Transnational Security Issues in the Asian Maritime Environment: Fisheries and Piracy

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Introduction

There are a multitude of maritime security challenges for Asian States ranging from terrorism, drug-trafficking, gun running, people smuggling, interstate conflict over maritime claims, piracy and illegal, unregulated and unreported (IUU) fishing. This paper touches upon two challenges - piracy and IUU fishing - primarily in the context of the security issues raised for Southeast Asian States. Its narrow focus has been scoped by participation in the Sino-Australian Research Program and it is acknowledged that maritime security issues in the region are significantly more complex that the discussion this paper permits. Nevertheless, the link between piracy and IUU fishing and the measures taken this century to curb both activities are worthy subjects of research.

Synergies between Maritime Piracy and IUU fishing

Economic growth in the Asian region depends heavily upon sea trade. Up to 30% of world trade and 50% of the world's oil supplies pass through the Malacca Straits (Mitropoulos, 2006) and unchecked pirate activity threatens this vital flow. Pirate activity also increases the risk of an environmental disaster in the event that an oil tanker or bulk cargo vessel is damaged (accidentally or otherwise) in an attack. This in turn would have a significant impact on millions of coastal residents in Southeast Asia who depend upon fishing for either their livelihood or mere subsistence.

Whilst the majority of reported incidents are classed Category 3 (less significant) by the ReCAPP Information Sharing Centre (ISC), Category 1 (very significant) incidents are still occurring (ReCAPP ISC 2009, p.9). Overall the significance level of incidents increased in 2009 when compared with figures for 2007 and 2008. In 2009 crews were physically threatened and held hostage (ReCAPP ISC 2009, p.11). Whilst this increase in significance is partly cyclical and partly explained by pirates adapting to regulation, the threat of violent attacks remains high.

With greater violence comes an increased risk of human and environmental disaster. This translates to increased concerns that an environmental disaster is inevitable. As mentioned above, a significant proportion of the population in Southeast Asia depends upon the sea for their food and livelihoods (Abbot and Renwick 1999). A FAO Report (2007) found that 88% of the estimated 41 million persons involved in fishing worldwide are Asian and most of them are small scale or artisanal fishers. Further many of these fishers are already operating at the margins of profitability.

Young (2007, p.60) notes that, "even under ideal circumstances individual operators without substantial personal capital are often at the margins of poverty, making enough to repay debt and provide the essentials of survival but little else." A significant pollution event could literally wipe coastal fishing populations out or in the words of the Malaysian authorities, have "a devastating global economic impact"(Storey 2008, p.111).

Even without the impact of an environmental disaster, there are many variables which contribute to the tenuous life the vast majority of Asian fishers live (Young 2007 p.60). For example, weather patterns, fluctuations in domestic and international markets, destructive fishing techniques, (dynamiting has been used in the region) overfishing and the scourge of IUU fishing, (many locals engage in this activity themselves) contribute to an unpredictable environment in which income is never certain.

In this context, the lure of making some quick money by participating even in just one act of piracy can be strong. Notwithstanding whether the act is defined under international law as piracy (LOSC 1982, Art 101) or armed robbery (SUA, 1988, Art 3), it remains a criminal act. The link between economic hardship and an upsurge in criminal activity is a well understood phenomenon of human nature. To illustrate with just one example, in the late 1970s the fish stocks in the Gulf of Thailand became seriously depleted through overfishing. Traditional Thai fishermen looked to alternate means of securing a livelihood and either engaged in IUU fishing or preyed upon Vietnamese boat people (Young 2007, p.61). Beyond the Asian region the economic hardship in Somalia and absence of an effective legal regime or enforcement agency has meant anyone who could get their hands on a boat could become a pirate (Middleton 2008).

Maritime Piracy in Southeast Asia

Piracy has a long history in Southeast Asian waters dating back thousands of years. Since the early 1990s, piracy in the region has consistently represented a significant proportion of global reported piracy (Young 2007, App.B). Reported incidents peaked in the mid 1990s and stayed high through the Asian economic crisis of 1997. Young (2007, p.61) however argues that pirate attacks had been climbing since the end of the Vietnam War in 1975 and continued into the 1980s with hundreds of attacks against Vietnamese boat people. Although Asian economies boomed during these years, Young argues that 'uneven, rapid economic development coupled with a lack of political control over the expanding economies, laid the foundations for poverty amongst vast numbers'. Poverty in part stimulated a rise in piracy with the attraction of quick gains for low risk and the 1997 economic crises worsened financial conditions for millions of coastal villagers.

Year	Reported Pirate Attacks (actual and attempted)
2003	172
2004	165
2005	148
2006	135
2007	100
2008	96
2009	101

Table 1: Reported Pirate Attacks in Southeast Asia 2003-2007

(ReCAPP ICS 2009, p.8 and Bradford 2008, p. 476).

Political resolve to address the increasing numbers of pirate attacks, particularly in the Malacca Straits firmed when it became evident that it would actually cost States more to do nothing than to act. Insurance premiums were increased after the Malacca Straits were classed as a 'war risk' zone by the Lloyds Market Association Joint War Committee in mid 2005 (Bradford 2008, p.479).

The prospect of external western involvement in addressing piracy and thus in maritime security, arguably also fostered a regional commitment to cooperation (Storey 2008, p.98) although individual State attitudes to the threat to national security differed. Responses to piracy are reviewed further below.

An Asian style of piracy?

In the past 'Asian piracy' was been distinguished by a fairly uniform style. Men, armed only with knives, creep on board late at night or in the early hours of the morning and take what loose objects they can lay their hands on (Gosh, 2004, p.4) The ReCAPP ISC Annual Report (2009) statistics indicate this trend is still prevalent in Asian piracy. However, reports are also emerging of increasing violence with attackers willing to use automatic weapons and grenade launchers to target vessels (Gosh, 4; Bradford, 2008, 477). Even across Asia there are variations in piracy with kidnapping most common amongst Phillipino pirates. During first half of this decade this pattern shifted to the Malacca Straits where crews were removed from vessels and held for ransom (Bradford, 477).

Pirate attacks have spread beyond the Malacca and Singapore Straits to India and Bangladesh. Although reported incidents (actual and attempted) have always been considerably lower than those in Southeast Asian waters (Indonesia, Malaysia, South China sea and the Straits of Malacca and Singapore) they increased in 2009 (ReCAPP ISC 2009, p.10). This has been explained in part by increased port security in Indonesia and Vietnam and a greater law enforcement presence in the Straits of Malacca and Singapore (ReCAPP ISC 2009, p.10).

Asian piracy still remains less violent than what is termed 'African piracy'. The conduct of the Somali pirates who open fire of cargo vessels, brandish rocket grenade launchers and taking hostages to demand large ransoms, is still distinctive to the African coastline and Indian Ocean.

Asian States' Response to Piracy

As mentioned, although united in their recognition of the maritime security threat posed by piracy in the region, the Asian States, and in particular the three Malacca Strait littoral States (Malaysia, Singapore and Indonesia), have had different views on the required response dictated in the main by national security interests.

Singapore is heavily reliant on seaborne trade and has close defence and commercial ties with the United States. The view of the Singaporean government is that this western association in particular makes Singapore a target for terrorist groups (Storey 2008, p.109). With the risk of terrorist attacks and disruption to the sea trade, Singapore has identified maritime security as a national security issue. The link between terrorism and piracy was drawn by the Defence Minister back in early 2004 when he referred to "terrorism camouflaged as piracy" (Storey 2008, p.110). Malaysia conversely is more concerned with illegal immigration and arms and drug trafficking than piracy. The Indonesian government views illegal fishing and people smuggling as the main threats to its maritime security. Further, although Indonesia lacks the force capacity to patrol the Malacca Straits it was reportedly reluctant to divert resources to the Strait from other maritime areas because it did not derive the same economic benefit from the sea traffic as Malaysia and Singapore.(Storey 2008, p.111).

Adding to the mix is the ever present issue of sovereignty over maritime areas. Although both Indonesia and Malaysia have recognised territorial seas in the Malacca Straits, there is also an international transit passage through the Straits which provides for international navigation. This international aspect to the narrow Strait rankles Indonesia and Malaysia. More recently, the International Court of Justice ruled against Indonesia and found that that two very small islands (Ligitan and Sipadan) in the Celebes Sea east of Borneo, belong to Malaysia (ICJ 2002). Consequently, Indonesia has been proactive in surveying and naming thousands of small islands (some no more than atolls) in the Indonesian archipelago to assert and protect sovereignty (Storey 2008, p.112).

It took two initiatives from external States to spur the Asian States into regional action. The United States tabled the Regional Maritime Security Initiative (RMSI) and Japan proposed the adoption of a Regional agreement on cooperation to combat piracy and armed robbery.

Unfortunately the message behind RMSI was lost in translation and perhaps a little lingering mistrust for a reference to "putting Special Operation Forces on high-speed vessels so that we can use boats that might be incorporated with these vessels to conduct effective interdiction" was reported by the Indonesian press to be a United States led plan to "put Special Operations Forces on high-speed boats in the Straits of Malacca." (Storey, 2008 p113 and Fargo 2004). Regional reactions were strong on many grounds. United States military personal within the Straits of Malacca were a clear threat to national sovereignty; westerners

could arouse Islamic radicals within the region and the wording of the RMSI implied that the littoral States could not manage their own maritime security (Storey 2008, p.114). The initiative faltered before it could be discussed much further.

Japan has a vested interest in security maritime security in Southeast Asia given its economy is heavily dependent upon seaborne trade. When reported incidents in the Malacca Straits increased during the Asian economic crises, Japan's interest and involvement expanded (Sato 2007 p.2). The civil law enforcement agencies of the three Malacca Strait littoral States have been assisted by the Japanese Coast Guard and Japan has funded training seminars for coastal maritime authorities (Sato, p.2.)

In 2001 Japan initiated an idea for regional cooperation and proposed the adoption of the Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia. Now referred to as ReCAPP 2006, the agreement has become the first regional multilateral agreement on combating maritime piracy. It was opened for signature 28 May 2005 and entered into force on 4 September 2006. 14 Asian states have signed and ratified: Bangladesh, Brunei, Cambodia, China, India, Japan, Republic of Korea, Laos, Myanmar, the Philippines, Singapore, Sri Lanka, Thailand and Vietnam.

Japan has always exhibited a willingness to work with western States to improve maritime security in the region, as has Singapore. Indonesia and Malaysia have been less forthcoming. Indeed Indonesia and Malaysia were unwilling to sign ReCAPP in part in protest of the decision to place the ISC in Singapore. Storey provides some interesting insight into why both States were displeased with the decision including offence taken at the outcome of the vote and reservations over sharing information with Singapore. (2008, p.115 and Sato 2007, p.6). Malaysia and Indonesia have still not ratified ReCAPP but both States have indicated a willingness to cooperate.

As a further initiative, Indonesia, Malaysia and Singapore launched the Malacca Straits Sea Patrol in July 2004 to conduct co-ordinated patrols and facilitate the sharing of information between ships and the Monitoring and action Agency (MAA) (Facts Sheet: Milestones of Malacca Strait Patrols published by Ministry of Defence, Singapore) . This is supported by the 'Eyes-in-the-sky' program launched in September 2005 to provide coordinated aerial surveillance over the straits using aircraft from Indonesia, Malaysia and Singapore. Finally the Malacca Strait Patrol Intelligence Group was established in 2006 to support the sea and air patrols and develop an information sharing platform.

Impacts of ReCAPP and the ISC

Reported incidents have decreased but comparing figures can be misleading. Just as one article suggested pirate attacks in the region are on the increase, another written in May 2009 reported that attacks were down in 2009 from 2004 and attributed the decline to regional cooperation (Washington Times 2009).

Under ReCAPP the Contracting Parties undertake, in accordance with their national laws, to act to prevent and suppress piracy and armed robbery against ships; to arrest pirates or

persons who committed armed robbery against ships; to seize ships and to rescues victims and their ships. The significance of ReCAPP is that it establishes a framework geared at practical effective outcomes. Three core strategies of information sharing; capacity building and operational cooperation are facilitated within the Agreement.

The ISC, funded almost entirely by Singapore, was officially launched in November 2006. The value of the ISC is that it provides a central reporting centre for attacks in disparate regions and encourages real time reporting of pirate activity and locations to local authorities. By way of example, on Christmas Day 2009, a general cargo ship was boarded at 0229 hours as it lay at anchor at Chittagong Port. The six men stole two drums of lube oil and some empty drums. The robbery was reported immediately to port authorities who alerted the Bangladesh Coast Guard and four men were apprehended (ReCAPP 2009, p.26).

The ISC Annual Report classifies attacks on the basis of two factors- the level of violence and the economic loss and trends in activity can be identified. For instance the number of Category 1 incidents halved from eight in 2005 to four in 2009 (ReCAPP 2009, Part 2). Further, attacks of a Category 1 nature tended to be against ships underway whilst the majority of incidents involving ships at berth/anchor have generally become less significant in nature (ReCAPP 2009, p.13).

Australian Interests in Asia and Western Involvement

With Australian exports and imports heavily skewed towards the Asian region, Australia has a vested interest in eradicating piracy in Southeast Asia. Over 50% of total Australian exports originate in Asia including Japan and north Asia (ABS 2006-2007). However Australia has not been invited to join ReCAPP. Nor has New Zealand or any fringing Pacific nations. A long standing distrust of western powers has led Indonesia and Malaysia in particular to rebuff United States offers to assist with patrols in the Malacca Straits and elsewhere (APEC 2009).

Interestingly and perhaps quite telling are the comments by Malaysian and Singapore representatives to the United Nations, New York. On 14 May 2010 the President of the UN General Assembly convened an informal meeting of the General Assembly to provide an opportunity for all States to discuss the problem of maritime piracy. This meeting was primarily to discuss Somalia piracy however Asian representatives spoke of achievements within their region against piracy. Singapore acknowledged the contribution of the ReCAPP ISC to the significant decline in piracy in the Straits of Malacca and Singapore and the improvements to regional maritime security were noted. The Singaporean representative also noted that the Netherlands have joined ReCAPP and Denmark has formally notified its intention to accede (Singaporean Intervention, UNGA, May 2010).

On the other hand, Malaysia made a submission which emphasised the role of the littoral States of the Straits of Malacca in reducing the incident of armed robbery (without external assistance). There is a political message behind this statement. The statement emphasised also that "it was not ReCAPP's activities which resulted in the decline of piracy and armed robbery in the Straits of Malacca but the excellent cooperation and political will of the Straits

littoral States which managed to ensure that armed robbery against ships practically became a thing of the past." (Malaysian Submission UNGA, May 2010)

A snap shot of IUU Fishing in Southeast Asia

From piracy now to IUU fishing which is also a significant problem in Southeast Asia costing an estimated US$2,500 million or eight percent of recorded landings (FAO 2007, 23). The FAO sponsored Report is admittedly based upon low returns to survey questions (given to the 10 members States of the Asia Pacific Fishery Commission) however the essence of the problem created by IUU fishing in the region is inescapable. National vessels and foreign fishing vessels are involved although there is some indication that IUU fishing by national vessels (strictly termed illegal fishing) may have increased (FAO 2007, 21). With no enforceable vessel registration or licensing systems in place however it is difficult to gauge how accurate these assessments are.

Historically there have been ample opportunities to engage in IUU fishing in the region because governance structures are weak (FAO 2007, 23). Ineffective vessel registration systems in the region translate to poor registration controls and the lack of licensing further contributes to an unregulated industry. (FAO 2007, 22). Hence, thousands of small scale artisanal vessels traverse the seas making management virtually impossible for most States.

The result is an environment conducive to IUU fishing for both nationals and foreign fishers. The lack of national legislation declaring it an offence for nationals to fish illegally in the EEZ of third State also hinders effective State control over its own nationals.

As mentioned, many local fishers in Southeast Asia barely eke out a living and have been known to adapt to any trade that offers a profit. Not many are environmentally friendly, from catching aquarium fish, collecting and selling shells, smuggling goods and conducting raids on passing vessels, all options have been explored (Young 2007, p.68). Successfully incorporating the millions of marginal coastal peoples so that piracy is not an attractive part time trade is a significant challenge for Southeast Asian States. As Young has noted, "Low-end ad hoc organised piracy and social piracy, characterised by opportunistic and at times an apparently necessity-driven nature...reflect this marginal status of maritime piracy" (2007, p.68).

It has been noted that the uptake, by Southeast Asian States, of international and regional initiatives to combat IUU fishing has been poor. The FAO reports that less than 15% of the ten members of APFC had developed a National Plan of Action to address IUU fishing. The point is made that with little national regulation of nationals who engage in such activities, there is a real need to embrace regional and international frameworks.

Australian responses to IUU fishing in the Australian Fishing zone

During the late 1990s IUU fishing in the northern Australian Fishing Zone (AFZ) increased. Government attention had been on the Southern Ocean but it was quickly drawn to the north. At its peak in 2006, 216 vessels were apprehended by Australian authorities. The number of vessels apprehensions doubled from 160 in 2004 to 365 in 2006 (Macdonald 2006 and Abetz

2007a). The first half of 2007 saw a reported decline in the number of sightings and arrests. (Abetz 2007b). In the last few financial years, apprehension number have fallen away dramatically with just 27 recorded arrests in the 2008-09FY compared with 156 in the 2007/08FY and 216 in the 2006/07FY. (AFMA 2010) Of the FFVs apprehended, they are predominantly small type 2 vessels.

Armed with a robust monitoring, control and surveillance (MCS) capability and rigorous regulatory system, it has still been a significant problem for Australian authorities to deter the seemingly endless tide of IUU fishers in northern waters. Australia's experience with IUU fishers cannot be usefully compared with that of Southeast Asian States given the extensive sophisticated regulatory systems in place, Australia's geographical position which means it has no land neighbours, the economic prosperity of its residents and the undisputed sovereignty Australia enjoys over its maritime zones. States with significant coastal populations living in poverty, an ineffective management system, a weak regulatory system and no capacity to conduct surveillance are thus in a precarious position. Coastal artisanal fishers are unregulated and engage in IUU fishing and compete with foreign IUU fishers who invade their national waters. The only useful conclusion to be made is that IUU fishing in the region is problematic and that IUU fishers will venture wherever they need in pursuit of a catch. That many hundreds of predominantly Indonesian fishers have been willing to fish illegally within Australian waters, taking on the risk of fines, automatic vessel forfeiture and loss of catches and gear, indicates the precariousness of their situation.

Conclusions

Piracy and IUU fishing are two aspects to be controlled in managing the maritime security of the Southeast Asian region. The international community became interested in security in the region when heightened levels of piracy threatened international trade and commerce. Distrust and resentment of western interference spurred Asian States, in particular Indonesia and Malaysia, towards regional cooperation. The international community had shown its willingness and capacity to act in relation to maritime security with the many UN Resolutions passed in relation to Somali piracy.

On the other hand, IUU fishing in Southeast Asia has not attracted the same interest largely because it still impacts local communities and regional economies more than the international economy. Whilst IUU fishing on a global scale has been the subject of international action (High Seas Task Force, IUU-IPOA), there is still much work to be done in Asia. Capacity building in terms of writing national laws, developing licensing systems, implementing vessel registration and enforcement is a significant task for many Southeast Asian States. As noted by Indonesia in 2000 (in the context of attending a conference on piracy in Tokyo) there is difficulty in allocating resources in a country with "so many islands, so many problems" (Bradford, 2008, p.480).

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2008/09FY, eight were banana boats in the Torres Strait area leaving just 19 FFVs for the northern AFZ between Indonesia and Australia].

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