

Security in the Straits of Malacca

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Abstract

The Straits of Malacca is one of the world's busiest and most important shipping lanes. It is a vital artery linking the region's economy with the rest of the world. Carrying a third of world trade and half of its oil supplies, security in the Straits is a concern of everyone with a stake in the waterway. Located in one of the world's most vibrant economic growth areas, the Straits is a pivotal link in international trade and transportation. It is therefore not surprising that security in the Straits is a matter of grave concern among the littoral states and internationally.

This article offers an holistic perspective on security in the Straits of Malacca. It attempts to counter the tendency by some analysts to view security in the Straits from the restrictive lens of piracy and terrorism, two issues which have dominated discourse on the subject of late. It lays out the extent of the challenges faced by the littoral states in managing security in the Straits and advocates a comprehensive approach in carrying out the task.

Straits of Malacca: A vital waterway

The Straits of Malacca is one of the world's most vital shipping lanes. Not only does it act as an important economic passageway transporting the bulk of the world's oil supply

and cargos, but it is also an important source of livelihood, food, recreation and transportation for the littoral states consisting of Malaysia, Indonesia and Singapore.



The Straits is a sea lane of immense strategic, political and economic importance not only to the littoral states but also to the international community. Such keen attention is underlined by US hints that it might send its naval forces to unilaterally patrol the Straits should it feel that the littoral states were not up to the task. Regional economic powerhouses such as China, Japan and Korea view security in the Straits, through which much of its trade and oil imports flow, from a strategic standpoint. China for example, depends on the Straits to carry 90% of its trade through the waterways, and more than 80% of its energy imports. These and other countries have a vital stake in keeping the Straits secure and safe.

To underscore the Straits' immense geostrategic value, naval powers view it as a strategic lane of communication (SLOC) crucial to their military goals. In the event of US-China conflict, for example, it is foreseen that the

Straits would become a major theater for their power projection, with US efforts to deny China access to Middle East oil by controlling the Straits.



Such interests of international users and foreign powers often collide with those of the littoral states. Naturally, the differences in interests have given rise to some disparity in perception and emphasis towards the security threats facing the Straits, and the approaches and responses to confront them. Security threats in the Straits

The Straits of Malacca face myriad threats that pose concerns for the littoral states and to all with any stake and interest in the Straits.

Over 63,000 ships traversed the Straits annually [1], and traffic volume is set to increase in the years ahead, as maritime trade and demand for shipping services in the region grows, notably with the China's projected rise as an economic superpower. The ever-increasing traffic in the waterway adds to the challenge in navigating this waterway a width of only one kilometer at its narrowest point, making the Straits vulnerable to collision and vessels running aground, either of which could threaten its ecosystem. The vulnerability of the Straits' environment and the need to protect it have long been recognized by the international community.

The Straits also face security threats that include the smuggling of weapons and contraband goods and human trafficking. The Straits' long and narrow coastline provides physical features conducive to the proliferation of such activities.

The 11 September 2001 attacks on US commercial, political and military interests have spurred the maritime sector everywhere to reassess its vulnerabilities against potential acts of hostility and sabotage. Nowhere is the issue of maritime security given sharper focus than in the strategic, high-risk waters of the Straits of Malacca.

In the wake of the 9-11 attacks, this crucial passage has suffered from bad PR and been deemed a high-risk area due to its 'image' of being a piracy-prone area and the perceived threat of terrorism in its waters. The custodians of the Straits face immense challenge to neutralize many potential threats, but of the major concerns in the Straits, ensuring the safe passage for vessels traversing it is the most pivotal. Already saddled with the threat of piracy, which has long been a bane for users along the waterway, the potential threats from terrorism and war increase the burdens on the littoral states to maintaining security in the waterway.

The intense concentration in cargo traffic in the Straits has spawned a complex web of hub and feeder shipping networks within the region and with the rest of the world. The Straits thus present opportunities to both pirates and terrorists, while media coverage speculating on links between piracy and terrorist attacks in the Straits fan the flames of fear.

It is crucial at this juncture to separate piracy [2] from terrorism [3]. A literature review of the two phenomena reveals that pirates act primarily for monetary and commercial reasons, while terrorists are primarily driven by political and ideological goals rather than

commercial gains. Although there are perceived links between piracy and terrorism, especially after 9/11, they are distinctly separate both in their motivations and as defined by international law.

Thus far, a definitive link between the two has yet to be established, although security analysts have speculated on the possibility of terrorists 'subcontracting' their work to pirates, leading to anxiety based on worst-case scenarios and questionable threat perception.

The burden of maintaining security in the Straits

International users consider the Straits an international sea lane, which they have the right to use, as provided for in Part III of the United Nations Convention on the Law of the Sea (UNCLOS) 1982 on transit passage of straits used for international navigation. Nevertheless, the efforts to maintain and secure the waterway have always been undertaken by the littoral states, and it is they who have shouldered the bulk of the costs involved as well.

The high expectations from international users and the ever-burgeoning traffic in the Straits have combined to exert considerable pressure on the littoral states to provide the maritime infrastructure to ensure security and navigation safety in the waterway. This taxes the resources of littoral states, which include developing nations with limited resources.

In addition to these security threats, post 9-11 perception of the Straits as a high-risk area due to threats of piracy and worries over possible terrorist attacks have added to this burden. Many new initiatives have been introduced to improve security in the sea lane, but it is regrettable that the international users, save Japan, which provides assistance in order to enhance navigation safety via funding from the Nippon Foundation through the Malacca Straits Council, have thus far not matched their usage

of the Straits with contribution to the costs of maintaining and securing it. Japan has provided significant funding and resources to install and maintain navigational flow in the Straits, as well as pollution preventive measures. Despite the negative publicity given to the security situation in the Straits due to pirate attacks and heightened threat perception post 9-11, few attacks have occurred in the area. Given the very small number of other incidents, such as collision and pollution in the Straits, compared with the tremendous traffic volume, the measures taken and infrastructure put in place by the littoral states can be lauded as effective.

These measures have involved very high costs to procure, initiate, maintain and sustain.

Efforts by littoral states to enhance security in the Straits

The littoral states of the Straits have undertaken various initiatives aimed at curbing the menace of piracy and securing the waterway from the threats of terror. They include:

- The formation of the Malaysian Maritime Enforcement Agency, a Coast Guard-type organization providing sea-going maritime constabulary services to assure the safety of vessels transiting Malaysian waters.
- The implementation of MALSINDO, a coordinated patrol scheme involving the navies of Singapore, Malaysia and Indonesia. The trilateral initiative, launched in July 2004, is a joint special task force by the littoral states to safeguard the Straits and provide effective policing along the waterway.

MALSINDO complements several previous bilateral coordinated patrols conducted between littoral states. It entails the coordination of patrols by a littoral state in its jurisdiction and sovereignty area with patrol partners in other areas, with the command

centered in the respective countries. This initiative has resulted in more coordinated and structured patrols. Frequent evaluation of progress provides a comprehensive assessment of the effectiveness of the coordinated patrols.

- The 'Eyes in the Sky' (EIS) initiative, a maritime air operation for surveillance over the Straits of Malacca and Singapore. This initiative, involving the three littoral states and Thailand, seeks to detect and deter acts of piracy and transnational criminal activities in the Straits.

EIS was mooted by the Deputy Prime Minister of Malaysia during the Shangri-la Dialogue July 2005 in Singapore to complement MALSINDO. Commencing in September 2005, it features the conduct of combined maritime air patrol by the armed forces and maritime enforcement agencies of the littoral and invited international participating nations. EIS is an open arrangement that may involve the participation of other countries on a voluntary basis, if deemed necessary by the littoral states. Nations participating in the program provide their respective air assets to conduct operations involving flight profile, pre-flight administration, operation centers, monitoring and action agencies and communication. Each EIS flight will involve a Combined Mission Patrol Team on board, a Mission Commander in charge of the safe conduct of the mission and the after-flight report, and observers from each participating nation.

The speed with which the EIS was implemented underlined the seriousness of the littoral states to combat piracy and trans-national criminal activities in the Straits region. It also reflects their genuine commitment to forge regional maritime security cooperation and enforcement.

- The proposal to set up an Information Sharing Center in Singapore by December 2006 is set out in the Cooperation Agreement

on Combating Piracy and armed robbery against Ships in Asia.

- The proposed Long Range Identification and Tracking (LRITS) of ships initiative by Maritime Security Committee of IMO. LRITS will allow ships to identify each other's registration and the type of cargo being carried.

- The increase in the capacity and scope of several security systems already in place involving sea surveillance, vessel traffic and ship reporting.

- The increase in initiatives at the bilateral level, such as Indonesia and Singapore's effort to launch a surveillance radar system in a bid to boost waterways security in the Singapore Straits linking the Straits of Malacca to the South China Sea.

- The increased patrols by Malaysian Marine Police in the Straits which have resulted in several arrests of pirates and armed gang robberies. In 2005, several attacks were foiled by the Malaysian Marine Police, in one case leading to the prosecution of the perpetrators. In addition, several regional initiatives have sought to boost security. These include agreement on information exchange and establishment of communication procedures, treaty of mutual assistance in criminal matters and regional forum framework on measures against terrorism, counter-terrorism and transnational crime. A South East Asian Regional Center for Counter-Terrorism has been set up, while agreements have been reached between ASEAN members and dialogue partners such as the US and EU with reference to cooperation against terrorism in the field of security.

Categorization of the Straits of Malacca as a 'war risk zone'

The Joint War Committee (JWC) of Lloyd's Market Association (LMA), the influential

London-based insurance trade association, issued a list on 20 June 2005, which included 21 areas worldwide in jeopardy of “war, strike, terrorism and related perils”. The areas specified included the Straits of Malacca and adjacent ports in Indonesia.

The decision to add the Straits to the committee's list of high-risk areas was taken following recommendations by a private defense consultant, Aegis Defence Services, which carried out risk assessments on the area and suggested that it was a potential site for a terrorist attack. The Aegis report stated that due to the fact that there had been an intensification of the weaponry and techniques used by pirates in the Straits, they are now largely indistinguishable from terrorists. This evaluation was made without broad consultation with security experts and failed to distinguish clearly between piracy and terrorism. It also did not take into consideration the efforts undertaken by the littoral states to improve security in the Straits before and since 9-11.

Shipowners in the region have been up in arms ever since JWC's declaration opened the door to insurers placing a war risk assessment on vessels navigating the Straits to charge additional war risk insurance premiums. Initial fears within the maritime community that the declaration could result in dramatically higher insurance costs for the many thousands of ships that transit the straits on an annual basis have proven valid. Although the JWC has a purely advisory role and insurers remain free to decide whether to seek additional premiums, industry sources have reported receiving notice of cancellation of insurance for the Straits of Malacca after the list was publicized.

An increasing number of insurers has begun charging additional war risk premiums for vessels using the Straits since the declaration. The Lloyd's London underwriting market was reported to be quoting additional premiums,

calculated as a percentage of the value of a ship's hull and machinery, of 0.05% for base war risk cover and 0.01% for each transit of the Straits. This translates into around US\$12,500 for the base war-risk premium for a small 1,100 TEU container feeder vessel and US\$2,500 for each passage through the Straits. In the case of a VLCC (very large crude carrier or 'supertanker'), this would rise to about US\$63,000 for the base premium and US\$12,600 for each transit [4].

Some big-name shipping insurance underwriters had been known to raise their premium based on JWC's categorization on the Straits of Malacca. For example, Japan's top non-life insurers – Tokio Marine, Nichido Fire Insurance Co, Mitsui Sumitomo Insurance Co and Sompo Insurance – have informed the Japanese Shipowners' Association that additional premiums would be levied for Japanese-insured ships transiting the Straits. As it stands, many smaller operators with vessels typically under 20,000 GRT in size and trading solely in regional waters do not have war risk insurance. The owners of these vessels, forming the majority of the vessels using the Straits, see themselves as small players, hence not at risk of attacks.

With terrorism being added to the definition of war risk insurance, in a scenario where a vessel is damaged from what appears to be a pirate attack, it would be possible for an underwriter to refuse to entertain the claim as it could interpret it to be a terrorist act. Hence, the burden rests on the insured to prove that his vessel was damaged or lost as a consequence of an insured peril. This forces owners to review carefully their insurance covers.

The governments of Malaysia, Singapore and Indonesia have called on the JWC to review its position on the Straits of Malacca. In an August 2005 joint communique, the foreign ministers of these states urged the committee to “review its risk assessment accordingly”. The ministers

expressed their regret that the decision was taken without their consultation and failed to take into account their existing efforts to deal with the threats to safety and security in the Straits. The Federation of ASEAN Shipowners' Association described the decision as "misguided". Similar strong protests have been registered by shipping industry associations in the region against the assessment, but such efforts to convince the JWC to reverse its decision have been largely unsuccessful.

JWC has maintained that it has done no more than publish a list of areas considered at high risk of war or war-related perils on the basis of advice received from its consultants. It has denied asking insurers to charge higher war risk premiums for ships transiting the Straits of Malacca. The committee mentioned that it is entirely up to individual insurers to react to its evaluation.

Given the weight the committee's assessment carries, insurers will surely take advantage of the categorization of the JWC list to raise premiums in the Straits. Recent reports of insurance premium increase on ships traversing the Straits lend currency to this worry.

Although it is unlikely that JWC will remove the Straits of Malacca from its list any time soon despite the protests, some encouragement can be drawn from the fact that piracy cases in the Straits are at an all-time low. This can be attributed to increased efforts by the littoral states to improve security in the Straits. Over time, initiatives such as the Eyes in the Sky, joint patrols and other enhanced security measures announced by the littoral states should serve to improve security in the Straits further and mitigate the perceived threat.

Dire straits, or worrying for nought?

The littoral states have steadfastly called for a sense of perspective to be exercised in assessing the security situation in the Straits of

Malacca. Through their actions and statements, they have demonstrated their tough stand on piracy. The recent IMB figures showing dramatic reduction of piracy attacks in the Straits vindicate the efforts undertaken to boost security in the waterway.

It is hence appropriate for the littoral states to speak strongly against the tendency to exaggerate security threats in the Straits, as underlined by JWC's categorization of the waterway as a war-risk zone. In light of the improving security situation in the Straits and the stepping up of security efforts in the littoral states, the declaration has appeared even more overdramatic. The littoral governments have provided substantial counter-evidence against the perception that they were not doing much to maintain security in the Straits.

JWC has stated that it would welcome measures to reduce security concerns in the Straits, including precisely the kind that the littoral states have undertaken. But it has also affirmed that the Straits of Malacca would remain on the list until it was clear that the measures planned by government and other agencies in the area had been implemented and were effective.

The International Maritime Bureau (IMB) [5] reported that attacks attributed to pirates in the Straits of Malacca fell from 38 in 2004 to 12 in 2005 [6].

Most of these were, in the words of Capt. P. Mukundan, the Director of IMB, merely "maritime muggings" involving small boats with fast outboard motors for opportunistic attacks on prosperous-looking vessels [7]. Based on the sharp reduction of attacks, Capt. Mukundan admitted in a recent seminar on piracy that the Straits was "not a hotspot anymore", and held that there was no reason for JWC to continue to include the area in its 'war risk zone' list [8].

However, despite this sharp reduction in piratical attacks and zero incidence of terrorist attack on ships sailing through the Straits,

globally there remains the impression that this prime passage is unsafe for vessels. Such negative perception needs to be put straight in light of the achievements of the littoral states in bringing about a marked decline in piracy incidents and improving the general level of security in the Straits.

In fact, the recorded attacks in the Straits represented less than 0.001% of its total traffic volume [9]. This is statistical confirmation of the low probability of pirate attack in the Straits. Even more so when one takes into account that incidents of pirate attacks in the Straits are at their lowest in a long time [10]. Given this, labeling the Straits an unsafe waterway that belongs in the same bracket as the waters of Somalia, Iraq and Lebanon, as categorized by JWC's list, seems unwarranted.

While it is not realistic to expect zero-piracy in the huge area of the Straits, the recent drastic drop in piracy attacks in to the Straits reveals the positive results of the intense efforts undertaken by the littoral states. It is too early to evaluate the effectiveness of some initiatives like the coordinated patrols and the 'Eyes in the Sky' program, but it is fair to expect substantial improvements in security in the area once all the initiatives are running full steam.

Given the improving security environment in the Straits, JWC should re-evaluate its dependence on the 'advisory' of security consultants and its one-eyed approach of not consulting with the relevant parties in coming up with its categorization.

Conclusion

The drop in piracy incidents speaks volumes of the effectiveness of the measures introduced in significantly reducing risk in the Straits. By all accounts, the measures implemented have proven to be effective, as evidenced by the encouraging reports by IMB and its vote of

confidence in the improving security situation in the Straits.

The littoral states will continue to face a plethora of challenges, existing and emerging, to manage the Straits in the years ahead. They will have their work cut out for them to assure safe passageway in the waterway while balancing their own national and regional interests with those of the international community. Only persistent monitoring of the Straits to protect it from the many threats will help ensure a comprehensive security environment for this vital passage. The international community must put its money where their mouth is and match words with deeds to help littoral states address the security concerns in Straits in a cooperative manner that does not infringe upon the sovereignty of the states.

Given the many interests, perspectives and views at hand, it is important that any actions to mitigate such threats are undertaken in a rational manner in full consultation with the littoral states and in full cognizance of their sensitivities and national interests. It is hence crucial that stakeholders of the Straits find convergence in their dissimilarities and divergent interests towards protecting it.

Notes

- [1] Marine Department of Malaysia, 2005.
- [2] Article 101 of the UN Convention on the Law of the Sea (UNCLOS) 1982 defines 'piracy' as consisting of any of the following acts: (a) any illegal acts of violence or detention, or any act of depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft, and directed: (i) on the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft; (ii) against a ship, aircraft, persons or property in a place outside the jurisdiction of any State; (b) any act of voluntary participation in the operation of a ship or of an aircraft with

knowledge of facts making it a pirate ship or aircraft; (c) any act of inciting or of intentionally facilitating an act described in subparagraph (a) or (b).

[3] Defining 'terrorism' is a task that is evoking very strong emotions in international relations. The term carries different meaning to different people. The US Central Intelligence Agency (CIA) defines it to mean "premeditated, politically motivated violence perpetrated against noncombatant targets by sub-national groups or clandestine agents, usually intended to influence an audience". The United Nations' General Assembly is currently considering a draft Comprehensive Convention on International Terrorism which would include a definition of terrorism.

[4] 'Additional war risk premium imposed', The Star, Malaysia, 5 September 2005

[5] IMB is a Kuala Lumpur, Malaysia-based organization dedicated to the prevention of trade finance, maritime, transport and trade fraud and malpractice. It acts as a focal point for the international trading and shipping industry and those associated with facilitating the movement of goods. IMB also manages the International Chamber of Commerce (ICC) Piracy Reporting Center dedicated to the

suppression of piracy and armed robbery against ships.

[6] IMB attributed the reduction in the number of attacks on the increased patrols in the Straits of Malacca by the navies of the littoral states.

[7] Shenker, S., 'Growing threats of maritime muggers', from www.bbc.co.uk (accessed on 25 May 2006).

[8] 'Melaka strait not a high risk zone, says IMB', from www.bernama.com (accessed on 25 May 2006).

[9] On the basis of 38 attacks in the Straits in 2004 as reported by IMB against 63,636 ships traversing the Straits in 2004 as reported by the Malaysian Marine Department.

[10] IMB reported only 10 attacks by pirates in the Straits of Malacca in the third quarter of 2005, a sharp drop from 25 in the same period in 2004. See 'Pirate attacks in Malacca Strait at six-year low', The Straits Times, 9 November 2005, p. 12.

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