

Private Maritime Security (PMS) in the Strait of Malacca

OPTIONS FOR MALAYSIA



Capt. Noor Apandi Osnin

MIMA Seminar on PMS

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Introduction

- Current focus on maritime security issues – potential terrorist attack;
- IMO reports Strait of Malacca as having the 2nd highest incident of piracy;
- Perception that littoral States have not done enough to secure the Strait;
- Strait users are concerned for their safety & security;
- PMS offered armed escort services; but
- **THIS WILL HAVE IMPACT on LEGAL AND SOVEREIGN ISSUES.**

Security on Merchant Ships

- Designed for cargo not security;
- No specific defense mechanism and manned at the lowest possible levels;
- Is more concerned with safety than security;
- Carries valuable items (cash) that attracts perpetrators;
- Security becomes more prominent after 9/11.

Response to Security Threat

- Passive response – security plans and checklists;
- No move to arm or for physical training;
- Use pressure hoses to deter boarders;
- Promotes use of technology i.e. electrified fence system and sonic devices.

Security in the Strait of Malacca



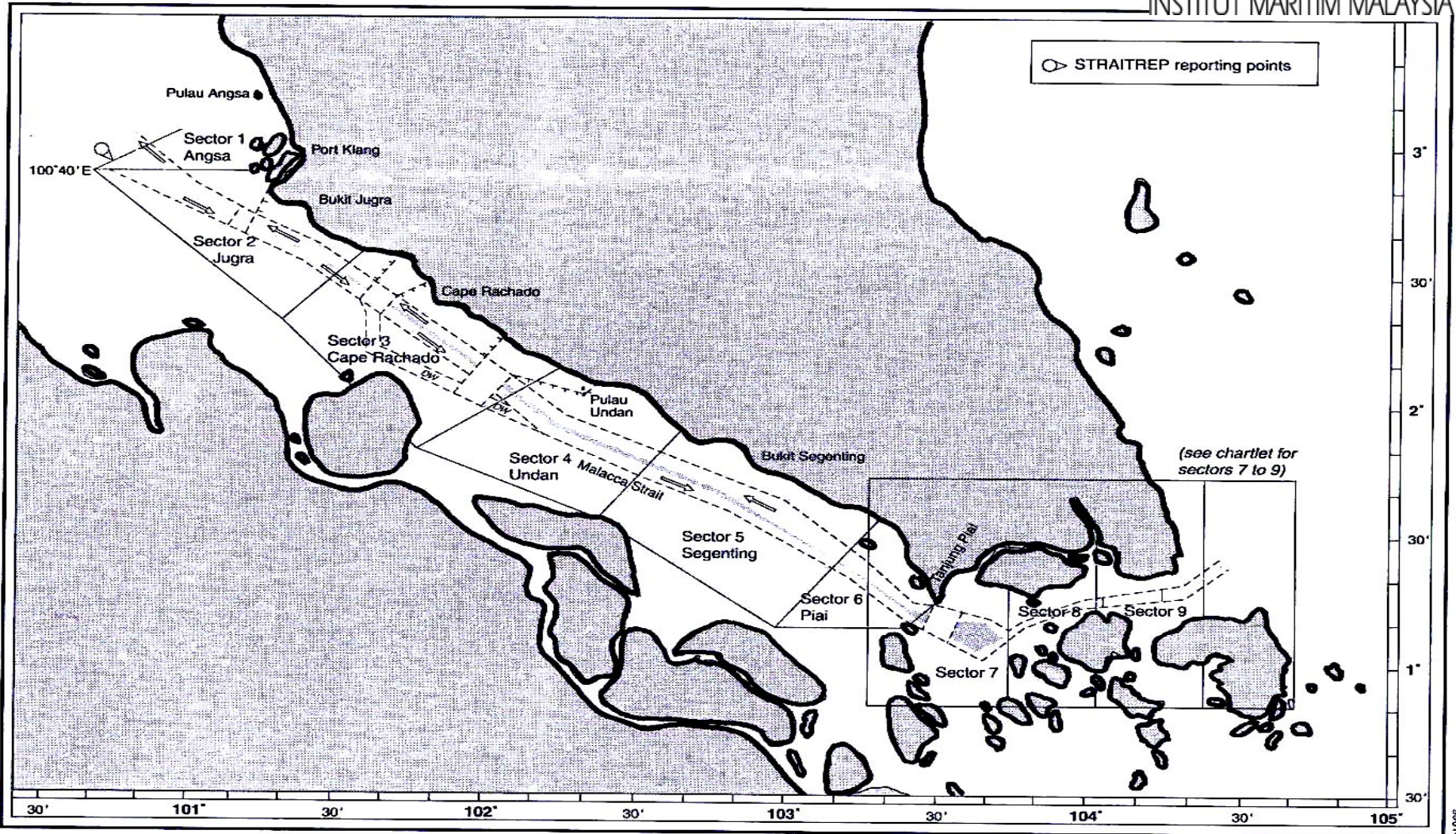
- Vital strategic shipping lane;
- In 2004, 63,636 ships pass through, a 3% increase from 2003;
- Any disruption will have widespread consequences on world trade;
- Collision, grounding as an aftermath of pirate attacks;
- Forced closure by terrorists ?

Major Security Initiatives



- Formation of MMEA;
- MALSINDO – coordinated patrols;
- Eye in the sky;
- Increased capacity and scope of sea surveillance, vessel traffic and ship reporting system;
- MECC record only 13 incidents in 2005 !
- IMB figure stands at 12 in the Strait of Malacca, 7 in the Strait of Singapore and 3 in Malaysia.

Strait of Malacca



STAITREP operational area (sector 1 to 9)

International Perspective

- MSC 80 list the Strait as most affected areas for piracy and armed robbery in 2004, next MSC 81 in May 2006;
- 37 incident (Indonesia 93), 3 injuries, 4 killed and 36 kidnapped;
- IMB raises concern over increasing kidnapping for ransom;
- Malaysia has not responded to IMO's request for member States official piracy data.

Commercial Response

- JWC Hull War, Strikes, Terrorism and Related Perils Listed Areas (3rd March 2006) include the Malacca Strait;
 - On the North Western End between Laem Phra Chao and Ujung Baka; and
 - On the South Eastern end between Tanjung Piai and the light on the Sumatran mainland coast.
 - Will remain until it was clear that measures planned by government and other agencies had been implemented and were effective.
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Laem Phra Chao
7°45'.5 N, 98°18'.5 E

JWLA003
3rd March 2006

Ujung Baka
5°39'.5 N, 95°26'.0 E

Tanjung Piai
1°15'.9 N, 103° 31.0 E

South Westward
Sumatera Mainland
0°48'.0 N, 103°8' .2 E

Source:
Joint War Committee:
Hull War, Strikes, Terrorism and Related Perils:
Listed Area
3rd March 2006

Impact

- Additional premiums – 0.05% for base war risk cover and 0.01% for each transit;
- Potential cost for 1,100 TEU feeder ships – USD 12,500 for war risk and USD 2,500 per transit;
- Negotiable based on case to case basis;
- Singapore shippers pay about USD 5,000 per trip.

- Seek to allay fears by providing secure passage using armed escorts;
 - Based in and licensed by Singapore;
 - Claimed to be sanctioned by Malaysia and Indonesia but not Singapore;
 - Raises issues of legality and impact on sovereignty.
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- Innocent & transit passage – will most likely, no longer apply;
 - Impinge on sovereignty as legitimate use of force in security matters lies with State;
 - The right of private citizens to bear arms;
 - Accountability – to whom ?
 - What happens if the PMS wrongly shoots a Malaysian fisherman ?
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In Summary

- Malaysia has been emphasizing the importance of its sovereignty; yet
- No arrests have been made on PMS who publicly claim to be carrying out armed escorts;
- PMS taking advantage of apparent weakness in Malaysian governance over the Strait of Malacca;
- Malaysia risk losing sovereignty in the Strait.

Option 1

- Do nothing:
 - Status quo continues, market forces dictate the response;
 - Implies that Malaysia agrees to PMS companies being present in its waters;
 - In the long term, this provides historical precedent that foreign forces may use to enter and control the Strait.

Option 2

- Allow & regulate PMS operating in Malaysian waters:
 - Malaysia implicitly agrees to the need for PMS in the Strait;
 - Immediate need for proper and legally sound framework to monitor & regulate;
 - Must arrest unlicensed PMS;
 - Also provides historical precedent; and
 - Resource intensive and legally exhaustive.
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Option 3

- Total ban on PMS in Malaysian waters:
 - Request Singapore to revoke or limit PMS license;
 - Require considerable resources to ensure PMS is kept out;
 - Will need proper legal framework to uphold ban;
 - Ban must be legitimized through IMO;
 - Maritime commerce may not be satisfied;
 - Will take decades to institute or accepted by the international community.
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Option 4

- Eliminate the source of the problem:
 - Must eradicate pirates, hijackers & kidnappers in the Strait;
 - Must expand and enhance efforts to include fast response, hot pursuit, arrest and conviction;
 - Must restore confidence of maritime community;
 - Pressure JWC to take the Strait off the war risk list;
 - Malaysia could be celebrated as a responsible nation, serious in fulfilling its obligations and able to protect its sovereignty.
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Recommendations

- Options 3 & 4:
 - In line with Malaysia's emphasis on maintaining its sovereignty;
 - Will require strong political will and persistent efforts; and
 - Will require substantial resources to implement.
 - Options 1 & 2:
 - Reflect weakness in Malaysia's governance;
 - Malaysia agrees to its sovereignty being compromised in the interest of commercial security;
 - Will provide grounds for other nation to intervene.
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Conclusion

- Currently, Malaysia appears to be implementing option 1;
- Though actions have been taken, they seem to be insufficient – the Strait is still on the list;
- Some are even viewing PMS as acceptable counter measures against piracy;
- If Malaysia is serious about maintaining and protecting her territorial integrity and sovereignty – this issue need to be addressed;
 - At the very least: declare a stand or policy on PMS in Malaysian waters and the agency that is responsible, subsequent to formulating a cohesive, efficient and effective action plan.