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**The Capacities of Coast Guards
to deal with Maritime Challenges
in Southeast Asia**

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ABSTRACT

Southeast Asia embarked on a determined journey towards progressive and sustainable socio-economic well-being under the umbrella of ASEAN that will turn 32 this year. The result is visible. The vast and complex maritime dimension of Southeast Asia is a major determinant of the challenges the region face. The maritime challenges are examined with reference to law enforcement and services under national and international obligations of the governments of the region. The idea of a coast guard is important here. The coast guard is an old concept in a new appreciation in the post-UNCLOS world. It is the ideal force to establish rule of law and provide services at sea by their international acceptance and operational focus. The sea farers are at ease to communicate and interact with the coast guard. The costal communities are free to interact with them. They could also enhance confidence building measures between nations, the much needed geopolitical ingredient in troubled times. The governments have to appreciate and understand the role of the coast guard in safeguarding the maritime and other national interests in their identified maritime zones. Then only they will acquire the necessary capacity and competence. Against this background the working paper examines the maritime challenges of Southeast Asia and the capacity of its coast guards to deal with them under the presumption that the potential for military engagements in future is limited in the region.

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THE CAPACITIES OF COAST GUARDS TO DEAL WITH MARITIME CHALLENGES IN SOUTHEAST ASIA

Introduction

Southeast Asia's economic performance was impressive in 2007.¹ Reappraisal in 2009 and progressively in 2010 will adjudge the credibility of ASEAN in meeting the challenges posed by recession. The maritime dimension of Southeast Asia is vital in this quest. In the absence of military confrontations in the region, the focus telescopes to the non-military aspects. The challenges of providing rule of law and service to the needy in the maritime domain should supposedly enlarge. That is where the coast guards ideally steps in.

Southeast Asia and the Maritime Matrix

The paradigm of Southeast Asia is embedded within its geostrategic profile, diversity and volatile past. The asymmetry within the national profiles and the people is complex. According to most definitions, the area of Southeast Asia is represented by the countries that are members of ASEAN and Timor Leste (formerly East Timor), which is a candidate state.² The members of ASEAN are Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, the Philippines, Singapore, Thailand and Vietnam. There are also further geographic identifications that include various island territories.

The maritime dimension of Southeast Asia is influenced by two oceanic divisions—the Indian Ocean and the Pacific Ocean. The connectivity is through the Malacca Strait, the Singapore Strait, the three sea lanes as defined in SN/Circ.200/Add.1 of 3 July 2003 of International Maritime Organisation (IMO)³ and the Torres Strait. The importance of the sea lines of communication (SLOC) passing through this region for world maritime navigation is

¹ D. Singh and T. M. M. Than (Eds.), *Southeast Asian Affairs 2008* (Singapore: Institute of Southeast Asian Studies, 2008), p. vii.

² en.wikipedia.org/wiki/Southeast_asia, retrieved on 10 January 2009.

³ The sea lanes referred to in this paper are the Indonesian Archipelagic Sea Lanes I, II and III (with branches A to E) as given in International Maritime Organisation, Adoption, Designation and Substitution of Archipelagic Sea Lanes, Ref: T2/NAVSEC/2.7.1, www.imo.org/includes/blastDataOnly.asp/data_id%3D7620/200-add.1.pdf, retrieved on 17 April 2009.

not likely to decline even if the much projected northern sea route through the Arctic becomes viable.

The canvas is wide. So are the challenges. Southeast Asia is complex, with trans-regional influence that is natural by virtue of geostrategic proximity. It can be turned into an advantage by responsible governments. The inherent asymmetry of the entities of Southeast Asia drives the dynamics of challenges the region will be exposed to. The determinants evolve from this asymmetry.

The choke points of the busy waterways are internal to the region. In the probable case of increased shipping traffic,⁴ hypothetically, the ships may have to wait outside the straits within the regional waters. Preventive measures to safeguard the straits and constrained waters will become complicated. The matrix becomes more intricate when the area of such waters is quite substantial. Law enforcement and providing service become difficult under the peculiar nature of the maritime domain.

The relationship of the states with respect to the maritime domain is quite diverse. The benefit accrued as well as problems faced by individual states are not similar. For example, Indonesia may argue that shipping traffic through the Malacca and Singapore Straits does not benefit it economically and the chances of environmental damage to its shores by a possible tanker casualty is greater than others since fully laden tankers pass close to the Indonesian side. Archipelagic states will have to bear the pressures of shipping traffic through their waters. Another aspect is the potential to brew disasters that will impact even external regions. The maritime challenges emanate from all these and more.

Maritime Challenges

Like many others, Southeast Asia too felt the change with UNCLOS. Indonesia and the Philippines became archipelagic states from nation-states. This was opposed initially on the argument that the waters between the islands were inseparable. But the case was

⁴ J. Ho, "The Importance and Security of Regional Sea Lanes", in K. C. Guan and J. K. Skogan (Eds.), *Maritime Security of Southeast Asia* (London: Rutledge, 2007), p. 23.

comprehensively negotiated for right of innocent passage⁵ and right of archipelagic sea lanes passage⁶ through archipelagic waters. UNCLOS asserted the rights to protect the sovereignty and territorial integrity within a state's waters. The states needed to build capacity to establish the rule of law, and meet commitments under international law and associated treaties and agreements. Capacity building and preparing for changes became the biggest challenge. The littorals needed new forces and agencies in addition to the military. The solutions identified by many were to fall back on the idea of the coast guard. It was no different for Southeast Asia.

The challenges faced by the region in this effort are examined under three classifications:

1. Sovereignty issues under international law
2. Unlawful activities at and from the sea
3. Disaster scenario

Sovereignty Issues under International Law

UNCLOS was expected to set at rest issues related to domain jurisdiction at sea. But there are difficulties because of sovereignty issues and their fallout on the exploitation of resources like fisheries and hydrocarbon. The author identified 69 maritime boundary issues that were pending finalization among parties in a study in 2008.⁷ Twelve of them were related to Southeast Asia (Table 1). There are signs of understanding and cooperation in settlement among parties. Brunei and Malaysia reaffirmed their resolve to settle the issues in a high-level meeting on 16 March 2009.⁸ The six-party Spratly web is more complex. Four are from the region. The Taiwan issue, incidents at sea like the stand-off between the U.S. and China

⁵ As defined in Part IV, Article 52, and other relevant articles of UNCLOS.

⁶ As defined in Part IV, Article 53, and other relevant articles of UNCLOS.

⁷ P. Paleri, "Coast Guards of the World and Emerging Maritime Threats", *Research Report*, Ocean Policy Research Foundation, Tokyo, pp. 164–166. Also CIA World Fact Book, www.cia.gov/library/publications/the-world-factbook/index.html, retrieved on 20 February 2009.

⁸ "Malaysia and Brunei Reach Border Deal", *The Straits Times*, Singapore, 17 March 2009, p. A14.

on 8 March 2009,⁹ and China sending a warship said to be under the renewed claims of the Philippines over the Spratlys on 15 March 2009 point towards an uneasy calm.¹⁰ The collateral damages to the parties in the region in the event of a conflict will not be limited to the “Spratly Six”. Close by, Cambodia has problems with Vietnam on maritime boundary. The newfound identity of Cambodia, Laos and Vietnam, better known as the “CLV countries” within the camaraderie of the Mekong River Initiative, could boost up cooperative understanding in relation to the disputed islands, which could also lead to the effective integration of ASEAN since they are relatively recent members.

	Entities involved	Issues pending
1	Brunei and Malaysia (internal)	Seabed demarcation
2	Brunei, Malaysia, Philippines, and Vietnam involving China and Taiwan (internal and external)	Spratly Islands
3	Cambodia and Vietnam (internal)	Maritime boundary finalization
4	Indonesia and Australia (external)	Maritime boundary finalization
5	Indonesia, Malaysia and Philippines (internal)	Maritime boundary finalization
6	Indonesia and Philippines involving Palau (internal and external)	Maritime boundary finalization
7	Indonesia and Singapore (internal)	Maritime boundary finalization
8	Indonesia and Timor Leste (internal)	Maritime boundary finalization
9	Malaysia and Singapore (internal)	Maritime boundary finalization
10	Myanmar with Bangladesh (external)	Maritime boundary finalization
11	Timor Leste with Australia (external)	Maritime boundary finalization
12	Vietnam with China and Taiwan (external)	Paracel Islands

Table 1. Maritime boundary disputes internal and external to the region

⁹ S. Bateman, “Clashes at Sea: When Chinese Vessels Harass U.S. Ships”, *RSIS Commentaries*, 27/2009, 13 March 2009.

¹⁰ Channel News Asia, 15 March 2009.

Indonesia has an unsettled maritime boundary with Australia and Palau external to the region, and with Malaysia, the Philippines, Singapore and Timor Leste internal to it. It signed an agreement with Singapore demarcating the segment between Pulau Nipa and Singapore's western part on 10 March 2009. According to Hassan Wirajuda, Indonesia's foreign minister, signing the agreement in five years was an achievement compared to the 33 years it took with Vietnam. George Yeo, the foreign minister of Singapore, said it was an important milestone in bilateral relations.¹¹ The countries expect to resolve the remaining part of their border issues urgently. Maritime boundaries between Malaysia and Singapore, and Myanmar and Bangladesh also need demarcation. Timor Leste, the relatively new state, has maritime boundary alignment problems with Australia. The 2002 Timor Sea Treaty compels the two countries to split hydrocarbon revenues evenly outside the Joint Petroleum Development Area. Vietnam has disagreements regarding the Paracel Islands with parties external to the region.

The challenge of maritime disputes is more in law enforcement than in regional instability. Disputed borders are havens for unlawful activities. There is also the possibility of pitting maritime law enforcement agencies against each other under the pressure of governance. This will impact the much-required cooperative engagement activities to address common concerns. Sovereignty issues make Southeast Asian nations weary of external influence, which is interpreted as "interference".¹² There is no trade-off between sovereignty and cooperation for security. This is considered a handicap in creating effective cooperation.¹³ Conflicts can erupt within the region on many issues—resource requirement, ethnic diversity, fundamentalism, insurgency, economic imbalance, politics and politics. There are external players with serious stakes in the region.¹⁴ The likelihood of war between the regional countries will be low as long as ASEAN remains a matured association of

¹¹ S. Osman, "Singapore and Jakarta Sign Border Accord", *The Straits Times*, Singapore, 10 March 2009, p. A3.

¹² A. C. Sjaastad, "Southeast Asian SLOCs and Security Options", in Guan and Skogan, *Maritime Security in Southeast Asia*, p. 6.

¹³ Ibid.

¹⁴ H. Djalal, "Maritime Dimensions of New World Order; Cooperative Security Experiences in Southeast Asia", in R. Vohra and D. Chakraborty (Eds.), *Maritime Dimensions of a New World Order* (New Delhi: National Maritime Foundation, Anamaya Publishers), p. 118.

responsible governments. While the absence of war is a good idea, there is the risk of escalating unlawful activities.¹⁵

Unlawful Activities at and from the Sea

Among the unlawful maritime activities, “crime at sea” is perhaps the oldest. This terminology is used to denote criminal activities committed by people of a ship within it. In today’s parlance, it can extend to other vessels and fixed platforms as well. Crime at sea can range from ordinary theft to physical assault and even murder on board. They have to be seen under the laws of the state where the jurisdiction falls. The Southeast Asian seas have many ships—including cruise liners—plying across them. The chances of crime at sea are high. How prepared countries in the region are to investigate and handle crimes committed by crew, passengers or others on board will make an interesting study. This is a neglected area because of other high-profile unlawful activities. One of them is piracy at sea.

Piracy has been recorded in Southeast Asian waters since the fifth century. Piracy has established a complex social web of economic competition and status.¹⁶ Piracy, along with internal strife, is attributed to the decline of the flourishing Sultanate of Brunei in the eighteenth century.¹⁷ Everything about piracy is a modified repeat from the past. Even the young Julius Caesar was kidnapped by pirates and released only after ransom had been paid. That was in 75 BC.¹⁸ In the beginning, pirates raided coastal habitats. Some even ventured inland through riverine waters and caused mayhem among unsuspecting settlements. Is there evidence of a repeat in the modern world?¹⁹ While governments and their forces are baffled and indecisive in most parts as in the past, the victims suffer in every respect. There is no established system yet in place either by the maritime community or by international governments to provide compensation to the traumatized victims of piracy or help them

¹⁵ “Absence of war breeds crime” is not exactly a tested hypothesis. But it is seen that maritime unlawful activities like piracy, smuggling, etc. are at a low during war at sea.

¹⁶ C. Z. Raymond, “Piracy in the Waters of Southeast Asia”, in Guan and Skogan (Eds.), *Maritime Security in Southeast Asia*, p. 62.

¹⁷ Central Intelligence Agency, *The World Fact Book 2008*, www.cia.gov/library/publications/the-world-factbook/geos/bx.html, retrieved on 12 January 2009.

¹⁸ P. Paleri, “Unlawful – The Maritime Dimension”, research manuscript for a book of the same title, Institute for Defence Studies and Analyses, New Delhi, 2008, p. 74.

¹⁹ The statement is reminiscent of the Mumbai attack on 26 November 2008. The attackers reportedly came from the sea in a hijacked vessel. news.in.msn.com/national/article.aspx?cp-documentid=1814908, retrieved on 6 February 2009.

psychologically. Ship-owners find it more convenient to submit to the demands of pirates for ransom than to seek help from governments. Corporate social responsibility (CSR) is in reverse here. This is due to the sheer helplessness on the part of the owners and inability of governments to enforce the law. Piracy has graduated from “small-time mugging” to the sixth level of “militant piracy”, as witnessed in Somalian waters.²⁰ Though Southeast Asia has been branded as the pirate keg of the world, the situation has never been as anarchic as in that in the Somalian or Nigerian waters. Piracy reached the level of “captive hijacking” in Southeast Asia on a six-level piracy classification.²¹ The oil-rich Niger Delta in Nigeria also rose to the same level. But Somalia beat them all in terms of yield and publicity. Somalian pirates refrain from violence and killing. They have tasted blood in ransom. A live victim yields more. This is a major transformation that breeds apprehensions: Will Somalian-type piracy be repeated elsewhere by the lure of easy money? If so, where? Will it be in Southeast Asia? Secondly, what will be the take-off from the Somalian experience to the next stage of piracy? Will it be full-blown maritime terrorism? It is not yet clear to the players in the counter-piracy game.

Article 101 of UNCLOS defines piracy at the high seas, including exclusive economic zones.²² A similar activity in sovereign waters is not piracy under this definition. IMO terms such incidents as armed robbery.²³ Most of the reported piracy attacks in Southeast Asian waters are thus armed robberies. The coastal state can charge the offenders under criminal law. The differences in criminal procedures of states will reflect on regional enforcement. There is no exact definition of piracy in most of the national penal codes. India had to resort to the Admiralty Offences (Colonial) Act, 1849, and the Admiralty Jurisdiction (India) Act, 1860, in the case of the *Alondra Rainbow*.²⁴ It is also not piracy when the crew hijacks the

²⁰ The terms were used by the author in a researched report. Paleri, “Coast Guards of the World and Emerging Maritime Threats”, p. 144.

²¹ Ibid. The six-scale piratical attacks as identified by the author are marine theft, marine mugging, cargo hijacking, vessel hijacking, captive hijacking and militant piracy. In captive hijacking the crews are also hijacked with the vessel for ransom. In militant piracy there is a suspicion that the ransom money is laundered into insurgency and militancy, where the motive is not for “private ends”. The next stage probably will be “terror piracy” once piracy becomes explicit for the purpose of terror. This classification is based on the activity profile of piracy in relation to purpose.

²² Article 58(2).

²³ MSC/Circ. 984, Article 2.2, Code of Practice for the Investigation of the Crimes of Piracy and Armed Robbery against Ships, IMO, London, 20 December 2000.

²⁴ *MV Alondra Rainbow* was a Japanese owned merchant ship a under Panamanian flag. The brand new ship was hijacked on 27 October 1999 in the South China Sea. It was located by the Indian Coast Guard on 14 November 1999. The acts under which the case was charged were not revoked in independent India.

ship. It amount to only “barratry”, a crime at sea against the owner. The whole purpose of the provisions of piracy in international law is to make it a crime and declare pirates as enemies of humanity. States need to make it law by passing legislation providing for the jurisdiction of their courts and imposing penalties. States should make attacks on ships outside their territorial or other jurisdictional waters a crime under their laws. The law has to be cognizant to the fact that it is axiomatic that piracy *jure gentium* (i.e. international law) cannot take place in territorial waters, archipelagic waters or internal waters. International law has no means of trying or punishing offenders in regard to crimes defined therein. The recognition of them as constituting crimes and the trial and punishment of criminals are left to the domestic laws of a state.

According to the annual report of the ReCAAP Information Sharing Centre (ISC), Singapore, there was a decline in Category 1 (very significant) incidents in 2008 in Asia compared to the past four years (2004–2007).²⁵ But still there were four such incidents. All of them were in Southeast Asia.²⁶ In two incidents, both in the Philippines, crew were killed.²⁷ In the other two, in Malaysia and Indonesia respectively, vessels were hijacked along with the crew.²⁸ Category 2 (moderately significant) incidents increased and Category 3 (less significant) incidents remained consistent during the period 2006–2008.²⁹ In all these incidents, the crew were threatened, assaulted, injured, abandoned, taken hostage, kidnapped, killed or missing. In the first case of kidnapping in 2009, the master and the chief engineer of a tug was abducted on 19 February, 80 miles west of Penang. They were released after four days in captivity. The victims were Indonesians.³⁰ The last reported kidnapping was in August 2007 between Penang and Belawan. According to the reports, the pirates launched attacks from larger vessels to increase their reach.³¹ The first reported case of kidnapping for ransom in Southeast Asian waters was in 2001. In 2004, there were 14 incidents in the

²⁵ *Annual Report 2008*, ReCAAP Information Sharing Centre, Singapore, p. 1. ReCAAP stands for Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia.

²⁶ *Ibid.*, p. 12

²⁷ Passenger boats *Baby Renze*, off Polillo Island on 17 March 2008, and *Al-Aziz*, en route from Jolo, Sulu, to Laminusa Island on 6 May 2008. *Ibid.*, p. 23.

²⁸ *Ibid.*, p. 12.

²⁹ *Ibid.*, p. 1.

³⁰ V. Wee, “Pirates Free Crew Abducted from Malacca Straits”, *The Business Line*, Singapore, 24 February 2009, p. 19.

³¹ *Ibid.*

Malacca and Singapore Straits alone.³² Presumably, there are many unreported cases. Based on these analyses the trend is vacillating. The tendency to kill the crew and hijack the vessel shows that pirates may be adaptable to terrorism. Resourceful militant or insurgent organizations can make use of such situations at opportune times. There is also apprehension that decline in one area can be an early warning of it surfacing elsewhere. The notorious piracy triangle of the 1990s, linking Hainan Island, Hong Kong and Luzon, could become active again.³³

The legal clue of piracy turning to maritime terrorism lies in the interpretation of motive towards *private ends*, under Article 101. An example of such attestation can be seen in the statement of the Nigerian militants, the Movement of Emancipation of the Niger Delta (MEND), that they would sabotage the Sahara gas pipeline.³⁴ They are known to be involved in many piratical attacks in Niger Delta, particularly aimed at the oil industry since 2006.³⁵ Similarly, piracy in Somalia is not clearly understood. Considering that Al-Qaeda-affiliated militia the Shabab is party to the Somalian conflicts, it could very well have access to funds generated by Somalian pirates.³⁶ The estimated ransom paid to Somalian pirates in 2008 was US\$18 million and US\$30 million.³⁷ It is big money.³⁸ Though there is no room for assumptions in strategic fact-finding such quantum flow of money does not reflect on the rag-

³² Raymond, "Piracy in the Waters of Southeast Asia", in Guan and Skogan (Eds.), *Maritime Security in Southeast Asia*, p. 68.

³³ These statements could be seen as sweeping judgments that run counter to most analysis on the subject. They are made from the perspective of enforcement where a crime is seen not according to the statistics but by its occurrence or probability of occurrence among other things. Both still exist for piracy in Southeast Asia. In other words, the crime is very much there. Those who can kill or kidnap innocent crew in cold blood may find demand with the head-hunters of terror organizations. There is a trend in "crime-shift" by location when enforcement activities are tightened in one area. The enforcement agencies normally include such areas, too, for surveillance in the overall planning for suppressing the identified unlawful act. In the South China Sea, piracy may not shift to the noted "terror triangle", though mentioned as a poser. It is an exclamatory viewpoint that could be considered an overstatement. The crime can shift to any area that the perpetrators may find conducive based on situation analysis. These viewpoints of the author may be seen as opinionated hypotheses for further examination, especially by enforcement agencies.

³⁴ N. Tattersall, "Nigeria Militants Say will Sabotage Saharan Gas Pipe", Reuters, www.alertnet.org/thenews/newsdesk/LS322135.htm, retrieved on 20 February 2009.

³⁵ Paleri, *Unlawful – The Maritime Dimension*, p. 223.

³⁶ "Deal Reached with Militants in Somalia", *The International Herald Tribune*, Tokyo, 28 October 2008, p. 3. The Shabab shunned the peace talks.

³⁷ R. Beckman, "Somali Piracy: Is International Law Part of the Problem or Part of the Solution?", presentation at S. Rajaratnam School of International Studies, Nanyang Technological University, Singapore, 23 February 2009.

³⁸ "Pirate's Body Washes Ashore with \$153,000", www.msnbc.msn.com/id/28607365/?GT1=43001, retrieved on 15 January 2009.

tag posture of the pirates. There are many grey areas in the investigations and operations in the Somalian polygon. The study is vital to the understanding of the future of piracy since the spectre of maritime terrorism looms large over the world. It was best expressed by the Minister for Home Affairs of Singapore, Wong Kan Seng, “We do not know whether it’s pirates or terrorists who occupy the ship so we have to treat them alike.”³⁹ The statement also shows the government’s resolve and determination in dealing with the problem. Significance of this reality echoes in the entire region in the premonitory words of Lee Hsien Loong, the Prime Minister of Singapore, on the eve of 2009: “There is no 100 per cent guarantee that we will never be hit (by terror strikes).”⁴⁰

Southeast Asia seemingly has moderate gains against terrorism in recent times. In the Philippines, the government has scored tactical success against the Abu Sayyaf Group (ASG).⁴¹ This group has proven maritime prowess. Other terrorist groups in the Philippines are the Moro Islamic Liberation front (MILF) and the Moro National Liberation Front (MNLF). Indonesia has been successful in containing the fundamentalist group Jemaah Islamiyah (JI) as well as the insurgent Gerakan Aceh Merdeka (GAM). The operational areas of JI are spread out in Indonesia, Malaysia, Philippines, Singapore and southern Thailand. They are active in Papua and Australia too.⁴² JI is considered the most serious threat to the Straits of Malacca and Singapore because of its maritime capabilities and determined religious model for a dream state.⁴³ It is suspected that JI has gained sufficient psychological ground on political and ideological fronts in Southeast Asia subsequent to the verdict in the Bali bombing⁴⁴ and the Gaza crisis.⁴⁵

³⁹ R. C. Banlaoi, “Maritime Security Threats in Southeast Asia: Current Situation, Future Trends and Regional Responses in the Age of Terror”, Paper presented in the Regional Maritime Security and Piracy Seminar on Capacity Building Assistance in Southeast Asia, Tokyo, 10 June 2008, p. 6.

⁴⁰ Channel News Asia, 31 December 2008.

⁴¹ Singh and Than (Eds.), *Southeast Asian Affairs 2008*, p. xi.

⁴² Banlaoi, “Maritime Security Threats in Southeast Asia: Current Situation, Future Trends and Regional Responses in the Age of Terror”, p. 17–19.

⁴³ *Ibid.*, pp. 15, 22.

⁴⁴ Channel News Asia, Singapore, 17 March 2009. The books published by the three accused (executed on 9 November 2008) supporting jihad gained much popularity before being confiscated by the Indonesian authorities.

⁴⁵ N. L. T. M. Huong, “The Gaza Crisis: Impact on Southeast Asia”, *RSIS Commentaries*, 10 February 2009, pp. 1–2. There were calls for funding to support war against Israel.

The terrorist groups of Southeast Asia are believed to have external links for training and logistics. It is suspected that the ASG maintains links with the Liberation Tigers of Tamil Eelam (LTTE) of Sri Lanka.⁴⁶ Another finding is self-radicalization through cyberspace. Investigations in Singapore pointed out connections to the Lashker-e-Tayyiba, a Pakistan based militant group.⁴⁷ Terrorist and separatist organizations are also undergoing criminalization beyond their chosen political and religious ideologies. Another change is the corporatization of terror with monetary motives. This turns terrorism into terror incorporated.⁴⁸ Militants associated with recession crimes may transform the activity profile to one that is indistinguishable from terrorism and violent criminal activity. The governments need to be watchful of such deviations.

The ports and coastal facilities of Southeast Asia are highly vulnerable to terror attacks. The sea could be used to carry out militant activities over land. The International Ship and Port Facility Security (ISPS) Code and Container Security Initiative (CSI) originated from the apprehension that terrorist groups and rogue regimes may transport weapons of mass destruction (WMD) by sea.⁴⁹ Most of the nations agreed to ISPS Code but CSI did not find much favour. In facing the challenges of unlawful activities, it is important to understand that the perpetrators are disciplined professionals with determination and dead-ender objectives. Preventive measures should be designed under such appreciation.

The challenges to the rule of law in Southeast Asian waters are not restricted to the findings so far. The region is witness to every other conceivable unlawful activity, including smuggling; illegal logging and transporting; illegal, unregulated, unreported (IUU) fishing; trafficking in humans, drugs and arms; money laundering; maritime traffic violations; environmental crimes; robbery and theft across waters; and maritime fraud. The list is long. IUU fishing is one of the causes for fish stock decline. There are reports from the Philippines

⁴⁶ Banlaoi, "Maritime Security Threats in Southeast Asia: Current Situation, Future Trends and Regional Responses in the Age of Terror", p. 50.

⁴⁷ B. Singh, "Singapore – Success at Home, Challenges from Abroad", in Singh and Than (Eds.), p. 315.

⁴⁸ Paleri, *Unlawful – The Maritime Dimension*, Chapter 7, p. 213–260.

⁴⁹ R. Sakata, "Domestic Challenges Attendant on the Establishment of Maritime Security: the Necessity of Cooperation between Navy and Maritime Law Enforcement Agencies at Home", in Vohra and Chakraborty (Eds.), *Maritime Dimensions of a New World Order*, p. 83.

about the dwindling catch of tuna.⁵⁰ Myanmar is the world's second largest producer of illicit opium.⁵¹ Narcotics induce corruption and money laundering in the system. It supports militancy and insurgency. There is increased trafficking in women and children for sexual and labour exploitation. Insurgencies and failed regimes in the past have also created internally displaced people (IDP),⁵² whose numbers are swelling.⁵³ The Indonesian Navy rescued a boat full of Rohingyas fleeing Myanmar on 3 February 2009 near the Aceh province. It was reported that Thai authorities pushed them back into the sea when they tried to land on its shores.⁵⁴ Thailand refuted the allegations.⁵⁵ During the ASEAN summit on 1 March 2009 at Hua Hin, Thailand, the prime minister of Singapore expressed his apprehension that the Rohingyas issue would be damaging to ASEAN's image.⁵⁶ Parallel to the humanitarian problems of the Rohingyas are tales associated with their involvement in fundamentalist activities through the Rohingya Solidarity Organisation (RSO), which has alleged links with Al-Qaeda and other militant organizations in Bangladesh, India, Malaysia and Pakistan.⁵⁷ Most of the Rohingyas belong to the coastal state of Arakan in Myanmar, which is a haven for smugglers and illegal fishers from other countries, especially Thailand.⁵⁸

While it may not have been openly admitted, the maritime domain could also be used for intelligence and information gathering by illegal survey and other means. Such activities have to be brought under legislation by the respective states to make them unlawful with due consideration to international law. In the absence of such laws there are possibilities of clashes and stand-offs at sea, which may not be in the interest of the region.

⁵⁰ "Philippines: Dwindling Tuna Catch Hits Local Livelihoods", e-mail, enewline@adbi.org, 5 March 2009.

⁵¹ Central Intelligence Agency, *The World Fact Book 2008*. www.cia.gov/library/publications/the-world-factbook/index.html, retrieved on 15 February 2009.

⁵² Ibid.

⁵³ "Australian Navy Detained 5 Asylum Seekers off its Northern Territory on 14 Feb 09", Channel News Asia, Singapore, 15 March 2009,

⁵⁴ "Thailand Army Abandons Refugees at Sea", *Mail Today*, Mumbai, 27 January 2009, p. 12.

⁵⁵ "Rohingyas at Sea, It is a Miracle They Survived", *Today*, Singapore, 4 February 2009, p. 12.

⁵⁶ Channel News Asia, Singapore, 2 March 2009.

⁵⁷ "Bangladesh – Championing Islamist Extremism", Asia Pacific Media Services Limited, 16 October 2002, www.rakhapura.com/articles/bangladesh-championing-islamist-extremism.asp, retrieved on 15 February 2009.

⁵⁸ B. Hawke, "Myanmar Installs New Naval Radar", *Jane's Defence Weekly*, Bangkok, www.burmalibrary.org/reg.burma/archives/200102/msg00067.html, retrieved on 20 March 2009.

Disaster Scenario

The region is highly disaster prone. A maritime disaster could choke its SLOC. The 2004 tsunami pales in comparison with the devastation caused by the nuclear-like volcanic eruption in the island of Krakatoa in Sunda Strait on that fateful day of 27 August 1883. There have been many recorded tsunamis since then. A powerful earthquake in Sulawesi Island briefly triggered a tsunami warning, causing panic among its population on 12 February 2009.⁵⁹ This is an area that needs much study for contingency preparation. Tsunamis and other natural disasters like cyclones and flash floods can alter the coastal profiles and navigational channels. Indonesia lies on the Pacific “ring of fire”. A report has stated that Indonesia lost 24 islands in 2007. Scientists have warned that the country may lose about 2,000 islands by 2030 if preventive measures are not taken.⁶⁰ The forest fires of Indonesia can choke navigation in the straits by smog. There can be disasters caused by marine casualties while on passage, or being hijacked or attacked by terrorists. The maritime domain also plays a part in biological disasters caused by pandemics, which is a matter of concern for the region.⁶¹

Facing the Challenges – Interplay of Coast Guards in the Region

The region has various forces and agencies among its identified entities to meet the maritime challenges. They diverge in their capacities and interoperative characteristics. This paper appreciates the challenges they face under situations that do not presuppose hegemonic interests within or external to the region. The challenges are identified for law enforcement agencies to provide service to the people in the maritime domain. For that, the most suitable and recognized maritime force is ideally the coast guard.

⁵⁹ “7.2 Magnitude Quake Hits Sulawesi”, *Today*, Singapore, 13 February 2009, p. 10.

⁶⁰ “Indonesia Lost 24 Islands by Disasters, Environmental Damage”, 30 November 2007, english.people.com.cn/90001/90777/90851/6312236.html, retrieved on 10 March 2009.

⁶¹ “A Dead Chicken Found at Sea in Hong Kong Tested H5N1 Positive”, Channel News Asia, 12 February 2009. There was no poultry farm nearby.

The Concept and Anatomy of a Coast Guard

Most of the world governments have yet to understand the concept of the coast guard in a clear perspective. This is evident in a study conducted by the author that identified 142 coast guards in 40 different names under 21 ministries, departments or agencies (2008) around the world.⁶² But assured symmetry was observed in their purpose, duties and functions, as well as fundamental characteristics. This symmetry is unique to the coast guards. A coast guard is better explained by “what it is not” than by “what it is”. In the former configuration, the coast guard is a naval force exclusively authorized for law enforcement and service with entity-specific functions under constitutionally chartered duties. The universal acceptance of the coast guard for law enforcement and service as well as its likely status outside global arms-control measures and sanctions also originate from this fact.⁶³ It is not designed as a war-fighting force. It may support national forces during war in its specific role as a coast guard. These facets of the coast guard are yet to be fully understood by the world governments. This paper views a coast guard from this perspective.⁶⁴ The coast guard is not exclusive to the littorals. Many landlocked nations have coast guards with similar objectives in their internal waters.

A navy, on the other hand, is part of a nation’s entire and exclusive war-fighting organization. According to Sam Bateman, navies are optimized for war-fighting and conventional security.⁶⁵ It is not meant for law enforcement. But law-enforcement agencies like the coast guard will require the support of the navy in heightened and specific operations. Its expertise is in war-fighting. Similarly, the coast guard is not a substitute for a combat navy, even if it is declared as a military⁶⁶ service. The combat navy should not attempt to be a coast guard or its controlling authority because a military does not enforce law under modern constitutions except under specified situations as those defined by the constitution. Points

⁶² Paleri, “Coast Guards of the World and Emerging Maritime Threats”, pp. 115, 190–192.

⁶³ See also S. Bateman, “Coast Guards: New Forces for Regional Order and Security”, *Asia-Pacific Issues*, Number 65, East-West Center, Honolulu, Hawaii, January 2003, p. 7.

⁶⁴ P. Paleri, *Role of the Coast Guard in the Maritime Security of India*, Second Edition. New Delhi: Knowledge World, 2007.

⁶⁵ Bateman, “Coast Guards of the World and Emerging Maritime Threats”, p. 7.

⁶⁶ P. Paleri, *Role of the Coast Guard in the Maritime Security of India*, pp. 7–8. In this context, the term “military” means an armed force meant for military combat against lawful or unlawful combatants to safeguard

related to such asymmetry are important while considering the navy for deployment in coast guard assignments. Like any other armed force of the government, the coast guard can be deployed in a war, within its capabilities and role. But the real and competent combat element of the nation at sea is its navy. The navy should be left in that exclusive terrain lest its cutting edge be blunt by becoming a coast guard. The United States perhaps understands this statement. The result is visible. The maximization of overall maritime operational effectiveness of available forces is possible only by such understanding.

Most nations rely on navies and other military forces for coast guard functions even if they have formal coast guards. Navies or other military forces perform this by exercising authority over the coast guards. One of the causes for such organizational behaviour is the “method inertia” that the navies continue to hold. The method inertia prevents the navy or the military force that has been performing the duties and functions of the coast guard to change its ways once a coast guard has been formed. It continues its passage as before by controlling the coast guard. This is an important finding. Governments should understand it. Otherwise, there is a chance of their navies becoming coast guards and coast guards getting stupefied in their performance. Not only so, the asymmetry between the navy and the coast guard is gradually widening under the forward changes taking place in warfare, and enforcement and service.⁶⁷ These requirements place the demand over the navies along with other military forces, and coast guards to advance separately in different directions nudging the gap of asymmetry wider. This is another important find that, barring very limited exceptions, the navies and similar military forces, and the coast guards have not seriously examined. This could cost them dearly when situations change in the future.

the sovereign rights and integrity of a nation. The term “military” is also used to denote the ground forces (army) in certain constitutions like those of India and Pakistan.

⁶⁷ S. Bateman, “Coast Guards: New Forces for Regional Order and Security”, p. 6.

*Claims and Forces – Regional Perspective*⁶⁸

The countries and other territories that can directly influence the region by their geolocation and proximity are those (i) within ASEAN as member or candidate states; (ii) within Southeast Asia as territories and disputed areas; and (iii) external and bordering it. Among them, the maritime claims and forces of the states within the region are briefly examined in this study.

Brunei Darussalam

Brunei Darussalam has a 161-km coastline. It claims 12 nm of territorial sea and a 200-nm or median line exclusive economic zone. It has a navy with an air wing, and a marine police that functions as a coast guard. In addition, there is a fishery department.

Cambodia

Cambodia has a 443-km coastline. It claims 12 nm of territorial sea, a 24-nm contiguous zone, a 200-nm exclusive economic zone and a 200-nm continental shelf. It has a navy that also carries out the functions of the coast guard.

Indonesia

Indonesia has 54,716 km of coastline. It claims 12 nm of territorial sea and a 200-nm exclusive economic zone. It has a navy with an air arm and marine corps. The Indonesian Maritime Security Coordinating Board (IMSCB) (*Bakorkamla*),⁶⁹ established in 1972, was

⁶⁸ The data are from various sources. The length of the coastline and other variables are subject to change. Primary sources are: Central Intelligence Agency, *The World Fact Book, 2008*, www.cia.gov/library/publications/the-world-factbook/index.html, retrieved on 16 February 2009, and E. Wertheim, *The Naval Institute Guide to Combat Ships of the World*, 15th Edition, books.google.co.jp/books?id=TJunjRvpIU4C&pg=PA66&as_brr=3&source=gb_s_toc_r&cad=0_0#PPP1,M1, retrieved on 17 February 2009.

⁶⁹ *Badan Koordinasi Keamanan Laut*.

reorganized in 2003 in the process of separating the military from enforcement roles.⁷⁰ It was completed and affirmed on 29 December 2005. The declared missions are:

- To formulate and determine general policy in the field of sea security;
- To coordinate the execution of activities and maritime security operations in Indonesian sea territory;
- To formulate and determine the realization of technical and administrative support in the field of maritime security;
- To assist the enhancement of institutional capacity in the field of maritime security;
- To motivate the improvement of community participation in the field of maritime security.

Indonesia's Sea Communication Agency, established in 1978,⁷¹ is similar to the coast guard, with functions of providing and supporting navigational aids and underwater submarine cables for communication. In addition, there are customs, the marine police and fisheries agencies.

Lao People's Democratic Republic (Laos)

Laos is the only landlocked state of Southeast Asia but has navigation and shipping interests in the Mekong River. It has a riverine force as part of the Lao People's Army (LPA).

Malaysia

Malaysia has 4,675 km of coastline. It claims 12 nm of territorial sea, a 200-nm exclusive economic zone and a continental shelf of 200 metres or to the depth of exploitation. It has a navy, a coast guard, marine customs, a marine police, a marine department, a department of environment, an immigration department and a fisheries agency dealing with maritime

⁷⁰ In the past, the military and police operated under one umbrella. They were separated in 1999.

⁷¹ Indonesian Directorate General of Sea Communication / Department of Transport, Communication and Tourism.

matters. The coast guard, known as the Malaysian Marine Enforcement Agency (MMEA),⁷² came into force on 15 February 2005. It is part of the Malaysian Civil Service under the Prime Minister's Department. The MMEA is tasked with:

- Enforcement of national and international laws;
- Coordination of maritime search and rescue operations and other matters incidental to maritime enforcement in the maritime zones of Malaysia and on the high seas;
- Air and coastal surveillance;
- Control and prevention of marine pollution;
- National defence in times of war or emergency under the command of the Malaysian armed forces;
- Prevention and suppression of piracy;
- Prevention of human trafficking and illegal immigration;
- Drug interdiction.

Myanmar

Myanmar has 1,930 km of coastline. It claims 12 nm of territorial sea, a 24-nm contiguous zone, a 200-nm exclusive economic zone and a continental shelf 200 nm or to the edge of the continental margin. The coast guard, as part of its navy, carries out fisheries monitoring and surveillance, especially for the Food and Agricultural Organisation's (FAO) fisheries programmes.

The Philippines

The Philippines has 36,289 km of coastline. It claims 100 nm of territorial sea from the coastline in the shape of an irregular polygon as defined by a 1898 treaty. In the late 1970s, it also claimed a polygonal-shaped area in the South China Sea up to 285 nm in breadth. The claim on its exclusive economic zone is 200 nm and continental shelf up to the depth of exploitation. It has a navy that includes a marine corps and an aviation wing, and a formal

⁷² *Agensi Penguatkuasaan Maritim Malaysia (APMM)*.

coast guard. Some of the coast guard vessels are staffed by the navy. The Philippine Coast Guard (PCG), originally founded on 7 October 1901, also operates in the rivers. The coast guard is under the department of transportations and communications. Its duties and functions are:

- Maritime law enforcement;
- Anti-smuggling;
- Anti-poaching;
- Drug interdiction;
- Combating piracy;
- Maritime search and rescue;
- Protection of marine environment

Singapore

Singapore has 193 km of coastline. It claims 3 nm of territorial sea and an exclusive fishing zone within and beyond the territorial sea as defined in treaties and practice. It has a navy and a formal coast guard known as the Police Coast Guard. The navy is part of the sophisticated and well-equipped Singapore Armed Forces (SAF). The Police Coast Guard has a long history with the establishment of the police maritime operations in a floating police station to fight piracy in 1866. It became the Police Coast Guard on 13 February 1993, with primary duties of law enforcement and border control in the waters of Singapore. The coast guard works in partnership with the navy, the Maritime Port Authority and the Immigration and Checkpoint Authority (customs).

Thailand

Thailand has 3,219 km of coastline. It claims 12 nm of territorial sea, a 200-nm exclusive economic zone and a continental shelf up to 200 m in depth or to the depth of exploitation. Thailand has a developed navy and a marine police that acts as a coast guard. The country is still involved in the long process of developing a formal coast guard. A trial coast guard force was established on 1 April 1989. The coast guard squadron was officially authorized on 29

September 1992. Currently, ships and aircraft are rotated from the navy. The marine police functions under the Ministry of Interior. Besides the coast guard and marine police, there are also armed sea rangers (ASR) who maintain counter-piracy patrols in converted fishing vessels.

Timor Leste

Timor Leste has 706 km of coastline. It claims 12 nm of territorial sea, a 24-nm contiguous zone and a 200-nm exclusive fisheries zone. It has a small navy with a coast guard component for enforcement of fisheries regulations.

Vietnam

Vietnam has 3,344 km of coastline. It claims 12 nm of territorial sea, a 24-nm contiguous zone, a 200-nm exclusive economic zone and a continental shelf up to 200-nm or to the edge of the continental margin. It has a navy and a coast guard. The coast guard was formed on 1 September 1998 as subordinate to the navy. It is known as the Vietnam People's Border and Coast Guard. It will also take on customs duties. The navy command comes under the Vietnam People's Army (VPA). The duties and functions of the coast guard are:

- Drug interdiction;
- Maritime law enforcement;
- Marine assistance;
- Maritime search and rescue;
- National defence—alongside the Vietnamese Navy.

Characteristics and Capacities of Identified Coast Guards

Maritime Southeast Asia is vast with a combined coastline of about 92,451 km.⁷³ The non-military maritime forces and agencies include the formal coast guards and those who perform similar roles—marine police, armed sea rangers, customs, fisheries, riverine police, the sea communication agency, the department of environment, the marine department and the immigration department. In addition, there are subordinate coast guards under the military as well as navies performing coast guard functions in a dual role. All the maritime and waterborne forces, including the navies that perform coast guard roles, are considered coast guards for this study.⁷⁴ The asymmetry in their characteristics is natural to the world coast guards. Every state of Southeast Asia has one or more forces that function as coast guards. They also have naval and other military forces. The forces and agencies are dissimilar even with respect to the terrains in which they operate. Their nature varies in many ways based on the policies and strategic perception of each entity. This differentiation is overtly visible.

The region is more dependent on military power than the coast guards for monitoring, control and surveillance of the sea. It shows the limitations of the coast guards as well as dependence on military power by governments. There are many nations that use their navies for law enforcement in the maritime domain. The engagement of extra-regional powers in the region is also by the use of military power, except for Japan in its contribution towards capacity building. That may be attributed to the limitations of Japan's self-defence forces under the constitution. Using the military to establish the rule of law in the maritime domain in other-than-war situations may point out to various factors in the governance of a nation. It is akin to the use of the army for law enforcement over the land. The reasons for the use of the navy for law enforcement at sea will be country specific. An obvious reason for the deployment of the military in law enforcement is when the country is taken over by the military. There are other reasons, too. They are hard to establish unless such governments come out with their apprehensions clearly. In the absence of explicit views from the

⁷³ Banlaoi, "Maritime Security Threats in Southeast Asia: Current Situation, Future Trends and Regional Responses in the Age of Terror", p. 63.

⁷⁴ Also emphasized in Sakata, "Domestic Challenges Attendant on the Establishment of Maritime Security: The Necessity of Cooperation between Navy and Maritime Law Enforcement Agencies at Home", in Vohra and Chakraborty, *Maritime Dimensions of a New World Order*, p. 81.

concerned governments, the reasons can be established only hypothetically and examined through independent debates by scholars. The hypotheses are also deductible from *a priori* assessments. Accordingly, the assumptions for a country using its navy in the duties and functions of a coast guard either directly or with the coast guard under its command and control could be attributed to the reasons that (i) the situation is vastly heightened and not within the expected capacity⁷⁵ of the coast guards to handle; (ii) the coast guards do not have the minimum required capacity;⁷⁶ (iii) the government is depended on the military for every activity under excessive concern of sovereignty and integrity; (iv) the military is unduly concerned about apparent loss of power and limelight; or (v) the military is unable to remain confined to its spot in military security.⁷⁷ These statements may attract varied opinions, being hypotheses that the concerned governments may examine them for policy decisions on maritime law enforcement and service under their respective constitutions. In the case of Southeast Asian countries, the reasons can be attributed to the limitations in the overall capacity of the coast guards in relation to the challenges. The individual states are also concerned about their sovereignty and integrity. The latter situation can change with the ASEAN's move towards a well-knit regional community as its goal in the future in a responsible manner. The current approach, therefore, is reasonably suitable for the region, except that the military nature of operations changes the posture of interaction. Internationally, a coast guard by its nature has more political acceptance than a military force.⁷⁸ Mariners, other seafarers and the coastal community are more at ease in communicating with the coast guard than with the military.

Another interesting pointer that exposes the capacity limitations of state-managed security are the market-driven activities of private security companies (PSC) in Southeast Asia. Some of them are called private military companies (PMC). The paradigm shift in security matters created opportunities to private parties (a reflection on the “privateers” of the

⁷⁵ The expected capacity of a coastguard is the assessed capacity requirement of a coastguard to meet the expected challenges in a country-specific manner in its maritime domain. It is the ideal capacity requirement arrived at through cost benefit analysis (CBA). It is the overall capacity.

⁷⁶ The minimum required capacity is the capacity required to handle a specific coast guard function under a specific situation. It is less than the expected capacity.

⁷⁷ The author prefers to call the situation the “restless military syndrome”. It is a situation that develops within the military forces when they are not constructively engaged.

⁷⁸ Bateman, “Coast Guard: New Forces for Regional Order and Security”, *Asia Pacific Issues* No. 65, East-West Center, January 2003, p. 7.

old world of piracy?) to offer security services to vessels, ports, offshore installations and fishing grounds.⁷⁹ It weighs against the military and coast guards, besides raising doubts about corruption in the system.⁸⁰ Corruption, together with a lack of capacity, is a dangerous combination. Transnational crimes ride on this wave. The private maritime security or military companies can create a new dimension in the challenges faced by the region, especially when the route they follow is through corrupt practices in licensing and management.

Considering the form of challenges within the three core divisions—boundary issues, unlawful activities and disaster situations—the region’s coast guards should ideally have the capacity to handle them. They need the wherewithal and role consolidation under positive affirmation for this purpose. The capacity of a coast guard depends, among other things, on professional competence, organizational acuity, force level, supporting legislation, infrastructure, equipment, freedom of operation and accountability to achieve results. The lack of them, especially accountability, will not only make them ineffective but also corrupt. Many countries in the region do not have formal coast guards. Perhaps ASEAN can explore the feasibility of a regional coast guard under a unified coast guard concept within their respective domains. It is a much-spoken but never-tried concept in the world in which ASEAN can strike a first. The coast guard can be supported by a competent military to handle heightened situations. The military should play the role of a force enhancer in the case of overarching requirements with respect to the seriousness of the situation. It will happen in situations bordering terrorism. The military could also perform law enforcement jointly with coast guard personnel as sea riders, similar to the U.S. model.

The capacity deficit of regional coast guards has its roots in the approaches and policies of the members of the region and their historic past. The reflections of the past are natural in any nation’s forward movement. It is encouraging that there is a strong undercurrent of pragmatic collectivism within the region. But apprehensions of the future are exclusive to each nation, which leads to military dependence. This overshadows even the

⁷⁹ C. Liss, “Southeast Asia’s Maritime Security Dilemma: State or Market?“, japanfocus.org/products/details/2444, 2007, retrieved on 10 March 2009.

⁸⁰ Ibid.

establishment of the rule of law. Coast guards and other similar agencies take a backseat under this approach. Their capacity declines. This is to be watched for.

Participation in ReCAAP is an example of collectivism as well as difference. The ReCAAP was aimed at a government-to-government engagement to combat maritime piracy and armed robbery in Asian waters. It was a unique initiative by 16 Asian countries—the 10 ASEAN members, Bangladesh, China, Japan, India, South Korea and Sri Lanka. Its information-sharing centre (ISC) in Singapore is the hub for information dissemination and capacity building with an operational focus. Fourteen of the 16 countries that took the initiative signed and ratified the agreement.⁸¹ Indonesia and Malaysia decided to keep out. But there is consent to cooperate. Currently, the ISC coordinates the activities with the 14 member-states and Hong Kong (China) through their respective notified focal points. In addition, it interacts with Indonesia's Bakorkamla and the Malaysian Maritime Enforcement Agency (MMEA) on incidents.⁸² Their becoming parties to ReCAAP will be a great step forward for the region.

Southeast Asian countries will have to find the imperatives to meet the challenges in their waters. The extra-regional stakeholders will look up on the region to safeguard their interests. Under capacity deficit, user states may interfere if their ships are attacked. The Somalian model is right on point. The littorals, therefore, have the vicarious liability of securing the regional waterways. The littorals of the Malacca and Singapore Straits, Indonesia, Malaysia and Singapore, are relatively powerful with strong armed forces, responsible governments and capabilities to face the maritime challenges independently, jointly or through cooperative regional engagements. The joint maritime operation Malsindo, established in July 2004, is an example. The surface operations have been coordinated by the eye in the sky (EiS) since September 2005 by the three countries and Thailand. According to

⁸¹ Factsheet on the Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia, app.mot.gov.sg/data/ReCAAP%20factsheet%20_Nov06_%20%5BFINAL%20of%20281106.pdf, retrieved on 22 February 2009. ReCAAP came into force on 4 September 2006 and ISC was launched on 29 November 2006.

⁸² The commitment was made in the Tripartite Ministerial Meeting of the Littoral States of the Straits of Malacca and Singapore held in Batam in August 2005 and reiterated at International Maritime Organisation (IMO) Meeting on the Straits of Malacca and Singapore held in Kuala Lumpur in September 2006. app.mot.gov.sg/data/ReCAAP%20factsheet%20_Nov06_%20%5BFINAL%20of%20281106.pdf, retrieved on 12 February 2009.

Joshua Ho, extra-regional countries may be invited to participate in the EiS.⁸³ It is claimed that the straits have become safer under joint surveillance.⁸⁴ But there are questions about the surrounding areas, like the Anambas Islands (Indonesia) lying between East and West Malaysia in the South China Sea.⁸⁵ It is also reported that the patrol focuses on the media-friendly Malacca and Singapore Straits and overlooks the surrounding spots.⁸⁶ Coast guard participation is limited in such operations.⁸⁷

The states have ventured into naval modernization programmes since the mid 1990s. But attention towards the capacity development of coast guards and codifying their role does not seem to be sufficient. According to Banlaoi, even military modernization does not equate with military effectiveness in facing the challenges.⁸⁸ He is also particular that to overcome maritime security challenges the region should go for means beyond military use. Because such problems cannot be solved by military alone, it requires political, economic and socio-cultural approaches.⁸⁹ Coast guards can be very effective if rightfully used in establishing contact with people through community interactions for socio-cultural development. It is at low key in Southeast Asia.

Conclusions

The maritime challenges of Southeast Asia come not only from criminals, thieves, robbers, smugglers, traffickers, pirates, fraudsters, insurgents and terrorists but also from corruption, private market players, external players and disasters. Currently, regional coast guards do not have the capacity to face these challenges. They will be able to face them by consolidation and uniformity; development of personnel quality standards, force level and equipment;

⁸³ Ho, "The Importance and Security of Regional Sea Lanes", in Guan and Skogan, *Maritime Security in Southeast Asia*, p. 30.

⁸⁴ *Ibid.*, pp. 31–32.

⁸⁵ E. Frecon, "Piracy in the South China Sea: Maritime Ambushes off the Mangkai Passage", *RSIS Commentaries*, 20 February 2009, p. 1

⁸⁶ *Ibid.*, p. 3

⁸⁷ Banlaoi, "Maritime Security Threats in Southeast Asia: Current Situation, Future Trends and Regional Responses in the Age of Terror", p. 84.

⁸⁸ *Ibid.*, p. 84.

⁸⁹ *Ibid.*

proactive national legislations; freedom of operation; support from the military;⁹⁰ recognition; and elevated accountability. It will be in the interest of the region to develop its coast guards formally because they are the evolving forces of the future with universal acceptance for law enforcement and services in the maritime domain. They are not considered instruments of power projection. In this role the regional coast guards of Southeast Asia will be able to bring the much-needed cohesion in maintaining good order in its maritime domain. Perhaps ASEAN as an intuitive forum could address it.

⁹⁰ The most suitable model is that of the United States, where the coastguard “rides” the U.S. naval ships for law enforcement and cooperates in overseas operations, retaining its individual identity.

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