

Piracy,
Maritime Terrorism
and Securing
the
Malacca Straits

IIAS/ISEAS Series on Maritime Issues and Piracy in Asia

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The **IIAS/ISEAS Series on Maritime Issues and Piracy in Asia** is an initiative to catalyse research on the topic of piracy and robbery in the Asian seas. Considerable attention in the popular media has been directed to maritime piracy in recent years reflecting the fact/perception that piracy is again a growing concern for coastal nations of the world. The epicentre of global pirate activity is the congested sea-lanes of Southeast Asia but attacks have been registered in wide-scattered regions of the world.

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IIAS/ISEAS Series on
Maritime Issues and Piracy in Asia

Piracy, Maritime Terrorism and Securing the Malacca Straits

edited by
Graham Gerard Ong-Webb



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Acronyms

AIDS	Acquired Immuno Deficiency Syndrome
ASEAN	Association of Southeast Asian Nations
ARF	ASEAN Regional Forum
ASC	ASEAN Security Community
ASG	Abu Sayyaf Group
CCNR	Central Commission for the Navigation of the Rhine
DWT	Dead Weight Tonnage
FBI	Federal Bureau of Investigation
GAM	Free Aceh Movement [<i>Gerakan Aceh Merdeka</i>]
ICPR	International Commission for the Protection of the Rhine
IMB	International Maritime Bureau
IMB-PRC	IMB Piracy Reporting Centre
IMCO	Inter-Governmental Maritime Consultative Organization
IMO	International Maritime Organization
INS	[Royal] Indian Naval Service
IOC	International Oceanographic Commission
ISPS	International Shipping and Port Security Code
ITPMIS	Integrated Terminal and Port Management Information System
LNG	Liquefied Natural Gas
MALSINDO	Malaysia-Singapore-Indonesia
MILF	Morro Islamic Liberation Front
MNLF	Morro National Liberation Front
MSL	Mean Sea Level
NPA	New People's Army
PAT	Port Authority of Thailand
PCG	Philippine Coast Guard
PMC	Private Military Company
PNG	Petroleum Natural Gas
PNP	Philippine National Police

PSC	Private Security Company
PSI	Proliferation Security Initiative
RMSI	Regional Maritime Security Initiative
SOMTC	Senior Officials Meeting on Transnational Crime
SUA	Suppression of Unlawful Acts Against the Safety of Maritime Navigation
TEU	Twenty-Foot Equivalent Unit
UK	United Kingdom
UN	United Nations
UNCLOS	UN Convention on the Law of the Sea
UNESCO	UN Educational and Scientific Commission
US	United States (of America)
WMD	Weapons of Mass Destruction

INTRODUCTION

Southeast Asian Piracy: Research and Developments

Graham Gerard Ong-Webb

General Overview

Maritime piracy continues to persist as a phenomenon in itself and as one that both directly and indirectly manifests a range of related social, historical, geo-political, security and economic issues. While piracy has permeated the world's maritime domain throughout history, in contemporary times, the waters of Southeast Asia serves as the dominant region for both the occurrence of this activity and the challenges it poses. Chiefly, developments since the turn of the twenty-first century indicate that contemporary piracy in Southeast Asia has effectively ceased to be a regional issue. Taking into account the inescapable role that the Malacca Straits and other Sea Lines of Communications (SLOCs) cutting across Southeast Asia play in the efficient flow of international trade within the global economy — and the possible impact of piracy in changing this — the economic value and the strategic importance of this waterway has authoritatively transformed the issues of piracy and maritime terrorism into an international concern.¹

This volume is a second instalment within the Series on Maritime Issues and Piracy in Asia jointly collaborated by the International Institute for Asian Studies (IIAS, based in Leiden University) in The Netherlands, and the Institute of Southeast Asian Studies (ISEAS) in Singapore. The chapters draw mainly from a series of papers presented at an international workshop in September 2004 in Singapore, jointly organized by the IIAS and ISEAS

entitled “Maritime Security, Maritime Terrorism and Piracy in Asia: Issues and Perspectives”. In a bid to counter both the dearth of newfound scholarship on the topic of piracy and robbery in the Asian seas and the lack of a coherent research programme, the intention of the series is to catalyse research and to foster new and innovative approaches in these areas.

Overview and Contributions of the First Volume

This second instalment follows from the foundational volume, *Piracy in Southeast Asia: Status, Issues, and Responses*, edited by Derek Johnson and Mark Valencia, published in late 2005, and which draws upon a collection of papers presented at an international conference entitled “People and the Sea II”, jointly organized by the Centre for Maritime Research (MARE) and the IIAS in September 2003 in Amsterdam, The Netherlands.

The first volume carries out two vital functions. The first function is to provide an overview of the current knowledge and key themes in piracy studies *vis-à-vis* Southeast Asia, in order to provide a reference resource for those working on the topic. These themes cluster around two broad categories:

1. The characteristics of piracy in Southeast Asia — in terms of definitions (including whether or not maritime terrorism fits into the description); the magnitude and nature of the incidences; and the forms of piracy;
2. The measures to suppress this activity (when framed as a security threat) in the region.

Specifically, the operating definition of piracy within the first volume tends towards the International Maritime Bureau’s (IMB) view that piracy is “an act of attempting to board a ship with the intent to commit theft or any other crime and with the attempt or capability to use force in furtherance of that act”. It is a definition that is viewed as a progressive approach towards framing to piracy in contrast to the definition offered by the International Maritime Organization (IMO), based upon the 1982 United Nations Convention on the Law of the Sea (1982 UNCLOS). The differences between the two definitions are contrasted in Table 1 below.

Regarding the role of “maritime terrorism” (defined for current purposes, as acts of terrorism on vessels or fixed platforms at sea or in port) in its relationship with piracy, the first volume displays among some its authors a tension “between what might be labelled inclusive and particularistic approaches to defining piracy”.² Mark J. Valencia’s

chapter, “Piracy and Terrorism in Southeast Asia: Similarities, Differences and their Implications”, takes the stance that terrorism (itself a contested term) is distinct from piracy in a straightforward manner. Piracy is a crime motivated by greed, and thus predicated on financial gain. Terrorism is motivated by political goals beyond the immediate act of attacking or hijacking a maritime target. Also, the motivation for action among terrorist groups is usually grounded in religious and political ideology stemming from perceived injustices, both historical and contemporary; something that is absent in maritime piracy. Proponents of this perspective add another distinction: pirates want to sustain their trade while an act of terrorism (which is often suicidal) is often pyrrhic or “one-off”. As such, pirates want to avoid attention and will inflict only as much harm and damage as is necessary to accomplish their mission while terrorists want to call attention to their cause and inflict as much harm and damage as possible.

However, Graham Gerard Ong’s “Ship’s Can Be Dangerous, Too: Coupling Piracy and Terrorism in Southeast Asia’s Maritime Security Framework”, argues that while such distinctions are highly valid, their

TABLE 1
Contrast between the IMO and IMB Definitions of Piracy³

IMO	IMB
Piracy must be committed on the high seas or in a place outside the jurisdiction of any state. A criminal attack with weapons on ships within territorial waters is an act of armed robbery and not piracy.	Distinctions do not exist between attacks on the high seas and in territorial waters.
Piracy necessitates a “two-ship” requirement. Pirates needs to use a ship to attack another ship. This excludes mutiny and privateering from acts of piracy.	A “two-ship” requirement is abolished. Attacks from a raft or even from the quay are acts of piracy.
Piracy is committed for private ends. This excludes acts of terrorism and environmental activism.	Piracy may not only be committed for private ends. Attacks on a ship for political or environmental reasons qualify as piracy.
Because pirate attacks have to be committed by the crew or passengers of privately owned vessels, attacks by naval craft fall outside the bounds of piracy.	The acts of government naval craft can be deemed as piracy in certain circumstances.

rigidity fails to contribute to the demands of new strategies, which require a reconceptualization of the *status quo*.⁴ In Southeast Asia, the overlap between piracy and maritime terrorism is greatest not only because of the level of violence involved. It is due to the devastating impact these acts can have upon the safety of people and international maritime navigation especially along the Malacca Straits, the jugular of regional and international maritime trade. Moreover, there has yet to be an internationally agreed set of definitions as to what exactly constitutes piracy or terrorism despite current provisions for such acts in international law and academia. In the end, the terms “terrorists” and “pirates” are — like all social and legal conventions — constructed and determined by governments and societies, not by the perpetrators themselves. In this case, it is all a matter of how we perceive these threats and perceptions can be changed. If we adopt the view that threats to security are socially constructed, then a path can be opened towards demolishing the distinction between terrorism and piracy under the present circumstances. Crucially, it will be found that the distinction between terrorism and piracy is based, to a large degree, upon extraneous assumptions. With some exception to the role of political ideology and financial gain, there is nothing in the letter of the law that distinguishes an act of maritime terrorism from piracy except for the notion of “private ends”, a matter of arguable interpretation despite the staunch defence for its exclusivity with regards to piracy. For example, it can be easily argued that terrorism in large part is an act carried out for private ends by a group of individuals; their political ideology is not shared by the majority of the public domain. This rationale finds similar ground with the criticism raised by Czechoslovakia, which objected to the insertion of the “private ends clause” during the drafting of the precursor to UNCLOS II, the 1958 Geneva Convention of the High Seas.⁵ In the end, the definition of piracy by the IMB, which has chosen to go against the grain of Article 101 of the 1982 UNCLOS — and that does not *inter alia* require that the act of piracy be committed for private ends — is obviously making an attempt at answering the call for a more inclusive definition of piracy in light of current developments.

In terms of the magnitude of piracy, the editors of the first volume concur that while “it is impossible to determine the precise magnitude of contemporary piracy”, there has been a “[net] increase in the number of registered [or reported] piracy attacks” since the mid-1990s. As a socio-economic criminal activity that preys on maritime trade, the rise of piracy over the last two decades has naturally trailed economic globalization especially after the end of the Cold War in 1991. Various chapter authors

such as P. Mukundan, the joint authors Johnson, Pladdet and Valencia, as well as Graham Gerard Ong, concur that “the general magnitude of pirate attacks against the world’s shipping remains unchanged since the new millennium”. They add that this trend is replicated in maritime Southeast Asia (especially in the South China Sea) and in the Malacca Straits, with Indonesian waters accounting for about a quarter of the world’s reported attacks.⁶ With respect to the forms of piracy, the authors refer to a “wide spectrum of attacks” constituted by opportunistic or “hit and run” attacks, followed by short-term seizures, long-term seizures and hijacking. Cutting across this range in the last few years is the trend towards the declining frequencies of occurrence of attacks on the one hand, but increasing levels of organization, violence and potential risks to security on the other.⁷

Despite acknowledging the efficacy of anti-piracy efforts being shaped by the “international institutional context” and defining strategies for suppression — in terms of defensive technologies, the deepening of internationally coordinated strategies and regional economic development — the first volume steers towards the indexing of Southeast Asian counter-measures mainly in the context of the legal provisions made available by the 1982 UNCLOS and consequently, the generation of other legal initiatives, international treaties and political arrangements to counter piracy within territorial waters, and even maritime terrorism that UNCLOS does not (and cannot) cover. For example, in his chapter, “Combating Piracy: Cooperation Needs, Efforts, and Challenges”, Hasjim Djalal frames his discussion of regional approaches — including bilateral arrangements among littoral states, multilateral undertakings by the Association of Southeast Asian Nations (ASEAN) and “Track II” activities such as the South China Sea Workshop process — as efforts serving to enforce maritime legislation either promulgated by UNCLOS or those designed to overcome its shortcomings. The significance of the 1988 Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (SUA) is also highlighted by Valencia who, citing the words of Ashley J. Roach, describes it as a mechanism designed to

fill many of the jurisdictional gaps highlighted when the acts endanger the safety of international navigation and occur on board national or foreign flag ships while underway in the territorial sea, international straits or international waters. The convention requires states to criminalize such acts under national law and to co-operate in the investigation and prosecution of their perpetrators.⁸

Greg Chaikin corrects the skew towards analysing counter-piracy measures solely through the lens of UNCLOS in his chapter, “Piracy in

Asia: International Co-operation and Japan's Role", by defining the issues and challenges as international relations problems where state-pirate interactions (with pirates considered as non-state or transnational actors), the ideas and actions of political communities, and the role of international regimes and regime-building) — through regional institutions and arrangements such as ASEAN, the ASEAN Regional Forum (ARF), the Asia-Pacific Economic Cooperation (APEC), and the Council for Security Cooperation in the Asia-Pacific (CSCAP) — matter significantly. Chaikin's analysis also acknowledges the possibility — given that piracy continues to rise on a general scale that goes unabated — that Grotian ideas towards achieving global welfare and the environmental order are anachronistic and even dangerous.⁹

The second function of the initial volume is a multi-functional one consisting of three epistemological components: (1) as a platform to bridge existing efforts within piracy studies; (2) as a means of establishing both the agenda and the "building blocks" or key research questions for research that will underpin the rest of the series; and (3) as a way of "indicat[ing], in a preliminary manner, important new avenues for research, including those as yet untraveled".¹⁰ With these functions in mind, Johnson and Valencia map out twenty-five research questions clustered around the geo-politics of piracy, the conflation between piracy and terrorism, the criminology of piracy, the economics of piracy, and the transformation of the meaning of piracy over time, which are found in Table 2.¹¹

Overview and Contributions of the Second Volume

The aim of the IIAS-ISEAS joint workshop in 2004, and by extension, the second volume, is to sustain the momentum of the research collaboration, and to build upon the twin functions of the first volume. In regard to the function of gathering and clarifying knowledge surrounding the characteristics of piracy and maritime terrorism in Southeast Asia and the measures to suppress these activities as security threats, the second volume seeks to supplement the previous volume with the latest statistics on reported piracy attacks and recent developments in maritime policy. It also attempts to fill out some of the geographical gaps in the coverage of piracy and armed robbery (and also maritime terrorism) in Southeast Asia by looking at the phenomenon in the waters of the Philippines — an archipelagic state with a deep stake in the regional maritime realm — on the "supply" side of the discussion, and to place greater emphasis and clarity on

TABLE 2
Building Blocks in Piracy Research — 25 Research Questions

A. Geopolitics of Piracy

1. Why it is so difficult to forge cooperation in suppressing piracy?
2. How does piracy affect international relations and how do international relations affect responses to piracy?
3. Which, if any, nation's leadership in an anti-piracy effort might be acceptable in the region?
4. What is politically acceptable for the United States? What is the appropriate role of other Asian countries like China, Japan, and India?
5. How can the geo-political issues be circumvented or downplayed in order to get governments to respond to piracy more effectively? Specifically, how can Southeast Asian countries best be encouraged to cooperate to suppress piracy without allowing sovereignty issues to intervene?
6. What are the appropriate short-term responses and long-term strategies? What are their respective costs and benefits?

B. Conflation between Piracy and Terrorism

7. Is there an evolving relationship between piracy and terrorism?
8. Is this real, imagined, possible, or probable?
9. What are the advantages and disadvantages of conflating piracy and terrorism in terms of stimulating political co-operation, and in terms of legal and physical responses?

C. Criminology of Piracy

1. What are the context and causes of piracy?
2. Who are the pirates?
3. What are their motives?
4. What are the socio-cultural and economic environments within which they are operating?
5. Are some "high end" pirates linked to other illegal activities such as smuggling, kidnapping, black marketeering, or poaching?
6. What is the role of corruption both in enforcement and perpetration?
7. Are some pirates simply unemployed fishermen and, if so, why are they unemployed?
8. How do pirates react to attempts to control their activities?
9. What specific kinds of regional developments are required and what are their costs and benefits? Are there stakeholder groups like ship owners who might be willing to fund such initiatives?

D. Economics of Piracy

1. What is the impact of piracy on shipping and trade?
2. What are the actual costs of piracy, both measurable and intangible?
3. What are the costs of alternative counter-piracy measures?
4. Are the costs of responses justified by the costs of piracy?
5. Are the "costs" of policing the oceans a major problem, or is piracy more a problem of international relations than of actual costs?

E. Transformation of the Meaning of Piracy

1. How is piracy and piracy suppression represented in official and media documents?
 2. What interests predominate and which are absent from such representations?
-

counter-measures in “demand” for securing the Malacca Straits, which is often considered the “jugular” of the maritime Southeast Asia.

On servicing the second function of building an epistemology for piracy studies and establishing a research agenda, the second volume conducts two tasks. In terms of the first task, it attempts to answer the research challenges put forth by Johnson and Valencia by investigating some of the key research questions raised in the first volume, but with specific illuminations borne out of the context of the Malacca Straits with implications for the study of other regions. The geo-political, strategic and security implications that obtain from the relationship between piracy and the Malacca Straits frames the parameters of the second volume, which tips towards the fields of security (defined simply as the methods towards understanding and reducing threats against and the vulnerabilities of socio-political actors or units such individuals, groups and states) and criminology (the study of behavioural phenomenon often judged by societies to be deviant and socially or legally unacceptable). While the IIAS-ISEAS series intends to analyse the topic of piracy in a value-neutral manner expected of a multi-disciplinary approach, the overly stark perception of piracy as a threat by the regional media, policy-makers and commercial shippers — as opposed to a more impartial view of piracy as a socio-historical phenomenon underpinned in part by marginalized communities within the maritime realm — becomes too overwhelming to ignore in the case of the Malacca Straits for present purposes of analysis.

The main roots of the security discourse on piracy and maritime piracy in the waters within and surrounding the Malacca Straits stem chiefly from state-level concerns about the economy (disruptions to the efficient flow of trade), the environment (the fall-out from an inter-ship collision), national security (threats to territorial integrity) and human security (threats to the safety and welfare of a vessels crew and passengers). Shipping, the main fodder for piracy, is the heart of global trade. Eighty per cent of world trade is currently conducted by sea, supported by a massive maritime trade network of 46,000 commercial vessels and 1.25 million seafarers calling at 4,000 ports. With the containerization of trade since the 1970s, 90 per cent of general cargo is now transported in containers. The Straits, as a whole, is the vital sea lane that bridges the Indian and Pacific oceans and which serves as the shortest route between three of the world’s most populous countries — India, China, and Indonesia. By virtue of its geographical make-up, the Straits serve as a natural bottleneck creating the potential for an inter-ship collision or grounding of a large vessel,

risking closure. The waterway is known to carry an annual volume of commercial traffic of more than 50,000 ships; making it the world's busiest. In addition, more than a third of global trade and two-thirds of the world's liquefied natural gas (LNG) trade also passes through the Straits. Mega-hubs like Singapore — which is the second busiest in the world and with the rankings of ports in Malaysia, Thailand, and China following closely behind — have become key container ports with connectivity in a “hub-and-spoke system” to regions worldwide such as Southeast Asia, Northeast Asia, the Middle East, the United States, Europe, and Africa. In addition, they form the backbone of the global integrated supply chain that also involves the economies of non-maritime continental states. With increasing globalization, maritime trade and interactions across the maritime realm continue to intensify.

In terms of the second task, this volume further explores the debate surrounding the apparent “nexus” between piracy and maritime terrorism and its impact on how the issues are framed and dealt with. The overall consensus is that an inclusive definition of piracy that includes maritime terrorism as a related function of this maritime activity may not be useful. The authors imply that there is greater detrimental impact from excessively conflating the two phenomena when the current body of scholarship and analysis demands greater categorical rigour in breaking through uninformed assumptions and myths.

Chapter Contributions

Within the backdrop described above, the opening chapter, “Piracy, Armed Robbery and Terrorism at Sea: A Global and Regional Outlook”, by Jayant Abhyankar, Deputy-Director of the IMB, provides a compendium of trends and developments in piracy and the available counter-measures by late 2004 which supplements Mukundan's chapter in the first volume. He also articulates the bureau's position on maritime terrorism as a discrete phenomenon by affirming that there is no evidence to show that there is a current nexus between pirate groups and terrorist organizations, as two entities colluding and working together to achieve common or separate goals. He also concludes that despite the international community demonstrating a proactive approach in tackling piracy worldwide, they will continue to be on the defensive simply because pirates continue to have all the tactical advantages over law enforcement agencies and the military. Abhyankar's chapter attends to Research Questions A.1, A.6, B.7, B.8, C.1, C.2, C.3, C.4, C.5, C.6, and C.9.

Eduardo Ma R. Santos's chapter on "Piracy and Armed Robbery against Ships in the Philippines", and Stefan Eklöf Amirell's chapter, "Political Piracy and Maritime Terrorism: A Comparison between the Straits of Malacca and the Philippines", both play the role of filling in the aforementioned research gap on developments in Filipino waters. Santos posits that, in light of the fact that a total of 1,329 piracy cases — often involving significant levels of violence — were committed in the country's vast waters and ports between 1993 and 2004, piracy against vessels will remain a major security concern for the Philippines in the coming years. The problem is expected to worsen as the country is still on the verge of an economic crisis that will force a portion of the population to look to alternative means of livelihood, particularly those in the Southern Philippines. Continuing insurgency and separatism in the country is likely to contribute to the prevalence of piracy as rebels will increasingly look to alternative activities to supplement their finances. Also, as the national campaign against land-based terrorism begins to pay off, terrorists operating in the Philippines may look towards the maritime theatre to accomplish their political agenda. Overall, though piracy will be a primary concern of the Philippine Government, the inadequacies of the country's military and police forces will mean that the threat will continue to prevail. Eklöf Amirell adds that while there is currently no evidence to suggest that GAM members — who seem to be involved in some of the piracy attacks and kidnappings in the northern parts of the Straits of Malacca — are linked to international terrorist organizations, the opposite appears to be true in the case of the MILF and the ASG in the Southern Philippines. There are indications that these latter groups have some links with the JI and the al-Qaeda. He warns that although both groups have so far confined their activities to the Philippines in principle, their international and ideological connections with the JI and al-Qaeda should raise concerns of a maritime terrorist attack in other adjacent Southeast Asian waters, especially when some of these groups are found to have a maritime background. Both Santos' and Eklöf Amirell's chapters make the attempt to illuminate upon Research Questions A.1, A.6, B.7, B.8, C.1, C.3, C.4, C.5, C.6 and C.9.

Eric Frécon's chapter, "Piracy and Armed Robbery at Sea along the Malacca Straits: Initial Impressions from Fieldwork in the Riau Islands", makes the daring attempt at describing his fieldwork on pirates and their activities along the lines of what Ger Teitler calls piracy's "public appearance":

[F]acts about their organisations, international ramifications, culture, management style, financial style, financial support structure, patterns of expenditure, forms of recruitment and relations to receivers and officials in legal, police or harbour circles.¹²

Frécon attempts to address Research Questions B.7, C.1, C.2, C.3, C.4, C.5, C.6, C.7 and C.8. His preliminary field investigation confirms that the mainstay of piracy continues to be committed by small groups that are not necessarily linked to large organizations or triads. Today, regional pirates tend to be young in age against the traditional or legendary stereotype. To be sure, “veteran” pirates continue to exist within the trade though they seem to be disappearing from the scene due to imprisonment, retirement, old age and death. They also tend to come from a disenfranchised economic background, in which corruption and collusion on the part of local police officials in allowing piracy to remain an activity that is relatively unchecked. Frécon also confirms that non-existence of a “nexus” between pirates and terrorists. For example a village community in Batam island known as *Kampung Hitam* (Black Village), which has a well established pirate fraternity, does not even have a *pesantren* (Koranic school) like those found in Ngruki on the Indonesian island of Solo. Staying alive, evading capture and sustaining their trade are important imperatives for the average pirate and it exceeds the trappings of the JI’s programme of action steeped in an austere religious and political ideology. He also finds the pirates he interviewed to be of a less educated profile than the members of al-Qaeda or the JI.

Brian Fort’s chapter, “Transnational Threats and the Maritime Domain”, steers the volume back towards the international relations agenda mapped out by Valencia and Chaikin in the first volume. He also injects the security framework of analysis by framing piracy, maritime terrorism and international crime in the context of transnational threats in the maritime domain. He argues that while all international crime does not always lead to piracy and (maritime) terrorism, following the trails of international crime can provide related leads to these activities because of the financial motive that is a common characteristic cutting across most criminal operations in either generating capital, to consume it, or both. Fort tackles Research Questions A.1, A.2, A.3, A.4, A.6, B.7, B.8, B.9, C.1, C.3, C.4, C.5, C.6, and C.9.

In his chapter, “The Politics of Anti-Piracy and Anti-Terrorism: Responses in Southeast Asia”, Valencia develops the key ideas expounded in his previous two chapters in the first volume. Expounding on the key

argument that the objectives of piracy and maritime and land-based terrorism are often different, the move towards conflating the two phenomena may either enhance cooperation of indigenous states in prevention efforts or undermine such cooperation, depending on whether threat perspectives diverge and the issues of territorial sovereignty and jurisdiction come to the fore. He also questions the efficacy of naval patrols — regionally or externally led — on the grounds that the arresting authority of regional and foreign naval vessels exercising rights of transit through waterways such as the Malacca Straits is unclear. The sheer size of the vessels used in patrols inhibit their effectiveness in pursuing pirates and would-be terrorists using smaller craft; which, by extension, would infer that security patrols would be better suited to the police rather than the military. However, short-term counter-measures intelligence sharing and coordination, as well as ship defence will be useful for staving off piracy and maritime and land-based terrorism to some degree. Still, long-term solutions aimed at eliminating the root causes of piracy and terrorism may have to be fitted to the particular problem. To attack the problem of piracy at its root, there should be more concerted efforts at assisting both state economic development and maritime enforcement capacity building in Southeast Asia, since piracy is fuelled by poor economic conditions. Likewise, addressing the threat of maritime and land-based terrorism and involves tackling more complicated and sensitive questions of religion, ideology, sovereignty and foreign policy. Ultimately, to combat the threat of piracy and maritime terrorism, both indigenous countries and external maritime powers should focus on what has created the threat and its symptoms. Valencia expounds upon Research Questions C.1, C.2, C.3, C.4, C.5, C.6, C.7, C.8, C.9, D.3, D.4, D.5, E.1, and E.2.

Like Fort and Valencia, Carolin Liss pursues an international relations approach to the discussion of counter-measures, this time focusing on the rise of Private Military Companies (PMCs) and Private Security Companies (PSCs) as non-state actors employed by the maritime private sector against piracy threats to their vessels, in “Piracy in Southeast Asia: Private Responses — Companies in the Fight Against Piracy”. In describing their general internal structure, information policies and the nature of their operations, Liss looks at the conditions in the maritime world that hinder or facilitate the anti-piracy services offered by PMCs/PSCs. She concludes by suggesting that, while their advertisements, services and work practices should be regarded with some scepticism, PMCs/PSCs are likely play a significant role in maritime security in general and in the fight against

piracy in particular. Her chapter provides an insight into Research Questions A.6, D.3 and D.4.

“Unilateralism and Regionalism: Working Together and Alone in the Malacca Straits,” by J.N. Mak. Mak upsets the train of present scholarship and analyses by operating on the assumption that non-traditional maritime security issues are central ones in the region, especially among the littoral states. He contends that maritime issues tend to be accorded a low priority in Southeast Asia, reduced to the realm of functional cooperation and “low politics”. If anything, the paltry record of maritime cooperation in the past in the ASEAN region has been marked by contention, dissension and contestation. Mak argues that this is evident in the Malacca Straits, which has witnessed intense contestation between littoral states and user states especially from 1965 to 1982 over the nature of transit passage and the regulation of maritime traffic. He believes that the Straits are currently witnessing a third “battle” over approaches to safeguarding the waterway against pirates and terrorists. Mak traces the root of the problem in maritime cooperation in terms of a clash of interests between “coastal states” (Malaysia and Indonesia) with relatively insular interests, and “maritime nations” (Singapore) tending to have global interests, identities which produce introverted and extroverted views towards cooperation at the regional and international levels. Mak addresses Research Questions A.1, A.2, A.3, A.4, A.5, A.6, B.7, B.8, B.9, D.1, D.2, D.5, E.1, and E.2.

In her chapter, “Maritime Piracy in Southeast Asia: The Evolution and Progress of Intra-ASEAN Cooperation”, Tamara Renee Shie focuses her analysis on the role of ASEAN in fighting piracy and other non-traditional maritime criminal activities. She stresses the need to acknowledge the significance of the organization within regional efforts instead of writing off ASEAN, which she believes only serves to relieve Southeast Asian nations from their collective responsibilities in addressing the problem. Ignoring the role of ASEAN also diminishes the leading role Southeast Asian nations should undertake in regional anti-piracy measures as such measures are likely to fail in the absence of their support. Neglecting ASEAN’s attempts — both successful and unsuccessful — in the policy calculus also overlooks the value in studying the factors steering regional responses to piracy and the structural contexts of the international system since 1967 when the organization was formed. In particular, the shift from a bipolar to a multipolar international system, coupled with the forces of globalization and increased economic and political inter-dependence, have had the effect of driving states towards working together on common

security issues. By extension, the ASEAN region — which Shie carves into the three phases of an “early ASEAN”, “ASEAN expansion”, and “ASEAN in the new millennium” — has witnessed successive regional attempts towards countering piracy as it intensified. Shie’s chapter explores Research Questions A.1, A.2, A.3, A.4, A.6, E.1 and E.2 in the context of ASEAN.

Turning towards a normative discussion of future cooperation and security in the in the Malacca Straits, Ahmad Ghazali Bin Abu Hassan’s chapter, “The Rhine Navigation Regime: A Model for the Straits of Malacca?” investigates the possibility of the navigation and management regimes that regulate the usage of the Rhine River — flowing through one of the most densely populated and industrialized parts of Europe before entering the North Sea — as possible models for application in the Straits of Malacca, which share certain geographical and economic similarities. Ghazali’s work provides certain normative clues and obliquely addresses the issues posed by Research Questions A.1, A.2, A.3, A.4, A.5 and A.6. In particular, Ghazali considers the Central Commission for the Navigation of the Rhine (CCNR) established by the Congress of Vienna in 1815, and the International Commission for the Protection of the Rhine against Pollution (ICPR) derived from the Mannheim Convention concluded in 1868 as relevant examples of maritime cooperation over a shared commercial waterway. Despite the model value of these commissions, Ghazali envisages the reluctance of the littoral states to participate in any progressive regional efforts towards such mechanisms would stem from the prevailing concerns over territorial sovereign rights. In the final analysis, in order to address such concerns, Ghazali recommends that the establishment of a commission for the comprehensive management of the Straits of Malacca should come under the principles of reciprocity and voluntary participation. The willingness of the littoral states to submit some of their rights to a common establishment should also be matched by equally substantial concessions by other participating user states.

The normative flavour of the second volume is couched in geo-economic terms through the chapter “Whither the Malacca Straits? The Rise of new Hub Ports in Asia”, by Jose L. Tongzon, which deals with Research Questions A.2, A.4, A.5, A.6, D.1, D.3 and D.4. He raises the uncomfortable (and often overlooked) question of whether the Malacca Straits will continue to be a vital SLOC for maritime commerce. Ultimately, while the geography of the Straits is fixed, dynamic factors such as technology, the economic competitiveness of the littoral states and their national ports, and the employment of creative economic strategies to bypass geographical

constraints, can serve to strengthen or wither its importance. Tongzon surmises that, on the one hand, certain developments that seem to work in favour of the Straits. The growing demand for oil by China, the intensification of trade links between Europe and Asia, and growing Asian economic integration, would result in the use of the Malacca Straits for supporting these related economic developments. On the other hand, there are also developments that seem to work against the Straits and these include the rise new ports and pipelines in the Asia-Pacific region — such as the Shanghai Port Container Terminals and Laem Chabang, and the building of China's pipeline and Thailand's plans for a strategic land bridge. These developments could lead to the diminishing importance of the Straits and thus the littoral ports of Singapore and Malaysia. Whether positive factors would prevail over negative ones would largely hinge on the success or failure of securing the Malacca Straits, prudent government economic strategies and the determination of future trends in international shipping shaped by the global market. Their implications are overwhelming since the relationship between shipping and piracy would mean that a drastic plunge in shipping volumes would probably lead in turn to a drop in levels of piracy. Carried to its hypothetical extreme, if there was a total absence of vessels of any kind in the Straits, there would be a total absence of piracy in effect.

The final contributing chapter "Piracy, Seaborne Trade and the Rivalries of Foreign Sea Powers in Southeast Asia, 1511 to 1839: A Chinese Perspective", by Xu Ke argues that the diverse perception and policies among Chinese Empire and colonial powers (who were also maritime powers) resulted in the reconfiguration of the balance of maritime power in pre-modern Southeast Asia. Xu asserts that before the advent of the European colonizers in the early sixteenth century, the relation between piracy and seaborne trade was quite simple: The pirates were the predators and the merchant ships were their prey. As such, the pirates robbed merchant ships on the trade routes and captured goods and people as their booty. He observes that the Portuguese conquest of Malacca in 1511 marked the entrance of European colonial sea power penetration in Southeast Asia. Subsequently, the other European colonizers — including the Spaniards, the Dutch and the British — seized the region's main entrepôts in rapid succession and plundered the wealth of indigenous and Chinese traders as they set up their colonial domains in Southeast Asia. The link between piracy and seaborne trade relations became complex, since piracy was used by European colonizers as means to control seaborne

trade and to expand their influence and domains. The colonial powers also attempted to establish trade relations with China. Consequently, the Chinese Empire banned overseas trade in order to stave off foreign influences. However, illegal private traders also known as “merchant pirates” intensified their trading activities first with Nanyang and then with the colonial powers. Xu brings the rest of the volume, which focuses on piracy in its more immediate currency, back into the meta-narratives of general history, conveying the message that the unfolding of events and phenomenon related to modern piracy in the Malacca Straits, Southeast Asia and the wider region will also become part of the region’s history as we move forward. The question is whether the future is contingent upon unforeseen events or whether history repeats itself in the grand march of time. Xu’s discussion provides some insight into the gaps in the phenomena as it had existed in the past and to some degree relates to Research Questions A.1, A.2, A.3, A.4, C.1, C.2, C.3, C.4, C.8 and E.1.

The volume closes with a final chapter, “Conclusion: Towards a Research Programme”, based on the findings of the post-workshop roundtable discussion in late 2004 where paper presenters discussed how the initial research agenda mapped out through the IAS-ISEAS research collaboration and Johnson and Valencia’s volume, could further evolve into a mature research programme.

Contemporary Piracy and Anti-Piracy Measures in 2005: Post-Volume Developments

The various chapter contributions in the second volume — on piracy, maritime terrorism in Southeast Asia, and the developments and prospects for international cooperation specific counter-measures — end their analysis of events towards the closing of 2004. In academic scholarship, the strength of a theory or argument is constantly tested by the course of events as they unfold. Events either reinforce their weight or weaken them, prompting, in turn, the search for alternative perspectives and fresh questions. The research questions and analyses under investigation in this volume pertain to those of an enduring nature, and the resulting inferences can provide lasting academic value to the general understanding of the issues and challenges that have arisen in the past, both near and far. Nevertheless, the remainder of this introductory chapter provides a *précis* of the trends in piracy and maritime terrorism, as well as developments in counter-measures and regional cooperation after 2004 until early 2006 in order to

facilitate the analytical leap readers would have to make between the recent past and the currency of events.¹³

Piracy

In the broad history of the late twentieth century, the trend in piracy, in terms of the volume of attacks, has not changed. According to the annual piracy reports provided by the International Maritime Bureau (IMB), the number of piracy attacks, on a global scale, has seen a net rise over the last fifteen years. Certainly, the total number of worldwide reported attacks dropped by 27 per cent from 445 incidents in 2003 to 325 incidents in 2004 and a subsequent 15 per cent drop to 276 attacks in 2005 over 2004.¹⁴ However, in 1991, the number of worldwide pirate attacks stood at 107. At the end of 2004, there were 325 reported attacks or an increase of 200 per cent. Year on year, Southeast Asia continues to maintain around a quarter share of the world's attacks in the last half-decade, with the majority of attacks occurring in the Malacca Straits and the waters of Indonesia.

In terms of the imminence of a maritime and economic catastrophe borne out by a piracy attack in the Malacca Straits, leading to the closure of the narrow and congested waterway by way of an inter-ship collision, critics may argue for some perspective. In 2004, there were a total of thirty-eight attacks in the Straits. When placed against the grain of 50,000 ships transiting the Straits, the probability of an attack is 0.07 per cent. Even if the figures are doubled to take into account the 40 to 60 per cent of all attacks, which the IMB says goes unreported, produces a probability of 0.1 per cent. The 2005 tally of twelve reported attacks in the Straits would generate a probability range of 0.02 to 0.04 per cent. Yet, regional policy-makers would argue that the consequences of such an outcome are simply too devastating to ignore. In addition, these low statistical probabilities hide the manner in which piracy victimizes and brutalizes a vessel's crew and its shipping company, by way of kidnapping for ransom activities increasingly undertaken by pirates. It has been reported that about US\$1 million in ransom was paid out by ship owners in the region in 2004, with an average ransom fee negotiated at an estimated range between US\$50,000 to US\$100,000. In that year, forty sailors were kidnapped in about twenty incidents. Four seafarers were killed because of botched negotiations. By the end of June 2005, there were five confirmed ransom-driven kidnappings in the Straits.¹⁵ The end of 2005 saw the final tally of kidnappings at ten reported incidents.¹⁶

Maritime Terrorism

As this volume went to press, there has been no “maritime spectacular” prophesized by various analysts on the threat of maritime terrorism. It is true that al-Qaeda’s devastating assault on the USS Cole at a port in Yemen in October 2000 and the Bali terrorist attacks in October 2002 — which indicated a shift towards maritime-related economic targets in Southeast Asia — exposed the vulnerability of the global and regional maritime realm. Also, the masterminds of the USS Cole actually planned another attack on a U.S. ship visiting a Malaysian port in 2000. In 2001, the Malaysian Special Branch disrupted a plan by the Kumpulan Mujahidin Malaysia (KMM) to ambush a visiting U.S. vessel. In early 2002, Singapore intelligence also disrupted an al-Qaeda plot to attack a U.S. ship docked in the country. Senior al-Qaeda operative, Omar al-Faruq, who is now in U.S. custody, also told officials of plans to attack an American naval ship in Surabaya, Indonesia’s second largest port, during his interrogation. In 2002, the Abu Sayyaf Group (ASG) based in the Philippines claimed responsibility for an explosion of a large ferry in the country killing around a hundred of its citizens.

It is quite possible that current efforts at securing vital sea lanes and major ports that run along the Straits are finally generating a deterrence dividend against maritime terrorism, judging from the fact that no such attack has occurred since the foiled attempts mentioned earlier. It is also equally likely that terrorist organizations may be ruling out an attack in the maritime theatre because current state awareness and responses have removed the element of shock and surprise which terrorists prize highly in their operations. However, the decline of this threat is better explained by two other factors. First, in line with Fort’s treatment of the link between finance and transnational threats to the state, the fight against global terrorism has led to the general attrition in the leadership, manpower, resources and the financing of al-Qaeda to the point where it has now concentrated its limited resources to its campaign in the Middle East, specifically in U.S.-occupied Iraq. The al-Qaeda linked attacks in the Spanish city of Madrid in March 2004 and the London bombings on 7 July 2005 may weaken this claim but it strengthens the assertion that terrorist organizations prefer to hedge their bets on land-based targets which are tried and tested in their success, against maritime-based ones. Still, as national and regional cooperative endeavours indicate, policy-makers do not appear to be taking their chances on the “strategic surprise” brought out by a possible act of maritime terrorism.

Securing the Malacca Straits

In June 2005, Malaysia's Deputy Prime Minister Najib Razak made the effort to break the existing impasse in littoral cooperation against piracy by articulating what is tantamount to a regional maritime security doctrine at a key Asian security conference in Singapore:

1. Maritime security is an area of enforcement within regional security in which the need to cooperate is greatest and where consensus building and a united position are key. Given the narrow nature of the Straits, it is easy for criminals to escape across national boundaries into another jurisdiction. Datuk Seri Najib suggests that including the Royal Thai Navy into current coordinated patrols by Malaysia, Indonesia and Singapore (established in July 2004) may further enhance security along the approaches to the Straits.
2. Technology will play a decisive role in empowering the littoral states to achieve more effective coordination and enforcement. For example, surveillance through maritime patrol aircraft, coastal radar linked to satellites and radio tracking technology in providing real-time information for enforcement operations could be carried out.
3. The littoral states must be in the driver's seat in maintaining regional maritime security and they retain primary responsibility for implementation of any measures designed to strengthen safe passage. While the need for greater cooperation extends to states using the Straits, good intentions are best translated in terms of financial support, intelligence sharing, training and provision or loaning of equipment such as ships and aircraft.
4. Stronger enforcement, regional cooperation and a better use of technology is best directed towards the effort in detaining pirates at source rather than in the high seas. In this case, it means attacking the bases from which pirates operate and cutting off the resources and manpower they depend on. It is also a proposition for the littoral states to develop their law enforcement capacities and promulgate harsher laws in dealing with pirates and other criminals.
5. Any form of preventive measures and operational arrangements to secure the Straits must not impinge on the territorial integrity and sovereignty of the littoral states, in tandem with international law. Consequently, the region must counter-propose the idea of

foreign vessels being escorted by their naval or coast guard ships passing through the Straits. In addition, while private armed escort services on commercial vessels plying the Straits should not be denied transit passage, they must cease operations when in the territorial waters of the littoral states. As an alternative, the littoral states could provide their own law enforcement personnel on vessels travelling through the Straits.

6. Additional mechanisms that can act as effective deterrents must constantly be explored. Against the longstanding grain of criticisms by security analysts and observers regarding the fanatical obsession of the littoral states over their individual territorial sovereignty, Datuk Seri Najib made a path-breaking suggestion that, while it was important to take current measures at a comfortable pace, an “open mind” should be kept in evolving coordinated naval patrols into a regional “joint” patrol (which will allow for inter-territorial hot pursuit) at some point in the future.

The spirit of these principles and proposals appears to have set a decisive course in the region’s maritime security agenda while allowing for latitude within the residual differences in threat perception of the littoral states. For example, Malaysia maintains that there is no credible evidence to suggest a “nexus” between piracy and terrorism, while Singapore has chosen to factor in the possibility that terrorists might collaborate with pirates to seize a ship and sail it into a harbour to set off a massive explosion. In the end, the array of precautions cast by Malaysia and Singapore serves as a security dragnet that will apprehend and deter terrorists, smugglers, and criminals on top of pirates, hence satisfying all their separate maritime concerns.¹⁷

In the wake of Deputy Prime Minister Najib’s enunciation, the littoral states of Indonesia, Malaysia and Singapore launched a joint maritime air-patrol called the “Eyes in the Sky” (EiS) initiative, on 13 September 2005, a mere three months since it was first proposed in the June speech, and also launched just over a year after the three countries established round-the-lock coordinated MALSINDO (Malaysia-Singapore-Indonesia) naval patrols along the Straits (formalized into the Malacca Strait Sea Patrol [MSSP] in late April 2006), which is discussed by some of the contributors of this book. Operationally, the littoral states (plus Thailand) have each contributed two maritime patrol aircraft (MPA) while the triad will conduct up to two patrols per week along designated sectors of the area of operation under the international and national airspace

over the Straits of Malacca and Singapore. The MPAs would be allowed to fly above the waters of the states in question no less than three nautical miles from land; a flight path roughly hovering over the stream of commercial maritime traffic. Each aircraft will also have a Combined Maritime Patrol Team (CMPT) on board, comprising a military officer from each participating state. As a collective, the CMPT is to establish a comprehensive surface picture over the designated area by broadcasting any suspicious contacts on designated radio frequencies to ground-based agencies — called Monitoring and Action Agencies (MAAs) — in each of the participating countries; depending on where a piracy or maritime terrorist incident is taking place along the Straits. Subsequently, the MAAs will coordinate amongst themselves to undertake any follow-on responses within their own territorial waters. There will also be EiS Operations Centres (EOCs) established in each of the participating states, which will coordinate the flight schedule of the patrolling aircraft taking off from their respective airbases.¹⁸

The EiS itself is still in its delicate operational infancy. Both the MAAs and EOS had yet to be set up at the inception of the EiS in late 2005. It is not clear if they have become operational at the time this book went to press. However, it is clear that the focus of the EiS in its infancy is to get the spirit of endeavour right at the various levels, before turning to matters of form. At the ministerial, diplomatic, and defence levels, the debut flights are meant to translate talk into action and therefore, to foster the political capital and fortitude needed for the subsequent follow-through. The act of putting the cart before the horse also contributes to greater operational efficiency and effectiveness of the EiS in the medium to long term, though it stands to be sacrificed in the short run. The purpose of the flights, as they currently stand, appears to be more about ironing out the operating procedures on aerial surveillance by the CMPT. This is crucial since if the littoral states cannot get things right in the air, the overall effectiveness of the endeavour becomes moot, whether or not the MAA and EOCs are implemented. As a joint endeavour, its success may generate the dividend of inspiring the evolution towards joint naval patrols from its current “coordinated” arrangement in the near to medium term. Already, the three littoral states also signed an agreement in late April 2006 to form a Joint Coordinating Committee (JCC), an umbrella organization tasked with overseeing the EiS and MALSINDO patrols. While there are no new changes to either of the patrols, the agreement will establish the JCC and empower it as a channel of communication, intelligence exchange and coordination for all operational security measures relating to the Straits.

In truth, the EiS suffers from several inherent limitations in its response and effectiveness against piracy and other associated threats relating to the factors of (1) the MPA's operational and surveillance limitations and (2) the large area of operations constituting the Malacca Straits. As a case in point, the Republic of Singapore Armed Forces Fokker 50 MPA has a top search speed of 200 knots and a flight endurance of eight hours. The fastest time that the aircraft can survey the entire 960-kilometre Straits is about two-and-a-half hours at best (the same time it takes to fly from Singapore to Bangkok). Malaysia's Hercules C130 may fare slightly better in the traversal at roughly 380 knots and a flight endurance of up to fourteen hours. However, sophisticated radar technology notwithstanding, real-time gaps will prevail in the intelligence picture the CMPT hopes to create at anyone time simply because they cannot survey the colossal waterway in one fell swoop. Second, depending on the prevailing radar and detection technology possessed by the littoral states, it is unclear whether the rather inconspicuous (and often wooden) motorboats that pirates tend to use, will be easy to spot and identify. Such craft generate relatively small heat signatures and physical profiles that can easily fall under the threshold of military radar and infra-red systems. The majority of pirate attacks also tend to occur in the dead of night. The cover of darkness further screens pirate activities from the MALSINDO and EiS patrols. Third, the operational limitation of keeping to the three nautical mile limit from shore also restricts the scope that the MPAs can play in early detection. Today's pirates use the surrounding islands, islets and coves as bases and staging areas before conducting rapid strikes at their targets along the Straits before retreating inland. Over time, the littoral states will have to mitigate and negotiate the concerns over national security and sovereignty if they are to broaden efforts at countering piracy and other threats at sea.

Ultimately, the EiS, while serving as a form of deliberate window-dressing aimed at allying the concerns of the international community, glosses over the outstanding problems of sovereignty, jurisdiction, political will (the lack of it) and the deficit of equipment that are really needed to reduce the threat of piracy to a level that is acceptable to the littoral states.

Likewise, it is not entirely clear whether the MSSP or MALSINDO patrols have done much to reduce the scale of piracy attacks along the Malacca Straits since it was established in the third quarter of 2004. As indicated in Table 3 below, no coherent trend emerges from the comparison between the two quarters prior to the patrols, the two remaining quarters for 2004, the four quarters of 2005 and the first quarter of 2006. If anything,

TABLE 3
Quarterly Breakdown of Reported Incidents of Piracy/Armed Robbery At Sea
in the Malacca and Singapore Straits, 2004-2006¹⁹

	2004				2005			2006	
	1 st Quarter	2 nd Quarter	3 rd Quarter	4 th Quarter	1 st Quarter	2 nd Quarter	3 rd Quarter	4 th Quarter	1 st Quarter
Malacca Straits	2	3	3	5	2	6	No reports	No reports	2
Singapore Straits	5	1	No reports	No reports	2	4	1	No reports	Not available
Total	7	4	3	5	4	10	1	No reports	2

the first quarter of 2004, 2005 and 2006 opened with two reported attacks in the Malacca Straits. While there were no reports of attacks in the Singapore Straits in the third and fourth quarters of 2004, the first two quarters of 2005 saw a rise in reported incidents. Lastly, it is difficult to specify what constitutes a “rise” or “fall” with any accuracy in the context of single-digit aggregates of reported incidents against an average volume of 50,000 ships passing through the Straits annually or 12,500 vessels per quarter, unless one assigns a “zero tolerance” approach as a benchmark. Ultimately, it may be prudent to suspend judgment about the effectiveness of such patrols until a few more years worth of reporting data become available. Meanwhile, Malaysia’s assessment in April 2006 that “[p]irates have largely been run out of the Malacca Strait less than two years” because of the patrols and that “the [current] situation is very stable, very benign”, may be hasty.²⁰

The notion of hastiness may be a sentiment shared by the Joint War Committee (JWC) of Lloyd’s Market Association, which declared the Malacca Straits a war risk area since July 2005 — the month of the first anniversary of the MSSP patrols, along with twenty other locales worldwide, in jeopardy of conflict, strikes, terrorism, and other related dangers. This puts the Malacca Straits, as well as other areas within Indonesian waters such as the ports of Dumai and Belawan, in notorious company, like war-torn Somalia, insurgency-stricken Iraq and a politically unhinged Lebanon. More importantly, it means that shipping firms that use the waterway stand to pay higher premiums. The middle of 2005 also saw a series of criticisms by the governments of the littoral states over the issue of private armed escort services offered by PMCs/PSCs to shipping companies since 2004 but which only came to the fore after catching the attention of the media.²¹ Overall, such responses from the private sector seem to indicate that the littoral states are not doing a satisfactory job in providing for the security of the Straits.

In April 2005, Singapore, Japan, Laos and Cambodia were the first countries to sign the Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia, or ReCAAP. A legal framework initiated by Japanese Prime Minister Junichiro Koizumi in 2001, supported by sixteen Asian countries from Southeast Asia, China, India, Sri Lanka, Bangladesh, the Republic of Korea and Japan. Among other things, the agreement involves the setting up of an Information Sharing Centre (ISC) in Singapore, aimed at facilitating communication and information exchanges between the member countries through the shared collection, analysis and distribution of on reported attacks in their

respective waters.²² The plan for a twenty-four-hour ISC was formalized in April 2006 and it will become operational in December 2006.

While an information gathering and processing can be vital towards a better understanding of the trends in piracy in the bid to pre-empt further attacks, it remains to be seen if the ISC will be able to collect information exceeding the standards of the IMB Reporting Centre in Kuala Lumpur, Malaysia. The IMB has an established rapport with commercial shippers — in face of the natural tendency by seafarers and shipping companies from reporting attacks — and a set of reporting procedures that have been evolving since 1992. It is also not entirely clear if the ISC will be able to create a more sophisticated methodology for the quantitative analysis of reported incidents, which would require currently unobtainable (or even unquantifiable) knowledge about the causal factors behind piracy. Next, it remains to be seen whether commercial shippers and regional anti-piracy patrols will receive information from the ISC that is timely and useful in avoiding risk-prone areas and to subduing attacks respectively. Lastly, while eleven countries have signed the ReCAAP agreement, Indonesia and Malaysia are among the five remain signatories that have yet to do so, reflecting the outstanding challenges in forging closer cooperation among the three littoral states — a sentiment conveyed by some of the contributors to this volume — which is ultimately essential if the tide against piracy is ever to be lastingly turned.

In the end, it is clear that the suggestion by some analysts and policy-makers that stronger enforcement, regional cooperation and a better use of technology is best directed towards the effort in detaining pirates at source rather than in the high seas may be the most astute one if the regional fight against piracy is to be won decisively. This second instalment within the Series on Maritime Issues and Piracy in Asia endeavours towards making a small contribution towards the need for sustained thinking about piracy, maritime terrorism and the security of both the Malacca Straits and Southeast Asia at large. These are challenges that will continue to figure significantly within the region's geo-political, economic and socio-cultural landscape long after their consideration by the media wanes, when patient erudition is the deserving response.

Notes

¹ In this volume, the term “Malacca Straits” will be used — instead of the singular noun “Malacca Strait” employed by other scholars and analysts — as a geographical shorthand to refer to the Malacca and Singapore Straits unless

stated otherwise. The 805-kilometre long Strait of Malacca opens westward to the Indian Ocean and separates Malaya from the Indonesian island of Sumatra. At its southeastern end, the Strait of Malacca joins the 105-kilometre long Singapore Strait, which connects to the South China Sea and Pacific Ocean. Together, the two waterways form a seamless entity in which the Malacca Strait dominates its more modest counterpart. Also, the Malacca Strait spills obtusely over the territorial waters of Malaysia, Indonesia and Singapore. Lastly, shippers and pirates cannot tell where one strait exactly ends and the other begins. The Malacca Straits is a label that essentializes these factors.

- ² Derek Johnson and Mark J. Valencia, "Conclusion: Towards an Agenda for Piracy Research", in Johnson and Valencia, eds., *Piracy in Southeast Asia*, p. 161.
- ³ Derek Johnson, Erika Pladdet and Mark J. Valencia, "Introduction: Research on Southeast Asian Piracy", in *Piracy in Southeast Asia: Status, Issues and Responses*, edited by Derek Johnson and Mark J. Valencia (Singapore: International Institute for Asian Studies, The Netherlands [IIAS], and the Institute of Southeast Asian Studies [ISEAS], 2005), pp. xi–xii.
- ⁴ Graham Gerard Ong, "Ships Can Be Dangerous, Too: Coupling Piracy and Terrorism in Southeast Asia's Maritime Security Framework", in Johnson and Valencia, eds., *ibid.*, pp. 45–76.
- ⁵ The Czech Government affirmed that the International Law Commission committed a grave omission since it did not mention acts of piracy for political ends or what some scholars classify as "politically motivated piracy" or "political piracy" which includes the attacks and seizures that are labelled as "maritime terrorism". Instead, the clause was maintained and has come to find itself within Article 101 of the 1982 LOS Convention.
- ⁶ P. Mukundan, "The Scourge of Piracy in Southeast Asia: Can Any Improvements be Expected in the Near Future?" in Johnson and Valencia, eds., *op. cit.*, p. 36; Derek Johnson, Erika Pladdet and Mark J. Valencia, "Introduction: Research on Southeast Asian Piracy", in Johnson and Valencia, eds., *ibid.*, pp. xii–xiv; Graham Gerard Ong, "Ships Can Be Dangerous, Too: Coupling Piracy and Terrorism in Southeast Asia's Maritime Security Framework", in Johnson and Valencia, eds., *ibid.*, pp. 47–49.
- ⁷ Johnson, Pladdet and Valencia, *op. cit.*, pp. xiv–xvi; P. Mukundan, *op. cit.*, pp. 35–36; and Mark J. Valencia, "Piracy and Terrorism in Southeast Asia: Similarities, Differences and their Implications", in Johnson and Valencia, eds., *op. cit.*, pp. 79–82.
- ⁸ Mark J. Valencia, *op. cit.*, p. 86.
- ⁹ Greg Chaikin, "Piracy in Asia: International Cooperation and Japan's Role", in Johnson and Valencia, eds., *op. cit.*, p. 124.
- ¹⁰ Derek Johnson, Erika Pladdet and Mark J. Valencia, *op. cit.*, pp. ix; Derek Johnson and Mark J. Valencia, *op. cit.*, pp. 162–63.
- ¹¹ Johnson and Valencia, *op. cit.*, pp. 163–65.

- ¹² Ger Teitler, "Piracy in Southeast Asia: A Historical Comparison", *Maritime Studies* 1, no. 1 (2002): 68, <<http://www.marecentre.nl/mast/documents/GerTeitler.pdf>>.
- ¹³ This section draws heavily from Graham Gerard Ong, "The Threat of Piracy and Maritime Terrorism", in *Regional Outlook 2005–2006* (Singapore: Institute of Southeast Asian Studies, 2005).
- ¹⁴ *Piracy and Armed Robbery against Ships: Annual Report, 1st January – 30th December 2004* (Kuala Lumpur: IMB Regional Piracy Centre, 7 February 2005), p. 16; *Piracy and Armed Robbery against Ships: Annual Report, 1st January – 30th December 2005* (Kuala Lumpur: IMB Regional Piracy Centre, 31 January 2006), p. 16.
- ¹⁵ Graham Gerard Ong, "The Threat of Piracy and Maritime Terrorism", in *Regional Outlook: Southeast Asia, 2005–2006* (Singapore: Institute of Southeast Asian Studies, 2005), pp. 12–15.
- ¹⁶ *Piracy and Armed Robbery against Ships: Annual Report, 1st January – 30th December 2005* (Kuala Lumpur: IMB Regional Piracy Centre, 31 January 2006), p. 15.
- ¹⁷ Graham Gerard Ong, "Charting a Unified Course for Safer Seas", *Straits Times*, 25 June 2005.
- ¹⁸ Graham Gerard Ong and Joshua Ho, "Maritime Air Patrols: The New Weapon Against Piracy in the Malacca Straits", *Institute of Defence and Strategic Studies Commentary*, 13 October 2005 (70/2005).
- ¹⁹ The quarterly figures are tabulated by counting the number of reported cases within each quarter of the year from the annual narration of actual attacks found at the end of the following IMB reports: "Narration of Attacks, 1 January – 31 December 2005: Actual Attacks, Southeast Asia", in *Piracy and Armed Robbery against Ships: Annual Report, 1st January – 30th December 2005* (Kuala Lumpur: IMB Regional Piracy Centre, 31 January 2006), pp. 33–43; "Narration of Attacks, 1 January – 31 December 2004: Actual Attacks, Southeast Asia", in *Piracy and Armed Robbery against Ships: Report for the Period, 1st April – 31st December 2004* (Kuala Lumpur: IMB Regional Piracy Centre, 7 February 2005), pp. 29–43. It serves to note that there exist certain errors in the reporting and tabulation of piracy attacks in the Malacca Straits region by the IMB. When the summary statistics of reported actual attacks for the first two quarters of 2005 — derived from the IMB's quarterly reports — and the statistics created from the narration of attacks used to create Table 2 are compared, deviations were found for the following (the summary statistic are in brackets): Indonesia — 14 (16); the Malacca Straits 2 (6); and the Southeast Asian region 26 (35). For the two quarterly reports, see "Narration of Attacks, 1 January – 31 March 2005: Actual Attacks, Southeast Asia", in *Piracy and Armed Robbery against Ships: Report for the Period, 1st January – 31st March 2005* (Kuala Lumpur: IMB Regional Piracy Centre, April 2005), pp. 19–22; and "Narration of Attacks, 1 January – 31 June 2005: Actual Attacks, Southeast Asia", in *Piracy and Armed Robbery against Ships: Report for the*

Period, 1st April – 31st June 2005 (Kuala Lumpur: IMB Regional Piracy Centre, July 2005), pp. 24–29.

- ²⁰ “Malaysia Claims Pirates now Scarce due to Joint Sea Patrols in Malacca Strait”, *Jakarta Post*, 25 April 2006.
- ²¹ Graham Gerard Ong, “A Case for Armed Guards on Ships”, *Straits Times*, 26 May 2005.
- ²² K.C. Vijayan, “24-hour Sea Piracy Info[rmation] Centre Soon”, *Straits Times*, 21 April 2006.