towing their boats to shore. Even though many boats sneaked past the patrols on their second attempt, some were forced back into the arms of pirates who saw profit in robbery, pleasure in brutal and often repeated rape, and escape from the consequences of what they had done in wholesale murder.

This evil episode started quietly enough. Most of the pirates were Thai fishermen. That does not mean that these men were transformed from innocents to criminals overnight. Nor is it meant to imply that most fishermen are pirates or potential pirates; more often they are victims.

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64 Grant, *The Boat People*, p. 63.
71 I.G. Hyslop in ‘Contemporary Piracy’, in Ellen, *Piracy at Sea*, p. 16 reports that ‘Thai fishermen have been accused of attacking, and in some cases throwing overboard, Malay and Bangladeshi fishermen - several hundred disappeared in recent years...Thai fishermen are themselves victims of violent attacks—some-
theless, in Southeast Asia generally, the distinctions between fishermen, smugglers, illegal traders and pirates can be blurred and the exercise of extreme violence is not uncommon.

In the beginning fishermen came to the assistance of the refugees, who often set sail in boats that were barely seaworthy. Once the rumour spread that they had dollars, valuables and even gold on the board—and the refugees sometimes paid in a form of beaten gold called “tael” because they had no Thai currency—then, starting around the second half of 1979, the attacks began.

Even then Jack Bailey, an ex-US Army colonel who headed a rescue operation, estimated that only 300 vessels, around two per cent of the Thai fishing fleet, became involved. Fishing boats working alone became groups of two or three boats working together using radio to coordinate their assaults, often by forming rings perhaps ten miles in diameter which closed once a refugee boat had entered the trap. The evidence of radios and radar, larger boats and automatic weapons suggested to Bailey that as early as 1980 the pirates were becoming professional and, moreover, enjoyed the protection of corrupt local officials.

In June 1979 a US estimate suggested that just under a third of all refugee boats were attacked, but only a few years later another estimate suggested that this proportion had grown to two-thirds. Some boats were boarded more than once; in one well-documented case a boat was attacked ten times, several were attacked 24 times and there is a record of one boat being attacked 47 times.

The pirates turned the uninhabited Ko Kra Island, about 55 miles (80 kms) off the Thai mainland, into a dumping ground for their victims to which they returned repeatedly for orgies of rape. The suggestion has

72 Grant, *The Boat People*, p. 64.
77 Grant, *The Boat People*, p. 65.
79 Nhat Tien et al., *Pirates on the Gulf of Siam*, pp. 8-14, 27-9, 32-5, 71-3 &
been made that this was a deliberate ploy designed to demean the women and prepare them for a life in Bangkok’s brothels,\(^80\) to which an unknown number were sold.\(^81\) One victim of multiple rapes ran into the long grass to escape her tormentors. Unwilling to search for her they set the grass alight. She preferred to burn rather than surrender.\(^82\) On more than one occasion, Thai police and naval vessels passed by and even anchored without responding to the refugees’ pleas for help.\(^83\) In at least one case the crews came ashore, forced the refugees to strip naked and then left.\(^84\) Reportedly after 1982 and the introduction of UNHCR-initiated anti-piracy measures, the number of attacks declined but the violence only became worse, common enough for the acronym “RMP”, which stood for “raping, murdering and pillaging”, to appear regularly on US case histories.\(^85\) Engines were sabotaged; holes were smashed in hulls and often, once the pirates had returned to their own boat, they turned it around and rammed it into the refugees’ craft to make sure it sank.\(^86\) The killing, in other words, had become premeditated.\(^87\) By 1989 the suspicion was that hard-core criminals with possible wider connections to organised crime had replaced or were now working in league with the professional pirates and what remained of the fishermen pirates.\(^88\) The whole shameful episode ended not as a result of state action but because the prey stopped coming.

When and where such permissive environments exist within states and their territorial waters, therefore, they generally come about either because the political environment is corrupt locally or nationally and allows illegal activity to take place for its benefit; or because law enforcement is under-

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\(^{80}\) Eklöf, *Pirates in Paradise*, p. 23.

\(^{81}\) Ibid.


\(^{83}\) Vo, *The Vietnamese Boat People*, pp. 147-8; McBeth, ‘Thailand’s part-timers in terror’.

\(^{84}\) Nhat Tien *et al.*, *Pirates on the Gulf of Siam*, p. 11.

\(^{85}\) Vo, *The Vietnamese Boat People*, p. 144; Grant, *The Boat People*, p. 65.


\(^{87}\) Vo, *The Vietnamese Boat People*, p. 151.

funded and lacks the resources to deal with it. Often, of course, both conditions apply simultaneously. Because the police are under-funded (which usually means under-paid) they connive with criminals in order to make a living. Whatever the reason, a supportive, criminal infrastructure can develop which is able to feed pirate groups with intelligence and equipment, and dispose of stolen goods, and even entire cargoes, if necessary.89

Corrupt law enforcement officials are a feature of all areas affected by piracy. They are certainly a problem in Thailand, the Philippines and even parts of Malaysia along the Malacca Straits and Sabah, where local fishermen are regularly confronted by demands for money or fish. There is a suspicion that some fishermen fail to report attacks because they are fearful the police are involved and might well take revenge.90 However, the jurisdiction with the most notorious reputation currently is Indonesia. Elements of the Indonesian police and navy have been involved in piracy for years but the central authorities have ignored the problem. To take one example: everyone in Belakang Padang knows who the pirates are but the police have no interest in arresting them. On the contrary the police are, according to Eric Frécon, “not only tolerant of the criminal activities of the pirates but...also accomplices and act as bodyguards.”91 The Indonesian authorities appear to give the impression that they are prepared to tolerate small-scale piracy, and even piracy on a larger scale if it has sufficient political protection, providing it is not linked to insurrectionist groups such as GAM. A stance perhaps best encapsulated by the daughter of the central government official responsible for Belakang Padang, who married the leader of a pirate gang.92

Cultural acceptability. Piracy can only take root in areas with a maritime tradition and the skills that go with it, an important fact that is often over-

89 Examples can be drawn from around the world: on China see, for example, Chanda, ‘Foot in the water’; Jon Vagg, ‘Rough seas?’ pp. 63-80, and on the Anna Sierra case, Samuel Pyeatt Menefee, *TMV* Jane’s SR. Coulsdon: Jane’s Information Group, 1996, p. 72; on Indonesia see, for example, Michael Richardson, ‘Crackdown on piracy’, *Asia-Pacific Defence Reporter* Oct.-Nov. 1992, and on military involvement in particular, Huxley, *Disintegrating Indonesia?* p. 82; on Brazil see, for example, Gottschalk & Flanagan, *Jolly Roger with an Uzi*, pp. 60 & 62; on West Africa see *ibid.*, p. 64 and Hyslop, ‘Contemporary Piracy’, pp. 8-10.

90 Liss, ‘Maritime security in Southeast Asia’, p. 6.

91 Langit-Dursin, ‘Indonesia key to end piracy in Malacca Straits’.

92 Frécon, ‘Piracy and armed robbery at sea along the Malacca Straits’, pp. 74-5 and ‘Pirates set the Straits on fire’, pp. 27-8.
looked. Trading patterns are one factor that helps to determine this acceptability: it is possible that piracy has deeper roots in Southeast Asia than in West Africa because important trading routes have bisected Southeast Asian archipelagos for centuries, making piracy there a way of life that has been established for generations, often on a clan or family basis. For example, in the Tauseg communities of the Sulu archipelago that stretches between the southern Philippines and Borneo, piracy “was encouraged among the men, and associated with highly regarded virtues”. The maritime expertise of the Tamil Tigers, who have probably engaged in piracy to support their insurgency, is founded on a centuries-old Tamil maritime trading tradition based on the port of Velvettitturai. The Riau-Lingga archipelago, which lies a short distance south of Singapore, is a notorious piracy centre today but it has been one since long before the colonial powers arrived in the early nineteenth century. In some communities, however, where everyone knows everyone else’s business or where intimidation prevails, drawing the line between social acceptability and social peace might be difficult. The promise of reward. No opportunity, however great, would be exploited without the promise of reward, and piracy can be “a highly lucrative venture”, as the OECD points out. The buccaneers preferred cash; most modern pirates prefer the same. Reward is relative, and sums that might appear paltry to people on even moderately comfortable incomes in the West are well worth the risks involved to the people from the pirate communities involved. There are numerous reports from all around the world of paint being stolen from lockers and rope from decks. Jon Vagg, however, analysed the cash takings from 83 pirate attacks in Indonesian waters

93 See Menefee, *TMV*, p. 132 on the existence of ‘pirate societies’ in South East Asia, the Red Sea and—arguably—the Caribbean; the societal acceptability of piracy in South East Asia has been noted by several writers including Vagg, ‘Rough seas?’ pp. 67-8; Hyslop, ‘Contemporary piracy’, pp. 12 & 28 and Pugh, ‘Is Mahan still alive?’ p. 2. Stefan Eklöf, on the other hand, argues that the roots of Riau piracy lie in recent, rapid social and economic change driven by the expansion of global capitalism: Eklöf, *Pirates in Paradise*, p. 58.


97 Frécon, ‘Pirates set the Straits on fire’, p. 25.

over the 1991-92 period (there is little reason to believe that, apart from inflation, the value of the rewards have changed greatly since the time of the study): attackers in 21 cases got away with nothing, 35 made off with between $100 and $5,000 while 22 got their hands on sums ranging from $5,000 to over $20,000. His analysis suggests that in at least 30 per cent of cases pirates got away with over $1,000, which even if split amongst a gang, was a good return for a night’s activity in a country where the 1991 per capita income was $638.99 In 1997, during the Asian financial crisis, a factory worker on Batam in Indonesia could earn around $320 per month with overtime. On the basis of one pirate’s confession in 1993 in which he claimed to earn around $270 for his part in a pirate raid, the Swedish academic Stefan Eklöf estimates that by 1997 it was reasonable to assume a gang member could expect to take home between $500 and $700 from each attack.100

As noted earlier, these cash thefts can be supplemented by the sale of portable equipment from the ship such as binoculars, DVD players, radio and radar sets, plus whatever valuables the pirates may find on the crew personally and in their quarters, such as jewellery and watches. Peter Chalk has suggested that on the basis of this wider “take” the average now is more like $10,000.101 On the same basis Mark Valencia has quoted a figure of between $5,000 and $15,000.102 In fact, one of the reasons why the number of pirate attacks, particularly against large international carriers, might be dropping but the seriousness of the attacks against other craft might be increasing is that, in direct response to the theft of money from ships’ safes, large ships now carry much less cash than they once did. Shipping companies and ships’ captains have now joined other travellers and put their trust in the international banking system and the ubiquity of the credit card.103

99 Vagg, ‘Rough seas?’ pp. 73-4.
100 Eklöf, Pirates in Paradise, pp. 100-1.
However, the pickings only become really rich when the pirates take over a ship entirely (hijackings) and sell the cargo. These thefts can be bulk cargoes such as oil and petroleum products, which are often siphoned off into another tanker, or the contents of shipping containers about which pirates often appear to have prior knowledge. Ship hijackings have been a feature of Southeast Asian piracy. The alternative is to kidnap and ransom the crew, which has been the principal objective of the most active Somali pirates.

In the end, pirates are criminals and while the tone might be sneering the assessment of Gray and his colleagues is correct: “For most, piracy is a low-risk, high-paying job when compared to other lines of work they qualify for”.104

What types of ship are attacked?

It is natural that the press should report attacks on large ships. Unfortunately this gives the impression that large vessels on international voyages are the pirates’ prime targets. They are not. Attacks on such ships in such circumstances certainly occurred during the 1990s, particularly in Southeast Asia, but few have taken place more recently, perhaps because when they pass through known pirate areas now they do so in a state of high alert. Nonetheless, because crew numbers have been reduced large ships remain vulnerable.105 Smaller crews mean more work for those who remain, which in turn leads to higher levels of fatigue.106 When large

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ships are attacked pirates in the Straits and elsewhere seem to favour bulk carriers, probably because they have low freeboards (that is to say there is a short distance between the waterline and the deck). 107

Despite this vulnerability, pirates on the whole prefer to attack smaller ships. A study of actual attacks in the Malacca Straits between 2000 and 2005 showed a general reduction in assaults on ships above 20,000 GRT. 108 Tug and barge combinations appeared to be particularly vulnerable. 109 The crews of smaller ships also tended to be more at risk from kidnapping. During the period of the study, 26 abductions took place on smaller vessels compared with five on vessels over 1,000 GRT. 110

The study also highlighted the fact that most attacks are on local craft rather than on international vessels passing through the area. 111 This pattern accords with historical experience: the majority of victims of Malay piracy were generally local people or merchants from China and Indochina. In 1824, which was a year when pirates were particularly active, only one British ship was attacked. During the 1840s, when around a dozen British ships were reported lost to pirates, seven were looted after they ran aground and the rest simply lost without trace. 112 Even during the period at the end of the eighteenth century, when the south China coast was under the sway of pirate “confederations”, European opium ships, which were rich prizes, were avoided because they were better armed, 

107 Bateman et al., ‘Safety and security in the Malacca and Singapore Straits’, , p. 22; Thomas Turner, ‘Bulk carriers ‘top of pirate hit list’’, Lloyd’s List, 9 May 2006; on the particular vulnerability of ships with low freeboards see, for example, Hunter, ‘The growing threat of modern piracy’, p. 72 and Burnett, Dangerous Waters, p. 119-33, who recounts the sometimes ludicrous measures crews take to minimise it.

108 Sam Bateman et al., ‘Sea Lane Security’, p. 22. The study did not, however, indicate how small ships needed to be before they no longer interested pirates. In his study Mark C. Farley suggests the great majority of attacks were against commercial vessels over 500 tons: Farley, ‘International and regional trends in maritime piracy, 1989-1993’, Monterey: Naval Postgraduate School, Masters Thesis, 1993, p. 12. During the second quarter of 2000, 20 per cent of the attacks on vessels in Southeast Asia occurred against medium-sized ships (i.e. up to 10,000 GRT) or large ships (i.e. over 20,000 GRT): Jane Chan and Joshua Ho. ‘Report on armed robbery and piracy in Southeast Asia, 2nd Quarter 2007’, S. Rajaratnam School of International Studies, Maritime Security Programme, ND.


110 Sam Bateman et al. 2006, ibid., p. 21.

111 Ibid., p. 22.

and although some European ships were attacked the pirates preferred to prey upon the more numerous and poorer, but relatively defenceless, local craft.\textsuperscript{113}

\textit{Methods of attack and boarding}

Attacks against ships at anchor demand the ability to approach ships quietly. Attacks mounted when ships are underway at sea clearly require additional skills. The perpetrators need to be able to approach ships undetected and then board them while they are still moving. Mark Farley, a lieutenant commander in the US Navy who analysed Office of Naval Intelligence (ONI) data on piracy from 1989 to 1993, found that stationary ships were boarded successfully over 90 per cent of the time and that figure dropped to 62 per cent when ships were underway.\textsuperscript{114}

The most vulnerable vessels are those that move slowly, have low free-boards, and because of size or draft restrictions are unable to manoeuvre freely. Pirates in Southeast Asia, although their religious observance appears to be slight, prefer to avoid attacking during Ramadan and when the moon is full. According to the accounts given to Frécon, they often drink and even take morphine before leaving to dull the sense of danger.\textsuperscript{115} If this is insufficient, many of them also believe that local spirits can make them invisible or even immune to bullets.\textsuperscript{116} They tend to depart their villages at around 20.00 and return around 02.00. They often blend into the nocturnal fishing fleets by fishing, or pretending to fish, as they size up the situation.\textsuperscript{117}

The most common boarding method, and certainly the one that is practiced most frequently in Southeast Asia, is to approach to the stern of a ship using a fast boat. In Southeast Asia this is usually a small fishing boat, called a \textit{pancung} in Indonesia, often equipped with more than one outboard motor and crewed by seven or eight men, which because of its weight and

\begin{enumerate}
\item[Ibid., pp. 97-8.]
\item[Farley, ‘International and regional trends in maritime piracy’, p. 23. He also noticed that whether ships were stationary or not over 80 per cent of successful boardings took place at night, compared with 40 per cent during the day. This might have changed as pirates have become more willing to use firearms to stop ships.\textsuperscript{114}
\item[Frécon, ‘Pirates set the Straits on fire’, p. 35.]
\item[Frécon, ‘Piracy and armed robbery at sea along the Malacca Straits’, pp. 79-80; also Gwin, ‘Dark passage’, p. 139.]
\item[Frécon, ‘Pirates set the Straits on fire’, p. 35 and ‘Piracy and armed robbery at sea along the Malacca Straits’, p. 79.]
\end{enumerate}
shape is able to cut through a ship’s wake unlike lighter, fibreglass boats.\textsuperscript{118} If the target is equipped with radar this exploits the radar “blind-spot” (called “sector blanking”) caused by the ship’s funnel. However, because most pirate craft are not metal-hulled and are easily lost by radar amidst the wave clutter, this approach is more likely dictated by the lower freeboard at the stern of favoured vessels, while the curve of the ship’s hull at this point hides the pirates from sight once they are alongside. A grappling device made from metal or shaped from a mangrove root is attached to a rope or more often a long bamboo pole (or poles lashed together), which when hooked over the stern rail allows the pirates to pull themselves up.\textsuperscript{119} The disadvantage with this approach is that the turbulence associated with the ship’s screw can make any approach and subsequent station holding extremely difficult and hazardous.\textsuperscript{120} Boardings have been known to take place at speeds of up to 18 knots.\textsuperscript{121} A variation on this approach is to drive a boat against the side of a ship. When this is done a vacuum is created and the pirate boat holds fast to the ship’s side. But there is danger in this method too, for if the ship rolls heavily it can turn the boat over.\textsuperscript{122} An alternative, which was only been used infrequently because of the risks involved, and only in Southeast Asia when boats lacked the power to catch and then hold station with a moving vessel, was to position two boats either side of the bow of an approaching ship and, by stringing a cable between two, allow the ship’s momentum to draw the boats against the hull which was again scaled using long poles or ropes.\textsuperscript{123}


\textsuperscript{119} Frécon, ‘Piracy and armed robbery at sea along the Malacca Straits’, p. 79. The pirate Gwin interviewed claimed he and his companions (who described themselves as ‘jumping squirrels’) used this method to put five men aboard a ship in a minute: Gwin, ‘Dark passage’, pp. 146-7.

\textsuperscript{120} Rupert Herbert-Burns, ‘Compound piracy at sea in the early twenty-first century: A tactical to operational-level perspective on contemporary, multiphase piratical methodology’ in Peter Lehr (ed.), \textit{Violence at Sea: Piracy in the Age of Terrorism}, New York: Routledge, 2007, p. 106; Gwin, ‘Dark passage’, p. 147 reports that because the whole gang depend on the skill of the ‘tekong’ who pilots the boat, he is paid the largest share of the money.


\textsuperscript{122} Stuart, \textit{In Search of Pirates}, p. 195.

\textsuperscript{123} Anthony Davis, ‘Piracy in Southeast Asia shows signs of increased organisation’, p. 38. For an example of this tactic see NGA ASAM 2003-194, 30 May 2003; also Herbert-Burns, ‘Compound piracy at sea in the early twenty-first century’, p. 106.
Scaling a ship’s side is not easy. For this reason most boardings of this type are undertaken at night and in calm conditions.\textsuperscript{124}

To circumvent these restrictions more direct and violent methods, which to some observers suggested some form of military training, have become increasingly common. The first has been used in parts of South-east Asia: the use of multiple, fast-moving boats that weave in front and around a target in an attempt to distract the watch-keepers and force the ship to slow down sufficiently for other members of the gang to board the ship using grappling hooks. The second has been used in Southeast Asia and Somalia: the use or threat of gunfire aimed at the bridge to force ships to stop and lower a ladder. Herbert-Burns makes the point that small calibre weapons would be unlikely to penetrate steel or the armoured glass of bridge windows (but could be sufficiently intimidating to achieve the desired effect), which would require either heavy-calibre machine guns or rocket-propelled grenades; and pirates have used both types of weapons, off Somalia in particular. However, firing any sort of weapon from a moving boat with any accuracy is extremely difficult.\textsuperscript{125} One major incident occurred in 2003 when 50 pirates in two boats armed with assault rifles fired on the Taiwanese-registered \textit{MV Dong Yih} for two hours in the Malacca Strait off Aceh in an attempt to force it to stop. They failed; the 2,600-ton ship loaded with fish escaped, although the captain was wounded and over 100 bullets had riddled the superstructure.\textsuperscript{126}

\textit{The cost of piracy}

No systematic study of the cost of piracy has been undertaken.\textsuperscript{127} Accurate assessment is made difficult by the lack of standard measures or even definitions. This makes it hard to know what is being included in any calculation

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\begin{itemize}
\item \textsuperscript{124} Herbert-Burns, ‘Compound piracy at sea in the early twenty-first century’, p. 107.
\item \textsuperscript{125} \textit{Ibid.}, p. 110.
\item \textsuperscript{127} Peter Chalk: ‘No empirical work has been done on the cost of piracy, certainly in comparison with the cost of suppression.’ Interview with author, Aug. 2004. According to a leading insurer, ‘…there are no reliable figures documenting the economic consequences’: ‘Piracy-threat at sea: A risk analysis’, Munich Re Group \textit{Knowledge Series}, 22 Sept. 2006, p. 37.
\end{itemize}
The IMB in a confidential report issued in 1991, comments that it is difficult “to quantify losses incurred by insurers” or even to establish precisely how many ships are involved in maritime crime in Southeast Asia. Furthermore, the “precise number of (phantom ship) incidents is impossible to ascertain with many cases of individual cargo losses being dealt with locally”. Therefore estimates vary wildly. Alan Chan, the Managing Director of the Singapore-based Petroships which owned the Petro Ranger, a ship hijacked in 1998 on a voyage from Singapore to Vietnam, believes that piracy adds about $500 million to the shipping industry’s costs each year as a result of higher insurance premiums, delays and additional on-board security. Chalk suggests that the cost to the shipping industry is at least $1 billion per year. John Burnett, the author of Dangerous Waters, cites the estimate of the US-based analyst John Brandon that financial losses from maritime crime amount to as much as $16 billion. Gray, Monday and Stubblefield quote the same figure as Burnett but describe it as the total for piracy and maritime fraud. Gal Luft and Anne Korin also suggest $16 billion but say this covers the loss of ships and cargo and rising insurance charges. The journalist Peter Goodspeed reports a suggested figure of $23 billion. The naval strategist Vijay Sakhuja advances a figure of “some $25 billion” and the Southeast Asian historian James Warren “about $25 billion” as the cost of piracy to the world economy.

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128 For a discussion of some of these problems see M. Bruyneel, ‘Current reports on piracy by the IMO and IMB–a comparison’, paper prepared for the People and the Sea II Conference organised by the Centre for Maritime Research (MARE) and the IIAS, Amsterdam, 4-6 Sept. 2003.


132 Burnett, Dangerous Waters, p. 70.

133 Gray et al., Maritime Terror, p. 1


The marine lawyer Michael McDaniel suggests the cost of cargo crime and piracy should be combined, which results in a figure closer to $50 billion. By way of comparison estimated losses from cargo theft worldwide range from $30 to $50 billion annually, mostly from trucks.

At the high end at least these figures appear fanciful. The US maritime intelligence specialist Charles Dragonette brands Luft and Korin’s estimate as one that “does not stand up to simple arithmetic”. According to the IMB there were 445 reported incidents of actual and attempted attacks in the year to which Luft and Korin refer, which, as Dragonette points out, means that the average loss per incident amounts to a preposterous $38 million. The reinsurance company Munich Re report that in 1998 the “reputed average loss per reported attack was in the order of €50,000” (approximately $60,700). In that year the IMB reported 202 actual and attempted attacks. Calculating on the basis of Munich Re’s “reputed” figure the loss that year amounted to $12.3 million (excluding indirect costs such as contractual penalties or additional crew pay). Even if any of these estimates are accurate the amounts are still miniscule compared to an estimated 2005 total worldwide maritime commerce figure of around $7.8 trillion. On a more limited geographical scale the value of the trade that passes through the Malacca Straits each year has been put at well over $500 billion and is probably nearer $2 trillion. Even an estimate taken on the basis of the worst year (2000) when 75 attacks took place, and doubling this number to allow for unreported cases, suggests—assuming an average “take” of $5,300 per attack—a total loss of only $795,000. This equates to between 0.001 and 0.002 per cent of the value of goods transported through the Straits. If the much higher average “take” of $10,000 is accepted the total loss would still only amount to $1.5 million. During 2007-8, several very large ransom...
payments were reportedly made to recover ships and their crews hijacked in Somalia. Nonetheless, although an individual ship owner with insufficient insurance cover could be ruined by a single large payment if a ship were to be held for ransom and thereby prevented from working for any length of time, the estimated losses for the shipping industry as a whole remain insignificant. As Gottschalk and Flanagan point out, so long as losses remain at this negligible level “businesses engaged in maritime commerce will have little incentive to take the steps necessary to eradicate, or even to seriously combat, the piracy problem”.

One reason for the substantial variation among the figures is that analysts disagree about what to include. Counted among the more tangible possible costs are insurance, those relating to delays and re-routing, and increased freight rates. For states that harbour pirates, however unwillingly, there are also the less tangible costs associated with loss of reputation, loss of harbour fees from bunkering services and even cruise ship visits, suppressive measures and environmental damage. Nonetheless, these are merely possibilities: in modern times “no known trade has ceased or been re-routed”.

Insurers, in fact, play a crucial, if hidden, role. By spreading the risk and shielding the individual ship-owner, insurance can enable governments to ignore the problem of piracy for longer. On the other hand, the insurance industry can apply pressure swiftly and decisively whenever it believes the

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141 For example: ‘Official: Pirates were paid $1.2M ransom’, AP, 27 April 2008.
143 Markets can react dramatically following a well-publicised incident such as the 2002 suicide boat attack on the MV Limburg in Yemeni waters; according to Neela Banerjee and Keith Bradsher, ‘A vulnerable time to be moving oil by sea’, *New York Times*, 19 Oct. 2002, insurance rates for tankers passing through Yemeni waters tripled in the aftermath of the attack. However, it is important not to overstate the consequences. As far as insurance is concerned generally, marine underwriters to date have, in the main, been able to treat piracy as a low to medium-level nuisance. See Jonathan Ignarski, ‘Piracy, law and marine insurance’ in Ellen, *Piracy at Sea*, p. 187. This position appears to be continuing: Vivian Schlesinger, ‘Piracy not hitting insurance rates’, *Journal of Commerce Online*, 13 Jan. 2003.
144 Dana R. Dillon argues that these increased costs as a result of piracy act as a non-tariff trade barrier. Also the costs of using the most dangerous ports can be sufficiently high to discourage ship-owners from taking cargo there, which is, in effect, a form of economic boycott. Dana R. Dillon, ‘Piracy in Asia: A growing barrier to international trade’, The Heritage Foundation *Backgrounder*, no. 1379, 22 June 2000, p. 2.

Risks are becoming unacceptably high; when that has happened in the past it has been insurers who have pressed hardest for action. However, the regularly repeated assertion that piracy leads directly to higher insurance premiums appears to be unsupportable.\(^{146}\) Although the industry does recognise that piracy is a problem it does not regard it as serious; in fact it does not even account for piracy claims separately. Maritime disorder generally, however, it does see as a serious issue.\(^{147}\)

Other, less tangible, costs result from the diversion of investment into security and away from more productive activity. There can be diversion into active measures such as electric fences around ships’ rails and even armed escorts, or more passive measures such as improved communications and alarms. Looking even more broadly, it is necessary to take into account the disruption to the efficient operation of the economy and the disincentive effect that pirate activity can have on the business community to continue or expand their activities, or for new entrants to come into the market.\(^{148}\) Once again, all these considerations are largely hypothetical.

One cost that is far from hypothetical is the human cost in terms of numbers killed and traumatised.\(^{149}\) It must never be forgotten although all too often this appears to be the case.\(^{150}\) Seafarers even on large ships are apprehensive and even afraid when they pass through pirate-prone areas. Those that have suffered attacks are often unwilling to return to sea.\(^{151}\) Security is primarily the responsibility of shipping companies but

\(^{146}\) Ibid., p. 175.


\(^{150}\) Interview with Captain John Swain, Dec. 2007. Douglas Stevenson, a director of the Seamen’s Church Institute of New York and New Jersey, makes the point that crew members who have been the victims of piracy are compensated for the loss of their belongings but never for the long-term effects of the physical and mental trauma, which although the precise numbers are unknown, can be so severe that they leave the industry: Michael Grey, ‘Stevenson says victims of piracy must be offered structured support regime’, *Lloyd’s List*, 25 May 2007.

although they have developed defensive procedures and even training, all too often they do not appear to take the problem sufficiently seriously, an attitude which may be based on the fact the ships, cargoes and even crews are insured, which limits any loss. In this the industry appears to share the interests of the littoral and flag states in not addressing the problem with the honesty it demands. Seafarers are due as much protection as everyone else from their own governments and the governments through whose waters they sail. Yet they often do not get it. According to Andrew Linnington of NUMAST (now renamed Nautilus following a merger with its Dutch equivalent), between 1995 and the middle of 2006, 3,284 seafarers were held hostage, 617 were threatened on board ship, 463 were injured, 349 were killed, 208 suffered actual assault, 112 were kidnapped or held to ransom and 164 are missing presumed dead.\footnote{Andrew Linnington, conversation with author, Aug. 2006.} In a subsequent survey conducted among 350 of the union’s members in the UK and Denmark, 32 per cent admitted to being “very” concerned and 41 per cent “mildly concerned” about piracy (27 per cent were unconcerned). Unsurprisingly those who were “very” concerned sailed regularly through piracy-prone areas. More alarmingly, 22 per cent had been on a ship that had been involved in a piracy incident or an attempted attack, in some cases more than once.\footnote{Marcus Hand, ‘Survey reveals human cost of piracy’, \textit{Lloyd’s List}, 14 June 2007.} The cost of piracy, in other words, is not purely economic.

\textit{State piracy}

All the piracy that has been considered up to this point, even privateering, has had a common theme: the desire for financial gain. However, there is another form: the use of maritime depredation by a state for the purposes of policy. Arguably it has occurred, albeit rarely. Because the purpose behind these attacks is not actual or intended robbery (\textit{animus furandi}) they have not been regarded as piracy, as it is a widely held misapprehension that such intention is essential. The issue is again one of “private” versus “public” ends. The writers of the Harvard Draft retained the “private ends” requirement, although they did not define it. Dubner describes their decision as one of “expediency” because it meant that they could avoid such difficult political questions as immunity, asylum, insurgency and belliger-

\footnote{Chalk, \textit{Non-Military Security and Global Order}, p. 66. One concrete example is that of the Master and Chief Engineer of the \textit{Alondra Rainbow}.}
If the distinction between “private” and “public” is to be eroded then the possibility of state piracy needs to be addressed. It is worth recalling that Kenny, as noted already, defined piracy as any armed violence at sea which is not a lawful act of war. Unfortunately, it is no longer current practice between states to “declare” war. In some cases, what amounts to a state of belligerence is over so quickly that one side is able to amass the force necessary to achieve a limited objective before withdrawing behind inviolable borders or calling in international mediation. Piracy, or at least the simulation of piracy, can enable states to achieve objectives that might otherwise only be attainable through open conflict. The mode of attack could vary between “hit-and-run” tactics and the steady drip of repeated, low-level incidents. The first has been employed and the second has possibly been attempted.

The most famous examples of “hit-and-run” tactics have been the seizure of the USS Pueblo by North Korea in 1968 and the seizure of the SS Mayaguez by the Khmers Rouges in 1975. In both cases the extent of the territorial limit was an issue. In both cases the United States only recognised a three-mile international limit whereas the coastal states involved both claimed limits of 12 miles. In both cases the US ships were sailing within the territorial limits claimed by the coastal states, limits that were not recognised by the US. The position was complicated further in the case of the Mayaguez, as the US did not recognise the Khmers Rouges as the legitimate government of Cambodia. In both cases the ships were accused of spying. In both cases the subsequent view was that, under the current interpretation of international law, neither was an act of piracy as private ends were entirely absent. Under many past interpretations of customary international law they would have been.

A straightforward alternative to the “private ends” requirement is to treat all depredations at sea as piracy unless approved by due authority. It is to be regretted that the International Legal Committee and its successors


did not choose this formulation, as it is the one that stems most logically from the pirate-privateer distinction. In 1927, for example, the Permanent Court of International Justice held that “the distinctive mark of piracy is independence or rejection of State or equivalent authority”. However, this somewhat begs the question of what constitutes due authority. Is it the apparent authority or one that lies behind it, with enough of a gap between the two to allow for plausible deniability? This was the issue raised by the depredations carried out by Chinese maritime police and customs boats in the South China Sea in the 1990s, a history that also illustrates how the steady drip of repeated, low-level incidents could be used to advance state policy. It also lay behind the suspicion that pirate gangs and regional syndicates in the same area had benefited from Chinese financial and material support as an indirect way of exerting maritime claims.158

The South China Sea contains many areas where states are in conflict. It is also the focus of a Chinese expansionist drive. Although some maritime boundary disputes are a hangover from the colonial era, the overwhelming reason for this drive and for potential conflict is the belief that the undersea strata contain economically recoverable quantities of oil and gas. In the early 1990s this belief gave rise to several violent clashes, usually over the ownership of various islets and reefs in the Spratly group, many of which are barely visible at high tide but which, under UNCLOS, are key to gaining control of these sub-sea resources.159 At the same time these clashes took place there were also, between 1993 and 1995, strong and persistent allegations that the PRC was using piracy as another way of asserting its sovereignty in the South China Sea; as a senior Indonesian naval officer put it: “We suspect that the Chinese are deliberately staging this piracy, using their navy, as another way to assert their sovereignty”.160 A Philippine report talked about a “renegade” task group of three ships, two of them


with the same bow-mounted serial number 04420, operating from bases in Shantou, Kityoung and Senwei. Similar allegations also circled around Chinese activity in waters off Hong Kong, which was then under British control. In one month alone around twenty ships were harassed or seized on leaving the colony while transiting waters claimed by the mainland government. “It is not yet clear,” Michael Pugh wrote at the time, “whether this represents the assertion of jurisdiction claims or whether the security officials are engaging in criminal activities.” The US Department of Energy in its report wrote that the incidents that had taken place “suggest the possibility of a number of things other than piracy: harassment…official or non-official attempts to interdict commerce…extra-territorial anti-smuggling operations by a national government; organized crime activities disguised as military operations; unsanctioned military operations by rogue military units; (and) terrorism.”

The commonly accepted interpretation now is that it was more likely opportunistic provincial officials who were responsible for attacks both around Hong Kong and in the South China Sea, and they stopped when the central government reasserted its control. The explanation is credible. Goods were smuggled into China on vessels that declared their destination was Vietnam and Chinese officials, who were allowed to keep up to half of all goods seized, began to stop ships on the margin of Hong Kong territorial waters and even within them. That, however, was not how events appeared at the time. This activity might just as well have stopped be-

162 Pugh, ‘Piracy and Armed Robbery at Sea’, pp. 2-3. See also ‘China accused of piracy’, Lloyd’s List, 11 March 1994, p. 11. The Hong Kong Government reportedly compiled a report on these incidents for the IMO which indicated that Chinese security forces were engaging in “piracy”. Although it was passed to the IMO it was never published. Paul Richardson and Jim Mulrenan. ‘Hong Kong piracy report “updated” after withdrawal’. Lloyd’s List, 27 May 1993.
164 Ji Guoxing asserts very strongly that all the problems that occurred in the early 1990s were the fault of ‘rogue’ officials and ‘were not a deliberate PRC exercise of extra-territorial sovereignty’: Ji Guoxing, ‘SLOC Security in the Asia Pacific’, Asia-Pacific Centre for Security Studies: Centre Occasional Paper, Feb. 2000, p. 12.
166 Chalk, Grey-Area Phenomena in Southeast Asia, pp. 30-2; also Greg Torode,
cause Beijing put an end to a programme that was no longer delivering the desired outcome. Frankly, we are unlikely to obtain a definitive answer.

Similar incidents occurred in the Persian Gulf following the invasion of Iraq in 2003. On several occasions between 2004 and 2007, armed craft “representing themselves as the Iranian authorities” committed acts of piracy in the northern Gulf “up to and including extortion and armed robbery”. These might have been the acts of local or provincial commanders taking advantage of Iraqi weakness and Coalition caution. They might not. They might have been something towards which the central government in Tehran was prepared to turn a blind eye, or which it was ready even to condone, as it probed its opponents’ capabilities and resolve. In the same period sailors from the Australian Navy successfully countered an Iranian kidnap attempt in 2004, and British Navy sailors and marines were captured in 2004 and 2007, demonstrating that there were elements within the Iranian government prepared to undertake such probing actions. In Southeast Asia during the periods of the Malayan “Emergency” (1948-60) and the later “Confrontation” (1963-66), when the Sukarno government was attempting to destabilise the newly-formed Malaysian Federation, there was evidence that the Indonesian government was condoning—if not necessarily controlling—sea raiding. More recently Indonesian officials in coastal provinces have reportedly blamed officials in Jakarta for failing to understand maritime matters and to control elements in the military, a situation that is the reverse of what occurred in China, although in the Indonesian case there has been no suggestion that government employees supported piracy for anything other than criminal reasons. In all three cases, however, “rogue” officials could, whatever the truth might be, claim to be operating with “due authority” while the regime could exploit the opportunity for “plausible denial”. In any state which lacks (in modern parlance) “transparency”, and where the ostensible chain of command might not be the real chain of command, it is all too easy for one part of a regime to blame another.

‘HK exposes China piracy’, *South China Morning Post*, 16 March 1994.


These ambiguities are not confined to totalitarian or weak states. In 1985 agents of the French government sank the *Rainbow Warrior* in Auckland harbour. This Greenpeace ship had been leading the protest against French nuclear testing in the South Pacific. The French government initially denied responsibility. Unfortunately a photographer, Fernando Pereira, was trapped on board and drowned. His death prompted the New Zealand police to mount a major investigation. The capture of the agents involved led, eventually, to an embarrassing admission by the French Prime Minister, that they had, in fact, been operating under the orders of the DGSE, the French intelligence service.170

The thought of state piracy makes people uncomfortable. Partly this is because the idea of states being involved in the sponsorship or direction of a crime that for many is close to being a crime against humanity is repugnant. In addition it is a hybrid, it fits no neat category. At one extreme it could be a device to advance state interests under the guise of criminal activity. At the other extreme it could be a criminal device disguised as state policy: in other words, a form of state-organised or state-tolerated crime because the state that sponsors it is to some degree a criminal enterprise or has links to criminal interests. In this guise it could, from the outside, be difficult to distinguish from the organised criminal piracy described below. Indeed, it could be its end product.

*How many attacks are there and who counts them?*

Four organisations publish regular reports on piracy activity: the International Maritime Bureau (IMB) which issues a weekly incident report and a quarterly and an annual report;171 the International Maritime Organisation (IMO) which issues monthly reports, quarterly summaries and an annual summary;172 the UK DIS International Terrorism and Organised Crime Group (ITOC) Maritime Branch which issues a monthly “Worldwide Threats to Shipping Report”;173 and the US Office of Naval Intelligence (ONI) that issues weekly “Worldwide Threats to Shipping” reports that feed into the US National Geospatial Intelligence Agency’s (NGA) Anti-

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172 [http://www.imo.org/home.asp](http://www.imo.org/home.asp)

173 [http://www.rncom.mod.uk/maritime/WWTS/apr06/index.cfm](http://www.rncom.mod.uk/maritime/WWTS/apr06/index.cfm)
Shipping Activity Message (ASAM) database.\textsuperscript{174} The IMO, the ITOC and the ONI all rely on the IMB for a majority of their incident reporting. The IMB receives reports directly from ships or the owners of ships that have been attacked or suspect they have been targeted for attack. It is important to note that the IMB only publishes the initial incident report and neither conducts nor tracks subsequent investigations. The IMB is a branch of the International Chamber of Commerce that established the Bureau in 1979 with the remit to combat maritime fraud. In 1992 the IMB in turn established the Piracy Reporting Centre (PRC) in Kuala Lumpur in response to the increasing number of piracy attacks in Southeast Asia. It is now the international recognised collection point for piracy reports and statistics, although it has no official standing. In addition, a new government-sponsored reporting centre, the Information Sharing Centre (ISC), was opened in Singapore in December 2006.

Before 1992 the piracy picture is patchy and confused. This is mainly because at the time few saw it as a problem. Although the IMB has reports of attacks dating back to the early 1970s, piracy only made it onto the international agenda in 1983 when the IMO passed a resolution that noted “with great concern the increasing number of incidents involving piracy and armed robbery.”\textsuperscript{175} The resolution was prompted by the “alarming” growth in the number of attacks on ships anchored at night off the coast of Nigeria awaiting a berth in vastly overcrowded ports.

In order to gain some understanding of what piracy was taking place before 1992 it is necessary to refer to two overlapping sources: the IMO and the work of an individual researcher, Mark Bruyneel. Bruyneel’s aim was to put together all the available figures, to place them side-by-side in order to see if there was any consistency or pattern, and to push the start date of the problem as far back as the figures would allow. This turned out to be 1978 and his study covered the period from then until 2000. For the period 1979-84 he relied on Roger Villar’s book, \textit{Piracy at Sea; Robbery and Violence at Sea since 1980}, but Villar provided very limited data and, as Bruyneel comments, “prior to 1980 records were either not kept or have not been retained on file in sufficient numbers”. Between 1984 and 1990 Bruyneel drew on data from the Federation of American Scientists (FAS), which compiled its data from the Anti-Shipping Activity Messages that were in turn held in a database created and managed by the National...
Imagery and Mapping Agency’s (NIMA) Maritime Safety Information Centre for the US Maritime Administration (MARAD).\textsuperscript{176} The NIMA is now known as the National Geospatial Intelligence Agency (NGA) and, as noted above, draws its data from the ONI. From 1990 to 1992 Bruyneel used data from the International Maritime Organisation (IMO), the International Maritime Bureau (IMB) and the United Nations. From 1992 onwards, he used the commonly accepted figures from the IMB’s Piracy Reporting Centre to produce the following graph:\textsuperscript{177}

Between 1983 and 1985 the IMO commissioned the IMB to prepare three annual reports.\textsuperscript{178} Although the MSC only instructed the Secretariat to publish piracy statistics starting in 1995, it has recorded them since 1984 divided by region. It updates the accumulated data and publishes them in graph form in its annual summary. Bruyneel has noticed that discrepancies

\begin{figure}[h]
\centering
\includegraphics[width=\textwidth]{piracy_stats_graph.png}
\caption{Piracy Statistics, 1978-2000 Compiled by Mark Bruyneel; updated 28 November 2001}
\end{figure}

\begin{itemize}
\item \textsuperscript{176} FAS ASAM postings are available from 1985 to 1999. Refer to http://www.fas.org/irp/world/para/pirates.htm
\item \textsuperscript{177} For full details see Mark Bruyneel, ‘Modern-day piracy statistics’, 7 Feb. 2001.
\end{itemize}
between the IMO’s monthly and annual figures mean that they are not wholly reliable.\textsuperscript{179}

![Yearly statistics of incidents which occurred since 1984 (worldwide)](image)

\textbf{Figure 2.} Yearly statistics of piracy incidents worldwide 1984-2005 Source: International Maritime Organisation, 2006

<table>
<thead>
<tr>
<th>Year</th>
<th>Malacca Straits</th>
<th>Indian Ocean</th>
<th>East Africa</th>
<th>West Africa</th>
<th>South America &amp; Carib</th>
<th>Med</th>
<th>South China Sea</th>
<th>Other</th>
<th>Total</th>
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<tbody>
<tr>
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<td>2</td>
<td>0</td>
<td>18</td>
<td>5</td>
<td>0</td>
<td>0</td>
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<td>32</td>
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<tr>
<td>1985</td>
<td>7</td>
<td>0</td>
<td>2</td>
<td>14</td>
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<td>5</td>
<td>0</td>
<td>7</td>
<td>1</td>
<td>0</td>
<td>8</td>
<td>0</td>
<td>29</td>
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<tr>
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<td>6</td>
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<td>0</td>
<td>3</td>
<td>2</td>
<td>0</td>
<td>6</td>
<td>0</td>
<td>19</td>
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<tr>
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<td>4</td>
<td>4</td>
<td>0</td>
<td>2</td>
<td>0</td>
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<td>4</td>
<td>0</td>
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<tr>
<td>1990</td>
<td>14</td>
<td>3</td>
<td>1</td>
<td>4</td>
<td>4</td>
<td>0</td>
<td>24</td>
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<td>50</td>
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<tr>
<td>1991</td>
<td>46</td>
<td>1</td>
<td>1</td>
<td>3</td>
<td>8</td>
<td>0</td>
<td>20</td>
<td>0</td>
<td>79</td>
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<tr>
<td>1992</td>
<td>21</td>
<td>5</td>
<td>6</td>
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<td>5</td>
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<td>19</td>
<td>0</td>
<td>68</td>
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<tr>
<td>1993</td>
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<td>4</td>
<td>1</td>
<td>9</td>
<td>13</td>
<td>1</td>
<td>36</td>
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<td>70</td>
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<tr>
<td>1994</td>
<td>3</td>
<td>6</td>
<td>9</td>
<td>2</td>
<td>17</td>
<td>0</td>
<td>11</td>
<td>0</td>
<td>48</td>
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<tr>
<td>Totals</td>
<td>125</td>
<td>35</td>
<td>20</td>
<td>82</td>
<td>61</td>
<td>1</td>
<td>134</td>
<td>0</td>
<td>458</td>
</tr>
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\textbf{Table 2.} Total number of recorded incidents, 1984-1994. Source: International Maritime Organisation, 2006

The data underlying this graph are as follows:

\textsuperscript{179} Bruyneel, ‘Current reports on piracy by the IMO and IMB’.

Bruyneel’s analysis from 1978, and the IMO data starting in 1984, show a broadly equivalent picture. However, little can be inferred from either except that the problem was insignificant throughout the 1980s, increased somewhat in the early 1990s and increased again starting around 1995.

Bruyneel’s figures are global. The IMO records what it calls “incidents” that are probably only actual attacks. The figures are broken down regionally and suggest some interesting variations, but the numbers are too small to draw any conclusions. The IMB reported a global total of 239 actual and attempted attacks in 2006.\(^{180}\) This might not appear to be many, and might seem to be well down on the peak of 469 attacks in 2000 (see table below), but, then again, how many is enough?

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<td>188</td>
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<td>202</td>
<td>300</td>
<td>469</td>
<td>335</td>
<td>370</td>
<td>445</td>
<td>329</td>
<td>276</td>
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Table 3. Total number of recorded actual and attempted attacks, 1995-2005. Source: International Maritime Bureau, 2006

It is generally accepted that the piracy figures produced by the International Maritime Bureau’s PRC are more reliable than those available previously. Trying to establish their statistical significance, however, is not easy. The annual data provide insufficient data points. To be worthwhile the analysis needs to be based on quarterly figures as a minimum. The IMB has not retained its data in quarterly form. This means that no analysis can go back further than 1995, which is when the IMO started their quarterly breakdown. Over the period 1995 to 2005 the IMO recorded the following:

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<tbody>
<tr>
<td>154</td>
<td>183</td>
<td>305</td>
<td>193</td>
<td>283</td>
<td>501</td>
<td>335</td>
<td>422</td>
<td>341</td>
<td>322</td>
<td>249</td>
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Table 4. Total number of recorded actual and attempted attacks, 1995-2005. Source: International Maritime Organisation, 1995-2005

Even a simple analysis of the IMO data by quarter requires several assumptions across multiple variables. A visual inspection of the data by quarter suggests a trend of an increasing number of incidents from 1995 to 2000 and a decline thereafter to 2005. A trend line can be drawn which suggests an increase in the underlying number of incidents from around 26 per quarter in 1995 to 108 per quarter in 2000 and then a fall to around 60 per quarter in 2005. Such a trend fits the data reasonably well with 80 per cent of the observations falling within 29 of the trend. It also shows a

\(^{180}\) ICC-IMB, ICC-IMB Piracy Report, 2006, Table 1, p. 5.
Figure 3. Total number of actual and attempted attacks, 1995-2005, analysed by quarter. Author’s calculation. Source: International Maritime Organisation, 1995-2005
clear amount of variation above and below this trend line. Statements that piracy increased by 168 per cent between 1993 and 2005 can be misleading because they give the impression that piracy was continuing to rise in 2005, whereas the trend line in the IMO data suggests the number of incidents was falling.\textsuperscript{181} What we do know, however, is that piracy has waxed as well as waned throughout history and, given the number of political, economic, social and law enforcement variables (and even natural variables of which the 2004 Asian tsunami was merely the most dramatic) that affect modern piracy, there is no reliable way of telling what direction the global trend might take in the future however sophisticated the statistical analysis.\textsuperscript{182}

Weaknesses with the figures

There are three problems with these statistics: their accuracy and reliability; the problem of where the ships are when the attacks take place; and the failure to take full account of regional variations and trends.

The first is fundamentally a problem of collection which gives rise in turn to problems of analysis and categorisation. The second is debatable and can be dealt with briefly. The third is in some respects a problem of perception. The global figures are the figures that are reported in the press. These are the figures everyone points to. In reality they are barely important because, as highlighted earlier, piracy is a global phenomenon but not a global problem. The most important thing to understand is what is happening locally and regionally.

First, how accurate are the figures? Quite simply, no one can be sure. The IMB depends upon self-reporting. The figures are therefore self-selected. Ship-owners and ships’ masters choose whether or report an incident or not. Also, because the PRC was established in Southeast Asia in response to what was seen at the time as a largely Asian problem, incidents in other regions were probably under-represented in the early years. Regardless of these problems, the IMB remains the main source of reports and is likely to remain so. Some observers have suggested that the ISC based in Singapore might reduce dependence on IMB incident reports, which in their opinion are not merely impaired by their self-selecting bias but can also suffer from exaggeration and misinterpretation.\textsuperscript{183}

\textsuperscript{181} House of Commons Transport Committee, \textit{Piracy}, p. 3.
\textsuperscript{182} Villar, \textit{Piracy Today}, p. 10. Villar’s view was it might wax and wane but that the general trend was upward.
\textsuperscript{183} Bateman \textit{et al.}, ‘Safety and security in the Malacca and Singapore Straits’, p. 23.
The Information Sharing Centre (ISC) was established as part of the Regional Cooperation Agreement in Combating Piracy and Armed Robbery Against Ships in Asia (ReCAAP) ratified in June 2006. Each ReCAAP signatory has its own designated point of contact, which receives incident reports and transmits them to the ISC. The ISC provides greater detail on incidents than the IMB, follows up the incident reports, and records and monitors the law enforcement response. The ISC claims that its coordination and enforcement role distinguishes it from the IMB. Nonetheless it does gather and collate regional piracy statistics. Moreover, although its activities have been praised, doubts have also been raised about how effective it will prove to be, not least because it is necessarily as reliant on incident reporting as is the IMB and, indeed, appears to make considerable use of IMB incident reports itself. The first doubt arises because neither Malaysia nor Indonesia are signatories (although they have stated they will sign eventually, this appears to be a distant prospect) and it is hard to see how the centre will be able to operate effectively without them. The second comes from the suspicion that, as the centre is under governmental control, unwelcome reports might be suppressed and the statistics exposed to political influence or “adjustment”. The third could be related to the second: even if an incident has been reported to a local authority, there is no guarantee it will be passed to the centre.


185 ISC reports can be found at http://www.recaap.org/publish/recaap/reports.html


187 See, for example, ‘Indonesia determined to postpone ratification of Malacca Strait pact’, Antara News Agency, 25 Sept. 2006. Also Donald Urquhart, ‘Time to close the piracy gap’, The Business Times, 29 Nov. 2006. Ian Story reports that both countries were piqued that Singapore, with which they have an uneasy relationship, had been chosen to host the ISC. Ian Storey, ‘Securing Southeast Asia’s Sea Lanes: A Work in Progress’. Asia Policy, No. 6, July 2008, pp. 114-5.

188 The PRC has been under pressure almost since its inception. For more information on the ReCAAP centre see Marcus Hand, ‘IMB fights back over potential
There are already signs of confusion within the system. Some of the reports it receives from local sources have often not been reported to the IMB. In other cases, captains have reported incidents to both organisations, which because of time delays have resulted in the same incident being reported as occurring at different times and in different locations. More worrying is that some captains are now reporting directly to the ISC and not to the IMB, which has injected a further element of uncertainty into the figures.\(^{189}\) Despite these difficulties it is nonetheless important to acknowledge that the Centre represents “the first time that governments in East, Southeast and South Asia have institutionalised their cooperation in combating piracy and armed robbery against ships in the form of a permanent body with full-time staff”.\(^{190}\)

There is a widely held suspicion that it is at least possible—in fact, more then likely—that under-reporting or mis-reporting hides the full extent of the piracy problem.\(^{191}\) In 1998 the UK Defence Intelligence Staff estimated that the number of incidents could be 200 per cent higher than those that are reported. At the same time the Australian DIO issued a report that put the number of reported incidents at between 20 and 70 per cent below actual levels.\(^ {192}\) The Nippon Foundation in its 1999 survey of attacks on Japanese shipping in the Malacca Straits suggested that the number of at-

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\(^{191}\) The IMB in its own comment on the figure for 2005 states: ‘Though the attack numbers have dropped, the IMB would like to stress that many actual and attempted cases also go unreported.’ ICC-IMB Piracy Report, 2005, p. 16.

tacks could be ten times the level actually reported. I.R. Hyslop suggests the share of incidents going unreported is “likely to be at least half, and may in some cases be as high as ninety per cent”. Anthony Davis reports an estimate that only one in eight incidents are reported; Peter Chalk believes “most” attacks go unreported; the IMB Piracy Reporting Centre in Kuala Lumpur suggests between two-thirds and a half; the International Transport Workers Federation suggests half; Birnie suggests half; while in Sam Bateman’s view it is only some. Bateman also believes that the scale of the increase may be exaggerated because, as with any crime, people will only report it if it is acknowledged to be a problem and many incidents, particularly petty ones, may well have gone unreported in the past. The reality is that the percentage of incidents that are unreported or misinterpreted as piracy is completely unknown.

On the other hand, agreement is widespread as to why under-reporting or misreporting takes place: most brutally, the witnesses might be dead; secondly, states or ports do not want to be branded as having a piracy problem and therefore may not record or report an incident; thirdly, shipping companies have an incentive to keep quiet for fear of the harm it might do to their reputations (including the fact they may have taken insufficient precautions), the concern that crews might demand additional payments for sailing into or through pirate-prone areas, the expense that accompanies


194 Hyslop, ‘Contemporary piracy’, p. 5.

195 Davis, ‘Piracy in Southeast Asia shows signs of increased organisation’, pp. 37-8; Chalk, ‘Threats to the maritime environment’, p. 4; the PRC figures is cited by Burnett, *Dangerous Waters*, p. 165; ITWF estimate cited in Chalk, *Non-Military Security and Global Order*, p. 60; Birnie, ‘Piracy: Past, present and future’, p. 173; Bateman, ‘Maritime Transnational Violence’, p. 4. In his interview with the author (June 2004), Bateman made the point that reporting is a question of balance; under-reporting in one area is probably balanced by over-reporting in another. In his interview (April 2004) the IMB Director, Pottengal Mukundan, would only venture that the under-reporting was ‘substantial’. In Mark Valencia’s opinion, few incidents are reported (interview with author, Aug. 2004). See also Young and Valencia, ‘Conflation of piracy and terrorism’, pp. 271-2.


any investigation when ships are delayed (and which in several jurisdictions might be corrupt or incompetent anyway)—and even, in the case of kidnappings, because of actual threats. Crews and ship owners have been intimidated in other ways: in one incident reported to the IMB, a ship was boarded by men who were almost certainly Indonesian servicemen; the IMB dutifully reported the incident to the Indonesian authorities shortly afterwards but were then contacted by the ship-owners, who asked that the matter not be pressed as they and their ships had a continuing need to enter Indonesian ports and territorial waters and did not wish to suffer official reprisals. States are amongst the most reluctant reporters: “The very countries that are so forward in their protest about statistics are shrinking violets when it comes to reporting…acts in their own waters.” Finally, according to a previous head of the Piracy Reporting Centre, John Martin, several shipping associations have written into their manuals of procedure that ship attacks should not be reported at all. In short, the piracy that is reported is the piracy no one can ignore.

The second question affecting the reliability of the statistics is, where are ships when they are attacked? As noted earlier, most attacks on ships occur when they are in, or close to, ports. Of the 239 actual or attempted pirate


201 Chalk, Grey-Area Phenomena in Southeast Asia, pp. 28-9.

attacks recorded by the IMB in 2006 nearly 63 per cent took place when ships were berthed (15) or at anchor (135).\textsuperscript{203}

As far as the IMO is concerned these attacks are not piracy but, in accordance with the UNCLOS definition, armed robbery against ships. For the IMB they are acts of piracy.\textsuperscript{204} The IMB is unwilling to concede any distinction between different types of piracy because it is reluctant to privilege one form over another. Nonetheless, there is a case for separating piracy against ships that are berthed from piracy elsewhere. While such robberies can be deeply distressing they are not necessarily injurious physically to the victim, and, because they are often mounted from the quayside or launched from boats that draw alongside when the ship is tied up, they are effectively port crimes mounted in the main by the same people or gangs that pilfer and steal from warehouses and containers. There is some concern, furthermore, that their inclusion can be used to undermine the credibility of the way incidents are reported and the statistics recorded, by distracting attention from the more serious and usually more frightening crimes that are committed when ships are either anchored awaiting a berth or underway at sea. Incidents when ships were berthed accounted for six per cent of the total in 2006 and 17 per cent in 2002.\textsuperscript{205} It is possible that this decrease might be due to improved port security brought about by the International Ship and Port Facility Security Code (ISPS) that entered force in July 2004.\textsuperscript{206} On the other hand, given the inconsistent and all too often poor standard of implementation of the Code by ports, including major international hub ports, this should not be assumed.\textsuperscript{207}

Stefan Eklöf argues that all piracy committed against ships berthed or at anchor in the vicinity of a port should be considered port crimes and goes on to suggest that port crimes and sea-based crimes require very different counter-measures: port crimes require better security measures to defeat

\begin{footnotesize}
\begin{enumerate}
\item That attacks in port can be considered acts of piracy was reaffirmed in 2005 by the High Court of Singapore in the case of Bayswater Carriers vs. QBE Insurance when the judge held that piracy had been committed because the ship was ‘at sea’ within the port and that—most important—the necessary element of force had been present. David Martin-Clark, ‘Case notes: Bayswater carriers Pte. Ltd. V. QBE Insurance (International) Pte. Ltd.’, 2005.
\item See http://www.imo.org/Newsroom/mainframe.asp?topic_id=583&doc_id=2689
\item Hugh O’Mahony, ‘Mitropoulos voices fears over ISPS Code inconsistencies’, Lloyd’s List, 30 Nov. 2006.
\end{enumerate}
\end{footnotesize}

them while sea-based crimes require better international cooperation. This might be too black-and-white. The crews of ships at anchor are as vulnerable to intimidation and violence as ships at sea. Ships are moored away from dockside security and lights.\(^{208}\) In many anchorages the maritime police fail to respond to calls for help and, even if they do, inevitably take time to arrive. This gives pirates the opportunity to commit their crime and make good their escape.

The final problem about the statistics, mentioned above, is that they are affected by regional variations and trends. Piracy occurs in comparable locations around the world for similar but not the same reasons. They form what Menefee has termed “pirate clusters”.\(^{209}\) It is important, therefore, to recognise regional differences, and this lack of recognition is one of the problems with the piracy statistics as they are published currently. The IMB figures are organised by country, reflecting the fact that most piracy nowadays takes place within, or close to, a country’s territorial waters rather than on the open ocean. Whilst the Bureau’s methodology is perfectly logical, to a degree it obscures the mobility of pirates and, consequently, can hide regional, as opposed to purely national, patterns. The IMO, on the other hand, does agglomerate its figures regionally, but the regions are so large that the contribution of each individual country—and therefore the success or failure or its anti-piracy efforts—is hidden.\(^{210}\) From a global perspective piracy over the ten years from 1995 to 2005 might have gone up and then gone down, but variations in the number of reported attacks occurring in the waters of individual states or between specific states over the same period have been much more dramatic, certainly when expressed in straight-line percentage terms. To keep these variations in proportion it is therefore important to also look at the actual number of reported incidents. To take two examples: piracy off Nigeria increased by 1,600 per cent, that is to say from one incident in 1995 to 16 in 2005, while piracy in the Straits of Malacca and Singapore taken together increased by 433 per cent over the same period, which meant that the number of incidents

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\(^{208}\) Herbert-Burns, ‘Compound piracy at sea in the early twenty-first century’, p. 102


\(^{210}\) Samuel Pyeatt Menefee comments that the ‘IMO offers regional breakdowns of statistics, but has been reluctant to call a spade a spade and offer similar national breakdowns’: Menefee, ‘Under-reporting of the problems of maritime piracy and terrorism’, p. 247.
climbed from six to 26, which is still a very small number compared to the number of annual ship transits.

Six regions will be reviewed in detail: Southeast Asia, South China Sea, Bay of Bengal-Bangladesh, South America, East Africa and West Africa. The aim is to situate the factors that favour pirates in context and to lay the ground for the discussion in the next chapter about the differences between common and organised piracy.

**Southeast Asia**

Southeast Asia is the ideal environment for piracy and one where pirate traditions go back virtually uninterrupted to the fifth century. In the nineteenth century Sir Henry Keppel, who in his rise to become Admiral of the Fleet twice led expeditions against Asian pirates, wrote: “As surely as spiders abound where there are nooks and crannies, so have pirates sprung up wherever there is a nest of islands.”211 Warren has written in a similar vein that it was “the case at the end of the Eighteenth century, and it remains the case at the end of the Twentieth, that geography remains a sinister ally of the modern Southeast Asian pirates”.212 More incidents take place in this region than anywhere else. It is one where pirates can use a maze of islands, reefs, corals, shifting shoals and sandbars that require intimate knowledge to navigate safely in order to escape. It is a region where pirates can hide in the creeks, small rivers and mangrove swamps that puncture the coast, and amongst the thousands of other small craft that ply their innocent trade between islands; in the case of the Malacca Straits estimates suggest they are crossed by 80,000 people and fished by 10,000 boats every day.213 It is a region where the will to suppress piracy varies significantly between states; Indonesia, the state where the most pirate incidents take place, displays the least interest in its suppression.214 In parts of Indonesia and the Philippines it is likely that pirates can blend into the local population without undue


213 Bronson Percival, interview with the author, June 2006.

214 Langit-Dursin, ‘Indonesia key to end piracy in Malacca Straits’.
fear of betrayal.\textsuperscript{215} It is, moreover, a region where the piracy phenomenon can truly be described as \textit{regional}: not just for the reason that pirates can cross maritime boundaries—some of which are still disputed—to throw off their pursuers, but because pirates can cross these boundaries to hijack a ship in the waters of one state and dispose of its cargo in another, while the men who control these sophisticated pirate operations are most probably, and evidence suggests quite deliberately, based in a third state.

\textit{Indonesia.} Indonesia is an archipelagic state intertwined by narrow seas. It covers a vast area, over large parts of which the writ of the central government runs only tenuously, if at all, and which claims a coastline of about 50,000 miles (81,000km), approximately twice the circumference of the Earth. Even the Indonesian government is unsure how many islands make up the archipelago.\textsuperscript{216} Although Indonesia is concerned about maritime security generally, issues other than piracy tend to receive more attention, particularly piracy against ships passing through its waters.\textsuperscript{217} Smuggling of people and goods and the degradation of the maritime environment through overfishing are much higher concerns. In 2002 the Indonesian government estimated that illegal fishing, for example, was costing the country over $4 billion a year.\textsuperscript{218} An estimate in 2003 of the value of fish taken by Thai fishermen alone put the figure at between $1.2 and $2.4 billion.\textsuperscript{219} These problems and priorities go a long way to explaining why

\begin{itemize}
\item \textsuperscript{215} As ONI comment: ‘Past reporting from officials state that pirate gangs operating off the coast were viewed as latter day Robin Hoods by some of the villagers in the region.’ ONI WWTTS Report, 6 July 2006, Paragraph D.2.
\item \textsuperscript{216} Ed Davies, ‘Indonesia counts its islands before it’s too late’, \textit{Reuters}, 16 May 2007; ‘Indonesia to register small islands names to UN August 18’, \textit{TEMPO Interactive}, 23 July 2007.
\item \textsuperscript{219} Anucha Charoenpo, ‘Illegal Thai fishing robbed Indonesia off (sic) billions
it recorded the highest number of incidents of piracy—50 in 2006, 21 per cent of the global total. In fact its unenviable position at number one remained unchallenged from 1991, when 55 incidents were recorded until 2007. The majority of attacks in Indonesian waters outside the Malacca Straits (and the Gelasa Straits, see below) tend to take place in or close to ports: the main concentrations appear to be around Subaraya, Gresik, Jakarta (Tanjong Priok), Balikpapan, Samarinda and Belawan. These tend to be of the petty variety involving the theft of money, personal possessions or ships’ equipment; however, the pirates usually come armed, if not with guns then with long knives.

That corruption is a common problem amongst agencies in the region charged with maritime law enforcement has been touched upon already. The fact that it is endemic in the Indonesian political and military system needs to be emphasised. The Indonesian military are not financed by taxation alone. They are at least partly, and probably largely, self-financing. The proportion that comes from outside sources is unclear but could be as much as 75 per cent. Any military that is not funded entirely from the public purse (as in China where the PLA owns many businesses) is not wholly answerable to its civilian masters, and this has unquestionably been the case in Indonesia. Much of this income comes from legitimate businesses owned by the military, although the revenue often bypasses the treasury. Another stream derives from protecting or guarding the operations of major multinational companies, particularly in the mining and energy sectors, that have been designated “vital national assets”, an enforced arrangement that one company executive branded “one grand national extortion racket”. The rest comes from mafia-style criminal activity including protection rackets for gambling and prostitution, bribery and the imposition of corrupt “taxes”. This criminal proportion might well...
be increasing because, as Human Rights Watch point out, “many military business ventures have been great failures” and have contributed “only modest sums to help cover unbudgeted expenses”, which has meant that the network of “informal and illegal military economic activities that are more hidden and more difficult to control” has spread. The central command of Tentara Nasional Indonesia (TNI), the Indonesian armed forces, is only able to oversee the activities of the military enterprises. The security activities are generally managed at the provincial command level, leaving the remainder, the criminal activities, to the lowest level of command and even to individuals. For example, an Army sergeant based in Merauke in Papua opened a bar with dozens of prostitutes and used the income to help pay for his troops’ meals. At sea this criminal activity might well have meant active engagement in, or “taxation” of, pirate activity. Fishermen on the Malaysian side of the Malacca Straits, for example, have claimed they have been forced to pay “protection” money to Indonesian officials. Ships and their owners can also be forced to pay “protection” fees when they visit Indonesian ports: the researcher Carolin Liss recounts an incident of a ship-owner, whose vessel had been arrested for illegal dumping, paying $200,000 “compensation” to navy officials to obtain its release. Andreas Harsono, who now heads the Pantau Foundation, a media think tank in Jakarta, holds the view that “directly or indirectly, the 900-kilometer Malacca Strait is a source of funding potential...for the Indonesian military. They could increase patrol (sic) to minimize crimes—when the international communities are screaming—but also to give green-light signals to their underworld links.”

The Philippines. Indonesia’s neighbour the Philippines is also an archipelagic state, and one which appeared to be close to rivalling it in terms of piracy incidents in 1996 when it experienced 39 attacks (compared with 57 in Indonesia) including sophisticated and organised criminal hijackings, but it had only four attacks in 2004 and apparently none in 2005. Eric Ellen and others have cast doubt on the reliability of these figures.

224 Ibid., p. 3.
225 Harsono, ‘Nationalism and sea piracy in the Malacca Strait’.
227 Harsono, ‘Nationalism and sea piracy in the Malacca Strait’.
228 The Philippine figure may be a clear case of under-reporting. According to Eric Ellen, the then Director of the IMB, there were 143 cases of piracy in Philippine waters in 1993, none of which were reported. Chalk, *Grey-Area Phenomena in Southeast Asia*, p. 29, and ICC-IMB Piracy Report 2005, Table 1,
Philippines is as troubled by corruption, terrorism and under-funded law enforcement as Indonesia. The armed forces and law enforcement agencies of both countries have struggled to control maritime crime regardless of what the official spokesmen say.\textsuperscript{229}

The work of Eduardo Ma R. Santos, a retired Vice-Admiral in the Philippine Navy, would appear to support this. His figures reinforce the suspicion that the number of pirate attacks in Philippines waters has been far higher than the figures reported to the IMB. To take the first four years of this century as an example, the IMB reported a total of 39 attacks, whereas Santos suggests there were 461.\textsuperscript{230} In an interesting NGA ASAM report 2006-146, dated 22 May 2005, of a fishing boat boarded off the Isla de Higantes which was found to be carrying a group that included a local policeman, the Provincial Police Chief Charles Calima is recorded as claiming that pirates and hijackers “usually” used deception, which would imply that attacks are, contrary to the published figures, a common occurrence.\textsuperscript{231} These deception tactics, which include disguising boats and crew as police or coast guards, and luring victims by simulating engine trouble or distress, are no different from those used by pirates everywhere.\textsuperscript{232}

Casual killing of fishermen and local traders appears to be a regular feature of many attacks throughout the Philippine-Indonesia-Malaysia “tri-border” region where Philippine Mindanao and Malaysian Sabah are effectively linked by the Sulu island chain that separates the Sulu from the Celebes Seas. ONI, in their report on the discovery of the fishing boat \textit{James Bond} found drifting with two bodies aboard in April 2004, note that murder in such cases is “relatively common” although “seldom reported”.\textsuperscript{233} A passenger vessel, travelling to Polilio Island off Luzon on 17 March 2008 with 10 passengers and five crew, was commandeered by two of the passengers. They shot dead three crewmembers including the

\begin{itemize}
\item p. 5. The IMB reported three attacks in the first half of 2006: ICC-IMB Piracy Report, 2006, Table 1, p. 5.
\item \textsuperscript{230} Eduardo Ma R. Santos ‘Piracy and armed robbery against ships in the Philippines’ in Graham Gerald Ong-Webb (ed.) \textit{Piracy, Terrorism and Securing the Malacca Straits}. Singapore: ISAS, 2006 , p. 40 (Chart 3.1).
\item \textsuperscript{231} Also recorded in ONI. WWTTS Report, 14 June 2006, Paragraph K.6.
\item \textsuperscript{232} Santos, ‘Piracy and armed robbery against ships in the Philippines’, p. 41.
\item \textsuperscript{233} NGA ASAM, 2004-100, 17 April 2005
\end{itemize}
captain, tied their bodies to the anchor and threw them overboard before shooting and injuring the other two crewmembers, one of whom threw himself over the side, before fleeing in a motor boat.\footnote{234} In Eklöf’s view the Sulu region, in terms of violence and human suffering, is probably the most dangerous maritime area in the world.\footnote{235} It has a long piracy tradition.\footnote{236} Pirate activity was never suppressed to any great extent during the Spanish colonial period, although US forces countered it effectively during the period of American occupation from the end of the Spanish-American War until 1941. After the end of the Second World War and the granting of Philippine independence, piracy quickly returned and by the late 1970s had reached the point where the waters of the Sulu and Celebes Seas were, in Warren’s view, more pirate-infested than any others.\footnote{237} Davis, writing in 2004, suggested there were six pirate groups operating in the region, all of which moved between Malaysia and the Philippines using the international border as a defence mechanism. They were all armed, some of them heavily—the Moley Uwah Group, for example, was reported to be equipped with a GPMG and M-79 grenade launchers—and some had links with the Abu Sayyaf Group (ASG).\footnote{238}

An important aspect of piracy in this region is the attention pirates have paid to coastal settlements. Some have been raided and others forced to pay protection money: 20 raids were mounted on coastal settlements in British North Borneo in 1962, one of the most brutal of which was visited on the logging camp at Kunak;\footnote{239} from the 1970s through to the 1990s other coastal settlements in Sabah such as Semporna, which was assaulted twice in 1996 and again in 2000, and Lahad Datu, were hit regularly the raiders concentrating on banks, shops and airline offices in a pattern that was repeated in 1995 when the Abu Sayyaf Group (ASG) ransacked the Philippine town of Ipil.\footnote{240} Whether criminal gangs or insurgent groups

\begin{thebibliography}{99}
\bibitem{235} Eklöf, \emph{Pirates in Paradise}, p. 43.
\bibitem{237} Eklöf, \emph{Pirates in Paradise}, pp. 36-44; Warren. ‘A tale of two centuries’, p. 17.
\bibitem{238} Anthony Davis, ‘The Sulu Triangle’, \emph{Jane’s IR}, vol. 16, no. 6, June 2004, p. 40.
\bibitem{239} Eklöf, \emph{Pirates in Paradise}, pp. 38-9.
\bibitem{240} On the Semporna raids see Warren, ‘A tale of two centuries’, p. 18 and Eklöf, \emph{Pirates in Paradise}, p. 112. Frécon suggests the town was also assaulted in 1952 and 1954. Frécon, ‘Jolly Roger over Southeast Asia’, p. 138. Eklöf refers to the
\end{thebibliography}
perpetrated the attacks on Semporna and Lahad Datu is still uncertain although the Philippines authorities have accused insurgent groups of coastal raiding. Whatever their allegiance in the main these attacks are likely to have perpetrated by the Muslim inhabitants of the Sulu islands. In a despatch from the British embassy in Manila written in 1949, the writer lamented the decline in the professionalism of the Philippine police following the American withdrawal, commenting that the “result among the Moros is, I fear, that they are reverting to type and are again finding in piracy and smuggling an easy way of making a living”. On the other hand, the account Chong Chee Kin gives of one raid on Semporna suggests that at least some of the raiders could have been local criminals. The residents talked about recognising some of their attackers and said they came from a poor village on the outskirts of the town. They talked also of the raiders coming when they were short of money and of hitting smaller communities on the multitude of smaller islands, sometimes every week, for “rice, food and fruits”. Significantly, they saw no point in reporting these incidents to the police.

Ships up to the size of small freighters and ferries have been attacked. Cargo was stolen; passengers were robbed and, in cases where the whole vessel was taken, passengers and crew were forced to jump over the side. In 1985 an attempt was even made on a cruise ship, the Coral Princess, with 260 passengers on board, the pirates only fleeing when a coast guard cutter made a fortuitous appearance. On other occasions pirates were accused of sabotaging navigational aids to lure ships aground in order to make their cargo easier to plunder.

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241 Eklöf, Pirates in Paradise, p. 113.


The wide availability of firearms of all types, including AK-47s and M-16s following the end of the Vietnam War, which overlapped with the beginning of the Moro National Liberation Front (MNLF) insurgency in the southern Philippines in 1972, meant that pirates were usually armed and used their weapons without compunction to force ships to stop and kill whoever was on board. Accounts of the brutality meted out almost defy belief: the slicing off of ears, the shooting of knee-caps to make swimming impossible and, in one case, the decapitation of every member of a boat’s crew, leaving their heads dangling in the water at the end of fishing lines where they were discovered later by coast guards.

Whilst many such incidents appeared to be related to the age-old pirate desire to eliminate witnesses, many others were linked to extortion rackets. It is hard to be sure the extent to which this criminality and violence was linked to the Muslim separatist movements, first the MNLF and then, subsequently and additionally, the MILF and the ASG, and also the New People’s Army (NPA) revolutionary movement—the military wing of the Communist Party of the Philippines—but because all are known to have raised funds from sea robbery and extortion, their involvement is likely to have been considerable. In 1988 35 gangs of indeterminate motivation were known to be operating, in addition to the Ambak Pare gang that was almost certainly part of the MNLF. By 2003 the number of known gangs had dropped to 17: two in Luzon, three in the Visayas, eleven in Mindanao and one between Palawan and Malaysia. Six of these gangs were either linked to or actual members of the MILF. “Piracy in this region,” writes Menefee, “is often hard to distinguish from politically based maritime violence.” In the southern Philippines, during the 1980s and 90s at least, pirates were one element in a mix of “corrupt politicians, manipulative traders, smuggling and dynamite-fishing syndicates” many of whom were drawn from the Tauseg, a Muslim ethnic group predominant in the area.

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248 ‘A tide of pirates’, p. 28.
250 ‘A tide of pirates’, p. 28
251 Santos, ‘Piracy and armed robbery against ships in the Philippines’, p. 44.
252 Menefee, *TMV*, p. 83.
253 Ralph Johnstone, ‘The Sea Gypsies: Hard times for a vanishing Philippine
Between 1992 and 2004 Santos reports that 3,916 people and 1,574 vessels were attacked: of the vessels 193 were stolen; of the people 431 died, 189 were wounded and 426 are still missing. Although these figures are for the Philippines as a whole the overwhelming number of incidents were concentrated in the Sulu and Celebes Seas with smaller numbers occurring off Manila, northern Luzon and some ports in the Visayas.254

**Vietnam.** In contrast to the apparent decline in pirate activity in Philippine waters shown by published figures, activity in Vietnamese waters has become regular since 2000, with ten attacks in 2005 and a high of fifteen in 2003. Most attacks appear to have been mounted against vessels moored in Hong Gai, Haiphong, Vung Tau and Ho Chi Min City (Saigon), but Vietnamese fishermen have been subject to brutal attacks by what are claimed to be organised pirate groups based in Cambodia, Thailand, Indonesia and Malaysia.255

**Malacca and Singapore Straits.** The picture in the Malacca and Singapore Straits is rather different. Because free passage through the Straits is a vital interest to so many countries, which has meant that they have been the subject of close attention over a long period,256 the impression has arisen that Straits piracy is representative of piracy worldwide. This is not the case. At the lowest level much of it is akin to Indonesian piracy. However, what is distinctive about Straits piracy is its variety, epitomised by the Riau islands where, according to the provincial Head of Operations for the Indonesian Marine Police, there were three groups operating in 2005: the first was made up of small gangs of robbers trying to earn a living; the second, based on Batam, went after tug boats, which were then sold; the third was armed and organised and targeted larger ships, especially tankers with foreign flags.257 In addition the Straits have also experienced the
sort of incidents that are common in the Philippines: crew kidnapping, insurgency-related piracy and coastal raids.²⁵⁸

Because the Straits are narrow and crowded, almost all types of attack have taken place in international shipping lanes and sparked concerns that they might affect the free flow of trade. This might seem surprising, even alarmist given that, in proportion to the volume of ship movements through the Straits, the chances of suffering a pirate attack are extremely low: Eklöf calculated that based on 200 ships transits a day in 2004 (a figure that excludes intra-strait traffic) the probability of an attack was less than 0.2 per cent.²⁵⁹ Sam Bateman and his colleagues in their study that covered the period from 2000 to 2005 estimated the proportion to be between 0.06 per cent and 0.19 per cent of total traffic, the bulk of which moved between local ports.²⁶⁰ The concerns arose however because, despite this low probability, most of the attacks were mounted on vessels on the move in waters that are narrow and crowded, where sudden changes in the weather and the configuration of the channels demand that crews exercise great care and attention if ships are to be navigated safely.²⁶¹ The fear was, and remains, that a large ship or one carrying a hazardous cargo might be left without bridge control and collide with another, so blocking or polluting a key channel.

Malacca and Singapore Straits: Counter-piracy activity and cooperation. The littoral states of the region, individually and collectively, have struggled to

258 Kidnapping and insurgency-related piracy are dealt with elsewhere. On coastal raiding during the 1980s see the brief mention in Murray, ‘20th century pirates roam the seas of Southeast Asia’.

259 Eklöf, Pirates in Paradise, p. 99. The figure of 200 transits is based on a variety of ship types but excludes intra-strait traffic. This figure accords with the 1999 Japan Maritime Research Institute study which found that 75,510 ships over 1,000 GRT transited the Straits in that year. Cited in Bateman et al., ‘Safety and security in the Malacca and Singapore Straits’, p. 13. According to the Marine Department Peninsula Malaysia, transit traffic through the Straits increased from 43,964 ships in 1999 to 63,636 ships in 2004, an increase of 30.9 per cent. According to this source the 2004 total included 14,144 coastal barter trade movements and 1,131 transverse ferry movements. Cited in Hussin, ‘The Management of the Straits of Malacca: Burden Sharing as the Basis for Cooperation’, pp. 4-5.


overcome the factors that have encouraged piracy. There can be no ques-
tion that significant financial resources need to be spent on boats, aircraft,
surveillance assets and personnel if the pirates’ ability to exploit the region’s
favourable geography is to be overcome. Nonetheless other, less tractable,
obstacles have prevented states from taking effective action and engaging
in fruitful cooperation:
1. Complacency that the problem of piracy has been exaggerated, mainly
by foreigners. In Indonesia, at least, this is reinforced by the belief that
the benefits of piracy suppression do not justify the costs because most
of the shipping that is attacked is foreign owned.
2. Resentment that even though the international community has, through
a United Nations convention, granted states control over critical straits
and huge ocean areas with all their resources, the international states
that use these waters simply for transit do not contribute to the cost of
security.
3. Corruption that can exist anywhere on a spectrum from the lowest
level, where it might involve port officials supplying information, to the
highest, where politically powerful figures can provide protection and
influence what resources are devoted to the fight.
4. Political priorities that place the need for national cohesion and eco-
nomic development ahead of piracy suppression; that can in fact view
piracy suppression as an irrelevance.
5. Rivalry between states to demonstrate that the piracy problem lies in an-
other state’s waters; this led Indonesia, for example, to accuse Malaysia
of conspiring with the IMB to “massage” its piracy statistics by locating
the majority of incidents on the Indonesian side of the Straits.262
6. Fear that what has been won by international agreement can be taken
away: that the pressure to adopt definitions of piracy (such as the
IMB’s) could, if adopted, lead to the erosion of national sovereignty
over territorial waters and the “internationalisation” of straits. This, in
turn, could be seen internally as a slight on national sovereignty and be
used by opponents to stir up political discord.
7. Failure to acknowledge that piracy is a land-based problem which de-
mands effective and sustained land-based policing and political atten-
tion if it is to suppressed.

Cooperation between states requires the conjunction of perceived self-
interest and political maturity. The primary obstacle that inhibits inter-

state cooperation anywhere is concern over sovereignty. This is one that is
felt acutely in Southeast Asia. The states of the region are young and arti-
ficial, to the extent that they are based on colonial-era territories. Neither
characteristic is conducive to political self-assurance. The consequence has
been that cooperation has been all too often seen as a possible diminution
of hard-won sovereignty. Hence, while some purely national measures
have been put in place, and some largely symbolic bilateral agreements
concluded, the most significant national and regional initiatives to tackle
the problem of piracy have come about in response to external prompt-
ings: first, the Regional Cooperation Agreement on Combating Piracy and
Armed Robbery against Ships in Asia (ReCAAP), which was initiated by
Japan starting in 2001 and established mechanisms to achieve international
cooperation; secondly, the Regional Maritime Security Initiative (RMSI)
proposed by the United States in 2004, which, while it was never imple-
mented because regional states were wary of greater US involvement in
their affairs, drove them to take much needed action; thirdly, the 2005
decision of the Joint War Committee of Lloyd’s to designate parts of the
Malacca Straits to be areas of “Perceived Enhanced Risk” (PER), which
put (or threatened to put) an economic cost on Southeast Asian piracy, one
that the governments of the littoral states of the region could not disguise,
manipulate or ignore. The Committee’s decision complemented the ex-

263 Murphy, ‘Piracy and UNCLOS: Does international law help regional states
combat piracy?’ p. 167; John F. Bradford, ‘Shifting the Tides against Piracy in
489. For an example of how these concerns can enter domestic politics and
even be used to influence elections see D. Arul Rajoo, ‘Foreign powers eyeing
Straits of Melaka, says Chandra Muzaffar’, *Bernama*, 6 March 2008. For a use-
ful discussion of both the theoretical issues, and the history of the cooperative
efforts that have been attempted or undertaken see Ruijie He. ‘Ganging up on
the Jolly Roger in Asia: International Cooperation and Maritime Piracy’. Cam-

264 Roach, ‘Enhancing Maritime Security in the Straits of Malacca and Singapore’,
p. 106.

265 See, for example, Ioannis Gatsiounis, ‘Malaysia tweaks its terror compass’,
for maritime security cooperation in Southeast Asia’, *NWCR*, vol. 58, no. 3,
Summer 2005, pp. 82-3, where he writes, ‘it seems one motivation for their
development was to exclude the United States and, to a lesser extent, Japan
from a direct, visible role in Strait of Malacca security’. Also Storey. ‘Securing
Southeast Asia’s Sea Lanes’, pp. 115-6.

266 Murphy, ‘Piracy and UNCLOS: Does international law help regional states
combat piracy?’ p. 174. On the background to the JWC’s decision see Murphy,
ternal political pressure. Measures that might never have been agreed, or if agreed never or only partially implemented, or if implemented not funded adequately or sustained, went ahead, and the chances are reasonable that they will be kept in place until they have brought the threat from disorder in the Straits under greater control.267 ‘Taken together these various measures can be grouped under national, bilateral and multilateral measures.

(1) National measures: Singapore is the richest littoral state, and because it depends most on free movement through the Straits has invested heavily in its navy and maritime police. In addition it has built an integrated surveillance and information network for tracking suspicious maritime movements, randomly escorts high-value merchant vessels in its waters, and has redesignated shipping lanes to minimise convergence between such vessels and small boats.268

Malaysia has taken several steps to improve security. In 2000 the Royal Malaysian Marine Police established an anti-piracy task force equipped with 20 fast strike boats and four rigid inflatable boats and formed a tactical commando unit intended to operate alongside Malaysia’s other special forces.269 The retirement of Prime Minister Mahathir Mohamed accelerated the introduction of constructive measures and the prospect (but not the guarantee) that suggestions for multilateral cooperation would be accepted more readily.270 The intense nationalism and espousal of “Asian val-

267 Ramadas Rao and Tony Chan, ‘Malacca nations shocked into anti-pirate action’, Fairplay, 11 Aug. 2005; ‘Money Talks’, Fairplay, 17 Aug. 2006; Thomas, ‘Malacca Straits a ‘war risk zone’? Lloyd’s should review its assessment’, IDSS Commentaries, 19 Aug. 2005, p. 2; ‘New Malaysian coastguard to crack down on Malacca Strait piracy’, Lloyd’s List, 12 Oct. 2005; ‘Malaysia to step up anti-piracy patrols in Malacca Strait’, Forbes.com, 9 Feb. 2006; ‘New fleet chief vows to combat piracy’, The Jakarta Post, 18 Feb. 2006; Marcus Hand and James Brewer, ‘Malacca Strait declared a high risk zone by Joint War Committee’, Lloyd’s List, 1 July 2005. Several private interviews with the author, Aug. 2005-Feb. 2006. See also the comments of Rupert Atkin, who was Chairman of the JWC at the time the decision was taken to declare the Strait an area of PER: Rupert Atkin, ‘Role of insurers key to beating piracy’ (Letter to the Editor), Lloyd’s List, 18 July 2007. The need for the pressure to be maintained is a point that continues to be made by the IMB. For example, ICC-IMB Piracy Report, 2005, p. 16.


269 Ibid., p. 566.

270 The US RMSI programme, for example, was rejected in 2004 (despite being discussed openly for months) whereas neither Malaysia nor Indonesia protested
ues” that characterised Mahathir’s time in office from 1981 to 2003, which undermined anti-piracy cooperation with other states, was replaced with the more open and decisive attitude of Abdullah Badawi’s government. In 2005 it announced its intention to build a chain of radar stations along its side of the waterway, and later in the same year formed the Malaysian Maritime Enforcement Agency (MMEA), the equivalent of a coast guard, by bringing together elements from several existing agencies such as the Marine Police, Customs and Immigration departments.

Steps taken by Indonesia include the establishment of naval command and control centres in Batam in the Riau islands and Belawan in northern Sumatra in 2004. By the end of 2008 eight radar stations donated by the US were due to be in operation along the eastern coast of Sumatra.

(2) Bilateral measures: these have been taken between all three littoral states at various times. In 1992 the Indonesia-Singapore Coordinated Patrols were established, involving a direct communications link between the two navies and coordinated patrols undertaken every three months. A similar arrangement was concluded at the same time between Indonesia and Malaysia. However, Bradford reports that bilateral coordination “amounted to little more than exchange of schedules, to which in many cases partners did not adhere”. More promisingly a joint radar surveillance system known as Project SURPIC was launched in 2005 to enable Indonesia and Singapore to share a common operating picture of traffic in the Singapore Straits.

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274 ‘New radar system to boost Malacca Straits security near completion’, *Japan Today*, 13 June 2007.
277 ‘Singapore, Indonesia launch sea surveillance system’, *Vietnam News Agency*, 27
(3) Multilateral measures. Regional states were unwilling to enter multilateral arrangements until 2004 when the US advanced its RMSI proposal. The littoral states’ immediate response was to sign the MALSINDO (MALaysia-Singapore-INDOnesia) trilateral patrol agreement,\(^{278}\) supplemented in 2005 by an aerial surveillance agreement dubbed “Eye in the Sky” (EiS).\(^{279}\) Together they form the Malacca Straits Security Initiative (MSSI).\(^{280}\) The three participating countries (which Thailand has also announced it will join eventually\(^{281}\)) each currently contribute two maritime patrol aircraft sorties per week, each flying no less than three miles from any coast. Each aircraft carries a team consisting of one officer from each country. The on-board team advises of any suspicious contacts and the country in whose waters the incident has been observed can activate a patrol. The three countries signed a further agreement in 2006 to establish a Joint Coordinating Committee (JCC) to bring both the maritime and aerial patrols under a single umbrella to expedite information exchange.\(^{282}\) The final multilateral initiative, whilst not related to security directly, is the IMO-sponsored Marine Electronic Highway (MEH) Project, which aims to provide electronic navigation charts for the straits, including tidal and current data on a real time basis, AIS shore stations, and to operate a model MEH system for tankers equipped with Electronic Chart Display and Information Systems

May 2005.

\(^{278}\) MINDEF Singapore News Release, ‘Launch of trilateral coordinated patrols–MALSINDO Malacca Straits coordinated patrol’, 20 July 2004; Bradford, ‘The growing prospects for maritime security cooperation in Southeast Asia’, p. 68 comments that this initiative, although it came about as a reaction to a proposed external programme, was the ‘first significantly operationalised multilateral cooperation in Southeast Asia to develop without an extraregional partner.’


\(^{282}\) ‘Three littoral states agree to set up joint coordinating committee’, Business Times, 22 April 2006.

Shortage of funds has slowed implementation of the project, even though Korea has made a substantial contribution. Both MALSINDO and EiS, however, have substantial weaknesses to the point where their effectiveness can be questioned. Catherine Zara Raymond has reported suggestions that EiS in particular is largely “for show”. Ian Storey was unable to draw out from the crews of EiS patrol aircraft how they could, from the air, determine intention amongst the hundreds of small boats using the Straits and thus be able to identify “suspicious activity”. Only 17 vessels are currently assigned to the MALSINDO patrols although at least 24 are required. In the main they are manned by junior crews. They have not been given the right of “hot pursuit” into another state’s territorial waters. All questions relating to “hot pursuit” are still governed by the existing bilateral agreements, while Malaysia and Singapore still have no agreement to cover such eventualities.

In every case chasing boats must “hand over” to a vessel from the state into which the pirates have fled. Similar capacity and procedural difficulties beset the EiS initiative. The current programme calls for eight sorties per week whereas effective coverage demands 10 sorties per day. Questions have also been raised about the effectiveness of the surveillance equipment carried on board the aircraft as pirate boats have small radar and heat signatures that can only be detected using highly sensitive apparatus.

Joshua Ho, the Coordinator of the Maritime Security Programme at Singapore’s Institute of Defence and Security Studies, has written that although “the functional cooperation between the navies of the three littoral countries is excellent at the tactical level,” this does not extend

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287 Storey. ‘Securing Southeast Asia’s Sea Lanes’, p. 119.
289 Ong and Ho, ‘Maritime air patrols: The new weapon against piracy in the Malacca Straits’.
fully to the operational level. He suggests that this is because each country adopts a different approach to command and control: Malaysia’s is centralised, Indonesia’s is decentralised and Singapore’s is coordinated, which impedes performance, decision making and, in particular, interdiction activity.290

The primary effect of these patrols is deterrence.291 As Burnett points out: “Unless pirates are caught in the act… it is impossible to charge them with the crime”,292 although the cases of the Nepline Delima in 2005 and the Kraton in 2007 suggest that pirates can be caught in the act on occasion293. In 2005, for instance, only one of the 101 reported cases of actual or attempted piracy incidents in the waters of Indonesia, Malaysia, the Malacca Straits, and the Singapore Straits resulted in the arrests of the perpetrators.294 Notably, the apprehension of the pirates was not a direct result of any of the coordinated patrols. Their very presence, however, may encourage fishermen and others to report suspicious activity that will enable the patrols to build an intelligence picture of the Straits and, on occasion, to receive a tip-off that might lead directly to an arrest.

The various counter-measures have had an uneven effect. Nonetheless, since they were implemented pirate activity in the Straits has shown a sharp decline. The Malacca and Singapore Straits, which together suffered 80 attacks in 2000, recorded only 19 attacks in 2005. Whether this decline was due to these new arrangements or not, there were no attacks


291 Kim Hall, ‘Consensus and cooperation between littoral states and user nations in combating maritime piracy and violence in the Malacca Straits’, University of Cambridge, MPhil Thesis, 2006, pp. 59-60; Storey. ‘Securing Southeast Asia’s Sea Lanes’, p. 125..

292 Burnett, Dangerous Waters, p. 179.

293 In the Nepline Delima case, recounted in detail in Gwin, ‘Dark passage’, pp. 136-7 & 148-9, a crew member was able to escape and alert the Malaysian authorities who intercepted the ship before it left their territorial waters. See also ONI WWTTS Report, 22 June 2005, Paragraph K.2. In 2007 the 2,500 dwt product tanker the Kraton was hijacked south of Bintan. The master was able to alert the Indonesian authorities who were able to use a tracking system to search for the vessel. When it was boarded the 14 pirates on board were arrested. Marcus Hand, ‘Indonesia detains pirates for tanker hijacking’: Lloyd’s List, 26 Sept. 2007. Also ONI WWTTS Report, 22 Sept. 2007, Paragraph K.1.

in the early months of 2006 and the hope was expressed that the problem had been curbed if not eliminated.\textsuperscript{295} Attacks, however, resumed in April 2006 with five between then and July and a further attempted attack in October.\textsuperscript{296} The status of the security arrangements by the end of 2007 was that although information sharing had unquestionably improved, active cooperation remained limited largely to exercises because each littoral state continued to be highly protective of its territorial waters and national intelligence.\textsuperscript{297} Although Malaysia claimed that the patrols had reduced the number of incidents to “zero per cent” attacks nonetheless continued albeit at a significantly reduced level.\textsuperscript{298} The IMB recorded seven attacks during the period between January and December 2007 which prompted Chan and Ho to comment that the “Malacca and Singapore Straits remain a high risk area of water” and for Chan to question, in 2008, “how effective current regional efforts to combat piracy and armed robbery are to eradicate the long standing problem within these waters.”\textsuperscript{299} It is worth noting that in April 2008 pirates boarded a Thai tanker, the \textit{Pataravarin 2}, off Singapore but after robbing the crew left

\textsuperscript{295} Stefano Ambrogi, ‘Pirate attacks on the wane’, \textit{Reuters}, 7 May 2005, where he reports the note of caution sounded by the IMB. As Bradford writes “there is insufficient direct evidence to correlate them positively with the apparent drop in piracy rates”. Bradford. ‘Shifting the Tides against Piracy in Southeast Asian Waters’, p. 482.


\textsuperscript{297} Denise Hammick, ‘Turning the tide’, \textit{Jane’s DW}, vol. 44, no. 47, 21 Nov. 2007, p. 21;

\textsuperscript{298} Marcus Hand, ‘Joint patrols cut Malacca attacks to ‘zero per cent”, \textit{Lloyd’s List}, 144 April 2008.

the vessel apparently disappointed that it was carrying jet fuel rather than the diesel that they were expecting to find.\footnote{Achadtata Chuenniran, ‘Pirates rob Thai tanker crew’, \textit{Bangkok Post}, 288 April 2008; ‘Heavily-armed pirates attack, Thai, South Korea ships’, \textit{Channel NewsAsia}, 30 April 2008. ONI WWTTTS Report, 30 April 2008, Paragraph K.3.} Diesel has been a traditional target for organised pirate gangs in the region because, as been noted already, it is easy to sell on the local black market. This attack, moreover, possibly reflects a return towards more organised attacks, a pattern noted by Chan and Ho in their first report in 2008.\footnote{Jane Chan and Joshua Ho, ‘Report on Armed Robbery and Piracy in Southeast Asia, 1\textsuperscript{st} Quarter 2008’, S. Rajaratnam School of International Studies, Maritime Security Programme, ND, p. 2.}

International attention on Malacca and Singapore Straits piracy has always focused on the threat to international shipping. What has generally been ignored has been attacks on local shipping, fishing craft in particular, and there is no reason to believe that the number of attacks on these vessels has declined. In July 2006 the official Malaysian news agency, Bernama, carried a report that the fishermen from the village of Parit Jawa in Johore had stopped going to sea because pirates attacked them regularly, often with automatic weapons. While the pirates never attacked when police patrols were in the area, the villagers said they rarely filed incident reports because they did not want to be “burdened by police investigation that could mean being interviewed seven or eight times.” The pirates were described as “foreigners”, which was presumably a euphemism for Indonesians.\footnote{‘piracy: Fishermen reluctant to go to sea’, \textit{Bernama.com}, 21 July 2006.} In a second village, Hutan Melintang, which is home to a 900-vessel fleet, a fishing boat has been attacked on average every month. Since the 1970s the local fishermen have complained that “lost commands”, that is to say rogue elements of Indonesian police and navy, have been responsible for around half the attacks but, because nothing has been done to stop them, predation has become a way of life and an easy way to make a living.\footnote{Langit-Dursin, ‘Indonesia key to end piracy in Malacca Straits’; also Carolin Liss, ‘The roots of piracy in Southeast Asia’, \textit{Austral Policy Forum}, 07-18A, 22 Oct. 2007, who reports that fines can be paid at sea, in which case the fishing boat is allowed to go, or the boats can be taken to Indonesia where they can be detained for months as negotiations are conducted.} In his address to a maritime security conference in 2007 the Malaysian Inspector-General of Police, Tan Sri Musa Hassan, talked about a “criminal phenomenon” of extortion in the Malacca Straits where pirates were forcing fishermen to pay a “ransom”
in exchange for “safe fishing certification”. He added that, although the problem was confined currently to a limited number of areas, it was becoming rampant. ³⁰⁴

However, as Liss points out, fishermen in some case leave themselves open to depredation. As traditional grounds become less productive fishermen are tempted to fish illegally either in the waters of other states or in protected areas such as national parks. In no position to call either for protection or to report the incident subsequently, they are easy prey for corrupt police, naval personnel and pirates. ³⁰⁵

Nor was this harassment confined to the Malaysian side of the Strait. In 2003 the North Sumatran owner of a small fishing fleet told the Jakarta Post that different groups of pirates would demand protection money which could add up to Rp 4 million (about $440 in 2007 dollars) per boat per day. In 2004 the director of the North Sumatra Fishery Office claimed that at least 30 fishing vessels, 15 of them Indonesian, had been attacked off North Sumatra and Aceh in the first third of the year and that two-thirds of the province’s fishing fleet—8,000 boats—were tied up because of the piracy threat. ³⁰⁶

There is, therefore, little reason to take comfort from, or to become complacent about, the sort of improvements that appear to have occurred in the Malacca and Singapore Straits. ³⁰⁷ Piracy’s signal characteristic is its mobility. As fishermen follow fish so pirates follow prey. Vijay Sakhuja likens pirates to sharks and says that “like sharks…they breed and show up more often in some regions than others…piracy moves around, and its centre of gravity keeps shifting (but) pirate-plagued areas remain active”. ³⁰⁸ Piracy attacks in the Straits might have gone down but few of the perpetrators have been caught, and given piracy’s endemic nature there must be at least a suspicion that the gangs are biding their time. ³⁰⁹

³⁰⁴ ‘Melaka Straits must be kept safe from maritime terrorism, says IGP’, Bernama, 12 June 2007.
³⁰⁵ Liss, ‘The roots of piracy in Southeast Asia’.
³⁰⁶ Eklöf, Pirates in Paradise, p. 54.
³⁰⁷ For example, Felix Soh, ‘Straits of Malacca now free of pirate attacks’. Straits Times, 13 April 1996
small boats, weak states, dirty money

Pottengal Mukundan, the director of the IMB, said in 2007 that “we know the gangs are there…The moment they feel that law enforcement have taken their eye off the ball and are looking somewhere else and have no time for piracy, surely the attacks will come back.” It appears, for example, that at least some of the pirate activity that used to take place in the Malacca Straits has transferred to other piracy “blackspots”, one close to the Natuna Islands in the South China Sea and another in the Gelasa Strait between Bangka and Belitung Islands. In 2008 the IMB warned that between March and June five ships had been attacked in the vicinity of the Anambas Islands, part of the Nantua. Some local gangs in the Malacca Straits would lack the skill, equipment or motivation to move so far. However, the gang led by Winang, mentioned earlier, that came from South Sumatra but based itself amongst the fishing people of Jemaja for months at a time, illustrates that mobility is possible, while organised crime operations would hire local labour as they needed it. Karsten von Hoesslin, another researcher who has conducted fieldwork in the region, suggests that the Bhudil Synil gang, which used to be based on Batam, transferred their operation to Lombok, and Bobby’s Gang began attacking shipping in the Gelasa Strait and the Java Sea. Given also that in order to improve policing in one area the law enforcement agencies would probably have moved assets from another, local gangs in the denuded area could well be tempted to exploit the opportunity presented by the newly permissive environment.

Whatever the circumstances, however, so long as littoral states retain a reactive stance, pirates retain the initiative. In 2007 for example, Datuk Jalaluddin, the chief of the Malaysian marine police, complained that if information about an incident took hours to arrive it gave the pirates time to make their escape, but admitted that even if they were given timely advice they would still take between 30 minutes and an hour to respond.

310 Clarence Fernandez, ‘Strait nations urged not to relax piracy vigil’, Reuters, 15 June 2007. Also Marcus Hand, ‘Keep up pressure on pirates, urges IMB’, Lloyd’s List, 12 May 2006 and Storey. ‘Securing Southeast Asia’s Sea Lanes’, p. 120 on concerns that the littoral states lack the resources to maintain the initiative.

311 Gelasa Straits are sometimes spelt Gerasa and even Gaspar on some maps. For a report on a 2006 attack see Akihiro Ishihara, ‘JCG seeks foreign help in probe of pirate attack’, Daily Yomiuri Online, 20 June 2006; also IMB reports.


314 V. Shankar Ganesh, ‘Malaysian, Indonesian police to up anti-piracy operations
CONTemporary Piracy: Tho Who, the Why and the Where

South China Sea

Although Indonesia’s position on the international league table has remained largely unchanged, the piracy problem in the waters of other states has ebbed and flowed. Like all crime statistics it is likely that the number of piracy reports (and thus the number of recorded incidents) has increased as awareness of the problem had grown. Grounds for suggesting this come from the fact that the proportion of attacks reported from outside East and Southeast Asia grew from 38 per cent in 1995 to 51 per cent in 2005. It is also true that in 1983 it was the problem of piracy off West Africa (see below) that first caught the IMO’s attention, not piracy in Asia. Therefore there is some value in looking at how the rankings have changed at five-year intervals.

Between 1993 and 1995 the second focus after Indonesia was the South China Sea, Hong Kong and Macau, and the so-called “Hong Kong-Luzon-Hainan Island (HLH) triangle”. Numerous incidents occurred,

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<tr>
<td>2</td>
<td>China/HK/Macau</td>
<td>Malacca Straits</td>
<td>Somalia</td>
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<td>3</td>
<td>Philippines</td>
<td>Bangladesh</td>
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<td>Somalia</td>
<td>Malaysia</td>
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<td>6</td>
<td>India</td>
<td>Ecuador</td>
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<td>8</td>
<td>Sri Lanka</td>
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Table 5. Sea areas with the highest number of piracy incidents Selected years 1995-2005. Source: International Maritime Bureau, 2006, “Hong Kong-Luzon-Hainan Island”


315 ICC-IMB Piracy Report, 2005, Table 1, p. 5.
316 Chalk, Grey-Area Phenomena in Southeast Asia, pp. 29-30.
several of which indicated the involvement of organised criminal gangs. However, the most noteworthy characteristic was the involvement of official Chinese patrol craft. The political aspect of this episode was discussed earlier. Chinese vessels, possibly connected to the regional government or military administration on Hainan Island off China’s southern coast, knowing that cigarettes being smuggled into China were brought in by ship from Singapore, ventured far out into the South China Sea to intercept and detain vessels, purportedly in order to enforce "Chinese" customs duties. One example was the *Hye Mieko*, which reported that it was hijacked off the Cambodian coast by a boat resembling a Chinese Customs launch and forced to accompany it 1,000 miles to Shanwei in Guandung Province. There the Chinese authorities charged the vessel with attempting to smuggle its cargo of cigarettes into China. The boat and its cargo were promptly seized. Other seizures, however, undermined the anti-smuggling argument. For example, a Singapore-flagged freighter, the *Vosa Carrier*, was seized by what the crew described as a Chinese military patrol craft while en route from Hong Kong to Haiphong in Vietnam in 1997. They were forced to sail the ship to the Chinese port of Hui Lai and then to Pao Tai where they were deprived of food, water and sleep and forced to sign false confessions before their cargo worth $2.5 million was confiscated. In 1991, 15 pirates who claimed to be part of the PLAN demanded that a loaded tanker, the *World Bridge*, should stop and be searched. When the master refused they threw explosives onto the deck and fired at the hull before giving up. In fact one of the notable characteristics of piracy in the

318 Menefee, *TMV*, p. 70.
South China Sea during this period, certainly when compared with piracy in Southeast Asia, was the number and weight of firearms in evidence, including rocket launchers, whereas Southeast Asian pirates largely employed edged weapons but firearms only occasionally. Finally, an insight into the extent of the links between these hijackings by naval or police vessels and organised crime was given by the discovery of the *East Wind*, a Panamanian freighter that had been seized by the Chinese authorities in 1992, adrift in the Pacific in 1993 with 527 Chinese migrants on board who were apparently being smuggled to the US. As suggested earlier, it is not clear why this activity ceased around 1995. Leaving the political suggestions to one side, one explanation is that Beijing reined in the local administration because it was conscious that the activity was harming China’s reputation internationally and, perhaps more pertinently, because the rise of lawlessness and corruption was a challenge to its own authority. It claimed that if official craft were involved they came from “rogue units”, and certainly denied that the customs launch involved in the *Hye Mieko* incident was on official business. However, the breakneck growth in the Chinese economy that started around this period, which appeared to weaken the central government’s control over its provincial officials, made China the favoured destination for black market goods. Factory managers desperate to make their quotas were apparently willing to buy the raw materials they needed anywhere they could find them, no questions asked. Consequently, the waters of Southeast Asia as far south as the Malacca Straits experienced an unusually high number of major ship hijackings from the early 1990s to the early 2000s; the cargoes vanished without trace, the assumption being that most of them ended up in the rapidly expanding factories of China’s coastal belt. Interestingly,

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the hijacking of the *MT Steadfast* and two other vessels in December 2005 prompted ONI to comment:

These incidents appear to represent a form of piracy not reported since China’s crackdown on black-market activity starting in 1998, wherein a ship is targeted for seizure at its load port and the cargo is taken to some destination, where arrangements for disposal have already been concluded. The complexity of the operation suggests transnational players at the ship selection and cargo-disposal ends of the operation. In these types of cases, crew and ship owner complicity must be considered, since they have no immediate financial interest in the cargo, per se. Since the crackdown on the illegal Chinese markets, hijackers have experienced difficulty disposing of their cargos. If the *Steadfast* is indeed hijacked and is not rapidly located and its cargo recovered, or traced, this could be a sign that criminal gangs have solved their problem with disposal of stolen goods.\(^{328}\)

In fact the *Steadfast* was recovered quickly.\(^{329}\) Nonetheless the problem has by no means gone away. In October 2006 a tanker carrying 1,800 tonnes of diesel was stolen off Dubai. In November it turned up for sale in Singapore minus its cargo and its crew.\(^{330}\) In September 2007 a 2,500-dwt product tanker, the *Kraton*, was hijacked on a voyage within Indonesia from Palembang to Cilacap with the apparent intention of diverting it to Malaysia. The pirates failed to disable the ship’s tracking system, which enabled the Indonesian authorities to recapture the vessel.\(^{331}\)

**Bay of Bengal – Bangladesh**

As Vijay Sakhuja noted, the volume of piracy attacks at the northern end of the South China Sea declined such that the centre of gravity swung westwards towards the Bay of Bengal and the Arabian Sea.\(^{332}\) The IMB’s figures appeared to confirm this: India recorded five attacks in 2006, which was down from 35 in 2000, but on par with the five it recorded in 1992. The problem, however, has become most serious off Bangladesh. According to IMB figures there were two attacks in 1994 but the number increased steadily until, between 2000 and 2005, Bangladeshi waters were the most danger-

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332 Sakhuja, ‘Indian Ocean and the safety of sea lines of communication’.
ous after Indonesia’s. In 2006 47 attacks were recorded, only three fewer attacks than in Indonesia. In reality the number of pirate attacks was probably significantly more. Menefee, who undertook a detailed study of Bangladeshi piracy in 2003, which drew on local as well as international reports of the problem, suggests that the number of boats attacked was probably 75 per cent more than was recorded by either the IMB or the IMO.

Piracy in Bangladesh started in the early 1980s. It is concentrated in two areas: firstly around the port of Chittagong, which has an unenviable reputation for organised crime, corruption and poor management; the suspicion of collusion between the Chittagong port authority employees and the pirates will not go away. Secondly, the estuarial region in the southwest. Although most of the attacks have been of the petty variety, as in Indonesia long knives are much in evidence and a strain of viciousness runs through the reports stretching back many years. In 1982, for example, eight of the eleven-man crew of a trawler were tied in sacks by 30 pirates and thrown overboard to drown. The pirates kept the fishermen’s catch, worth $30,000. In 1995 another group of 30 pirates boarded another fishing vessel, the *Aliya*, and forced the crew over the side, 30 of whom are believed to have drowned. The level of violence has actually increased; the use of guns has been reported, and incidents of kidnapping, mainly of fishermen, appear to be on the rise. This could be because of clan rivalries over access to fishing grounds. The seriousness of the attacks can be gauged from the fact that between April and June 2006 six fishermen were killed and 200 trawlers looted of fish.

333 Although there were no attacks in the Malacca Straits in the first three months of 2006, in 2004 it appeared that the focus was swinging back in that direction with a 33 per cent rise in incidents in the first half of 2004, whereas the number of attacks in Indian and Bangladeshi waters fell: ‘Malacca sea piracy on rise’, *CNN.com*, 25 July 2004.
339 See, for example, the report of 28 fishermen being abducted by 13 pirates in NGA ASAM 2006-136, 15 May 2006. Not that the pirates always have it their own way. In 2003 the IMB reported that villagers had attacked and lynched 28 pirates on the Noakhali coast south of Chittagong. ICC-IMB Piracy Report for 1 Jan.-31 Dec. 2003, p. 25.
nets, engines and fuel oil. Forty fishermen were abducted and 100 others injured. The most notorious pirate gang leaders are reputed to operate from secret dens in the deep forest and saltwater swamps of the Sunderbans that cover the lower part of the Ganges delta.\footnote{ONI, WWTTS Report, 21 June 2006, Paragraph H.2.} In August 2003 the \textit{Bangladesh Observer} quoted local fishermen who had told the paper that ten groups of pirates were operating in the Sunderbans, often fighting between themselves for domination.\footnote{Menefee, ‘Under-reporting of the problems of maritime piracy and terrorism’, p. 255} It is reported that the Bangladeshi authorities are now mounting a campaign to suppress pirate activity.\footnote{‘Bangladesh Coast Guard and Navy begin drive against pirates’, \textit{Narinjara News}, 18 July 2006; ONI, WWTTS Report, 19 July 2006, Paragraph D.1.} Although reports of arrests are scarce, in August 2006 Alauddin, the leader of the infamous “Alaud-din Bahini” gang, was shot and killed in a shootout with police.\footnote{ONI, WWTTS Report, 23 Aug. 2006, Paragraph D.1.} As in so many areas, the role of corrupt officials and police connivance is mentioned regularly in reports.\footnote{Menefee, ‘Under-reporting of the problems of maritime piracy and terrorism’, pp. 253 & 254.}

\textbf{South America}

While the main concentration of piracy incidents (65 per cent of all piracy attacks world wide, 2001-2005) occurs in an arc around the Southeast Asian peninsula and its offshore archipelagos, i.e. from the “HLH” triangle through the Philippines and Indonesia to the Bay of Bengal, they also occur elsewhere. In South America, between 1997 and 2002, the waters off Ecuador witnessed an attack about once a month. These were concentrated in the vicinity of Guayaquil, a city where separatist pressures had both weakened the power of central government authority and encouraged corruption amongst local law enforcement agencies.

Brazil has had a serious piracy problem in the past with a high of 17 attacks in 1995. The IMO brought substantial pressure to bear on the Brazilian government that responded by improving maritime security, focusing its attentions on the ports of Rio de Janeiro and, in particular, Santos (where corruption in the police force was rife), which between 1994 and 2000 were especially dangerous. A suspiciously high proportion of the attacks appeared
to be well organised and targeted against specific vessels and cargoes.\textsuperscript{345} The attack on the LPG carrier \textit{Isomeria}, which was boarded while it was discharging its cargo at Santos in January 1998 by four pirates carrying Uzi sub-machine guns (who injured the second officer during the subsequent shoot-out with police), was perhaps the most noteworthy incident.\textsuperscript{346} By the mid-2000s Santos was once again experiencing problems, with an upsurge in attacks on container ships.\textsuperscript{347} However, attacks were not restricted to these ports alone. In 2001 the internationally renowned sailor Sir Peter Blake was murdered on board his yacht as it lay at anchor awaiting customs clearance near the mouth of the Amazon.\textsuperscript{348} Although, pirate attacks in Brazilian waters overall have been reduced, they have not been eradicated; there were two in 2005, seven in 2006 and continuing problems in Santos which meant that by 2008 its ISPS certification was in jeopardy.\textsuperscript{349}

Piracy in the Caribbean did not come to a happy end with Jack Sparrow. Piracy incidents occur regularly throughout the region from Suriname and Guyana—where the attacks appear to be mounted primarily against fishermen, some of them involving vicious violence—westwards along the coast of Venezuela to Colombia, where they involve yachts and ships at anchor off ports such as Maracaibo, Cartagena and Barranquilla. Reports of ships being boarded while anchored off the port of Kingston, Jamaica, became more frequent starting in 2003 and sufficiently worrisome by 2006

\begin{enumerate}
\item The attack took place near Macapa. For a description of the attacks see ‘Peter Blake–Murder on the Amazon’, \textit{Latitude 38}, Jan. 2002. See also John Simpson, ‘Death on the Amazon sheds light on modern-day piracy’, \textit{Sunday Telegraph}, 9 Dec. 2001 and Andrew Downie and Tim Jefferies, ‘Blake’s killers are jailed’, \textit{Daily Telegraph}, 20 June 2002. See also Burnett, \textit{Dangerous Waters}, p. 85. In the relevant ASAM, 2001-329 dated 5 Dec. 2001, ONI point to circumstantial evidence that raises the question whether pirates carried out the attack or Blake was instead murdered because his environmental campaigning might have upset certain Amazonian business interests.
\end{enumerate}
for the IMB to suggest that it should be declared a piracy “hotspot”. This was disputed vigorously by port officials, who were possibly concerned that the reports could damage the plan to develop Kingston as a cargo trans-shipment centre.\footnote{350}

\textit{Yacht piracy}

Yacht piracy can occur anywhere.\footnote{351} A 2006 report pointed to the trade in yachts stolen off France from where they were run across the Mediterranean to Malta or Tunisia. There they were repainted before being sailed to the Black Sea to be sold to the newly rich of Russia and the Ukraine.\footnote{352} However, it has been a particularly frequent occurrence in Caribbean waters, from the coast of Venezuela northwards up the island chain to the Bahamas and the coast of Florida; that is to say, along the island-hopping drug smuggling route from South to North America. In most cases when drug runners are involved they kill or kidnap those on board and then sell or sink the yacht after one trip to minimise the risk of detection. The US authorities suspect that over the years many more yachts have disappeared than have been reported.\footnote{353} Of the 610 American yachts that went missing between 1970 and 1974 for example, 44 matched the profile of the yachts drug runners looked for; 202 people linked to these specific losses remain missing.\footnote{354}

\footnote{350}{ICC-IMB Piracy Report 2006, Table 1, p. 5; ‘No piracy in Jamaica waters, official says’, \textit{Reuters AlertNet} 26 May 2006. It is also worth noting that, contrary to the official position, local fishermen have been complaining about piracy attacks and that Jamaican waters have been over-fished. There is also concern as to whether or not Jamaica has the resources to defend its maritime domain. See Michael Burke, ‘Difficult decisions’, \textit{Jamaica Observer}, 29 June 2006. For a report detailing pirate attacks on Jamaican fishing boats see ONI WWTTS Report, 12 July 2006.}


\footnote{353}{Chalk, \textit{Non-Military Security and Global Order}, pp. 72-3.}

\footnote{354}{Menefee, \textit{TMV}, p. 98.}
East Africa – Somalia

Outside Asia, it is in the waters around Somalia that the pirate presence has been greatest over the past few years. Although its precise origins are unclear, the problem began in the region in the early 1990s as an aspect of the generalised disorder that followed the overthrow of the socialist dictator Muhammad Siad Barre by clan-based warlords. The consequence of that disorder is that the land area of Somalia is split three ways politically between the break-away republic of Somaliland which abuts Djibouti in the northwest, the break-away region of Puntland in the northeast, and the south which is nominally controlled by the UN-recognised Transitional Federal Government (TFG) but is actually divided between various warlord groupings.

In 1995, the IMO reported the case of the Bonsella, attacked in September 1994 by a party of 26 pirates posing as coastguards, who for six days used it as a base from which to attack other ships. In 1997 the IMB reported that an armed faction seized the MV Baharihindi and sailed it to Garad on the east coast. It was released after a $200,000 ransom had been paid but not before the third officer had been shot in the stomach. By 1998, two thirds of all maritime abductions worldwide were taking place in the Gulf of Aden close to Somalia.

Much Somali piracy appears to have its roots in fishing disputes: the absence of any effective authority operating along Africa’s longest national coastline has meant that fishing vessels from Europe and East Asia can exploit the area’s rich marine resources at the expense of locals, causing dangerous tensions. Some commentators argue that the main source of piracy in the region is armed groups, formed by local fishermen in response to unregulated fishing by foreign fishing vessels, which subsequently become pirate gangs. Certainly the issue is cited by those accused of piracy:


the Somalis captured by the US navy ship USS *Gonzalez* in March 2006 apparently claimed to be defending local fishermen by ‘taxing’ illicit foreign trawlers, as did the attackers of the *Dongwon-ho* the following month.\(^{360}\)

In 2000, there were 23 incidents of piracy recorded in the Red Sea-Aden-Somalia region, a third of the African total.\(^{361}\) This level was sustained through 2001 but this was also the year of the US’s *Operation Enduring Freedom* in Afghanistan. Fearing that high-ranking members of al-Qaeda would attempt to escape via Pakistan and the Arabian Peninsula to the Horn of Africa, the US assembled the multinational Coalition Task Force (CTF) 150 to patrol the northern Arabian Sea from the Pakistani coast to Somalia. The number of reported piracy incidents declined. In 2004, only ten incidents were recorded but this turned out to be only a brief respite. In 2005 pirate attacks resumed in earnest off the Somali coast, fueled by continuing warlordism on land.

Somali piracy appears to be a hybrid of common and organised pirate types. At sea Somali pirates have tended to employ basic methods and haphazard planning. On shore their tactic of hijacking vessels and holding them, along with crew and cargo, to ransom is relatively sophisticated.\(^{362}\) The lawless conditions in Somalia, where it is possible to moor a ship beyond the reach of rescue or retaliation, make it an ideal place for ransom-based piracy to thrive. The ransom income of Somali pirates has probably been substantial. For example, the most successful group, the Xarardheere-based ‘Somali Marines’, apparently demanded $1m and eventually settled for $800,000 for the return of the *Dongwon-ho*, a South Korean tuna fishing vessel captured in April 2006.\(^{363}\)

It was this group that was behind the attack in November 2005 on the Bahamas-flagged, US-operated cruise liner *Seabourn Spirit*. The ship was sailing about 100 miles off the coast, well within the area that the IMB and ONI advised ships to avoid, when it was attacked and chased by a group of

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360 On the *Dongwon-ho*, see Bo-Mi Lim, ‘Militants who seize S. Korea ship off Somalia say they’re defending against illegal fishing’, *NCTimes.com*, 5 April 2006.


362 It is worth taking note of the press release issued by Andrew Mwangura of the Seafarers’ Assistance Programme, Mombasa, Kenya, on 8 Feb. 2006.


Pirates firing automatic rifles and rocket-propelled grenades. It managed to increase speed and escape but the incident drew the attention of the world’s media to the issue of Somali piracy. The attack on the Seabourn Spirit, being an assault on a passenger ship under US ownership and, as such, an object of international attention, prompted the IMO to raise the issue of piracy at the UN Security Council in the hope of obtaining a UNSC resolution. The attempt was only partially successful. In March 2006 the Security Council issued a statement which stated that member states with naval vessels in the vicinity should be vigilant and “take appropriate action to protect merchant shipping, in particular the transportation of humanitarian aid, against any such act, in line with international law”. The response of the US government was much more robust. Whereas prior to the attack CTF 150 had focused on counter-terrorism, afterwards the US navy, with the support of its Coalition partners, adopted a more aggressive posture towards piracy starting late in 2005.

Much attention was devoted to curbing the activities of the ‘Somali Marines’, which during its first active period, from 2005 to 2006, was the most effective pirate gang operating off Somalia. It stood out because it was willing to venture far out to sea. In 2004, the IMB advised ships to sail at least 50 nautical miles (93 km) from the coast, preferably further, but by autumn 2005 had increased this to 150nm (278 km). Even these distances did not appear to be far enough. In mid-November 2005, a general cargo vessel reported that it was chased for one and a half hours 390nm

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(720 km) out to sea.\textsuperscript{368} Despite the warnings, ships continued to sail closer to the coast than was advisable.

Nonetheless, the success of this pirate group in locating targets at these ranges, and their maritime competence in general, should not be exaggerated. Some attempted attacks reported as taking place 200nm (370 km) or more from the coast, including the supposed chase at 390nm noted above, could have been cases of masters, fearing a pirate attack, confusing at a distance the sight of a fishing ship deploying its nets with a mother ship preparing to deploy fast boats.\textsuperscript{369} The presence of the US Navy, including two high profile interceptions by US warships, the first in January 2006 when the USS \textit{Winston S. Churchill} intercepted the \textit{Al Bisarat}, a captured dhow that was being used as a ‘mother ship’, the pirate crew of which were prosecuted successfully by Kenya, and the second in March when the pirates’ fire was returned by two US ships, the USS \textit{Gonzalez} and the USS \textit{Cape St George}, which left the pirate boat involved burning and one pirate dead, had some success in restricting the ‘Somali Marines’ activities to coastal waters by deterring the group from entering international shipping lanes although it could not prevent their incursions entirely.\textsuperscript{370}

In May and June 2006, the warlords’ rule collapsed and the Islamic Courts Union (ICU) established control in several towns, including Mogadishu. The ICU took steps to suppress the pirates, who had operated under the


\textsuperscript{369} For more details on this type of fishing vessel see http://www.fao.org/figis/servlet/vesseltyle?fid=150 and http://www.fao.org/figis/servlet/geartype?fid=249

protection and possible direction of the warlord forces that opposed them, by shutting down their bases.\footnote{United Nations. ‘Report on the Monitoring Group on Somalia pursuant to Security Council Resolution 1676’, Nov. 2006, pp. 30 & 41-42.} Fearing the prospect of rising Islamist influence, US-backed Ethiopian forces defeated the ICU in December 2006 and removed it from power. Following the collapse of ICU rule, there were signs of renewed pirate activity. In December 2006, the ONI reported that a cargo ship, the *Sheila McDevitt*, had encountered a suspected pirate vessel 120nm (222 km) off the coast the previous month,\footnote{ONI. WWTTS Report, 3 Jan. 2007, Paragraph H.3; NGA ASAM 2007-3 and 2007-14, 19 Dec. 2006. Also ‘Piracy resurgence feared off Somalia’, *Fairplay*, 11 Jan. 2007.} and early in 2007 there was a report that pirates were re-assembling at Xarardheere, the ‘Somali Marines’ former base.\footnote{Aweys Osman Yusuf, ‘Somali pirates gather at the coastal town of Haradhdere’, *Shabelle Media Network*, 26 Jan. 2007. Also ONI WWTTS Report, 31 Jan. 2007, Paragraph D.1.} Although it is believed that four (and maybe five) pirate groups have been operating at any one time, the suspicion is that it is the reinvigorated ‘Somali Marines’ that have been responsible for most, if not all, of the large scale piracy that has taken place off Somalia in the period between the ICU’s collapse in 2006 and early 2008.

Reports issued in April and May 2007 indicated that pirate activity had resumed in the shipping lanes with an attack on a bulk carrier, the *Ibn Younos*, recorded around 200nm (370 km) from the coast.\footnote{ONI WWTTS Special Advisory, 17 May 2007; NGA 2007-108, 14 May 2007; ‘Pirates open fire on cargo ship: Malaysian watchdog warns key routes threatened’, *AP*, 15 May 2007.} Although CTF 150 remained active in the area it, like any maritime patrol, could only have a limited deterrent and constabulary effect given the vast sea to be covered.\footnote{‘Pirates moving into deep sea’, *Lloyd’s List*, 22 May 2007.} It also became apparent that the pirates were using satellite phones and GPS navigation equipment, and, through their connections with land-based warlord groups, had access to heavier weapons.\footnote{Anthony Mitchell. ‘4 suspected Somali pirates arrested’, *Washington Post*, 27 Feb. 2007; Helmoed-Roemer Heitman. ‘Attacks underline escalation of Somali piracy threat’, *Jane’s DW*, 30 May 2007; Audrey Gillan. ‘Guns, grenades and GPS: the brutal reality of Somalia’s pirates’, *The Guardian*, 12 June 2007; ‘Piracy plagues Somali waters’, *Forbes*, 19 Nov. 2007.} Given the distances from land at which interceptions were made, it was plain that the formations of two or three skiffs that the pirates used had to be transported to the search areas by on mother ships that were sufficiently anony-
mous to be able to merge with ordinary shipping traffic. To prolong their time in the search areas, the ‘mother ship’ concept was sometimes extended by using one of the skiffs in a three-skiff deployment to transport fuel for the other two.

The pirates were also able to exploit the reluctance of Coalition forces to enter Somali territorial waters without the permission of the Somali Transitional Federal Government (TFG). In June 2007 the USS Carter Hall, correctly identifying that a Danish freighter, the Danica White, that had been hijacked in heavy seas 130nm (210 km) off the coast, was under the control of pirates, fired shots intended to disable the vessel. Unable to continue firing because the pirates used crewmembers as human shields, it broke off pursuit once the ship had crossed the Somali territorial limit. The Danica White and her crew were released in August. Unusually, the Danish government admitted a ransom had been paid, a move that was immediately condemned as a naïve encouragement for further hostage taking. The amount paid was never revealed but the pirates were known to have demanded $1.5 million. In a subsequent incident in October 2007, however, the US Navy received permission to enter Somali territorial waters in pursuit of a Japanese-owned chemical tanker loaded with benzene, the Goldon Nori, which had been hijacked in the Gulf of Aden. The USS Porter succeeded in sinking the pirates’ skiffs, which were being towed behind the tanker, but could not prevent the tanker itself being sailed to a point 380nm (704km) further south. Once there it remained moored, under US Navy observation, until it and its crew were released in December, shortly after the pirates issued a demand for a $1 million ransom and the US Navy began to block supplies reaching the ship from the shore.

Even now, most Coalition navies, because they lack law enforcement powers and experience, are reluctant to capture pirates unless there is a good chance that a government in the region will accept jurisdiction. Transporting suspects back to face charges in home courts presents significant logistical problems and although most cases would be justiciable providing the requisite domestic legislation was in place, evidentiary concerns and subsequent human rights appeals could raise costs and place the final outcome of a prosecution in some doubt. The consequence of this reluctant is that the territorial waters of weak and failed states, of which Somalia is the prime example, continue to provide pirates with safe havens in the majority of cases.

What the presence of Coalition warships did appear to do was to influence the pirates to gradually shift the geographical focus of their attacks away from the Indian Ocean coast of Somalia towards the Gulf of Aden.\(^3\) The waters off the Gulf coast, which is also the northern coast of Puntland, are trafficked more heavily than those along the east coast which means there are more potential targets and despite the fact there are also more Coalition warships active in the area, more opportunities to hide their craft amongst the larger number of local fishing craft.\(^3\) In fact, in the case of the *Le Ponant* discussed below, the pirates initially hijacked a legitimate Yemeni fishing boat and used it as their base ship while they waited for a suitable target. Once this had been identified, the pirates boarded their skiffs and allowed the fishing vessel to make its escape.\(^3\)

In March 2007 a small cargo ship, the MV *Rozen*, was hijacked and its crew held for ransom off the northeast coast of Puntland as it returned from delivering UN relief supplies. The *Rozen* incident was of significant because the attack took place off the town of Bargal, where the ship was subsequently anchored, which is located very close to the Horn. It indicated that the ‘Somali Marines’ were prepared to hunt for targets in the Gulf of

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384 *Houreld*. ‘Anti-piracy coalition turns their sights on elusive Somali mother ship’.
Aden, which they reached by hugging the Puntland coast thereby staying within Somali territorial waters for the duration of their transit from their bases further south.\(^{386}\) It also brought into the open the suspicion, which had been circulating for months (if not years), that senior members of the Puntland administration, some of whom also held senior positions in the TFG, were actively involved in piracy; a suspicion that was not allayed by the arrest of four pirates from the *Rozen* when they came ashore for food.\(^{387}\) Despite the close attentions of a US warship, the pirates retained control of the ship until April when they surrendered it in exchange for the payment of an undisclosed ransom.\(^{388}\)

Similarly in February 2008, a Danish-owned tug boat, the *Switzer Korsakov*, was hijacked off the northeast coast en route to the Russian Far East by a group calling itself the ‘Ocean Salvation Corps’. This group, which sailed the tug to Eyl on the eastern coast just inside Puntland but close to the border with southern Somalia, was generally assumed to be the ‘Somali Marines’ using a new name in an effort to improve their poor international image.\(^{389}\) Interestingly, the pirates ordered that the tug be moored in water too shallow for US navy ships apparently in expectation that they would intervene or, as did occur, an attempt would be made to isolate their prize from shore-based support.\(^{390}\) It was released in April following the payment

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of a $680,000 ransom.\textsuperscript{391} In the same month a pirate group, not believed to be the ‘Somali Marines’, hijacked a French luxury yacht, the \textit{Le Ponant}, in the Gulf of Aden triggering the most robust, counter-piracy response seen to date. The vessel was sailed to the town of Garacad, south of Eyl, where it was greeted by about 70 townsfolk who were paid about $50 each for their help.\textsuperscript{392} A ransom demand for $2 million was made but once this was delivered and the yacht released, a French helicopter-borne Special Forces team captured six men believed to be part of the gang or their associates, recovered a portion of the ransom, believed to be no more than $200,000, and transported the captives to France to stand trial.\textsuperscript{393}

One of the questions about Somali piracy that remains unresolved is where does the ransom money go? The ‘foot soldiers’ who conduct the actual hijackings in most cases see relatively little of it although the amounts quoted in the press are a fortune by local Somali standards: The \textit{Le Ponant} hijackers were reported to have been paid between $11,000 and $20,000 each; Andrew Mwangura of the Mombasa-based Seafarers’ Assistance Programme suggested pirate gunfire could earn between $10,000 and $30,000 per year; while a pirate calling himself Muse claimed to have made $90,000 which he blew on cars and women in two months.\textsuperscript{394} Local people are almost certainly paid a share either to tolerate the pirates’ presence, or for services and supplies as demonstrated in the \textit{Svitzer Korsakov} case, or, as with the \textit{Le Ponant}, for guarding the vessel.\textsuperscript{395}


\textsuperscript{392} Spurrier, ‘France opens proceedings against Le Ponant pirates’.


But the bulk of the money goes elsewhere. Since 2005, payment methods have become more sophisticated although not in every case; the ransom for the *Le Ponant* in 2008 was reportedly paid in cash handed over in Somalia. However, as far as the Somali Marines are concerned, while they were prepared to accept cash when they hijacked the *Feisty Gas* in 2005, later payments were made in Mombasa and then in Dubai where intermediaries became used to doing business with a smartly-dressed Somali woman who, once the payment was secured, made a phone call authorizing the ship’s release. The Dubai connection, and other indications, suggested that business interests based outside Somali, who were almost certainly connected to senior Somali political figures, were financing and ultimately benefiting from the hijackings. According to Andrew Mwangura, the proceeds that were not spent by the pirates and their commanders on cars and drugs were invested by the local warlords and their business partners in various ventures such as illegal fishing and human trafficking, the charcoal trade, mining, and the production and distribution of the local narcotic known as khat. Although it has been asserted frequently there is no evidence that al-Qaeda “dominates” Somali piracy, or even takes a share of the proceeds.

In June 2008 the UN Security Council passed Resolution 1816 which condemned and deployed piracy off the coast of Somalia and urged states to take action to deter pirate activity in cooperation with the TFG. It allowed foreign naval forces to enter Somalia’s 12-mile territorial limit in pursuit of pirates and called on all states with an interest to cooperate in “investigation and prosecution” of suspected pirates. This Resolution was undoubtedly welcome. It added a new element of deterrence and, providing a naval vessel was close enough to an incident to be able to render assistance, gave international navies greater freedom to take action if their national engagement rules allowed them to do so. However, it will not solve the problem of Somali piracy which is rooted in the failure of the Somali state and the deep divisions in Somali society which the UN has neither the political will nor the resources to address.

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396 Rice, ‘How savage pirates reign on the world’s high seas’.  