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### **Abstract**

The post-Cold War environment presents a number of new maritime security challenges in a growing wave of illegal maritime activities such as piracy, armed sea robbery, environmental degradation, illegal fishing, and drug, human and small arms trafficking. The increase of such illegal activities is apparent in both national and international maritime waters and threatens the interests of both regional and non-regional states. New efforts to curb this illegal activity are required by individual littoral states, regional organizations, and the international community. This paper will examine the triggers for increased maritime criminal activity, Canada's strategic-economic interests, and our contribution to the necessary enhancement of surveillance and monitoring within this region.

## **The Implications of Illegal Maritime Activities for Canadian Security and Methods of Enhancing Surveillance and Monitoring in East Asian and North Pacific Waters**

*Karsten von Hoesslin*

The post-Cold War environment presents a number of new maritime security challenges to Canada and Asia-Pacific states in a growing wave of illegal maritime activities. The increase of illegal activity is apparent in both Canada's national and Asia-Pacific waters and threatens the interests of both regional and non-regional states. New efforts to curb illegal activity are required by individual littoral states, regional organizations, and the international community. Canada must also take greater steps in defining its maritime geopolitical area of interest and enhance security with surveillance and monitoring. This paper will examine the triggers for increased maritime criminal activity, Canada's strategic-economic interests, and our contribution to the necessary enhancement of surveillance and monitoring within our national and Asia-Pacific waters.

***Identifying Transnational Criminal Activity:***

Piracy, armed sea robbery, environmental degradation, illegal fishing, drug, human and small arms trafficking are all forms of transnational criminal activity. Such activity is not a recent phenomenon and over centuries, it has not been a simple threat to quell: piracy/armed sea robbery plagued the maritime shipping trade of the Ming Dynasty in the fourteenth century as much as it does today.<sup>1</sup> The illegal trafficking of humans has also plagued societies for centuries. Modern nation states depend on the sea for transporting goods and it can only be expected that occurrence and mobility of transnational criminal activity will acquire the same dependency. Therefore, maritime transnational criminal activity will never be eradicated.

Though the majority of criminal activity occurs in East Asian and specifically in South East waters, Canada must deal with activity in its own territorial waters and more importantly is continuously at risk of having criminal activity proliferate into its waters. Piracy and armed sea robbery occur mainly within the South China Sea (SCS) in vital chokepoints such as the Straits of Malacca or close to shore, specifically in Indonesian waters. The exotic fish trade in South East Asia (SEA) leads to a drastic increase in illegal fishing and environmental degradation due to the use of make-shift explosives and cyanide poisoning. The South China Sea's corral reefs are drastically diminishing, which in the long-term, will dangerously effect South East Asia's fishing economy.

As witnessed by recent events, illegal fishing, human, arms, and drug trafficking not only creates human and maritime security challenges within SEA, but have a far greater chance of proliferating into Canadian waters. The three rusted boatloads of Chinese migrants in the summer of 1999 who entered Canadian waters posed a serious human security threat because upon inspection, it was verified that the "rust-buckets" were far from safe and subject to sinking at any moment.<sup>2</sup> For Canada, illegal driftnet fishing is also of concern and fortunately,

the Canadian government has taken steps to increase its surveillance and monitoring practice.

The threat of increasing maritime criminal activity was also very much a public issue when the Cold War ended and the world slid into a hegemonic power structure. To many traditional realists, East/South East Asian waters have experienced a degree of maritime anarchy because the vacuum required filling by some form of actor or unit.<sup>3</sup> In this case, it was criminal organizations such as the Chinese Triads and individuals looking for easy profits. The issue, however, cannot simply be dismissed as a post-Cold War phenomenon because geo-politics and geo-economics play their part within the dilemma.

### ***Why Is Maritime Transnational Criminal Activity on the Rise?***

Illegal maritime activity in Asian waters has increased sharply in recent years due to a number of economic, political, and military factors. A primary trigger was the East Asian financial crisis and its devastating effects upon Asian nations and the micro-economic implications upon littoral state's unemployment figures.<sup>4</sup> It all began in Bangkok, Thailand in the Fall of 1997 when the Bangkok stock market crashed. Similar to a line of dominos, economies in SEA fell one by one resulting in catastrophic checks that destroyed SEA nation's economic bases. This in turn counterbalanced any economic potential, the effect of which is still being felt in the region today.

The relationship between regional economic shocks and increases in maritime transnational criminal activity is highly entwined. The financial crisis left two things to haunt the Association of South East Asian Nations (ASEAN) members: heavy debt and greater household insecurity. It has also left the region much more vulnerable to external shocks. The above has resulted in severe economic insecurity affecting the vulnerable workforce the most. The primary factor contributing to the increase in maritime transnational criminal activity are the high levels of unemployment brought about by the financial crisis. As thousands of people found themselves unemployed, they sought new opportunities in criminal activities: piracy/armed sea robbery and illegal fishing are extremely simple practices to learn.<sup>5</sup>

In the twenty-first century, Geopolitics is also of prime concern. With the ongoing "War on Terror," ideological imbalances between western states and extremist groups in SEA is also of issue because of the threat of terrorism on the shipping industry. The environmental effects of a hijacked oil tanker careening into a reef at high-speed when in a chokepoint will have drastic consequences regionally and internationally. The threat of maritime terrorism upon the sea lanes of communication (SLOC) is a reality, which is particularly why it is of interest to international states such as the United States and Canada, and not simply of regional concern.

The gap between economically developed and economically lesser developed countries

is also a key factor in increases of maritime criminal activity such as human trafficking. Many migrants risk their lives to seek a better life in western states and are willing to subject themselves to cruel and unusual conditions at the hands of transnational criminal organizations such as the Triads who specialize in the human, arms, and drug trafficking trade.<sup>6</sup>

A key concern in guaranteeing the safety of SEA's SLOC is an effective, efficient, highly trained and equipped, and most importantly, uncorrupt maritime security service. The problem is that, barring the US navy and perhaps Singapore, such a well-established security force does not exist in the region. Nations such as Indonesia, Malaysia (the most important as both border on the Malacca Strait where in 1999, 118 out of 285 ASR instances occurred<sup>7</sup>), Philippines, Thailand, and Vietnam lack an efficient navy centered on curbing piracy and ASR. Since the end of the Cold War, this has been a serious flaw within the above nations' navies and as a result of the Asian financial crisis, defense budgets plummeted. Between 1997-1998, the average value of the defense budget in ASEAN members declined by sixty-five percent, aggravating the already tight fiscal problems that prevent them from allocating more to their maritime security forces.<sup>8</sup>

Transnational criminal activity occurs far less in ports and waters of Asian countries that have fully trained and reasonably well paid maritime security forces where the rule of law is respected. Countries such as Japan, Korea, Taiwan and Singapore have impeccable records. However, countries such as Indonesia, Thailand, Philippines, Malaysia and Myanmar display the exact opposite because their security forces lack the above features.

SEA's maritime security forces are grossly underpaid. In close correlation, a culture of corruption is evolving in SEA's armed forces. This is primarily dominant within countries that have experienced years of authoritarian governments. Thus, with limited budgets, the military finds it difficult to provide satisfactory salaries for junior officers, these officers then resort to "off budget" sources of income. In countries where high tariff barriers exist (such as in ASEAN member states), smuggling becomes a lucrative business and is well aligned for fencing pirated and ASR goods.<sup>9</sup>

Furthermore, it is unfortunate that the true damages of illegal maritime activity may never fully be established as many incidents go unreported. This can be attributed to increased insurance premiums (in the case of armed sea robbery and piracy). Many ship-owners, refrain from reporting incidents due to increased insurance adjustments. The financial crisis directly exacerbated such increases, therefore many shipping companies prefer to cover their losses out of their own resources rather than pay increased insurance costs after placing a claim. Incurring delays due to official investigations can result in additional port costs of up to \$10,000USD a day which provides a deterrent for reporting incidents.<sup>10</sup> Therefore, with many incidents going unreported, calculating the exact amount of financial damages is impossible, however, piracy/armed sea robbery is estimated to cost \$16 billion USD annually in damages.<sup>11</sup> Thus, in a highly competitive shipping market, ship owners still feel the shocks of the 1997

financial crisis and will continue to do so until the economy begins to revitalize.

The above factors have left regional states to deal with maritime security activities, which littoral states experience significant difficulties in monitoring and effectively enforcing. Though littoral states have considerable knowledge of the maritime region, they simply lack both the human and financial resources needed to curtail the increase in activity in Asia-Pacific waters. Furthermore, littoral states retain differing priorities, therefore making bilateral/multilateral agreements and international cooperation evermore necessary in combating such illegal activity.

### ***How is this a Threat to Canadian security?***

#### **The Distanced Equation:**

The United Nations estimates that total profits from all activities conducted by international crime syndicates in 1999 totaled USD\$1.5 trillion, an amount that exceeds the gross domestic product of all but three countries in the world.<sup>12</sup> Approximately half of the above illegal maritime activity occurs within Asia-Pacific waters. Moreover, transnational criminal activity creates a security dilemma for a multitude of countries as Asia-Pacific waters are used by a number of nations for trade flows and shipping. Though a greater law enforcement approach is required by littoral states within the multitude of areas where there are no international waters (a reasonable portion of the Asia-Pacific maritime framework), illegal maritime activity also requires international commitment from non-Asian nations, which also clearly defines this as a international maritime security issue.

It is in Canada's best interest to play a leading role in curbing the growing threat of illegal activity. Canada's interests within the Asia-Pacific region focus on three core areas: the continued support for democracy and the respect for human rights, upholding an effective environmental policy, and finally that of strategic-economic interests.<sup>13</sup> To Canada, these interests are of high strategic importance that reinforces the overall stability of the region. Though several thousand kilometers away, Asia-Pacific waters foster ninety percent of the world's shipping trade of which Canada is a beneficiary.<sup>14</sup> Thus, Canada must begin to reshape its post-Cold War security environment in order to address the changing maritime security threat.

#### **The Immediate Equation:**

As the Lieutenant Governor of British Columbia notes in a keynote address at the *Maritime Forces Pacific Change of Command Dinner*: "We welcome [Admiral Forcier] to our West Coast world of 'people and drug' smuggling, illegal fishing and various other sorts of incursions and needs' peculiar to British Columbia's rugged Pacific waters."<sup>15</sup> Therefore, maritime transnational criminal activity is a security issue critically discoursed at senior levels of

command and influence.

Though the threat of piracy/armed sea robbery is not a serious concern to Canadian waters, illegal fishing, environmental degradation, and human and drug trafficking continue to threaten the North Pacific and Canada's territorial waters. Furthermore, the threat of East Asian criminal activity proliferating into Canadian waters is also a cause for alarm.

### ***How to Curb Transnational Criminal Activity?***

There are a number of possible confidence building measures (CBM) that can occur at all levels of jurisdiction and government ranging from the ship's crew to international organizations. Many of these obstacles claim to be bureaucratic loop-holes and simple territorial disputes that taint SEA nations' relationships. The following are possible CBM's that may be or have been implemented to curb maritime transnational criminal activity.

*Human Security Level:* The security of the crew is crucial when combating criminal activity such as piracy/armed sea robbery. After the tragic massacre of the twenty-three crewmen in 1998<sup>16</sup>, the newly established International Maritime Bureau (IMB) has developed two useful tools: an up-to-date piracy reporting center<sup>17</sup> that informs all seafarers of piracy and ASR activity. These updates can be extracted off the internet daily. Secondly, the development of an anti-piracy handbook where a set of guidelines has proven to be extremely successful in establishing safety for the crew.<sup>18</sup>

*Regional Cooperation:* The need for the Association of South East Asian Nation (ASEAN) members to work conjointly is essential in curbing maritime transnational criminal activity. Presently, only Singapore and Indonesia have workable relationships on a bilateral basis. A direct communication link between Singapore's Navy's Fleet Headquarters (HQ) and Indonesia's HQ was inaugurated and joint anti maritime criminal operations and exercises have now been established.<sup>19</sup> In July 1992, Singapore and Indonesia agreed to grant their navies and marine police the right to pursue suspected criminals into each other's territorial waters. The agreement also allows for the exchange of intelligence information and coordinated patrols in the Singapore Straits and Phillips Channel.<sup>20</sup>

Indonesia has also formed agreements with the Philippines and Malaysia to combat maritime criminal activity on their common territorial borders. In 1993, Jakarta also requested that Malaysia be included in the Singapore/Indonesia framework.<sup>21</sup> Though this is an extremely positive step to fighting illegal activity, this is just the tip of the iceberg for ASEAN. Secondly, these bilateral or trilateral frameworks require updating (primarily in the form of financial aid) to combat the new wave of illegal activity in the post-1997 financial crisis/ "War on Terror" era.

*International Policing:* The ideal solution revolves around the establishment of an

international security force, capable of chasing maritime criminals into territorial waters, therefore avoiding the endless bureaucracy that plagues SEA's maritime security. The greatest obstacles to such a solution lies within the nations that are engaged in territorial disputes and the financial capital required to train, equip, and maintain such a force. The seven nations disputing the Spratly Islands for example, are resistant to international policing in fear a jeopardizing their claims. ASEAN and the International Maritime Organization (IMO), with the help of the IMB and the International Chamber of Commerce (ICC) are attempting to establish effective force postures in combating illegal activity within SEA's maritime region.<sup>22</sup>

### ***Canadian (Realistic) Efforts to Curb Transnational Criminal Activity:***

The North-Pacific is crucial to Canada's politico-strategic and economic interests; therefore, it is essential for Canada to play an active role in surveillance and monitoring this vital region to enhance maritime security and to advance Canada's national interests. Canada recognized the importance of the North-Pacific and the Asia-Pacific region in general geo-strategic terms throughout the Cold War as evidenced by Canadian engagement in the Korean Conflict, its participation in the various Indo-China truce and supervisory commissions, and its commitment to continental defense on the North Pacific maritime frontiers in cooperation with the United States. However, security policy, including defense of North America, retained an Atlantacist caste into the 1980's. The External Affairs White Paper of 1985 and Defense White Paper of 1987 recognized the increasing importance of Asia-Pacific to Canada and began the process of reorienting security and defense policy toward that region.<sup>23</sup> This new focus has become more acute given the post-Cold War security environment and the redefinition of security interests; thus greater attention is given to the North-Pacific maritime region and associated security issues. In addition to the politico-strategic issues that still obtain in the region, the 1994 Defense White Paper and the 1995 Government Statement on foreign policy recognize the expanding security agenda, including the non-traditional security threats, associated with the Asia-Pacific region.<sup>24</sup> Due recognition must now be given within Canadian maritime policy to the increased danger to human security of illegal activities on the North-Pacific maritime frontier.

Canada's foreign and domestic policies have long been complimented with its emphasis in human security. Keeping this in mind, Canada is therefore capable of exercising its beliefs in human security at the three levels of jurisdiction: a national-level integrated approach with Canadian monitoring and surveillance agencies, the multilateral regional cooperative approach with Asia-Pacific like-minded states and finally the liberal internationalist approach with the support of credible international organizations.

### ***Active and Defensive Approaches:***

Canada must also increase its participation in regional agreements to enhance

monitoring and surveillance in curbing illegal maritime activities. This concept can be divided into active and defensive approaches. Active approaches favorably attempt to build relations multilaterally with coast guards and law enforcement agencies of Asian counterparts. One such example was the recent convening of Russian, Japanese, South Korean and United States coast guard representatives in Vladivostok, Russia. The focus was to establish centers to exchange operational information in the North-Pacific where the primary goal of this multilateral organization would be to tackle maritime activities such as piracy, illegal migration, drug trafficking, and poaching.<sup>25</sup> It is in Canada's best interests to participate in such regional organizations to combat illegal activities in the North-Pacific region because these activities hold the potential of proliferating into Canadian territorial waters and economic zones of interest.

Canada already has twenty-five bilateral agreements that ensure mutual law-enforcement assistance with other countries.<sup>26</sup> By doing so, the Canadian government's contribution to international and regional treaties and organizations, can guarantee Canada's continuous commitment in upholding maritime security in a globalized era.

Perhaps Canada's greatest diplomatic contribution focuses on Track I and Track II diplomacy pertaining to the ASEAN forum, the Western Pacific Naval Symposium, and the Council for Security Cooperation in Asia Pacific (CSCAP).<sup>27</sup> Furthermore, Canada must support international groups and treaties such as the United Nations Convention on the Law of the Sea (UNCLOS), the IMO, IMB, and the ICC.

Canada must use a similar approach to the North-Pacific such as the exemplary models of active participation demonstrated in South East Asia under track-two diplomacy workshops and multilateral agreements. The North-Pacific, a region far closer in proximity to Canada's territorial waters and zones of economic interest contains similar acts of illegal activities that threaten human, economic, environmental and national security. Canada should also return to working group recommendations by specialists such as the North Pacific Cooperative Security Dialogue [1990-1993], and the CSCAP North Pacific Working Group.

Defensive approaches as outlined in the 1994 Defense White Paper, includes the integration of military and civilian law enforcement agencies in combating illegal maritime activities and in enhancing human security on maritime frontiers.<sup>28</sup> In doing so, the Department of National Defense (DND), Canadian Coast Guard (CCG), the Department of Fisheries and Oceans (DFO) along with the Department of Immigration and Royal Canadian Mounted Police (RCMP) share intelligence, equipment and platforms to address illegal activities, non-traditional security threats and human security issues. For example, in FY 00-01 DND committed 155 ship days and more than 1800 maritime patrol aircraft hours to support sovereignty and the programs of other government departments in areas such as law enforcement, counter-drug surveillance and interdiction, environmental protection and fisheries protection.<sup>29</sup> This traditional method of integration is a successful example of

national-level inter-jurisdictional agreements, as noted in the 2000-2001 Annual Report of the Chief of Defense Staff. In this regard, the DND, Department of Transport and the DFO are actively participating in a federally led effort to enhance monitoring and surveillance within the North-Pacific in both Canadian and international maritime territories.

Recent cases of successful integration to patrol international waters involve Canadian Aurora military aircraft assisting the DFO in locating driftnet fishing and other illegal maritime activities on the high seas of the northern Pacific ocean.<sup>31</sup> DND and DFO also actively patrol within Canada's twelve-mile territorial waters and Canada's two hundred-mile exclusive economic zones where a number of activities occur such as illegal fishing, arms, narcotics and human smuggling. By integrating civil and military resources in surveillance and monitoring, Canada has initiated an ideal policy approach to secure its territorial waters and other maritime zones of economic and security interest.

In conclusion, one must not forget the power of globalization, a phenomenon that connects nation-states economically and culturally closer than perhaps states are prepared for. Thus, in the event of environmental catastrophe, increased illegal migrant activity, drug trafficking and piracy, Canada must be prepared to react to crises that require a solution from international contributors. Therefore, Canada should continue to promote and encourage regional efforts to establish bilateral/multilateral solutions to curb illegal maritime activities and maintain its North-Pacific and territorial monitoring and surveillance practices.

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