



Protecting the Malacca Strait by Barry Desker

There has been, of late, increasing concern over the safety of navigation in the Malacca Strait. This follows al-Qaeda attacks on the *USS Cole* in Aden in October 2000 and the French-owned supertanker *Limburg* off the coast of Aden in October 2002. Then there was the bombing of a superferry by the al-Qaeda-linked Abu Sayyaf group in waters off Manila in February 2004, the worst act of maritime terrorism in recent years with more than 100 passengers killed.

Two examples suffice to highlight the significance of the Strait of Malacca and Singapore to international shipping. Firstly, oil flows through the Strait are three times greater than the Suez Canal/Sumed pipeline and 15 times greater than flows through the Panama Canal. Secondly, two-thirds of the tonnage passing through the Strait consists of crude oil from the Persian Gulf bound for Japan, South Korea, and, increasingly, China. More than half of the world's shipping tonnage passes through the Strait. The International Maritime Organization (IMO) estimates that if for some reason the Strait was closed, all excess shipping capacity would be absorbed, "with the effects being strongest for crude oil shipments and dry bulk cargoes such as coal.... [which] could be expected to immediately raise freight rates worldwide."

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

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

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

Sept. 11 changed the way the civil aviation community handles hijacking incidents because the intention of the hijackers was to kill as many as possible in suicide attacks. In

the past, the intention was to get as much publicity and as much ransom as possible with the minimum loss of life. Similarly, the maritime community needs to pay greater attention to the risk of "low probability, high impact scenarios" such as the hijacking of a tanker or an LNG carrier for use as a human-guided missile, or an attack on a commercial or naval vessel at narrow points in the Strait to disrupt traffic flows within the waterway.

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

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

The changed strategic environment in the Strait of Malacca and Singapore is of particular interest to two communities of states. First, the littoral states – Indonesia, Malaysia, and Singapore – because of the threat of pollution and the possible risk of attacks on onshore facilities. Second, the user states, especially Japan, China, and South Korea, which are dependent on the Malacca Strait for the smooth and efficient transit of cargo, especially energy supplies. Other user states are the major maritime powers (such as the U.S.) that are concerned about the possible threat to their naval vessels traversing through the straits.

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

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

“(a) in the establishment and maintenance in a strait of necessary navigational and,

(b) safety aids and other improvements in aid of international navigation; and for the prevention, reduction and control of pollution from ships.”

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

The international shipping community is confronted with growing challenges as a result of the exponential increase in shipping through the Strait as well as the new threat of catastrophic terrorism post-Sept. 11. There is a need for a new architecture facilitating cooperative arrangements involving the littoral states and the user states. One approach could be the institutionalization of the IMO-sponsored meeting on the Strait of Malacca and Singapore involving all interested parties. It could go beyond the modest objectives envisaged in the original proposal to consider ways and means of implementing Article 43 of UNCLOS.

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

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