



# Journal of the Australian Naval Institute

No 116



Autumn 2005

## CONTENTS

<b>Chief of Navy address to the HMAS <i>Kanimbla</i> Sea King Memorial Service - Friday 8 April 2005</b>	2
<hr/>	
<b>Notices</b>	3
<hr/>	
<b>Michael Wyndham Hudson, 1933-2005</b>	5
<hr/>	
<b>Zhen He and the maritime Ming dynasty: naval empire abandoned?</b> <i>Colonel Kimberly P May, USAF</i>	8
<hr/>	
<b>Does the ISPS Code address post 9/11 maritime security threats?</b> <i>Lieutenant Commander Graeme Hale, RAN</i>	13
<hr/>	
<b>Indonesia and post-tsunami security in the Malacca Strait</b> <i>Sumathy Permal</i>	20
<hr/>	
<b>REGIONAL PERSPECTIVES</b>	
<b>Characterising recent shifts in East Asia's security matrix/Canada's third ocean</b> <i>Kerry-Lynn Nankivell</i>	
<b>Power play: energy security in North East Asia</b> <i>Nathan Nankivell</i>	24
<b>Protecting the Malacca Strait</b> <i>Barry Desker</i>	
<hr/>	
<b>The impact of legal conventions on navy roles</b> <i>Commander Simon Bateman, RAN</i>	33
<hr/>	
<b>SEMAPHORE</b>	
• <b>Naval operations other than war 1901-2004</b>	
• <b>Network-centric USW - exploring the realities</b>	
• <b>The roles and tasks of maritime forces</b>	39
• <b>The Pacific Patrol Boat Project</b>	
<i>Sea Power Centre-Australia</i>	
<hr/>	
<b>BOOK REVIEWS</b>	
• <b>Royal Navy Escort Carriers</b> <i>Reviewed by Commodore Jack McCaffrie, AM RANR</i>	
• <b>Nelson: Britannia's God of War</b> <i>Reviewed by Midshipman Bernard Dobson, RAN</i>	49
• <b>The Command of the Ocean: A Naval History of Britain, 1649-1815</b> <i>Reviewed by Dr John Reeve</i>	

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**Front Cover:** Memorial Service for HMAS *Kanimbla* Flight (Shark 02), Tom Smith Oval, HMAS *Albatross* (RAN)

**Back Cover:** The *Fremantle* class patrol boat HMAS *Cessnock* searching bays in northern Australia for illegal fishing boats (RAN)

## Chief of Navy address to the HMAS *Kanimbla* Sea King Memorial Service - Friday 8 April 2005

Ladies and gentlemen, it is with great sadness that as Chief of Navy I stand before you as part of this solemn occasion. But it is only right that I do so, for today we are here to commemorate the lives and service of the six members of the Royal Australian Navy and three members of the Royal Australian Air Force who were lost last Saturday in the service of their country.

They are irreplaceable and their shipmates, the Navy and the nation will always remember them. But today here at *Albatross*, we particularly remember the four members of the naval aviation community: Leading Seaman Scott Bennet, Lieutenant Matthew Goodall, Lieutenant Paul Kimlin and Lieutenant Jonathan King; and two members of Navy's medical service, Lieutenant Matthew Davey and Petty Officer Stephen Slattery.

Nothing I can say to you can bring comfort or ease the pain of those who knew them best. No ceremony, no memorial service, no flag, no medals, no speech can bring them back. All we can do is remember them when they were with us, celebrate their service in helping others, and share in the grief of their families and friends.

These brave young Australians of the RAN '*went down to the sea in ships and occupy(ed) their business in great waters*' with a spirit of service and sacrifice. They were dedicated to their duty to help and protect others. Be it in time of war or equally in time of peace, we live and work in an environment which can be dangerous and unforgiving. As experts in the profession of arms, we must assume and accept these risks in order to better the world in which we live.

To the family members of those who have been lost, I share in your grief. A week ago your loved ones were on their way home, looking forward to being reunited with you and celebrating the completing of their mission. That homecoming will not happen. Instead, we are here today mourning their loss. While no words will suffice, please remember that just as you were always with them when they were away at sea, so to will they remain with you forever, wherever you may be.

To the many members of 817 Squadron and the naval aviation community, I know these days must be particularly difficult. For while the departed have gone to a place where there is no more suffering or pain, you remain behind to carry on their work and to wonder why it happened. Support each other, reaffirm your passion for what you do, believe in yourselves and your abilities, remember why we do what we do, and importantly, remember that your friends and shipmates died doing what they loved.

You are not alone because the whole Navy and indeed the Nation is mourning with you. On behalf of all of them, we say goodbye and thank you to the nine we have lost. They will remain in our thoughts and prayers always.

## NOTICES

### Membership Renewals

A reminder that memberships are on a calendar year basis and for those whose membership has expired, you should have received a renewal notice in November for payment by 1 January 2005. Payment of overdue renewals is requested.

### Annual General Meeting 2005

A quorum was not achieved for the 10 March 2005 Annual General Meeting. At the subsequent meeting on 14 April, the constitutional amendment to increase the size of the Council to 15 from 10 members was passed.

### ANI 30<sup>th</sup> Anniversary Year

2005 is the 30<sup>th</sup> anniversary year of the incorporation of the Australian Naval Institute.

The Winter edition will be 'retrospective', reprinting relevant articles of historical interest to the administration of the Institute.

The 30<sup>th</sup> anniversary dinner will be combined with the Vernon Parker Oration and ADFA Midshipmen Seminar planned for 1-2 Sep 05. The seminar theme is a retrospective look at the RAN and ANI over the last 30 years and the future for both organisations.

### CD Set of the *Journal of the Australian Naval Institute*

A reminder that members are able to purchase a scanned 2 CDROM set of the *Journal* from 1974-2003 for \$99. See the inside back cover for ordering information.

### King-Hall Navy History Conference

The Sea Power Centre-Australia will present the next King-Hall Navy History Conference in the Bradman Theatre, National Convention Centre, Canberra on 21-22 Jul 2005.

The conference fee is \$200 and the dinner is \$75. Additional information is contained on the Institute's website and on the Sea Power Centre website ([www.navy.gov.au](http://www.navy.gov.au)).

### Sea Power Conference 2006

The Sea Power Centre-Australia will present the fourth Sea Power Conference at the Sydney Convention and Exhibition Centre, Darling

Harbour, Sydney on 31 January-2 February 2006. The theme will be *Challenges Old and New*.

As more information becomes available it will be posted on the Institute's website as well as that of the Sea Power Centre ([www.navy.gov.au](http://www.navy.gov.au)).

### *Cockatoo Island: Sydney's Historic Dockyard*

John Jeremy

UNSW Press, 280pp, 240 x 180 mm, RRP, \$34.95

UNSW Press has kindly offered ANI members a 20% discount off the cover price for the new soft cover edition of *Cockatoo Island*, which incorporates additional information from that contained in the hard cover edition.

To receive 20% off the normal price of \$34.95 you can order a copy via the web: [www.unswpress.com.au/isbn/0868408174specd.htm](http://www.unswpress.com.au/isbn/0868408174specd.htm) or by contacting UNIREPS on:  
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# AUSTRALIAN NAVAL INSTITUTE

The Australian Naval Institute was formed as a self-supporting and non-profit making organisation; incorporated in the Australian Capital Territory in 1975. The main objectives of the Institute are:

- to encourage and promote the advancement of knowledge related to the Navy and the maritime profession; and
- to provide a forum for the exchange of ideas concerning subjects related to the Navy and the maritime profession.

Membership subscription rates are located on the inside back cover of the *Journal*. Further information can be obtained from the Business Manager, Australian Naval Institute, PO Box 29, Red Hill ACT 2603, ph +61 2 62950056, fax +61 2 62953367, email: [a\\_n\\_i@bigpond.com](mailto:a_n_i@bigpond.com), or via the website at [www.navalinstitute.com.au](http://www.navalinstitute.com.au).

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The *Journal of the Australian Naval Institute* is published four times a year: at the end of January, April, July and October.

The Editorial Board seeks letters and articles on naval or maritime issues. Articles concerning operations or administration/policy are of particular interest but we will consider papers on any relevant topic. As much of the RAN's operational and administrative history is poorly recorded, the recollections of members (and others) on these topics are keenly sought.

Views and opinions expressed in the *Journal of the Australian Naval Institute* are those of the authors and not necessarily those of the Institute, the Royal Australian Navy or the Australian Defence Organisation.

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The Institute will take back old copies of the *Journal* if members no longer wish to hold them. A CDROM of the

*Journal* covering the period 1975-2003 is available for \$99; see the inside back cover for ordering information.

**Pen Names.** If a member wishes to publish under a pen name the Editor must be advised either in person or in writing of the identity of the individual that wishes to use the pen name. The Editor will confirm in writing to the member seeking to use a pen name that the name has been registered and can be used. More details are available on the Institute's website.

**Style Guide.** Articles and correspondence should be submitted electronically in Microsoft Word, with limited formatting. Relevant pictures or maps can be submitted electronically (if under 1 MB), otherwise they should be provided on CD.

Articles should ideally range in size from 3000-7000 words pages, but smaller one page articles will be considered, as well as the occasional much larger piece of work. Submissions should be sent to the Editor in the first instance. Larger articles should be submitted to the Sea Power Centre-Australia for possible publication as a Working Paper ([seapower.centre@defence.gov.au](mailto:seapower.centre@defence.gov.au)).

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## Seapower Centre Research Collection

In 2004 the ANI donated its library to the Royal Australian Navy where it has been incorporated into the Sea Power Centre Research Collection. ANI members continue to have access to this unrivalled and often unique selection of research material. The library is normally available for use 0900-1630 each weekday, but please ring to confirm this, particularly if visiting from outside Canberra. As this is a reference collection, it is not possible to borrow the books. The Institute/Sea Power Centre-Australia will gladly accept book donations on naval and maritime matters (where they will either be added to the collection or traded for difficult to obtain books). The point of contact for access to the collection, or to make arrangements for book/journal donations is Dr David Stevens on (02) 61276503, email [david.stevens3@defence.gov.au](mailto:david.stevens3@defence.gov.au).

# Michael Wyndham Hudson

## 1933-2005

Michael Wyndham Hudson was born in Taree in NSW on 10 March 1933 and grew up in Sydney, close to Middle Harbour. His childhood was active and happy and it is fair to say that his upbringing did much to develop an inner confidence that was reflected not only in his individual career but his sense of what it was to be Australian. In time, Hudson would transmit this understanding and this confidence to the Royal Australian Navy as a whole. As Chief of Naval Staff from 1985 to 1991, he played an important role in the transition of the RAN into a more effective, complete and self-aware national organisation than it had ever been before.

Hudson briefly attended North Sydney Boys' High before joining the Royal Australian Naval College at Flinders Naval Depot as a thirteen year old cadet-midshipman in 1947. This entry was an expanded one, reflecting the post-war revitalisation of the Navy which was then underway and its members were to enjoy a remarkable degree of professional success. Amongst the class were Ian Knox, who became a Vice-Admiral and Vice Chief of Defence Force, and David Martin, later a Rear-Admiral and Governor of NSW. Hudson himself early established himself as a leader of the group, graduating from the College as the King's Medallist. Soon afterwards, he went to sea as a midshipman and saw operational service in the aircraft carrier *Sydney* during her deployment to Korea in 1951-52. After courses and qualifying service as a junior officer at sea, Hudson sub-specialised as a navigator. His combination of intellect, precision and strong practical abilities meant that he excelled in the art and it was significant that he was sent as navigator of the cadets training ship *Swan* in 1959 on his return from exchange service with the Royal Navy.

In 1961, Hudson married Carla Suche, daughter of a Sydney businessman. Theirs was a long, close and happy marriage and they had three sons. Hudson, in a quiet and understated way, was devoted to his family and they became an important source of personal strength.

He qualified as a 'dagger' navigator with the RN in 1963, shortly after promotion to Lieutenant Commander and service with the United States Navy in the 1962-63 summer season in the Antarctic on Operation *Deep Freeze*. He always regarded the latter as a key formative experience.

Along with his extensive service in Southeast Asia, it played an important part in developing his understanding of one of the key strategic problems which Australia faced in meeting its security needs - that of distance.

Mike Hudson spent two years as executive officer of the destroyer *Vendetta* before promotion to Commander in 1966. Much of the ship's time was spent in the Far East during Confrontation with Indonesia. His captain was Commander David Leach, later Hudson's immediate predecessor as Chief of Naval Staff and, with such talent, it was a highly successful commission. Supporting the naval veterans of the Emergency and Confrontation would be an important concern for Hudson in his retirement. After *Vendetta*, he became Training Commander at the main naval training establishment at Flinders, HMAS *Cerberus*.

Hudson returned to *Vendetta* in 1970, this time in command. Here he began to establish the reputation as a highly effective ship captain that he would carry to and consolidate in his later commands of the *Brisbane*, *Stalwart* and *Melbourne*. He was soon marked out as having the potential to reach the highest ranks of the Navy. This was reflected in the succession of shore postings he enjoyed, which ranged between key operational and planning appointments and higher military education overseas at the United States Armed Forces Staff College and the National Defence College of Canada. Promoted Rear-Admiral in 1982, he served as Fleet Commander and the following year returned to Canberra in the Joint post of Assistant Chief of Defence Force Staff (Policy).

Hudson was appointed Chief of Naval Staff and promoted Vice-Admiral in 1985. He was able to build on much good work that had been done by his predecessor, Vice-Admiral David Leach, in the immediate wake of the decision by the new Labor Government in 1983 to abolish the fixed wing fleet air arm and cancel the project for an aircraft carrier, but he was also able to present himself as a fresh start. Whatever his personal views, and he had been the last operational captain of the aircraft carrier *Melbourne*, he accepted that there was no prospect of a revival of fixed wing naval aviation and that the RAN had to rebalance itself with that precondition firmly in mind.

Hudson proved extremely skilful at adapting himself and his plans for the Navy to the new strategic constructs which were being developed at the time. He operated effectively at the political level, particularly with the energetic Kim Beazley, and within the bureaucracy. However, his intent throughout was to refashion the Navy within the resources available into a force that would provide the maximum flexibility to government whatever form strategic policy took. Typical of the debates which took place was that for a five inch gun in the new *Anzac* class frigates. Although more expensive than the originally intended 76mm (three inch) weapon, the five inch gave the ships much more operational flexibility, particularly in their potential to provide fire support to troops ashore. The decision to select the bigger gun was triumphantly vindicated by *Anzac* herself through the gunfire provided to assist the Royal Marines in their assault on the Al Faw peninsula in 2003. Even with Hudson's long reign as CNS, it is sometimes difficult to determine what work he carried on from his predecessors and what his own successors carried from him to fruition, but there can be no doubt that the structure of the RAN of 2005 and its success in meeting the challenges of the last decade owe more to him than to any other single person.

Hudson was convinced of the need for active strategic engagement by Australia within Southeast Asia and the South West Pacific. While he was prepared to accept the defence of Australia as a force structuring mechanism, particularly if the implications of the distances involved were properly recognised (something that he did not think was necessarily the case on the part of all those involved in strategic planning), he firmly believed that Australia's strategic interests required a much more proactive military - and national security - approach to the region. This was reflected in the Navy's deployment patterns and a developing program of exercises with friendly nations, as well as Hudson's own initiative to complement the American led International Naval Seapower Symposium at Newport, Rhode Island with a regular Western Pacific Naval Symposium. In this, as in many other areas, Hudson was extremely successful at both supporting government policy and in assisting in its shaping. He was insistent that the Navy existed to be one of the readiest and most effective tools for the Government to use and it was clear that his period in office marked an increasing confidence on the part of the Government as to the RAN's utility and eagerness to serve. It was certainly increasingly often called upon in contingencies - starting with the first Fiji

coup in 1987. The Gulf crisis of 1990-91 saw the RAN providing the primary ADF response and Hudson worked hard to ensure that the Navy's forces were as well prepared and supported as they could be. He had to operate within the newly developed command arrangements that had given operational authority to the Chief of Defence Force and there were frequent tensions amongst the senior personalities involved. Hudson never resiled from his belief that, as CNS, he was both the person most qualified and the person most appropriate to provide service specific advice to the CDF and, in turn, to the Government.

Hudson also oversaw many changes in naval personnel. Some he championed himself, such as his efforts to align and integrate the Naval Reserve more effectively with the Permanent Naval Forces. Other decisions he took more as a response to external pressures and in recognition of the Navy's need to change with society. The most critical of these proved to be the progressive integration of females into the seagoing navy and it was true that he, as with most in authority, did not recognise the profound challenges that this would create for the RAN in coming years.

Hudson had some obvious wins. The RAN's Seventy Fifth anniversary celebrations in 1986 were an extraordinary success, particularly the Fleet Review staged in Sydney Harbour. The Navy's year long effort to re-engage with Australians as a whole paid immediate dividends in the consolidation of national support and in recruiting. The review itself set a standard for major national events that still applies. A fall and a broken hip meant that Hudson played a much less active role in the Bicentenary celebrations in 1988, but he ensured that the Navy took as prominent a part as possible.

During his naval service, Mike Hudson presented a formidable and austere visage to the outside world and he did not suffer fools gladly. His real sentiments in complex situations were not often well understood, particularly by his subordinates. This was particularly the case in Navy Office, where the systems and attitudes which had operated under the old collective arrangements of the Naval Board had yet to properly consolidate under the new system which gave much greater internal primacy to the Chief of Naval Staff. He faced some unnecessary, if not self-indulgent resistance to his intent, which caused him justifiable irritation, but it was also true that he sometimes confused legitimate debate for dissent. He delegated effectively to people he trusted, but, in the event of a dispute or a mistaken assessment on his part, it was always important for subordinates to give him space and time to

change his own mind in his own way.

Hudson also disliked much about the way he had to operate within the Department of Defence to be a successful CNS and he kept his own counsel over many of the decisions that he had to accept and implement in his six years at the top - to the extent that many thought that he supported some externally imposed measures which he in fact fundamentally opposed and which he had fought strenuously against within the Defence system. He was probably seen by some as too strong an advocate of the Navy and of the authority of the Services and their Chiefs of Staff for he was not selected to be the Chief of Defence Force. In many ways, however, he achieved the ideal of the loyal servant of the government and public. He took responsibility and he wore it well, but there was a price.

Hudson lacked the affability or common touch of some of his contemporaries, although he possessed a dry humour and a sense of the ridiculous that could sometimes be roused, particularly if Carla was present. His fairness and consistency, as well as his extraordinary practical competence made him a greatly respected commander at sea as well as an effective operator ashore. Those who were close enough to him in his administrative roles soon came to realise his fundamental humanity and he was always good - and frequently forbearing - to the young. Above all, he cared very deeply for those who served with him and for the welfare of the Navy as a whole and this was

reflected in the attention that he devoted to many individual cases - generally without publicity or fanfare. His essential kindness and concern for others became much more obvious after his retirement and organisations such as the Naval Association of Australia received much support from him.

That retirement came in 1991, with the special recognition of promotion to full Admiral, a gracious

gesture on the part of a government which owed him a lot. He had been created an Officer of the Order of Australia in 1985 and promoted Companion in 1987. Mike and Carla Hudson retired to the country, while maintaining a base in Sydney. He proved a very successful breeder of cattle and an energetic farm manager until his decision to sell up and spend more time in Sydney and at a much smaller property in Kangaroo Valley. While he was always ready with advice and counsel - and many senior officers benefited in recent years - he did not force himself on the active Navy. He limited his direct involvement in naval affairs, particularly during the term of his immediate successor, Vice-Admiral Ian MacDougal, but, in addition to his Naval Association and other charitable work, he took on part time posts such as the chair of the Antarctic and Southern Ocean Cooperative Research Centre. In the last few years, supported by Carla and his sons, he fought a valiant battle against lymphatic cancer. He died on 27 February 2005 at the age of 71.

*Prepared by Commodore James Goldrick, AM CSC RAN*



# Zheng He and the maritime Ming dynasty: naval empire abandoned?

Colonel Kimberly P May, USAF\*

Zheng He was a eunuch naval commander of the Ming Dynasty in China who led several naval expeditions from 1405-1433. The size and scope of these expeditions was remarkable, with fleets of several hundred vessels and up to 30,000 men travelling to India, Arabia, the eastern coast of Africa, and perhaps Australia and the western coast of the Americas. These expeditions represented an extension of the powerful early Ming Dynasty, when it was eager to establish a Chinese presence far beyond its own borders. In the classical dynastic life cycle, after an heroic founding, a period of robust growth, decline and then collapse occur. As decline set in to the Ming Dynasty, the ambitious naval experiment with imperial outreach atrophied and died. This article will discuss the Ming naval expeditions and attempt to explain their inauspicious end with some alternative reasons for the ends of this naval empire.

## Pre Ming Dynasty maritime exploits

Amongst the first documented Chinese naval adventures were those undertaken by the Han Dynasty in about 100BC. It was said that in about 220BC, the Chinese emperor sent Xu Fu (a holy man) in search of herbs, which when eaten, would make a man immortal. These herbs were believed to be thousands of miles from China, on islands in the ocean to the east. Xu Fu did not return, but 100 years later, the Han emperor Wu sent out a search party for the original travellers, which also did not return. During his rule, Wu conquered Asia from the Gulf of Tonkin to Korea, and west to the Oxus River (nearly to Persia). In his military campaigns, decked ships thought to resemble contemporaneous Greek ships carried soldiers: hulled, with many pairs of oarsmen, and decks for archers. Some of the boats were 100 feet high, and the river battles could involve several thousand boats and 20,000-30,000 men.<sup>1</sup> It is known that China traded extensively with Indonesia during the Han dynasty, and used ships to conquer Korea.<sup>2</sup>

This is actually quite interesting, as Confucian

thought had predominated in China since the sixth century BC, with emphasis on China as the centre of the world (the Middle Kingdom), the importance of familial obligation (interfered with by travel), the meanness of trade, and the lack of any benefit from contact with foreigners or strange things (cultural purity through isolationism). The Han embraced Confucian beliefs and promulgated them to the elite through education (they founded an academy), and by elevation of farming and government service to 'honored professions for virtuous men'.<sup>3</sup> Thus, the Han lived the contradiction of a Confucian moral code while actively expanding their empire militarily and with trade. After the fall of the Han in the third century AD, Confucian tenets reigned as the various parts of the empire fought for control. The Li family (Tang Dynasty) pacified China and expanded the empire to include the Turks in Mongolia, Manchuria and Korea in the seventh century. The Chinese particularly desired sandalwood, cloves, pepper and other spices, while Chinese silks and porcelain were in great demand in the rest of the world. Thus, trade drove both the developments of the Silk Road and the Indian Ocean trade routes in the seventh century. The Tang sent emissaries to Korea, Viet Nam and India by sea. Persian ships (which plied the Indian Ocean trade route at this time) then took Chinese porcelain from Ceylon to Arabia and Africa - these ships were 200 feet long and could carry 600 men.<sup>4</sup> The Tang justified trade in Confucian terms as imperial tributes.

The Arab, Persian and Singhalese merchants who came to China in the 5<sup>th</sup> through the 8<sup>th</sup> centuries to trade had ships of about 500 tons. During this time, the Chinese were building river and canal ships of up to five decks, but most ocean trade was via foreign fleets. By about the 8<sup>th</sup> century, large cargoes of grain from the south were carried to the northern provinces by sea. From the 9<sup>th</sup> to the 12<sup>th</sup> centuries, large Chinese sea-going ships were developed. A burst of seafaring activity was noted in the Sung dynasty in the twelfth century. After they lost the most

\* Paper submitted as part of course requirements at the National Defense University. The views expressed herein are the author's alone and do not necessarily reflect those of the National War College, National Defense University, the United States Air Force, or Department of Defense.

important northern income-producing portion of the empire (to the perpetually misbehaving northern Mongols) and were forced to relocate in the south, the Sung turned to overseas trade of their highly desirable goods to finance their state needs.<sup>5</sup> Confucian conscience still ruled the day, and Emperor Gao Zong justified the trade in this way: 'Profits from maritime commerce are very great...Is this not better than taxing the people?'.<sup>6</sup> To support the new fleet, an extensive system of navigation beacons was built every ten miles along the coast. Revenues soared. Because the new capital at Hangzhou was vulnerable to attack from the sea, in 1132 the first permanent navy was established.<sup>7</sup> The Sung fleet fought that of the northern Jins in 1161 and won, gaining complete control of the East China Sea. For the next century, the navy grew. By 1274, the navy had 20 squadrons and 52,000 men, with 600 ships equipped with battering rams, catapults, incendiary weapons, and fire-suppression equipment.<sup>8</sup> However, the Mongols had built their navy at the same time, and in 1279 Kublai Khan conquered the Sung capital and chased away the royal family in their own naval vessels. The prince jumped from his junk and drowned.

The Mongol dynasty was also called the Yuan. They ignored Confucian tenets, maintained a large fleet, and sent emissaries to Sumatra, Ceylon, and southern India to establish influence. The Yuan gradually took over the Arab spice trade, and it was their ships that Marco Polo reported, with 4 masts, up to sixty individual cabins for merchants, up to 300 crew, and watertight bulkheads.<sup>9</sup>

When the Ming overthrew the Mongols and retook the Imperial throne in the second half of the 14<sup>th</sup> century, they were the beneficiaries of Yuan policy (and technology). By this time there were river and canal boats to transfer grain, a regular coastal grain delivery system, and huge ocean-going warships and merchant ships. The Ming oversaw extensive repair of their internal infrastructure after the long Mongol rule, refurbishing the Grand Canal, highways, bridges, defences, shrines, temples, walled cities, and extending the capital city at Peking. More importantly, as the Ming administration restructured, there was a resurgence of Confucian scholarship, with the scholars rising again as important bureaucrats, as well as continued use of the rival eunuch caste in high office since the Yuan dynasty.<sup>10</sup> During the Ming dynasty, these two groups were often at odds, and the Confucian scholars ultimately won out, but during the rule of the third Ming emperor, Zhu Di, the eunuchs were highly trusted administrators and warriors.<sup>11</sup>

### **Zheng He and his armada's voyages**

Zheng He was a truly remarkable man. He was born in 1371, the son of Muslim parents, in Yunnan province, the area of China where Kublai Khan and the Mongols settled after defeating the Chinese in 1253. After the Chinese re-conquered the Mongols and resumed their centuries-old centralised bureaucratic government in 1368, they finally took back Yunnan province in 1381. The first Ming emperor, Zhu Yuanzhang, sent General Fu Youde to the region to ensure its subjugation. To do this, he gathered a number of boys to be sent to the court for service as eunuchs. Zheng He was ten years old when he was chosen as an exceptional candidate, was castrated three years later (by knife, in a procedure including the testicles and penis), and sent to the retinue of one of the emperor's sons, the Prince of Yan, who was General Foude's aide-de-camp.<sup>12</sup> The Prince of Yan was to become the third and greatest Ming emperor, Zhu Di.

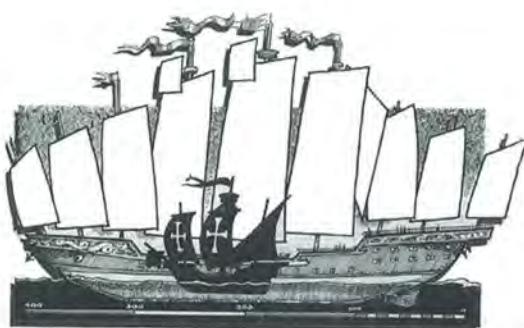
Zheng He's intelligence and large stature (unusual for a eunuch, and likely related to the late age at which he was castrated) accounted for his selection for military training. He stayed with Zhu Di throughout several years of border pacification and civil actions, and remained his trusted aide when Zhu Di deposed his own nephew and took the Ming throne in 1402.<sup>13</sup> Many of the government ministers (Confucian bureaucrats) in office disapproved of this action, so Zhu Di preferred to trust eunuchs with most of the military power and the business of government.<sup>14</sup> Because of his organisational abilities and loyalty, Zheng He was chosen by Zhu Di to command the Ming Navy.

Zheng He commanded seven expeditions that eclipsed all prior maritime experience. His fleets sailed from China to the west, reaching as far as the Cape of Good Hope. The object of the voyages was to display the glory and might of the Ming dynasty and to collect tributes from the 'barbarians' along the route. This was important to Zhu Di, who did not want to be seen as simply a usurper of the throne (which he was), but as the legitimate emperor.<sup>15</sup> It is also written that Zhu Di was searching for the young emperor he had deposed, because some thought the young man was still alive.<sup>16</sup> Zheng He sailed accompanied by large merchant fleets, bringing silks and porcelain to trade for foreign luxuries, spices, jewels and woods.

His armadas were huge: he sailed with 48-317 ships and up to 30,000 crewmembers. In contrast, Christopher Columbus, sailing across the Atlantic in 1492, sailed with 3 ships and 90 crew (which was a fairly standard size for European sailing

expeditions in the late 15<sup>th</sup> and early 16<sup>th</sup> centuries).<sup>17</sup> The so-called treasure ships in the fleet were up to 400 feet long, displaced no less than 10,000 tons, and had a wide, bulky profile.<sup>18</sup> They travelled accompanied by horse-carrying ships, warships, supply ships, water tankers and merchant vessels. Navigational charts, magnetic compasses (invented by the Chinese) and advanced seamanship were essentials; the Chinese had to obtain the knowledge of celestial navigation and mathematics from the Muslims at the Imperial Observatory.<sup>19</sup> The Chinese had had many-masted ships for several centuries, the watertight compartmentation and had stern-post rudders since the first century AD. They also had fore and aft lugsails since the third century, allowing them to sail upwind efficiently.<sup>20</sup> To tell time for navigation, graduated incense sticks were burned, and intra-fleet communication was accomplished by a system of drumming.

There can be no doubt that any witness to this fleet would indeed be impressed with China's might. There is also no doubt that the Confucian scholars at the Ming court became extremely jealous of Zheng He's power and influence (and that of all the eunuch imperial-aide class, who exercised power at the perceived expense of the Confucian civilian bureaucracy).<sup>21</sup> They saw to it that the fleet was destroyed after the last voyages, and tried to eradicate all mention of it from official Ming records; in part this accounts for the fact that these voyages have only recently been recognised and described in any detail. Many of the historical records are from trade documents from the countries the treasure ships visited.



Drawing of a typical treasure ship compared to Columbus' *Santa Maria*<sup>22</sup>

Levathes and Snow describe the seven voyages in detail, and they are the sources for the specific comments made here. Zheng He took vast amounts of gold and treasures with him, he returned with emissaries and gifts from the countries the fleet visited, including the fabulous giraffes and zebras, which were prized gifts from Africa. The peoples encountered along the way

were attracted to Chinese merchandise, and the fleet was peaceful, thus they had entrée to most cities.



Range of Zheng He's Voyages<sup>23</sup>

The first voyage was from 1405-1407, with a fleet consisting of 62 ships and crew of 27,800. The destination was Calicut, a major trading centre on the southwestern coast of India. On the way, they stopped in Vietnam, Java, Malacca and Sri Lanka. They stayed in Calicut to barter for several months, and were forced to fight Sumatran pirates on the return voyage. The second voyage was a return to India from 1407-1409; Zheng He remained in China. The third voyage was from 1409-1411, and the fleet had 48 ships and about 30,000 men. It followed the path of the first voyage, and established warehouses along the route to establish permanent trade routes.

In 1412, Zhu Di ordered a fourth expedition, which left with 63 ships and 28,560 men in about 1414. The goal was to reach the Persian Gulf at Hormuz, which was known for its trade in precious gems, much desired by the Chinese. Detachments from the expedition sailed south along the eastern coast of Africa almost as far south as Mozambique. Diplomats from Africa returned to China with the fleet (with their aforementioned gifts of giraffes, zebras and African wares). The fifth voyage returned the ambassadors to their homes, and got back to China in 1419. The sixth trip was similar, returning in 1421. Zhu Di died in 1424, and his son, Zhu Gaozhi, under the sway of the Confucian scholars, cancelled further voyages.

Zhu Gaozhi was emperor for only nine months. His son, Zhu Xianji, was much more like his grandfather, Zhu Di, and supported trade, commerce and the export of Chinese influence. A seventh Treasure Ship voyage was commissioned in 1430 to improve relations with Malacca and Siam. It took more than a year to rebuild the strength of the fleet for this voyage after the nine years hiatus in sailing. One hundred ships and

25,000 men left in 1431; Zheng He is said to have died on the return voyage in 1433. No further voyages were commissioned.

By 1474 the navy was one-third its size in the early Ming dynasty, and by 1500, it was a capital offence for a Chinese to go to sea in a ship with more than two masts without special permission.<sup>24</sup> In 1525, a ruling authorised the destruction of the large ships, and the naval empire of the Ming came to a close.<sup>25</sup> For some European perspective, Bartolomeu Dias rounded the Cape of Good Hope in 1488, Vasco de Gama reached Calicut in 1498, and Ferdinand Magellan reached Asia by sailing west in 1521. All in all, the Chinese naval empire had been awe-inspiring!

### The decline of the Ming Dynasty and its naval empire

There were many contributors to the decline of Chinese naval strength after Zhu Di's death; Levathes and Bosworth delineate several possibilities in detail. First was the economic consideration. These voyages were enormously costly. On the domestic front, flooding of the Yellow River in 1448 had left millions of acres unproductive. The wealthy had built a feudal-style serf system by buying land and enslaving farmers during the Ming dynasty, further decreasing the tax base, with the ultimate loss of nearly one-half by the end of the 15<sup>th</sup> century.<sup>26</sup> The treasury was overextended supporting these huge expeditions, as well as the other infrastructure improvements undertaken by the Ming.

Secondly, Zhu Gaozhi (Zhu Di's son) was influenced by the Confucian elders more than his father had been.<sup>27</sup> His upbringing had been in schools and at leisure, without the martial emphasis of the father. The Confucian elite controlled education. While the Confucian officials could not extricate the eunuch class from trade, it could certainly impede trade activities, and shipyards were actively shut down.<sup>28</sup> Weaponry development and technology also slowed as secondary effects, with the West ascendant within a century. Seagoing vessels were no longer domestically necessary to transport grain to the north, as the Grand Canal had been refurbished as a transport route. Because of the unity of political rule over the country, the decision of the ruling class to forego shipbuilding and trade had devastating effects on the industry. According to Kennedy, this could not have happened in Europe, for instance, where many political entities existed, preventing a singularly bad decision from affecting the entire continent, largely explaining the rise of the West.<sup>29</sup>

The third contributor to the decline of the Ming

navy was that the Mongols were reforming on the northern borders of the empire, requiring more attention and military investment. This necessitated redeploying forces from the coast and the south. As seen so many times in Chinese history, the raids and counter-raids were draining. Ultimately, the Mongols defeated the Ming in 1644.<sup>30</sup> The country under attack became characteristically fearful and defensive, and looked to Confucian ideals whereby the state should not engage in foreign commerce or wars, but rather look internally and get its own house in order.

The demise probably occurred as a result of all these competing forces: the centralised decision-making with Confucians overcoming the eunuch class in a power struggle to influence the empire, the policy struggle with trade competing with isolationism as the imperial security strategy, and lastly, the need to concentrate military forces toward the north. Bosworth also mentions the fact that the navy had a nearly singular mission, that of tribute (the 'Treasure Ships'), and so was vulnerable to minor changes in strategy.<sup>31</sup>

Dynastic China conforms to any definition of empire one chooses to espouse. The Ming empire exemplifies a typical Chinese dynastic cycle, with re-unification under a new ruling family, attention to putting internal affairs in order, expansion, revolts from the inside and challenges from the outside, and replacement with a new, unifying dynasty.<sup>32</sup> In the case of the Ming, classic strategic overstretch (over-extended military and treasury) explains a large portion of this inevitable decline and collapse.<sup>33</sup> In addition to imperial overreach, agents affecting the system are implicated in the fall of the Ming Dynasty. While Motyl's concept of decline as a reduction in military power of a state, with collapse through the progressive loss of bits and pieces of the periphery (often in response to shock) is compelling, this theory's rejection of the role of individual agents in the process is not applicable to the Ming Dynasty.<sup>34</sup> There is clear evidence that the change in styles in the emperors succeeding Zhu Di, and the changes in influence this allowed, were associated with the resurgence in Confucianism. Without the actions of the Confucians, naval development and trade would have continued to the extent trade could support the activity.

The body of scholarly thought on empires differentiates naval and land empires; China has always been a land empire and the brief flirtations she had with naval power over the centuries did not a naval empire make. In fact, Zheng He's voyages were peaceful (despite his potential

strength), with the purpose of trade and diplomacy; Zhu Di wished other nations to recognise his sovereignty, and there was no effort to fight or subdue other peoples with whom the naval voyages came into contact.<sup>35</sup> Thus, to answer the question in the title, the Ming Dynasty abandoned no naval empire. All these modern potential explanations for the fall of the Ming dynasty with its immense naval power seem somewhat superficial. In the end, the answer may be as simple as the ancient one ascribed to the Chinese '*China's concept of the dynastic cycle could be fruitfully transferred to universal history - the imperial cycle of ups and downs*'.<sup>36</sup>

<sup>1</sup> Louise Levathes, *When China Ruled the Seas*, Simon & Schuster, New York, 1994, pp. 30-1.

<sup>2</sup> ibid, p. 31.

<sup>3</sup> ibid, p. 34.

<sup>4</sup> ibid, p. 36.

<sup>5</sup> ibid, p. 41.

<sup>6</sup> ibid.

<sup>7</sup> ibid, p. 42.

<sup>8</sup> ibid, p. 43.

<sup>9</sup> Michael L. Bosworth, *The Rise and Fall of 15<sup>th</sup> Century Chinese Sea Power*, an online essay, <http://militaryhistory.about.com/gi/dynamic/offsite.htm?site=http%3A%2F%2Fwww.cronab.demon.co.uk%2Fchina.htm>.

<sup>10</sup> *Watery Kingdom: China's Mariners from Antiquity to the Ming Dynasty*, [www.vancouvermaritimemuseum.com/watery](http://www.vancouvermaritimemuseum.com/watery)

<sup>11</sup> ibid.

<sup>12</sup> Levathes, pp. 57-8.

<sup>13</sup> Theodore F. Cook, Jr. 'The Chinese Discovery of the New World, 15<sup>th</sup> Century' in Robert Cowley (ed) *What If?* 2, Penguin Putnam, New York, 2001

<sup>14</sup> Albert Chan, *The Glory and Fall of the Ming Dynasty* University of Oklahoma Press, 1982, pp. 151-55.

<sup>15</sup> Philip Snow, *The Star Raft*, Weidenfeld and Nicolson, New York, 1988, pp. 22-23.

<sup>16</sup> Levathes, pp. 73-4.

<sup>17</sup> Richard Gunde, *Zheng He's Voyages of Discovery*, Report on a talk by Jin Wu, <http://www.international.ucla.edu/article.asp?parentid=10387>.

<sup>18</sup> ibid.

<sup>19</sup> Bosworth.

<sup>20</sup> ibid.

<sup>21</sup> Gunde.

<sup>22</sup> Illustration from the web-site *The Great Chinese Mariner Zheng He*, also published in Levathes, drawing by Jan Adkins, 1993, <http://www.chinapage.com/zhenghe.html>.

<sup>23</sup> ibid.

<sup>24</sup> Bosworth.

<sup>25</sup> ibid.

<sup>26</sup> Levathes, pp. 177-181.

<sup>27</sup> ibid, pp. 163-5.

<sup>28</sup> ibid, pp. 177.

<sup>29</sup> Paul Kennedy, *The Rise and Fall of the Great Powers: Economic Change and Military Conflict from 1500-2000* Vintage Books, New York, 1987.

<sup>30</sup> Bosworth.

<sup>31</sup> ibid.

<sup>32</sup> Imanuel Geiss, 'Great Powers and Empires: Historical Mechanisms of Their Making and Breaking' in Geir Lundestad's (ed), *The Fall of the Great Powers: Stability, Peace and Legitimacy*, Scandinavian University Press, Oslo, 1994, p. 26.

<sup>33</sup> Kennedy, p. 11.

<sup>34</sup> Alexander J. Motyl, *Imperial Ends: The Decay, Collapse and Revival of Empires*, Columbia University Press, New York, 2001, pp. 77-81.

<sup>35</sup> Kennedy, p. 7.

<sup>36</sup> Geiss, p. 26.

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# Does the ISPS Code address post 9/11 maritime security threats?

**Lieutenant Commander Graeme Hale, RAN\***

*'For the first time Australia is having to come to terms with a security threat neither constrained nor defined by national borders, traditional power structures or formed armies ... driven by an ideology that is inaccessible to reason, and with objectives that cannot be negotiated'.*<sup>1</sup>

White Paper on Terrorism

It was an exceptionally clear summer morning in New York on 11 September 2001 when American Airlines Flight 1 out of Boston struck Tower 1 of the World Trade Centre, followed by United Airlines Flight 175 striking Tower 2. Shortly afterwards, American Airlines Flight 757 slammed into the Pentagon, with United Airlines Flight 93 then crashing into a field in Pennsylvania.<sup>2</sup> The events of that morning were to completely change the perception of the terrorist threat to states around the globe.

The aim of this article is to analyse how effectively the ISPS Code addresses post 11-September 2001<sup>3</sup> maritime security threats. Firstly, the maritime security threat will be described, followed by an overview of the ISPS Code. The limitations of the ISPS Code will then be analysed before being put into a more realistic perspective. Finally, how adequately the ISPS Code addresses post 9/11 maritime security threats will be assessed.

## The nature of maritime terrorism

International shipping connections are manifestations of the global economy. Also, globalisation has an immense impact on the way commercial shipping is now conducted. A singular commercial hull can be financed by one country, the cargo owned by another set of companies, with the ship owned by a company in one state while flagged in another. It can have a master from yet another nation, and be crewed by people from a range of other countries.<sup>4</sup>

Increased containerisation has also significantly influenced the shipping industry, by lowering freight rates through more flexible route configurations. During the 1990s most major shipping groups formed multinational alliances, which moved cargoes through specialised

handling ports. This has resulted in efficient systems where the global economy relies upon transporting cargo through 'hub ports', such as Hong Kong, Singapore, Shanghai, Rotterdam, Los Angeles, and New York.<sup>5</sup> These hub ports are therefore the most vulnerable points in merchant shipping networks.

The events of 9/11 not only alerted governments to the potential of terrorism using airlines but also of the maritime threat. Maritime terrorism can take many forms, including using vessels as a means of terrorism, as weapons, as tools of disruption, or as targets. Using vessels as a means of terrorism refers to using ships to transport weapons of mass destruction (WMDs), conventional weapons, or terrorists themselves.<sup>6</sup> Using ships as weapons involves hijacking a ship laden with explosive materials such as liquefied natural gas (LNG), which could then be crashed into another vessel or port facility, or detonating a WMD in a crowded port facility. Significant disruption to trade could be achieved by sinking a large vessel in a port or narrow strait. Passenger ships are the most likely vessels to be used as targets because of the media attention such an act would attract.<sup>7</sup>

The predominant terrorist threat is from groups that aspire to the political goal of a pan-Muslim super state uniting peoples in the Middle East and North Africa, parts of Europe, Central and South Asia, through to Indonesia. They oppose western and moderate Islamic governments alike.<sup>8</sup> Dominant amongst these groups is Al Qaida who were responsible for 9/11. Al Qaida also claimed responsibility for strikes against the USS *Cole* in October 2000 by a tug while refuelling in the port of Aden, and the MV *Limburg* that was attacked by a speedboat packed with explosives, off the coast of Yemen.<sup>9</sup>

Other dominant terrorist groups include Jemaah Islamiah (JI), who were responsible for the Bali bombing in October 2002 and the August 2003 Marriott Hotel bombing in Jakarta. Also, the Moro National Liberation Front (MNLF) and Moro Islamic Liberation Front (MILF), based in the Philippines, have reportedly received funding from Al Qaida.<sup>10</sup>

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### The ISPS Code

The ISPS code was developed in response to this threat, at a conference held in December 2002 at the London headquarters of the International Maritime Organization (IMO). The Code was implemented through amendments to the 1974 Safety of Life at Sea Convention (SOLAS) incorporated to enhance maritime security.<sup>11</sup> These amendments were made under the 'tacit acceptance' system, so that once adopted by the IMO they automatically came into force unless sufficient states had objected.<sup>12</sup> The London Conference was attended by 108 Contracting Governments to the 1974 SOLAS Convention.

The objectives of the ISPS Code involve establishing an international framework of co-operation and responsibilities between governments, government agencies, local administrations, shipping companies and port industries to detect and assess security threats and take preventative measures against incidents affecting ships or port facilities used in international trade. These measures include the collation and exchange of security-related information, and provide a methodology for security assessments and procedures to respond to changing security levels. The framework includes having appropriate security officers on each ship, in each port facility, and in each shipping company to effect the appropriate plans and procedures.<sup>13</sup> Security officers are also responsible for ensuring that regular security drills and exercises are carried out in accordance with ship security plans,<sup>14</sup> and port facility security plans.<sup>15</sup>

The ISPS Code applies to passenger ships and cargo ships of 500 gross tonnes (GT) and greater employed on international voyages, mobile offshore drilling units and port facilities serving ships engaged on international voyages.<sup>16</sup> The Code consists of two sections. Part A is mandatory and contains detailed security-related requirements for governments, port authorities and shipping companies, while Part B is a non-mandatory section that provides a series of guidelines about how to meet these requirements. In order to allow parties to develop and implement security plans, administrative and operational arrangements required under the Code, it did not take effect until 01 July 2004.

There are three security levels under the ISPS Code. Security Level 1 is the level at which ships and port facilities normally operate. Security Level 2 is the level applying for a heightened risk of a security incident. Security Level 3 will be applied if there is a probable or imminent risk of a security incident. In Australia the security level will be set by the Department of Transport and Regional

Services (DoTaRS) with the aid of Australian Government intelligence agencies.<sup>17</sup>

In addition to the ISPS Code, the London Conference also passed amendments to SOLAS chapters V and XI, also effective on 01 July 2004. These amendments include a requirement to ensure that the Ship's Identification Number is permanently marked in a visible place above the load line and also on bulkheads within the ship.<sup>18</sup> Also, every ship must hold a **Continuous Synopsis Record** (CSR) to provide an on-board record of the ship's history including the Flag State, the name of the registered owner, the Company that owns the ship, the name of all classification societies with which the ship is classed, and the name of the Administration issuing the International Ship Security Certificate.<sup>19</sup>

The new SOLAS Chapter XI-2 includes a provision on **Ship Security Alert Systems**. This is a mandatory panic button, which when activated sends a continuous alert to a competent authority ashore but not other ships, indicating that the security of the ship is under threat or has been compromised.<sup>20</sup> The amended SOLAS Chapter V requires all ships, other than passenger ships and tankers, between 300 and 50 000 GT to be provided an **Automatic Identification System (AIS)**.<sup>21</sup> AIS transponders facilitate easy identification and exchange of data between vessels and shore stations to enable safer navigation, particularly in busy straits.<sup>22</sup> Another initiative considered by the conference was long range ship identification and tracking by means of INMARSAT C polling. Although this has not been adopted as a mandatory requirement, Resolution 10 of the conference urged Contracting governments to implement such a regime as a matter of high priority.<sup>23</sup>

### Limitations

**Ship Security.** The ISPS Code does not apply to warships, naval auxiliaries or other ships used on non-commercial service.<sup>24</sup> This is an understandable exemption and does not constitute a significant limitation as the Code is designed to address the activities of ideological groups rather than the military activities of nation states. However, a significant gap in the code is the exemption of all fishing vessels, regardless of their size. There is no exemption, however, for 'megayachts' of greater than 500 GT conducting international commercial activities, which will have to gain an International Ship Security Certificate and can only berth at certified ports and marinas.<sup>25</sup> This indicates that the security risk associated with leisure and sailing craft less than 500 GT is not addressed in the ISPS Code.

The Code also does not address security risks of ships trading internally within countries. However, this is an issue that is more appropriately addressed by national governments rather than the IMO. Another issue is the veracity of the administration of the Code by Flag States. Problems already experienced with poor regulation of shipping by Flag of Convenience states may recur with the administration of Ship Security Plans and Continuous Synopsis Records, which are approved and issued by Flag States.<sup>26</sup> The capacity of a developing country, such as Panama that has over 9000 ships registered under its flag, to administer the additional requirements under the Code is a concern.<sup>27</sup>

**Port Security.** The Code requires Contracting governments to undertake Port Security including approval of Port Facility Security Assessments (PFSAs). These assessments include the perceived threat to port installations and infrastructure, identification of potential vulnerabilities, and calculating the consequences of an incident.<sup>28</sup> Contracting governments also set security levels of their ports and therefore the veracity of the system is only as good as the standards set by these governments. Assuming the level of intelligence exists to make an appropriate determination, governments may be reticent to increase a security level due to the immediate impact this may have on their trade.<sup>29</sup>

**Personnel Security.** Another important part of the integrity of ISPS is the 'human factor'. Significantly, an integral role is played by security officers at a number of levels: the Ship Security Officer (SSO), Company Security Officer (CSO), and Port Facility Security Officer (PFSO). Perhaps the most problematic of these positions is the SSO, who will often undertake this role as an additional burden to normal duties. This leaves the potential for the SSO role to be given less precedence than it rightly deserves.<sup>30</sup>

Another concern is how well ships' crews can check the legitimacy of 'officials', such as immigration, customs, and police, who demand access to ships. Past incidents of maritime armed robbery have occurred where crew have provided access to individuals posing as officials. Particularly problematic are vessels such as roll-on roll-off (RO-RO) carriers and car carriers that have short turn-around periods requiring access for large numbers of personnel including drivers and lashing gangs.<sup>31</sup>

Additionally, ships' crews are themselves part of the risk. Unlike the aviation industry, even high integrity shipping companies recruit their crews from developing countries where wages and education levels are low. This leaves a potential

for members of terrorist organisations to infiltrate the industry, and also raises questions about the ability of crew members to enforce the requisite security measures.

**Cargo Security.** The journey of a shipping container is not just between ports. Goods can be loaded into containers at one location and travel by truck or rail to a port, be loaded onto a ship where they travel to a hub port, are then transferred to another ship which will deliver to another port, be unloaded onto a truck to be transferred to a final destination. Containers therefore serve as a packing crate and in-transit warehouse for almost every type of cargo in international commerce.<sup>32</sup> While this system creates great efficiencies in international trade it also creates complex security problems.

Koch likens a cargo ship to a postman who '*receives a sealed container for transportation with all the necessary cargo documentation regarding the shipper, the consignee, and the cargo, but has no first hand knowledge of what has been loaded inside.*'<sup>33</sup> This issue has been recognised by the Organisation for Economic Cooperation and Development (OECD) who confirm that vulnerabilities still exist in the container environment at rail yards, road stops and ports beyond the international shipping hubs.<sup>34</sup> The United States has addressed the security of the total logistics chain through the Customs Trade Partnerships Against Terrorism (C-TPAT) program, which requires trading partners to work with suppliers to monitor all stages of the supply chain.<sup>35</sup> A similar enhancement could also be considered to the ISPS Code.<sup>36</sup>

It is physically impractical to check all cargo that enters and leaves ports. In the US about 5.4% of shipping containers are inspected, which is generally done using gamma or x-ray technologies.<sup>37</sup> This seemingly low rate relies upon Customs and Border Protection (CBP) officials vetting containers using the 'automated targeting system', as a component of the '24 Hour Rule'. This rule is a critical component of the Container Security Initiative (CSI), a program through which the CBP negotiates bilateral cargo security agreements with the governments of US trading partners.<sup>38</sup> The 24 Hour Rule requires ships bound for US ports to transmit cargo manifests to CBP officials 24 hours in advance of loading at the previous foreign port.<sup>39</sup> US officials can then assess cargo before it arrives and target high risk containers for inspection. This is more comprehensive than any provision under ISPS. The CSI does not contain the same level of detail of goods carried and is only required for inspection when the ship enters the destination port.<sup>40</sup>

### Economic Considerations

A number of requirements under ISPS, including training requirements, increased administration, and upgrading physical security, economically impact shipping companies, port authorities and Contracting governments. For example, the Australian government will spend \$102m over four years on maritime security measures, including container x-ray facilities in Sydney, Melbourne, Brisbane and Fremantle, and extending Customs closed circuit television from 32 to 63 ports.

This raises genuine concerns for the capacity of developing countries to effectively implement the ISPS Code. Apart from direct costs there are concerns of delays and disruption of legitimate trade with the ISPS requirements having a greater effect in countries that cannot afford the technology to produce efficient screening methods. Another issue is that trade may be redirected to areas of lesser security, with developing countries who are attempting compliance losing trade as a consequence.<sup>41</sup>

### Limitations of current legislation

The ISPS concentrates on security of the ship/port interface but does not adequately address threats inland from ports, or the potential for interdicting suspicious vessels on the high seas. A terrorist hijacking of a ship would most likely occur at sea where the security presence was low. Also, a ship suspected of carrying weapons of mass destruction (WMD) would best be interdicted by navies or coast guards away from areas of high traffic. This scenario and the role of navies and coast guards is not currently addressed within the ISPS Code.

However, this requirement is partly covered by the 1988 Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (SUA Convention), which was enacted in response to the 1985 hijacking of the *Achille Lauro*.<sup>42</sup> However, SUA currently only allows intervention by maritime surveillance authorities within a nation's own territorial sea or that of an adjacent state given that state's approval.<sup>43</sup>

After an incident in December 2002 in which Spanish forces acting on US intelligence stopped a Korean ship transporting missiles and warheads to Yemen, the US launched the Proliferation Security Initiative (PSI), in consultation with a number of coalition partners, to pre-empt terrorist attacks using WMD.<sup>44</sup> However, the PSI has not been endorsed by the IMO. Therefore, a cohesive set of legislation that covers all aspects of maritime and container security would not only

simplify this regime but ensure a comprehensive approach to international efforts against terrorism.

### Technological Limitations

The ISPS Code relies on significant application of technology to achieve its objectives. In particular, all ships are expected to have properly calibrated and maintained security systems on board as do port facilities.<sup>45</sup> Even the US experienced difficulty ensuring that all Coast Guard stations were equipped to make SSAS and AIS response systems fully operational by 01 July 2004, which raises the issue of how well-equipped some developing nations are to properly implement this initiative.<sup>46</sup>

An area of vulnerability not addressed by ISPS is the potential for cyber attack against commercial shipping. In addition to systems such as AIS, many ships rely upon Global Positioning Systems (GPS) and Electronic Chart Display Information System (ECDIS) for safe navigation. In many ships navigation and engineering systems feed into an Integrated Bridge System (IBS) that may also be connected to shipping companies or internet services via INMARSAT satellite communications.<sup>47</sup> Larger ports also have Electronic Data Interchange (EDI) systems to process documents between themselves and shipping companies. Electronic Vessel Traffic Services (VTS) are used to improve the safety and efficiency of vessel traffic while protecting the environment.<sup>48</sup> Navies and coast guards also employ information technology for navigation as well as command, control, communications, computer, intelligence, surveillance and reconnaissance (C4ISR).<sup>49</sup>

Even temporary disruption of a major port through a cyber attack would create a huge economic impact on international trade. Terrorists are already known to utilise the Internet to formulate plans, raise funds, and spread propaganda.<sup>50</sup> The potential for terrorism via a cyber attack is therefore real and mitigation against this threat is an area that should be addressed in the ISPS Code.

### Placing ISPS limitations into perspective

Had the ISPS been delayed until all of these limitations were addressed it would not have been implemented expeditiously. Therefore, while it is legitimate to discuss these limitations, this does not imply that the ISPS does not adequately address the maritime security threat. Indeed, some counter arguments will now be explored.

The ISPS not applying to fishing vessels is perhaps its most significant shortfall. While it can be argued that much fishing activity occurs in

smaller vessels that use ports of relatively low strategic significance, this loophole in the Code needs to be addressed. Similarly, all vessels engaged in international passages should be addressed under the Code regardless of their size. A WMD on board a yacht of less than 500 GT can do as much damage as the same bomb on a larger vessel.

The ISPS places a lot of responsibility for assessment and verification of ships, shipping companies, and port facilities on the governments of Flag States and through which shipping transits. As has been shown with substandard administration of shipping by some Flag States, a higher level of oversight can be applied through IMO member states to ensure standards are clearly adhered to. Also, the countries at greatest risk from maritime terrorism acts, such as the US, Singapore and Japan, are among those that have implemented the Code to the highest standards internationally.

In order to further redress personnel related security issues, Resolution 8 invites the International Labour Organisation (ILO) to continue the development of the Seafarers Identification Document (SID), which will at a minimum provide photographic documentation of all crew members.<sup>51</sup> The ILO should also consider the US initiative to require each seafarer to obtain an individual visa for each country they enter.<sup>52</sup>

Although cargo security extends across the entire logistics chain, a terrorist strike at a major hub port, such as Singapore, is the main scenario that the ISPS Code mitigates against. Also, while the role of military organisations for security at sea and within borders should be mentioned in the Code, this again would have delayed its endorsement, which has addressed the most vulnerable nodes, being the port areas regulated primarily by customs agencies.

The economic consequences of implementing the ISPS, particularly for developing countries, can be best addressed by 'burden sharing' by other IMO member states. Although some developing countries may not need much assistance, due to low levels of shipping traffic, some countries such as the littoral states in Southeast Asia, do contend with huge traffic flows and consequent costs. One means of burden sharing is through combined operations of littoral states within shared straits, such as the combined operations of Singaporean, Malaysian and Indonesian navies and coast guards under Operation MALSINDO in the Strait of Malacca.<sup>53</sup>

Although the ISPS does not provide the comprehensive legislation to allow interdiction of suspected maritime terrorist activities at sea,

proposed amendments to the SUA convention should address many of these concerns.<sup>54</sup> Ultimately, incorporating these changes into the ISPS Code, along with elements of the 1982 UN Convention of the Law of the Sea (UNCLOS) pertaining to piracy and maritime armed robbery<sup>55</sup> would create a simpler and more comprehensive international legislative framework for dealing with a range of similar maritime threats. This would still leave US initiatives such as the PSI, CSI, C-TPAT, and the 24 Hour Rule as separate legislation that would ideally also be incorporated into a singular international framework.

The ISPS Code also needs to be reviewed recurrently to incorporate changes in technology and changes in the international strategic environment. The Code also needs to incorporate the threat posed by cyber-attack on international shipping.

### Conclusion

The ISPS Code was a response to 9/11 recognising the vulnerability of international shipping to terrorism. The Code provides a '*standardised, consistent framework for evaluating risk, enabling governments to offset changes in threat with changes in vulnerability for ships and port facilities*'.<sup>56</sup> While not covering every possible contingency related to maritime trade, the Code has strengthened international standards particularly at the ship/port interface where many goods and people leave and enter nations. The tacit acceptance approach has ensured the successful and expeditious implementation of the Code.

The ISPS Code does not completely eliminate the risk of terrorist activities but the achievements since 9/11 are massive when the international scale of the problem and activities required to implement the Code by 01 July 2004 are taken into perspective. The London Conference Resolution 1 acknowledges the need to balance the concerns of world-wide escalation of acts of terrorism against the importance of efficient and economic world trade.<sup>57</sup> This presents a quandary because security upgrades will invariably be at a cost to efficiencies. The ISPS Code has made great advances in mitigating the risk of terrorist attacks against the maritime industry at its most vulnerable points, the 'hubs' of international shipping, while minimising disruption to legitimate trade.

Although complacency can not be allowed to occur, with either the implementation or future enhancement of the Code, the only pragmatic conclusion is that within the complex international framework of maritime interests the ISPS Code

does adequately address post 9/11 maritime security threats.

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- <sup>15</sup> ibid., p. 25.
- <sup>16</sup> ibid., p. 8.
- <sup>17</sup> Department of Transport and Regional Services, 'International Ship and Port Facility Security Code', Viewed 27 August 2004, [http://www.dotars.gov.au/transsec/imo/imo\\_isps\\_info.aspx](http://www.dotars.gov.au/transsec/imo/imo_isps_info.aspx), p. 2.
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- <sup>19</sup> ISPS Code, Amendments to SOLAS chapter XI, p. 110.
- <sup>20</sup> ibid., p. 116.
- <sup>21</sup> ISPS Code, Amendments to SOLAS chapter V, p. 108.
- <sup>22</sup> Parry Oei, 'Review of Recent Significant Technologies and Initiatives Implemented to Enhance Navigational Safety in the Straits of Singapore and Malacca' in *Forbes*, p. 144.
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- <sup>24</sup> ISPS Code, p. 9.

- <sup>25</sup> Lucy Reed, 'Megayachts Not Exempt From ISPS Code', *The Triton*, Vol.1, No.1, April 2004, pp. 1-9.
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- <sup>51</sup> ISPS Code, Resolution No. 8, pp. 134-136.
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Private Scott Freeman, a member of HMAS *Kanimbla*'s Ships Army Detachment, loads vehicles onto *Kanimbla* from the Sabang wharf for return to Australia (RAN)

# Indonesia and post-tsunami security in the Strait of Malacca

Sumathy Permal\*

Security in the Strait of Malacca has become a burning issue because of the US proposal to intervene in the Strait through its Regional Maritime Security Initiative (RMSI). The US is concerned over the movement of cargo relating to Weapons of Mass Destruction (WMD) through the Strait and the possible threat from terrorists to international shipping. The RMSI is part of the US Proliferation Security Initiative (PSI) in its global war on terrorism.

The littoral states of the Strait of Malacca are Malaysia, Indonesia and Singapore, situated between the coastline of Thailand, Malaysia and Singapore to the East and the Indonesian island of Sumatra to the West, the Strait extends 600 miles (900km) from its widest point (about 350km between Northern Sumatra and Thailand) to its narrowest (less than 3km wide between southern Sumatra and Singapore). At its shallowest, it has a reported depth of just 25 meters. According to the International Maritime Organization, at least 50,000 ships sail through this strait every year. About 30% of the world's trade goods and 80% of Japan's oil needs are transported through this busy waterway. Thus, the Strait of Malacca remains one of the most important shipping lanes in the world.

Admiral Thomas Fargo, head of US forces in the Asia-Pacific had suggested that US troops might assist in patrolling the Strait of Malacca to deter terrorists who might target shipping in these waters. This suggestion has been rejected both by Malaysia and Indonesia. In an international conference on Asia in Singapore in the first week of June 2004, US Secretary of Defense Donald Rumsfeld in his speech at the conference stated that '*...the US was very cautious in suggesting on the involvement of U.S. troops in securing the straits, while nevertheless making it very clear that the country has strategic interest in the channel*'. While Admiral Fargo never really outlined a totally unilateral US military initiative, he did say '*...we are looking at things like high-speed vessels, putting special operation forces on high speed vessels, putting potentially marines on high speed vessels to conduct effective*

*interdiction*'.

Admiral Fargo may have been quoted out of context, but many are still suspicious regarding US intentions.

Malaysia feels there is no need for the presence of an extra-regional force for the purpose of securing the Strait and that such presence will impinge on the sovereignty of the country. The Malaysian Foreign Minister Dato Syed Hamid Albar had a meeting with his Indonesian counterpart on May 7, in Jakarta, to discuss the US proposal. Meanwhile, Datuk Seri Mohamed Nazri Abdul Aziz, Minister in the Prime Minister's Department, announced in Parliament on 14 June, 2004, that Malaysia will have its own version of the US Coast Guard to patrol and safeguard security along the Straits of Malacca. This new enforcement agency will begin operations in March 2005. It will be equipped with vessels and aircraft capable of operating around the clock.

Indonesia has also announced that it will set up a joint special task force to safeguard the Strait of Malacca. Admiral Bernard Kent Sondakh, Chief of the Indonesian Navy, said he would hold talks with the Malaysian authorities. He is also reported to have said '*Indonesia deems it not necessary to include troops from outside countries including the United States – to be involved in safeguarding the strategic waterway*' (The Jakarta Post, June 17, 2004). According to the Admiral, what was needed from the US was exchange of intelligence information, equipment and training assistance. Indonesia regards US intentions and the presence of foreign forces as an affront to Indonesian sovereignty and equivalent to foreign intervention in domestic affairs. Indonesia has also proposed the formation of an ASEAN maritime security cooperation forum at the conference held in Singapore in June 2004.

Indonesia's initiative to safeguard the Strait of Malacca has been questioned by some quarters in view of the issue of its weak credibility and capability in combating seafaring crimes. Mak Joon Num, Visiting Research Fellow at the Institute of South-East Asian Studies Singapore, said that for Indonesia, the Straits of Malacca is

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only one of several sea-lanes it uses for international navigation. Indeed, the Strait of Malacca is relatively unimportant to Indonesia since it serves only the eastern coast of Sumatra, which is relatively undeveloped and has no major port along the waterway.

Those representing this view have argued that Indonesia has to have convincing evidence that it is capable of securing the waterway, along with the other two littoral states. It has even been suggested that Indonesia is currently not only unable to combat rampant piracy and robbery in its part of the Strait, but that it has also become a source of security threats in the Strait and the region as a whole. However, other analysts at the recent conference in Kuala Lumpur on the theme, *The Strait of Malacca and the Challenges Ahead* observed that the incidence of piracy in the Strait of Malacca is exaggerated by the inclusion of petty crime in the piracy data. The Indonesian Navy has for years complained that it desperately needs more equipment and money to combat piracy in the Strait of Malacca.

### **Indonesia's domestic dilemma**

The Republic of Indonesia, the world's fourth most populous and largest Muslim-majority state, is undergoing a profound political transformation. Governmental instability, a fragile economy, secessionist movements, and ethnic and religious conflicts threaten the country's existing democracy. A successful democratic transition would allow Indonesia to serve as a capable partner in maintaining regional security and stability in Southeast Asia while reducing opportunities for potential hegemony by extra-regional powers. Conversely, political deterioration, the rise of Islamic radicalism or, in the worst-case scenario, the country's violent disintegration, would likely contribute to a more chaotic and unstable future for the region. One such worst-case scenario view is that of Kevin Evans of ANZ Securities in Jakarta who argues, '*....that the crisis in Indonesia is more than krismon (monetary crisis), the usual expression for the crisis on Indonesia. It is kristal (total crisis)*' (Quoted in Geoff Forrester in *Post Suharto Renewal or Chaos*)

Indonesia has a long post-colonial history of uncertainty and unsettled domestic problems. In May 1998, the Indonesian regime led by Suharto was shaken by demonstrations and riots that began in February 1998. The violence worsened and spread from Jakarta to Yogyakarta, Bandung and Surabaya. Throughout the year students had been demonstrating and demanding an end to the regime's corruption, collusion with multi-national

corporations and cronyism, overhauling the political system and lowering prices of basic necessities. The threat was captured in the cries of 'reformasi', which meant to reform the political system by removing the incumbent regime and its leader, Suharto. In the violence, more than five thousand buildings were burned and over one thousand people killed. After it became evident that Suharto had lost the support of the military and following the call for his resignation by the chairman of his PDIP party, Suharto resigned from his office after over thirty years as Indonesia's president.

Political instability in Indonesia is a longstanding issue, which overshadows the country's standing in the international arena. The political transition that began with the first parliamentary election of the post-Suharto era in 1999, and the indirect election of Abdurrahman Wahid as President, marked a milestone in Indonesia's movement toward a democratic political system. However, this transition has been difficult and uncertain. Wahid's government failed to effectively address the country's pressing problems and emerged from its first year in office with a narrowing political base and under imminent threat of removal. Megawati Sukarnoputri, who took over the presidency after Wahid's dismissal, has achieved some success in improving political stability. But she failed to make any lasting progress in the fight against corruption, and has remained largely silent on her efforts to combat terrorism and regional militancy, for which she was criticised in the aftermath of the Bali bomb attacks in 2002. Rampant corruption, soaring unemployment and the increasing threat from Islamic militants did little to endear her to the Indonesian public.

The economic crisis of 1997-98 devastated Indonesia's then fast-growing economy and exposed its economic vulnerability. During the Suharto regime, the concentration of power in the executive coincided with improvement in the Indonesian economy. From 1965-88, per capita GDP rose by an average of 4.3% per year and grew by almost 7% from 1988. These figures however disguised an uneven economic prosperity in Indonesia. Economic development was concentrated in the central island of Java and was in the hands of the Indonesian Chinese community. Resentment over Indonesia's uneven economic development was seen in Medan in April 1994, when factory workers protesting over pay and the right to organise a union outside the SPSI flared into riots and attacks against ethnic Chinese. The economic disparity between central Java and the outer islands and its peripheral

communities also explains the disturbance in Aceh and Irian Jaya (West Papua).

A challenge to Indonesia's territorial integrity is an ongoing issue, that of East Timor (or Timor Leste), which has been widely covered by the media and has attracted wide international attention. The separation of East Timor in 1999 provided an impetus to other secessionist movements in the far more economically and politically important provinces of Aceh and Irian Jaya (Papua). At the same time, ethnic and religious violence escalated in the eastern and central islands, generating stresses that the Indonesian political system may not be able to withstand. In November 1999, half a million people took part in a pro-independence rally in Banda Aceh, the provincial capital. When Jakarta rejected the calls for secession and demand for referendum, the region was engulfed by violence. There was a ceasefire agreement in 2000 between Indonesian National Forces and Gerakan Aceh Merdeka (GAM) but the killings continued. West Papua, on the other hand, has suffered from Jakarta's internal colonial economic development program and the military's use of violence to suppress opposition. The anti-central government sentiment mounted, due to the government's exploitation of West Papua's natural resources that includes the world's third largest open-cut copper mine and largest proven gold deposit and, through its transmigration policy, has encouraged the migration of Javanese to the province. The other reason for resentment towards Jakarta concerns the military use of violence and abuse of human rights. In July 1998, at least eleven people were killed on the island of Biak when they hoisted the West Papuan flag of independence and thirty-one died in Wamena in October 2000 for the same reason.

The military reformation adopted by Abdulrahman Wahid, succeeding the Suharto regime, has also reflected the country's inconsistency in its policy of nation building. Indonesia's military was undergoing a significant transformation, which included a retreat from its institutional political role and the transfer of internal security functions to a newly independent national police force. During Abdurrahman Wahid's presidency, there was an improvement in military professionalism. The Tentara Nasional Indonesia (TNI) was restructuring with a more outward looking orientation. There was an increased emphasis on the navy and air force. However, financial constraints prevented substantial changes.

Indonesia is unlikely to resume its leadership role in Southeast Asia until it overcomes its

current domestic difficulties. A stable, independent East Timor will be key to the rebuilding of Indonesia's role in regional security. Ensuring a constructive relationship between Indonesia and East Timor will require the negotiation of an arrangement that takes into account the interests of all sides, as well as international efforts to train and equip an East Timorese security force capable of securing the border and protecting the population from continuous transgressions by militia factions.

Indonesia, while needing to resolve a number of domestic problems, including political instability, economic pressure and territorial threats, is now faced with many other ongoing regional concerns, particularly in ensuring the safety and security of the Strait of Malacca. In this regard, Indonesia's commitment to joint cooperation to patrol the Strait of Malacca, while welcomed, brings forth questions about the resources that it will commit to the exercise. Malaysia's Coast Guard, however, will be operational by March 2005. Singapore, on the other hand, is far ahead with the corvettes and the *Lafayette* class FFG frigates to be added in 2005 in its naval build up. These two regional partners seem to be firm and clear on their agenda in the Strait of Malacca, despite the obvious differences of opinion and interests between these two countries concerning the involvement of US forces in the region.

Admiral Bernard Kent Sondakh, was reported in Antara News Agency as saying that Indonesia has the biggest naval force in Asia, but it lags behind its Asian peers in regard to armament and technology. The navy has lamented the fact that its fleet can sail but not fight because of ageing naval technology and security experts admit that the navy lacks manpower and equipment, as well as good maritime intelligence to deter maritime crime. The International Maritime Bureau has also reported that the waters of the Straits of Malacca remained one of the world's most pirate-infested, despite joint patrols by the littoral states in the busy waterway.

The tsunami that hit the coastal countries surrounding the Indian Ocean on 26 December 2004, took more than 200,000 lives in Banda Aceh, a critical province in Indonesia. The recent report by the IMB mentioned that piracy cases in the Straits of Malacca had reduced drastically since the coastal countries were hit by the tsunami. There has not been a single attack in the supposedly pirate-infested waters off Sumatra since the earthquake. Before the tsunami, the envisioned cooperation by the US on maritime security in the Malacca Strait was resisted by both

Malaysia and Indonesia. However, the US can now make use of its influence on Indonesia to increase its surveillance of the Strait. US President George W Bush hopes that the US relief effort will help establish a cooperative relation with Indonesian President Susilo Bambang Yudhoyono, who was elected head of state in October 2004. Last year the Bush administration granted Indonesia a five-year financial aid package worth US\$470m. US Secretary of State Condoleezza Rice said that the United States was ready to restore full military ties with Indonesia. Now, as a result of the tsunami devastation, the US is in a stronger position to assist in the economic recovery of Indonesia.

The tsunami disaster has proven to policy-makers that natural disasters can have enormous consequences not only for the lives and welfare of human beings and the economy, but also for national security as seen in the Andaman & Nicobar Islands region. The US, Japanese, and Indian military presence in the Indonesian waters, to deliver their aid effort has made the pirates lay low. The peacetime relief operation through the military has indirectly reduced the pirate's activities in the Straits of Malacca. However, Vice President Yusuf Kalla, reflecting the nationalist strand of Indonesian opinion, demanded foreign troops leave tsunami-hit Aceh province on Sumatra island as soon as they finish their relief mission, staying no longer than three months from the date of the disaster, though the Indonesian authorities have subsequently softened their stance. The presence of foreign military troops in Indonesian territory has been a sensitive issue for the world's largest Muslim-populated nation, which has traditionally kept foreign military presence, particularly the US and Australia, at arm's length.

Stability in Aceh will likely be influenced by the rebellion led by the independence movement, GAM. If left unresolved in the aftermath of the tsunami, the rebellion has the potential to undermine security efforts in the Strait of Malacca. Once the situation is back to normal in Aceh, the pirates are expected to go back to their activities in the narrow waterway. Thus, it is now a bigger responsibility for the Indonesian government to work closely with Malaysia and Singapore to ensure that this busy shipping lane is safe for navigation. In ensuring a secure waterway in the Strait through these cooperative efforts, the littoral states will be able to keep extra-regional military powers out of the Strait. The government has expressed its hope of holding new peace talks with leaders of the separatist rebels in tsunami-devastated Aceh province and is considering an

amnesty for 2,500 guerilla fighters. GAM declared a ceasefire after the disaster, but the Indonesian Defense Forces (TNI) has vowed to continue operations against the rebels, accusing them of attacking aid convoys and disturbing security.

Nevertheless the tsunami prompted the Indonesian government and the GAM to reopen a peace dialogue. However, the friction between the government and military officials has made results unclear. A third round of peace talks began in January 2005 in Helsinki and are to be continued in April 2005. The rebels are ready to drop their demands for full independence in exchange for self-rule. GAM's apparent change in position marks a possible turning point. However, analysts and Indonesian politicians feel that significant hurdles remain, especially regarding what the rebels meant by being willing to accept self-rule instead of independence. Both sides should seek a new peace agreement because it would take at least five years to rebuild Aceh and fully restore security and political stability.



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## REGIONAL PERSPECTIVES

### Characterising recent shifts in East Asia's security matrix

Kerry-Lynn Nankivell\*

The last thirty days have been a period of understated but important shifts in the calculus of East Asian security. Beijing's unveiling of 'anti-secession' legislation that advocates the use of 'non-peaceful means' in resolving the persistent Taiwan issue caused a stir among analysts and media sources. The law, which essentially made explicit what East Asia specialists have taken for granted for some time, overshadowed another significant change in the region. On 19 February, with relatively little media attention, Japan and the United States revised their bilateral security treaty to include the security of the area around Taiwan as a stated 'common strategic goal'. Given Tokyo's historical reluctance to be drawn into the potentially explosive dispute over the final status of Taiwan (which Japan reigned over as a colonial power from 1895 until 1945), the revised declaration marks an understated but important shift in Tokyo's foreign and defence policy, as well as the overall regional security environment.

It is not easy to assess the significance of this change in the Japanese approach. On the one hand, the declaration might be just posturing: Japan's official recognition of 'one China' has not changed, nor has its diplomatic approach to either Beijing or Taipei. On the other hand, what makes these shifts particularly important for analysts is that they have affected not the known variables of the region's security equations (which are the stated interests of China, the US and Taiwan, respectively), but the so-called constants. That is to say, the change that we have seen, though subtle, has involved the posturing not of Beijing, Taipei, or Washington, but of Tokyo.

Even so, in many ways this shift in Tokyo's strategic position has caused a ripple in the strategic community that seems (on the surface) out of all proportion. However, when assessing the impact of the revision to the US-Japan bilateral security treaty one must bear in mind that until only very recently, Japan has been a non-factor of sorts in the calculation of cross-straits

relations. This has been because Japan's constitutional ban on the use of force abroad and its concomitant lack of interest in Taiwan's dilemma has been the *status quo* for several decades. This month's revision of the bilateral security treaty, though subtle, is an explicit change to this decades-old *status quo*. The revision has thus changed the East Asian security calculation in a fundamental way, precisely because analysts of the region have not traditionally considered it a variable factor in the equation.

### An emboldened Tokyo = a strengthened *status quo*

In purely military terms, the revised understanding between the US and Japan has a potentially vital effect. It seems to have become almost a common assumption among military strategists that any cross-straits confrontation will be founded on naval manoeuvres. There are a number of reasons that this conclusion makes sense: naval confrontations have the advantage to both parties of causing the least amount of infrastructural damage to the island. A naval blockade by Beijing would cause almost no physical damage, if executed successfully enough to force Taipei's capitulation without the use of overt force. If Beijing's ultimate goal is to become the sole governor of the island and owner of its economy, minimising the damage to infrastructure and human resources is a paramount concern. It is the importance of the naval component of potential hostilities that helps to reinforce the need in Washington for a significant US naval presence in the Asia-Pacific region. This significant US presence, in turn, further adds weight to the argument that any conflict over Taiwan between Taipei and the mainland will include a substantial naval dimension. Whether employing aircraft carriers or submarines, the US would be a primary player in any imaginable confrontation, and would certainly lead with its considerable naval strength. It was to this eventuality that the revised 'strategic understanding' between Washington and Tokyo speaks: though the wording of the understanding stops well short of ensuring a Japanese response to hostilities across the straits, it leaves the door open for potential Japanese naval support to a US response. The understanding isolates the security of the area around Taiwan as a 'common strategic objective' of Washington and Tokyo, and identifies China's explosive military

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modernisation efforts as a source of concern. All things considered, and if Japan continues on a path of normalisation as a military power, analysts can only assume that the revision announced in February was an announcement of Japan's official entry into the security equation over Taiwan, most likely as a supporting player to US naval operations.

Indeed, for some time now, media sources and policymakers have noted subtle changes in Japan's approach to Beijing. While in the past, Tokyo has aimed to side-step overt conflict with Beijing wherever possible, Japan has used its military resources to defend its interests vis-à-vis Beijing in recent days, letting go of old neuroses about the use of military power. As a case in point, last November, Tokyo deployed aircraft on a hunt for a *Han* class submarine that had reportedly entered Japanese waters in the East China Sea. Seen in the context of other recent events, the revision to the bilateral treaty is clearly part of an established but recent trend of an emboldened Japan seeking to safeguard its interests in the face of a rapidly expanding China.

This is the conclusion reached by Beijing, who released a flurry of warnings and criticisms of both Japanese and US interference in Chinese affairs in reaction to the statement of 19 February of the bilateral treaty's revision. However, Japanese statesmen have been keen to dispute this view, noting the triviality of what is essentially a change in language in a long-standing agreement. Indeed, earlier revisions have included statements noting Japan's interest in the security of the 'area surrounding Japan', though they have never explicitly indicated which Asian security flashpoints this 'area' included. While it might have been assumed to include the Korean peninsula, few analysts even five or six years ago were sanguine about the likelihood of Japanese enthusiasm for the military support of Taipei in the event of an attack by the mainland. In the same breath, Japanese statesmen, including Shinzo Abe, the acting Secretary General of Japan's ruling Liberal Democratic Party, widely considered the favoured successor to Junichiro Koizumi, warned this month that it would be wrong for China to believe '*that the United States and Japan will watch and tolerate China's military invasion of Taiwan*', noting that '*Japan can provide US forces with support!*' It seems as though Japan's political leaders have come to see Japan as an underwriter of the *status quo* alongside the US, and no longer just a beneficiary of it, as in decades past.

## Whither Washington?

Media speculation about these recent changes to the security dynamic in East Asia refers most often to changes in Tokyo's posturing, the increasing frustration of Beijing, or Taipei's continued warnings of Chinese aggression. Very little is published in reference to the ways in which the revised Japan-US bilateral security treaty affects US interests and policy orientation. This may be because Washington wanted to downplay the revision altogether: consider that the visit by US Secretary of State Condoleezza Rice to Tokyo to negotiate the changes took place on a Saturday, when most US media is operating in low gear. For whatever reason, the White House public relations team did not highlight a change to US-Japan relations that was causing a small tempest across the Pacific. Given Washington's long-standing and public desire to see Tokyo take up some of the burden of safeguarding regional security in an era of Chinese ascendancy, the lack of visibility of the US and its interests in this change is puzzling. Add to that Washington's frustration with Europe's lack of interest in defence investment and spending and concurrent enthusiasm for renewing arms sales to China, and one might have thought that US planners would have wanted to bring attention to Japan's strengthened commitment to check Beijing's ambitions. Whatever the reason, the White House and the Pentagon remained silent on the issue, downplaying its significance both to its partners in the Pacific, and those across the Atlantic.

## Conclusions

There are a number of possible reasons for Washington's silence on this, all of which are highly speculative and impossible to confirm and so will not be dealt with here. What can be confirmed is that the revision to the treaty has significantly strengthened Washington's position vis-à-vis Beijing in the event of armed conflict across the Taiwan Strait. That said, the positions of Beijing, Taipei and even Washington are so entrenched after decades of stalemate that the bilateral revision is unlikely to have much of a diplomatic effect, making hostilities neither more or less likely. In this sense, though not trivial, the recent revision to the US-Japan bilateral security arrangement will not disturb the *status quo* across the Taiwan Strait, but only raises the stakes of the standoff for all interested players.

## Canada's third ocean

Kerry-Lynn Nankivell

Scientists in Canada and around the world are documenting the effects of global warming, despite the fact that the theory of global warming is still disputed in some countries and political cultures. However, for Canada, the effects are undeniable: a recent study warns that a pipeline project that envisages a route to carry natural gas from the Mackenzie River delta in the Northwest Territories to northwestern Alberta may be vulnerable to mud and landslides. Massive shifts of earth are increasingly documented in the Arctic as increased heat and sunshine cause the melted surface soil to slide along the remaining deep permafrost, carrying tundra, roads and even possibly pipelines away in its path. Permafrost expert Antoni Lewkowicz attributes these 'detachment' slides to much higher-than-normal ground and air temperatures throughout the Arctic region. Other side-effects have been noted: flying is now restricted in the Arctic after October, due to increased fog and low-visibility caused by climate change; ice roads are frozen for one month less now than they were a decade ago, shortening the season for safe ground transport in many areas; seasonal freezing, rather than year-round ice, has become the norm in some coastal waterways.

### Strengthening *de facto* control

The change in Arctic climate is sparking an attendant climate change in Ottawa, as the government recognises that Arctic thaw will have dramatic effects on the global economy and Canada's position in it. The partial or total opening up of the Arctic environment to shipping and other forms of commercial activity will increase local investment, facilitate the shipment of goods into Nunavut, Yukon and the Northwest Territories, and draw heavy international thru-traffic. If a shipping season opens up through the Northwest Passage due to warmer conditions, international shippers will be able to shave over 7,000km from the current route between Asia and Europe through the Panamá Canal. Further, oil, gas, mineral and metal deposits might be extractable from the seabed. With billions in revenues and employment at stake, Ottawa knows that it has to widen its vision away from the East-West axis to include the Canadian north and make a transition from a two- to a three-ocean nation.

Prime Minister Paul Martin has been hailed early in his second term as the first Canadian leader to implement a 'comprehensive strategy for the North'. The strategy was referred to in

Martin's Throne Speech following electoral victory in June 2004. So far, this strategy has been an omnibus approach to the region: addressing the need for private investment, development, infrastructure, as well as increased security and defence. While the Prime Minister's office does not seem to be actively engaged on the global warming file, there are clear signs that Canada's leaders are aware of the potential cataclysmic changes portended by recent scientific data out of the Arctic Circle. The Prime Minister's renewed interest in definitively asserting Canada's sovereignty over the sea-lanes, and increasing employment and investment in the region, are timely initiatives that might prepare Canada for its transition from a two-ocean to a functionally three-ocean country.

Early on, the government in Ottawa seems to recognise that the Canadian Navy will have a particularly unique role to play in this transition. Canada's coastline and maritime environments are among the longest and largest in the world, respectively, but impassable Arctic conditions have lightened the security burden associated with these assets for centuries. Today, the already noticeable effects of global warming on the Arctic environment threaten to dramatically increase the responsibilities of the Canadian Forces in coastal surveillance and marine policing. The challenge of growing a two-ocean medium-sized navy to a naval force charged with monitoring over 200,000km of navigable coastline will be the single-most daunting challenge to confront the Canadian Navy in the 21<sup>st</sup> century.

A bold first step was taken in August 2004. The Department of National Defence sought to plant its flag in Canada's Arctic territory, both proverbially and literally. Operation *Narwhal* saw 600 Canadian Forces personnel deployed for a three-week exercise based in Pangnirtung on Baffin Island. The exercise, mounted to the tune of CDN\$5.4m, asked Canadian Army, Air Force, and militia personnel to retrieve fake debris from a simulated satellite crash, while their naval counterparts sailed HMCS *Montreal*, simulating the escort of a foreign vessel to international waters. Operation *Narwhal* put the challenges facing the Canadian Forces in stark relief: weather prevented the landing of five Griffon helicopters and three Twin Otter aircraft in Pangnirtung. As a result, 100 soldiers slept in the helicopter hangar aboard *Montreal*, used to transport the men and women to and from the remote area. Onshore, soldiers covered far less terrain on snowmobile than was hoped: soldiers averaged just over 3 kilometres per hour, due to high winds, low visibility and rocky terrain. However, *Montreal*

exceeded planners' expectations, completing her duties and taking on the additional responsibility of transporting Canadian soldiers to the exercise site. With inhospitable landscape and often hostile conditions for air operations, it is clear that the navy will, by necessity of the region's environment, likely have the leading role in future Arctic installations or exercises.

### **Establishing *de jure* jurisdiction**

Clearly, Canada will need additional investment, training and ingenuity to strengthen its control over its national territory in the Arctic region. However, Ottawa will also need to draw on Canada's diplomatic capability and legal expertise to unequivocally establish Canadian sovereignty over the area in the face objections from several other countries. Though Canada has long laid claim to the Northwest Passage and the Arctic archipelago, Canada isn't the only one. Denmark and Russia both claim parts of the North Pole, with Denmark advancing the most ambitious claim. Denmark's Science and Technology Minister, Helge Sander took Canadians by surprise, announcing in October 2004 that his government would claim the full North Pole as part of its national territory, probably based on Greenland's continental shelf. Canada seems to have a stronger claim on a more substantial area of the region, as no one has historically disputed Ottawa's sovereignty over the vast majority of the islands in the Arctic Ocean as part of the country's landmass. The bigger challenge to Canadian control over the Arctic region will come from the US. Washington argues that the Northwest Passage represents international waters, and will firmly oppose any attempts by the Canadian government to police or impose tariffs on the waterway. Canada maintains that the Passage is internal waters, subject to governance from Ottawa only. Both Canada and the US have strong cases under international law, and can draw on existing rulings of the International Court of Justice (ICJ) to reinforce their respective views.

### **Building a three-pillared Arctic strategy**

In recent years, Canada's international identity has been predicated in large part on the role of the 'helpful fixer' in international affairs. Inclining towards hard diplomacy and soft security, Canada has more often than not defended its interests in the boardroom, not on the battlefield. However, because of the prevalence of custom and behaviour in the creation and maintenance of international law, Canada's legal claims to the region will be dependent at least in part on Ottawa's ability to exercise real control over the

area and prevent a vacuum of state power in which other states might act. Unfortunately, as of today, the current configuration of the Canadian Forces in general and the Canadian Navy in particular does not allow for the robust defence of Canada's claim to the Arctic and the Northwest Passage. Nonetheless, there is every indication that the Canadian Forces understands its responsibilities as the sovereign authority over the Passage and the Arctic region and intends to continue exploring ways to best discharge those responsibilities. The gradual but seemingly inevitable advance of global warming suggests that Canada will make an unplanned transition from a two- to a three-ocean nation. There is no need for alarmism or militarism in managing Canada's differences with its American allies or Danish friends. However, a lack of preparation for Canada's transition to a three-ocean nation could mean that Canada will lose its claim on the Arctic by default: Denmark, Russia and/or the US could become the *de facto* managers of the Arctic. Only by advancing a diplomatic and legal offensive that is supported by credible naval capability can Canada's north remain within the national purview.

### **Power play: energy security in Northeast Asia**

*Nathan Nankivell\**

On December 31, 2004 Russia announced details of its plan to build a major oil pipeline from Eastern Siberia to the Pacific. Though officials pledged in 2002 to build a pipeline from the Russian city Angarsk to China, Moscow instead chose a route to the Russian Pacific port of Nakhodka, widely advocated by Japan. The longer and more costly Japanese bid, which included billions in financial incentives including loans and promises to further develop Russia's Far East oil industry, was enough to finally tilt Moscow toward Tokyo after two years of stalling.

To observers, the news signalled a major victory for Japan and potentially a large-scale setback for China. Both countries are major importers of Middle Eastern oil. In an age that promises continued Middle Eastern instability and steadily expanding Asian demand for energy products, access to local, predictable oil stocks translates into important political capital. Also, as

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potential regional competitors, the choice illustrates that the new star on the block, China, has not eclipsed Japan as a diplomatic powerhouse.

Though construction on the route has not begun, and many key factors (including Japan's financing role) must still be negotiated, Moscow's decision will have dramatic affects on Northeast Asian security. Japan and China must diversify oil imports. Meanwhile, Russia requires foreign expertise and capital to develop its Far Eastern oil fields. While tentatively finalised, there may still be room for manoeuvre. How, when and where the pipeline is constructed will be major factors in the region's development.

### The history of a pipeline

The original Russian pledge to build the pipeline to China was made in 2001 after the two sides signed their first friendship treaty in more than 50 years. By 2002, Russian President Putin had agreed to invest US\$2b to partially fund the 2,247km line that would one day connect the oil fields at Angarsk to the refineries at Daqing. Under the terms of the agreement, Russia and China would share construction costs with each paying for work done on its own territory. Upon completion, the route would carry 600,000 barrels per day (bpd) or 20 million tons per year starting in 2005 to China's major oil centre.

Though it appeared at the time that China had guaranteed itself future supplies equal to nearly 30% of its current annual consumption, problems with the proposal quickly emerged. Japan, who has not imported oil from Russia since 1978, resumed oil imports from Moscow in 2002. Soon after, Tokyo revived plans for a pipeline connecting Angarsk to the Pacific port of Nakhodka. Spurred by the threat of war in Iraq and the awarding of oil contracts to foreign companies in the Sakhlin Islands, Japan volunteered to fund the full construction cost of its proposed pipeline and provide development monies to the Russian Far East. Later, Japan's proposal was sweetened even further when it committed to purchase 25% of the oil shipped to Nakhodka.

Japan's final offer, though not enough to confirm the demise of the Sino-Russian pipeline, resulted in a delay in construction in 2003; Russia claimed that an environmental assessment was necessary before work could begin. China's chances were further stymied later that year by the Yukos controversy. At the time, Yukos, Russia's largest energy company, was the key advocate of the Daqing line. The company had committed itself to supplying oil to China, and unlike many

other Russian companies, viewed China as the key emerging market. However, the arrest of Yukos' largest shareholder, Mikhail Khodorkovsky quickly illustrated that the company would no longer exert the power it once had, suggesting that China's ability to secure the deal was jeopardised.

By late 2004, Chinese officials met with their Russian counterparts in an effort to breathe new life into the Sino-Russian pipeline. During the meeting, the two nations concluded a long-standing border demarcation issue, and China received pledges that oil exports from Russia would be increased. Many observers at the time, including the Chinese press, took the pledge as an indication that Daqing would be the final location.

To most, the assumption that Russia would support the Chinese pipeline made sense. The country boasts one of the world's fastest growing economies, is a large supporter of Russia's military industrial complex, and unlike Japan, was not still technically at war with Moscow. However, as December's announcement later revealed, the financial incentives offered by Japan were enough to sway Moscow's decision.

### Three countries, one pipeline: highs and lows

#### Russia

For Moscow, the timing of the Japanese offer could not be better. Since the fall of the Soviet Union the Far East has largely languished. Local populations and industries have disappeared as state support has dried up. With little or technical expertise, the area has failed to develop its precious natural resources to their full potential.

Meanwhile, the international oil market is increasingly attractive. As an export, oil is Russia's largest means of obtaining foreign capital. Demand in the country plateaued during Soviet era, yet oil exports, after declining in the early 1990s, are now close to national highs. The result has been a burgeoning sector, which is only making more profits as world prices rise. Russia is currently the world's second largest oil exporter netting nearly US\$45b in revenue in 2004. The nation has proven reserves of 50 billion barrels and is widely considered to have as much as 100 billion barrels, roughly 40% of Saudi Arabia's estimated reserves. As much as 66% of reserves, and 50% of current production, are located in the Far East. However, huge amounts of capital will be needed to fully exploit these reserves, as much as US\$500b according to some sources, making foreign financial assistance a must.

Though the exact details of Japan's total bill will not be spelled out until May 2005, there are a number of other factors that make the route more attractive to Russia. First, Russia will receive an

estimated US\$5b to fund the cost of construction and an initial US\$2b for development of the Far East. This burst of capital will provide short- and long-term jobs to the region and will provide the basis for energy infrastructure developments needed to one day increase exports. Moreover, the development of the Far East's oil sector will help meet President Putin's lofty goal of doubling the size of the economy by the end of the decade.

Once constructed, Russia will have full control over the Nakhodka pipeline and its exports. The current scheme allows for the delivery of 1 million bpd, (80 million tonnes annually), and represents a major increase in export potential versus the Chinese route. Equally crucial is the fact that the Nakhodka route allows Russia to market its oil to any nation; the Daqing pipeline format, envisaged all exports sent to China, foregoing any other market opportunities. Moreover, managing the final destination of oil exports also affords Russia the tidy benefit of controlling Chinese energy imports, containing China's explosive economic development.

The Nakhodka pipeline strengthens Russia's regional position. Though Japanese financial incentives are necessary and timely, Russian control over energy exports, diversification of its markets and the potential to influence its neighbours are all keys to extending and developing Russian influence in Northeast Asia.

#### *Japan*

Japan's funding of the pipeline would be quite simply its largest overseas investment ever. Japan is a nation entirely dependent upon energy imports. Oil is Tokyo's primary energy source and accounts for more than 50% of the country's energy use, yet there is no domestic supply worthy of mention. As a result Tokyo must import 98% of its oil, of which, 80% originates from the Middle East. However, the Nakhodka pipeline promises to change the pattern of dependence. Optimists in Japan hope to reduce dependency on Middle Eastern oil by 25-35% by tapping into Russian exports. Because of this fact, the importance of securing or at least having access to Russian oil exports cannot be overstated.

Though the pipeline's 4,200km route is not guaranteed, Japan can at least savour its current standing knowing that China will now have to compete on an equal footing in order to access Nakhodka's supplies. Moreover, Japan's proffered additional funds suggests that its national oil companies could have a role to play in the Far East's development, which in the long-term could equate to access to more oil.

That said, there are still important details that

must be addressed before Japan can claim victory. At present, Tokyo has not revealed the final price tag. Estimates to date suggest that the cost will be between US\$8-22b, depending upon the commodity prices of steel and the amount of development money envisioned by both parties. Despite an offer to buy 25% of Nakhodka's volume, Russia has not guaranteed to set aside that volume for Japanese consumption. Nor have the parties worked out an agreed price, or first delivery date.

The importance of the December announcement is monumental to Tokyo. Russian oil will be much cheaper than present imports, which must be transported by ship over 8,000km. Diversifying suppliers will limit exposure to supply risks resulting from Middle East dependence. There is also potential for Japanese partnerships in the Far East, implying a basis for one day creating a local offshore industry. Finally, limiting China's unfettered access to Russian reserves is potentially critical in light of recent provocations such as the incursion into Japanese territorial waters by a Chinese nuclear submarine. If conflict were ever to breakout, Beijing would have to be concerned with protecting maritime transport lanes needed for energy shipments and would not be able to fall back on guaranteed overland Russian deliveries.

#### *China*

In the past decade, China's oil consumption has skyrocketed. The country has gone from a net exporter to a major importer of oil in less than a generation. The switch has forced Beijing to import nearly 33% of its oil supply, 46% of which is derived from the Middle East: that number will only continue to increase as reserves in Daqing decline. Meanwhile, Chinese demand is expected to continue growing by at least 600,000 bpd, an amount equal to roughly 33% of its current annual consumption. If this trend continues, China will import more than 60% of its oil within two decades.

Chinese planners would be remiss to downplay their dependence on Iraqi, Kuwaiti and Saudi oil stocks. Long-term reliance on these regimes, influenced in part by US policy, is risky for the Communist Party and the nation's future. If Washington were able to leverage its Middle East allies and direct oil shipments away from China, the fallout would be catastrophic. Meanwhile, reliance on more questionable states like Iran presents a handful of others risks, most notably sanctions or Iranian instability. Finally, even once oil leaves the Middle East, the shipping costs for China are high. Worse yet, once in transit, oil

tankers are susceptible piracy or, in a worst-case scenario, a naval blockade. China has obvious reason to look to other regions to diversify its imports, with Russia being the most obvious choice. Largely free of US influence and located right next door, oil supplies from Russia could be protected or even appropriated by Chinese forces if necessary. Moreover the relatively untapped area appears to offer prolonged stocks essential to uninterrupted economic and industrial growth.

Thus, the decision of Russian planners to pursue the pipeline to Nakhodka has obscured China's perfect scenario for the time being. Though it may still be able to purchase Russian oil, Beijing will now have to compete on the international market. The handful of incentives meant to compensate the nation for the loss of the pipeline will likely be addressed soon, but so far Beijing has remained quiet. Though China's national oil company, China National Petroleum Company (CNPC), has been offered a potential 20% stake in Yuganskneftegaz, the company responsible for pumping 1 million bpd for Yukos, and the nation has been promised a 100% increase in oil shipment by rail, Russian guarantees are cold comfort. Both offers are fraught with problems: delivery by rail is extremely costly, attracts few interested Russian entrepreneurs, and is subject to congestion. Moreover, CNPC has not been offered a controlling interest in Yuganskneftegaz, nor guaranteed any oil deliveries from the company. Also, there remains the threat of legal action by Yukos, which continues to argue that it is entitled to recover losses of US\$20b from the illegal sale Yuganskneftegaz.

Onlookers should not be surprised if Beijing again forwards an offer to Moscow. All the incentives for Beijing are there, but it remains to be seen if officials have the wherewithal to craft the right offer, capable of swaying Russian decision makers away from the Japanese deal.

### In Sum

For all three of Russia, Japan and China there are key strategic and economic concerns attached to the construction of the Angarsk-Nakhodka pipeline. For both China and Japan, diversifying energy supplies away from the Middle East is an essential component of national policy. For Russia, the Pacific pipeline varies potential export markets, ensures control over the pipeline, and allows for potential influence over the development of its two most powerful neighbours. Though each country's motives for favouring a particular route are largely unique, all recognise that they will the entire region will be affected by

the pipeline's final route. The shape that the pipeline takes, and by what means will alter the security environment in Northeast Asia. Given Russian mercuriality, we cannot assume that the Nakhodka route will be realised. Bilateral negotiations in the coming months promise to shape relations in the region. The mammoth venture will test the goodwill and trust of three key players in the region, and once completed, a new model of energy dependency will be constructed.

### Protecting the Malacca Straits

Barry Desker\*

There has been, of late, increasing concern over the safety of navigation in the Malacca Straits. This follows al Qaeda attacks on the USS *Cole* in Aden in October 2000 and the French-owned supertanker, *Limburg*, off the coast of Aden in October 2002. Then there was the bombing of a superferry by the al Qaeda-linked Abu Sayyaf group in waters off Manila in February 2004 - which incidentally was the worst act of maritime terrorism in recent years with more than one hundred passengers killed.

Two examples suffice to highlight the significance of the Straits of Malacca and Singapore to international shipping. Firstly, oil flows through the Straits are three times greater than the Suez Canal/Sumed pipeline and fifteen times greater than oil flows through the Panama Canal. Secondly, two-thirds of the tonnage passing through the Straits consists of crude oil from the Persian Gulf bound for Japan, South Korea and, increasingly, China. More than half of the world's shipping tonnage passes through the Straits. The International Maritime Organisation (IMO) estimates that if for some reason the Straits were closed, all excess shipping capacity would be absorbed, '*with the effects being strongest for crude oil shipments and dry bulk cargoes such as coal..... [which] could be expected to immediately raise freight rates worldwide.*'

The IMO has noted the number of violent attacks on shipping in the Straits since mid-May 2004. A tug, a barge, an offshore support vessel and two cargo ships have been attacked in broad daylight using automatic weapons and grenades. There have been the boarding of vessels, tying-up of crew and in March 2003, in the case of the *Dewi Madrin*, a small chemical tanker, the pilotage of the vessel for some distance through

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the Straits. Such incidents have raised the possibility of terrorist attacks on ocean-going vessels such as oil and chemical tankers traversing the Straits.

It is also widely believed that the Acehnese independence movement *Gerakan Aceh Merdeka* (GAM) has been orchestrating acts of piracy in the northern stretch of the Straits of Malacca, particularly in the past year. Significantly, these attacks have evaporated since the devastating tsunami of 26 December 2004 which destroyed coastal communities in northern Aceh.

Today there is growing concern that such acts of piracy may be linked to regional and global organisations such as al Qaeda, Jemaah Islamiyah and GAM. From the vantage point of the shipping community, how does the crew of a vessel transiting the Straits differentiate an act of boarding a vessel to stage a robbery at sea from that of boarding a vessel with the intention to hijack and use it as a floating bomb?

September 11 changed the way the civil aviation community approached the handling of hijacking incidents because the intention of the hijackers was to kill as many as possible in suicide attacks. In the past, the intention was to get as much publicity and as much ransom as possible with the minimum loss of life. Similarly, the maritime community needs to pay greater attention to the risk of 'low probability, high impact scenarios' such as the possible hijacking of a tanker or an LNG carrier for use as a human-guided missile, or an attack on a commercial or naval vessel at narrow points in the Straits intended to disrupt traffic flows within the waterway.

The idea is not so far-fetched. Jemaah Islamiyah operatives arrested in Singapore in late 2001 had undertaken operational surveillance and considered the possibility of an attack on US naval vessels in Singapore waters off the Straits of Singapore. At its narrowest point, between Raffles Lighthouse and Batu Berhenti, the Straits of Singapore is 1.2nm wide, creating a natural bottleneck if there were a collision or grounding, aside from the probable pollution of the maritime environment.

The littoral states are cooperating to facilitate the unimpeded passage of international sea-borne trade. Trilateral coordinated patrols between the navies of Indonesia, Malaysia and Singapore have been implemented and are targeted against sea piracy and maritime terrorism. But more needs to be done.

The changed strategic environment in the Straits of Malacca and Singapore is of particular interest to two communities of states. Firstly, the

littoral states - Indonesia, Malaysia and Singapore - because of the threat of pollution and the possible risk of attacks on onshore facilities. Secondly, the user states, especially Japan, China and South Korea which are dependent on the Malacca Straits for the smooth and efficient transit of cargo, especially energy supplies. Other user states are the major maritime powers, such as the US, which are concerned about the possible threat to their naval vessels traversing through the straits.

Consequently, the status of the straits as a waterway used for international shipping requires an inclusive approach to the future management of the straits. Just as the littoral states have valid concerns about the possible costs arising from pollution in the event of a collision or grounding in the straits, user states are concerned about the provision of appropriate facilities that could reduce the risk of such accidents as well as prevent possible acts of piracy or terrorism.

The 1982 United Nations Law of the Sea Convention (UNCLOS) recognised that user states had an interest in unimpeded passage through and over straits used for international shipping. It limited the right of the littoral states to regulate the passage of ships traversing the straits but recognised the jurisdiction of the littoral states over illegal activities taking place within their territorial waters. Article 43 provided for burden-sharing agreements between the littoral states and user states:

- in the establishment and maintenance in a strait of necessary navigational and
- safety aids and other improvements in aid of international navigation; and for the prevention, reduction and control of pollution from ships.

We should therefore conceive the forthcoming IMO-sponsored September 2005 meeting in Jakarta as the beginning of a process intended to address the issues of navigational safety, environmental protection and maritime security in the Malacca Straits.

The international shipping community is confronted with growing challenges as a result of the exponential increase in shipping through the Straits as well as the new threat of catastrophic terrorism post-9/11. There is a need for a new architecture facilitating cooperative arrangements involving the littoral states and the user states. One approach could be the institutionalisation of the IMO-sponsored meeting on the Straits of Malacca and Singapore involving all interested parties. It could go beyond the modest objectives envisaged in the original proposal to consider

ways and means of implementing Article 43 of UNCLOS.

Such an inclusive process will strengthen the commitment of user states to meet the costs of upgrading the capabilities of the littoral states. It will also encourage the user states to ensure the provision of safety and navigational aids and the establishment of state-of-the-art electronic information systems. Over the longer term, the formation of a regional coordinating centre could be envisaged. The centre could help coordinate responses by naval, coast guard and marine police capabilities operating in or traversing through the Straits in the event of acts of piracy or maritime terrorism.

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