

International Boundaries Research Unit

MARITIME BRIEFING

Volume 1 Number 4

**Acts of Piracy in the Malacca and
Singapore Straits**

*Robert C. Beckman, Carl Grundy-War and
Vivian L. Forbes*

Maritime Briefing

Volume 1 Number 4
ISBN 1-897643-09-8
1994

Acts Of Piracy in the Malacca and Singapore Straits

by

Robert C. Beckman, Carl Grundy-Warr, and Vivian L. Forbes.

Edited by

Clive Schofield

International Boundaries Research Unit
Department of Geography
University of Durham
South Road
Durham DH1 3LE
UK

Tel: UK + 44 (0) 191 334 1961 Fax: UK +44 (0) 191 334 1962
e-mail: ibru@durham.ac.uk
www: <http://www-ibru.dur.ac.uk>

The Authors

Robert C. Beckman is an Associate Professor specialising in international law at the Faculty of Law, National University of Singapore.

Carl Grundy-Warr teaches political and economic geography at the National University of Singapore.

Vivian L. Forbes is a maritime geographer at the University of Western Australia.

Acknowledgements

The authors would like to thank John Macdonald, Australian Maritime Safety Authority; Jonathan Gayton, State Shipping Service of Western Australia; Woon Sian Hai, Commander, Police Coast Guard, Singapore Police Force; and Daniel J. S. Tan, Executive Secretary, Singapore National Shipping Association for agreeing to an interview and providing SNSA press releases. Special thanks are due Mazlan Abdul Samad, regional manager for the Asia-Pacific, International Maritime Bureau, who had kindly sent to the authors all the relevant data collected by the IMB Regional Piracy Centre in Kuala Lumpur.

N.B. The opinions and comments contained herein are those of the authors and are not to be construed as those of IBRU.

Contents

	Page
1. Introduction	1
2. Historical Background	1
3. The Definition of 'Piracy'	5
4. Jurisdiction over Piracy within the Territorial Sovereignty of a Coastal State	6
5. The Straits of Malacca and Singapore	7
6. Territorial Boundaries in the Straits of Malacca and Singapore	8
6.1 Indonesia's archipelagic baselines and territorial sea	8
6.2 Malaysia's baselines and territorial sea	8
6.3 Singapore's territorial sea	9
6.4 Agreements establishing territorial sea boundaries	9
6.5 Unresolved territorial sea boundaries	10
7. Types of Piracy and the Vulnerability of Vessels Plying Busy Waterways	10
8. Location of Acts of Piracy in the Waters in or near the Straits of Malacca and Singapore	13
9. Cooperation to Establish a Traffic Separation Scheme in the Straits of Malacca and Singapore	15
10. Cooperation with respect to Piracy in the Waters in or near the Straits of Malacca and Singapore	15
11. Unilateral Action	16
12. Measures by Shipping Associations, Ship-owners, Crews and International Bodies to Curb Piracy	17
13. The IMB Initiative - Regional Piracy Centre	18
14. Future Cooperation: Designated Joint Patrol Areas	18
15. Conclusion	20
References	35

List of Figures

	Page	
Figure 1:	The Johor-Riau Kingdom in the Eighteenth Century AD	21
Figure 2:	Suite of Maritime Jurisdictional Claims of a Coastal State	22
Figure 3:	Seabed Boundary Delineated in the Malacca Strait	23
Figure 4:	Part of the Singapore Strait showing Batam and Bintan (Indonesia) and Pedra Branca (Pulau Batu Puteh)	24
Figure 5:	Piracy Incidents in the Vicinity of the Phillip Channel and part of the Traffic Separation Scheme	25
Figure 6:	Piracy Incidents in the South China Sea off Malaysia and the Singapore Strait	26
Figure 7:	Piracy "Hot-Spots" in East and Southeast Asia	27

List of Tables

Table 1:	Reported Pirate Attacks in 1992: Geographic Distribution	28
Table 2:	Chronology of Reported Pirate Attacks for 1992 to August 1993 for Specific Southeast Asian Locations	29
Table 3:	Times of Attacks in Asia	28
Table 4:	Distribution of Reported Pirate Attacks in 1992 by Location	31
Table 5:	Reported Pirate Attacks, January to September 1993, by Geographic Distribution	32
Table 6:	Cases of "Sea Robbery" Reported in Singapore's Territorial Waters	32
Table 7:	Annual Reports of Pirate Attacks to the Singapore National Shipping Association (SNSA), 1986 - 1992	33
Table 8:	Monthly Pirate Attacks Reported to the SNSA	33
Table 9:	Comparison of Worldwide Piracy Statistics Reported to the IMB in 1992 and 1993	34

Acts Of Piracy in the Malacca and Singapore Straits

Robert C. Beckman, Carl Grundy-Warr, and Vivian L. Forbes.

1. Introduction

69 per cent of worldwide piracy attacks in 1992 occurred in Southeast Asian waters, according to the International Maritime Bureau (IMB) (see Table 1). This paper examines the issue of 'piracy', as defined by the IMB, in the very busy waters of the Straits of Malacca and Singapore. The changing historical nature of piracy in these straits will be examined, but the focus will be on recent efforts by the littoral states of Singapore, Malaysia and Indonesia, and various other bodies, to combat piracy in the region. In particular, we argue that the current cooperative measures by the littoral states seem to be having the desired effect of reducing incidents of piracy attacks in the straits. We also offer suggestions as to how international and transboundary cooperation may be enhanced in future should the current measures prove insufficient.

2. Historical background

A favourite observation of several writers on the subject is that "*piracy may well be the world's third oldest profession, medicine being the second oldest*" (Birnie, 1989: 131 after Botting, 1978: 22 and Brown, 1981). 'Piracy' existed in the waters of Southeast Asia long before the advent of the Europeans into the Indian Ocean Basin c. 1450 AD. Indeed, the occasional narratives of Shih Fa-Hsien, the Buddhist monk from Ceylon, who journeyed to China in 414 AD, document the hazards of maritime trade in waters of the Malacca Strait and South China Sea (Moorhead, 1957: 134; Giles, 1956). The hazards included natural causes such as typhoons and the fear of attacks from pirates who lay in wait for their prey in the shadows of the numerous islands or in the mangrove-covered inlets close to the recognized trade routes.

The Chinese trade with India expanded enormously as time went on: from about 1049-1053 AD the country's annual imports from that trade - elephant tusks, rhinoceros horns, pearls, perfumes and incense - amounted to 53,000 units, but by 1175 AD they had grown to over 500,000 units paid for in items such as porcelain, silks, salt, lacquerware, iron and copper cash (*Singapore Tatler*, December 1983).

In the 14th century there was a lively sea trade through the Strait of Singapore. It was Wang Ta-yuan who, while serving the Mongol empire then ruling China, gave a detailed description of Temasek (Singapore's ancient name) and of some of the perils of using the Strait:

"The inhabitants are addicted to piracy...When junks sail to the Western Ocean, the barbarians allow them to pass unmolested but when on their return the junks reach Chi-li-men (Karimun, an island lying to the south of the western entrance of the Singapore Strait) then the sailors prepare their armour and padded screens as a protection against arrows, for of a certainty, some two or three hundred pirate prahus

will put out to attack them for several days. Sometimes the junks are fortunate enough to escape with a favouring wind; otherwise the crews are butchered and the merchandise made off with in quick time." (Singapore Tatler, December 1983: 4-5).

Wheatley (1980:309) describes the efforts by local rulers to extend their control over strategic places and islands along the Malacca and Singapore Straits, including the Sultan of Malacca, Muzaffar Shah's efforts to *"impose his authority over Singapore and Bentan (Bintan), pirate lairs at the strategic meeting point of the China and Java Seas"*.

The forceful taking of goods or 'tributes' from vessels plying the waters of Southeast Asia was one means of support for coastal states prior to and during the early colonisation by the Europeans. The arrival of the European maritime powers intensified the problems of 'piracy'. In the sixteenth century the Portuguese ships faced attacks by natives *"whose legitimate trading activities were curbed by the Portuguese"* (Asean Forecast, 1984: 77). In the following centuries it was the Dutch and then the British who tried to monopolize their own control over the lucrative East-West trade through the Straits of Malacca and Singapore. The superior naval power of the Europeans and the activities of their trading companies tended to push native seamen and traders out of work. As the Europeans, particularly the British in Malaya and Singapore, managed to increase the tonnage of trade in the straits, there was a decline in the native trader's share of the traffic.

The precise connection between Malay trade and piracy is unclear (Trocki, 1979: 86), and the problem of 'piracy' should be examined in specific historical-geographical context (Peterson, 1989; Trocki, 1979). Carl Trocki has provided a fascinating history of relations between the local Malay rulers and colonial powers in Johor and Singapore between 1784-1885. In it he examines how the traditional sea power of the ancient Johor Kingdom was disrupted, divided and eventually dispossessed by the Europeans.¹ As Trocki observes, the local environment of the Malay peninsula had prevented dense concentrations of agricultural peoples and inhibited the growth of a significant land-based political influence.

"Geography did, however, offer one positive advantage to the skilled maritime peoples of the coasts and islands. International trade routes between China and the West were forced to pass through the sieve-like network of islands, shoals, and channels which make up the Riau-Lingga Archipelago. Likewise, the pattern of the seasonal monsoons made this 'land below the wind' a natural stopping-place." (Trocki, 1979: XV-XVi)

1 "Old Johor was the maritime Malay empire that succeeded Malacca. It began in 1512 when the defeated Sultan of Malacca established a capital on the Johor River, and gradually disintegrated in the eighteenth century" (Trocki, 1979: 1). Riau was a part of the ancient kingdom of Johor. As Trocki notes: "It was not really a state (or negeri) but a part of a larger political unit which at that time was very fragmented ... There was, in fact, no 'state' in the area now called Johor. At this time, 'Johor' referred only to a vague geographical area, much of it insular" (Trocki, 1979: xv). The Anglo-Dutch Treaty in 1824 effectively divided the old maritime domain, and was a step in the creation of the modern state of Johor at the tip of the Malay Peninsula, one of the states of the Federation of Malaysia. The Riau-Lingga archipelago forms part of the Republic of Indonesia.

Trocki (1979) discusses the significance of the legitimate pursuits of the *orang laut* (sea peoples) who collected presents and port duties from native and Chinese vessels plying the straits.

"The sea peoples possessed the seas and what floated on them by hereditary-feudal right from the Sultan of Johor. So long as their chief held valid title from the Sultan, their 'patrol' activities regarding the trade were a legitimate naval operation." (Trocki, 1979: 56).

It is clear that European efforts to control the traffic and trade in the straits altered the traditional linkages between the sea lords and their followers, and undermined the traditional livelihoods of the *orang laut*. There was also an important distinction to be made between the groups of *orang laut* operating under recognized local chiefs and the *perompak* (pirates), "*the wanderers and renegades who included the hereditary out-law bands with no fixed abode*" (*Ibid*). The Malay definition of *perompak* could also include "*temporary bands of outlaws under down-on-their-luck rajas and foreign adventurers*". In contrast, the Europeans defined as piracy any local attempts to disrupt their control on the lucrative East-West trade and acts of violence against vessels that were not sanctioned by them.²

The foundation of Singapore in 1819, the subsequent consolidation of British control over the island, and the Anglo-Dutch Treaty of London on 17 March 1824, effectively split the Malay world through the straits of Malacca and Singapore.³ Under the provisions of the treaty Britain secured Singapore, Malacca, and some depots in India. In return, Britain ceded to the Dutch all British settlements in Sumatra and withdrew their objections to Dutch occupation of Belitung. While no precise maritime boundary was drawn the two sides had agreed on their respective spheres of interest and they had identified the islands which belonged to each (Prescott, Collier and Prescott, 1977: 76). Britain had agreed not to acquire the islands of Karimun, Bintan, Batam, and other Riau islands south of Singapore, and the Dutch disclaimed all future interest in possessions in Malaya. A new treaty with the Sultan of Johor on 2 August 1824 enabled Britain to acquire the whole island of Singapore and its adjacent islets within a radius of "*ten geographical miles*" (16 km) from the coast. In fact, some of the small islands of the Riau archipelago were less than ten miles from Singapore, which conflicted slightly the Anglo-Dutch Treaty (Lee, 1982: 10), but this did not lead to any difficulties due in part to the low commercial value the Dutch attributed to Singapore and its immediate vicinity at that time (see Marks, 1959).

2 The terms 'pirate' and 'piracy' must be applied with some sensitivity here, because there is a distinction to be made between colonial and native perceptions of piracy. In fact, many local commercial disputes at the time were regarded as 'piracy' by the British and Dutch who were primarily interested in controlling trade through the straits for their own profit. As Trocki (1979: 64) observed; "*the difference between piracy and political activity as far as the Malays were concerned was largely one of legitimation.*" There is no doubt that the issue of piracy, its causes and how it could be suppressed were topics which greatly occupied the minds of the Europeans at the time. Refer to Raffles, Thomas Stamford (1817, 1830) St. John, Horace (1853) *The Indian Archipelago*, Two volumes London (reprinted by Heppenheim/Bergstrasse, Germany, 1969).

3 The Anglo-Dutch Treaty of London (1824) provided for the recognition of the British position in Singapore. Malacca was given back to the British, and the Dutch promised to make no treaties with the Malay states of the Peninsula. The British agreed to forgo any treaties with the Sumatran states and withdrew from Benkulen. The Dutch recognition of the British settlement of Singapore meant that the British were less dependent on making compromises with the native chiefs. See Trocki (1979).

One of the most significant implications for local political geography of the Anglo-Dutch Treaty was that it divided the traditional domain of the Temenggongs, the local sea lords, who were then unable to pay many of their followers. In the words of Trocki (1979:56):

"The only recourse for these people was to continue in their former occupation on a free-lance basis - they became pirates."

Following the Anglo-Dutch Treaty there were many attempts by the British to suppress the problem of 'piracy', which was partially aided by the British acceptance of Temenggong Ibrahim's help (Trocki, 1979: 208-11). Superior technology, gunboats and new large steam-driven vessels did result in a decline in piracy in the latter part of the century (*Asean Forecast*, 1984: 82). Another dimension of this anti-piracy campaign was the elimination of slavery although, as Trocki (1979: 209) points out, success in combatting slavery helped to make Singapore *"the major coolie market of the region"* because more ships supplying Chinese coolies were able to reach the colony without being raided. By 1885 the British had effectively dispossessed the Temenggongs of much of their power. As Trocki (1979: 209) put it:

"They [the British] took on the legitimizing and arbitrating functions of the former Sultan. In 1885, British Malaya was a maritime state ruled largely from the deck of a ship. This had often been the case before, but this time the difference was in the size of the market, the kind of ship, and in the ultimate loyalties of the men who controlled them."

In effect, European trade and colonisation had led to a complete change in the political and economic fortunes of local rulers and peoples. Historians who have been sensitive to local history have been wary of using the term 'piracy' because of its derogative connotations offensive to national sentiments. This is precisely *"because some of these so-called actions were considered nationalistic acts against the invading colonial rulers who deprived them of their legitimate trade."* (*Asean Forecast*, 1984: 83). A situation which no longer exists.

Throughout the colonial period the straits authorities were never completely able to eradicate the problem of attacks on vessels. In the late twentieth century the Straits of Malacca and Singapore have at times been categorized as one of the most active piracy zones in the world (IMB, June 1992). Today the pirates appear to be less interested in the goods carried on the ships than in taking cash from the ship's safe and consumer goods such as video recorders and television sets. The context and character of piracy is totally different from that which prevailed during the colonial period. Now, the independent states of the region are able to extend their sovereignty to the surrounding seas and international law permits the creation of new maritime zones. In this context knowing the location of so-called 'acts of piracy' is crucial to tackling the problem because very often delicate issues of national jurisdiction and territorial sovereignty are involved.

3. The Definition of 'Piracy'

The definition of piracy under the 1982 United Nations Convention on the Law of Sea⁴ is very narrow. It is restricted to illegal acts of violence or detention against a ship (or aircraft) "on the high seas or in other areas beyond the jurisdiction of any state" (including Antarctica, although the Antarctic Treaty only freezes sovereignty claims). The rules of international law give all states the right to arrest pirates on the high seas, and to punish the pirates for the act of piracy on the high seas. Under the new law of the sea, these rules on piracy also apply if the act of piracy occurs in other areas outside the territorial sovereignty of any state, such as the exclusive economic zone of a coastal state.⁵ However, these rules on piracy do not apply when the act of piracy occurs within the territorial sovereignty of a state.

Most modern acts of piracy in or near the Straits of Malacca and Singapore do not occur on the high seas or in the exclusive economic zone of a state. Since a coastal state has the right under the new law of sea to a territorial sea of 12 nautical miles, most attacks against ships occur within the territorial sea of a coastal state. Some even occur within the internal waters of a state, while the ship is in port or at anchor. In archipelagic states like Indonesia, the attacks may also occur in waters which are classified under the new law of the sea as 'archipelagic waters'. Like the territorial sea, archipelagic waters are within the territorial sovereignty of the coastal or archipelagic state. Therefore, according to the strict rules of international law, attacks against vessels in any of these areas do not constitute 'piracy', and the rules with respect to piracy on the high seas are not applicable.

In this paper, when 'piracy' is referred to the authors are not referring to the narrow definition of piracy under international law as discussed above. Rather, the term 'piracy' as defined in the 1992 Special Report on Piracy of the International Maritime Bureau. Piracy as defined on page two of the 1992 June Report of the International Maritime Bureau is favoured which reads as follows:

"Piracy is the act of boarding any vessel with the intent to commit theft or other crime and with the capability to use force in furtherance of the act."

This definition includes not only acts against vessels during passage, but also acts against vessels in port or at anchor. In addition, the International Maritime Bureau definition is broad enough to include long-term seizures of vessels for the purposes of theft or other crime, with the threat or use of violence against the passengers or crew of the vessel.

As explained earlier, almost all of the acts of piracy in or near the Straits of Malacca and Singapore take place in the internal waters, territorial waters or archipelagic waters of states; that is, in waters which are within the territorial sovereignty of a coastal state (see Figure 2 for 'internal' and 'territorial waters'). Although some of the acts of piracy occur within 'international straits' such as the Straits of Malacca and the Straits of Singapore, this is not

⁴ Piracy is defined in Article 101. This definition, and the other rules relating to piracy on the high seas, are essentially the same as those contained in the 1958 Geneva Convention on the High Seas. It is generally accepted the piracy provisions are a codification of the rules of customary international law relating to piracy on the high seas.

⁵ The exclusive economic zone is described as "a specific legal regime" in Article 55 of the 1982 Convention on the Law of the Sea. Article 58(2) provides that the Articles on piracy apply in this zone.

significant for determining which state has criminal jurisdiction over the act of piracy under international law. This is because almost all of the Straits of Malacca and the Straits of Singapore are within the territorial sea limits of one of the three coastal states - Indonesia, Malaysia or Singapore. Although many special rules apply to the international straits under the new law of the sea, none of provisions change the general principles governing jurisdiction over acts of piracy against ships passing through such straits.

4. Jurisdiction over Piracy within the Territorial Sovereignty of a Coastal State

When we consider the question of criminal jurisdiction under international law we must distinguish between two categories of jurisdiction - jurisdiction to prescribe, and jurisdiction to enforce. **Jurisdiction to prescribe** refers to the power of a state to make its law applicable to govern the particular activity or conduct, that is, to pass legislation making the act a crime under its laws. **Jurisdiction to enforce** refers to the power of a state to enforce its laws, such as the exercise of its police power to arrest the alleged criminals for the offence.

A state has jurisdiction to prescribe the acts of piracy as described above as crimes under its law if it satisfies one of the traditional principles upon which criminal jurisdiction is based. The first principle is the **territorial principle**, whereby a state may apply its laws to activities that take place within its territory. This includes not only its land territory, but also its internal waters, territorial waters and archipelagic waters. The second principle is the **flag state principle**, whereby a state has the right to apply its criminal laws to acts aboard vessels registered in that state. The third principle is the **nationality principle**, whereby a state can apply its criminal laws to its nationals (citizens) when they are outside its territory. Under this principle a state can make an act of piracy by one of its nationals a crime under its law wherever it occurs. It would include acts by nationals within the territorial sea of another state against a foreign vessel. Other principles justifying prescriptive jurisdiction over criminal acts in certain circumstances include the **protective principle**, the **universality principle**, and the **effects principle**.

More than one state can have prescriptive jurisdiction over the same act. This is known as **concurrent jurisdiction**. For example, if a German national commits an act of piracy against a Singapore registered vessel in the territorial waters of Malaysia, it would be an offence under the criminal laws of all three states.

The most serious problem with respect to jurisdiction over acts of piracy within the territorial sovereignty of another state is that relating to the limits on enforcement jurisdiction. It is universally accepted under international law that law enforcement officials of one state may not act to enforce their laws in areas within the territorial sovereignty of another state. Therefore, the naval vessels or marine police from one state may not enter the internal waters, territorial waters or archipelagic waters of another state to patrol for pirates or to arrest persons for acts of piracy, regardless of where such acts took place. Although the naval vessels or marine police have a right of innocent passage through the territorial sea and through the archipelagic waters, the right of innocent passage does not include the right to exercise police powers.

5. The Straits of Malacca and Singapore⁶

The Strait of Malacca is more than 500 nautical miles long, and runs north-south between peninsular Malaysia and the Indonesian island of Sumatra. At its northern end, near the Malaysian island of Penang, it is more than 126 nautical miles wide. The southern half of the strait, beginning near the Malaysia port of Kelang (Klang on Figure 3) is much narrower. Near the Indonesian island of Pulau Rupa it is about 20 nautical miles wide, and at its southern end, north of Karimun island, about where it joins the Strait of Singapore, it is less than nine nautical miles wide.

The Strait of Singapore separates Singapore from the two fairly large Indonesian islands of Batam and Bintang, as well as smaller islands in the Riau Archipelago. It runs east and west and is approximately 62 nautical miles long. At its western end, between Tg. Piai (1° 16'N, 103° 31'E) to the north and Pulau Karimun Kecil (1° 10'N, 103° 23.5'E) to the south (Figure 5), where the Singapore Strait merges with the southern end of the Strait of Malacca. At its eastern end, it leads to the South China Sea. At its narrowest point, the distance between the islands of Singapore and Indonesia across the Strait is about five kilometres. The average width of the Strait is about ten nautical miles (Leifer, 1978: 58-61). Its eastern entrance is bounded by Tg. Datok (1° 21'N, 104° 17'E) in peninsular Malaysia and Tg. Pergam (1° 10'N, 104° 20'E) in Pulau Bintan. For vessels with a draught greater than five metres, only the middle channel, which is a mere three nautical miles wide, that is between Pedra Branca (Palau Batu Puteh) - 1° 20'N, 104° 24'E, and Rumenia Shoal (Figure 4), is usable.

The most important international shipping route from the Indian Ocean to the South China Sea passes through the Straits of Malacca and Singapore. Merchant ships from Japan and other East Asian states *en route* to either South Asia, the Middle East or Europe pass through the Straits of Malacca and Singapore. About 50,000 ships use the Straits of Malacca and Singapore annually, including small local craft as well as large tankers and cargo carriers (Port of Singapore Authority, 1989). More than 200 vessels, 50 per cent of them tankers, ply the narrow straits each day (*BT Shipping Times*, 26 February 1993: 22). It has been estimated that an average of one ship enters the Strait of Singapore every six minutes (*Straits Times*, 21 July 1989). Whatever the precise statistics are, the waterways are extremely important to the international users and the littoral states, especially Singapore.

The alternative routes - the Strait of Makassar between Kalimantan and Suluwesi, the Sunda Strait and the Lombok Strait - are much longer. The best alternative to the Malacca-Singapore Straits route from Japan to the Persian/Arabian Gulf is via the Lombok-Makassar Straits, which is longer by 950 nm and can take about three extra days for vessels moving at 15 knots (Valencia, 1991: 110). Any disruption to traffic or any increase in dangers to the crew of ships using the straits (eg due to pirate attacks) may persuade some big commercial users to use the longer 'safer' route. The fight against piracy is thus part of the efforts to enhance the overall safety of passage through the straits.

⁶ For detailed information on the political, legal and economic dimensions of the Malacca and Singapore Straits readers should refer to the following publications: Leifer (1978); Koh Kheng Lian (1982); Shaw and Thomson (1978); Vertzberger (1984); Chia (1981). Full details are given in the References section.

6. Territorial Boundaries in the Straits of Malacca and Singapore

Although the baselines and territorial boundaries are clear for the majority of the waters in and surrounding the straits, they are unclear in two areas. These can be seen by looking at Figures 4 and 5. No boundary has been agreed on each side of the Territorial Sea Boundary between Indonesia and Singapore.

6.1 Indonesia's archipelagic baselines and territorial sea

On 13 December 1957 Indonesia declared a new policy on its territorial sea by promulgating straight baselines connecting the outermost points of the outermost islands in its archipelago. It also extended the breadth of its territorial sea to 12 nautical miles measured from these baselines. Indonesia failed to obtain recognition of its new concept of territorial sea for archipelagic states at the First United Nations Conference on the Law of the Sea in 1958. Nevertheless, it passed Law No. 4 of 18 February 1960 making its new policy on the territorial sea part of its domestic law.⁷ Indonesia's concept of archipelagic baselines was eventually accepted at the Third United Nations Conference on the Law of the Sea, and is included in the 1982 Convention.⁸ Indonesia's system of archipelagic baselines is defined by 195 points, with straight baselines connecting each of the points.⁹ Under the new law of the sea set out in the 1982 UN Convention, Indonesia's claims to a 12 nautical mile territorial sea and a 200 nautical mile exclusive economic zone are measured outward from the archipelagic baselines. Waters inside the straight baselines are known as archipelagic waters.

6.2 Malaysia's baselines and territorial sea

Malaysia extended her territorial sea claims to 12 nautical miles in 1969.¹⁰ The ordinance extending the claim to 12 miles provides that the baselines shall be measured in accordance with the 1958 Geneva Convention on the Territorial Sea and Contiguous Zone. No map was issued with the ordinance setting out the baselines from which the territorial sea would be measured. However, writers have observed that as early as 1970 there was circumstantial evidence that Malaysia was using straight baselines, even though they had not been promulgated (Prescott, 1985: 213).

7 Indonesia's legislation on the territorial sea and its archipelagic baselines, including maps, are reprinted in *The Law of the Sea, Baselines: National Legislation with Illustrative Maps*, Office for Ocean Affairs and the Law of the Sea, United Nations, 1989: 187-193.

8 1982 United Nations Convention on the Law of the Sea, Part IV, Articles 46-54.

9 U. S. Department of State, Office of the Geographer, *Indonesia: Straight Baselines*, International Boundary Study, Series A, Limits of the Seas, No. 35, July 20, 1971.

10 Emergency (Essential Powers) Ordinance, No. 7 of 1969, P. U. (A) 307A, as amended by P. U. (A) 355/89 and P. U. (A) 468/89, reprinted in *Malaysia and The United Nations Convention on the Law of the Sea: Selected Documents* (Hamzah Ahmad, ed, 1983: 273-276). This ordinance provides that the baselines shall be measured in accordance with the 1958 Geneva Convention on the Territorial Sea and Contiguous Zone, which was included as a Schedule to the ordinance.

In 1979 the Director of National Mapping, Malaysia, published a map indicating the territorial waters and continental shelf boundaries claimed by Malaysia.¹¹ Although the map indicates no baselines, it does indicate the outer limits of the territorial sea claimed by Malaysia. The lines indicating the outer limits of the territorial sea are straight lines; they appear to have been drawn from straight baselines connecting the outermost points on their land territory and offshore islands.

Writers have pointed out that some of these "*inferred baselines*" are not consistent with the rules on straight baselines set out in the 1982 UN Convention on the Law of the Sea. They have suggested that if Malaysia ratifies the 1982 Convention, it will have to amend its baselines to bring them into conformity with the Convention (Valencia, 1991: 19-30).

6.3 Singapore's territorial sea

Singapore has claimed a territorial sea of three nautical miles since 1878.¹² Because of its very close proximity to its neighbours, Singapore has little opportunity to take advantage of the right to claim a 12 nautical mile territorial sea. However, the Government of Singapore has left open the possibility of extending its territorial sea and claiming an exclusive economic zone. On 15 September 1980, the Singapore Ministry of Foreign Affairs issued a Press Release stating that, "*Singapore can extend its territorial sea beyond three nautical miles and can also claim an Exclusive Economic Zone.*" It further stated that, "*Singapore will exercise its rights to extend its territorial sea limit up to a maximum of 12 nautical miles*", and that, "*Singapore will also establish an Exclusive Economic Zone*".¹³ To date, Singapore has neither extended its territorial sea nor claimed an exclusive economic zone.

6.4 Agreements establishing territorial sea boundaries

Indonesia and Malaysia entered into an agreement on 10 March 1970 with respect to the maritime boundary between the two states.¹⁴ This agreement establishes the territorial sea boundary between the two states in the narrow southern portion of the Strait of Malacca (Figure 3) The territorial sea boundary is a median line 173 nautical miles in length between Indonesia's archipelagic baselines along the east coast of Sumatra and Malaysia's straight baselines along the west coast of peninsular Malaysia. Because of the narrowness of the strait there is only one very small triangular area of high seas along the 173 mile boundary.

According to the map published with the 1979 Agreement the territorial sea boundary established in the southern portion of the Strait of Malacca seems to be the median line

11 Director of National Mapping, Malaysia, 1979, *Map Showing Territorial Waters and Continental Shelf Boundaries of Malaysia*, Sheets I and II. Notification of the new map was published in the Government Gazette of Malaysia on 21 December 1979, PN. (G) 60, No. 5745.

12 The legal basis for this is the *Territorial Waters Jurisdiction Act*, 1878, 41 & 42 Vict. C. 73, a United Kingdom Act which was applied to Singapore when Singapore was a colony. This Act is included as an Appendix in the *Statutes of the Republic of Singapore, 1985 Edition*.

13 This Press Release is reprinted in Phiphat Tangsubkul, *op. cit.*, Appendix G, 128.

14 U. S. Department of State, Office of the Geographer. *Indonesia-Malaysia: Territorial Sea Boundary*, International Boundary Study, Series A, Limits of the Seas, No. 50 of January 10, 1973. The agreement entered into force on 10 March 1971.

between the straight baselines employed by Malaysia along the lower portion of the west coast of peninsular Malaysia, and the archipelagic baselines employed by Indonesia along the east coast of Sumatra. Therefore, it can be inferred that, at least in this area, the two states accept each other's methods of drawing straight baselines.

Indonesia and Singapore entered into an agreement in 1973 which sets out the territorial sea boundary between the two states in the Strait of Singapore.¹⁵ The agreement defines six points by co-ordinates. The territorial sea boundary connecting the six points is about 25 nautical miles long (see Figure 4).

6.5 Unresolved Territorial Sea Boundaries

The first area where the territorial sea boundaries between the three states are still unresolved is the southern end of the Strait of Malacca, that is, where it merges with the western end of the Strait of Singapore. The territorial sea boundary agreement between Indonesia and Malaysia does not extend all the way to the end of peninsular Malaysia (point 10 is the southernmost point agreed to in the territorial sea boundary agreement between Malaysia and Indonesia (Figures 3 and 5). If the territorial sea boundaries of the three states were to be precisely defined in this area, a delimitation agreement would have to be agreed upon by Singapore as well as Indonesia and Malaysia.¹⁶

The second area in which the territorial sea boundaries are still unresolved is at the eastern end of the Straits of Singapore, in the direction of the South China Sea. Although the 1973 Agreement defines the boundary for a distance of about 25 kilometres, the agreement does not include the eastern end of the straits. This is probably because in this area a tripartite agreement including Malaysia would be required to precisely define the territorial sea boundaries between the three states. The eastern boundary problem is further complicated because of a dispute between Singapore and Malaysia as regards which state has sovereignty of the island on which the Horsburgh Lighthouse is located (see Valencia, 1991: 35; Haller-Trost, 1993) (Figure 4).

Until trilateral agreements are reached making the territorial sea boundary limits in these two areas clear, there may be some question as to which state has territorial jurisdiction over acts of piracy which occur in these areas.

7. Types of Piracy and Vulnerability of Vessels Plying Busy Waterways

It is possible to distinguish between different types of piracy and to identify particular areas more with one type than another. Aune (1989: 20-25) distinguishes between "*traditional piracy against modern shipping*", "*politically-motivated piracy*", "*piratic acts of violence*

¹⁵ Agreement Stipulating the Territorial Sea Boundary Lines between Indonesia and the Republic of Singapore in the Straits of Singapore. The agreement was signed on 25 May 1973. See U. S. Department of State, Office of the Geographer. *Indonesia-Singapore: Territorial Sea Boundary*, International Boundary Study, Series A, Limits in the Seas No. 60.

¹⁶ For a map of this area see Mark J. Valencia, *Malaysia and the Law of the Sea* (1991), 34.

against refugees" and "yacht piracy".¹⁷ Whilst all types have occurred in Southeast Asia the most common types are traditional piracy and piratic acts against refugees and also local fishing vessels. During the late 1970s and 1980s, hundreds of thousands of Vietnamese boat people fell victim to brutal acts of piracy, mostly in the Gulf of Thailand, shared by Vietnam, Cambodia, Thailand and Malaysia (Kasemsri, 1989). In this paper we are concerned with the dominant form of piracy, i.e. traditional piracy against modern shipping, which normally involves short-term seizures of vessels and acts of robbery, vandalism, threats of violence against the crew if demands are not met or, in some cases, acts of violence (IMB, June 1992: 8).

Using the data of the International Maritime Bureau (IMB) it is possible to build up a clear description of the type of short-term "hit-rob-run" piracy that has been prevalent in the Straits of Malacca and Singapore. Although ships are vulnerable to attack whilst alongside a berth in ports, at anchor or under propulsion in restricted or open thoroughfares, virtually all the reported piratical acts in the Straits of Malacca and Singapore have been on vessels under propulsion. Raids on vessels at port and at anchor are not common in any part of Asia, but they are a problem in certain West African ports and South American ports (IMB, February 1993: 3).

As Table 2 shows, in the busy waterways of Malacca and Singapore all kinds of commercial vessels were attacked, including conventional cargo carriers, container vessels, bulk carriers and tankers. Although attacks have been reported at all times of day, it is clear from Tables 2 and 3 that the great majority of attacks for 1992 occurred in the hours of darkness. In exceptionally busy international waterways like the Straits of Malacca and Singapore there are often hundreds of vessels of all shapes and sizes within a few nautical miles of each other. Navigation at night is very tricky due to the ever-present danger of collision between vessels. Under such circumstances it is virtually impossible for the respective marine authorities of the littoral states to make preemptive checks on potential pirates. As Mr Mazlan Abdul Samad, the Asia-Pacific regional manager for the IMB, has put it:

"You may check a boat-load of potential pirates and let them go simply because they are fishing. When opportunity presents itself, they will move on their prey". (Business Times, 21 June 1993: 3).

Most of the pirates use small fast wooden boats and operate in groups. Each boat may have up to ten persons on board and in some instances as few as three. They approach the targeted ships from the stern in the shadow of the radar beam so as to remain undetected. They board the ships using ropes and grappling hooks. Once on board they head for the navigating bridge and cabins. Using guns and knives they threaten the crew.

¹⁷ "Politically motivated piracy" includes the attacks and seizures that are labelled as acts of "maritime terrorism". For instance the 1975 seizure of the *Sheira Maru* (a Japanese vessel) by a Filipino rebel group as a protest against the Marcos regime, and the hijacking of the *Achille Lauro* off Egypt in 1985 by the Palestine Liberation Front (for discussions of "maritime terrorism" refer to Aune, 1989 and Birnie, 1989). There is some legal debate as to whether such incidents should be regarded as "piracy". Some types of piracy are prominent in particular geographic areas. For example, "yacht piracy" is most common in the Bahamas, and in some cases it is linked to the narcotics trade between South America and the USA (Aune, 1989:24).

The pirates are known to ransack the crew accommodation, cargo area and store rooms. Most often money from the ship's safe and consumer and electrical goods are stolen. A brief description of an incident that is typical for Southeast Asia occurred aboard an Australian registered ship on 5 November, 1991 at about 0200 hours west of Serutu Lighthouse, on the west coast of Borneo. It reads as follows:

*"Pirates boarded from small boat over starboard quarter. Proceeded to master's cabin. Held master at knife point and tied him to the chair after forcing him to open the safe. Pirates left ship after taking all the money from safe."*¹⁸

The report further noted that there were four offenders; knives were brandished; and that there were other small boats in the vicinity. According to the IMB, the average length of time for any single incident is in the region of thirty minutes and the average 'haul' from an attack is around US\$5,000 - US\$15,000.

Unfortunately there are many reported incidents of violence, involving pirates using knives or actually firing on vessels with machine-guns, rockets, or in some cases explosives (*Business Times*, 3 March 1993: 2).¹⁹

For instance, in late April 1992, the tanker *Valiant Carrier* was attacked only four hours out from Singapore. What were believed to be 'Molotov Cocktails' were thrown on deck from three fast boats. As the crew tried to put out the fire on deck the attackers boarded the vessel. The crew was gathered together and then the pirates took the master and his family to the master's cabin to open the safe. At one stage there was a confrontation which resulted in severe knife wounds to an Indian deck officer, injuries to the master and the electrician, and also to the seven month old daughter of the master. The most worrying aspect of this incident was the fact that the bridge was left totally unmanned. Fortunately the Chief Engineer of the vessel cut off all power which meant that the vessel was only drifting. Once the attackers had left the crew quickly regained full control of the vessel (IMB, 1992: 9).

The dangers of a collision are clear from the incident involving *Valiant Carrier*, particularly if the crew are tied up and unable to free themselves quickly following a pirate attack. The collision in the Malacca Strait on 20 September 1992 involving the *Nagasaki Spirit*, an oil tanker, and the *Ocean Blessing*, a container vessel, alerted the respective authorities of the littoral states to the possibility of a similar accident created by a piratic act.²⁰ Given the large number of eastward-bound and fully-laden oil tankers using the Malacca and Singapore Straits every day, there is a very real

18 Source of quoted piracy report: *Report of an unlawful act*. Prepared by the Master of the Australian vessel, *TNT Capricornia*.

19 According to the IMB Regional Piracy Centre, the *modus operandi* of pirates varies between geographic areas. For instance, the use of fire-arms to stop vessels is much more common in the Hong Kong-Luzon-Hainan Island area than in the Malacca and Singapore Straits. In the latter the 'hit-rob-run' pirate attacks are more common, and fire-arms have not been used to stop vessels in the majority of cases.

20 Shortly after the collision there were reports that the owner of the stricken oil tanker *Nagasaki Spirit* had suggested that pirates may have caused the vessel to be set ablaze and collide with a container ship (*BT Shipping Times*, October 2, 1992).

danger of a piracy attack creating an environmental catastrophe in the region. This has been a key concern prompting greater cooperation between the littoral states to curb the menace of piracy.

8. Location of Acts of Piracy in the Waters in or near the Straits of Malacca and Singapore

On the basis of data provided from various sources, especially the International Maritime Bureau, it is possible to develop a fairly detailed picture of the geographical location of reported acts of piracy in Southeast Asia. There are a number of problems with the available data. One key difficulty is that of incomplete coverage. As Eric Ellen, Director of the International Maritime Bureau, puts it:

"Those acts of piracy which are reported are only the tip of the iceberg. Shipping companies feel there is a stigma in reporting incidents, in case there is a suggestion that their ships are unsafe." (BT Shipping Times, 12 February, 1993).

Shipowners have been cautious of going public about acts of piracy because of the possible difficulties with crew unions. The refusal of a union to allow crews to work on ships plying waters perceived to be prone to piracy attacks could prove to be very costly to shipowners. There is also the possibility that reported incidents will raise insurance premiums for vessels and cargoes (*Asean Forecast*, May 1984: 80). Another problem lies with the fact that some reports lack details like the exact location of attack, time of attack, etc. (see IMB, February 1993: 2). Nevertheless, from the reports available it is possible to examine and to plot the key trends and the main geographic areas that are prone to piracy.

In mid-1992 the Singapore National Shipping Association (SNSA) listed some of the key "pirate-prone areas" in the region. These were:

1. The Strait of Malacca (Figure 3)
2. The northern tip of Sumatra, near the Benaaten Strait
3. The Phillip Channel and waters near to the Riau Islands of Indonesia (Figures 4 and 5)
4. The South China Sea, near to the Anambas Islands
5. The South China Sea, east of Pulau Tioman, near to Mangkai (Figure 6)
6. The South China Sea, near to Pedra Branca / Pulau Batu Puteh (Figure 4)
7. The Bangka Strait²¹

In 1991 and early 1992, one of the greatest concentrations of reported incidents of piracy anywhere in the world was in the twenty mile long stretch of waterway known as the Phillip Channel, located some 16 kilometres south of Singapore, and eastwards from a position of 01°02' N and 103°38' E to a point 01°13' N 103°55' E in the territorial waters of Indonesia (IMB, 1992: 8). These incidents have been recorded in some detail in Tables 2 and 4.

²¹ SNSA, Press Release, May 1992

According to the IMB Regional Piracy Centre, attacks in the vicinity of Bintan Island (Figure 6) and the Phillip Channel (Figures 4 and 5) made up 47 per cent of all piracy attacks in Southeast Asia in 1992 (Table 2), and about 3.1 per cent of piracy attacks worldwide. All 16 attacks reported "*North of Sumatra*" and in the "*Strait of Malacca*" were in Indonesian waters, 78 per cent (57 attacks) of reported 1992 attacks in Southeast Asia were in Indonesia waters (IMB, February 1993: 4) (Table 4).

It is clear from the data that numerous piracy attacks in the Malacca and Singapore Straits are in Indonesian waters, but many of these attacks are located in areas close to the existing international boundaries or where maritime boundaries have still to be delimited and agreed upon. This certainly applies to those attacks reported for areas in the Malacca Strait (MS), in the vicinity of Bintan Island (VB) and in the Phillip Channel (PC) (Tables 2 and 4). All these areas are close to shore. The busy sea-lanes of the traffic separation scheme (TSS) at the western end of the Strait of Singapore include the Phillip Channel (Figure 5), and has been a key zone for piracy attacks in the past. The slow-moving traffic of this area is particularly vulnerable to attack from small quick craft operating out of the maze of Riau islands to the south (Vatikiotis, 1992).

Singapore would be most adversely affected from any reduction in the flow of international traffic through the Straits of Malacca and Singapore due to perceived risks to cargo, crew or vessels. Nevertheless, very few cases of "*sea robbery*" have actually occurred within Singapore's territorial waters since 1985 and, at least according to Singapore's Police Coast Guard, none since 1989 (see Table 6). This is largely related to the effectiveness of the Marine Police and the Republic of Singapore Navy patrols within the relatively small area of territorial waters. Even so, piracy attacks close to Singapore waters have been numerous in recent years (Tables 2, 7 and 8).

There has been a big drop in piracy incidents in the Malacca and Singapore Straits. At the time of writing, the SNSA have had no reports since August 1992 (Table 8). The majority of pirate attacks in 1993 (up to June) were in an area of sea bounded by Hong Kong, Luzon (Philippines) and Hainan Island (China) (Table 5). It would be incorrect to say that the problem has 'shifted' northwards to the Hong Kong-Luzon-Hainan area, because the pirates there follow a different *modus operandi* than in the Malacca and Singapore Straits. In all the 18 attacks reported in this area in 1993, pirates used fire-power to try to stop their victim vessels. Furthermore, there are some controversial cases of reported incidents of vessel seizures by Chinese authorities involved in anti-smuggling operations.

The reduction of the problem in the Malacca and Singapore Straits is partly related to the increased efforts by individual states to combat piracy (see below). But in large measure it is the result of the recognition that piracy is an international and trans-boundary problem that can only be tackled effectively by cooperation between the littoral states. The following section examines some of the cooperative measures that have been adopted by the littoral states to improve the safety of traffic in the waterways and to fight against piracy.

9. Cooperation to Establish a Traffic Separation Scheme in the Straits of Malacca and Singapore

It may be some time before the unresolved territorial sea boundaries between Indonesia, Malaysia and Singapore are precisely defined and set out in international agreements. However, the lack of precisely defined boundaries has not prevented the three states from cooperating to solve problems of common interest in the straits.

Since 1975 the three states have cooperated to establish a traffic separation scheme for the Straits of Malacca and Singapore. A joint statement of the Foreign Ministers of the three states on the formulation of a traffic separation scheme was issued on 18 February 1975. A Tripartite Agreement on the Safety of Navigation in the Straits of Malacca and Singapore was entered into on 24 February 1977. On 14 November 1977 the Inter-Government Maritime Consultative Organization (IMCO) passed resolution A. 375(X), which adopted the new routing system for the Straits of Malacca, including traffic separation schemes, deep water routes and rules. The traffic separation scheme was brought into force on 1 May 1981.²² (Figures 3 and 5 show segments of the TSS in the Straits of Malacca and Singapore).

10. Cooperation with respect to Piracy in the Waters in or near the Straits of Malacca and Singapore

Steps were taken in 1992 to increase cooperation between Singapore and Indonesia to help solve the problem of pirate attacks in the waters in or near the Straits of Singapore. An agreement was signed between Singapore and Indonesia in June 1992 to establish a direct communications link between their respective navies (*The Straits Times*, 25 June, 1992: 1). A further step was taken in July 1992 to provide coordinated patrols between the two navies in the Singapore Strait and Phillip Channel to protect the shipping lanes against piracy. Under this agreement, naval vessels from each state would inform each other and come to each other's assistance when a pursuit is likely to cross territorial boundaries (*The Straits Times*, 31 July, 1992: 32).

At government level, the Joint Border Committee set up a mechanism some 21 years ago for maritime cooperation between Indonesia and Malaysia. Under this, the two countries conduct joint naval and police exercises and operations in the Strait of Malacca. They also have procedures for regular *rendezvous* at sea to exchange information and give tactical updates. In December 1992, both states formed a joint team called the Maritime Operation Planning (MOP) Team to conduct coordinated patrols along the common borders in the Malacca Strait (Hashim, 1993: 15). In June 1993 it was reported that 280 maritime personnel from the enforcement agencies of Malaysia and Indonesia had taken part in a ten day joint patrol exercise. This is the biggest joint exercise of its kind to have taken place in the Strait of Malacca, and it indicates growing cross-border cooperation to fight against piracy.

²² See generally Phiphat Tangsubkul, 1982: 32-344. The documents are reprinted in as appendices in Koh Kheng Lian, 1982: 175-194.

One of the obstacles to effective action in the past has been a lack of coordination between the respective national authorities and sensitivity over the issue of territorial sovereignty (*Asean Forecast*, May 1984: 82-83). In particular, the issue of 'hot pursuit' across international boundaries is a delicate one for neighbouring states. According to the Geneva Convention on the High Seas (1958) the right of hot pursuit may continue on the high seas, but the right ceases "*as soon as the ship pursued entered the territorial sea of its own country or of a third state*" (Article 23.2). In the Malacca and Singapore Straits the provisions relating to high seas were virtually redundant. Bilateral agreements between the littoral states would be necessary to allow hot pursuit to take place. During the joint operations between Indonesia and Malaysia in June 1993, both countries were patrolling their respective territorial waters and were relaying all surveillance data to a coordination centre in Johor, the southernmost state of the Malay peninsula. Commodore Tuan Hashim, director of Malaysia's Maritime Enforcement Coordination Centre, was quoted as saying that,

"Under no circumstances would we intrude into each other's territory. If we chase a ship and it runs into the other side, we let the authorities there handle it." (*BT Shipping Times*, 17 June, 1993: 1).

11. Unilateral Action

Various unilateral efforts help to reduce the potential for piracy. These include more efficient monitoring, such as frequent patrols, more naval and marine police personnel and resources devoted to monitoring, and improved surveillance equipment. Singapore has had an excellent record in keeping the problem of piracy to nil in its own territorial waters (IMB, June 1992: 19). Nevertheless, the size of the maritime area Singapore patrols is tiny compared with her much larger neighbours. For instance, Indonesia is a vast archipelagic state with thousands of islands and the largest coastline in the region, and Malaysia has to worry about both the seas around the Peninsula and East Malaysia (Sabah and Sarawak). Combatting piracy requires not only a political will to do so but enormous resources and year-round vigilance. The littoral states themselves have committed more resources to curb the problem of piracy and armed robbery on board ships. In 1992 the Malaysian police announced plans to spend more than M\$100 million (c.US\$39 million) on 11 helicopters to step up surveillance along border and coastal areas (*The Sunday Times*, February 16, 1992 and *The Straits Times*, May 20, 1992: 18). Malaysia is also setting up four new anti-piracy commando units to patrol its busy sea lanes. Tactical and intelligence units made up of ten men each will operate from four marine police bases. They are Lumut and Langkawi, on the west coast, Johor Bahru, across from Singapore in the south, and Kemanan, on the east coast. (*BT Shipping Times*, February 23 1993). All Malaysia's Fisheries Department officers patrolling Malaysian territorial waters are to be armed to protect themselves against pirates and foreign fishermen operating illegally in Malaysian waters. There are also plans to substantially increase the intelligence units and commando squads of the Marine Police (*The Straits Times*, 7 June, 1993: 18).

Indonesia has often been accused of not doing enough to combat piracy, but in 1992 there were several signs that anti-piracy measures were being stepped-up. In July it was reported that Indonesian naval personnel had infiltrated communities where pirates were believed to have operated and had successfully arrested 30 pirates (*The Straits Times*, July 7, 1992: 15). Indonesia has also announced the deployment of some of its newly acquired former East

German naval vessels to fight piracy in the Malacca Strait (*The Straits Times*, February 26, 1993: 22). Indonesia's Western Fleet has been carrying out an "intensive campaign" to rid the Malacca Strait and adjoining sea lanes of pirates, and there have been 47 arrests of alleged pirates, mostly since June 1992 (*The Straits Times*, 12 May 1993: 13). As Captain Syawyn Hamid, head of the Communications Department at the Indonesian Embassy in Singapore, puts it:

"... authorities must not focus purely on catching pirates red-handed. They must also aim to intercept suspects while they are still in their planning stage on land, as well as during their post-robbery activities." (*Business Times Maritime '93 Supplement*, 29 June 1993: 15).

12. Measures by Shipping Associations, Ship-owners, Crews and International Bodies to Curb Piracy

Various shipping associations have given advice to shipowners and masters of vessels plying through piracy-prone areas. The measures they are advised to adopt are along similar lines to those provided by the Singapore National Shipowners Association (SSNA):

- Increase surveillance and vigilance during the hours of darkness
- Maintain constant visual and radar watch
- Establish radio contact (VHF) and agree on attack emergency signals with crew, ships in the vicinity and shore-base authorities
- Installation of special security equipment which could activate an alarm system
- Installation of properly concealed video cameras to record on film any incidence of attack or robbery
- Seal off all means of access to the accommodation
- Install searchlights on the bridge wings, bow and stern so that their beam could be directed overboard towards the direction of attack
- Have on stand-by water hoses or other equipment which could be used to repel potential boarders
- Secure all personal belongings in locked containers
- Nominate a secure area for the crew members to retreat in the event that large number of armed robbers should succeed in boarding the vessels
- Keep crew well informed about security and action plans

In the event of an attack, the master of a ship is advised to sound the general alarm and to increase speed and alter course to seaward, if possible. Shore authorities and other ships in the vicinity should be alerted (SNSA, May 1992). Concern about the increasing use of violence in recent piracy attacks on British crew led the UK Department of Transport to issue its own set of guidelines for masters and crew in a document "*Merchant Shipping Notice M1517, Piracy and Armed Robbery*" published on 10 February 1993. Suggestions covered equipment, crew training and the reporting of incidents.

13. The IMB Initiative - Regional Piracy Centre

One initiative to help in the intra-regional efforts to reduce piracy is the setting up of a regional centre for monitoring the problem for industry. The idea was raised on 27 February 1992 at a conference in Kuala Lumpur involving 360 delegates from 15 countries. The shipping and related industries, international organisations and law enforcement agencies were represented. During the meeting it became apparent that the frequency of attacks could be reduced if preventive and responsive action was taken. One of the obstacles to this was the lack of coordination and reporting of incidents to the respective law enforcement agencies by the shipping industry. The Meeting resolved that: The International Chamber of Commerce (ICC) International Maritime Bureau (IMB) consider the creation of a regional centre which would, without prejudice to the existing reporting systems of law enforcement agencies, assist in the identification and reporting of incidents and collation of information (*IMB Factsheet*, October 1992). In accordance with the above resolution the IMB, with the support of industry and bodies such as the UN-managed International Maritime Organisation established a centre on piracy in Kuala Lumpur on October 1st 1992.²³ Its main functions are as an information and broadcasting centre. It has no enforcement capabilities of its own, but will liaise with the law enforcement authorities in the region.²⁴ The Centre is open 24-hours each day of the year and offers its services to ships free of charge.²⁵

14. Future Cooperation: Designated Joint Patrol Areas?

Other cooperative efforts might be considered if the number of incidents rises significantly in the future despite the cooperative efforts now being employed. One possible step would be for the three states to agree to establish 'joint patrol areas' where more than one of the three states would have the right to patrol and arrest persons and vessels for acts of piracy. The joint patrol areas should include the areas where there are the most incidents of piracy against vessels passing through the straits, especially if these are areas where the territorial boundaries are unclear. The joint patrol areas could also be large enough to include waters within the territorial sovereignty of one or more of the states. Through such an agreement the three states would in effect be giving each other express permission to exercise enforcement

23 The Centre requires about US\$120,000 per year. Hitherto the major contributors have been the Japanese and Hong Kong Shipowners' associations.

24 The IMB's regional office in Kuala Lumpur was established in 1991 to cover all the countries east of Sri Lanka, including Southeast Asia and the Far East. This is the broad 'region' to be covered by the new Regional Piracy Centre.

25 The Regional Piracy Centre services are as follows:

1. The Centre will receive reports of suspicious or unexplained craft movements or reports of piracy and armed robbery from vessels and alert other vessels and law enforcement agencies.
2. The Centre will issue regular status reports of piracy and armed robbery in the region via broadcasts on Inmarsat-C and NAVTEX services. Vessels can also obtain these status reports by telephoning the Centre.
3. The Centre will collate and analyse all information received and will issue consolidated reports to interested bodies, including the International Maritime Organization.
4. The Centre will provide post-incident support in the event of a piratical attack.
5. The Centre will publish a Regional Piracy Guide which will provide background information concerning piracy and armed robbery, preventive advice, operational reporting procedures, post-incident management, including the securing of evidence and contact points.

jurisdiction within the joint patrol areas, even when part of the joint patrol area is in space over which they have territorial sovereignty.

As part of the agreement with respect to the joint patrol areas, the three states could agree to enact domestic legislation making all acts of piracy committed against vessels in joint patrol areas a crime under their domestic laws, punishable by serious penalties. Such prescriptive jurisdiction would be justifiable under the circumstances, given the interest that all three states have in the safety of navigation in the straits. It would be a crime under the laws of the three states even if one of the states concerned did not meet the general principles with respect to prescriptive jurisdiction - the territorial principle, the nationality principle or the flag state principle. The prescriptive jurisdiction could be justified on the grounds of other principles of criminal jurisdiction, such as the protective principle or the effects principle. No states are likely to protest if Singapore and Indonesia both make acts of piracy in joint patrol areas in the Straits of Singapore a crime under their laws, even if the crimes were committed in areas outside the territorial sovereignty of the arresting state. Acts of piracy in the straits are against the vital interests of each state as well as against the safety of international shipping. Therefore, an assertion of jurisdiction by both states is likely to be recognized and even welcomed by the international community. If such legislation were passed, it would also prevent any alleged pirate claiming that the state prosecuting him had no jurisdiction under international law because the act of piracy took place outside the limits of its territorial sea.

The three states could also agree that persons arrested in the joint patrol areas should be tried according to the nationality principle rather than the territorial principle, if they were nationals of any of the three states. Under this arrangement, if the Singapore authorities while on patrol in a joint patrol area arrested Malaysian nationals for acts of piracy in the waters near the notorious Phillip Channel, they would be turned over to the Malaysian authorities for prosecution and trial. This would be so even though the act of piracy occurred in an area which Indonesia claims as part of its archipelagic waters or territorial sea. Such a provision might alleviate the problem of a state feeling that a neighbouring state should have no right to try its nationals for acts which were committed in areas outside that neighbouring state's territorial sovereignty. The agreement could also contain a provision making it clear that the alleged pirates could be turned over to the state of which they are nationals for prosecution even though there is no formal extradition treaty or other similar agreement in existence between the two states.

To alleviate problems concerning the security interests of the states, there could be a requirement that each state patrolling in the designated joint patrol areas keep the other states informed of the frequency of patrols, the number of incidents investigated, etc. The patrolling craft could also be required to keep in radio contact with the authorities from the neighbouring state as well as their own. The agreement concerning joint patrol areas should also have a provision which makes it clear that the right of arrest and seizure in the joint patrol areas does not apply to warships or government ships operated for non-commercial purposes.

A problem which might stand in the way of such an agreement is that states might fear that such cooperation could jeopardize their claim to sovereignty over the sea. The problem arises because the agreement may be seen to imply that there was doubt as to who had territorial sovereignty in the designated areas. It may also be seen to imply that there was doubt as to where the territorial boundary should be located. To eliminate this problem, it could be

provided in the agreement between the three states that no acts relating to their cooperation in the designated areas to combat piracy could in any way be interpreted as a renunciation of their sovereignty in the designated areas, or as recognition of any other state's claim to sovereignty in the designated areas. In other words, all would agree that the cooperative arrangement would not prejudice the position of any of them in negotiating boundary agreements.

15. Conclusion

Many of the reported incidents of piracy to the IMB were in the Straits of Malacca and Singapore in 1992 and the first half of 1993. The epicentres for piracy are now in different parts of Southeast and East Asia (see Figure 7 and Table 9). This suggests that the increases in resources and personnel devoted to combatting piracy, and the initiation of coordinated joint patrols in both the Malacca and Singapore Straits by Malaysia and Indonesia, and by Singapore and Indonesia, respectively, are having the desired results. Officials from the three littoral states have also been involved in talks with representatives of the International Maritime Organisation (IMO) discussing ways to improve the safety of the straits for international traffic (*The Straits Times*, 26 February, 1993: 22). It should be stressed that since many of the vessels adversely affected by piracy in the straits are 'international users', then it seems fair that at least some of the costs for maintaining safety in the straits should fall on the international community, and should not be carried only by the littoral states. Piracy is by its very nature both a transboundary and international problem, and the current cooperative measures by the coastal states are steps in the right direction. Nevertheless, we should not be sanguine about a problem that has long historical roots and in all its forms continues to be a potential hazard to shipping. It will take continued vigilance on the part of the relevant maritime bodies of the three states to keep the number of attacks down to a minimum. In this paper we have offered a description of the problem and some suggestions for a further extension of existing cooperative cross-border efforts should current measures prove insufficient.

Figure 1: The Johor-Riau Kingdom in the Eighteenth Century AD

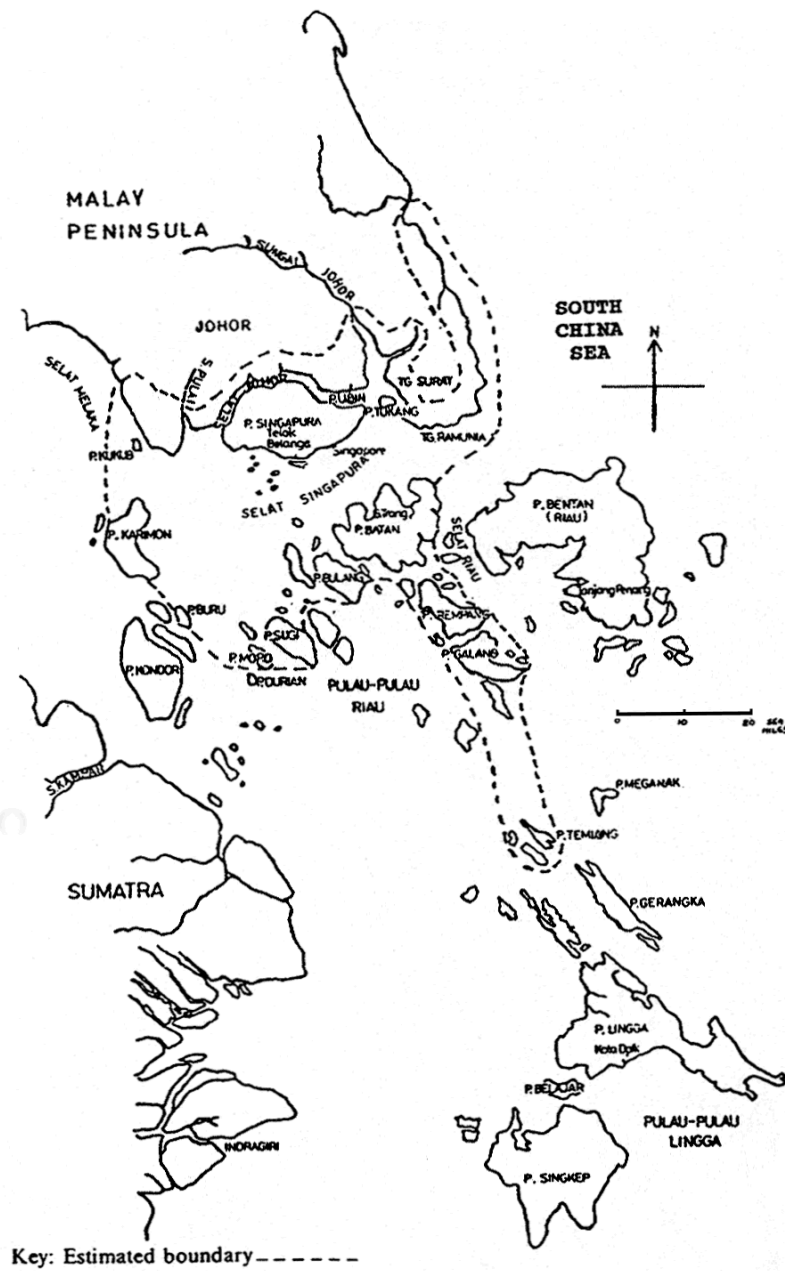


Figure 2: Suite of Maritime Jurisdictional Claims of a Coastal State

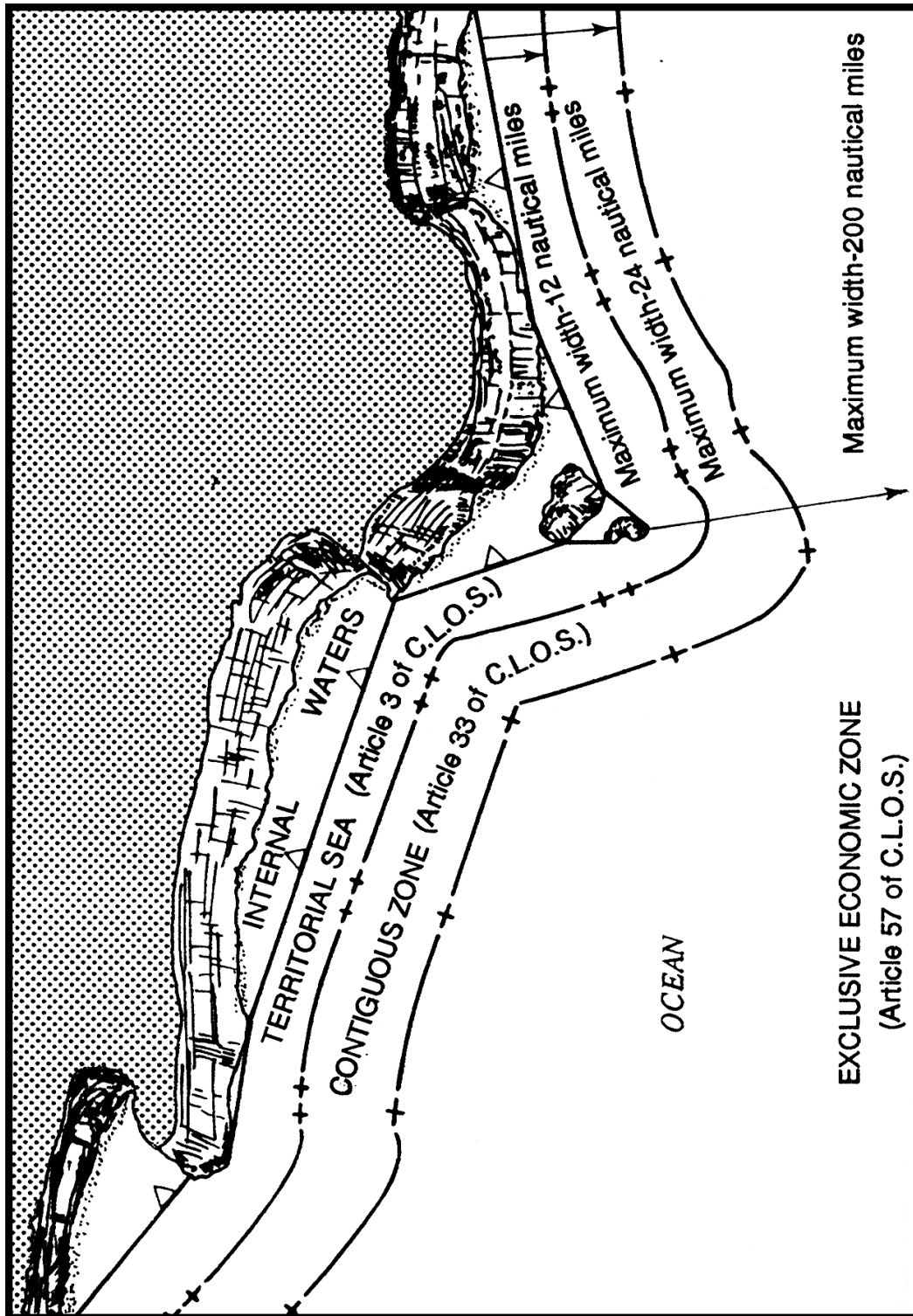


Figure 3: Seabed Boundary Delimited in the Malacca Strait

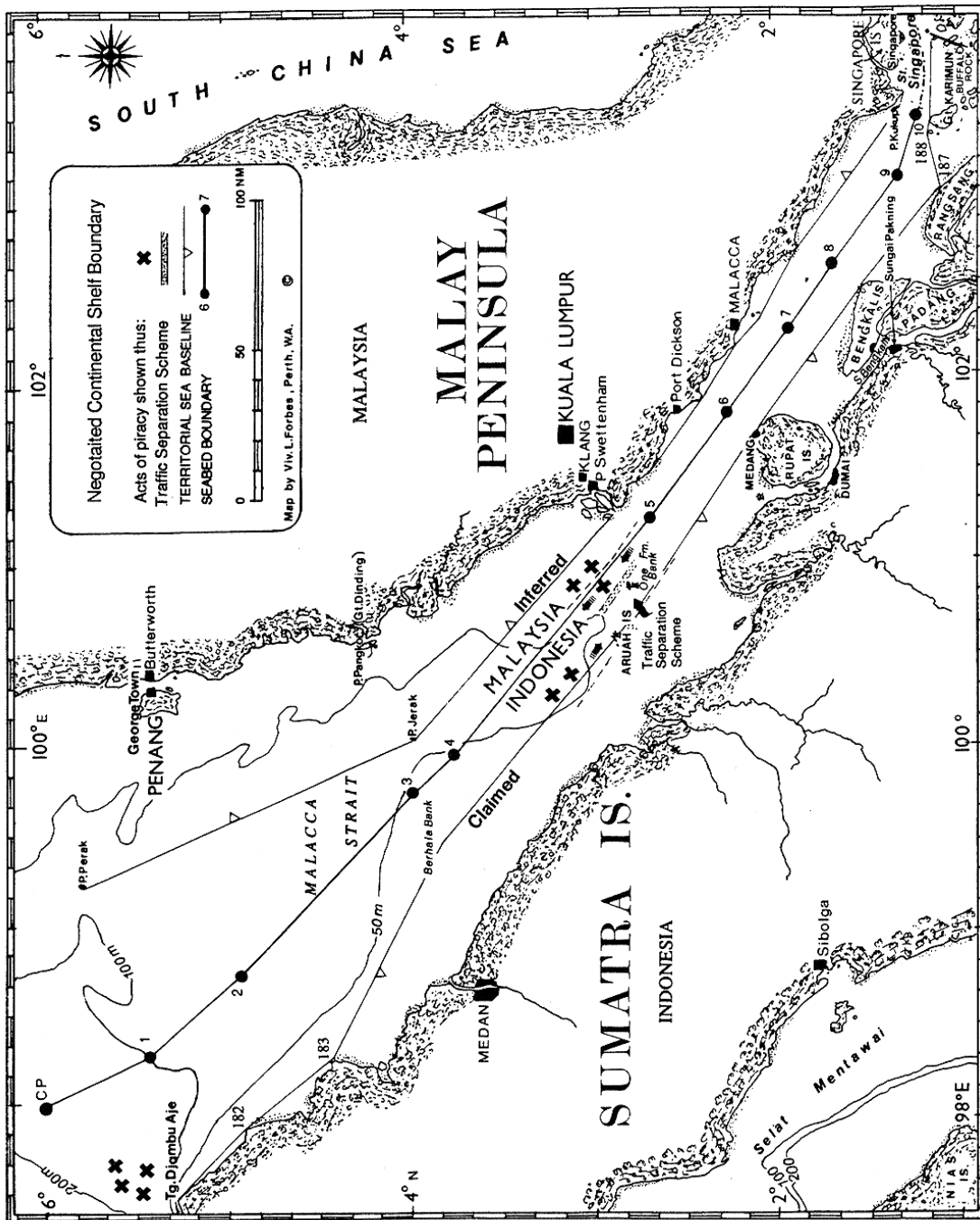


Figure 5: Piracy Incidents in the Vicinity of the Phillip Channel and part of the Traffic Separation Scheme

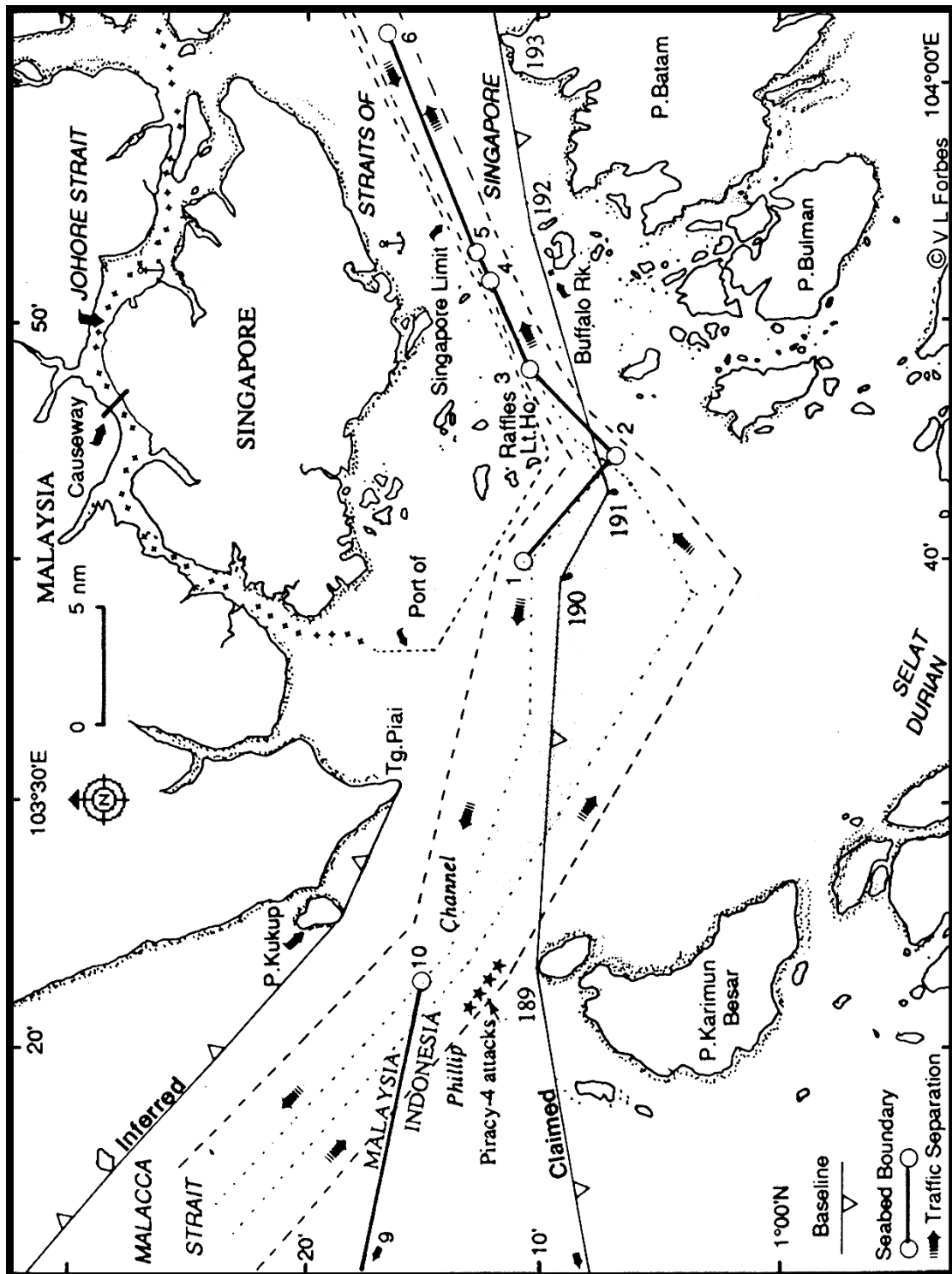


Figure 6: Piracy Incidents in the South China Sea off Malaysia and the Singapore Strait

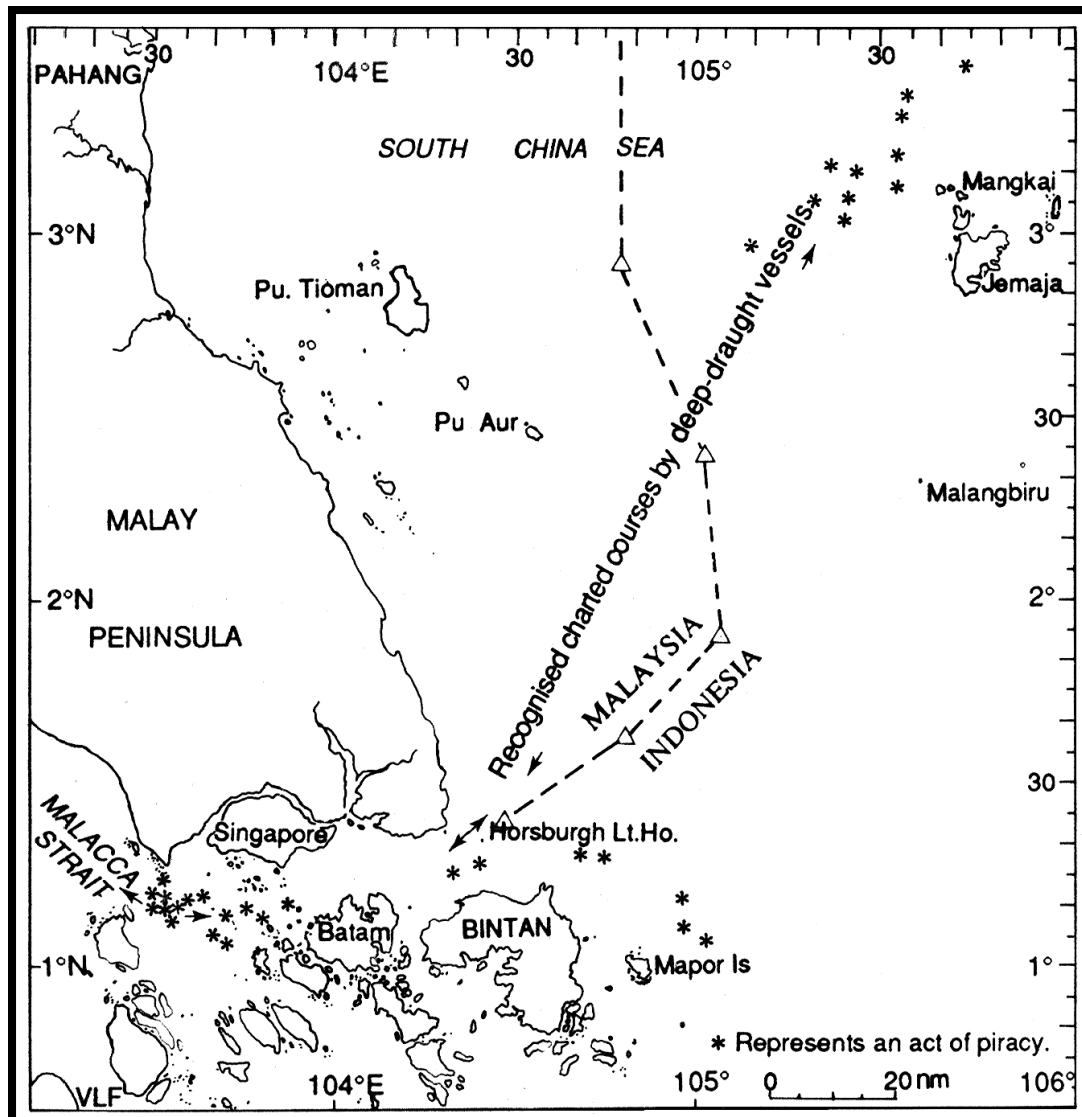
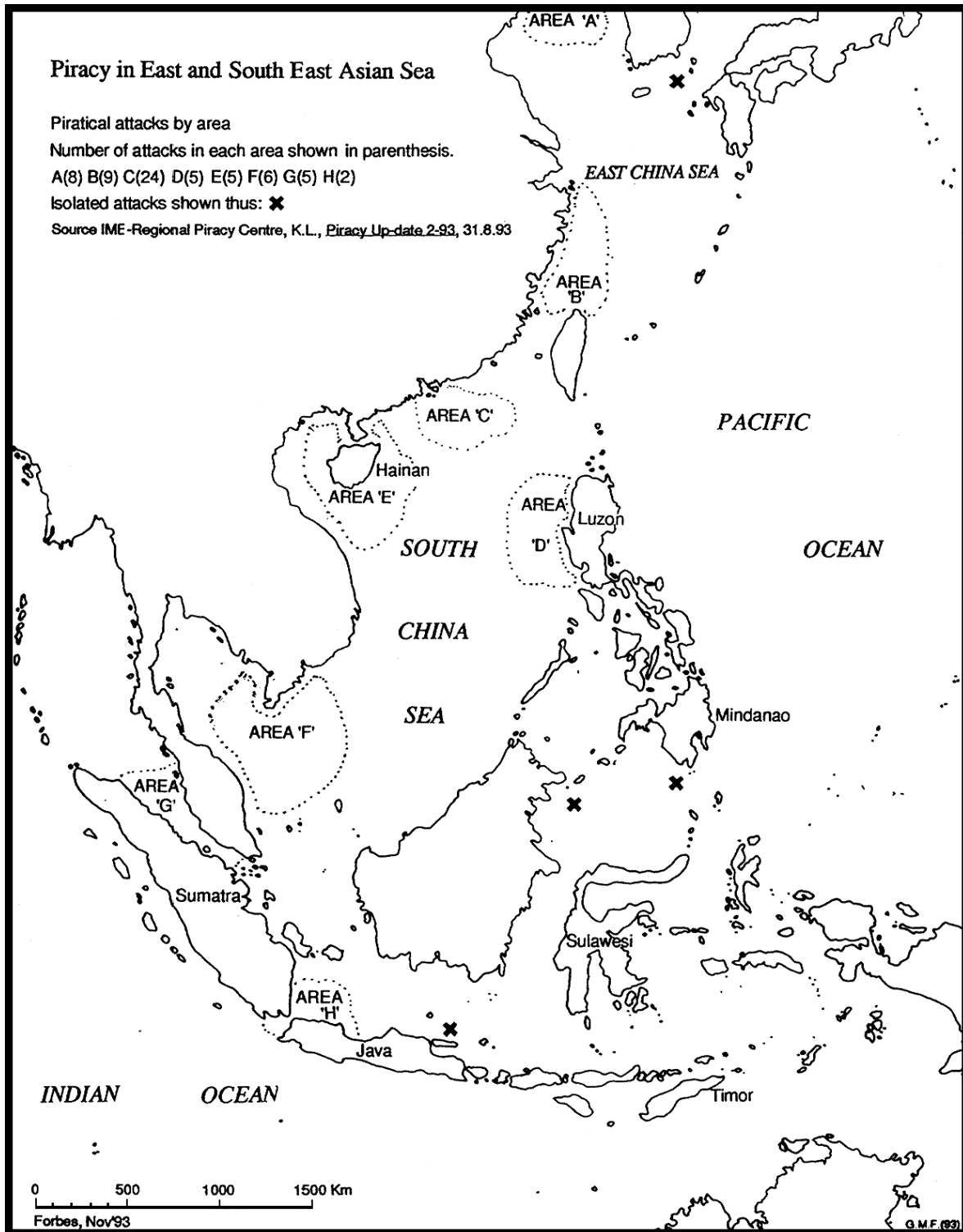


Figure 7: Piracy "Hot-Spots" in East and Southeast Asia



**Table 1: Reported Pirate Attacks in 1992:
Geographic Distribution**

Grouping	Attacks in 1992
Southeast Asia	73
Asia	10
Rest of the World	23
Total	106

Source: IMB Regional Piracy Centre, Kuala Lumpur

Table 3: Times of Attacks in Asia

From the 83 attacks in the whole of Asia, 47 of these reported the time of the actual attack. It has become possible to establish the time bands during which these attacks were conducted.

Time Bands	Number of Attacks
1800 - 2200	4
2201 - 2400	9
0001 - 0200	9
0201 - 0400	13
0401 - 0600	7
0601 - 0900	1
Daylight Hours	1
1432 hours	1
1740 hours	1
"Night"	1

Source: IMB Regional Piracy Centre, Kuala Lumpur

Table 2: Chronology of Reported Pirate Attacks for 1992 to August 1993 for Specific Southeast Asian Locations

Date	Vessel Name	Vessel Type	Time of Attack	Position		Waters
				lat.	long.	
01-Jan-92			2240	1.11.5N	103.53E	PC
02-Jan-92		container	0140-0210	1.11.3N	103.51E	PC
05-Jan-92	Bergen Pride	bulk		1.09.5N	103.28.8E	STM
05-Jan-92	Al Muharraq	container	2154	1.07.1N	103.45.9E	STM
06-Jan-92	Ocean Elite	tanker	2300	Batu Berhenti Beacon		PC
06-Jan-92	OOCL Fortune	container	2325	Phillip Channel		PC
10-Jan-92				01.05N	103.43E	PC
11-Jan-92				off Racon Buoy - Phillip Channel		PC
13-Jan-92		cargo vsl	0500	Takong Ki Island		PC
13-Jan-92	Sognsvaan			01.11.7E	103.52E	PC
15-Jan-92		container	0505	Eastern Boarding Ground 'A'		PC
15-Jan-92		container	0110-0120	1.10.5N	103.48E	PS
26-Jan-92			0420-0440	01.05.0N	103.43E	PC
02-Feb-92		bulk	0345	03.22.0N	100.18E	STM
23-Feb-92	Diaspros			Singapore Strait		VB
17-Mar-92	Rowan	tanker	0245	1.00N	105.05E	VB
17-Mar-92		tanker	0100	00.30N	105.05E	VB
02-Apr-92		general cargo	2130-0330	03.02N	100.48E	STM
22-Apr-92	Australia Star	tanker	night	near Horsburgh Lighthouse		VB
23-Apr-92		container	0836	00.50N	105.10E	VB
24-Apr-92	Valiant Carrier	tanker	2220	40nm From Singapore, 4nm from Indonesia		VB
28-Apr-92	Oscro Star	OBO carrier		Singapore Strait, 70nm from Singapore		VB
29-Apr-92		tanker	2025	01.10N	105.00E	VB
30-Apr-92		OBO carrier	0150	01.08N	104.56E	VB
30-Apr-92		freighter	2100	01.07N	105.05E	VB
30-Apr-92		tanker	0200	01.22N	105.07E	VB
01-May-92	Fortune	tanker		01.04N	103.38E	VB
01-May-92	Young Sportsman	bulk	0001	01.06N	104.59E	VB
03-May-92		container	0350-0420	01.19N	104.58E	VB
05-May-92		container	0215	01.02.05N	105.01.08E	VB
05-May-92		OBO	0230-0330	Phillip Channel		PC
05-May-92		tanker	2359	off Merpas Island		VB
05-May-92	Planeta			01.025N	105.018E	VB
06-May-92	Bunga Teratai	container	0205 & 0540	18nm from Pulau Merapas		VB
08-May-92	Swan Reefer	container	0100	5km from Bintan Island		VB
12-May-92	Golden Arrow	container		01.17N	104.48E	VB
02-June-92	Lady Pauline			01.58N	102.25E	STM
08-Jun-92		container	1740	02.59N	100.50.6E	STM
11-Jul-92	Jag Vikas	bulk carrier		Panjang, Indonesia		STM

Date	Vessel Name	Vessel Type	Time of Attack	Position		Waters
				lat.	long.	
22-Jul-92	Astart	bulk carrier		6.3 miles from Horsburgh Lighthouse		VB
06-Mar-93	Kavo Sidero	bulk carrier	0500	03.48N	98.43E	STM- INDO
22-Apr-93	Magic Lady	tanker	2300	Belawan Port (Indonesia)		STM- INDO
24-May-93	Star Lily	bulk carrier		03.3N	100.10E	STM- INDO
03-Jun-93	Timur Endurance	tanker		Dumai Port		STM- INDO
09-Jun-93	Royal Arrow	tanker	0300	02.15N	101.54E	STM- MAL

Abbreviations

VB	Vicinity of Bintan Island
PC	Phillip Channel
SM, STM	Straits of Malacca

Source: IMB Regional Piracy Centre, Kuala Lumpur.

Table 4: Distribution of Reported Pirate Attacks in 1992 by Location²⁶

	VB	PC	NS	SM	JS	CS	OI	SC	PH	MA	UC	Ttl
Jan		11	1	2								14
Feb	1			1		1					2	5
Mar	2		4		3		1	1				11
Apr	8		1	1	1			1	1	1		14
May	9	2	3						1		2	17
Jun				2								2
Jul	1			1								2
Aug												0
Sep								2	1	1		4
Oct						1						1
Nov												0
Dec					2			1				3
Ttl	21	13	9	7	6	2	1	5	3	2	4	73

Abbreviations

VB	Vicinity of Bintan Island
PC	Phillip Channel
NS	North tip of Sumatra
SM	Straits of Malacca
JS	Java Sea
CS	Celebes Sea
OI	Others - Indonesian Waters
SC	South China Sea
PH	Philippines
MA	Malaysia
UC	Unclear Coordinates

Source: IMB Regional Piracy Centre, Kuala Lumpur

²⁶ see key to Table 2

Table 5: Reported Pirate Attacks, January to September 1993, by Geographic Distribution

Area	Number of Attacks
Hongkong-Luzon-Hainan	29
Yellow Sea	1
South China Sea	10
East China Sea	20
Celebes Sea	1
Arabian Sea	1
Indonesia	2
Straits of Malacca – Malaysia	1
Straits of Malacca – Indonesia	4
Rest of the World	10
Java Sea	1
Taiwan Strait	1
China	1
No location	1
Total	83

Source: IMB Regional Piracy Centre, Kuala Lumpur

Table 6: Cases of "Sea Robbery" Reported in Singapore's Territorial Waters

Year	Number of Cases
1985	0
1986	1
1987	14
1988	2
1989	0
1990	0
1991	0
1992	0

Source: Police Coast Guard, Singapore Police Force

Table 7: Annual Reports of Pirate Attacks to the Singapore National Shipping Association (SNSA), 1986 - 1992

Year	Number of Attacks
1986	20
1987	35
1988	10
1989	3
1990	32
1991	61
1992	39

Source: SNSA

Table 8: Monthly Pirate Attacks Reported to the SNSA²⁷

Monthly Piracy Incidents (1992)	
January	6
February	1
March	6
April	11
May	9
June	1
July	1
August	1
September	-
October	-
November	-
December	-

Source: SNSA

²⁷ Based on returns to the SNSA. Covers mostly the Straits of Malacca and Singapore; waters off east peninsula Malaysia; the Riau-Lingga archipelago. There are other 'piracy prone' waters in Southeast Asia according to IMB data, including the Gulf of Thailand, the Natunas, the Spratlys, the waters off Sabah's coast, the Sulu Sea, and southwestern waters of the Phillipines.

**Table 9: Comparison of Worldwide Piracy Statistics
Reported to the IMB in 1992 and 1993**

Area	1992	1993	Variance
Africa	16	9	- 7
South Asia	9	5	- 4
Southeast Asia	65	8	- 57
Far East	9	68	+ 59
South America	10	5	- 5
Middle East	1	0	- 1
Europe	1	0	- 1
Latin America	1	0	- 1
Unclear coordinates	3	0	- 3
Robbery in port	0	7	+ 7
Unknown area	0	1	+ 1
Total	115	103	- 12

Of the 103 incidents reported for 1993, the major 'hot spot' is the Hong Kong - Luzon - Hainan area. In fact, there were 33 reported cases for this area in 1993, 11 for the South China Sea, and 20 for the East China Sea. There were only four reported incidents for the Straits of Malacca and Singapore. A dramatic decrease from the previous two years.

The IMB have also categorised attacks on vessels for 1993, thus:

- 25 attempted boardings repelled by would-be victim vessels.
- 28 actual boardings.
- 19 reports of vessels trailed by suspicious craft.
- 16 reports of vessels being stalked and fired upon by pirate craft.
- 7 vessels detained over varying periods of time
- 8 robberies at port/anchorage.

References

- Asean Forecast* (1984) Special Supplement: 'Piracy in the Singapore Straits: a lack of political will?', 3: 5, 76-84, May.
- Aune, B. (1989) 'Piracy and its repression under the 1982 Law of the Sea Convention', *Ocean Yearbook*, 8: 18-43.
- Birnie, P. W. (1989) 'Piracy - past, present and future' in E. Ellen (ed) *Piracy at Sea*, ICC-IMB, Paris: 131-158.
- Botting, D. (1978) *The Pirates*, Amsterdam: Time Life Books
- Brown, E. D. (1981) 'Maritime commercial malpractices and piracy under international law', *Maritime Policy and Management*, 8: 99-107.
- Chia, L. S. (1981) 'The Straits of Malacca and Singapore: Navigational, resource, and environmental considerations' in L.S. Chia and C. MacAndrews (eds) *Southeast Asian Seas: Frontiers for Development*, Singapore: McGraw-Hill International.
- Ellen, E. (ed) (1989) *Piracy at Sea*, Paris: ICC-International Maritime Bureau.
- Giles, H.A. (1956) *The Travels of Fa-hsien (399-414 AD)*, London.
- Haller-Trost, R. (1993) Historical Legal Claims: A Study of Disputed Sovereignty over Pulau Batu Puteh (Pedra Branca), *Maritime Briefing*, 1: 1, Durham: International Boundaries Research Unit.
- Hamzah, Ahmad (ed) (1983) *Malaysia and the United Nations Conference on the Law of the Sea: Selected Documents*, Kuala Lumpur.
- ICC-International Maritime Bureau (1992) *Special Report: Piracy*, June.
- ____ (1992) *Factsheet: Information and Broadcast Centre*, October.
- ____ (1993) *Piracy Report 1992*, February.
- ____ (1993) *Piracy Update May 1993*.
- ____ (1993) *Piracy Update September 1993*.
- International Maritime Organisation (1991) *Prevention and Suppression of Acts of Piracy and Armed Robbery against Ships*, Resolution A. 683(17), London: IMO.
- International Shipping Federation (1992) *Pirates and Armed Robbers: A Master's Guide*, second edition (revised), London: ISF.

- Kasemsri, B. (1989) 'The situation of refugees in the territorial waters of Thailand' in Eric Ellen (ed) *op. cit.*: 113-119.
- Kittichaisaree, K. (1987) *The Law of the Sea and Maritime Boundary Delimitation in South-east Asia*, Singapore: Oxford University Press.
- Koh, K. L. (1982) *Straits in International Navigation: Contemporary Issues*, London: Oceana Publications (Chapter IV).
- Lee, Y.L. (1982) *Southeast Asia: Essays in Political Geography*, Singapore: Singapore University Press.
- Leifer, M. (1978) *International Straits of the World - Malacca, Singapore and Indonesia*, Sijthoff and Noordhoff.
- Lim, Joo-Jock (1978) 'The three-nation agreement on the Malacca Straits: A geographical perspective', *Southeast Asian Affairs*, 45-54, Singapore: Heinemann for the Institute of Southeast Asian Studies.
- Marks, H.J. (1959) 'The first contest for Singapore 1819-24', *Verhandelingen van het Koninklijk Instituut Voor Taal-, Landen Volkenkunde*, 27, Gravenhage.
- Moorhead, F. J. (1957) *A History of Malaya and Her Neighbours*, Kuala Lumpur: Longmans of Malaysia.
- Peterson, M. J. (1989) 'An historical perspective on the incidence of piracy' in E. Ellen (ed) *op. cit.*: 41-60.
- Prescott, J.R.V., Collier, H.J., and Prescott, D.F. (1977) *Frontiers of Asia and Southeast Asia*, Melbourne: Melbourne University Press.
- Prescott, J. R. V. (1985) *The Maritime Political Boundaries of the World*, London: Methuen.
- Singapore National Shipping Association (1992) '*Piracy*' in the Asean region and its effects on commercial shipping, Press Release, March 24.
- ____ (1992) Press Release, May 7.
- ____ (1992) *General measures to be adopted by shipowners and master of vessels when plying through piracy-prone areas*, Issued to all ships, May.
- Singapore Tatler*, December 1983.
- Tan, S. (1989) 'Thefts and robberies on board ships in the Singapore Strait' in E. Ellen (ed)*op. cit.*: 224-226.

- Tangsubkul, P. (1982) *ASEAN and the Law of the Sea*, Singapore: Institute of Southeast Asian Studies.
- Trocki, C. A. (1979) *Prince of Pirates: The Temenggongs and the Development of Johor and Singapore, 1784-1885*, Singapore: Singapore University Press.
- US Department of State, Office of the Geographer (1970) 'Continental Shelf Boundary: Indonesia/Malaysia', *Limits in the Seas*, No.1.
- ____ (1973) 'Indonesia-Malaysia: Territorial Sea Boundary', *Limits in the Seas*, No. 50, January 1973.
- Valencia, M.J. (1991) *Malaysia and the Law of the Sea: Foreign Policy Issues and Options and their Implications*, Malaysia: Institute of Strategic and International Studies (ISIS).
- Vatikiotis, M. (1992) 'Raiders of Riau', *Far Eastern Economic Review*, July 2, 1992: 14- 15.
- Vertzberger, Y. Y. L. (1984) *Coastal States, Regional Powers, Superpowers and the Malacca-Singapore Straits*, Institute of East Asian Studies, Research Papers and Policy Studies 10, Berkeley: University of California.
- Wheatley, P. (1980) *The Golden Khersonese*, Kuala Lumpur: Penerbit Universiti Malaya.

Reports

The Straits Times, Singapore.

The Business Times (BT), Singapore.

BT Shipping Times, Singapore.

Additional Information

Port of Singapore Authority documents