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**JOLLY ROGER OUT STRAIT
MARITIME PIRACY IN CONTEMPORARY
SOUTHEAST ASIA**

by

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September 1999

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MARITIME PIRACY IN CONTEMPORARY
SOUTHEAST ASIA**

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Submitted in partial fulfillment of the
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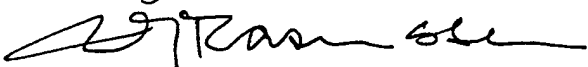


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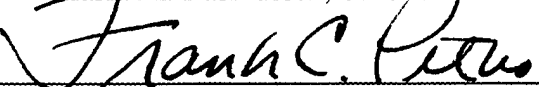
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ABSTRACT

The severity of maritime piracy is growing in contemporary Southeast Asia. The International Maritime Bureau reports a significant increase in the violence toward merchant crews and a pattern indicating a disproportionate number of attacks upon oil tankers. This trend suggests an increased possibility of a major oil spill in the region as a result of piracy. Should such a spill occur, the governments of Southeast Asia may petition wealthier countries such as the United States to assist them in combating piracy. Such a request will force the United States to undertake a mission for which it is poorly prepared. The alternative would be the Chinese provision of assistance, which would impose a significant threat upon the stability of the region. Prior to the occurrence of an event that might lead to such a scenario, the United States should undertake efforts to combat piracy short of the devotion of significant military assets. These should include the sponsorship of anti-piracy training missions to the region and the fostering of improved diplomacy among concerned nations.

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EXECUTIVE SUMMARY

The purpose of this thesis is to examine the degree to which maritime piracy threatens the security of Southeast Asia during the final decade of the twentieth century. The goal is to answer the question: To what degree does the current state of maritime piracy in Southeast Asia represent a threat to the United States? Answering this question requires an understanding of the quantity and nature of attacks occurring in the region. By examining available statistical data and analyzing several recent piratical incidents, this thesis concludes that the United States should consider reviewing its policy on piracy at sea in Southeast Asia.

Since 1992, the International Maritime Bureau's Regional Piracy Center in Kuala Lumpur has served as a clearinghouse for statistics regarding piracy. The center collects data and provides analysis as part of its efforts to keep the maritime industry and the larger public informed regarding the phenomenon of maritime piracy. Although a number of disincentives to report incidents of piracy lead to inevitably flawed data, several trends are evident in the existing piracy data. The constancy of the number of attacks in the region indicates that Asian law enforcement agencies have kept the problem from growing. Additionally, the statistics indicate that pirates appear to attack tankers at a rate disproportionately high when compared with tanker traffic through the region. Finally, pirate attacks have become increasingly violent, particularly over the last few years.

Several examples of piracy at all levels reveal the danger to life as well as to property that the pirate poses to shipping interests. Several examples of Low Level Armed Robbery, Medium Level Armed Robbery, and Major Criminal Hijack provide an indication of the severity of the problem in terms of both economic and human costs.

Based upon the statistical evidence and observation of several cases, this thesis concludes that absolute costs of maritime piracy certainly appear large. Placing the problem in the context of regional developments, however, reveals that maritime piracy's current economic and human costs are relatively small. Economic losses inflicted by piracy in Southeast Asia represent only a fraction of one percent of the total trade passing through the region; apparently shippers see those losses as an acceptable cost of doing business. In terms of human costs piracy's impact does not even begin to compare to the impact of domestic crime on the United States. Given the lack of both pressure from business groups and significant cause for humanitarian concern, US resources could be better allocated to combating domestic crime than to combating crime on the seas.

However, an unpredictable event precipitated by a piratical incident may give the United States significant cause for concern. Given the propensity for pirates to attack tankers, particularly laden tankers, and a demonstrable increase in piratical violence, an attack upon a tanker might lead to the incapacitation of the crew and the subsequent grounding or collision of that vessel. In the event of such an occurrence, it is not altogether unlikely that a nation or nations in

Southeast Asia might petition wealthier nations with greater naval capacity to assist them in combating piracy in the region.

In the event of such a petition, the United States, whose blue water navy is ill-equipped to conduct such operations, could be drawn into a campaign against piracy. If the United States opted not to respond to such a request, the country most likely to provide assistance would be the People's Republic of China. Such assistance would have significant repercussions on regional stability. These repercussions range from a militant response from Japan and attendant regional apprehension to increased tension between India and China. The cost of an American response to such repercussions would undoubtedly surpass that of the commitment of forces in an anti-piracy crusade.

Preemption of piracy provides the best method of combating piracy. The United States can do this through the provision of assistance short of military assets in the form of monetary assistance and training and general empowerment of indigenous law enforcement agencies in anti-piracy operations. More importantly, the United States can foster cooperation between the countries that piracy affects worst. These countries include most of the ASEAN nations, but most importantly China. Each participating country would likely agree on a desired goal regarding piracy, specifically, its eradication. Additionally, agreement on this issue may serve as a starting point from which to agree upon more contentious issues.

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I. INTRODUCTION

Maritime piracy is a problem that has plagued mariners since the very beginnings of trade. Although popular images tend to consign piracy to a long-past era in the Caribbean, closer investigation of the phenomenon will readily reveal its global and enduring nature. This introductory chapter will provide some illumination as to the history of maritime piracy in Southeast Asia.

The mental image evoked by the mention of pirates on the high seas is one of a three masted vessel combing the Caribbean Sea and flying a black flag bearing a skull and crossbones. Yet in practice, piracy at sea has roots that go far deeper than the seventeenth century attacks upon European commercial interests off the southern coast of what is today the United States. Archaeological evidence reveals significant brigandage upon the Mediterranean in the second millenium before Christ.¹

Pirates no doubt plagued mariners since before even this. One can find pirates in Thucydides' 4th century BC account of the Peloponnesian Wars. Plutarch relates that the young Julius Caesar encountered pirates during his period of exile from Rome in the 1st century BC. Shortly after this event, Pompey the Great won fame in largely eliminating the scourge of piracy from the Mediterranean. Finally, the Norsemen carried out their own form of piracy in establishing a Scandinavian empire over much of northern Europe during the

¹ Spyros M. Polemis, "The History of Greek Shipping," [Available Online:<http://www.greece.org/poseidon/work/articles/polemis_one.html>] Accessed 20 May 1999.

Middle Ages. Given such a long and varied history, there really is no such thing as a "typical pirate."

The popular image of a pirate is inaccurate in another way. He—for, despite the significant success of some woman pirates, the image remains distinctly masculine—remains a creature of the past. In placing the pirate aboard a three masted sailing vessel, covering his eye with a patch, attiring him in seventeenth century garb, and arming him with such weapons as a cutlass and matchlock rifle, the image places him firmly in the distant past. The modern pirate, however, does not fit this description.

Today the pirate is as dangerous as ever. He continues to threaten maritime commerce as he has for thousands of years. One can find pirates off the West Coast of Africa, in the Mediterranean Sea, in South American waters, and in the harbor of Miami, Florida. The place where the greatest danger of maritime predation lies, however, is Southeast Asia.

A. FORESHADOWING PIRACY

As one might suppose, this Asian pirate represents no new phenomenon. Minimal knowledge of the geography and climate of the region will immediately reveal an environment highly conducive to piracy. For centuries the Strait of Malacca, forming a conduit between East and West, has provided a constant supply of laden vessels for buccaneers to prey upon. The water and the jungle make the extension of political control beyond the immediate vicinity of population centers exceedingly difficult. Moreover, should any polity attempt to eliminate pirates in its waters, not only do the numerous islands provide ready

hiding places, but the mobility that the sea affords allows pirates easy relocation and as simple a return when efforts against them subside.

Given such favorable geography could anyone wonder that piracy might thrive in the East as it has in the West? The historical record of piracy in early Southeast Asia hardly rivals that of western civilizations. Prior to the arrival of the Europeans in the late 15th century, most documentation from this region came from travelers passing between India and China rather than from indigenous peoples. In the area of maritime piracy, however, such documentation is something of a boon as travelers would have reason to write of the threats to their journey, such as seaborne marauding.

1. Pre-Colonial Southeast Asia

Chinese travelers through Southeast Asia left numerous accounts of pirates in the region. While Pompey effected the elimination of the Cilician pirates in the Eastern Mediterranean, emissaries from the Han court paid barbarians to carry them to India. "It is a profitable business [for the barbarians], who also loot and kill."² Four hundred years later the Buddhist monk Shih Fa-Hsien chronicled his journey through the Strait of Malacca to China from Ceylon; "The sea is infested with pirates, to meet with whom is death."³

The Srivijayan empire of Sumatra, extant (AD 670 to 1025) made piracy the foundation of its power.

² Pan Ku, Ch'ien Han Shu, trans. by J.J.L. Duyvendak, *China's Discovery of Africa*, quoted in Paul Wheatley, *The Golden Khersonese* (Kuala Lumpur: University of Malaya Press, 1961), 8.

³ H. A. Giles, *The Travels of Fa-Hsien*, quoted in Wheatley, 38.

During the heyday of Fu-nan, foreign sailors had feared Srivijaya's waters. Strong currents and hidden rocks and shoal made the straits area dangerous, and so did...sea nomads. They often engaged in piracy and preyed upon any merchant ship that happened to come their way. The Srivijayan monarchs, unable to suppress these nomads, essentially bought them out. The kings made an agreement with some of them that in return for a portion of the ports' revenues, they would not raid the ships at sea.⁴

In 1330 AD, a representative of the Yüan court, Wang Ta-yüan wrote of the barbarians who inhabited the region surrounding the Dragon-teeth Strait, today's Singapore.

When junks sail to the Western Ocean, the barbarian allow them to pass unmolested but when on their return the junks reach Chi-li-men then the sailors prepare their armour and padded screens as a protection against arrows, for of a certainty, some two or three hundred pirate prahus will put out to attack them for several days.⁵

A hundred years after Wang's account, Fei-Hsin wrote of the same place in the *Hsing-ch'a Sheng-lan* in 1436.

There is here a passage-way between hills which face each other and look like 'dragons' teeth'. Through this ships must pass....They are very daring pirates. If a foreign ship happens to pass that way they attack it in hundreds of little boats. If wind and fortune are favourable [the ship] may escape; otherwise [the pirates] will plunder the ship and put both passagers and crew to death.⁶

It is at about this time that the Europeans would first arrive in Southeast Asia.

⁴ Kenneth R. Hall, "Economic History of Early Southeast Asia," in *The Cambridge History of Southeast Asia, vol. 1, From Early Times to c. 1800*, ed. Nicholas Tarling (Cambridge: Cambridge University Press, 1992), 202.

⁵ Wang Ta-yuan, *Tao-I Chih-lioh*, trans. by W.W. Rockhill, "Notes on the Relations and Trade of China with the Eastern Archipelago and the Coasts of the Indian Ocean During the Fourteenth Century," in Wheatley, 82.

⁶ Fei-Hsin, *Hsing-ch'a Sheng-lan*, trans. by W.W. Rockhill, in Wheatley, 91.

2. Imperial History

The Portuguese initiated the age of imperialism in Southeast Asia in the 15th century AD. The arrival of the Europeans did not, however, mark an end to piracy in the region. In truth, the Europeans brought their own brand of brigandage to the region. But Europeans would face indigenous piracy from the very beginning of their incursions upon the East. This obstacle to East-West commerce would persist for most of the period during which European imperialism held sway over Southeast Asia.

European dominance of Southeast Asia "can be dated from the middle of the eighteenth century, when Europeans in the region first had the power and inclination to impose on others their technical skills and new world view."⁷ During that period Southeast Asian pirates became particularly bothersome to Europeans, although there is evidence that Asian pirates probably feared attacking better armed European vessels. Although Southeast Asian piracy never reached the epidemic proportions that piracy in the Caribbean attained, pirate communities, whose inhabitants deemed the plunder of passing vessels a means of taxation in a primitive type of protection racket, dotted the coast of Southeast Asia, in particular the Strait of Malacca's coast. This "protection," however, was afforded largely to native vessels.

With the establishment of the Royal Navy at Trafalgar as the supreme force upon the seas in 1804, and the total defeat of Napoleon in 1815, Britain

⁷ David Joel Steinberg, ed., *In Search of Southeast Asia*, rev. ed. (Honolulu: University of Hawaii Press, 1987), 1.

began trying to eliminate piracy from the waters of a region in which it had new found interest. The establishment of the British in Penang in 1784, in Singapore in 1819, and permanently in Malacca in 1824, largely broke up the power of the pirate polities throughout the Strait. Raja Brooke eliminated the Dayak pirates operating out of Borneo. During the first half of the nineteenth century, British trading companies, as well as the Royal Navy, devoted significant assets to combating pirates operating off the South China coast. These pirates numbered between fifty and seventy thousand men and women in the first decade of the nineteenth century.⁸ These efforts brought about the end of piracy on a grand scale in the region.

Nations cannot destroy so easily, however, such a long tradition of marauding. The pirates of Southeast Asia lingered on though in smaller numbers. The most startling manifestation of piracy occurred in the wake of the fall of South Vietnam in 1975. The flight of countless refugees from the communist regime created easy prey for pirates in the Gulf of Thailand. This horrific chapter of Southeast Asian piracy was marked by the rape and torture of thousands of fleeing innocents. Unfortunately the random nature of the attacks that occurred during this period and the sheer number of possible victims made defeating piracy during this period practically impossible. The tragedy ended only with the cessation of flight from Vietnam.

⁸ Dian Murray, "Living and Working Conditions in Chinese Pirate Communities, 1750-1850," in *Pirates and Privateers*, ed. David J. Starkey, E. S. van Eyck van Heslinga, and J. A. de Moor (Exeter: University of Exeter Press, 1997), 49.

B. FORESHADOWED PIRACY

The preceding paragraphs do not provide a comprehensive history of piracy in Southeast Asia nor do they intend to do so. They do provide an indication that in this maritime region, piracy provides a recurrent means of employment. Southeast Asians needed no imperialists to teach marauding. Though regional governments have fought piracy with some success unless continuous attention is devoted to it it reemerges as problematic.

This thesis will assess the degree to which the current state of maritime piracy in Southeast Asia represents a problem to US interests in the region. Although the global scale of piracy will be considered, the primary focus will fall upon Southeast Asia. The thesis will examine statistical evidence, analyze several case studies of various types of piracy, and place the problem in an international context. Finally, this thesis will propose ways to combat piracy.

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II. SOUTHEAST ASIAN PIRACY BY THE NUMBERS

One method of studying a problem is the observation of statistical data for indications of an increasing or decreasing trend. Statistics provide the most readily observed indication of a phenomenon because they allow one to view a situation objectively. However, the data regarding maritime piracy have certain imperfections that preclude their ability to accurately portray the problem. In spite of this, the data do suggest certain trends in the level of effectiveness with which indigenous nations combat piracy and in the amount of violence attendant modern maritime piracy.

A. COLLECTING DATA

In October 1992, the International Maritime Bureau (IMB) of the International Chamber of Commerce (ICC) established the Regional Piracy Center (RPC) in Kuala Lumpur. This location places the RPC at the center of the region of the world in which piracy continues to the greatest detriment to seagoing interests. The operations center at the RPC provides twenty-four hour assistance to vessels under attack by alerting regional law enforcement agencies. It also issues reports of piracy and armed robbery against ships, and collates and analyzes information received for dissemination to interested parties, including the International Maritime Organization (IMO) of the United Nations.⁹

⁹ International Maritime Bureau, *Piracy and Armed Robbery Against Ships—Annual Report: 1st January – 31st December 1998* (Barking, Essex: ICC International Maritime Bureau, 1999), 2.

While the monitoring mission of the RPC provides assistance to mariners faced with the immediate threat of maritime predation, data collection and dissemination represent the aspects of the RPC's operation which will have the greatest long-term impact on piracy. This aspect focuses on the education of the maritime and international community in the area of piracy and the armed robbery of ships. Since its inception the RPC's ongoing compilation of statistics regarding piracy around the world and their frequent analysis and publication of these statistics represent great progress.

1. Defining Piracy

Any compilation of statistics, of course, begins with the determination of exactly what one hopes to compile. It seems simple enough to say that the RPC counts piracy incidents for inclusion in its annual and periodic reports. However, the collection of reports of piracy, requires first a definition of piracy. The IMB's definition differs from that of *classical piracy* that the UN has accepted. Piracy, as defined in the United Nations Convention on the Law of the Seas (UNCLOS), includes only those acts of maritime predation occurring on the high seas and for private ends.¹⁰ Were the RPC to utilize these criteria in recording incidents of piracy, one would correctly have little reason to have much concern for the problem. However, as a mariner with a knife at his or her throat cares little for legalisms and semantics, the IMB has adopted a broader definition of piracy. Its definition includes any "act of boarding... with the intent to commit theft or any

¹⁰ United Nations Secretariat, Division for Ocean Affairs, Convention on the Law of the Sea, 1982, VII.101 [Available ONLINE: < <http://www.un.org/Depts/los/unclos/closindx.htm>>] Accessed 18 March 1999.

other crime and with the intent or capability to use force in the furtherance of that act.”¹¹ With this definition, the IMB allows the inclusion of acts occurring within the territorial waters of states which meet the classical definition of piracy excepting the “high seas” criterion or, in cases of terrorism on the seas, the “private ends” criterion.

2. Statistical Error

Examination of the statistics presented in the RPC’s reports requires an understanding of the reality of piracy reporting. Simply stated, the RPC does not receive a report of every piracy attack that occurs throughout the year. Given the ephemeral qualities of most pirate attacks and their effects, certain perpetual realities affect an individual master’s or ship owner’s disposition to report an attack. For reasons of ignorance, economics, or for lack of a better word, honor, many individuals seem content to accept periodic marauding as a cost of doing business and as a result do not report attacks to the RPC.

During the 1991-1994 period, one will observe annually a considerably smaller number of piratical incidents than was reported from 1995-1998 (Table 1). It is likely that in this prior period, knowledge of the RPC and its purpose had not permeated the shipping industry sufficiently that word of every incident of piracy made it to the RPC. Moreover, given the IMB’s definition of piracy, many victims of IMB styled piracy might not have understood a particular act as one of piracy, but one of simple theft. Beyond mere ignorance of the existence of a

¹¹ International Maritime Bureau, *Piracy and Armed Robbery Against Ships—Annual Report: 1st January – 31st December 1998*, 2.

process for reporting incidents, however, lie more intricate reasons for error concerning piratical statistics.

Table 1: Total Number of Attacks by Region (1991-1998)

Region	1991	1992	1993	1994	1995	1996	1997	1998	Avg [†]	SD ^{††}
SE Asia	102	69	75	62	116	139^{†††}	108	95	114.5	18.48
Asia Exclusive*	0	6	13	11	26	28	43^{†††}	25	30.5	8.43
Americas	0	0	5	11	21	31	36	31	29.75	6.29
Africa	0	0	7	6	21	25	46^{†††}	38	32.5	11.56
Rest of the World**	5	31	2	0	4	4	14	3		
Total	107	106	102	90	188	227	247	192	213.5	28.38

*Asia except Southeast Asia, Turkey and Russia

**Including Europe, Australia, and attacks listed as "Location not available"

†Averages taken from 1995-1998

††Standard Deviations taken from 1995-1998

†††Boldface type indicates data falling outside one standard deviation from the average

Source: International Maritime Bureau, *Piracy and Armed Robbery Against Ships—Annual Report (1st January – 31st December 1998)* (Barking Essex: ICC IMB, 1999), 3.

Those for whom piracy does not merely represent a closed chapter of imperialist history have a certain impression of what kinds of acts contemporary pirates commit. The contemporary news media publicizes hijackings and shipboard murder. However, the bulk of piratical incidents occurring throughout the world today are more mundane and consist of the thievery of lengths of rope and tins of paint. Far from possessing the flair for dramatic exploits of Stevensonian buccaneers, many contemporary freebooters opt merely for such plunder as they can easily put their hands upon and escape. *Jane's* puts the average pirate haul at \$7,000, far below any fantastic hijacking figure.¹² As a single hijacking might result in the loss of a cargo worth millions of dollars,

¹² "Unfurl the Skull-and-Crossbones?" *Jane's Foreign Report*, 11 July 1996, [Available: LEXIS-NEXIS] Accessed 14 April 1999.

calculating an average in the thousands translates to the fact that most pirate hauls are small and result in neither prolonged economic security for the pirate nor significant economic distress for the victim.

Many shipping companies operate with considerable concern for short-term costs. Against such small pirate-inflicted costs, with operating costs averaging at about \$10,000 a day, shippers weigh both the opportunity cost of remaining in port while a time consuming investigation (with little promise of bearing fruit) takes place and the berth fees and demurrage costs mount, as well as the possibility of increasing insurance premiums as a result of having reported an attack. One can thus see a large financial motivation not to report incidents.

An additional consideration by shippers, in reporting incidents to the RPC, lies in the reflection such reports have upon either their vessel or themselves. "Industry groups representing Asian shipowners... [criticize] the [IMB's] reports... as inflating the figures and harming regional business."¹³ Shippers fear their vessels gaining a reputation as prone to pirate attack. Moreover, a master might fear gaining a reputation for his or herself as a sloppy mariner unable to instill in a crew the kind of security consciousness that might lead to the aversion of pirate attack or the ability to stave off the same.

Commercial interests do not provide the only stumbling block between the occurrence of an act of piracy and its report to the RPC. Government officials, too, hold some culpability in contributing to statistical error in the IMB's database. This contribution generally stems from two reasons. First, corruption represents

¹³ Russ Swinnerton, "Piracy Remains a Concern for Southeast Asian Nations," *Defense News*, 25 August 1997 [Available: LEXIS-NEXIS] Accessed 30 March 1999.

an age-old component of piracy. As of old, a payoff and the promise of future payoffs provide excellent insurance against prosecution. The second reason has a foundation similar to one of those of shipping interests. It centers on efforts by government officials to forestall the portrayal of local waters as particularly pirate-prone in order to stave off a bad national or local reputation. This leads to many officials' ready use of such terms as "sea robbery" or "maritime mugging" to describe what the RPC publicizes as piracy in their waters. Pointing out the distinction from piracy, J. N. Mak of the Malaysian Institute of Maritime Affairs (MIMA) said, "What happens in our territorial waters is known as sea robberies."¹⁴ The Malaysian Marine Police Commander, Abdul Malek Abdul Hamid, defended Malaysia's record on piracy based on definitional differences between the UN's piracy and the IMB's.¹⁵ Of course, both individuals can justify their interpretations of piracy as opposed to sea robbery, but in the final analysis, the mariner pays.

One can find yet another reason for the non-reporting of an incident of piracy in the mariner's payment. Sadly, this reason stems not from a conscious desire to conceal the occurrence of a crime but has a more sinister background. Contemporary pirates ply their trade brutally and however trite one might think it, the cliché bears truth: "Dead men tell no tales." While the wholesale slaughter of merchant crews is uncommon, there are several instances in which the eventual

¹⁴ J. N. Mak, quoted in Yeang Soo Ching, "Keeping Close Watch On Water Rats," *New Straits Times*, 6 July 1997 [Available: LEXIS-NEXIS] Accessed 3 March 1999.

¹⁵ "Sea Robberies in Malaysia Mainly Confined to Sabah Waters," *New Straits Times*, 6 July 1997 [Available: LEXIS-NEXIS] Accessed 3 March 1999.

the location of a hijacked vessel yielded no traces of the crews. Authorities presumed those vessels' crews murdered. In instances wherein pirates murder a crew and take their ship for their own, the RPC may or may not receive a report. Moreover, as the RPC verifies every report it receives, it can make no assertions regarding the violence of such attacks until well after the fact.

A final reason for non-reporting holds only short-term ramifications for statistics. Some shipping interests hold off on the immediate reporting of piratical incidents in favor of a periodic report. The positive side to this is that the shipping interests do eventually report the incident. However, any immediate help the RPC might have offered is lost and such reporting generally results in a significant error in the reporting year of each IMB report. Although the immediate report of incidents carries with it a greater hope of apprehending the pirate, the eventual report, nonetheless, provides some assistance to the IMB in their efforts in communicating the severity of the problem.

Given all of the reasons for not reporting attacks, an astounding margin of error accumulates in the statistical evidence. Obviously, no one can collect statistics on how many victims did not report an attack and one cannot determine the exact degree to which under-reporting affects the overall statistics concerning piracy. In the early 1990s, the IMB estimated non-reporting at about fifty percent. Captain Pottengal Mukundan, director of the IMB, stated that several years ago, the IMB learned of six pirate attacks occurring over a year in Santos, Brazil. Due to the fact that it had received word of only two attacks in Santos during that year, the IMB came to believe that word of one in every three

attacks made it to the IMB. In February 1999, at an IMO seminar in Singapore, Mukundan found that the Philippine Coast Guard had received reports of 134 attacks in 1998. The IMB report, published prior to that seminar, indicates 15.¹⁶

B. PIRACY IN THE AGGREGATE

Each year, at the beginning of February, with the publication of the RPC's annual report, Southeast Asian newspapers are replete with articles focusing on the number of attacks that occurred in the previous year and compare those to the year before. Whether this year's or last year's, the annual number of attacks provides the most oft quoted figure in articles concerning piracy. Broken down into the area under concern (hereafter referred to as Southeast Asia), other portions of East and South Asia, the Americas, Africa, and the Rest of the World, Table 1 on page 12 contains this figure as recorded by the RPC from 1991 through 1998.

Table 1 reveals a dramatic increase in maritime piracy from 1991 to 1998. However, this data requires some qualification. Much of the world failed to make any reports of piracy to the RPC between 1991 and 1994. After that period no region in the world annually reported less than 20 piratical incidents. The problem of under reporting of incidents likely greatly affected the accuracy of the worldwide total number of attacks occurring during this period. It is a reasonable assumption that much of the maritime industry spent some time learning about the RPC's existence and its purpose during its early years. A greater number of

¹⁶ Pottengal Mukundan, "Piracy Reports," Email to Author, jc85@pop.dial.pipex.com, 11 February 1999; International Maritime Bureau, *Piracy and Armed Robbery Against Ships—Annual Report: 1st January-31st December 1998*, 3.

reported attacks after 1995 provides some indication that, by 1996, the learning process was complete.

The average number of attacks from 1995 to 1998 suggest that the anti-piracy efforts nations currently use are effective in blunting any increase in piracy. Table 1 on page 12 reveals two findings: (a) In only three occurrences the number of attacks fell outside one standard deviation and (b) in each instance, a significant reduction in the number of attacks for that region occurred the following year. This regional reduction occurred in every case as a result of significant drops in the number of attacks attributed to countries within whose waters the most attacks had occurred in the previous year. Specifically, as Table 2 shows, the attacks in the Philippines and Indonesia fell from 1996 to 1997 from 39 to 16 and 57 to 47, respectively. The attacks in Nigeria and Sri Lanka fell from 1997 to 1998 from 9 to 1 and 13 to 1, respectively.¹⁷ In the case of Sri Lanka, the government had swiftly enacted anti-piracy laws subsequent to the attacks that nation's shipping suffered in 1997 and saw the number of incidents drop to one in 1998.

¹⁷ International Maritime Bureau, *Piracy and Armed Robbery Against Ships—Annual Report: 1st January-31st December 1998*, 3.

Table 2: Total Number of Attacks within Southeast Asia (1991-1998)

	1991	1992	1993	1994	1995	1996	1997	1998
Indonesia	55	49	10	22	33	57	47	59
Thailand	0	0	0	0	4	16	17	2
Malaysia	1	2	0	4	5	5	4	10
Philippines	0	5	0	5	24	39	16	15
Straits of Malacca	32	7	5	3	2	3	0	1
Cambodia	0	0	1	1	1	1	1	0
Myanmar	0	0	0	0	0	1	2	0
Singapore Straits	0	0	0	3	2	2	5	1
China/Hong Kong/Macau	0	0	1	4	31	9	5	2
HLH Triangle	0	0	27	12	7	4	1	0
South China Sea	14	6	31	6	3	2	6	5
Vietnam	0	0	0	2	4	0	4	0
Total	102	69	75	62	116	139	108	95

Source: International Maritime Bureau, *Piracy and Armed Robbery Against Ships—Annual Report (1st January – 31st December 1998)* (Barking Essex: ICC IMB, 1999), 3.

Even given that the number of attacks in Southeast Asia has seen a steady drop since it peaked in 1996, the fact that attacks in Southeast Asia double, treble, and even quintuple those seen in each of the other regions during various years seems to confirm its worthiness for study. Regional trends, however, do not require the classification of all nations within Southeast Asia as hotbeds of piracy. Table 2 breaks down piracy within Southeast Asia by nation or by area in the cases of the South China Sea, the HLH (Hong Kong-Hainan-Luzon) triangle, the Strait of Malacca and the Singapore Straits.

That many nations saw one or zero incidents of piracy during several periods provides evidence opposing the proposition of the inherent danger of piracy throughout Southeast Asia's waters. However, geography may play a significant role in keeping many vessels cognizant of the RPC's existence

outside the waters of Vietnam and Myanmar. Although Vietnam and Myanmar each have sizeable coastlines, neither country's coast abuts the international trade routes to a great extent. As such, mariners who actually know of the RPC may have no reason to ply the waters of these two nations frequently. Additionally, many of the governments concerned including Vietnam, Cambodia, and Myanmar, in their ongoing quests for legitimacy in the eyes of the international community, have little motivation to report incidents to the IMB and thereby present an image of lawlessness in their waters. In 1996, Inter Press Service reported that "border guards in the northern Quang Ninh province [of Vietnam] caught a group of 12 pirate fishermen who confessed to robbing 35 Vietnamese and nine Chinese trawlers."¹⁸ In 1996 the RPC received zero reports of piracy from Vietnam. Ignoring data from countries whose questionable legitimacy might lead to under reporting, the data in Table 2 provides a valuable means for drawing some conclusions regarding piracy in Southeast Asia. The first of these centers on Indonesia, which maintains a reputation as the nation with the single largest number of pirate attacks. As a state formed by the political union of nearly 14,000 islands, Indonesia has a tremendous task in combating maritime piracy as any one of these thousands of islands can provide a ready lair from which a pirate band might sally forth. Comparing Tables 1 and 2, on pages 12 and 17 respectively, one can see that even in the years of its relative prosperity, prior to the Asian financial crisis, the archipelagic nation's

¹⁸ Serguei Blagov, "Modern Day Pirates Target Trawlers," *Inter Press Service*, 28 August 1996 [Available: LEXIS-NEXIS] accessed 23 February 1999.

share of piratical incidents only once amounted to less than 10 percent of the global total.¹⁹

That the Philippines' problem parallels Indonesia's leads to the conclusion that, in general, archipelagoes provide a challenge to a nation hoping to curtail piracy, as its archipelagic geography no doubt has much to do with its annual contribution to world piracy statistics. Given its admission of 134 attacks in 1998 in contrast to the RPC's recorded 15, one might surmise that the Philippines would usurp Indonesia's title as the world's most pirate prone nation with more forthright reporting. However, if one may assume at least consistency in Philippine non-reporting, the statistics indicate progress in decreasing piracy in the Philippines. President Estrada's comments regarding efforts at building and ASEAN Center on Transnational Crime in Manila at the 6th ASEAN summit demonstrate the Philippine government's concern for the problem.²⁰

The statistics for Southeast Asia do not merely reveal the results of an annual competition as to which nation will come out the loser insofar as having the most attacks. Those data detailing piracy in the Strait of Malacca highlight one item of importance. As one of the world's busiest waterways, the shipping industry pays considerable attention to a threat to passage through this strategically significant portal between East and West. The impact of

¹⁹ More often, Indonesia share of world's total number of pirate attacks hovered around 20 percent and in the wake of the Asian Financial Crisis accounted for 31 percent of all attacks in 1998 with 59 of 192 attacks up from 19 percent at 47 of 247 attacks the year before.

²⁰ Volt Contreras, "Manila Chosen as Site of ASEAN Transnational Crime Center," *Manila Daily Inquirer*, 17 December 1998 [Available: FBIS] Accessed 3 March 1999.

Indonesia's reported 59 attacks in 1998 does not compare to that felt as a result of the Strait of Malacca's 32 in 1991. Those 59 Indonesian attacks occurred over the whole expanse of an archipelago ranging three thousand miles from East to West and nine hundred miles from North to South. The 32 in the Strait of Malacca occurred over a mere five hundred miles, particularly in the narrower portion of the last one hundred miles at the southern end of the strait, giving it the highest concentration of pirate attacks in the world. In the early years of the decade, the perilous nature of these waters weighed heavily on the minds of mariners plying them, yet by the decade's end, the situation had changed dramatically. In 1997, the RPC received no reports of piracy in the Strait of Malacca. Apart from the inherent navigational hazards always accompanying busy, narrow waterways, its waters had joined the ranks of the safest in Southeast Asia. This probably resulted from a series of bilateral agreements between the three littoral states, Singapore, Malaysia, and Indonesia, to conduct joint patrols in order to combat maritime piracy. These agreements allowed, among other things, hot pursuit of pirates from one nation's territorial waters into either of the other's as well as cooperation between the maritime forces of those countries.

The data for the Strait of Malacca reveals two things. First, the generally low numbers reported in the Strait of Malacca as well as the Singapore Strait as a result of government patrol demonstrate the value of government efforts in stamping out piracy. In short, it will take government action to significantly reduce the presence of pirates. The second deduction these data allow requires

a comparison of the data for the Strait of Malacca and the data for Indonesia. Government response came as a result of only 32 attacks in the Strait of Malacca in 1991. However, despite the fact that in most years, Indonesia's attacks number in the high forties and despite continued piracy throughout the region no efforts similar to those in the Strait of Malacca have materialized to combat piracy. From this, one may deduce that sufficient concentration of attacks is a necessary ingredient in eliciting significant action on the part of governments.

Although consideration of the data concerning the Strait of Malacca allows one to make some deductions regarding maritime piracy, the remainder of the statistics reporting the sheer number of attacks provides little useful information contributing significantly to understanding the nature of modern piracy in Southeast Asia. The absence of a well understood criteria to identify an attack and the lack of motivation to report an attack, detracts from determining anything beyond what amounts to the current state of piracy.

Questions remain. One cannot really know the degree to which this problem requires additional concern from a figure that tells only whether or not an attack occurred, but does not qualify attacks. Moreover, the data only point to the possibility that anti-piracy programs are working. They do not provide conclusive proof. If some number of attacks doubling or trebling those reported occurred, but none of them involved anything beyond the brandishing of a pocketknife and the subsequent flight of the knife-wielding pirate, one would

rightly consider piracy as nothing more than a nuisance. However, data exist that allow further qualification of piracy in the region.

C. SOME SPECIFICS

The data that the RPC has collected has evolved since the RPC's opening in 1992. Initially the reports detailed merely the number of attacks occurring in a given region, along with the time at which those attacks occurred. The report for 1998 additionally included statistics regarding the types of vessels attacked, the status of ships when attacked, the types of attacks undertaken by pirates, the weaponry that pirates used, and the violence that pirates inflicted upon their victims. The inclusion of this information contributes to a better understanding of maritime piracy.

1. Vessel Types

In detailing the types of ships attacked, the RPC points out that pirates prey upon every type of vessel. However, these data reveal that pirates do seem to prefer a certain type of vessel. In Table 3, the perennially high number in the "other" category, which indicates the combined number of attacks upon fishing vessels, ferries, tugs, woodchip carriers, gas carriers, and all manner of other unspecified craft confirms that no vessel is immune to pirate attack. However, concerning specific classes of vessels in Southeast Asia, pirates most frequently attack bulk carriers, general cargo vessels, tankers, and container ships.

Table 3: Percentage of Attacks on Total Shipping Partitioned by Vessel Type (1994-1998)

Ship Type	Percent of Total SE Asian Shipping*	Percent of Attacks in Southeast Asia				
		1994	1995	1996	1997	1998
Bulk Carriers	29	26.98	12.77	19.39	16.19	14.89
General Cargo	31	19.05	25.53	28.57	22.86	26.60
Tankers	9	17.46	17.02	20.41	18.10	26.60
Container	7	17.46	6.38	8.16	15.24	8.51
Other/Not reported	24	19.05	38.30	23.47	27.62	23.40

*Percentages reflect 1993 shipping patterns

Source: John H. Noer with David Gregory, *Chokepoints: Maritime Economic Concerns in Southeast Asia* (Washington: National Defense University Press, 1996), 9; IMB – Regional Piracy Centre, *Piracy Report (1st January – 31st December 1994)* (Kuala Lumpur: IMB – Regional Piracy Centre, 1995), app. II, 1-4; IMB – Regional Piracy Centre, *Piracy—Annual Report (1st January – 31st December 1995)* (Barking, Essex: ICC IMB, 1996), 9-18; IMB – Regional Piracy Centre, *Piracy—Annual Report (1st January – 31st December 1996)* (Barking, Essex: ICC IMB, 1997), 8-12; International Maritime Bureau, *Piracy and Armed Robbery Against Ships—Annual Report (1st January – 31st December 1997)* (Barking Essex: ICC IMB, 1998), 18-24; International Maritime Bureau, *Piracy and Armed Robbery Against Ships—Annual Report (1st January – 31st December 1998)* (Barking Essex: ICC IMB, 1999), 21-28, 39-41.

The most significant aspect of the data displayed in Table 3 lies in the category of attacks upon tankers. Assuming no dramatic change in shipping patterns between 1993 and 1998, although they made up only 9 percent of all shipping through all of Southeast Asia's sea lines of communication,²¹ one finds the percentage of attacks upon oil and chemical tankers disproportionately high. The propensity for pirates to attack tankers probably lies in the small amount of freeboard of a laden tanker that facilitates the boarding the vessel via a grapnel or pole from a speedboat alongside. The RPC has attributed the sudden jump between 1997 and 1998 to the ready market for fuel throughout the region both

²¹ John H. Noer with David Gregory, *Chokepoints: Maritime Economic Concerns in Southeast Asia* (Washington: NDU Press, 1996), 9.

at sea and ashore as a result of perennial high demand for petroleum products on the Chinese black market and the Asian financial crisis.²²

Not only does piracy occur on all different types of vessels; acts of piracy take many different forms. Given the range of value of plunder alluded to previously, one might readily deduce this fact. Pirate attacks range from the theft of paint and rope from ships not even underway, to the stealthy boarding and theft of deck equipment of ships underway, to the temporary seizure of vessels, to the full scale hijack of vessels ending in the death of the crew and the virtual disappearance of the vessel.

2. Ship Status

In examining reports of piracy shown in Table 4 on page 26, one finds again reason to question the education of individuals in the shipping industry regarding the RPC. "Piracy acts at port and at anchor do not occur in Asian and Southeast Asian waters."²³ At least, the reports to the IMB revealed none prior to 1993. Before this time, West Africa and South America had been the only regions in which such piracy had occurred. It is reasonable to assume that such attacks had occurred in Southeast Asia prior to the 1993 report. However, without the general education of the shipping industry that came with the establishment of the RPC in 1992, seasoned mariners plying Southeast Asian waters where something much closer to classical piracy occurred frequently saw

²² International Maritime Bureau, *Piracy and Armed Robbery Against Ships—Annual Report: 1st January – 31st December 1998*, 10.

²³ IMB – Regional Piracy Centre, *Piracy Report 1992* (Kuala Lumpur: IMB – Regional Piracy Centre, 1993), 3.

no reason to report such attacks. In 1993, the number of such attacks in Southeast Asia jumped to seven.²⁴ Today, as in most categories of pirate attacks, the region leads the world in them.

Table 4: Status of Ships When Attacked (1998)

	Berthed	Anchored	Steaming	Not Stated
SE Asia	4	42	46	1
Asia Exclusive*	3	16	6	0
Americas	15	15	2	0
Africa	8	17	11	1
Rest of World**	30	85	40	2

*Asia excluding Southeast Asia, Turkey and Russia

**Including Europe and attacks listed as "Location not available"

Source: International Maritime Bureau, *Piracy and Armed Robbery Against Ships—Annual Report (1st January – 31st December 1998)* (Barking Essex: ICC IMB, 1999), 5.

3. Types of Attacks

Some forms of attack will inherently result in a higher financial loss to shippers and, moreover, will impose greater dangers to mariners. As such, the type of attack pirates will likely undertake also provides an area of interest in understanding the degree to which one can describe contemporary piracy as a problem. Table 5 indicates that some form of boarding short of hijack is the most likely occurrence. Such a boarding could occur either while underway, at anchor, or alongside a pier. Significantly, hijacking accounts for the next most common form of successful attack. The concern for the frequency of hijackings stems from the increased potential for human and financial injury inherent in such a crime.

²⁴ IMB – Regional Piracy Centre, *Piracy Report (1 January – 31st December 1993)* (Kuala Lumpur: IMB Regional Piracy Centre, 1993), 2.

Table 5: Types of Attacks Worldwide (1991-1998)

Category	1991	1992	1993	1994	1995	1996	1997	1998
Attempted Boarding	4	18	33	22	27	36	18	24
Fired Upon	0	6	16	0	9	6	24	11
Vessel Boarded	101	80	36	54	129	180	174	139
Hijack	1	1	0	5	12	5	17	15
Detained	1	1	8	6	11	0	8	3
Not Stated	0	0	10	3	0	0	6	0
Total	107	106	103*	90	188	227	247	192

*Although a discrepancy exists between the total presented here and that presented in Table 1 on page 12, this total reflects the data presented in the original document, cited hereafter.

Source: International Maritime Bureau, *Piracy and Armed Robbery Against Ships—Annual Report (1st January – 31st December 1998)* (Barking Essex: ICC IMB, 1999), 5.

Table 6 shows that of the 15 hijackings occurring worldwide in 1998, 12 of them took place in Southeast Asian waters, nearly double the previous year's total of seven. Table 7 shows a breakdown of those attacks in Southeast Asia. These figures may be an indication of pirates acting with increasing audacity. One cannot with certainty assess the reasoning for this increase, however, it may stem from the Asian financial crisis. Clearly the permanent seizure of a ship and its cargo will yield higher profits than a temporary seizure resulting in perhaps a booty of some portion of the cargo, cash from the ship's safe, some valuable personal items of the crew, engine spares, or some paint and rope from the bosun's locker. Pirates have hijacked ships with cargoes whose values range from several thousand dollars worth of soda ash to millions of dollars worth of sugar, fuel, or cigarettes. The successful hijacking of a vessel, moreover, opens another avenue of enterprise for modern picaroons as it did of old. Many cases of hijacking have resulted in the use of the hijacked vessel for the pirates' own

ends, and the transformation of the hijacked vessel into a "phantom ship." The successful use of a vessel as a phantom results in possible human loss, but in inevitable financial loss to the shipping industry.

The creation of a phantom ship generally begins immediately upon its capture. Having subdued the crew, a pirate gang will set about changing the appearance of the vessel. This change may come about as a result of as little as a different color coat of paint or as much as a change in the physical superstructure of the vessel, as with the removal of cranes on deck. In all cases, the pirates change the name of the vessel and acquire a new registry through some type of forgery or a well placed bribe placed in the hands of an individual at any one of many countries' registry offices. Having created the phantom ship the pirates then sail for port to sell their ill-gotten cargo and perhaps trick an unsuspecting exporter into shipping his goods upon their phantom vessel. Those goods, however, would not reach the destination that the exporter desired.

Table 6: Types of Attacks by Region (1997/1998)

Region	Actual Attacks (1997/1998)						Attempted Attacks (1997/1998)				Percent Successful Attacks	
	Boarded		Hijacked		Detained		Fired Upon		Attempted Boarding		1997	1998
	1997	1998	1997	1998	1997	1998	1997	1998	1997	1998		
SE Asia	76	58	7	12	3	0	8	6	11	18	82	75
Asia Exclusive*	24	19	2	1	4	0	0	0	2	4	93	83
Americas	32	29	0	0	0	0	0	0	1	2	96	93
Africa	26	29	3	2	3	3	10	4	1	0	74	89
Rest of World**	4	3	3	0	0	0	2	0	2	3	63	50
Total	162	138	14	15	10	3	20	10	24	65	N/A	

*Asia except Southeast Asia, Turkey and Russia

**Including Europe and attacks listed as "Location not available"

Source: International Maritime Bureau, *Piracy and Armed Robbery Against Ships—Annual Report (1st January – 31st December 1997)* (Barking Essex: ICC IMB, 1998), 5; International Maritime Bureau, *Piracy and Armed Robbery Against Ships—Annual Report (1st January – 31st December 1998)* (Barking Essex: ICC IMB, 1999), 4.

Table 7: Types of Attacks in Southeast Asia (1997/1998)

Location	Actual Attacks						Attempted Attacks			
	Boarded		Hijacked		Detained		Fired Upon		Attempted Boarding	
	1997	1998	1997	1998	1997	1998	1997	1998	1997	1998
Indonesia	39	42	1	3	0	0	0	1	5	13
Thailand	14	2	2	0	0	0	0	0	1	0
Malaysia	1	7	1	2	0	0	0	0	0	0
Philippines	9	4	2	2	0	0	4	4	0	5
Malacca Straits	0	0	0	1	0	0	0	0	0	0
Cambodia	0	0	0	0	0	0	1	0	0	0
Myanmar	0	0	1	0	0	0	0	0	1	0
Singapore Straits	5	1	0	0	0	0	0	0	0	0
China/Hong Kong	2	1	0	1	2	0	0	0	1	0
Macau										
HLH Triangle	0	0	0	0	0	0	1	0	0	0
South China Sea	4	1	0	3	1	0	0	1	1	0
Vietnam	2	0	0	0	0	0	2	0	0	0
Total	76	58	7	12	3	0	8	6	9	18

Source: International Maritime Bureau, *Piracy and Armed Robbery Against Ships—Annual Report (1st January – 31st December 1997)* (Barking Essex: ICC IMB, 1998), 5; International Maritime Bureau, *Piracy and Armed Robbery Against Ships—Annual Report (1st January – 31st December 1998)* (Barking Essex: ICC IMB, 1999), 4.

It is possible that in the early 1990s masters might not have construed attacks in port or at anchorage as piracy and therefore not reported them. Such sentiment regarding the hijacking of one's vessel, however, is unlikely. While obviously an owner would incur none of the usual costs as a result the submission of a report, clearly economic concerns for the return of an entire cargo would in addition override those other negative motivators regarding reporting. These facts do much to validate the statistics indicating the increase in hijackings from one in 1991 to fifteen in 1998, thereby clearly indicating a concomitant increase in the boldness of contemporary pirates, as well.

4. Pirate Weapons

In determining the source of this audacity one might find a means of combating the problem. Certainly one may look to the means available to modern pirates as one emboldening feature. Pirates have used more lethal weapons during this decade. In the 1980s in West Africa, mariners hired local tribesmen armed with bow and arrow as guards when they were in port. A bow and arrow in the hands of a skilled archer is lethal but not sufficiently so to deter an individual armed with a M-16 machine rifle.

As Table 8 indicates, while pirates used guns in only one attack in 1991, by 1998 the gun had become the weapon of choice. Moreover, where unarmed pirates had committed nearly 60 percent of attacks in 1991, only on the rarest occasion did a pirate attack without some type of weapon in 1998. The increased use of weapons in piracy is clear, and Southeast Asian pirates, as a

comparison of Tables 8 and 9 shows, have kept pace with the world community of picaroons.

Table 8: Pirate Weapons Worldwide (1991-1998)

Weapons used in Pirate Attacks	1991	1992	1993	1994	1995	1996	1997	1998
Unarmed	59	55	28	46	97	117	1	2
Other weapons	42	29	2	6	34	54	24	18
Knives	3	0	7	13	9	23	31	39
Guns	1	18	29	17	39	32	71	45
Not Stated	0	5	35	8	9	2	120	88
Total*	105	107	101	90	188	228	247	192

*Although discrepancies exist between the totals presented here and those in Table 1 on page 12, these totals reflect the data presented in the original document, cited hereafter.

Source: International Maritime Bureau, *Piracy and Armed Robbery Against Ships—Annual Report (1st January – 31st December 1998)* (Barking Essex: ICC IMB, 1999), 7.

Table 9: Weapons in Southeast Asian Piracy (1997/1998)

Location	Unarmed		Knives		Guns		Other		Not Stated	
	1997	1998	1997	1998	1997	1998	1997	1998	1997	1998
Indonesia	0	0	11	16	6	5	5	6	25	32
Thailand	0	0	2	0	1	1	2	0	11	1
Malaysia	0	0	0	1	1	5	0	0	4	4
Philippines	0	0	9	0	1	7	1	0	4	8
Malacca Straits	0	0	0	0	0	1	0	0	0	0
Cambodia	0	0	0	0	1	0	0	0	0	0
Myanmar	0	0	0	0	1	0	1	0	0	0
Singapore Straits	0	0	2	0	1	0	0	0	2	1
China/Hong Kong/Macau	0	0	1	0	3	0	0	0	1	2
HLH Triangle	0	0	0	0	1	0	0	0	0	0
South China Sea	0	0	0	0	4	4	1	0	1	1
Vietnam	0	0	0	0	2	0	2	0	0	0
Total	0	0	25	17	22	23	12	6	48	49

*Although a discrepancy exists between the data presented here and those in Table 1 on page 12, these data reflect the original documents, cited hereafter.

Source: International Maritime Bureau, *Piracy and Armed Robbery Against Ships—Annual Report (1st January – 31st December 1997)* (Barking Essex: ICC IMB, 1998), 6; International Maritime Bureau, *Piracy and Armed Robbery Against Ships—Annual Report (1st January – 31st December 1998)* (Barking Essex: ICC IMB, 1999), 7.

The data suggest that pirates are using more lethal weaponry. Unfortunately, given that weapon type was often not reported in recent years and that statistics prior to 1995 are unreliable, the weaponry that pirates are likely to use cannot be determined. One finds undeniable, however, the influence that increasingly lethal weaponry has had on the injury inflicted upon pirates' victims.

5. Recorded Violence

The IMB has recently expressed concern at the increase in violence mariners have endured at the hands of pirates. The statistics (Tables 10 and 11) themselves taken at face value seem to belie this concern because the total number of individuals affected by pirates' violent acts throughout the world dropped by nearly thirty percent from 1997 to 1998. The numbers of the two largest categories of violence each decreased by nearly one half, while two other categories saw only insignificant increases and only the category "Crew Assaulted," in trebling, seems to deserve significant attention. However, the nature of each category itself carries with it a weight that the numbers associated with those categories, alone, cannot communicate. The case of violent acts requires the consideration of each category of violence as well as the numbers falling within those categories. This consideration allows a better assessment of the impact of piratical violence upon shipping and provides reason for fear. An examination of the data reveals that Southeast Asia bears responsibility for 99 percent of the reason for the RPC's continued concern.

Table 10: Piratical Violence Worldwide (1991-1998)*

Types of Violence	1991	1992	1993	1994	1995	1996	1997	1998	Total
Crew Taken Hostage	33	18	6	11	320	193	419	238	1238
Crew Threatened	3	9	1	8	59	56	119	67	322
Crew Assaulted	2	12	4	0	2	9	23	60	112
Crew injured	4	16	3	10	3	9	31	35	111
Crew killed	0	3	0	0	26	26	51	67	173
Not Stated	0	4	0	0	0	0	0	0	4
Total	42	62	14	29	410	293	643	467	

*Data indicate individuals attacked not attacks in which such violent acts occurred

Source: International Maritime Bureau, *Piracy and Armed Robbery Against Ships—Annual Report (1st January – 31st December 1998)* (Barking Essex: ICC IMB, 1999), 6.

Table 11: Percentage of Piratical Violence Worldwide (1991-1998)*

Types of Violence	1991	1992	1993	1994	1995	1996	1997	1998
Crew Taken Hostage	78.6	29.0	42.9	37.9	78.0	65.9	65.2	51.0
Crew Threatened	7.1	14.5	7.1	27.6	14.4	19.1	18.5	14.3
Crew Assaulted	4.8	19.4	28.6	0	0.5	3.1	3.6	12.8
Crew injured	9.5	25.8	21.4	34.5	0.7	3.1	4.8	7.5
Crew killed	0	4.8	0	0	6.3	8.9	7.9	14.3
Not Stated	0	6.5	0	0	0	0	0	0

*Data indicate individuals attacked not attacks in which such violent acts occurred

Source: International Maritime Bureau, *Piracy and Armed Robbery Against Ships—Annual Report (1st January – 31st December 1998)* (Barking Essex: ICC IMB, 1999), 6.

In showing the frequency of types of violence in Southeast Asia for 1997 and 1998, Table 12 reveals absolute reductions in the level of piratical violence in Southeast Asia in the categories of "Crew Taken Hostage," "Crew Threatened," and "Crew Injured." Additionally, it shows reductions, relative to other regions, in Southeast Asia's level of responsibility in the "Crew Threatened," "Crew Assaulted," and "Crew Injured" categories. Yet one category saw neither an absolute nor relative reduction. This category indicates the number of crewmen murdered by pirates. In increasing the number of piratical murders in Southeast Asian waters by nearly ten times, Southeast Asian pirates

accounted for 99 percent of all piratical murders in 1998. Such an horrific figure virtually nullifies, all other indications of achievement in regional anti-piracy efforts.

Table 12: Piratical Violence in Southeast Asia (1997/1998)*

	Crew Taken Hostage		Crew Threatened		Crew Assaulted		Crew Injured		Crew Killed	
	1997	1998	1997	1998	1997	1998	1997	1998	1997	1998
Indonesia	47	26	9	5	16	3	4	4	1	15
Thailand	7	14	1	14	2	14	0	1	0	0
Malaysia	0	15	0	15	0	10	0	5	0	3
Philippines	3	22	51	0	0	0	6	0	6	25
Malacca Straits	0	3	1	3	0	0	0	0	0	0
Cambodia	0	0	0	0	0	0	0	0	0	0
Myanmar	11	0	1	0	0	0	0	0	0	0
Singapore Straits	14	0	0	0	0	0	0	0	0	0
China/Hong Kong/Macau	49	1	0	0	0	0	1	0	0	0
HLH Triangle	0	0	0	0	0	0	0	0	0	0
South China Sea	40	33	26	0	0	0	0	0	0	23
Vietnam	0	0	0	0	0	0	0	0	0	0
Total	171	114	89	37	18	27	11	10	7	66
Pct World Total	41	48	75	55	78	45	35	29	14	99

*Data indicate individuals attacked not attacks in which such violent acts occurred.
Source: International Maritime Bureau, *Piracy and Armed Robbery Against Ships—Annual Report (1st January – 31st December 1997)* (Barking Essex: ICC IMB, 1998), 7; International Maritime Bureau, *Piracy and Armed Robbery Against Ships—Annual Report (1st January – 31st December 1998)* (Barking Essex: ICC IMB, 1999), 6.

D. OBSERVATIONS

The data on maritime piracy provides a good beginning to understand its current state. However, the data fail to support very specific conclusions. Yet, even those generalities prove useful in generating an increased awareness of the problem in areas of concern such as Southeast Asia.

Using these data to determine specific trends is limited because the time required to educate the shipping industry regarding the RPC effectively reduced eight years of data collection to four. Severe under-reporting in the early years of data collection makes it virtually useless in determining trends in piracy. It becomes difficult to establish that the problem of piracy in the world has become worse, gotten better, or remained the same. Moreover, motivations of individuals within the shipping industry and in government offices regarding reporting further reduce the degree to which these data can reveal a complete picture of maritime piracy. Those combating piracy can easily point out that since so many attacks go unreported, the problem is even worse than observation of the data reveals. However, it seems that global appreciation of the problem requires a background against which to set recent figures regardless of easily explained realities of non-reporting and older data cannot reliably provide this.

One finds difficulty in determining specific trends as in the areas of likely vessels to be attacked, preferred types of attacks, preferred weapons of pirates, and violence attendant piracy, over a long period. However, general determinations that one can make concerning piracy from the statistics abound. The relative constancy of the number of incidents of piracy in Southeast Asia suggests some modicum of control over the problem, yet little overall success in defeating it except in the Strait of Malacca. The reduction in attacks in the Strait of Malacca reveals that cooperation yields better results in combating the problem. The rise in the lethality of weaponry used combined with the increase in violent acts that pirates commit, specifically their evident willingness to commit

murder, reveals increasing danger to mariners in the event an attack occurs.

Combined, these trends do invite more action in combating piracy.

III. CASE STUDIES

Despite its inability to support specific trends in maritime piracy, the statistical evidence suggests that piracy presents a problem in Southeast Asia. The statistics concerning the level of violence accompanying attacks, demonstrating an increasing trend, provide compelling evidence that piracy in Southeast Asia requires greater concern on the part of governments whose vessels or nationals ply Southeast Asian waters. Piracy statistics alone do not provide the basis to affect the popular perception of piracy. Communicating the degree to which piracy has become a problem in Southeast Asia requires a tactic beyond merely presenting statistics. This chapter will therefore analyze a series of case studies to facilitate a more thorough understanding of contemporary piracy than the examination of mere statistics will allow.

Talk of piracy to those unassociated with the maritime industry and even to some of those familiar with the industry does not call to mind any considerable brutality or violence. The mention of pirates on the high seas continues to call to mind the likes of James Kidd, Francis Drake, Henry Morgan, and Edward Teach, such adventure stories as Robert Louis Stevenson's *Treasure Island*, or amusement park rides like Disney World's *Pirates of the Caribbean*. The collective understanding of piracy is one of Joseph Conrad's swashbuckling "vagabonds of the sea" swinging from rigging on tall masted ships, talking to parrots, drinking rum, and belting out bawdy lyrics. Faced with a phenomenon thus ingrained in the popular psyche, where the statistics might have succeeded in portraying a need for action against piracy, they fail.

The realities of contemporary piracy lie far from this idealized image and, even were the statistics reliable, beyond their capacity for description. Today, the romantic sea dog, if he ever existed, has been replaced by a predacious mercenary. He prefers a dull gray AK-47 to a flashing cutlass. Upon his shoulder rests no bird squawking "Pieces of eight," but rather a rocket propelled grenade launcher. And rather than hanging from the rigging of a graceful, sail-powered tall ship, he crouches low in a sneaky, Evinrude-propelled speedboat that has a radar signature indistinguishable from that of one of the countless fishing vessels common to Asian waters. For the modern pirate, stealth rather than position relative to the wind provides the most valuable asset. Deadly serious business conducted under the cover of darkness constitutes today's piracy. If romanticism ever associated itself with this topic, it does no longer. Despite these changed features, nothing has had the capacity to knock modern piracy from its romantic perch.

Certainly, heightened awareness regarding maritime predations arose in the eighties with the rape and murder of countless Vietnamese refugees in the South China Sea. Yet that concern proved short-lived. As the number of true refugees declined with the help of both a degree of reform in Vietnam and the Orderly Departure Program (ODP) so did the number of attacks of this kind. After the UN's Comprehensive Plan of Action for Indo-Chinese Refugees saw to the repatriation of economic refugees rather than relocation to the West the problem disappeared. In the minds of individuals in the West that aforementioned romanticism returned, if indeed it had ever left.

In the United States, the stalwart nature of this romanticism seems to stem from a combination of a colorful literary tradition combined with the absence of a tangible threat from piracy. Since the time of Monroe's West India Squadron in the early 19th century, the patrols of the United States Navy and Coast Guard, as well as those of local harbor authorities, have largely driven seaborne thievery from US waters. Moreover, Americans feel no great indirect impact from piracy, as they have seen no discernable increase in prices, distinct from ordinary inflation, spurred by maritime brigandage. Those plying Southeast Asian waters, however, have a very different view of piracy.

The imperial navies that once cleared Southeast Asia's sea lanes of pirates have largely disappeared. Responsibilities for patrolling these waters have fallen to local maritime forces. Over such large expanses of water to which these nations may claim jurisdiction, with so many avenues upon which pirates might escape, the maritime forces of Southeast Asia have not, thus far, proven equal to the task of combating piracy. One could reasonably expect this of nations for whom control of outlying regions, such as those where pirates thrive, has historically not ranked high in the priorities of state leaders. Combining this political culture with a sheer lack of naval capacity makes expectations of a level of maritime policing capable of dealing with pirates even less realistic.

A. PIRACY TODAY

Piracy has evolved significantly since the days when European monarchs issued letters of marque to those of Sir Francis Drake's and Captain James Kidd's ilk in the hope of inflicting damage on the economies of other mercantilist

nations. Today, all manner of pirates plough the high seas in search of plunder and piracy has come to fit into three general categories in Southeast Asia. These include low level armed robbery (LLAR), medium level armed assault and robbery (MLAAR) and major criminal hijack (MCHJ).²⁵

B. LOW LEVEL ARMED ROBBERY

Low level armed robbery generally occurs in harbors and upon ships swinging at anchor awaiting entry into port to offload their cargo. The simplicity of the operation in combination with the fact that these acts on average result in the theft of \$5,000 to \$15,000 does not detract from the gravity of the crime. The nature of maritime commerce, in concentrating targets at ports, presents many opportunities for commission of this type of crime. Table 4 on page 24 shows that berthed and anchored vessels fall prey to pirates in the majority of attacks in the world.

In October 1997, using a small motorboat, a band of pirates armed with guns sneaked aboard the Chinese cargo vessel, *Yi He*, anchored in Manila harbor. Zhan Sheng, *Yi He's* young Chinese fourth engineer on his first voyage, decided to take the air at what turned out to be an inopportune time. When Zhan identified a group of pirates on *Yi He's* main deck, he attempted to sound the

²⁵ Peter Chalk, *Grey-Area Phenomena in Southeast Asia: Piracy, Drug Trafficking and Political Terrorism* (Canberra: Strategic and Defence Studies Centre of Australian National University, 1997), 24.

alarm. For his efforts, the pirates shot Zhan as they fled. He bled to death while his shipmates pleaded to harbor authorities for help.²⁶

The incident aboard *Yi He* suggests two possible conclusions. First, the Philippine harbor authorities did patrol enough in Manila Harbor, or the patrolling they actually did did not suppress piracy in the area. Harbor authorities have a responsibility to ensure safety within their waters. Second, however, since mariners themselves hold a certain degree of responsibility for their own protection, it would have been prudent for them to take protective measures. The presence of an anti-piracy watch might have at least alerted the crew to the attack and allowed it to take protective measures even if those measures amounted to allowing the pirates to escape with some amount of plunder. Clearly, Manila Harbor, given the Philippines' long tradition of piracy, deserved additional protective measures on the part of mariners. Yet Zhan Sheng, in taking some air, was the first to come across these bandits.

C. MEDIUM LEVEL ARMED ASSAULT AND ROBBERY

Defined as the "ransacking and robbery of vessels on the high seas or territorial waters,"²⁷ MLAAR, with its violence and frequency, is a form of piracy meriting considerable concern by mariners.

The IMB defines these types of assault as... violent acts... involving attacks and robbery involving serious injury or murder by well-organised gangs, usually heavily armed and working from a 'mother ship.'²⁸

²⁶ ICC International Maritime Bureau, *Piracy and Armed Robbery Against Ships—Special Report* (Paris: ICC SA, 1998), 22-23.

²⁷ Chalk, 24.

²⁸ *Ibid*, 25.

There are numerous examples of this type of piracy throughout Southeast Asia. As the definition states, serious injury or murder occurs in all of them. In February 1997, aboard the Philippine ferry *Fortune*, near the Sirawai Anchorage, seven pirates robbed fifty passengers, killed three of them, and escaped.²⁹ In May that same year, members of the *MV Sinfa's* crew, while that vessel traveled from Singapore to Pontianak, Indonesia, found the vessel's 3rd officer shot in the arm and in a pool of his own blood. They found the master, hands and feet tied, with a bullet hole in his head.³⁰

The case of the April 1992 attack on the fully laden Cypriot tanker, *Valiant Carrier*, en route to Teluk Semangka in Sumatra from Singapore presents a more dramatic form of MLAAR. Although her master had taken precautions against pirates including added decklights, additional watches, and locked accesses to the accommodation, she still fell prey to pirates. On the night of 24 April, the navigating officer, Homi Taratore, was standing lookout for other vessels as a precaution against collision while the crew fought a fire that had broken out on the main deck. Investigation would later reveal that pirates had set that fire as a diversionary tactic.³¹ Taratore turned to face ten masked individuals all armed with 18-inch knives. They tied his hands and, after taking

²⁹ "Three Killed by Pirates in Phillipines Ferry Hijacking," *Agence-France Presse*, 24 February 1997 [Available: LEXIS-NEXIS] Accessed 5 March 1999.

³⁰ Jonathan Manthorpe, "Piracy No Longer the Stuff of Old Movies," *The Vancouver Sun*, 16 February 1998 [Available: LEXIS-NEXIS] Accessed 5 March 1999.

³¹ Michael Richardson, "Pirate Attacks Raise Fear of Tanker Disaster Off Singapore," *International Herald Tribune*, 9 July 1992 [Available: LEXIS-NEXIS] Accessed 23 March 1999.

his gold chain and ring, told him that if he did not take them to the master, they would kill him.

The master, Captain Tomeiro, was in his cabin with his wife, his eight-year-old son, his infant daughter, and the chief engineer. He had heard the pirates banging on the locked doors of the accommodation. Receiving no answer to a telephone call to the pilothouse, Tomeiro ventured out of his cabin to yell up to the bridge. Again, getting no response, he moved to lock himself into his cabin, perhaps hopeful that the pirates could not access the accommodation and would leave the ship discouraged. But he did not return to his cabin in time. The pirates intercepted Tomeiro and forced him to call for his wife, who was locked with his son and daughter in the sleeping area of the cabin. When she opened the door, she found her husband with a cut on his head and the engineer similarly wounded. In all, the pirates managed to steal some \$4,000 from the captain's cabin, as well as other valuables from the remainder of the crew. As they moved to escape, they took Captain Tomeiro, his wife, and his daughter with them. According to Mrs. Tomeiro the pirates attempted to kill the infant before they jumped to their craft below. However, she deflected the blow and the infant lived with a fractured skull and various cuts. Fortunately, neither any of the crew nor the master's family lost their lives in this incident.³²

In another case leaning to the extreme end of MLAAR and perhaps even to hijack, in the early morning hours of 11 January 1998 the Honduran-flagged *Tioman 1* steamed north for the Gulf of Thailand with three million liters of fuel as

³² Mark Mangier, "Precautions Fail to Deter Pirates Off Singapore," *Journal of Commerce*, 5 May 1992 [Available: LEXIS-NEXIS] Accessed 23 March 1999.

cargo. Near Pulau Aur off the east coast of Malaysia, a group of seven to ten pirates speaking many languages and armed with knives, pistols, and rifles boarded the ship and subdued the crew. Having thoroughly beaten them, the pirates bound the crew's hands, taped over each crewman's eyes, and locked the crewmen in a room. While the crewmen sat, uncertain of their impending fate, the pirates proceeded to ransack the vessel. A second tanker arrived. By the late afternoon, the pirates had offloaded one million liters of fuel to the second tanker's hold, taken some of the personal effects of the crew, as well as the communications equipment of the vessel. The pirates untied one member of the crew just before they left. He was to steer the vessel, but he had none of the crucial references necessary to safe navigation.³³

One can cite many other instances of MLAAR in which more than mere beatings at the hands of pirates occurred. As in the instances of the *Sinfa* and the *Fortune*, people often end up dead. The case of *Valiant Carrier* demonstrates a lack of compunction concerning violence on the part of pirates in their willingness to attack a helpless infant. But one cannot deduce much more than this from this attack. The pirates may have had a well-developed organization or they may merely have seen the lighted vessel as a low risk opportunity to enrich themselves on a spring night. In these early attacks, referenced by the *Boston Globe*, though more sensationally than truthfully, as

³³ Rahita Elias, "Number of Attacks Reported Down by Half," *Singapore Business Times*, 12 May 1998 [Available: LEXIS-NEXIS] Accessed 23 March 1999.

"the first time in centuries [that pirates had become] the scourge of commercial shipping,"³⁴ the latter is more likely.

The case of *Tioman 1* provides useful examples that demonstrate important aspects of medium level assault and armed robbery as pirates practice it today and compared with the case of *Valiant Carrier* it illustrates a more extreme variant of MLAAR. Clearly in the area of weaponry, the pirates demonstrate increasing sophistication as seen in the evolution from the knives used aboard *Valiant Carrier* to the guns used in the incident involving *Tioman 1*. However, the level of organization revealed by the tactics of *Tioman 1's* pirates highlights an area for further study.

Tioman 1's temporary seizure shows considerable organization by the pirates because *Tioman 1* and the mother ship linked up for the transfer of *Tioman 1's* cargo. The operation involved more than out-of-work fisherman who spied a port running light off the coast and saw a target of opportunity. This attack probably occurred in accordance with a plan made well before *Tioman 1's* voyage. That the tanker offloaded a portion of the cargo shows something that one would not likely have found during the period of the attack upon *Valiant Carrier*. Clearly, as well, the payoff for the pirates in the case of *Tioman 1* far exceeds those made by the knife-wielding bandits who hurt a child.

The cargo owner's potential economic loss in the case of *Tioman 1* is significant. The reason the pirates stopped offloading fuel from *Tioman 1* at only

³⁴ Colin Nickerson, "Latter-day Pirates Prey on Asian Shipping Lanes," *The Boston Globe*, 6 May 1993 [Available: LEXIS-NEXIS] Accessed 23 March 1999.

one million liters is not known, but they clearly had the opportunity to take a much greater prize. Perhaps they had filled the holds of the mother ship to their capacity. Perhaps they had heard maritime police radio traffic. Perhaps they had set a schedule requiring them to cease pumping at a certain time. In any case, the pirates might have tripled their prize had circumstances allowed. Indeed, in some cases, circumstances do allow.

D. MAJOR CRIMINAL HIJACK

The full-scale hijack of a vessel by pirates is not unusual in Southeast Asian waters. As Table 5 on page 27 shows, hijackings in Southeast Asia doubled from 1997 to 1998. Of the three types of attacks, hijacking is maritime piracy's costliest in terms of both economic and human loss. In economic terms, a successful hijack can result in the shipping industry's loss of millions of dollars. In terms of human costs, successful pirates know that eliminating witnesses increases the odds they will remain free. The cases of the *MV Anna Sierra* and *MT Petro Ranger* are examples of major criminal hijack (MCHJ).

a) *MV Anna Sierra*

MV Anna Sierra sailed from Ko Si Chang, Thailand on 13 September 1995 with 12,000 tons of sugar in her hold and a crew of 23 from Greece, Yugoslavia, Sri Lanka, and Egypt. Pirates would cut short what should have amounted to a six-day journey between Thailand and Manila. Before the vessel had even entered the South China Sea, pirates struck.

In the early morning hours of the day after *Anna Sierra* slipped her moorings in Thailand, thirty bandits boarded her from a speed boat as she

steamed thirty-six miles southwest of the Thai island Kaoh Kong. They proceeded to force the crew from their quarters by firing automatic rifles at the doors to the accommodation. They then led the crew, handcuffed in pairs, to one of two cabins wherein the crew remained for the next two days. After that, the pirates called eight of the crew on deck and threatened to kill them. They then cast those eight overboard in a makeshift raft of drums and wood without food or water. Later that same day, the pirates would force the remaining fifteen overboard into a life raft. Fortunately, Vietnamese fishermen came upon both groups before the sea and weather could take their lives. "We are lucky to be alive," one group of survivors expressed in a fax from Vung Tau, Vietnam, to the ship owner in Cyprus. "Another 10 to 20 minutes and nobody would have survived."³⁵

As the Greek master had watched *Anna Sierra* sail away, he had seen the pirates painting over her name as well as the color of her coamings. With the crew no longer their concern, the pirates had set about the transformation of *Anna Sierra*. When someone saw her next, she would bear no resemblance to her former self. While she sailed under a new identity, her former master, now safe ashore, initiated the process of recovering his vessel. His communication with the vessel's owners set in action a chain of events that would reach from Cypriot authorities to the United States Air Force and AMVER (American Mutual Vessel search and rescue), and finally to the IMB Regional Piracy Centre.

³⁵ Quoted in Robert Redmond, "Phantom Ships in the Far East," *Intersec*, 6, 5 (May 1996): 168.

A port agent reported *Anna Sierra's* presence in Beihai, China in early October. The RPC immediately sent personnel to investigate. There, they found the supposedly Honduran flagged *Artic Sea* [sic] berthed at a pier. The pirates' paint job had failed to hide the vessel's true identity. The ship's original name, *Diagara*, welded on the hull and the outline of the letters "*Anna Sierra*" painted over on the bow were both clearly visible. The ship had been in Beihai since 20 September.

Having located the vessel, RPC personnel began their investigation. When the ship had arrived at Beihai, her new master, calling himself Captain Bekas, had presented Chinese port authorities with documentation that they recognized as false. This recognition resulted in the Chinese Frontier Defense Authority's detention of the vessel. Investigators found that the illegal purchase of the sugar by a Chinese party had occurred in early September, before the sugar laden *Anna Sierra* had even left Thailand. The pirates fabricated a story that they had sailed from Santos, Brazil, although the sugar itself was of Thai origin as indicated on every bag in the hold. Moreover, the pirates' passports showed no entry into Brazil but rather entry into Thailand and no exit immigration stamps. Further Cypriot investigation revealed that the pirates had been in Thailand since August and that the Honduras Registry of Shipping had no record of any vessel named *Artic Sea* [sic].

One could expect that the remainder of *Anna Sierra's* story would likely tell of a new crew manning her and of her subsequent voyage to Manila. The offload of Thai sugar would follow this and *Anna Sierra* would take on another

cargo for shipment to some other port. In the meantime, of course, the Chinese or perhaps the Cypriot authorities would mete out justice to the pirates who had nearly killed the crew that had sailed in *Anna Sierra* in September and attempted the theft of her cargo. However, these things did not occur. To this day, *MV Anna Sierra* never has been released by Chinese authorities because her owner refused to pay the \$400,000 that the harbor charged. She sits in the port of Beihai, in truth on a beach near Beihai. She lists to port as her holds fill with water, her paint cracking, and her machinery rusting. After three fraudulent attempts by interests in Beihai to claim it, the Chinese have auctioned off her \$5 million cargo. The Indian owners of that cargo never saw any of the proceeds of that auction nor, likely, will they.³⁶

What of the pirates? In December 1998, the Chinese found two of them among fifteen individuals they had detained in Zhang Jia Gang aboard the vessel, *Sanei 1*. That ship had left Kuala Tanjong, Sumatra, two months earlier as *MV Tenyu*. *Tenyu's* original crew is presumed to have met a fate similar to the one to which Bekas and his pirates would have left *Anna Sierra's* crewmen had fishermen not saved them. These men had served no time for their prior offense. The Chinese authorities had freed all of Bekas' pirates without charges, because they had committed no crime in China and Cypriot authorities had made no effort to extradite the bandits.

³⁶ ICC International Maritime Bureau, *Piracy and Armed Robbery Against Ships—Special Report*, 40-47.

b) *MT Petro Ranger*

The story of the Malaysian flagged *MT Petro Ranger* presents another case of MCHJ. On 16 April, 1998, Captain Kenneth Blyth, an Australian shipmaster, set out to sea on the 12,357 dwt vessel loaded with 11,000 tons of fuel oil, on what was to be a three day voyage from Singapore to Ho Chi Minh City. However, after noon on 17 April, no one would hear of Captain Blyth or his crew of seven Malaysians, six Indonesians, four Bangladeshis, a Filipino, a Ghanaian, and a Burmese for two weeks. *Petro Ranger* disappeared that afternoon and speculation as to the circumstances of her disappearance began.

Initially, authorities had two suspicions. Either she had sunk or pirates had hijacked her. Officials quickly discounted the first of these. Merchant ships are equipped with an electronic position indicating radio beacon (EPIRB). This device would have activated had the ship gone down. Additionally, the ship had sent no distress call, and the seas had been calm that day. Everything pointed to hijacking.

With the first report of the tanker's status to the RPC, the IMB broadcast a description of the *MT Petro Ranger* to all vessels operating in the area. Having strong reasons to suspect the hand of pirates in the vessel's disappearance, the IMB had little hope that its description would provide much help in tracking down the ship. It well knew the likelihood that the pirates had already completed the act of disguising *Petro Ranger*. For all the IMB knew, in addition to a new paint job, the pirates had altered the superstructure of the vessel and perhaps even

changed the number of cranes on the deck. The IMB's alert went out quickly, nonetheless.

Almost coincidental to the alert, a request for assistance in locating the vessel was made to nations throughout Southeast Asia. In support of the search for *Petro Ranger* all nations in the region responded with varying degrees of assistance from their respective maritime agencies. Australia provided the use of a C-130 aircraft based at Butterworth Field to assist numerous Malaysian Air Force aircraft in scouring the seas from the air.³⁷ The Philippine Navy responded to the possibility that *Petro Ranger* might be in Philippine waters with a search of the waters off Sabah and Palawan. However, none of the efforts of either the Association of Southeast Asian Nations (ASEAN) or Five Power Defence Pact (FPDP) nations to find *Petro Ranger* were successful. The Chinese Maritime Police found her, renamed and reflagged, in Chinese waters near Hainan transferring fuel to the Chinese flagged vessel, *Jin Chao*, on 26 April. The discovery of the ship by the Chinese, however, was the end to only part of the story of the *Petro Ranger's* hijacking.

The ship did not sail from Haikou, on Hainan, until 28 May, over a month after being rid of twelve Indonesian pirates that had commandeered the vessel only a day into its voyage. The ship remained with her crew aboard, at anchor, off Hainan from the time of its discovery until Petroships officials managed to

³⁷ "Malaysian Oil Tanker Still Missing, Believed Hijacked," *AAP Newsfeed*, 27 April 1998 [Available: LEXIS-NEXIS] Accessed 23 August 1998.

convince the Chinese authorities with a "written undertaking" that the crew would return to Hainan to complete the investigation.³⁸

With her crew released, a new crew sailed *Petro Ranger* back to Singapore. Her holds were emptied by the Chinese for unknown reasons. Perhaps they would hold the cargo as evidence. However, the Chinese found an auctioneer would have better use for the cargo than a bailiff. The highest bidder took the cargo. As to the money, one can only speculate. Unfortunately, the most likely destination for the money spent for the purchase of *Petro Ranger's* cargo is the pocket of a corrupt official. The Chinese held the pirates for several months. However, in October, they declared the case of the *Petro Ranger* as one of smuggling rather than piracy. The Chinese allowed the twelve Indonesians held since May to return to their home country despite Malaysian efforts to secure their extradition for prosecution in Malaysia.

The reasoning behind the Chinese release of these twelve Indonesians is perplexing. Whether guilty of smuggling or piracy, these twelve should have been held accountable. If the Chinese investigation had found the incident to be piracy then, as a signatory of the 1988 Rome Convention, China should have submitted the case for prosecution.³⁹ That the Chinese assessed the circumstances of *Petro Ranger* as smuggling rather than piracy may have represented an effort to repudiate China's image as a refuge for pirates.

³⁸ Felix Chan, "China Releases Hijacked *Petro Ranger*, Crew," *Business Times*, 1 June 1998 [Available: LEXIS-NEXIS] Accessed 23 August 1998.

³⁹ Marcus Hand, "China Slammed for Releasing Hijackers of *Petro Ranger*," *Business Times*, 20 October 1998 [Available: LEXIS-NEXIS] Accessed 23 February 1998.

However, in freeing the pirates, themselves, the Chinese have presented China as just such a haven.

c) Observations

The cases of the *Anna Sierra* and *Petro Ranger* provide examples of many of the concerns about Southeast Asian piracy in the current regional security environment. Specifically, these concerns include the areas of non-reporting, evidence of the involvement of government agencies—most notably the Chinese—in piracy, evidence of organized crime's involvement, and, in *Petro Ranger's* case, the effects of the Asian financial crisis on piracy in the region.

In many cases, an incident of piracy does not involve hijacking, hostage taking, or violence, though these increasingly seem the trend. Rather, an out of luck fisherman will climb aboard an anchored vessel and steal a length of rope or some paint from the easily accessible bosun's lockers on deck.⁴⁰ In the face of such petty theft, a matter perhaps of a few hundred dollars, a shipmaster is unlikely to report the incident. It stands to reason that increased reporting of such incidences might lead to an increase in shipping rates due to an increase in costs, which include, among other things, insurance premiums. Increasing premiums for shipping insurance through a given region will reflect reports of piracy within that region regardless of the violence of the piracy or the value of a few gallons of paint and a coil of line.

⁴⁰ Andrew Eames, "Modern Piracy not so Yo-ho-ho," *The Times*, 9 May 1998 [Available: LEXIS-NEXIS] Accessed 23 August 1998.

Though the option of not reporting the incident did not present itself to either of the masters of *Anna Sierra* or *Petro Ranger*, each case illustrates another reason that shipmasters do not report every incidence of piracy. Ship owners incur a high cost as a result of reporting an incidence of piracy. One can imagine that the saga following the Chinese arrest of each vessel as roughly parallel to that which might occur subsequent to a report of piracy. Though each vessel was recovered, and the pirates apprehended, in one case the ship even now rusts on a beach in Beihai, probably incapable of ever getting underway again, while in the other, the crew and the ship remained in Haikou for over a month, pending the Chinese completion of their investigation of the incident.

In addition to the several days lost at sea (which translates into money lost for shippers),⁴¹ there is little hope for the return of stolen items. The Indian owners of *Anna Sierra's* sugar lost their \$5 million cargo.⁴² In the case of *Petro Ranger*, not only did the shipper fail to recoup the loss of roughly 4,000 tons of fuel that the pirates offloaded to other vessels before the Chinese authorities apprehended them, but after the Chinese auctioned the fuel remaining in the ship's holds, he lost a cargo valued at \$1.5 million.⁴³ In both cases, moreover, the pirates did not receive any punishment because of the report.

⁴¹ "Costs Mount as Ship China Hijack Investigation Continues" *AAP Newsfeed*, 22 May 1998 [Available: LEXIS-NEXIS] Accessed 20 May 1999.

⁴² ICC International Maritime Bureau, *Piracy and Armed Robbery Against Ships—A Special Report*, 40-47.

⁴³ "Malaysian Ship's Captain Released After Piracy Ordeal" *AAP Newsfeed*, 29 May 1998 [Available: LEXIS-NEXIS] Accessed 23 August 1998.

The *Anna Sierra* and *Petro Ranger* incidents were not the only ones in which government agencies seized cargo. There have been many other cases like *Anna Sierra's* and *Petro Ranger's*, where Chinese officials seized cargoes under false pretenses. The cargoes of these two ships were seized under the pretense of an investigation. Trumped up smuggling charges have become a common reason to seize cargoes since Beijing's recent efforts to reduce the amount of smuggling into the PRC. For example, the case of *MV Vosa Carrier*, a Chinese patrol craft came along side and embarked twelve camouflaged personnel armed with machine guns. These privateers compelled the crew to set a course for Hui Lai to face smuggling charges. After forcing the crew to sign confessions of their guilt, the Chinese ransomed the vessel, its crew, and its cargo back to the ship's owner for \$145,000.⁴⁴ The Chinese apprehension of the Singapore-flagged *Hye Miyeko* provides another example of such banditry. A craft with Chinese military markings seized *Hye Mieke* in Thai waters and towed it to a South China port where its cargo was confiscated.⁴⁵ Prior to the turnover of Hong Kong in 1997, the colonial Maritime Department reported that Chinese patrol boats committed more than half of all piracy in the crown colony. Though Beijing denies state sponsored piracy, it admits that some of China's patrol units are "totally out of control."⁴⁶

⁴⁴ Manthorpe.

⁴⁵ "Missing Malaysian Ship found in China," *Deutsche Press-Agentur*, 1 May 1998 [Available: LEXIS-NEXIS] Accessed 23 August 1998.

⁴⁶ Holger Jensen, "High-seas Piracy," *Journal of Commerce*, 14 May 1998 [Available: LEXIS-NEXIS] Accessed 23 August 1998.

The perpetration of piracy by government agencies is not limited to the Chinese. Along the crucial sea lines of communication that cross Southeast Asia, the participation of some members of Indonesia's maritime agencies in marauding is generally accepted as a fact.

There's a 'very popular rumor...' that one of the active units in Indonesia is a customs patrol trying to supplement its income. Nor are they particularly discreet about it: a ship that suffered a minor looting of paint and rope later reported being given the opportunity to but it all back from the local customs warehouse.⁴⁷

One British shipmaster reported his ship had been boarded by a group of Indonesian pirates whose leader was a "British-trained military officer."⁴⁸

The important point about the manner in which these hijackings occurred is the organization required to effect them. In the case of *Anna Sierra*, someone clearly planned the seizure well in advance of the actual attack. The fact that the sugar was sold weeks before the pirates' boats had sped to intercept *Anna Sierra* in the Gulf of Thailand is the strongest evidence of this. The pirates may have marked the ship for abduction some time before the day in early September that they had contracted its cargo's sale. Additionally, the fraudulent attempts to get the sugar following the arrest of the pirates indicate the involvement of organized crime as well.

The piracy of *Petro Ranger* and of *Tioman 1* points toward organized crime as well. Operations of this type require a good deal of expertise in the navigation, operation of fuel transfer equipment, and perhaps engineering should

⁴⁷ Eames.

⁴⁸ Jensen.

the captive crew prove unobliging. This expertise is uncommon and must be purposefully gathered. The mere presence of a mother ship requires a lot of money to operate it. Additionally, it requires some level of coordination between the ships involved as they transfer cargo at sea. While it is unnecessary to conduct underway replenishment similar to modern navies which occurs at speeds exceeding 13 knots, whenever ships operate in close proximity the danger of collision is significant.

Petro Ranger's attack also points up an area that is noteworthy because it is related to the Asian financial crisis. Although oil tankers are not a new type of prey for pirates, the type of cargo they carry takes on added significance in the context of the Asian financial crisis. Rather than targeting a vessel carrying crude oil or some dry bulk good, the pirates sought vessels carrying refined petroleum products. These were cargoes that could be readily sold to whomever might be in the market for cheap propulsion fuel, not only in port, but also at sea. Recalling the removal of government subsidies on fuel and subsequent skyrocketing fuel prices among the flashpoints that led to the 1998 May riots in Indonesia and Suharto's resignation, one can see that pirates taking over a vessel carrying fuel would have a ready market should they choose to exploit it. Since the pirates have no overhead, they can sell their ill-gotten goods at a substantial profit and as important, the mobility of a vessel at sea allows the pirate to pick his own market. For example, the Indonesian pirates of the *Petro Ranger* sailed 1,200 miles from the Natuna Sea to sell her cargo in Chinese waters. Pirates can charge prices above market prices in other countries and

still offer a savings to a consumer in China, where fuel prices are two dollars per barrel higher than on the world markets.⁴⁹ This pricing undoubtedly provides significant incentive to the rogue official pirates of China, as well as to civilian pirates.

E. BEYOND ACCOUNTING

The attacks detailed above demonstrate costs of piracy that statistical analysis cannot convey. If nothing else, the attacks illustrate the potential for financial loss. However, though it is difficult to quantify this loss, the human costs incurred as a result of maritime piracy are clear.

Take, for example, Mrs. Tomeiro who saw her child nearly killed at the hands of modern buccaneers. Or, imagine the fear in the minds of the mariners locked in those rooms aboard *Anna Sierra* for two days only able to guess at the fate their captors might have had planned for them. The pirates ultimately confirmed their worst fears as they shoved them over the side miles from land with virtually no hope of survival. Think of the sailors aboard *Petro Ranger* with whom, without the interference of Chinese, the pirates might have easily done away after depleting the vessel's cargo. Surely, memories of these incidents will linger with these mariners who merely sought to make a living at sea. But for some victims of piracy there are no memories of the attack. Think of the most likely murdered crew of *Tenyu*, or of the master of *MV Sinfa*, or perhaps of Zhan Sheng whose first voyage proved his last.

⁴⁹ Ibid.

IV. PIRACY IN CONTEXT

The evidence highlights two aspects of Southeast Asian piracy that call for increased concern: (a) the increasingly violent nature of attacks and (b) the increasing number of hijackings. However, merely identifying of a problem does not justify the allocation of resources to combat it in an era of increasingly scarce natural and financial resources. Allocating resources to tackle a problem depends upon the significance of the problem. Considering the piracy problem from within an economic and humanitarian context puts the issue in sharp relief and reveals, quite pragmatically, that despite seemingly large losses, the current state of maritime piracy in Southeast Asia does not suggest that the United States should devote significant assets to combat it. This having been said, piracy's greater danger stems from its potential for ecological catastrophe. This chapter makes the following point: the true impact of Southeast Asian piracy is not captured by what conventional wisdom associates piracy with. The true adverse impact of Southeast Asian piracy is in its potential to impact the global ecology—not the economy and not the human condition, *per se*.

A. ECONOMIC CONCERNS

Economically, the interest of the world in Southeast Asia's sea lines of communication (SLOCs) clearly lies in the amount of trade that passes through the region: trade between East and West and trade originating and terminating in Southeast Asian nations themselves. In 1994, nearly a trillion dollars of raw materials and manufactured goods, half of which involved Northeast Asia,

passed through the region's SLOCs. China and Japan alone accounted for approximately \$326 billion of trade. During the same year, the total dollar value of ASEAN member states' seaborne trade amounted to almost \$432 billion.⁵⁰

Since trade through these SLOCs has such a high dollar value, logic would indicate that a significant increase in piracy without an attendant increase in protection would lead to other efforts to protect this trade. These efforts could include the diversion of shipping. Should conditions deteriorate to the point of calling for merchant navigators to plot courses between the Middle East and Northeast Asia around Australia, the annual cost to shipping interests, at roughly \$20.3 million per day, would amount to approximately \$7.4 billion per year in 1993 dollars.⁵¹ Because this estimate results from an extrapolation of current costs based upon only the 15 percent greater distance traveled in a voyage around Australia, one can qualify it as high. Many more variables are involved in determining the cost of such a voyage. Merchant ships generally travel below maximum economic speed and below full load in order to make up for a chronic glut in the world's freight capacity. Charles Dragonette, the Office of Naval Intelligence's senior shipping analyst, points out that shipping interests could mitigate the \$7.4 million increase enumerated above by speeding up "to their normal speed, could load fully and could come back into service from layup[sic]

⁵⁰ Stanley B. Weeks, *IGCC Policy Paper 33: Sea Lines of Communication (SLOC) Security and Access*, 1998. [Available ONLINE: <http://www-igcc.ucsd.edu/igcc2/PolicyPapers/pp3305.html>] Accessed 4 March 1999.

⁵¹ John H. Noer with David Gregory, *Maritime Economic Interests & the Sea Lines of Communication Through the South China Sea* (Alexandria: Center for Naval Analyses, 1996), 10.

and more than make up for the notional shortfall.”⁵² Nonetheless, some significant increase in shipping costs would certainly occur in the event of such a diversion.

Certainly, shipping interests would have to absorb a significant number of piratical incidents before they elected to divert their vessels around Australia to avoid Southeast Asian pirates. According to the Singapore *Shipping Times*, to avoid increased Southeast Asian piracy some Japanese shipping interests are considering opening the North Sea Route to Europe along the former Soviet Union’s coast.⁵³ Additionally, from 1992 to 1995, Hong Kong had a significant enough piracy problem that the Japan Shipowners’ Association and the National Union of Maritime, Aviation, and Shipping Transport Officers (NUMAST), a UK trade union numbering 20,000 seafarers, threatened to redirect and reduce trade until the port adequately addressed the problem.⁵⁴ However, Charles Dragonette views such statements as “designed more to get extra pay for their union members thanb [sic] to truly affect shipping policy.”⁵⁵ Shipping interests are more likely to say “Flag State Government [sic] and Navy, protect me” than to

⁵² Charles Dragonette, senior shipping analyst, ONI, “Re: How Bad Can it Get?” Email to Author, sea-dragon@juno.com, 28 February 1999.

⁵³ Marcus Hand, “Japanese Seek New Route to Escape Piracy,” *Shipping Times*, 7 January 1999 [Available Online: <[http://www.asia1.com.sg/cgi-bin/ship/sp_dnews.pl?SHIP+piracy?AND?\(@PD>19990103?AND?@PD<19990110\)+1+1+PD,HDA,CO,PHA'>](http://www.asia1.com.sg/cgi-bin/ship/sp_dnews.pl?SHIP+piracy?AND?(@PD>19990103?AND?@PD<19990110)+1+1+PD,HDA,CO,PHA'>)] Accessed 8 JAN 1999.

⁵⁴ Peter Chalk, *Grey-Area Phenomena in Southeast Asia: Piracy, Drug Trafficking and Political Terrorism* (Canberra: Strategic and Defence Studies Centre of Australian National University, 1997), 26.

⁵⁵ Dragonette.

divert their cargoes around Australia to the south or the former Soviet Union to the north.⁵⁶

If shipping interests made such a plea to the United States, they would, in effect, be asking for a significant change in the use of United States naval assets. Deploying units of the US Navy currently devote very little time to piracy beyond force protection. Some crews of American warships are trained to respond to acts of piracy before going into areas that are suspect, but, simply stated, pirates do not generally attack warships.⁵⁷ Since 1997, for example, the 7th Fleet Staff Judge Advocate has not dealt with one case of piracy.⁵⁸ The US Coast Guard *has* sent representatives to IMO anti-piracy missions in Singapore and to Indonesia in efforts to combat the problem, but such missions generally yield results only in the short term. Given the current status of maritime piracy in the region, one might argue that the United States should dedicate assets now to preempt a call for help, such as Charles Dragonnette described. However, given the absence of any sign of an increasing trend in total pirate attacks, dedicating assets based on the possibility that shipping interests *might* demand future action by a flag, littoral, or some other state body is imprudent. Such a course of action would be justified only if an increasing trend did exist or intelligence indicated that such a call for help might be forthcoming.

⁵⁶ *Ibid.*

⁵⁷ The IMB reports one attack upon a warship in 1992 (See International Maritime Bureau, *Piracy and Armed Robbery Against Ships—Special Report* (Paris: ICC SA, 1998), 19). However, details as to the location, nationality, and type of warship were not available.

⁵⁸ Captain Bruce McDonald, 7th Fleet Staff Judge Advocate, "RE: FW: Maritime Piracy," Email to Author, 013@blue-ridge.navy.mil, 3 May 1999.

Since hijacking provides pirates with payoffs ranging in the millions of dollars, it is clear that hijacking, *per se*, has the greatest economic impact. An approximation of total traffic transiting Southeast Asian SLOCs by that transiting the Strait of Malacca facilitates the finding that the economic impact of piracy is small.⁵⁹ A daily passage of over two-hundred ships through the Strait of Malacca⁶⁰ translates to a total traffic figure of 146,000 voyages over two years. The 19 hijackings that occurred in Southeast Asia between 1997 and 1998 affected, therefore, only 0.01 percent of all voyages through the region. Even if all vessels hijacked resulted in the loss of a \$5 million cargo like *Anna Sierra's*, which they did not, the total financial loss to cargo owners would amount to \$95 million. When compared to the total annual trade of Asian nations through the SLOCs, which amounts to nearly a trillion dollars, the projected loss in the *Anna Sierra's* case would have comprised less than a hundredth of a percent of total Asian based seaborne international trade. The IMB estimates annual losses to piracy worldwide at \$200 million, but in the context of total seaborne trade, \$200 million does not galvanize shipping interests in a call for dramatic action by governments.

Indirect costs might be examined as a base for increased concern on the part of shipping interests. Throughout the history of piracy insurance companies have "been important in efforts to secure government action against pirates, both

⁵⁹ The amount of traffic through Southeast Asia's SLOCs is actually significantly larger than that passing through the Strait of Malacca. This approximation will, nonetheless, communicate the miniscule impact of piracy on trade through the region.

⁶⁰ Weeks.

indirectly through increases in rates... and directly through representations to the government."⁶¹ A rise in insurance rates would impose some of the costs of piracy upon all shippers, victim and non-victim alike, and thereby stimulate those shippers to demand government action. Thomas Timlen, of the Baltic and International Maritime Council (BIMCO), however, reports that BIMCO has "not seen any *individual* ship owner face increased insurance cost resulting from attacks involving their ships."⁶² Moreover, the lack of a mechanism to determine what portion of insurance costs are attributable exclusively to piracy makes it difficult assert that premiums have risen concomitantly with increases in acts of piracy.

B. HUMAN CONCERNS

Psychological and physical trauma inflicted upon survivors as well as the actual loss of life must be considered when determining the cost of piracy in human terms. Although the economic cost remains relatively small and losses deemed a "reasonable cost of business for some shipoperators [sic],"⁶³ individual sailors tend to view the problem differently. "[They] lose their property and lives to pirates and they are physically and emotionally scarred from pirate

⁶¹ M. J. Peterson, "An Historical Perspective on the Incidence of Piracy," in *Piracy at Sea*, ed. Eric Ellen, (Paris: ICC Publishing SA, 1989), 43.

⁶² Thomas Timlen, BIMCO analyst, Bagsvaerd, DK, letter to author, 3 March 1999.

⁶³ Douglas B. Stevenson, "The Human Cost of Piracy," *BIMCO—Special Bulletin: Piracy, Stowaways, and Drug Smuggling* 1998, no. 2 (September, 1998): 13.

attacks."⁶⁴ Douglas Stevenson of the Seamen's Church Institute relates the following:

A shaken seafarer recently came in to our centre in Port Newark to talk to one of our chaplains. The man was demoralised and distraught. He had been the victim of a pirate attack where he was forced to hand over his watch and wedding ring. He wanted to know if his shipping company would compensate him for his loss. A quick phone call confirmed that he would be paid for the value of his property, but nothing could possibly compensate him for his having to give up his wedding ring and the trauma he suffered. He told us that because of the experience, he would never sail again.⁶⁵

Given the cost of piracy expressed in human terms, the mobilization of organized seafaring labor, such as NUMAST, could demand that shipping interests pressure governments for greater protection. But collective bargaining and the threat of a strike impose considerably less leverage on management in the shipping industry than in many other industries. Given a perennial glut in global shipping capacity, shippers have many options when confronted with such tactics. For example, when Japanese sailors refused to sail in the Persian Gulf during the Tanker War and Desert Shield, the Japanese shippers simply replaced "Japanese flag ships and crews with Panamanian ships and Philippino [sic] crews."⁶⁶

Piracy is fundamentally nothing more than crime, but *crime at sea*. As such, it can be examined accordingly. If simply considered crime, piracy takes on a new meaning when American assets are considered. If the human and

⁶⁴ Ibid, 13.

⁶⁵ Ibid, 13.

⁶⁶ Dragonette.

economic costs of piratical crime are compared to the human and economic costs of violent crime in the United States, the outcome of the comparison favors the allocation of assets to the latter. In 1995, 1,798,790 violent crimes were committed in the United States: including 21,610 murders,⁶⁷ over one hundred times the total number recorded worldwide as a result of piracy since 1991 (173). In 1995, operating federal and state penitentiaries alone, cost roughly \$26 billion.⁶⁸ The United States Department of Justice estimated that domestic crime results in annual property and productivity losses amounting to \$105 billion.⁶⁹ Arguments in response to the comparison of the cost of piracy and US domestic crime would undoubtedly highlight human costs of piracy. Mariners have a right to earn an honest wage without fearing for their lives. This response, however, would be quickly rebutted by the assertion that individuals have the right to walk down a street in their hometown without that same fear. In this context, one would have trouble describing the costs of piratical crime as even a nuisance for the United States.

Piracy's relative human and economic costs are insufficient to cause the United States devote significant assets to combating it. From a practical standpoint, the United States could use its limited assets toward efforts to combat domestic crime. If allocating additional assets could reduce annual

⁶⁷ "United States Crime Rates: 1960-1997," 1999 [Available ONLINE: <www.disastercenter.com/crime/uscrime.htm>] Accessed 21 March 1999.

⁶⁸ "US National Facts," 1998 [Available ONLINE: <www.justicefellowship.org/facts.htm>] Accessed 21 March 1999.

⁶⁹ "The Extent and High Cost of Crime," 1998 [Available ONLINE: <www.crime-report.com/crimevictimz.html>] Accessed 21 March 1999.

domestic crime by one percent it would produce results that eclipse both the human and economic costs of maritime piracy. Aside from the human toll, piracy does not inflict sufficient losses upon shipping interests to induce them to demand that governments take more action to defend the shipping lanes. Of course, the incidence of piracy may increase to the point at which the shipping interests do make that outcry, but perhaps as one Hong Kong mariner said, "piracy will... not get any worse. Pirates know well that if they went too far, they would force the military to be deployed, which will put an end totally to their businesses. They know not to cross the line."⁷⁰

C. ECOLOGICAL CONCERN

The current situation does not provide the basis for the United States to allocate significant additional resources to Southeast Asian waters to fight piracy. Even if it did, from a legalistic standpoint, the current state of piracy, as defined in the UN Convention on the Law of the Sea, would not justify the unilateral dedication of military might in a massive effort to eradicate piracy in Southeast Asia. The IMB's definition carries no legal weight. American naval assets would be deployed to the region for the purpose of anti-piracy efforts only in response to a request for assistance from the coastal states.

The problem is largely a national one whose resolution falls in the area of responsibility of national maritime security assets. Accordingly, the likelihood that any ASEAN member state would request such assistance is low. Calls at

⁷⁰ Captain Sze Tze Fung, "Re: A Question on Piracy," Email to Author, STF@springbok.net, 5 March 1999.

regional ports have not lessened and there have been no large public expressions of distress at the current level of piracy. Simply stated, there is insufficient casuse to stimulate the ASEAN nations to take greater action and given that, the ASEAN nations would clearly have no basis to ask any nation to assist them with what is really no more than a law enforcement issue.

There is, however, a latent danger that might induce a call for help from littoral states in Southeast Asia. An ecological catastrophe wrought by piracy is a distinct possibility. International recognition of the importance of Southeast Asia's maritime trade clouds recognition of the importance of those waters as a source of both natural resources and tourism for littoral states. Indeed, most histories tend to portray the Malay as a trader. Keith Taylor points out, however, that in ancient Southeast Asia, trade adorned power, agriculture defined it.⁷¹ Aquaculture is as important in modern Southeast Asia as agriculture was in ancient Southeast Asia. Harvest the sea's bounty is a means of earning a living while producing "over half of all animal protein consumed" in the region.⁷² The region's mangrove-linked fisheries yield roughly \$194 million worth of produce. Moreover, the growing tourist industry in Southeast Asia relies heavily upon the ocean as a major attraction. At the northern end of the Strait of Malacca, the oceans surrounding Pulau Langkawi, Pulau Pangkor, and Penang have long attracted tourists; Singapore has developed a maritime tourist industry at the

⁷¹ Keith W. Taylor, "The Early Kingdoms," ed. Nicholas Tarling, *The Cambridge History of Southeast Asia*, vol.1 *From Early Times to c. 1800* (Cambridge: Cambridge University Press, 1992), 145.

⁷² L.M Chou, "Marine environmental issues of Southeast Asia," *Hydrobiologia* 285(1994), 142.

southern end of the strait; and of course, Bali represents Indonesia's best known tourist spot. There are similar resorts throughout the region.

Southeast Asia relies upon the sea for more than the mere transportation of goods to wealthier nations to the Northeast and to the West. As a natural resource, the sea plays a vital role in the regional economy. Having recently recognized this, the nations in the region have made a significant effort to repair the environmental damage that has occurred as a result of over-fishing and maritime pollution in past years. The littoral states take the problem seriously.

The possibility of significant ecological damage as the result of an accident involving a pirated tanker is significant. As noted previously a disproportionately large number of tankers are attack in SE Asian waters. There are several scenarios that could lead to an oil spill as a result of piracy, none of which any statistical trend can foretell. The least threatening involves pirates during transfer a pirated cargo to their mother ship or to some prospective customer at sea or even in port. Since modern tankers generally are equipped with sophisticated transfer systems, it is quite conceivable that some amount of petroleum product could be discharged into the ocean by a semi-literate pirate. Of course the pirate, realizing his mistake would result in the loss of his plunder, would expeditiously try to close the valves to stop the flow of oil overboard. Thus the likelihood of a spill as large as that of the Exxon *Valdez's* as a result of mere operator error at some fuel transfer station is low.

A greater danger lies in the possibility that pirates might incapacitate a supertanker's crew and disembark the vessel with their booty of cash and some

of the crew's belongings, leaving the ship without a helmsman; that is, "not under command." If that happened while the ship transited restricted waters, it would virtually assure an environmentally catastrophic outcome. Although it did not occur in restricted waters, "[in] one recorded incident... when the attackers left a ship the crew [of a tanker] could not immediately free themselves... [and] the bridge was unmanned for a period of 70 minutes."⁷³ This is another potential disaster: a collision of a ship under pirate attack and a tanker. Moreover, as the 1999 case of the *New Carissa* off the coast of Oregon demonstrated, a vessel need not carry petroleum products as cargo to present the danger of an oil spill because the fuel storage tanks of a ship hold a considerable amount of fuel.

Regardless of the specific circumstances surrounding it, the potential for a spill on the scale of the *Exxon Valdez* as a result of piracy is clearly possible. Some of the concerns regarding oil spill potential and response issues in the South China Sea by the Malaysian and Philippine governments include:

- ...2) The area is very challenging to navigate in given some very shallow areas (like the Spratley [sic] Islands), strong tides...
- ...4) The lack of any open ocean oil spill response and recovery resource or equipment - in other words no booms, oil spill response vessels, or trained personnel,
- 5) The number of vulnerable natural resouces [sic] which would be impacted by an oil spill such as fishing grounds, pearl beds, reefs, and mangroves.⁷⁴

A successful cleanup (the recovery of about 30 to 40 percent of the oil spilled) of an oil spill the size of the *Exxon Valdez's* in Southeast Asia might cost

⁷³ International Maritime Bureau, *Piracy and Armed Robbery Against Ships—Special Report*, 38.

⁷⁴ Steve Calanog, "Re: Oil Spill in Southeast Asia," Email to Author, Calanog.Steve@epamail.epa.gov, 12 March 1999.

as much as two to three times the \$2.1 billion Exxon paid to clean up Prince William Sound if the responsible party responded in a similar way. Of course, less expensive, but less ecologically sound methods of cleanup do exist.⁷⁵

One should also note that, as spills go, the *Valdez's* although the largest in United States history, ranks among smaller spills. In the worst oil spill ever, the *Atlantic Empress* lost 287,000 tons of oil off Tobago in 1979, seven times that lost by the *Valdez*.⁷⁶ Given today's heightened awareness of the global environment, generally, and the concern about oil spills specifically, if an investigation revealed that a significant spill resulted from the incapacitation of a crew by pirates, concern for more oil spills induced by pirate attack could confer international importance upon a national problem. Such international ramifications place considerable pressure upon littoral states of Southeast Asia to take additional action in combating piracy. The affected nation or nations might, in response to this pressure, request international assistance in combating piracy.

Certainly the level of violence and the economic issue of denied freedom of the seas, a traditional concern of the United States, provide reason enough for the United States to be concerned regarding maritime piracy in Southeast Asia. However, the environmental issue, more than the economic and humanitarian, will most likely be the principal reason additional assets are allocated to combat

⁷⁵ Steve Calanog, "Re: Oil Spill in Southeast Asia," Email to Author, Calanog.Steve@epamail.epa.gov, 15 March 1999.

⁷⁶ The International Tanker Owners Petroleum Federation Limited, "Statistics," 1998 [Available ONLINE: <<http://www.itopf.com/spills.html>>] Accessed 16 March 1999.

piracy. The capacity of an ecological disaster to elicit international interest does not end with a mere expression of concern. It is certainly feasible that a Southeast Asian country or consortium would solicit the involvement of the international community in support of Southeast Asian anti-piracy action. Such a solicitation poses two problem: (a) who in the international community would respond to such a request, and (b) what role would American naval assets play? Concerns should center on who might respond to such a request and how that nation's response might affect stability in the region.

V. INTERNATIONAL IMPORTANCE

The possibility of a major ecological disaster because of a collision or grounding of a tanker under a pirate attack is real and would stimulate concern both within the affected region and across the international community for preserving Southeast Asia's waterways. Increased effort against piracy is one way to preserve the waterways. Though data do indicate that Southeast Asian maritime authorities have to some extent curtailed a rise in maritime piracy, they have not been able to reduce it significantly. As such, if confronted with an escalation in piracy, they would likely look beyond the region for help. This call for help could place the United States in a position that would require that it respond if for no other reason than to maintain stability in the region. This chapter will examine what nations could respond to a petition for assistance from Southeast Asian Nations. It will demonstrate that international concerns for stability in the Far East would compel a US response regardless of America's ability to respond effectively.

A. CANDIDATES

If, as a result of a major environmental catastrophe, the littoral nations of Southeast Asia requested the international community to intervene militarily against pirates, four nations, the United States, the People's Republic of China, Japan, and Australia, would most likely respond.

If any one of these nations were to send assistance, the petitioning nations would probably provide logistical support. As such, the inability of the

PLA Navy to conduct sustained operations far from home would not hinder its ability to provide assistance.

A quick look at the motivators and demotivators for these four nations to respond to a Southeast Asian petition provides a framework to evaluate the odds that any one of these nations would provide assistance.

1. United States

The United States has little direct economic motivation, given the small percentage of US trade passing through the region. The only real motivation for the United States to provide assistance lies in the possibility of losing some of its influence in the region as a result of inaction. In any case, after years of building a blue water navy, the US Navy's lack of a significant coastal patrol capability, beyond that of thirteen *Cyclone* class patrol craft, serves to demotivate American involvement in anti-piracy operations.

2. Australia

The Australians have considerable interest in Southeast Asia's SLOCs. The bulk North-South trade between Australia and Northeast Asia amounts to 53 and 40 percent of all of Australia's imports and exports, respectively, and it all passes through Southeast Asian SLOCs.⁷⁷ However, the situation that might require the ASEAN nations to request assistance does not significantly impact trade passing through the SLOCs. An oil slick would not result in a prolonged inability of merchant ships to use the affected waterway. In any case, the Lombok and Makassar Straits, forming Australia's main trade conduit to

⁷⁷ John H. Noer with David Gregory, *Chokepoints: Maritime Economic Concerns in Southeast Asia* (Washington, D.C.: NDU Press, 1996), 23-24.

Northeast Asia, are not impacted by piracy as severely as those shipping lanes passing through regions further West. Australia might feel pressure to provide assistance because of its obligations to Singapore and Malaysia under the Five Power Defense Arrangement (FPDA) or to Indonesia because of the recent Indonesia-Australia military defense arrangement. However, these two treaties are directed against states actors, not pirates. Overall, though highly motivated to protect its trade, Australia would find itself in a similar situation to that of the United States insofar as its only real motivator lies in the strengthening of its influence with the ASEAN members.

3. Japan

Japan's motivation to assist ASEAN would present an interesting situation. Obviously it has significant economic interest in Southeast Asia for reasons of considerable Overseas Development Assistance (ODA) as well as its reliance upon the region as a conduit for its oil from the Middle East and trade goods with Europe. Additionally, the provision of assistance would bolster Japan's efforts to secure its position as a regional leader in Asia as well as its position in the larger international community. Traditionally, Japan has offered monetary assistance in all cases. However, a request for assistance in a region whose defense any Diet member could easily defend as vital to the security of Japan would provide an opportunity for Japan to act as a soldier rather than a banker and to gain some of the respect that eluded it during the period surrounding the 1991 conflict in the Persian Gulf.⁷⁸ However, the demotivators

⁷⁸ See Francis Fukuyama and Kongdan Oh, *The US-Japan Security Relationship After the Cold War* (Santa Monica: Rand, 1993).

for Japan, both domestic and international, quickly counterbalance any forces that might drive Japan to act unilaterally, regardless of the degree to which action might serve its best interest.

Despite the recent deployment of peacekeeping forces to the Golan Heights, Rwanda, and Cambodia, Japan retains the pacifism that the United States' security umbrella and international skepticism have helped to sustain since the end of the Second World War. Sending armed warships to foreign waters, regardless of how noble or benign the intent, differs greatly from sending unarmed personnel overseas in peacekeeping actions. The Japanese constitution's Article IX, under its current interpretation, allows for self-defense. It does not allow for the overseas deployment of Japanese Self Defense Forces to defend another country. Again, regardless of their severity, oil spills have little effect on trade or the flow of oil to Japan, and thus pose little threat to Japan itself.

Even allowing for the most benign of intentions, the international community would, almost assuredly, greet the deployment of Japanese warships to Southeast Asia with considerable concern. Japan's aggression in the Second World War and its inability to resolve its wartime responsibility makes most of Asia uneasy. Despite the tendency for some nations in Southeast Asia, such as Malaysia, to welcome the possibility of a Japan-led Asia, Southeast Asian opposition to the presence of Japanese warships would come as no surprise.

4. China

China remains the last candidate capable of responding to an ASEAN request for assistance. Several factors would motivate China to provide this

assistance. China clearly has commercial interests in the SLOCs. Providing assistance to promote the security of the SLOCs and the stability of the region, would demonstrate "Beijing's intention to focus on economic development and promote a peaceful international environment."⁷⁹ Furthermore, noting that the Joint US-Japan Declaration on the Alliance and the 21st Century "cited sources of persisting instability and uncertainty in the Asia-Pacific region that by implication involve China,"⁸⁰ Beijing might see the dispatch of PLA Navy ships on an anti-piracy mission as a means of drawing ASEAN nations into China's camp thereby balancing the US-Japan coalition. "As there is considerable speculation regarding China's role as a haven for pirates and the role of local Chinese authorities in abetting piracy,"⁸¹ such action on the part of China might chip away at Beijing's image as a sponsor of piracy. Moreover, it would demonstrate Beijing's willingness to provide regional leadership in one circumscribed area – anti-piracy – but at the same time signal China's capacity to provide leadership in other areas as well.

One downside aspect in sending forces abroad, however, is that China would risk reinforcing an image of its hegemonic designs on the region. Mitigating this, though, its forces would deploy not as part of an aggressive campaign like its 1995 occupation of Mischief Reef, its 1996 exercises in the

⁷⁹ David B. Denoon and Wendy Frieman, "China's Security Strategy: The View from Beijing, ASEAN, and Washington," *Asian Survey* 36, 4 (April 1996): 438.

⁸⁰ Banning Garrett and Bonnie Glaser, "Chinese Apprehensions about the Revitalization of the U.S.-Japan Alliance," *Asian Survey* 37, 4 (April 1997): 388.

⁸¹ Mike Edgerton, "Re: Current Actions," Email to Author, Medgerton@comdt.uscg.mil, 8 March 1999.

Taiwan Straits, or numerous other aggressive actions throughout its history, but in response to the plea of less fortunate neighbors for help. Another Downside impact is China's public disorder crisis which might oblige the PLA "to focus its attention and resources on internal, not external, security." Yet the prospect of sending forces abroad might have positive implications for domestic security itself, in creating a "rally 'round the flag" effect.⁸² In any case, naval forces can do little to combat unrest occurring deep within the boundaries of China.

B. GAINERS AND LOSERS

Out of the four likely respondents to a Southeast Asian petition for assistance, China is best motivated to provide support to Southeast Asia. Such action would gain China significant diplomatic ground in a region in which at least "informally... both civil servants and political leaders express reservations about China's intentions."⁸³ China clearly has a strategic interest in Southeast Asia's SLOCs in their importance to China's economy. Given this interest, it can defend any action it takes to assist Southeast Asia. Though Japan, too, has an interest in the SLOCs, its history discourages overt military action because the Japanese recognize the international and domestic repercussions likely to attend the deployment of Japanese warships overseas. Australia has no strong motivation to send forces to Southeast Asia apart from treaties focusing on threats posed by state actors and the self-interest a nation would have in gaining

⁸² Greg Austin, "The Strategic Implications of China's Public Disorder Crisis," *Survival* 37, 2 (Summer 1995): 7.

⁸³ David B. Denoon and Wendy Frieman, 429.

influence in the region. The United States, with little trade through the region, is motivated only by maintaining its influence in the region.

C. AN HYPOTHETICAL INTERNATIONAL SYSTEM

The previous assessment of their motivations to send assistance to Southeast Asia addressed the likelihood that the United States, Australia, Japan, and China would assist Southeast Asia. In effect, the assessment attempts to view the decision to send assistance as a function of one nation's interest and the reaction of Southeast Asian nations to that decision. However, no nation can act in the international system without first considering for what responses those actions might elicit from other nations. Other nations, beside the principal actors, will react.

A Chinese decision to respond unilaterally to a petition for assistance from the coastal states of Southeast Asia would result in considerable repercussions throughout the Asia-Pacific region. Many throughout the Pacific Rim doubt that China's intentions are genuinely benign. Significant economic growth since Deng Xiaoping's decision to reform China's economy in the late seventies has forced the region to realize that the "sick man of Asia" continues to recover and, as a result, it can see the inevitability of China as a future great power, if not superpower.

Adding to its growing economic strength, China has undertaken a major military modernization program embracing the concepts of the United States' revolution in military affairs (RMA). This program seems directed at the United States, though ostensibly it is aimed at China's general defense and not at any

specific country.⁸⁴ Today, China maintains that its interests continue to lie in its economic growth as well as in regional stability. However, as “statesmen think and act in terms of interest defined as power”⁸⁵ China may continue to pursue a policy conducive to regional stability only as long as it contributes to China’s accumulation of power. In examining a nation’s foreign policy one can “not assume that... contemporary conditions... with their extreme instability... cannot be changed.”⁸⁶ Perhaps a better way to evaluate the true character of China’s foreign policy lies in “the examination of the political acts performed” by China “and of the foreseeable consequence of these acts”⁸⁷ rather than in current conditions and rhetoric. If China is viewed through a lens shaped by events such as the invasion of Vietnam in 1979, Tienanmen Square in 1989, the occupation of Mischief Reef in 1995, and the Taiwan Straits missile exercises in 1996, then the gravity of the observation that “qualitative changes in Chinese foreign policy should be expected if China grows from a medium-sized power to a superpower”⁸⁸ must be taken seriously.

⁸⁴ See M. Ehsan Ahrari’s discussion of Su Zian’s “Xianai Bingo” in “US Military Strategic Perspectives on the PRC—New Frontiers of Information-Based War,” *Asian Survey* 37, 12 (December 1997): 1174-1175.

⁸⁵ Hans Morgenthau, “Six Principles of Realism,” in *Classic Readings of International Relations*, ed. Phil Williams, Donald M. Goldstein, and Jay M. Shafritz (Fort Worth: Harcourt Brace, 1994), 35.

⁸⁶ *Ibid.*, 37.

⁸⁷ *Ibid.*, 35.

⁸⁸ Denny Roy, “The ‘China Threat’ Issue—Major Arguments,” *Asian Survey* 36, 8 (August 1996): 761.

The deployment of Chinese forces to Southeast Asia, however benign their intent, would give China a tremendous opportunity to exploit. China may, even honestly, proclaim its actions as those of a nation helping less capable neighbors. Chinese military assistance to Southeast Asia, however, represents an opportunity through which China would increase its power in the region. "Power may comprise anything that establishes and maintains the control of man over man."⁸⁹ In sending aid in the form of naval assets, China empowers itself at least twofold. First, it gains influence in the region by portraying itself as a benevolent donor of aid and as a nation upon whose assistance other less powerful nations can rely. Secondly, it projects a sustainable military presence in the South China Sea and further West, perhaps into the Indian Ocean. These two factors have direct ramifications for many actors in the region.

Japan would probably have the greatest concern if China became actively involved. China's Territorial Waters Law has recently strengthened Japan's suspicions of China. "With its explicit enumeration of the Senkakus... as part of China's territorial waters and its...emphatic assertion of an inherent right to repel 'invaders' by military means,"⁹⁰ the law is obviously intended to threaten Japan. As a nation without substantial natural resources, Japan relies heavily on the SLOCs for much its international trade, including roughly 90 percent of its oil.⁹¹ Should China establish a naval presence in the region – no matter the reason –

⁸⁹ Morgenthau, 36.

⁹⁰ Eugene Brown, "Japanese Security Policy in the Post-Cold War Era—Threat Perceptions and Strategic Options," *Asian Survey* 34, 5 (May 1994): 436.

⁹¹ Denny Roy, "Hegemon on the Horizon," *International Security* 19, 1 (Summer 1994): 165.

the force would be capable of interdicting Japan's oil supply. Moreover, China would have necessarily lessened the influence of Japan in the region by gaining influence over Southeast Asia.

Japan, though recognizing the futility of its early post-Cold War aspirations to secure its rightful place in the New World Order through sheer economic might, has not given up on, as Warren S. Hunsberger entitled his book, *Japan's Quest: The Search for International Role, Recognition, and Respect*.⁹² Japanese foreign policy has focused on this quest since the Meiji Reformation. A strong Chinese presence in the SLOCs would both threaten Japan's economic lifeline and remind it of its inability its rightful place in the world. Under these circumstances, Japan might be motivated to abandon "comprehensive security" for a more conventional approach to security issues regardless of international anxieties. A rearmed Japan would almost certainly, based on a "lingering legacy of fascist Japan's Asia policy in the 1930s and early 1940s," spark a regional arms race as a result of "prompt and efficient anti-hegemonic balancing against Japan."⁹³

Another nation, India, on the other end of the Asia-Pacific region, would view an increased Chinese presence in the Southeast Asian SLOCs with concern. India possesses a large navy and is intent on establishing its presence in the Indian Ocean. India's defense minister, George Fernandes has publicly stated that India faces its largest threat from China. He has cited two Chinese

⁹² Warren S. Hunsberger, ed., *Japan's Quest—The Search for International Role, Recognition, and Respect* (Armonk, New York: M. E. Sharpe, 1997).

⁹³ Denny Roy, "Hegemon on the Horizon", 152.

undertakings in his description of the emerging Chinese threat: (a) a Chinese listening post on Myanmar's Coco Islands used to surveil the Indian Navy, and (b) the lengthening of runways at eleven bases in Tibet for to accommodate China's recently purchased SU-27 Sukhoi fighters. Fernandes has been quite vocal about this threat.⁹⁴ A PLA Navy presence in the SLOCs would reinforce India's perception of a Chinese threat. As India saw its power in the Indian Ocean increasingly threatened, the likelihood of an aggressive response to China, short of war, would increase. Given India's nuclear status, the possibility of an arms race with China may be an even more frightening prospect than one between China and Japan. Both China and India recognize the consequences of a nuclear exchange, but increased tension between any set of nuclear powers is fundamentally disconcerting.

The growth of Chinese influence in the region presents a problem for the United States because it erodes US influence and power in the region. However, Chinese actions such as these would also have indirect effects upon the United States. In response to Japanese militarism, the United States would have to dedicate significant resources to Japan to reassure the Japanese that the United States still remained committed to the alliance. This reassurance would provide the only means of forestalling another arms race, this time between Japan and an anti-Japan bloc certain to form, which would almost certainly include the United States ally, the Republic of Korea. Additionally, the

⁹⁴ Jue Family Website, Reuters, "India Says China Has Surveillance Base in Burma," 4 May 1998 [Available ONLINE: <<http://www.jue.org/jue/chinanews/archives/docs/980504b.html>>] Accessed 20 March 1999.

United States would have to assuage Indian fears of the increased Chinese presence in the Indian Ocean. In effect, if China responded with military assistance to a call for help from Southeast Asia, the United States would have to ultimately commit more resources to the region than it would have had it made the initial response to the Southeast Asian plea.

D. US PRESENCE

The current United States policy in Asia would not allow the scenario just described. If, as a result of a major oil spill or for any other reason, a certain Southeast Asian nation petitioned the international community for assistance in combating piracy, the United States would respond because it would recognize the strategic value of Southeast Asia's SLOCs and the potentially destabilizing effect of a crisis involving them. The deployment of United States forces to Southeast Asia in an anti-piracy capacity would not threaten any country in the region, although China would probably issue some face saving pronouncements. The US response would probably amount to more US ships in the region, but it should be noted that as a significant number of American warships already ply Southeast Asian waters with the primary mission of maintaining stability. A few more ships for the purpose of anti-piracy would likely, in the eyes of Asians, merely be an extension of status quo. More United States Navy warships would certainly be more consistent with the current situation than would the introduction of Chinese naval assets.

The President's National Security Strategy for a New Century mentions regional stability no less than twelve times.⁹⁵ The United States military provides an instrument particularly well suited to maintaining regional stability in the Asia-Pacific region. It accomplishes this, *de jure*, by assuring Japan's protection, which eliminates the need for Japan's normalization and forestalls indefinitely an almost certain arms race. The US presence also *de facto* contains China. Two recent events exemplify the impact of US naval presence: (a) the presence of two carrier battle groups off Taiwan in 1996 and (b) then Secretary of State Warren Christopher's intentionally ambiguous statement of United States policy regarding freedom of navigation in the South China Sea in May of 1995. The same effect would likely occur if the United States deployed forces to Southeast Asia in response to a specific request for aid to combat pirates.

A request for aid by a Southeast Asian littoral nation to fight pirates would force the United States to adopt a policy that it is ill equipped to undertake. The United States Navy does not have the kind of craft needed to effectively combat pirates and though its vessels are uniquely suited to anti-piracy missions, such a mission in Southeast Asia falls outside the Coast Guard's jurisdiction. The United States military would be better prepared to assuage regional fears in the event Japan began to rearm or Japanese fears of a growing China Threat. Allowing such a situation to arise, however, is not a desirable course of action. The United States should develop a viable anti-piracy capability for the Navy to

⁹⁵ William J. Clinton, *National Security Strategy for a New Century*, 1998, 1, 10, 13, 13, 27, 34, 34, 39, 45, 49, 52, 53.

prepare for the inevitable request for assistance or it should preempt such a request through the provision of increased aid short of military assets.

VI. OPPORTUNITIES

The problem of maritime piracy in contemporary Southeast Asia is real and dangerous. Modern piracy inflicts terrible losses in both economic and humanitarian realms. Yet, in the larger scheme of things, piracy, *per se*, poses no danger to the United States sufficient to require that the United States devote major resources to combating it. It is piracy's indirect effects that deserve attention.

A possible scenario in which an oil slick caused by piracy stimulates Southeast Asian nations to seek assistance from more capable nations highlights the feasibility that piracy can become an issue of major international concern. This scenario would force the United States to act because failure to do so could result in diminishing the United States' influence in the region with its attendant destabilizing effect upon the region. That having been said, however, even if the United States did respond, it is ill equipped to do so.

To avoid the problem in the first place, the United States must simply preempt the pirates. How this would be done involves a myriad of possible actions, but given the strong feelings regarding independence among Southeast Asians, the devotion of significant United States air and naval assets to the region to provide anti-piracy patrols is the least favorable of these. Better options include (a) continuing and increasing United States involvement in IMO anti-piracy missions to Southeast Asia, (b) United States sponsorship of anti-piracy missions to the region, and (c) facilitating the Southeast Asian purchase of decommissioned US naval vessels having small drafts. The purpose of these

efforts would be to empower indigenous law enforcement to attack the problem of piracy.

Such empowerment does not represent a new tack in United States foreign policy. However, beyond empowerment in addressing the problem of piracy, there lies a unique opportunity for diplomacy. Piracy is one of few international problems about which modern nations should all be able to agree as to a most favorable resolution, specifically, its eradication. As such, the United States can use the anti-piracy goal as an opportunity to engage countries, such as China, with whom relations are tested if not outright antagonistic. Importantly, it provides an opportunity for real multi-lateralism, as opposed to some quasi-multilateral series of bilateral agreements.

The defeat of piracy is a noble end. It need not, however, be an end in and of itself. Genuine efforts on the part of concerned nations to eliminate piracy can open an avenue for interaction between nations. Moreover, in providing an area upon which all can agree, anti-piracy efforts could provide an opening to other areas for additional dialogue. The United States should undertake efforts to work with the nations of the region with the eradication of maritime piracy as the desired end. It should also undertake these efforts as a means of opening additional dialogue in other areas where agreement is less universal. Piracy could thus prove a building block toward agreement in these areas and a germ of stability rather than instability.

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