

MARITIME PIRACY: OUT OF SIGHT, OUT OF MIND?

Protection of merchant shipping is one of the core responsibilities of navies world-wide, including the RAN. Piracy at sea has not had the threat profile of organised *jihadist* terrorism and is sometimes overlooked as a national security issue; yet piracy undermines the freedom of commercial shipping, which in turn underpins global and Australian economic prosperity. Article 100 of the United Nations Convention of the Law of the Sea 1982 (UNCLOS) confirms that defeating piracy is an international responsibility. It states that, 'all States shall co-operate to the fullest possible extent in the repression of piracy on the high seas or in any other place outside the jurisdiction of any State'¹.

Given its excellent record in patrolling and boarding operations in Australian waters and in the Arabian Gulf, the RAN may be viewed as well suited to an anti-piracy role. Maritime piracy, however, is neither a simple problem, nor is dealing with it a straight-forward exercise.

Today pirates opt for balaclavas, assault rifles, rocket propelled grenades and modern communications equipment. Tactics vary from region to region but slow moving, vulnerable product tankers are often targeted.² Ships' safes are cleaned out; while food and supplies, electrical goods (TVs & computers), perfume, brand-name clothing & footwear, jewellery, cigarettes and prescription drugs are stolen.³ Crew are often injured, taken hostage for ransom or even killed. In one instance, bodies of crew still bound and gagged were found when hauled up in fishing nets.⁴ Ships have been taken, cargoes stolen and sold off. Sometimes a ship vanishes, either by 'rebirthing' or by scuttling.

Piracy has always been indigenous to the waters off the coast of Africa, South East Asia and the South China Sea. Attacks, however have multiplied in the post-cold war era. Between 1984 and November 1999 alone, 1,587 pirate attacks were reported; however, it is not only the increasing incidence of piracy, but its location which is of concern to world shipping. Each year 60,000 merchant ships transit the Malacca and Singapore Straits. Along with local shipping traffic roughly one quarter of the world's total trade, and approximately one half of the world's energy (oil, natural gas) traverses these Straits. It is also here that a high incidence of piracy occurs. In 2005, the waters around Southeast Asian accounted for one third of the total; world-wide, 15 ships were fired upon, 149 boardings were reported, 259 seafarers were taken hostage, 19 assaulted and 12 remain missing.⁵ Reported pirate attacks on shipping in the Malacca and Singapore Straits dropped markedly in the first half of 2006, while they increased globally. This was in part due to an increased tempo of patrolling by the naval forces of Malaysia, Indonesia and Singapore,⁶ and is a culmination of post-cold war regional efforts to address a growing incidence of this activity.

In 1992, three coastal States, namely Indonesia, Malaysia and Singapore, established co-ordinated patrols, and in October 1992 the IMB set up its Regional Maritime Piracy Re-

porting Centre (IMB-PRC) in Kuala Lumpur. The IMB-PRC receives reports of pirate attack from the front-line victims, collates this information and broadcasts warnings to shipping in all the world's piracy hotspots through the Inmarsat SafetyNet system. It remains the only single point for Masters to report attacks wherever they may be in the world.⁷

In April 2004, Admiral Thomas Fargo, Commander-in-Chief, US Pacific Command (CINCPAC), at a legal conference in Canada, proposed the establishment of anti-piracy patrols in the Malacca and Singapore Straits under the US Regional Maritime Security Initiative (RMSI). This proposal envisaged the deployment of Marines and Special Forces troops on high speed boats to combat terrorism, WMD proliferation, piracy, gun-running, narcotics smuggling and human trafficking. This plan was rejected in favour of patrols by the relevant littoral states alone.

Relatively few sea-bandits are caught or convicted. Part of the reason for this may be the relative isolation of merchant shipping routes. Modern pirate raids on shipping in South-East Asia occur in thinly patrolled coastal waters. In some cases authorities are unaware of an attack at all. Many incidents of piracy go unreported, possibly due to a fear of increased insurance premiums that shipping companies must pay, highlighting the economic cost of underestimating the threat of piracy. These fears were realised when, in July 2005, Lloyd's of London Joint War Committee included the Malacca Strait as an area on its 'enhanced risk' list. Since then all three littoral states have played down the extent of the problem but have nevertheless acted to address it. By July 2006 private estimates of threat in the Malacca and Singapore Straits suggested an improved situation.⁸

Further agreements, such as the Japanese Coast Guard and IMO supported Regional Cooperation Agreement on Anti-Piracy (ReCAAP) which includes an Information Sharing Centre (ISC)⁹ are in the wind in South East Asia, however basic hurdles remain, most of which concern territorial sovereignty. The growing involvement of Japan, interest by China and the continuing interest of the US, all indicate an increasingly international aspect to regional maritime security, especially by countries whose vested interests rely heavily on maritime trade.

Various practical measures have been used by ship owners to deter attempted boardings. These range from training the ship's crew, using electrified railings, water and/or sonic canon, to placing armed guards on ships. In Somalia's busiest port, El Maan, for example, local businessmen have organised anti-piracy patrols — small boats with gunmen on board to escort commercial vessels. At roughly 1,900 miles, the coastline of Somalia is one of the longest in Africa, and the most lawless.¹⁰

The fundamental problem, however, is that most attacks on merchant vessels are not committed on 'the high seas or outside the jurisdiction of any other state'¹¹ but within the jurisdiction of littoral states that do not possess the means to combat the problem. Navies of foreign countries are normally forbidden to chase pirates into the territorial waters of another country. This is of particular concern in areas such as the Malacca Straits where pirates often rapidly escape from one country's territorial waters to



that of another. Littoral states could accept help in enforcement from other States' coastguard or naval vessels by concluding bi-lateral agreements. Several Caribbean nations have concluded agreements of this type with the USA.

Sending foreign warships, including those of the RAN, to patrol South-East Asian waters is not possible without these specific bi-lateral or regional agreements in place, as was the case with recent East Timor and the Solomon Islands operations. Goodwill generated by the ADF's post-tsunami assistance in Sumatra and joint Australian Federal and Indonesian Police investigations into recent bombings may, in time, promote for the RAN a greater role in defeating the scourge of maritime piracy in South-East Asia. For the moment, however, that assistance remains indirect.

In any event, naval combatants may be ineffective against small scale maritime piracy.¹² On-shore policing combined with effective intelligence co-operation is possibly the best anti-piracy option for tackling today's pirates, who largely operate from shore. The Japanese Coast Guard recently announced it would create a small anti-piracy team, with one member to be stationed in Singapore, to collect and analyse information on pirate attacks and to devise strategies for future action.

The collaboration of law enforcement agencies during investigations into the Bali, Marriot and Australian Embassy bombings, indicates that bi-lateral co-operation is quite possible; it just may require more 'soft power' diplomacy to achieve a more inclusive, multi-national effort, which may then involve a more direct RAN involvement.

Notes:

1. Article 100 of the United Nations Convention of the Law of the Sea 1982 (UNCLOS); but note that the definition of 'piracy' under Article 101 of UNCLOS limits the offence to private acts of violence committed on the high seas. For the purpose of this paper, the term 'piracy' includes both the definition under UNCLOS Art. 101 and the definition of 'armed attack' as defined by MSC/Circular 984 of the IMO.
2. According to statistics gathered by the IMB Piracy Reporting Centre (IMB-PRC), attacks on tankers have increased steadily over the past 3 years. Most of the tankers attacked in South East Asia have been small chemical and product tankers. The reason for this is not clear but laden tankers have low free-board and are easier to board, they have small crews and there are fewer places for the crew to hide. See IMB-PRC Annual Reports for 2003-2005 published by ICC Commercial Crime Services.
3. Mayhew, C., Detection and Prevention of Cargo Theft, *Trends & Issues in Criminal Justice*, Australian Institute of Criminology, Canberra, No 214, 2001.
4. Statistics compiled on piracy are unreliable as piracy is under reported. Nevertheless, IMB-PRC statistics strongly suggest that violence, associated with acts of piracy, has significantly increased in the past 3 years. See IMB-PRC Annual Reports for 2003-2005 op cit.
5. International Maritime Bureau Piracy Reporting Centre.
6. *The Shipping Times*, 'Malacca Strait piracy-free in Q1 despite 9% rise in global attacks', 4 May 2006.
7. The PRC is independent of government control. It is funded by 22 commercial entities, including P&I Clubs, ship owners and insurers. This independence has enhanced its credibility.
8. JCC Cargo Watchlist - version 18, *Exclusive Analysis*, updated 16 June 2006.
9. IMO, 'Piracy and armed robbery against ships', <http://www.imo.org>

10. Lacey, M. 'Waters that Prompt fear from the Toughest of Sailors', *The New York Times*, 3 July 2006.
11. Article 100 of the United Nations Convention of the Law of the Sea 1982 (UNCLOS), op cit.
12. Teitler G. *Piracy in Southeast Asia: A Historical Comparison*, University of Amsterdam and the Royal Netherlands Naval College, 2002.

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EDITORS NOTE: In the 21st Century merchant shipping is best viewed as a global, rather than as a national asset. It needs to be treated as such by those charged with the protection of the maritime economy. Whether traditionalists like it or not, nationally flagged merchant fleets are a thing of the past. While logistic synergies are such that, any disruption in one part of the supply chain, may have profound consequences on other parts. The implications of this for navies and strategic planners are considerable. It is hoped that the paper by Lieutenant Martin will be just the first in a series of papers which will examine these issues.

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