



Università
Ca' Foscari
Venezia

**Corso di Laurea magistrale (ordinamento ex
D.M. 270/2004)
in Relazioni Internazionali Comparete**

Tesi di Laurea

—
Ca' Foscari
Dorsoduro 3246
30123 Venezia

Piracy, maritime security and Japan's initiatives

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Anno Accademico

2011 / 2012

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INTRODUCTION

This dissertation will analyze the phenomenon of piracy in Southeast Asia and Somalia in 1990s and 2000s, as well as the initiatives undertaken by regional and extra-regional governments to contrast its surge. On this basis, we will examine Japan's approach and anti-piracy efforts in both regions. Further, we analyze the evolution of Japan's defence policy from a maritime perspective and identify Japan's interests related to maritime security. Thus, the aim of this work is to examine Japan's anti-piracy initiatives and analyze their role in the evolution of Japan's sea power.

In view of this, the following objectives were set:

- Illustrate the relevant legal framework;
- Identify the roots of modern Southeast Asian piracy;
- Evaluate the impact of piracy of Japan's security;
- Analyze the evolution of national, bilateral and regional anti-piracy initiatives in Southeast Asia;
- Examine Japan's approach to the problem of piracy in the Malacca Straits ;
- Evaluate the role of Japan's initiatives in the fight against piracy in the Malacca Straits;
- Estimate the results of the upmentioned initiatives;
- Identify the roots of modern Somali piracy;
- Illustrate the evolution of the relevant legal framework;
- Analyze the multilateral anti-piracy initiative off the Somali coasts;
- Examine China's anti-piracy initiatives in the region;
- Examine Japan' anti-piracy initiatives in the region;
- Estimate the results of the upmentioned initiatives in comparison with the situation in the Malacca Straits
- Identify Japan's economic interests in the Middle East;
- Analyze the influence of the alliance with the Unite States on Japan's naval policy;
- Analyze the influence of the Self Defense Force's evolution on Japan's naval

policy;

- Analyze the influence of China's territorial issues and military modernization on Japan's naval policy

The subject of this dissertation are Japan's anti-piracy initiatives while the object are relevant studies, reports, reports, databases, articles, as well as websites of governments, banks and corporations

The thesis sources can be divided in the following groups:

- Publications concerning modern piracy: history, socio-economic roots, impact on maritime security and effects on coastal states;
- Laws and official documents regarding piracy and anti-piracy regulations;
- Publications related to anti-piracy initiatives: evolution, negotiation processes and results;
- Relevant United Nations Security Council Resolutions;
- Publications concerning Japan's foreign policy: in particular, relations with regional organizations and Malaysia, Singapore, Indonesia, Philippines, members of the Gulf Cooperation Council, People's Republic of China, Republic of China, United States, Djibouti and Transitional Federal Government of Somalia;
- Publications concerning Japan's defense policy: evolution, guidelines and alliance ties;
- Databases and figures related to Japan-Middle East trade.

ANTI-PIRACY INITIATIVES IN SOUTHEAST ASIA

Piracy: Legal Framework

The Matsuda Draft and the Harvard Draft Convention on Piracy

In 1924, piracy was included among the “subjects of international law, the regulation of which by international agreement would seem the most desirable and realizable at the present moment” by a Committee of Experts convened by the Council of the League of Nations. This led to the elaboration of the Matsuda Draft, a first attempt of codification drawn up by a Sub-Committee consisting of the Japanese Rapporteur Matsuda and Chinese representative Wang. The Matsuda Draft, avoiding to cite State practices, case laws and doctrines “did not allow for a distinction between well-settled principles of existing international piracy law and *de lege ferenda* elements” The exclusion of piracy from the list of topics inserted in the 1930 Codification Conference of the League of Nations agenda, motivated by the difficulty of concluding a universal agreement on what was perceived to be a problem of relatively little importance, vanified the efforts of the Sub-Committee.

In 1930-1931, an Advisory Committee was set up at Harvard Law School to autonomously prepare draft conventions for each subject identified by the League of Nations. Joseph W. Bingham of Stanford University was named Reporter and, together with a group of experts, developed the 1932 Harvard Draft Convention on Piracy. The concept of Piracy, as defined in the convention, was limited to acts of violence committed on the high seas for private ends. Differently from the Matsuda Draft, the Harvard Draft was accompanied by a report summarizing the doctrinal debate on piracy and by the document: “A Collection of Piracy Laws in Various Countries”.¹

The Convention on the High Seas and the United Nations Convention on the Law of

1 According to Geiss & Petrig “It may [...] explain why the Harvard Draft Convention had a major impact on the development of the law on piracy throughout the 20th century”. Geiss, Robin & Petrig, Anna (2011) *Piracy and Armed Robbery at Sea: The Legal Framework for Counter-Piracy Operations in Somalia and the Gulf of Aden*. (p. 39) New York: Oxford University Press

the Sea

At the United Nations Conference on the Law of the Sea of 1958, in Geneva, 86 States, UN agencies and other intergovernmental organizations worked for the creation of the Convention on the High Seas of 1958, entered into force on 1962. Despite delegates from Czechoslovakia, Albania, Uruguay and Romania argued that piracy was no longer a major threat and further legislation unnecessary, Articles 14-21 of the Convention contained a definition of piracy which will be later used in 1982 United Nations Convention on the Law of the Sea (UNCLOS):

Piracy consists of any of the following acts:

- 1) Any illegal acts of violence, detention or any act of depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft, and directed:
 - a) On the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft;
 - b) Against a ship, aircraft, persons or property in a place outside the jurisdiction of any State;
- 2) Any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft;
- 3) Any act of inciting or of intentionally facilitating an act described in subparagraph 1 or subparagraph 2 of this article.²

This definition, together with rules concerning anti-piracy measures, will be later incorporated into 1982 UNCLOS.

The 1982 Convention, on the basis of the Convention on the High Seas of 1958, defines piracy as an illegal activity involving acts of violence, detention or depredation, committed on the high seas or outside the jurisdiction of any state. Piracy necessitates a “two-ship” requirement, excluding mutiny or privateering: pirates need to use a ship

2 Convention on the High Seas, art. 15 Retrieved March, 2, 2012, from <http://untreaty.un.org>

to attack another ship. Piracy must be committed by the crew or passengers of a privately owned vessel for private ends. Thus, terrorism, espionage and warfare are not acts of piracy, as in these cases the conditions of illegality and pecuniary motives are not met simultaneously. A warship or government boat can be considered pirate ship in case the crew has mutinied and taken control of the ship as its acts “are assimilated to acts committed by a private ship or aircraft.”³ A pirate ship operating on the high seas can be seized by warships or other ships “clearly marked and identifiable as being on government service and authorized to that effect.”⁴ Attacks against ships within territorial waters, where the majority of attacks actually take place, are considered armed robbery at sea and their suppression falls under the exclusive jurisdiction of the coastal state. According to 1982 UNCLOS Art.86, the same applies for attacks taking place within the Exclusive Economic Zone (EEZ), but taking into account 1982 UNCLOS art. 58 and art.87, co-operation between states to prevent acts of robbery which could interfere with the freedom of navigation would be easier to achieve than in territorial waters.⁵

To overcome the limits of 1982 UNCLOS, UN General Assembly Resolution 63/111 of 5 December 2008 (A/RES/63/111) addressed the problem of armed robbery at sea and co-operation between coastal States. The International Maritime Organization, a United Nations specialized agency with responsibility for the safety of shipping and protection of maritime environment, adopted 1982 UNCLOS definition. Recognizing the worldwide increase of acts of piracy and armed robbery at sea in 2000s and following the spirit of A/RES/63/111, IMO adopted the Code of Practice for the Investigation of Crimes of Piracy and Armed Robbery against Ships with Resolution A.1025(26) of 2 December 2009 and urged for further collaboration between governments to combat piracy and armed robbery at sea.

Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation and International Convention Against the Taking of Hostages

3 1982 UNCLOS, art. 102 Retrieved March, 1, 2012, from <http://www.un.org>

4 1982 UNCLOS, art. 105, 107 Retrieved March, 1, 2012, from <http://www.un.org>

5 Hasjim, Djalal (2005). Combating Piracy: Co-operation Needs, Efforts and Challenges. In D. Johnson & M.J. Valencia (Eds.), *Piracy in Southeast Asia: Status, Issues and Responses* (pp. 143-159). Singapore: ISEAS Publications

The purpose of the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA Convention) is to suppress unlawful acts against ships and persons on board, including the placing of devices aimed at destroying or damaging the ship.⁶ It was adopted in Rome in 1988, after the *Achille Lauro* hijacking revealed the limits of UNCLOS definition (in particular, the two-ship-requirement), and entered into force in 1992. The Convention, completed by a Protocol extending the requirements to fixed platforms, obliges Contracting Governments either to extradite or prosecute alleged offenders.

As SUA Convention, also the International Convention Against the Taking of Hostages was born in the aftermath of a terrorist attack, the 1972 Munich hostage crisis. Originated from a request by the Federal Republic of Germany in 1976 and adopted in 1979, the Convention was an effort to oblige parties to criminalize hostage taking under their domestic law.⁷ Moreover, Article 5 of the Convention obliges State parties to take the necessary measures to establish their jurisdiction also when the offence is committed on board a ship registered in that State.⁸

Broader definitions

The International Maritime Bureau (IMB) is a specialised division of the International Chamber Of Commerce (ICC) established in 1981 to act as a focal point in the fight against all types of maritime crime and malpractice. Although the IMB Piracy Reporting Centre (IMB PRC) follows the definition of Piracy as laid down in Article 101 of the 1982 UNCLOS and Armed Robbery as laid down in Resolution A.1025 (26) of IMO, for statistical purpose (and taking into account the fact that most part of acts of violence at sea take place in territorial waters) the IMB uses also a broader definition. According to the IMB, an act of piracy is recognized as such also if coming from a quay, a raft or a government navy craft, independently from the ends or the fact of taking

6 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, Retrieved March, 2, 2012 from www.imo.org

7 International Convention Against the Taking of Hostages, Art.2 Retrieved March, 2, 2012, from <http://www.un.org>

8 International Convention Against the Taking of Hostages, Art.5 Retrieved March, 2, 2012, from <http://www.un.org>

place within territorial waters.

As indicated by Graham Gerard Ong-Webb, the piratical activity can be described as a form of premeditated, organized and instrumental violence, aimed at civilians, carried out by subnational or subnational actors at sea with the use of maritime vessels and weapons, which may involve hijacking and thievery. A threat to life at sea and safety of maritime navigation along sea lanes creating a social climate of fear, which could have a negative influence on the economic activity and political stability of the area affected.⁹

Categories of Piracy

Differences can be noticed in the modus operandi of the pirates, their level of organization and the local or international nature of the market they are related to: on this basis, we are inclined to believe that piracy cases can be roughly divided into two categories.

The first ranges from furtive attacks, perpetrated by loosely-organized groups, to quick violent raids. Furtive attacks, which the IMO identifies as Low-Level Armed Robbery (LLAR), are usually operated by poor fishermen occasionally taking part in criminal activities or petty thieves.¹⁰ The pirates attack ships anchored inside ports and harbours or slowly moving in coastal waters, taking with them whatever they can find on the deck, typically cash or small equipment.

Violence can occur in case of detection by crewmembers, even if its use is limited and functional to the theft.¹¹ This kind of approach is particularly common in Malacca Straits and near the coasts of Indonesia.¹² Violent attacks, typical of West Africa, involve

9 Ong-Webb, Graham Gerard (2005). Ships Can Be Dangerous Too: Coupling Piracy and Terrorism in Southeast Asia's Maritime Security Framework. In D. Johnson & M.J. Valencia (Eds.), *Piracy in Southeast Asia: Status, Issues and Responses* (pp. 45-67). Singapore: ISEAS Publications

10 International Maritime Organization (1993) *Report of the IMO Working Group on the Malacca Strait Area*.

11 Berg et al. (2006) *Piracy – Threat at Sea: A Risk Analysis* (p.14). München: Münchener Rückversicherungs-Gesellschaft

12 Frécon, Eric (2006) Piracy and Armed Robbery at Sea along the Malacca Straits: Initial Impressions from Fieldwork in the Riau Islands. In G.G. Ong-Webb (Ed.), *Piracy, Maritime Terrorism and Securing the Malacca Straits* (p. 80). Singapore: ISEAS Publishing

the stealing of the cargo if easily transportable and the threat or use of gratuitous violence to force the crew to collaborate.

Also this kind of attack, classified by the IMO as Medium-Level Armed Assault and Robbery (MLAAR), takes usually place within coastal waters. Both LLAR and MLAAR have in common a medium/low or none level of pre-planning and limited links to organized crime or corrupted officials. The cargo or equipment stolen are believed to be mainly sold on local markets. If during and/or immediately after the attack the crew is locked up and the ship remains unmanned, the risk of major accident (especially in the shallow waters of the Straits of Malacca) and consequent environmental disaster is significantly high.

A second category could be identified in well-organized attacks, planned to take control of the whole cargo or the ship itself: this is what the IMO classifies as Major Criminal Hijack (MCHJ). Heavily armed and experienced pirates, helped by an intelligence-based planning and in some cases by collaborators inside the ship crew or port authorities, carefully plan the ambush and execute it rapidly, also in high seas. Pirates can be equipped with Very High Frequencies (VHF) radios or satellite phones and armed with automatic weapons, including AK47s, AKMs, M16s and FALs. In the waters off Somalia, the use of rocket-propelled grenades (RPG) is widely reported. The organized criminal groups which select targets and give financial support have access to international markets and strong links with corrupted officials who provide false papers to reregister the ships or to cover the sale of the cargo. The crew can be transferred to another ship, marooned at sea or killed. The cargo can be moved to the pirate vessel or unloaded into a pirate port. When the ship itself is stolen, it can be sold, or used as mother ship for further attacks. In some cases, a reregistered and repainted ship ("phantom ship") can be used to attract unsuspecting shippers and, once loaded, steal the whole cargo.

It's worth considering that IMO's categories don't take account of vessels under 100 Gross Register Tonnages (GRT) and most attacks on fishing boats are not reported by the IMO or IMB. Extra costs of fuel and harbour fees which can result from fulfilling complex reporting procedures, fear of losing commercial reputation and mistrust towards local authorities can push captains and shipping owners to underreport

attacks.¹³ Attacks against local fishermen in remote areas are not reported as well. Thus, in the absence of reliable, comprehensive data on what kind of attacks take actually place on which targets, we chose the classification used in this chapter on the basis of the methods used by pirates in the known cases and the markets they have access to. A similar distinction can be found in the work of Graziani.¹⁴

Roots of piracy in South East Asia

Descriptions of piracy or raiding in Southeast Asia can be found in Chinese records dating back to the first century and this phenomenon persisted until modern times, worsening in the periods of weak political control.¹⁵ While in the European context pirates are commonly considered *hostes humani generis* and piracy involves a criminal intent and/or a form of challenge to a pre-existent order, carried out by individuals who live outside the boundaries of the civil society, in the Southeast Asian context piracy has traditionally been integrated in the political and economic framework of several societies, as in the state of Wajo in southern Sulawesi.¹⁶ The rulers and respected warriors could take part in it and sanction those who practiced raiding without the proper authority: piracy was a means of accepted political force. The application of a Western legal perspective without a contextualization of piracy within maritime Southeast Asia problematizes modern day attempts to address piracy in the region.

Despite the economic expansion of Southeast Asian nations, political stability and state's exclusive hegemony on the territorial waters are in many cases far from being reached, especially in areas where the state's intervention is limited by an unfavorable geography. The cultural acceptability of piracy and lack of alternative incomes in economically marginalized sectors of the maritime communities of

13 Johnson, D., Pladdet, E. & Valencia M.J. (2005) Research on Southeast Asian Piracy. In Johnson & M.J. Valencia (Eds.), *Piracy in Southeast Asia: Status, Issues and Responses* (pp. XII). Singapore: ISEAS Publications

14 Graziani, Francesca (2009) *Il Contrasto della Pirateria Marittima nel Diritto Internazionale* (p61). Napoli: Editoriale Scientifica

15 Xu, Ke (2006) Contemporary Maritime Piracy in Southeast Asia. Retrieved March 31, 2012, from <http://scholarbank.nus.edu.sg>

16 Young, Adam J. (2004) *Roots of Contemporary Maritime "Piracy" in Southeast Asia*. Retrieved March 31, 2012, from <http://scholarspace.manoa.hawaii.edu>

Southeast Asia have pushed a relevant number of individuals to piracy, in autonomous, small units or under the patronage of the heads of large scale pirate groups. Ecological degradation, illegal fishing activities and the presence of organized crime syndicates facilitated the shift from legal to illegal sea activities at regional level.¹⁷ Also the technological gap between security forces and pirates appeared to be, until recent years, not wide enough, and often compensated by intelligence acquired with corruption (when not from the direct involvement of public officers in piratical activities).¹⁸ Benefiting from global proliferation of small arms, pirates have been able to obtain military technology sophisticated and powerful enough for their objectives. The use of firearms, communication systems and e-banking shew in some cases organizational skills and flexibility which local security forces still lack of.¹⁹ The initiatives of law enforcement agencies in the Malacca Straits have been often limited by sovereignty concerns: Westphalian static territorial borders have not just be imposed by Western influence, but adopted and strongly defended by the post-independence governments of Indonesia and Malaysia. The lack of an agreed definition of what piracy is, as well as a delay in recognizing piracy as a serious menace to navigational security, further thwarted an effective persecution of piratical activities.

Southeast Asia: Piracy-prone Areas

The Malacca Straits

The 960 km long Straits of Malacca is one of the world's busiest shipping lanes and a strategic chokepoint between Indian and Pacific Oceans. The term 'Straits' refers to the area including the Strait of Malacca and the Singapore Strait. The growing energy needs of East Asia are strongly linked with the fate of the Straits, as over 30% of

17 Liss, Carolin (2007) *Maritime Security in Southeast Asia: Between a rock and a hard place?* Asia Research Centre. Murdoch University.

18 Frécon, Eric (2011) Combating the "Pirate Hydra": Addressing Root Causes in the Strait of Malacca. In *Selected Briefing Papers of the Conference on Global Challenge, Regional Responses: Forging a Common Approach to Maritime Piracy*. April 18-19, 2011, Dubai, United Arab Emirates.

19 Raj, Andrin (2009) *Japan's Initiatives in Security Cooperation in the Straits of Malacca on Maritime Security and in Southeast Asia: Piracy and Maritime Terrorism*. The Japan Institute for International Affairs. Retrieved March 31, 2012, from <http://www2.jiia.or.jp>

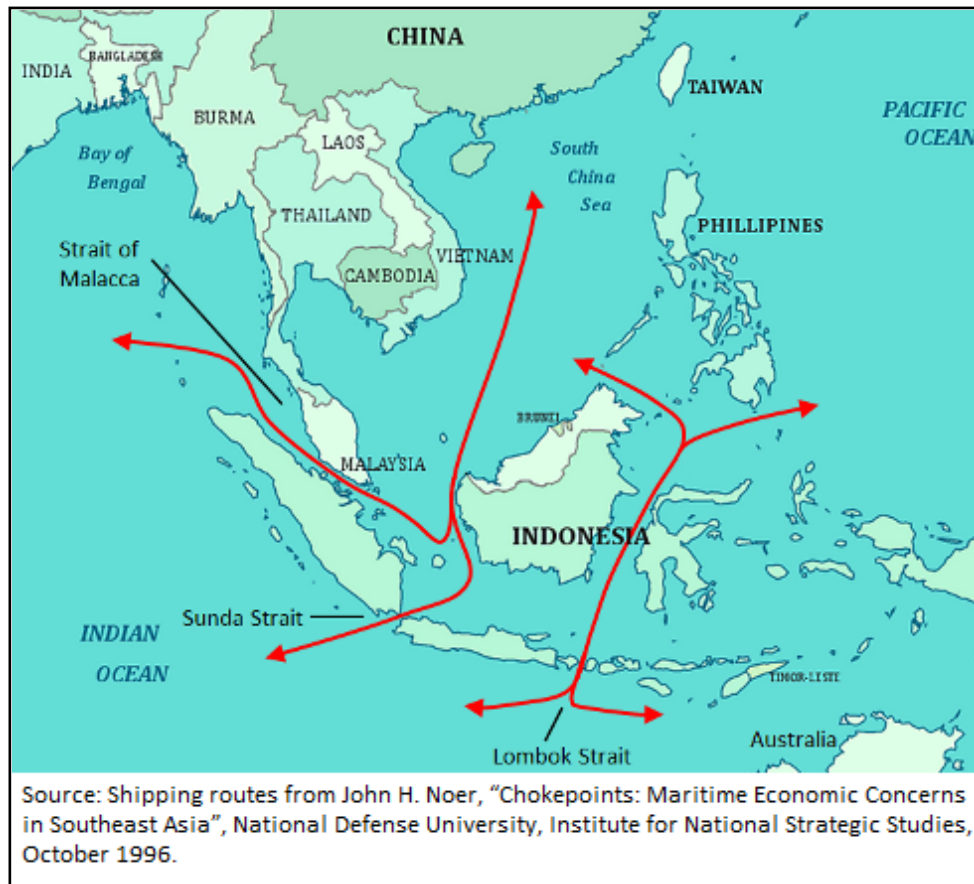
the world's trade and about half of the world's oil shipments passes through the Straits, including about 80% of China, South Korea and Japan's oil imports.²⁰In 2009, a flow of about 3,300,000 barrels per day (BPD) reached Japan from Middle East passing through this natural bottleneck, which in its narrowest point is only 2.8km wide.²¹The port of Singapore, the largest transshipment hub in the world handling more than 29 million containers in 2008, is located in a key position in the Malacca Straits. The traffic density in the Straits, constantly increasing in the last years, is projected to double from the 70,000 ships per year of 2008 to 141,000 ships by 2020.²²A major accident in its shallowest point, where is just 25 m deep, would force oil tankers heading to Northeast Asia to pass through Sunda and Lombok-Makassar Straits.²³

20 International Chamber of Commerce - International Maritime Bureau. *ICC-IMB Piracy and Armed Robbery against Ships Report – Second Quarter 2007* (p.26); Kemp, Geoffrey (2010). *The East Moves West. India, China, and Asia's Growing Presence in the Middle East* (p.97). Washington: Brookings Institution Press

21 Tarrant, Bill (2010, March 7) Balancing Powers in the Malacca Strait. *Reuters*. Retrieved March 5, 2012, from <http://blogs.reuters.com/global/2010/03/07/balancing-powers-in-the-malacca-strait/>

22 Brandon, John (2009, August 5) Reducing Piracy in Southeast Asia. *The Asia Foundation*. Retrieved March 5, 2012, from asiafoundation.org

23 Brandon, John (2003, June 5). Asian Shipping at Risk: Terrorism on the High Seas. *The New York Times*. Retrieved March 5, 2012, from <http://nytimes.com>



From the late 1960s until 1980s, Malaysia, Indonesia and Singapore worked together, despite significant difficulties, to establish legal regimes regulating the passage through the Straits and navigational safety. Aware of its economical dependence from the safety of navigation in Southeast Asia, in 1967 Japan proposed to the Inter-Governmental Maritime Consultative Organization's (IMCO) Sub-Committee on the Safety of Navigation to establish sea lanes for traffic separation in the Malacca Straits.²⁴ In the following years, Japan took an active role in enhancing the safety of navigation in the region undertaking hydrographic surveys in 1969-1970 and marking the deep-water channels. In 1971 tension arose in Malaysia and Indonesia in opposition to Japanese and U.S. attempts to create a regime of passage was perceived as a project of internationalization of the Straits. In a joint statement of November 1971, Indonesia, Malaysia and Singapore reasserted the importance of tri-partite cooperation to ensure the safety of navigation.²⁵ Singapore, with its economy heavily

24 Leifer, Michael (1978). *International Straits of the World: Malacca, Singapore and Indonesia*. Alphen ann den Rijn: Sijthoff and Noordhoff

25 Mak, Joon Num (2006) *Unilateralism and Regionalism: Working Together and Alone in the Malacca*

depending from the freedom of navigation, did not reject the possibility of internationalization. The 1982 UNCLOS established a transit passage regime which protected Singapore's interests and avoided the imposition of levy tolls suggested by Tengku Razaleigh Hamzah, chairman of Malaysian PERNAS government company.²⁶

Other source of contrast between the two coastal states and the maritime, trade-oriented policy of Singapore was the debate concerning the adequate Under Keel Clearance (UKC) for navigation in the shallow waters of the Straits. Singapore initial proposal of 2,5 m was opposed by Indonesia, willing to attract the oil flow in the Lombok-Makassar Strait, entirely under its control. A compromise UKC of 3.5 m was reached at 1977 ASEAN's Foreign Ministers meeting in Manila.²⁷

Indonesia

Situated on the southern part of the Malacca Straits, Indonesia is an archipelagic state composed by about 17,000 islands and with a coastline of 81,000 km. Its 3,000,000 km² of archipelagic waters and territorial sea include the Sunda Strait and Lombok-Makassar Strait, strategic sea-lanes between the Indian and Pacific Oceans and alternative routes in case of accidents in the Malacca Straits.

With its slow political development and a State-building process yet to be completed, Indonesian wide, fragmented territory has been one of the most piracy-prone areas in the region until co-operation with neighbouring countries improved navigational safety in the late 2000s.

The total absence, until recent years, of an independent coast guard separated from the navy and the lack of trained staff, adequate boats and equipment to fight piracy, hindered the protection of territorial waters, not to mention the other 3,000,000 km² of EEZ and continental shelf. The establishment of an effective public administration able to redistribute wealth proved to be an impossible task in an

Straits. In G.G. Ong-Webb (Ed.), *Piracy, Maritime Terrorism and Securing the Malacca Straits*(p. 136). Singapore: ISEAS Publishing

26 Koh, Kheng Lian (1982) *Straits In International Navigation: Contemporary Issues* (p.35). New York: Oceana Publications

27 Tangsubkul, Phiphat (1982) *ASEAN and the Law of the Sea* (p.32). Singapore: ISEAS

environment characterized by political weakness and rampant corruption.²⁸ Despite impressive GDP growth, still 50.56% of the population living under 2 \$ (PPP) a day²⁹, 18.72% under 1.25 \$ (PPP) a day³⁰ The Indonesian central government has been unable to maintain a link with the many marginalized geographical areas and ethnic groups which faced widespread poverty and exclusion from the developing national economy.³¹ In some cases, from Aceh to West Papua, military violence exacerbated ethnic conflicts and social tensions, making any kind of future intervention in these areas, including anti-piracy operations, increasingly risky.³² State's weakness created a vicious circle of stimulus to piracy, in the form of social and economical marginalization of a large part of the population which includes many sea folks, and obstacles to effective responses, namely corruption. Undermining the activity of law enforcement agencies and courts, corruption remains a major challenge for Indonesia even if the anti-corruption initiatives of President Susilo Yudhoyono seem to have weakened the pirate's political protectors.

Indonesian initial unwillingness to effectively fight maritime piracy might have been influenced by the fact that attacks aimed at foreign vessels heading to other countries are not a direct threat for Indonesian interests as long as they don't provoke environmental disasters.

Even in the case of a major accident in the Straits, the damage to Indonesia would be not as economically disastrous as it would be for Malaysia or Singapore. The alternative routes that maritime traffic would be forced to use are inside Indonesian territorial waters (Sunda Strait or Lombok-Makassar Strait). Thus, while recognizing that the effects of the possible sinkings, collisions or groundings provoked by attacks against oil tankers or other large ships should not be underestimated, for long time suppression of separatism, terrorism and illicit traffic in drugs and arms was considered priority. In

28 Chaikin, Greg (2005) Piracy in Asia: International Co-operation and Japan's Role. In D. Johnson & M.J. Valencia (Eds.), *Piracy in Southeast Asia: Status, Issues and Responses* (pp. 122-138). Singapore: ISEAS Publications

29 World Bank. *Poverty headcount ratio at \$2 a day (PPP) (% of population)*. Retrieved January 25, 2012 from <http://data.worldbank.org>

30 World Bank. *Poverty headcount ratio at \$1.25 a day (PPP) (% of population)*. Retrieved February 25, 2012 from <http://data.worldbank.org>

31 Young, Adam J. (2004) *Roots of Contemporary Maritime "Piracy" in Southeast Asia*. Retrieved March 31, 2012, from <http://scholarspace.manoa.hawaii.edu>

32 Schulze, Kirsten E. (2004) *The Free Aceh Movement (GAM): Anatomy of a Separatist Organization*. Washington: Policy Studies

Indonesia, the maritime environment is not just endangered by the possibility of oil spills, but is under the siege of thousand of illegal fishing boats. Illegal fishing by foreign vessels deprives Indonesian economy of billion of dollars of every year, challenging the government's authority and stimulating piracy as an alternative source of income for poor fishermen.

Malaysia

Malaysia, composed by a peninsular and a insular part separated by the South China Sea, has a less fragmented territory than Indonesia and significantly better social and economic situation. Political stability and the absence of significant separatist movements helped Malaysia to focus on the problem of piracy., especially when collaboration with neighbouring states improved after the retirement of Prime Minister Mahathir Mohamed in 2003. The prevention of piracy is of paramount importance if considering that every major port (including the key container ports of Port Klang and Tanjung Pelepas) and a large part of the industrial centers of Malaysia are situated along the Malacca Straits. In the region of the Straits and in Sabah, attacks against local fishermen for stealing fish or money are common, even if in many cases not reported.

Indonesia and Malaysia, united by the interest to protect their maritime jurisdiction, cooperated during the Cold War period to avoid external interventions and expand their sea boundaries, as in the case of the 1969 Emergency Ordinance and 1979 *New Map*, used by Malaysia to extend its territorial sea to 12 miles (before the 1982 UNCLOS set an international standard).³³ Despite past collaborations, territorial disputes with Indonesia about the status of Ambalat sea block still persist, as confirmed by the events of June 2009, when a confrontation between the warships of the two countries was averted at last minute.³⁴ The disputes over the control of the islands of Ligitan and Sipadan have been successfully solved by the International Court of Justice (ICJ), which in its December 17 2002 Judgment confirmed that "sovereignty

33 Indonesia-Malaysia Territorial Sea Boundaries. In *Internetenal Boundery Studies Series A, Limits in the Sea*, no.50. <http://www.state.gov>

34 Tejo, Amir (2009, June 4) Navy Was Set To Fire on Warship. *The Jakarta Globe*. Retrieved March 5, 2012 from <http://www.thejakartaglobe.com>

over Pulau Ligitan and Pulau Sipadan belongs to Malaysia".³⁵ The ICJ resolved also the dispute over the status of Pedra Branca/Pulau Batu Puteh and Middle Rocks, which opined that the first belonged to Singapore and the latter to Malaysia.³⁶

Singapore

The limited land availability shaped Singapore's economy, heavily depending on exports and on the growing financial services sector.³⁷ Being its survival connected to the unimpeded passage of ships through the Malacca Straits, Singapore never joined Malaysia and Indonesia's opposition to the process of internationalization of the Straits and tried to integrate itself in the global economy as transshipment port. The port of Singapore is one of the busiest transshipment hubs in the world and the second container port in terms of transported TEUs.³⁸ Unresolved disputes over maritime boundaries with neighbour countries persist and common borders demarcations are still ongoing.³⁹

US Commander Task Force 73 (CTF73) / Commander, Logistics Group Western Pacific (CLWP) is located in Sembawang Naval Base as main logistics agent and Theater Security Cooperation agent for Southeast Asia. It manages the funding of 7th Fleet surface combatant ships repairs outside Japan.⁴⁰ U.S. Navy is allowed to use also Changi Naval Base as well as Paya Lebar Air Base as result of 1990 Memorandum of Understanding and 163 active-duty military personnel are deployed in Singapore.⁴¹

Singapore is also strengthening defence exchanges and security cooperation

35 International Court of Justice (2002, December 17). *Sovereignty over Pulau Ligitan and Pulau Sipadan*. Retrieved March 5, 2012 from <http://www.icj-cij.org>

36 International Court of Justice (2008, May 23) *Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge*. Retrieved March 6, 2012 from <http://www.icj-cij.org>

37 CIA World Factbook (2012). Retrieved March 6, 2012, from www.cia.gov

38 The Journal of Commerce (2010, August 23-30). *Annual Report*. Retrieved on March 6, 2012 from <http://www.joc.com> ; TEU: Twenty-foot Equivalent Units.

39 Republic of Singapore. Ministry of Foreign Affairs. (2010, August 30). *Transcript Of The Joint Press Conference By Minister For Foreign Affairs George Yeo And Indonesian Foreign Minister Marty Natalegawa After The Signing And Exchange Of Instruments Of Ratification For The Treaty Between The Republic Of Indonesia and Republic of Singapore Relating to the Delimitation of the Territorial Seas of the Two Countries in the Western Part of the Strait of Singapore*. Retrived March 6, 2012, from <http://app.mfa.gov.sg>

40 *Command History*. Retrieved March 6, 2012, from <http://www.clwp.navy.mil>

41 U.S. Department of Defense (2011, September 30) *Active Duty Military Personnel Strenghts by Regional Area and by Country (309A)*

with China: a bilateral agreement on exchanges of visits, seminars and port calls was sealed between Permanent Secretary for Defence Chiang Chie Foo and People's Liberation Army Deputy Chief of General Staff, Lieutenant General Ma Xiaotian.⁴²

The Philippines

As Indonesia, the Philippines is an archipelagic state where the central government's efforts are frustrated by territorial fragmentation, corruption and religious division. Despite the fast GDP growth of last year, in the Philippines, as in its southern neighbour, disparities remain: still in 2006 an estimated 45,04 % of the population was living under 2 \$ (PPP) a day.⁴³ Separatist movements as the Moro Islamic Liberation Front (MILF) in Mindanao, the communist fighters of New People's Army (NPA) and criminal gangs challenge the authority of Manila's government, on the land as on the seas. Caught in the crossfire is an estimate population of more than 100 million people, including about 300,000 Internally Displaced Persons (IDP).⁴⁴

Both Moro National Liberation Front (MNLF) and MILF separatists have been involved in attacks against fishermen to raise funds for their activities. Also NPA members have been involved in extortions and piracy. Piracy and smuggling flourish thanks to the wide availability of weapons, high poverty rate and the involvement of law enforcement officers and rebels in criminal activities.⁴⁵ The Abu Sayyaf Group (ASG) is probably the best example of rebel group, linked to international terror networks, turning into a criminal gang for which the use of bombings and kidnappings has become functional to the extortion of money. ASG bombing of *Superferry 14* in Manila Bay and some cases of kidnapping of foreigners seem to be part of this business more than politically motivated actions.⁴⁶ The maritime dimension has an important role in Philippine Islamist insurgency and terrorism: besides attacks on fishermen and

42 Singapore, China Sign Defence Exchange Pact. *The Straits Time*. (2008, January 8); China, Singapore to Enhance Bilateral Defense Ties. *Xinhua* (2010, May 21)

43 World Bank. "Poverty headcount ratio at \$2 a day (PPP) (% of population)". Retrieved March 13, 2012 from <http://data.worldbank.org>

44 CIA World Factbook (2012). Retrieved March 13, 2012, from www.cia.gov

45 De Dios E. S. & Ferrer R. D. (2001) *Corruption in the Philippines: Framework and context*. Transparent Accountable Governance project. Retrieved March 13, 2012 from <http://www.tag.org.ph>

46 Amirell, Stefan Eklöf. (2006) Political Piracy and Maritime Terrorism: A Comparison between the Straits of Malacca and the Southern Philippines. In G.G. Ong-Webb (Ed.), *Piracy, Maritime Terrorism and Securing the Malacca Straits*(p. 63). Singapore: ISEAS Publishing

passenger ships for extortion, MNLF and ASG have been also responsible for raids on coastal targets both in Malaysia and Philippines.

Pirate attacks against fishing boats and trade vessels have been frequent in the regions of Southwest Mindanao and near Manila port. From 1980 until 1992, major ship hijackings and “phantom ship” frauds took place in Philippines waters.⁴⁷ Ships were hijacked to order, after negotiations in a hotel overlooking Manila Bay from where clients could choose their target, by a criminal gang led by Emilio and Cecilio Changco. This gang is believed to be responsible for the seizing of *MV Comicon, Isla Luzon, Silver Med* and *Tabangoa*.⁴⁸ Comparing to Indonesia, the number of pirate attacks in Philippines waters reported to the IMB is significantly lower. In contrast to these figures, retired Vice-Admiral of the Philippines Navy and President of the Maritime Academy of Asia Eduardo Ma R. Santos argues that 1233 attacks took place between 1993 and 2003, while just 144 have been reported to the IMB.⁴⁹ Murphy confirms that “*the Philippine figure may be a clear case of under-reporting*”, giving the example of 143 cases of piracy which according to the then Director of the IMB took place in the Philippines waters in 1993, a year when not a single case was reported to the IMB.⁵⁰

Relevant Episodes

Between the multitude of piracy episodes which took place in the waters of Southeast Asia from the end of 1990s to mid-2000s, we considered convenient to briefly describe those which best exemplify pirate's methodology and, as they were targeting Japan-related vessels, had a major impact on the shaping of Japan's anti-piracy initiatives.

47 Murphy, Martin N. (2009) *Small Boats, Weak States, Dirty Money: Piracy and Maritime Terrorism in the Modern World*. (p.165) New York: Columbia University Press

48 Republic of the Philippines. Supreme Court. (2001, August 30) G.R. no. 111709. *People of the Philippines vs. Roger P. Tulin, Virgilio I. Loyola, Cecilio O. Changco, Andres C. Infante, Cheong San Hiong, and John Does* Retrieved March 12, 2012, from http://www.lawphil.net/judjuris/juri2001/aug2001/gr_111709_2001.html

49 Santos, Eduardo Ma R. (2006) Piracy and Armed Robbery Against Ships in the Philippines. In G.G. Ong-Webb (Ed.), *Piracy, Maritime Terrorism and Securing the Malacca Straits*(p. 40, Chart 3.1). Singapore: ISEAS Publishing

50 Murphy, Martin N. (2009) *Small Boats, Weak States, Dirty Money: Piracy and Maritime Terrorism in the Modern World*. (p.75) New York: Columbia University Press

MV Tenyu

On 27 September 1998 Japanese owned *Tenyu*, sailing under the Panama flag, departed from Kuala Tanjung, North Sumatra, bound for Icheon, Republic of Korea (ROK), with 15 crewmembers (13 Chinese and 2 Koreans) and about 3,000 tons of aluminum ingots. In the following night, the *Tenyu* disappeared in the Malacca Strait. It was located three months later, in Zhangjiagang Port on the Yangtze River, repainted and renamed *Sanei 1*, with an Indonesian crew, Honduran flag and a cargo of 3,000 tons of palm oil.⁵¹ According to Guangzhou Port Authority officials, the real *Sanei 1* was in service in Japanese ports: the *Tenyu* had been repainted, the crew presumably murdered, the old cargo sold and a new one stolen. The ship was returned to its Japanese owner in June 1999 and the new crew repatriated to Indonesia. One South Korean citizen, Lee Dong-Gul, was extradited from Singapore to South Korea, where he admitted of having purchased the ship and cargo from two Indonesians and sold them to a Chinese company⁵²

MV Alondra Rainbow

Similarly to the *Tenyu*, *Alondra Rainbow* was a Panamanian-flag, Japanese owned cargo ship transporting 7,000 tons of aluminum ingots from Kuala Tanjung port to Miike, Japan. On 22 October, 1999, a few hours after leaving the port, it was approached by one or more pirate speedboats using *Sanho* freighter as mother ship. The pirates were recruited by an unknown employment agent and the gang, composed by about 35 people of various origins, was assembled in Batam island, Indonesia.⁵³ A group of 10-12 pirates, armed with pistols and knives, boarded the ship and tied up the

51 The Japanese Government. Ministry of Foreign Affairs. (2001) Present State of the Piracy Problem and Japan's Efforts. Retrieved March 14, 2012, from <http://www.mofa.go.jp> . Murphy, Martin N. (2009) *Small Boats, Weak States, Dirty Money: Piracy and Maritime Terrorism in the Modern World*. (p.143) New York: Columbia University Press

52 Dead Men Tell No Tales. *The Economist*. (1999, December 16). Retrieved March 14, 2012, from <http://www.economist.com>

53 Abhyankar, Jayant (2002) *Piracy and Maritime Violence – A Continuing Threat to Maritime Industry*. Hong Kong: ICC/IMB

crewmembers, 15 Filipinos and 2 Japanese.⁵⁴ Once the pirates took control of the ship, the crewmembers were transferred to another ship, possibly the *Sanho*, and later set adrift into *Alondra Rainbow's* lifeboat with some flares. After some days the crew was rescued by a Thai fishing vessel and taken to Phuket. The *Alondra Rainbow* was repainted and renamed the *Global Venture*, part of the cargo transferred to another ship in Miri port, Malaysia, and later sold in Subic Bay, Philippines. The employment agent ordered to sail the ship with the remaining cargo to Karachi, Pakistan.

Following an international alert from the Maritime Piracy Centre, a ship matching with the description of the *Alondra Rainbow* named the *Mega Rama*, flying Belize flag, was spotted by the *Al Shuhaada* Kuwaiti tanker south of Cape Comorin, India. In a coordinate action, the Indian Coast Guard and the Indian Navy localized the ship in the waters off Kochi, apparently heading to Al Fuğaira , United Arab Emirates.⁵⁵ After the *Mega Rama* refuse to stop, the ship was fired at by Indian Coast Guard (ICG) aircrafts and ships, and later by Indian Navy INS Prahar, until it was stopped and boarded. Before the boarding team arrived, the crew managed to burn all documents on board, including passports, and attempted to sink the ship. The ship was towed to Mumbai and the suspects arrested. In the following process neither the Master nor the Chief Engineer, both Japanese citizens, were able to recognize any member of the original gang of pirates among the arrested crew.

MT Global Mars

A Japanese owned tanker flying the Panamanian flag, the *Global Mars* departed from Port Kelang, Malaysia on 22 February 2000 bound for Haldia, India, with 6,000 MT of palm oil products. Two days later, the tanker was attacked by a group of 10-20 armed pirates, coming from a fishing vessel, which took control of the ship and blindfolded the crew. The crewmembers were detained for 13 days into a large fishing boat and later marooned at sea in a smaller boat with some provisions. The crew, helped by some fishermen, was able to reach Koh Surin, Thailand three days later and contact the

54 Crew Found in Thailand After Freighter Hijacked. *Yomiuri Simbun*. (1999, November 10)

55 Vasan, R.S. (2005) *A Study of Related Issues in the Light of the Recent Judgement of Mumbai High Court*. South Asia Analysis Group. Retrieved March 14, 2012, from www.southasiaanalysis.or

manning agent in South Korea.⁵⁶

In the meanwhile, the pirates renamed the vessel the Bulawan and reregistered it under the Honduras flag. Three months later, the Piracy Reporting Centre notified Chinese authorities about the presence of a suspect ship in Hong Kong waters.⁵⁷ Chinese Police Border Defence Bureau found it anchored off Zhuhai, Guangdong Province, and arrested 11 Philippines and 9 Myanmar, later released despite the presence of ammunitions on board.⁵⁸ Less than half of the original cargo was still on board. The tanker was later returned to its legitimate owner.⁵⁹

MV Idaten

On 14 March 2005, Japanese-flag ocean tug Idaten was attacked Southwest of Penang, in the Malacca Strait, while towing a construction barge to Myanmar. The master, chief engineer and 3rd engineer (two Japanese and one Filipino,) were abducted by armed pirates sailing three fishing boats, allegedly coming from Perak province, Malaysia.⁶⁰ Apparently, the pirates asked for the payment of about \$ 8,000 as ransom.⁶¹ Other sources indicate a higher demand, around \$ 250,000.⁶² A week later, Kondo Kaji Co. Shipping company, owner of the boat, announced that they were found unharmed in Satun Province, Thailand, and taken into protective custody by Thai police.⁶³ Japanese Foreign Ministry declined every allegation of ransom payment.

MV Ocean Bridge

56 Bangsberg, P.T. (2000, June 19) China Recovers Hijacked Tanker After Four Months. *The Journal of Commerce*. Retrieved March 15, 2012 from <http://www.joc.com>

57 Bruyneel, Mark (2004) *MT Global Mars Attack*. Retrieved March 15, 2012 from <http://home.wanadoo.nl/m.bruyneel/archive/modern/global.html>

58 Barling, Russell (2001, February 2) Pirates Find Rich Pickings in Asian Shipping Lanes. *The Guardian*. Retrieved March 15, 2012 from <http://www.guardian.co.uk>

59 Bangsberg, P.T. (2000, August 7) China Returns Hijacked Tanker to Owners. *The Journal of Commerce*. Retrieved March 15, 2012 from <http://www.joc.com>

60 Fukazawa, Junichi (2005, March 24) Idaten Spotlights Malacca Woes. *Yomiuri Simbun*.

61 Ong-Webb, Gerard Graham (2007) Piracy in Maritime Asia: Current Trends. In Lehr, Peter (Ed.)

Violence at Sea: Piracy in the Age of Global Terrorism. (p. 80) London: Lloyd's Marine Intelligence Unit

62 Pirates attack Japanese-owned Ship in Malacca Strait. *Kyodo News* (2005, April 1)

63 Three Idaten Abductees Released Unharmed. *Yomiuri Simbun*. (2005, March 22); Pirates Release Idate Hostages Off Thailand. *International Herald Tribune*. (2005, March 22)

On April 1st, 2005, Panamanian-registered bulk carrier Ocean Bridge left Port Klang, Malaysia, unladen. Owned by Japanese MK Ship management Co., Ocean Bridge was heading for India with twenty-one Filipino crewmembers.⁶⁴ Two hours after the departure, a small wooden boat carrying three pirates approached the vessel near Pulau Angsa, in the Malacca Strait. The pirates, armed with guns and knives, boarded the ship and stole \$ 20,000 from the safe. No hostages were taken and the crew was left unharmed.⁶⁵

VLCC Yohteisan

Mitsui O.S.K. Lines Ltd.'s *Yohteisan*, a Panamanian flagged Very Large Crude Carrier (VLCC), was surrounded on 6 April 2005 by seven small fishing boats while sailing near Karimun island, Indonesia, in harsh weather conditions and poor visibility.⁶⁶ The captain quickly reacted increasing speed and ordering the crew to use firehouses to repel the attackers, as some of the pirates were trying to board the vessel.⁶⁷ The attack failed but rose great concern for the potential disaster that the hijacking of a huge tanker in the area of Malacca Straits could provoke. Besides the risks for the safety of other ships and world trade in case of collision, Noel Choong, head of the IMB Piracy Reporting Center, highlighted also the possibility of catastrophic environmental consequences.⁶⁸ Despite the fact that the boarding occurred in Indonesian waters, Singaporean Ministry of Defence expressed deep concern and underlined the necessity to enhance security cooperation in the region.⁶⁹

Regional Initiatives

64 Pirates attack Japanese-owned Ship in Malacca Strait. *Kyodo News* (2005, April 1)

65 Sakhuja, Vijay (2005, April 11) *Supporting the Malacca Strait Troika: Indo-Japanese Approach to Counter Piracy*. Society for the Study of Peace and Conflict. Retrieved March 17, 2005, from <http://www.sspconline.org>

66 Richardson, Michael (2008, November 1) Hijackings at Sea: How Southeast Asia Overcame Scourge. *The Straits Times*. Retrieved March 17, 2012 from <http://app.mfa.gov.sg>

67 Daly, John C.K. (2005, April 7) *Upi Intelligence Watch*. Retrieved March 17, 2012 from <http://www.upi.com>

68 Wainwright, Dale (2005, April 7) VLCC Fends Off Pirates. *Trade Winds News*. Retrieved March 17, 2012 from www.tradewindsnews.com

69 Singapore: Pirate Attack Shows Need for Regional Efforts. *Associated Press*. (2005, April 8)

The South China Sea Workshops

Since the first meeting in Bali in 1990, the Workshops on Managing Potential Conflicts in the South China Sea have been focused on preventing potential conflicts and identify areas of cooperation among the South China Sea states. Scholars, as well as government and military officials, in their private capacities, can exchange views on security issues and challenges facing the region.⁷⁰ Among other topics, initiatives against piracy and armed robbery at sea were indicated as areas of co-operation in the South China Sea at the Second Workshop held in Bandung in 1991. After the 1993 Third Workshop in Yogyakarta, problems concerning safety of navigation, shipping and communication; education and training programmes for sailors; co-operation to combat piracy and co-ordinate Search and Rescue (SAR) were put under the responsibility of a technical working group.

At the first meeting of the Technical Working Group on Safety of Navigation, Shipping and Communication (TWG-SNSC) held in Jakarta in 1995, the Workshop agreed that South China Sea governments should accede to IMO Conventions and adopt the Tōkyō Memorandum of Understanding on Port State Control in the Asia Pacific region.⁷¹ In the following meetings, delimitation of SAR areas of responsibilities and co-ordination of SAR operations were discussed. As concern about piratical activities in the region grew, data and information exchange, as well as multilateral agreements modelled on the Indonesia-Malaysia-Singapore co-operation were taken into consideration to enhance security in the South China Sea. Following the recommendations of the third meeting of the TWG-SNSC, the Ninth Workshop held in 1998 in Jakarta agreed to create a Group of Experts Meeting (GEM) on SAR and Unlawful Acts at sea lead by the example of the initiatives of the Malacca Straits' nations. The GEM's first meeting in Kota Kinabalu encouraged the South China Sea governments to become party of the 1976 International Convention on Maritime SAR

70 Song, Yann-Huei (2010) *The South China Sea Workshop Process and Taiwan's Participation*. In *Ocean Development & International Law*. (p.253) Breinigsville: Routledge

71 The full text of the Memorandum including the amendments adopted on 18 November 2008 with the effect on 18 November 2008 and on 20 November 2008 with the effect on 19 July 2009 can be found here: <http://www.Tōkyō-mou.org/memoraran.htm>

and the 1998 SUA Convention.⁷²

ASEAN and ARF

In the frame of the Association of Southeast Asian Nations (ASEAN), the strengthening of regional security co-operation coincided with the closing of Clark Air Base (1991) and Subic Bay Naval Station (1992), the last US bases in the Philippines.⁷³ As stated in the 1992 Singapore Declaration, the approach to this new field of cooperation follows the traditional ASEAN principles of non-interference, consultation and consensus.⁷⁴ Thus, during the 1990s ASEAN supported bilateral strategies against piracy in the Malacca Straits implemented by Indonesia, Malaysia and Singapore, but avoided formal, multilateral initiatives.

A further development occurred when the ASEAN Ministerial Meeting on Transnational Crime (AMMTC), established in 1997 following the ASEAN Declaration on Transnational Crime, adopted in June 1999 the ASEAN Plan of Action (POA) to prevent, control and neutralise transnational crime.⁷⁵ Through co-operation and information exchange, the 1999 POA expanded to a regional level the ASEAN governments' coordination on anti-piracy initiatives.⁷⁶ Recommendations to put in force anti-piracy measures came also from the 1999 ASEAN Regional Forum (ARF) Maritime Senior Officials Meeting. The ARF efforts to combat piracy and transnational crime concretised in 2000 in the Expert's Group Meeting on Transnational Crime. In the following year a Special Projects division dealing, among other types of crime, also with piracy, was established at the ASEAN Secretariat in Jakarta. At the ASEAN Senior Officials Meeting

72 Hasjim, Djalal (2005). *Combating Piracy: Co-operation Needs, Efforts and Challenges*. In D. Johnson & M.J. Valencia (Eds.), *Piracy in Southeast Asia: Status, Issues and Responses* (pp. 151-156). Singapore: ISEAS Publications

73 Shie, Tamara Renee (2006) *Maritime Piracy in Southeast Asia: The Evolution and Progress of Intra-ASEAN Cooperation*. In G.G. Ong-Webb (Ed.), *Piracy, Maritime Terrorism and Securing the Malacca Straits*(p. 171-179). Singapore: ISEAS Publishing

74 ASEAN (1992, January 28) *Singapore Declaration Of 1992*. Retrieved March 24, 2012, from <http://www.aseansec.org>

75 Pushpanathan, Sundram (1999) *Managing Transnational Crime in ASEAN*. Paper presented at the 11th ASEAN Law Students Conference, Jakarta, 1 July 1999 - 7 August 1999. Retrieved March 24, 2012, from <http://www.aseansec.org>

76 Chaikin, Greg (2005) *Piracy in Asia: International Co-operation and Japan's Role*. In D. Johnson & M.J. Valencia (Eds.), *Piracy in Southeast Asia: Status, Issues and Responses* (pp. 128-130). Singapore: ISEAS Publications

on Transnational Crime (SOMTC) held in May 2002 in Kuala Lumpur, officials asserted the pivotal importance of national laws' harmonization and approved a POA to Combat Transnational Crime. The 2002 POA includes bolstering of co-operation and co-ordination in law enforcement, patrols, intelligence sharing.

For what concerns extra-regional co-operation, the ASEAN Secretariat together with the Chairman of the Task Force planned to illustrate patrol and training programs to ASEAN Dialogue Partners (People's Republic of China, Japan, South Korea), users of the waterways and UN specialized agencies in order to seek financial and technical assistance.⁷⁷ In June 2003, the ARF Statement on Cooperation Against Piracy and Other Threats to Maritime Security committed participants to institute regional cooperation and training in anti-piracy and security.⁷⁸ The importance of developing regional co-operation on piracy-related issues was reasserted at the Second ARF Intersessional Meeting on Counter-Terrorism and Transnational Crime held in Manila in 2004.⁷⁹

Japan's Initiatives

The dependence of Japanese economy's prosperity from maritime security and shipping safety is apparent when considering its archipelagic geography. About 99% of Japanese exports are carried by ship and 99% of Japanese oil imports come from abroad by sea.⁸⁰ The Japanese trade to and from Europe, Middle East, Africa and Australia can be conditioned by any menace to the freedom of navigation through the Malacca Straits. Although Japan took a leading role in the contrast of piracy in Southeast Asia starting from 1999, it has been involved in the protection of navigational safety in Southeast Asia already in 1969-1970, through hydrographic surveys and deep-water channels marking.⁸¹

77 ASEAN (2002, May 17) *Work Programme to Implement the ASEAN Plan of Action to Combat Transnational Crime*.

Retrieved March 24, 2012, from <http://www.aseansec.org>

78 ARF (2003, June 17) *ARF Statement on Cooperation Against Piracy and Other Threats to Security*.

Retrieved March 24, 2012, from <http://www.aseansec.org>

79 ARF (2004) *Co-Chairs' Summary Report of the 2nd ASEAN Regional Forum Intersessional Meeting on Counter-Terrorism and Transnational Crime*. Retrieved March 24, 2012, from

<http://aseanregionalforum.asean.org>

80 Bradford, John F. (2004) Japanese Anti-Piracy Initiatives in Southeast Asia: Policy Formulation and the Coastal State Responses. *Contemporary Southeast Asia* 26, no. 3 (p.485) Singapore: ISEAS

81 Mak, Joon Num (2006) Unilateralism and Regionalism: Working Together and Alone in the Malacca

In 1990s, Japanese ships and citizens were victims of pirates in a series of dramatic events, as in the case of the Nagasaki Spirit/Ocean Blessing collision in 1992, probably caused by a pirate attack, and in the hijackings of the Tenyu (1998) and the Alondra Rainbow (1999)). In 1993 the problem of pirate attacks in East China Sea was discussed in informal talks with the Chinese government: although China did not show any intention of playing a greater role in the contrast of piracy outside its borders, the arrest of local functionaries involved in the piracy business improved considerably the situation in the East China Sea.⁸² In Southeast Asia the situation worsened after the 1997-1998 Asian economic crisis: the IMB recorded 523 attacks from 1998 to 2000 and Southeast Asian nations started to seek Japanese assistance.⁸³ Japan promptly answered the call, as in the same period 89 ships related with Japan were attacked around the world and lobbies linked to maritime industries, together with research institutions, promoted a more active international security role for Japan.⁸⁴

The Obuchi Initiative

At the ASEAN+3 Summit held in Manila in 1999, Prime Minister Obuchi proposed the establishment of a regional coast guard to conduct joint patrols and the enhance information exchange.⁸⁵ The Obuchi Initiative, which included also an improvement of state support for shipping companies, was continued by his successor, Mori, in 2000. Despite Chinese diffidence, the Initiative was initially warmly welcomed by Indonesia, Malaysia and Singapore. In 2000 the Ministry of Foreign Affairs (MOFA), the Ministry of Land Infrastructure and Transport and the Nippon Foundation sponsored the “International Conference of All Maritime Related Concerns, Both Governmental and Private, on Combating Piracy and Armed Robbery against Ships” in Tōkyō. Japanese delegates discussed with representative from fifteen countries about

Straits. In G.G. Ong-Webb (Ed.), *Piracy, Maritime Terrorism and Securing the Malacca Straits*(p. 147). Singapore: ISEAS Publishing

82 Chaikin, Greg (2005) Piracy in Asia: International Co-operation and Japan's Role. In D. Johnson & M.J. Valencia (Eds.), *Piracy in Southeast Asia: Status, Issues and Responses* (p.122-138). Singapore: ISEAS Publications

83 International Chamber of Commerce - International Maritime Bureau. *Piracy and Armed Robbery against Ships Annual Report 2003*. (p.5)

84 Bradford, John F. (2004) Japanese Anti-Piracy Initiatives in Southeast Asia: Policy Formulation and the Coastal State Responses. *Contemporary Southeast Asia* 26, no. 3 (p.483) Singapore: ISEAS

85 Urquhart, Donald (1999, November 22) Obuchi to Urge ASEAN to Fight Piracy. *Business Times*.

the possibility of regional joint patrols and offered to support the Straits nations' law enforcement agencies. Nevertheless, only non-mandatory documents were adopted: the Tōkyō Appeal on Combating Piracy and the Model Action Plan. These documents included recommendations concerning self-protection measures on ships and strengthening national patrols in the territorial waters, but the initial proposal of joint patrols eventually failed.⁸⁶ Malaysia and Indonesia, in particular, shew interest in joint exercises, information exchange and Japanese offer of equipment, vessels and technology but strongly opposed the presence of Japanese armed vessels into their territorial waters.⁸⁷

A Bilateral Approach

To overcome the diffidence towards Japanese initiatives, Tōkyō offered bilateral agreements for anti-piracy training using its civilian-controlled Japanese Coast Guard (JCG) rather than the Maritime Self Defense Forces (MSDF). JCG seminars in Southeast Asia and Japanese aid to create local maritime patrols were funded by the Japan International Cooperation Agency (JICA).⁸⁸ The JCG conducted the first joint anti-piracy trainings with India and Malaysia in November 2000. It was the first time for the JCG to participate in anti-piracy drills with foreign authorities: on November 8, JCG and ICG simulated a ship hijacking and a rescue operation; on November 15 a similar exercise took place in Malaysia with the use of a ship carried helicopter.⁸⁹ In 2001, JCG vessels and aircraft visited Singapore, the Philippines and Thailand. Anti-piracy trainings were conducted in the same year with the Philippines, Thailand and India.⁹⁰ In 2002 the JCG visited Brunei, Indonesia, the Philippines, Vietnam, Malaysia, and Singapore; joint exercises were organized with Brunei, Indonesia and India. Other joint trainings took place in the Philippines and Singapore in the following year and in Thailand in 2004.

86 Government of Japan. Ministry of Transport (2000) *Tōkyō Appeal*. Retrieved March 25, 2012, from <http://www.mlit.go.jp> ; Government of Japan. Ministry of Transport (2000) *Model Action Plan*. Retrieved March 25, 2012, from <http://www.mlit.go.jp> ;

87 Japan, Malaysia Engage in Pirate Drill. *The Honolulu Advertiser*. (2000, November 19)

88 Sato, Yoichiro (2007) *Southeast Asian Receptiveness to Japanese Maritime Security Cooperation*. Asia-Pacific Center for Security Studies. Retrieved March 25, 2012, from <http://www.apcss.org>

89 Japan to Hold Drills with India, Malaysia to Combat Piracy (2000, October 30) *Kyodo News*

90 Baruah, Pranamita (2009, March 30) *Japan's Response to Sea Piracy*. Institute for Defence Studies & Analyses. Retrieved March 25, 2012, from www.idsa.in

The JCG and Nippon Foundation organized Experts Meetings on Combating Piracy and Armed Robbery in Tōkyō, Bangkok, Kuala Lumpur and Manila to coordinate Asian countries' anti-piracy efforts. In June 2004, Japan held a “Heads of Asian Coast Guard Agencies Meeting” in association with the Asia-Pacific Economic Cooperation Counter-Terrorism Task Force.⁹¹ In 2005, the implementation of the International Ships and Port Facility Security (ISPS) Code was discussed in Tōkyō at the “ASEAN-Japan Seminar on Maritime Security and Combating Piracy”. The ISPS Code, introduced by the IMO in 2004, provides a standardised framework for ships and port facilities risk management.⁹² Japan conducted also a series of training courses, the International Maritime Law Enforcement Training and Seminars, to which 155 ASEAN officials took part from 2004 to 2006.⁹³ Through all these years Japan has been a major sponsor of the IMO and the Ship and Ocean Foundation, now Ocean Policy Research Foundation, gave financial support to the IMO-PRC in Kuala Lumpur.

ReCAAP

Prime Minister Koizumi proposed at the 2001 ASEAN+3 Summit in Brunei a “Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia” (ReCAAP), a multilateral government-to-government agreement to promote information exchange and improve the capability of member countries in combating piracy.⁹⁴ The agreement entered into force in 2006 and established an Information Sharing Center (ISC) in Singapore, recognized as an international organization in 2007, financed by the members (Brunei, Cambodia, Laos, the Philippines, Myanmar, Singapore, Thailand, Vietnam, Japan, China, India, South Korea, Bangladesh, Sri Lanka, Denmark, the Netherlands and Norway).⁹⁵ Indonesia and Malaysia refused to sign the agreement as it concerns both piracy in high seas and

91 Fouse, D. & Sato Y. (2006,) *Japan's Comprehensive Counterterrorism Assistance to Southeast Asia*. Asia-Pacific Center for Security Studies.

92 International Maritime Organization (2003) *ISPS Code 2003 Edition*. Retrieved March 29, 2012, from <http://www.stlucia.gov.lc>

93 ASEAN (2006) *Third Executive Report Progress of Implementation of the ASEAN-Japan Plan of Action*. Retrieved March 25, 2012, from <http://www.aseansec.org>

94 Government of Japan. Ministry of Foreign Affairs (2012) *Ajia Kaizoku Taisaku Chiiki Kyōryoku Kyōtei*. Retrieved March 25, 2012, from <http://www.mofa.go.jp>

95 ReCAAP ISC (2006) *Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia*. Retrieved March 25, 2012, from <http://www.recaap.org>

armed robbery in territorial waters, raising concerns about sovereignty.

Terrorism at sea

The threat of terrorist attacks against commercial and military vessels became a serious concern for the United States since the USS *Cole* bombing in 2000. In the initial plot conceived by alleged al-Qā'idah high-rank member Abd al-Rahim al-Nashiri, an explosive-loaded skiff was planned to explode against *Arleigh Burke*-class destroyer USS *The Sullivans* but the boat, apparently overloaded, sunk before reaching its target. The terrorists salvaged the explosives and planned another attack. Nine months later, on October 2000, a 227 kg shaped charge mounted on a small boat exploded alongside the USS *Cole* destroyer, killing 17 sailors.⁹⁶

In 2002, alleged al-Qā'idah operatives used another explosive-packed dinghy in Yemeni waters against VLCC *Limburg*, killing 1 sailor. For Yemeni ports, the economic impact of the attack was enormous: container terminals throughput dropped from 43,000 TEU to 3,000 TEU in two months with an estimated loss equal to 1% of the country's GDP.⁹⁷

In Southeast Asia, al-Qā'idah, Kumpulan Militan Malaysia (KMM) and Jemaah Islamiyah (JI) planned to attack American vessels passing through the Malacca Straits.⁹⁸ In 2000, al-Qā'idah operative Fathur Rahman al-Ghozi planned to bomb embassies and warships in Singapore. JI members were arrested in Singapore in December 2001 and again in September 2002: Singapore Intelligence discovered a plan to attack docked U.S. ships.⁹⁹ According to senior al-Qā'idah member Omar al-Faruq, a suicide attack against U.S. vessels in Surabaya, Indonesia, was suspended for lacking in volunteers.¹⁰⁰

96 U.S. Government. Department of Justice (2003, May 15) *Al Qaeda Associates charged in attack on USS Cole Attempted Attack on Another U.S. Naval Vessel*. Retrieved on March 26, 2012, from <http://www.justice.gov>

97 Valencia, Mark J. (2005) Piracy and Terrorism in Southeast Asia: Similarities, Differences and Their Implications. In D. Johnson & M.J. Valencia (Eds.), *Piracy in Southeast Asia: Status, Issues and Responses* (p.84). Singapore: ISEAS Publications

98 Acharya, Arabinda (2011) Taking the Battle to the Sea: Maritime Terrorism and Piracy in the South China Sea Region. *European-Asian Journal of Law and Governance*. Retrieved on March 26, 2012, from <http://www.eajlg.org>

99 Singapore arrests 'al Qaeda trainees'. *CNN*. (2002, September 16). Retrieved on March 26, 2012, from <http://articles.cnn.com>

100 Tan, Andrew Tian Huat (2007) *A handbook of terrorism and insurgency in Southeast Asia*.

A KMM plot to attack a visiting U.S. ship was disrupted by the Malaysian Special Branch in 2001.¹⁰¹

Another threat could come from tankers or LNG carriers used as bombs, as well as from explosive devices, including Weapons of Mass Destruction (WMD), hidden inside containers.¹⁰² Although this kind of attacks might provoke disastrous consequences, the cost and the number of people and expertise needed to organize them are incomparably higher than those necessary for a land-based attack.¹⁰³ The 2002 Container Security Initiative, proposed by U.S. Bureau of Customs and Border Protection to pre-screen suspect containers, further reduced the risks.¹⁰⁴ For this reason is probably worth considering with greater attention the threat coming from small boats than from large tankers: besides the Cole and Limburg cases, the 2008 Mumbai attack shew the level of destruction and, most important from a terrorist point of view, media attention that can be reached using three speedboats and about 10 men.¹⁰⁵

Conflation of Terrorism and Piracy

Since the beginning of 2000s, speculations about links between piracy and terrorism flourished. Despite the lack of any clear evidence “the pirate-terrorist nexus is becoming a favorite speculation of maritime security consultants”.¹⁰⁶ A 2003 study by AEGIS Defence Services, a London based Private Military Company (PMC), quoted by *The Economist*, started a years-long debate marked by inaccuracy and exaggerations. In 2006, the chemical tanker Dewi Madrim was attacked by pirates off the coast of Sumatra and some cash stolen. According to the report, the attack was in reality

Cheltenham Glos: Edward Elgar Publishing

101 Ong-Webb, Graham Gerard (2006) Southeast Asian Piracy: Research and Developments. In G.G. Ong-Webb (Ed.), *Piracy, Maritime Terrorism and Securing the Malacca Straits* (p. xxviii). Singapore: ISEAS Publishing

102 Das, Arun Kumar (2006, September 9) Terror Threat Swells on the High Seas. *The Times of India*.

103 Murphy, Martin N. (2007) *Contemporary Piracy and Maritime Terrorism* (p.58-61). Oxon: Routledge

104 U.S. Government. Department of Homeland Security. Custom and Border Protection (2011) *CSI: Container Security Initiative*. Retrieved March 27, 2012, from <http://www.cbp.gov>

105 Terrorists in Mumbai Attack Arrive by Boat. *International Boat Industry News* (2008, November 27); Roggio, Bill (2008, November 28) Mumbai attack differs from past terror strikes. *The Long War Journal*. Retrieved March 26, 2012, from <http://www.longwarjournal.org/>

106 Dragonette, Charles N. (2005, March-April) Lost at Sea. *Foreign Affairs*.

perpetrated by terrorist with the intention of learning to drive the ship and for the same reason members of the crew were abducted.¹⁰⁷ Since this reconstruction of the event was published, newspapers and other publications abounded in parallels with the 9/11 hijackers learning to fly.¹⁰⁸ Singapore's Deputy Prime Minister Tony Tan strongly supported this version.¹⁰⁹ Carolin Liss, researcher at Murdoch University, interviewed the ship's captain and Dominic Armstrong from AEGIS. The captain denied that any member of the crew was kidnapped or that the pirates tried to learn how to conduct the ship. Moreover, she discovered that AEGIS personnels never spoke to the ship's crew.¹¹⁰ The fact that AEGIS provides maritime security services raises suspicions on the real purpose of the report. For what concerns the reaction of Tan, who repeatedly called for help against piracy from countries outside the region, it seems reflecting the Singapore's government desire of pressing Indonesia and Malaysia to act against piracy, playing on their fear of terrorism and consequent possibility of foreign intervention in the region.¹¹¹

Terrorists and insurgents in the Philippines, Indonesia, Sri Lanka and Nigeria used piracy to raise funds for their activities and operated at sea, but significant methodological and motivational differences remain between the two categories. Terrorism is generally politically motivated and terrorist attacks aim at drawing attention to perceived injustices by inflicting as much damage as possible. Pirates are motivated by economic goals and their use of violence is instrumental to the attainment of their objective. Active collaboration with terrorists would attract to a pirate gang exactly the kind of attention which they need to avoid to be successful in their business. Furthermore, while operating at sea requires training and considerable financial assistance, terrorist attacks on land targets proved to be easy to organize even with limited budget and skills: the 2005 London attacks are believed to be cost about \$

107 Peril on the Sea. *The Economist*. (2003, October 2) Retrieved March 26, 2012, from <http://www.economist.com>

108 Burnett, John (2005, February 22) The Next 9/11 Could Happen at Sea. *The New York Times*.

109 Terror Threat Swells At Sea (2004, August 6) *WND* Retrieved March 26, 2012, from <http://www.wnd.com>; Elegant, Simon (2004, November 29) Dire Straits. *Time Magazine*. Retrieved March 26, 2012, from <http://www.time.com>

110 Liss, Carolin (2006) Private Military and Security Companies in the Fight against Piracy in Southeast Asia. In G.G. Ong-Webb (Ed.), *Piracy, Maritime Terrorism and Securing the Malacca Straits*(p.103-121). Singapore: ISEAS Publishing

111 Singapore seeks joint patrols of Malacca Straits, involving Japan. *Kyodo News* (2004, May 24)

1,000.¹¹²

U.S. Initiatives

The United States initiatives to contrast terrorism brought to a new dimension the magnitude of foreign intervention in the Malacca Straits region. Starting from April 2002, U.S. and Indian warships escorted “high value” commercial vessels through the Straits, initially in joint activities and later in rotation every 6 months.¹¹³ The dimension of the ships involved (*Sukanya*-class offshore patrol vessels and *Ticonderoga*-class guided missile cruisers) and the uncertain arrest authority of their crew in case of contact with pirates in the Straits seem to suggest that the vessels had just an intimidatory role.¹¹⁴

In 2003 the Bush administration launched the Proliferation Security Initiative (PSI), asking to the participants to take actions consistent with domestic and international law to intercept ships and aircraft carrying “WMD related materials” or “means of delivery” to “state or non-state actors of proliferation concern”.¹¹⁵ More than 90 countries, including Japan and Singapore, participated to the initiative.¹¹⁶ India, China, Indonesia, Malaysia and other nations opposed to the PSI, as it could undermine the concept of national sovereignty and because of the ambiguous definitions used in the PSI Statement of Interdiction Principles.¹¹⁷ It is certainly hard to find an exact definition of “WMD related materials” and, as Mark Valencia argued,:

Perhaps the greatest obstacle to PSI effectiveness is the fact that most of the ingredients for WMD are dual-use in nature, having both civilian and WMD application. Few if any countries export ‘turn-key’ WMD. The harsh reality is

112 Buchanan, Michael (2006, January 3) London Bombs Cost Just Hundreds. *BBC News*

113 Baruah, Amit (2002, April 22) Only 'Escort Duties' in Malacca Straits. *The Hindu.*; Rozoff, Rick (2002, April 23) Indian Navy To Accompany US Warships In Malacca Straits. *The Hindu.*

114 Joseph, Josy (2002, July 17) Navy Replaces Vessel on Patrol in Malacca Straits. Retrieved March 26, 2012, from <http://in.rediff.com>

115 Nikitin, Mary Beth (2011, January 18) *Proliferation Security Initiative (PSI)*. Congressional Research Service Report for Congress. Retrieved March 27, 2012, from <http://www.fas.org/>

116 U.S. Government. Department of State. *Proliferation Security Initiative*. Retrieved March 27, 2012, from <http://www.state.gov>

117 Valencia, Mark J. (2005) The Proliferation Security Initiative: Should Malaysia Join?. *The Maritime Institute of Malaysia Bulletin*. Retrieved March 27, 2012, from <http://www.austlii.edu.au>

that countries and non-state actors can build their own WMD from dual-use components, using dual-use technologies and machines.¹¹⁸

Equally difficult is to determinate which actors are “of proliferation concern”.

In 2004 the United States proposed a Regional Maritime Security Initiative for intelligence sharing, traffic monitoring and law enforcement in the Southeast Asian waters. The initiative was never fully implemented.¹¹⁹ Nevertheless, joint military exercises are regularly held in the Philippines (*Balikatan*) and in Thailand (*Cobra Gold*; *Cope Tiger*). Since 1982, U.S. - Thailand *Cobra Gold* joint exercise attracted in the last 30 years military personnel from 20 nations, including South Korea, Japan, Malaysia, Indonesia; *Cope Tiger* exercise aims at developing multilateral interoperability between U.S. Air Force, Royal Thai Air Force and Republic of Singapore Air Force¹²⁰

The Littoral States

In an effort to contain piracy and contemporaneously avoid external interference, a matter of particular importance for Malaysia and even more for Indonesia, littoral states in the piracy-prone areas of Southeast Asia implemented a range of measures to ensure navigational safety. Malaysia and the Philippines conducted a joint anti-piracy naval exercise in 2002 and in the same year the two countries signed a trilateral security pact against transnational crime with Indonesia.¹²¹ Joint anti-piracy exercises were conducted in 2003 by Indonesia, Japan and the Philippines, while Singapore established the Maritime and Port Security Working Group, composed by members of the Navy, Polica Coast Guard and the

118 Valencia, Mark J. (2008, May 29) *Put the Proliferation Security Initiative Under the UN*. *Nautilus Institute*. Policy Forum Online 08-043A . Retrieved March 27, 2012, from <http://nautilus.org>

119 Pena, Joyce Dela (2009) *Maritime Crime in the Strait of Malacca: Balancing Regional and Extra-Regional Concerns*. *Stanford Journal of International Relations*. Vol. X No. 2 (p.1-8)

120 Tritten, Travis J. (2011, April 15) U.S. Philippines wrap up annual *Balikatan* exercise. *Star and Stripes*; Peacock, Kasey (2012, February 8) *Cobra Gold Begins in Thailand*. U.S. Army Homepage. Retrieved March 27, 2012, from <http://www.army.mil>; Herndon, David (2012, March 13) *Cope Tiger Trilateral Exercise in Full Swing*. U.S. Air Force website. Retrieved March 27, 2012, from <http://www.af.mil>; Herndon, David (2012, March 19) *U.S.-Thailand-Singapore Airmen Strengthen Ties During Cope Tiger 12*. U.S. Air Force website. Retrieved March 27, 2012, from <http://www.af.mil>

121 Malaysia, Philippines Begin Maritime Exercises. *AFP* (2002, May 13)

Maritime and Port Authority. The Group aims at enhancing port security through regulatory measures and control of shipping movement.¹²²

In the same year Indonesian senior officials from the Ministry of National Development Planning (BAPPENAS), the Marine and Air Police (POLAIRUD) and the Directorate General of Sea Communications (DGSC) visited Japan to study JCG operations.¹²³ The necessity of creating an independent and efficient Indonesian Coast Guard emerged in that period, but generated a long-lasting debate among the Indonesian Navy, the National Police and the Department of Transportation over their authorities.¹²⁴ Japan, China, U.S., Germany and Australia offered technological and financial assistance to the Indonesian government to support the Marine Security Coordination Agency (BAKORKAMLA).¹²⁵ According to the 2008 Sea Transportation Law, the BAKORKAMLA was to be upgraded into a Sea and Coast Guard in 2011 but the debate on the government regulations to be applied is still ongoing at the time of writing.¹²⁶

In 2004 Malaysia and Vietnam reorganized their maritime security agencies: Malaysia's five maritime agencies were merged into the Malaysian Maritime Enforcement Agency, launched in 2006; Vietnam improved security cooperation between the Ministry of Foreign Affairs, the Ministry of Defence, the Ministry of Public Security and the Ministry of Transport.¹²⁷

122 Chua, Pui Hong Serene (2006) Maritime Security: Possibilities for Terrorism and Challenges for Improvement. *Pointer*. Vol. 32 N. 2

123 Chaikin, Greg (2005) Piracy in Asia: International Co-operation and Japan's Role. In D. Johnson & M.J. Valencia (Eds.), *Piracy in Southeast Asia: Status, Issues and Responses* (pp. 137). Singapore: ISEAS Publications

124 Nurhayati, Desy (2007, October 22) Coast Guard Argument Continues. *The Jakarta Post*. Retrieved March 27, 2012, from <http://www.thejakartapost.com>; Indonesia Plans to Establish Independent Coast Guard Soon. *The Jakarta Post* (2010, June 25) Retrieved March 27, 2012, from <http://www.thejakartapost.com>; Comer, Charles (2010) *The Parting of the Sulawesi Sea; How U.S. Strategy in the Region is Slowly Transforming the Multinational Environment in Southeast Asia's Terrorist Transit Triangle*. Foreign Military Studies Office. Retrieved March 27, 2012, from fmso.leavenworth.army.mil

125 4 Countries to Help Out Bakorkamla. *The Jakarta Post* (2009, January 5) Retrieved March 27, 2012, from <http://www.thejakartapost.com>; Indonesian Maritime Security Coordination Board (2012, February 3) *The agreement Between IMSCB & Indonesian Navy*. Retrieved March 27, 2012, from <http://bakorkamla.go.id>

126 Sijabat, Ridwan Max (2011, March 19) Coast Guard 'Key to Maritime Security'. *The Jakarta Post*. Retrieved March 27, 2012, from <http://www.thejakartapost.com>; Loka, Emanuel Dapa (2012, February 24) Didik Heru Purnomo: Safeguarding Indonesian Waters. *The Jakarta Post*. Retrieved March 27, 2012, from <http://www.thejakartapost.com>

127 The Commissioner of Law Revision, Malaysia. (2006) *Malaysian Maritime Enforcement Agency Act. Incorporating all amendments up to 1 January 2006*.

On 20 July 2004, Indonesia, Malaysia and Singapore launched trilateral naval patrols named MALSINDO (MALaysia-Singapore-INDONESIA), part a wider Malacca Straits Security Initiative (MSSI) inclusive of aerial surveillance patrols starting from 2005, the Eye in the Sky (EiS) initiative.¹²⁸ Thailand shown appreciation for the initiative and joined the coordinated patrols in 2008.¹²⁹ In addition, in March 2005 Malaysia announced its program of establishing a 24-hour radio system to monitor security in the Straits and in May Singapore launched Surface Picture (SURPIC), a surveillance system based in Batam, Indonesia, to monitor the Singapore Strait and share the collected information with Indonesia.¹³⁰ Once more Japan strongly supported the anti-piracy activities of the coastal nations donating *Hayabusa*, *Anis Madu* and *Taka* patrol boats to Indonesia as part of its official development assistance (ODA) and, through the Nippon Foundation, *Marlin* training ship to Malaysia.¹³¹

In June 2005, the Joint War Committee (JWC) of the London-based Lloyd's Market Association added the Malacca Straits to its *Hull, War, Strikes, Terrorism and Related Perils Listed Areas* on the basis of an AEGIS Defence Services threat assessment report, putting an economic cost on Southeast Asian piracy and prompting the littoral states to take action.¹³²

The EiS and the whole MSSI have been accused as being a public relations exercise with little more than a deterrent effect on the problem of piracy in the Straits.¹³³ In particular, the EiS has been criticized for lacking of night vision surveillance and modern communication equipment.¹³⁴ Despite its limits, it probably had some

128 Suryanarayana, P.S.(2005, September 25) Security Initiative for Malacca Straits Launched. *The Hindu*

129 Malaysia and Thailand to study Malsindo module (2005, August 26) *The Star Online*. Retrieved March 28, 2012, from <http://thestar.com.my/>; Siddiqui, Jumaina (2009) Maritime Cooperation in the Indian Ocean: Success Stories. In Laipson, Ellen, *The Indian Ocean: A Critical Arena for 21st Century Threats and Challenges*. Stimson Center. Retrieved March 28, 2012, from <http://www.stimson.org>

130 *Malaysia To Install 24-hour Radar System In Malacca Straits* (2005, March 15) Singapore Institute of International Affairs; Ong-Webb, Graham Gerard (2005, June 25) Charting a Unified Course for Safer Seas. *The Straits Times*.

131 Huffman, James (2006, June 1) *The Nippon Foundation Donates Training Ship to Malaysia*. The Nippon Foundation. Retrieved March 28, 2012, from <http://www.nippon-foundation.or.jp>; Japan Gives RI Three Boats to Patrol Malacca Strait (2007, December 1) *The Jakarta Post*

132 Hand, M. & Brewer, J. (2005, July 1) Malacca Strait Declared a High Risk Zone by Joint War Committee: Decision Could Increase Premiums in Affected Areas. *Lloyd's List*.

133 Raymond, Catherine Zara (2005) *Maritime Security: The Singaporean Experience*. Singapore Institute of Defence and Strategic Studies. Retrieved on March 30, 2012, from <http://faculty.nps.edu>

134 Storey, Ian (2008) Securing Southeast Asia's Sea Lanes: A Work in Progress. *Asia Policy* (p.95-

impact on piracy in the region if considering the drastic drop in reported pirate attacks: as an example, 121 attacks in Indonesian waters were reported in 2003 but just 43 in 2007 and 28 in 2008.¹³⁵ The Malacca Straits were removed from the Lloyd's war-risk list in August 2006.¹³⁶ However, piracy against local shipping and fishing boats near Sumatra and Malaysia, while attracting less attention, is still rampant.¹³⁷ Most pirate gangs are believed to be still at work and just moving their activities to South China Sea and Java Sea, thus piracy in the Straits might rise again if the pressure from law enforcement agencies should lower.¹³⁸

ANTI-PIRACY INITIATIVES IN THE HORN OF AFRICA

Recent Somali history and the rise of piracy

Piracy is, in Somalia as everywhere else, the manifestation of a crisis taking place on the land which reflects on the sea. The magnitude of the problems afflicting Somalia is not comparable to that of Southeast Asian countries: Indonesia or the Philippines have functioning governments, although threatened by corruption and separatism, which are competent interlocutors for maritime states. Somalia is fractioned into a number of sub-state entities, while the Transitional Federal Government (TFG) is a government in the name only. Thus, if in Southeast Asia piracy is a manifestation of state's inefficiency, in Somalia it is a manifestation of its almost total absence.

The Collapse

The Republic of Somalia was born from the merging of the State of Somaliland (former British Somaliland) and the Trust Territory of Somalia (former Italian

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135 Li, Kang Siew (2009, January 19) Straits of Malacca seeing drop in piracy attacks. *The Business Times*. Retrieved on March 30, 2012, from <http://www.btimes.com.my>

136 Market Removes Malacca Straits from the List. (2006, August 11) *Lloyd's List*.

137 Sekulich, Daniel (2009) *Terror on the Seas: True Tales of Modern Day Pirates*. New York: St. Martin's Press

138 Malacca Strait Nations Urged Not to Relax Piracy Vigil (2007, June 16) *Reuters*; Murphy, Martin N. (2009) *Small Boats, Weak States, Dirty Money: Piracy and Maritime Terrorism in the Modern World*. (p.92) New York: Columbia University Press

Somaliland) in 1960. After the assassination of President Ali Scarmarke Abdirashid in 1969, a coup d'état brought to power Major General Mohamed Siad Barre. During its presidency, supported by the USSR until the 1977-1978 war for the control of the Ogaden region of Ethiopia and later by the United States, Barre applied his personal view of scientific socialism mixed with Islamic elements and personality cult.¹³⁹ The first challenge to Barre came in 1978, when Colonel Ahmed Abdulahi Yusuf, with the support of Ethiopia, formed the Somali Salvation Democratic Front (SSDF), composed mainly by Majeerteen fighters, part of the Darood clan, to fight against the regime.¹⁴⁰ In 1981, the Ethiopia-sponsored Somali National Movement, composed by members of the Isaaq clan, was formed and in 1988 launched a military campaign in Northern Somalia. To contrast the uprisings, Barre ordered brutal reprisals and armed other clans. This led to the 1988-1991 civil war, ended with the fall of Barre's regime under the pressure of the SSDF, SNM and United Somali Congress (USC).¹⁴¹

The SSDF took control of the northeast provinces, while the SNM created the independent Republic of Somaliland in the northwest. The Hawiye-led USC split into two factions fighting for the control of central and southern Somalia. Somalia was divided and controlled by armed groups exploiting the collapse of the state to devote themselves to land expropriation, theft of international aids, illegal trades and extraction of protection money.¹⁴² Since 1992, evidences of the responsibilities of crime syndicates and cooperation agencies in illegal dumping of toxic waste, weapons trade and unregulated fishing emerged.¹⁴³ After the fall of the Barre regime, foreign vessels started to systematically exploit Somali rich and unprotected fishing grounds: ships coming from neighbouring country, as well as from East Asia and Europe, have

139 Fitzgerald, Nina J. (2004) *Somalia: Issues, History and Bibliography*. Hauppauge: Nova

140 Reno, William (2003) *Somalia And Survival In The Shadow Of The Global Economy*. Northwestern University.

141 Metz, Hellen Chapin (1993) *Somalia: A Country Study*. Washington: Library of Congress, Federal Research Division.

142 Scott, Peterson (2000) *Me Against My Brother : At War in Somalia, Sudan and Rwanda*. New York: Routledge

143 Commissione Parlamentare D'Inchiesta Sulla Morte di Ilaria Alpi e Miran Hrovatin. (2006, February 23) *Relazione Conclusiva*; Bashir, Mohamed Hussein (2010) *The Evidences of Toxic and Radioactive Wastes Dumping In Somalia And Its Impact On The Enjoyment of Human Right: A Case Study*. Paper presented at the United Nations Human Rights Council. 14th Session. Panel discussion on Toxic Wastes; Waldo, Mohamed Abshir (2009) "The Two Piracies in Somalia: Why the World Ignores the Other?" Retrieved April 6, 2012, from <http://www.imcsnet.org>; Bocca, Riccardo (2009, Settembre 17) *Complotto Sotto Il Mare*. *L'Espresso*. Retrieved April 6, 2012, from <http://espresso.repubblica.it>

been competing with Somali fishermen in the waters off Puntland and Kisimayo.¹⁴⁴The impact of these activities on an already unstable country and in particular on that part of the population depending on the sea for its survival had probably a major role in the growth of piracy in the region. The surge in pirate attacks of 2005, following the Indian Ocean tsunami, when toxic waste containers were washed ashore, seems worth further investigation.¹⁴⁵

A large part of the population of Mogadishu was forced to flee after former USC leaders Ali Maahdi Muhammad and General Mohamed Farrah Hassan Aideed began to fight for the control of the city. The humanitarian crisis that followed provoked the intervention of the United Nations to negotiate a ceasefire. The United Nations Operation in Somalia (UNOSOM) was responsible for monitoring the ceasefire and distributing humanitarian assistance, but ultimately failed to reach any objective.¹⁴⁶ A US-led, UN-sanctioned multinational force, the Unified Task Force (UNITAF, December 1992 – May 1993), was created to create a secure environment for conducting humanitarian operations in southern Somalia and for the begin of the second phase of UN intervention, UNISOM II.¹⁴⁷ After a number of clashes with local militias, including the so-called “Battle of Mogadishu” (in October 1993, US forces attempted to capture Aideed lieutenants in Mogadishu: two US Black Hawk helicopters were shot down, 18 U.S. soldiers and hundreds of Somali died in the ensuing battle), US troops were forced to withdraw in 1994 and UN contingent left the country in 1995.¹⁴⁸

Aideed died in 1996 and succeeded by his son, Hussein Mohamed Farrah Aideed. In 1998, the Garowe declaration was issued and the SSDF controlled territories were declared autonomous Puntland State of Somalia.¹⁴⁹ Abdulahi Yusuf was elected as president. In the same years, foreign vessels were repeatedly attacked off the coasts of Somaliland and Kismayo. In the waters near Somaliland, since 1996, fishing vessels were asked to buy a license from the local authorities to continue their activities. A similar system of licences (or protection fees) was adopted also in other regions: the

144 Murphy, Martin N. (2011) *Somalia: The New Barbary? Piracy and Islam in The Horn of Africa*. London: C. Hurst & Co.

145 Waves 'Brought Waste To Somalia' (2005, March 2) *BBC*.

146 *UNOSOM I Background* (2003) Retrieved April 6, 2012, from <http://www.un.org>

147 *UNISOM II Mandat* (2003) Retrieved April 6, 2012, from <http://www.un.org>

148 Bowden, Mark (1997, November 16) A Defining Battle. *The Inquirer*

149 Roble, Faisal (2007) Local and Global Norms: Challenges to “Somaliland’s” Unilateral Secession. *Horn of Africa*. Vol. 25. Retrieved April 6, 2012, from <http://hornofafrica.newark.rutgers.edu>.

features of these activities were in some cases indistinguishable from those of piracy.¹⁵⁰

Since 1998, the Intergovernmental Authority on Development (IGAD), composed by representatives of the countries of the Horn of Africa, held a series of conferences to assist and co-ordinate a peace dialogue in Somalia.¹⁵¹ At the May 2002 Arta conference in Djibouti, a transitional Somali legislature was appointed and in August Abdiqasim Salad Hassan, former Interior Minister of Barre's government, was elected president.¹⁵² The newly-formed Transitional National Government (TNG), sponsored by the Arab League, never achieved any relevant result and was opposed by Puntland's president Abdulahi Yusuf. With the support of Ethiopia, Yusuf led the Somali Reconciliation and Rehabilitation Council (SRRC), a federalist-minded coalition of warlords which were excluded from the conference.¹⁵³ After further IGAD mediations, Abdulahi Yusuf was elected president of a new Transitional Federal Government (TFG) in 2004.¹⁵⁴

The Islamic Courts Union

Somalia never experienced an Islamic influence over politics comparable to what occurred on the other side of the Gulf of Aden. Traditionally, customary law and clan's kinship system shaped the country's politics more than religion.¹⁵⁵ After 1991, however, Islamic courts emerged as a reliable authority to establish law and order in small areas: their administration of justice and law enforcement was particularly welcomed by the local businessmen community.¹⁵⁶

The experience of militant Islamist group Al-Itihaad al-Islamiya (AIAI), which operated in Somalia and Ogaden from 1980s until the beginning of 2000s, showed the

150 Coffen-Smout, Scott (1998) *Pirates, Warlords and Rogue Fishing Vessels in Somalia's Unruly Seas*. Retrieved April 6, 2012, from <http://www.chebucto.ns.ca>

151 IGAD Document Center. Retrieved April 7, 2012, from <http://www.igad.int/>

152 Murison, Khatarine (Ed.) (2003) *Africa South of Sahara 2003*. London: Europa Publications

153 Bryden, Matt (2003) No Quick Fixes: Coming to Terms with Terrorism, Islam, and Statelessness in Somalia. *The Journal of Conflict Studies*. Vol 23, No 2

154 Al-Ayala, Zaid & Matthew, Gabriel (2004, October 16) New President Offers Hope to War-Torn Somalia. *Yemen Observer*.

155 Moore, Nathaniel (2007) *A Network of Assurance and Security: The Evolving Role of Clans in Somali Society*. The Ohio State University

156 Shay, Shaul (2008) *Somalia Between Jihad And Restoration*. Transaction Publishers

limits and potential of Somali Islamist organizations. The opposition AIAI faced in Somalia was mainly due to the difficulty of spreading a universalist vision in a clan-based society and to its unpopular radical interpretation of Islam, in opposition both to the region's widely accepted religious syncretism and to Sufi brotherhoods' teachings.¹⁵⁷ Despite these difficulties, they were able to apply a Shari'a-based judicial system and fill the administrative vacuum left by the fall of Barre receiving financial support through donations coming from Saudi Arabia and other Gulf States.

AIAI was involved in several terrorist attacks in Ethiopia and Sheikh Hassan Daahir Aweys, leader of AIAI, is believed to having been in contact with al-Qā'idah since 1993.¹⁵⁸ Alarming reports of Somalia becoming a terrorist haven have been published since the opening of jihadist training camps in the regions controlled by AIAI, but the terrorist penetration of Somalia has been so far slow and largely unsuccessful.¹⁵⁹

In a first attempt to unify the Islamic courts of Mogadishu, a council of court leaders called Sharia Implementation Council, with Aweys as secretary general, was gathered in 2000.¹⁶⁰ A new union of ten different courts was established in 2004 under the lead of Sheikh Sharif Sheikh Ahmed. Named Supreme Council of Islamic Courts of Somalia, the union included apparently moderate courts as well as the openly jihadist formation Ḥarakat al-Shabāb al-Mujāhidīn (HSM).¹⁶¹ The attempts of Sheikh Ahmed to distance himself from HSM were frustrated by the TFG call for foreign support, promptly used by HSM leader Aden Hashi Farah "Ayrow" to strength his position.

By 2006, the coalition of courts, under the name of Islamic Courts Union (ICU), was able to take control of Mogadishu expelling the warlords, re-opening the port, cracking down on *khat* traffic and maritime piracy.¹⁶² The number of pirate attacks off

157 Adam, Hussein M. (1995) Islam and Politics in Somalia. *Journal of Islamic Studies*. Vol. 6 No 2; Le Sage, Andre (2001) Prospects for Al Itihad and Islamist Radicalism in Somalia. *Review of African Political Economy*. Vol. 27 No. 89.

158 US Government. Department of the Treasury . Office of Foreign Assets Control. (2001) *Executive Order 13224*.

159 Menkhaus, Kenneth J. (2005) Somalia and Somaliland: Terrorism, Political Islam, and State Collapse. In Rotberg, Robert I. (Ed.) *Battling Terrorism in the Horn of Africa*. Washington: Brookings Institution Press; Watts, C., Shapiro, J. & Brown, V. (2007) *Al-Qa'ida's (Mis)Adventures in the Horn of Africa*. Retrieved April 13, 2012, from <http://www.ctc.usma.edu>

160 Murphy, Martin N. (2011) *Somalia: The New Barbary? Piracy and Islam in The Horn of Africa*. London: C. Hurst & Co.

161 Rabasa, Angel (2009) *Radical Islam in East Africa*. Santa Monica: Rand Corporation

162 Barnes, Cedric & Hassan, Harun (2007) The Rise and Fall of Mogadishu's Islamic Courts. *Journal of Eastern African Studies*. Vol.1

the coasts of Somalia was significantly reduced under the ICU rule, a result which no other national or external actor has been able to reach at the time of writing and shows how deeply maritime security is linked to the situation on the coastal territory.

U.S. government, concerned for jihadist activities in the Horn of Africa since the 1998 embassy bombings in Tanzania and Kenya, supported the creation of a warlord coalition to protect the TFG and contrast the ICU, the Alliance for the Restoration of Peace and Counter-Terrorism (ARPCT): it was defeated by the ICU in a few months of violent clashes.¹⁶³

The ICU incapacity to control HSM, Aweys call for an uprising of Ogaden Somali population and Eritrean military support for the courts pushed Ethiopia to send troops to back the TFG. On December 2004, Ethiopian forces attacked the UCI positions with U.S. intelligence and logistic support. 164 U.S. Air Force and special forces units attacked suspect terrorist targets in January 2007: the TFG endorsement of the U.S. bombings, which resulted in dozens of civilian casualties, further undermined its already low popularity.¹⁶⁵ The ICU rapidly dissolved but the brutality of Ethiopian intervention and the lack of legitimacy of the TFG made them unable to attract popular support. A more hard-liner Islamic insurgency rose in 2007 and millions were forced to leave their homes in the clashes that followed.¹⁶⁶

The Islamist forces formed the Alliance for the Re-Liberation of Somalia (ARS), which eventually split into two factions after a few months. The Eritrea-based faction led by Aweys, ARS-E, declared its intention to continue armed opposition to the TFG. The Djibouti-based faction controlled by Sheikh Ahmed, ARS-D, entered into peace talks with the TFG and Ahmed himself was elected President of Somalia in 2009.¹⁶⁷ HSM continued its war against Ethiopian forces and the TFG, expanding its influence on Southern and Central Somalia.

After Ethiopian withdrawal in 2009, HSM seems to have lost popular support and repeatedly called for foreign fighters to join its ranks: its image shifted from that of

163 Somali Islamist Win City Battle (2006, July 11) *BBC*

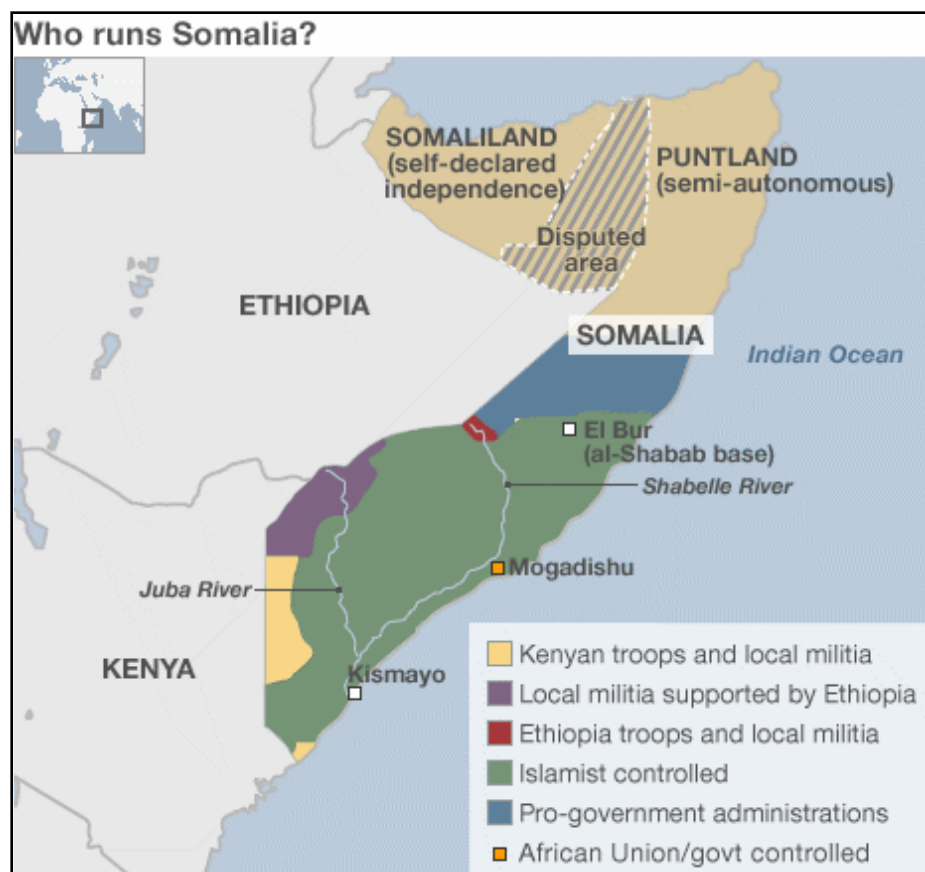
164 Terdman, Moshe (2008) *Somalia at War. Between Radical Islam and Tribal Politics*. Retrieved April 13, 2012, from <http://www.tau.ac.il>

165 Möller, Björn (2009) *The Somali Conflict: The Role of External Actors*. Danish Institute for International Studies.

166 OCHA Somalia (2009) *IDPs in Somalia. Fact Sheet*.

167 Dagne, Ted (2011) *Somalia: Current Conditions and Prospects for a Lasting Peace*. Retrieved April 13, 2012, from <http://www.fas.org>

a self-declared national liberation movement to that of a foreign-sponsored militia which lost contact with the local reality.¹⁶⁸ At the moment of writing, the TFG directly controls an extremely limited territory within the city of Mogadishu under the protection of the African Union Mission in Somalia (AMISOM), approved by the UN Security Council in 2007.¹⁶⁹ HSM is engaged in a guerrilla campaign with AMISOM's Ugandan and Burundian troops and still controls a large territory in Central and Southern Somalia.



HSM alliance with Hizbul Islam anti-TFG coalition quickly degenerated in a struggle for the control of the Kismayo and Harardhere, which appeared to be an attempt to get their share in the piracy business.¹⁷⁰ Although HSM's loss of territory and local support, the TFG was unable to reach any relevant political objective because

168 Wise, Rob (2011) *Al Shabaab*. AQAM Futures Project Case Study Series. No. 2. Retrieved April 13, 2012, from <http://csis.org>

169 UNSC (2007, February 2) *Security Council Press Statement on Somalia*. AFR 1495. Retrieved April 14, 2012, from <http://www.un.org/>

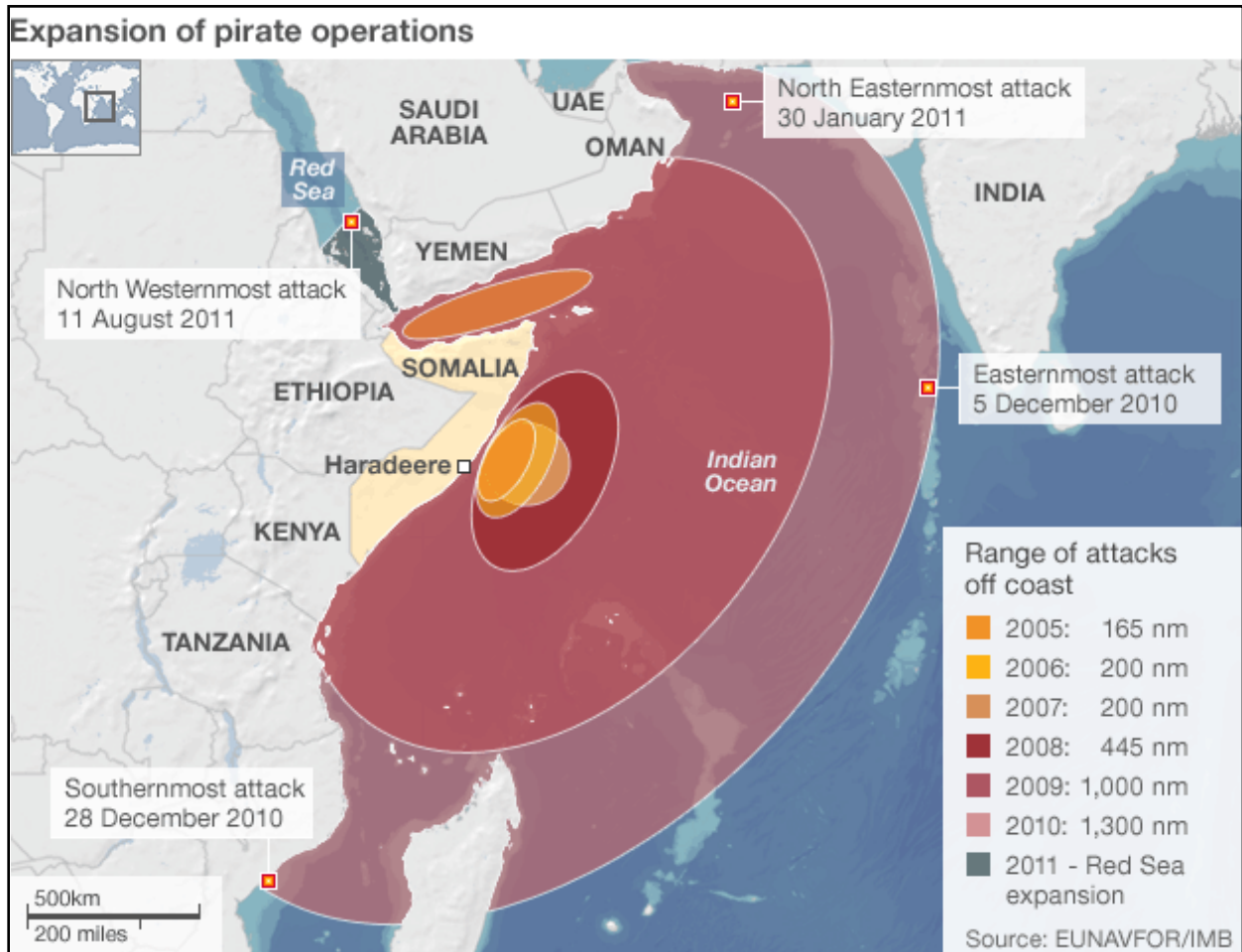
170 Somali Rebels Move Into Pirates' Den (2012, May 2) *AP*; Murphy, Martin N. (2011, July 6) *Pirates Money Flows to Al-Shabaab*. Retrieved April 14, 2012, from <http://www.murphyonpiracy.com/>

of the corruption and lack of political cohesion of its leadership.¹⁷¹ On the wake of a series of abductions and terrorist attacks on its territory, in October 2011 Kenya sent troops in Southern Somalia to fight HSM forces in coordination with the TFG: on 30 May 2012, Kenyan troops entered the city of Afmadow, one of HSM's last strongholds.¹⁷²

Modern Somali Piracy

171 UNSC (2011, July 18) *Report of the Monitoring Group on Somalia and Eritrea Pursuant to Security Council Resolution 1916 (2010)*. Retrieved April 14, 2012, from <http://www.un.org/>; International Crisis Group (2011, February 21) *Somalia: The Transitional Government on Life Support. Africa Report*. No 170; Fartaag, Abdirazak (2012, February 20) *Audit Investigative Report – 2011*. Transitional Federal Government, Somalia.

172 Kenya sends troops into Somalia to hit al-Shabab (2011, October 17) *BBC*; Gettleman, Jeffrey (2011, October 26) Kenyan Motives in Somalia Predate Recent Abductions. *The New York Times*. Retrieved April 14, 2012, from <http://www.nytimes.com>; Wanyeki, Muthoni (2011, October 30) Shock and Awe in Somalia? Sorry, It Isn't A Board Game. *The East African*. Retrieved April 14, 2012, from <http://www.theeastafrican.co.ke>



Since 1990s, Somali piracy evolved significantly its magnitude and methodology. In the beginning of 1990s, pirate boats' operational range was limited and victims were seldom physically harmed. AKs and RPGs were often carried on board but rarely used. Pirates were mainly operating not far from the ports of Kismayo, Eyl and Mogadishu. Small groups of former fishermen or militiamen, operating at night on small boats, were targeting small fishing vessels and leisure crafts asking for money or small cargo. At that stage, rare cases of hijacking and kidnapping were reported too, although that was not the norm. Although piracy, in its early stage, might be considered a defensive measure undertaken by local fishermen to protect their fishing grounds from foreign vessels, it has however been, from the very beginning, practiced also by criminal groups linked to Somali warlords.¹⁷³ From the beginning of 2000s, attacks against commercial vessels, which are difficult to be related to any “defensive strategy”, increased. The boats used for boarding were, as in the years before, small skiffs

173 Bahadur, Jay (2011, May 24) Somali Pirate: 'We're not Murderers...We Just Attack Ships' *The Guardian*. Retrieved May 1, 2012, from <http://www.guardian.co.uk>

equipped with a boarding ladder. But if in the first years skiffs were departing from beaches and waiting at sea for slow ships with low freeboard, in the 2000s the use of mother ships enabled Somali pirates to increase the range of their attacks. Mother ships were, and are still today, used to transport skiffs far from the coast, refuel them and intercept ship-to-ship transmissions. Moreover, after a successful attack, the cargo and prisoners became easier to transport. Global Positioning System (GPS) receivers as well as radars started to be adopted by some groups and pirate gangs expanded their information network.

In these years emerged professionally-managed gangs specialized in hijackings, the first and more powerful of which were the so-called “Somali Marines”.¹⁷⁴ Somali Marines had a military command hierarchy and bases located between Mogadishu and Southern Puntland.¹⁷⁵ Their tactic, which has been later adopted by other gangs, was based on the use of mother ships to launch attacks with skiffs on foreign commercial vessels, which were subsequently hijacked to pirate ports such as Haradheere and held until the end of the negotiations.¹⁷⁶ The possibility exploiting the peculiar political situation of Somalia for holding a ship in port as long as needed without the risk of intervention by law enforcement agencies or foreign war vessels can be considered the most important innovation introduced by the Somali Marines.

During the ICU rule on Kismayo, base of the self-declared “National Volunteer Coast Guard”, and Haradheere, one of Somali Marines' ports, piracy was almost suppressed in 2006.¹⁷⁷ In Puntland, crime syndicates transporting migrants from Boosaaso and other ports to Yemen joined the piracy business, attacking foreign vessels and local fishermen in Yemeni waters.¹⁷⁸ The number of attacks in Somali waters doubled in 2007, after the fall of the ICU, and rose again in the following years reaching 111 attacks in 2008 and 236 in 2011.¹⁷⁹ Also the duration of the detention of

174 Sörenson, Karl (2008) State Failure On The High Seas – Reviewing The Somali Piracy. *FOI Somalia Papers*. Report 3. Stockholm: FOI

175 Potgieter, Thean (2008) The Maritime Security Quandary in The Horn of Africa Region: Causes, Consequences and Responses. *East African Human Security Forum Discussion Paper - January 2008*.

176 UN Transnational Organized Crime Threat Assessment. (2010) *Maritime Piracy*.

177 Chalk, Peter (2010) Piracy Off The Horn of Africa: Scope, Dimensions, Causes and Responses. *The Brown Journal of World Affairs*. Vol. 16, No. 2

178 International Chamber of Commerce - International Maritime Bureau. *ICC-IMB Piracy and Armed Robbery against Ships Report – Annual Report. 1 January – 31 December 2008*; International Maritime Organization. (2008, June 12) *Reports on Acts of Piracy and Armed Robbery Against Ships*

179 International Chamber of Commerce - International Maritime Bureau. *ICC-IMB Piracy and*

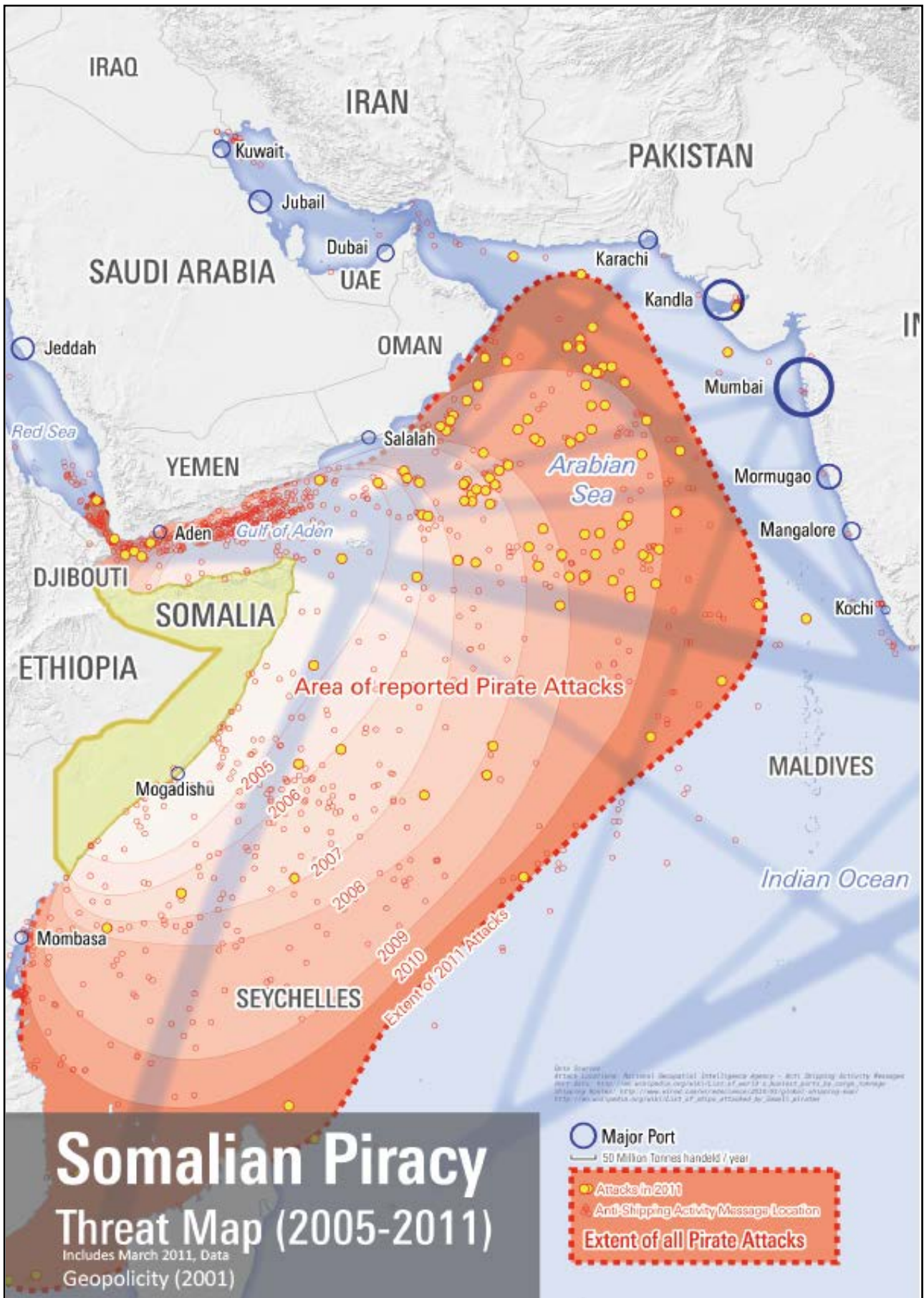
kidnapped seafarers and the ransom amounts demanded rose, while the area affected by pirates' attacks has expanded from Oman to Seychelles and from the Red Sea to areas of the Indian Ocean over 1,000 nm off the coasts of Somalia. In 2007 and 2009 World Food Programme ships have been attacked, raising particular concerns for the safety of humanitarian aids shipping to Somalia.¹⁸⁰ In 2008, according to the Final Report of the International Expert Group on Piracy off the Somali Coast, the main, well-defended pirate bases in Somalia were located in Eyl, Hoboyo and Haradheere. In Puntland the situation was particularly concerning as:

At present the epicentre of piracy is Puntland where it is penetrating all levels of society including government, including government structures at both senior and junior level. A number of Puntland ministers are suspected of being involved in piracy and its attendant activities.¹⁸¹

Armed Robbery against Ships Report – Annual Report 1 January – 31 December 2011.

180 World Food Programme (2009, April 15) *Two New Piracy Incidents Underline Threat to WFP Shipments*. Retrieved April 17, 2012, from <http://www.wfp.org>

181 International Expert Group on Piracy off the Somali Coast (2008) *Final Report*.



Relevant Episodes

MV Golden Nori

On 28 October 2007, the 12,000-ton chemical tanker Golden Nori, carrying benzene from Singapore to Israel, was hijacked near the Island of Socotra, Yemen, by Somali pirates aboard two skiffs.¹⁸² USS *Porter* Arleigh Burke-class destroyer was alerted and managed to reach the Japanese-owned, Panamanian-flagged tanker, sinking two pirate skiffs tied to the vessel.¹⁸³ Somali TFG accorded to USS *Arleigh Burke* the permission to follow the hijacked ship into Somali water to survey the dangerous cargo, which might have been used for terrorist purpose, and block pirates' supplies coming from the shore. ¹⁸⁴ The pirates demanded a \$1 million ransom for releasing the ship and the 23 crewmembers: the vessel was released in December and the crewmembers freed unharmed, but the details of the negotiation remain unknown.¹⁸⁵

VLCC Takayama

On April 12, 2008, Nippon Yusen Kaisha 150,000-ton VLCC Takayama was sailing off the coasts of Yemen headed to Yanbu' al Bahr, Saudi Arabia, when was approached by a small speedboat. ¹⁸⁶ The crew managed to undertake evasive manoeuvres and foiled pirate's attempts to board the vessel.¹⁸⁷ Pirates fired at the tanker with small arms and RPGs. An RPG hit the vessel near the ship's fuel tanks and some bunker fuel

182 Somali Pirates Hijack Japanese Ship (2007, October 29) *Xinhua*; Clout, Laura (2007, December 11) Somali Pirates Threaten to Kill Tanker Crew. *The Telegraph*. Retrieved April 14, 2012, from <http://www.telegraph.co.uk>

183 Pham, Peter (2007, November 13) Responding to Piracy and Other African Maritime Security Challenges. *World Defense Review*. Retrieved April 14, 2012, from <http://worlddefensereview.com>

184 Starr, Barbara (2007, October 29) U.S. Destroyer Pursuing Hijacked Ship in Somali Waters, Military Says. *CNN*; US Ships Block Supplies to Hijacked Japanese Tanker (2007, December 4) *AFP*.

185 Owners of Hijacked Golden Nori in Ransom Talks (2007) *The Maritime Executive*. Retrieved April 14, 2012, from <http://www.newsletterscience.com>; Somali Pirates Free Japanese Tanker (2007, December 12) *BBC*.

186 NYK Says Tanker Safe After Rocket Attack From Pirates (2008, April 21) *Shipping Times*.

187 NYK To Assess Takayama Damage. Japanese Promise To Investigate Piracy Incident (2008, April 22) *Lloyd's List*.

leaked through the hole but no one among the 23 crew was injured.¹⁸⁸ The vessel sent out a radio distress call, received by German frigate Emden, but pirates retreated before the warship was able to reach the tanker.¹⁸⁹ The attack caused oil prices to spike to \$117.40 a barrel.¹⁹⁰

MV Stella Maris

Stella Maris, a Panama-flagged bulk carrier loaded with lead and zinc, was hijacked off Puntland coast on July 2008.¹⁹¹ The vessel was managed by Japan's MMS Company and owned by Panamanian Turtle Marine Shipping.¹⁹² The ship and the Filipino crewmembers were released from their captivity in September, after a \$2 million ransom was paid.¹⁹³

MT Irene

Japanese-operated, Panama-flagged chemical tanker Irene was hijacked by armed men in August 2008 off Yemeni coast and held near the pirate port of Eyl, Puntland.¹⁹⁴ The pirates initially demanded a \$2.5 million ransom but after a month of negotiations an agreement was reached for about \$1.6 million.¹⁹⁵ The 19 crewmembers were released unharmed and the vessel was able to reach Al Fuğaira , United Arab Emirates, one month later.¹⁹⁶

MT Stolt Valor

The *Stolt Valor* was a Hong Kong-flagged chemical tanker owned by Hiroshima-

188 Middleton, Roger (2008) *Piracy in Somalia. Threatening global trade, feeding local wars.*

Chatman House briefing paper. Retrieved April 7, 2012, from <http://www.chathamhouse.org>

189 Pleitgen, Frederik (2008, April 23) German Warship Helped Fend Off Pirate Attack. *CNN*.

190 Nippon Yusen Tanker Hit By Rocket Off Yemen, No Injuries (2012, April 21) *Kyodo*.

191 Mwangura, Andrew (2008, July 22) *Bulk Carrier MV Stella Maris Hijacked Near Alulla Region, Somalia*. Retrieved April 15, 2012, from <http://coordination-maree-noire.eu>

192 Somali Pirates Seize Japanese Ship (2008, July 22) *AFP*.

193 Somali Pirates Free Ship As Ransom Paid (2008, September 27) *AFP*.

194 Somali pirates release German, Japanese ships: maritime group (2008, September 11) *AFP*.

195 *Pirates Free BBC Trinidad and MT Irene* (2008, September 12) Maritime Information Centre. Retrieved April 15, 2012, from <http://www.micportal.com/>

196 Ruiz, Ramona (2008, October 14) Hostages Safe in Fujairah. *The National*. Retrieved April 15, 2012, from <http://www.thenational.ae/>

based Central Marine Company, chartered by Stolt-Nielsen shipping group to carry phosphoric acid and base oils from North Carolina, USA, to Mumbai, India.¹⁹⁷ In September 2008 Somali pirates seized the vessel near Yemeni coast and took it to Eyl, Puntland, asking a \$6 million ransom.¹⁹⁸ With the mediation of the National Union of Seafarers of India, an amount between one and \$2.5 million was paid for the release of the ship and the 22 crewmembers, including 18 Indians, leaved Eyl to Mumbai, India, on November.¹⁹⁹

MV Chemstar Venus

On November 2008, Japanese chemical tanker *Chemstar Venus*, loaded with 20,000 tons of oil products, was hijacked in the Gulf of Aden and, as happened with many other vessels before, held in Eyl.²⁰⁰ The South Korean and Filipino crewmembers reportedly spent the following three months in harsh conditions, suffering from various diseases and lack of medicines.²⁰¹ On February 15, after long negotiations between lino Marine Service and the pirate gang, the vessel was released.²⁰² The pirates reportedly received an unknown ransom carried by boat.²⁰³

MV Jasmine Ace

The Jasmine Ace, a Mitsui O.S.K. Lines Cayman Islands-flagged cargo ship carrying used cars from Sharjah, UAE, to Mombasa, Kenya, was approached on March 2009 by two pirate speedboats 480 nm from the Somali coast.²⁰⁴ During the assault,

197 Stolt-Nielsen Says Ship Seized Off Somalia, Crew Safe (2008, September 18) *Reuters*.

198 Two-Month Ordeal Was Nightmare: Stolt Valor Captain (2008, November18) *Indo-Asian News Service*.

199 Hijacked Ship Stolt Valor Released, 18 Indians Safe, Ransom Paid (2008, November 16) *The Times of India*.

200 Philippines: With 18 Philippine Seaman Aboard M/V Chemstar Venus Freed, Oly 35 Filipino Hostages Remain In Somalian Hands (2009, February 17) *Thai Press Reports*.

201 Crew of Hijacked Chemstar Venus Appeals For Help (2009, January 15) *ABC News* Retrieved April 15, 2012, from <http://www.abs-cbnnews.com>

202 Somali Pirates Release Japanese Ship With 23 Crew (2009, February 13) *Xinhua*.

203 Tanker *Chemstar Venus* Freed (2009, February 13) Maritime Information Centre. Retrieved April 15, 2012, from <http://www.micportal.com/>

204 OPRF MARINT Monthly Report (2009, March) Ocean Policy Research Foundation. Retrieved April 18, 2012, from <http://www.sof.or.jp>

pirates used automatic weapons and RPGs were shots against the vessel.²⁰⁵ The ship sustained limited damages but no crewmembers were injured. The captain undertook evasive manoeuvres and was able to evade capture after a 40 minutes-long chasing.²⁰⁶

SS Oceanic

The *Oceanic* was attacked by armed pirates near Yemen on May 2009 while carrying volunteers and scientists taking part in the 66th “Global Voyage for Peace” organized by the Japan-based non-governmental organization Peace Boat. The vessel adopted evasive manoeuvres, moving towards NATO warships patrolling the area, and responded to pirate's grenade attacks by blasting them with water hoses.²⁰⁷ The assault failed and pirates were apprehended by NATO forces²⁰⁸

MV Izumi

The multi-purpose Roll-on Lift-off (RoLo) cargo ship *Izumi*, operated by NYK-Hinode Line and registered in Panama, was transporting steel from Japan to Mombasa, Kenya, when it was attacked by Somali pirates.²⁰⁹ The pirates hijacked the ship, with its 20 Filipino crewmembers on board, on October 2010 off the coast of Kenya.²¹⁰ The owners, Fairfield Shipping, were alerted by an automatically released distress signal: Danish Navy HDMS *Esbern Snare* and French Navy FS *Floreal*, part of NATO anti-piracy force, were sent to intercept the vessel.²¹¹ The vessel was already on its way to Hamdule, Somalia, and the captain informed the *Esbern Snare* that the pirates were in charge of the *Izumi*. The *Izumi* was turned into a pirate mothership and the hostages

205 Pirates Attack Filipino-crewed Japanese Ship (2009, March 24) *Philippine Daily Inquirer*.

206 International Chamber of Commerce - International Maritime Bureau. *ICC-IMB Piracy and Armed Robbery against Ships Report – Annual Report. 1 January – 31 December 2009*.

207 Rijeka Captain Saves “Peace Boat” From Somalian Pirates (2010, May 7) *Croatian Times*. Retrieved April 15, 2012, from <http://www.croatiantimes.com>

208 *No Peace For Peace Boat* (2010, May 10) Maritime Matters. Retrieved April 15, 2012, from <http://maritimematters.com>

209 Pirates Hijack Japan-operated Ship Off Kenya (2010, October 11) *Reuters*.

210 Government of the Philippines. Department of Foreign Affairs (2011, February 28) MV *Izumi* With 20 Filipinos On Board Released By Somali Pirates. *Official Gazette*.

211 *Pirating of MV Izumi In The Somali Basin* (2010, October 11) EU NAVFOR Public Affairs Office. Retrieved April 18, 2012, from <http://www.eunavfor.eu>

used as human shields.²¹² In the following months pirates used the *Izumi* to attack the Danish tanker *Torm Kansas*, the Spanish Navy logistic support vessel *Petra I* and its escort vessel, the SPS *Infanta Christina*.²¹³ The vessel was released after negotiations on February 2011: the crewmembers, traumatized but unharmed, were met in the port of Mombasa by Kenian police investigating the presence on board of a Kenyan and two Britons suspected of links with piracy.²¹⁴

MV Guanabara

On March 2011, Japanese-owned, Bahamian-flagged oil tanker *Guanabara* was attacked by four armed Somali pirates 328 nm off Oman coast.²¹⁵ The crew hid in the ship's citadel and sent out a distress call which was received by warships operating in the area. The following day, U.S.S. *Bulkeley* destroyer and Turkish Navy TCG *Giresun* guided-missile frigate intercepted the vessel. A boarding team took control of the vessel without resistance from the pirate's side.²¹⁶ The four Somali were later transferred to Japan to face trial for piracy.²¹⁷

Updating the Legal Framework

The absence of a Somali authority capable of patrolling its territorial waters enabled pirates to build their bases along the coast without fearing retaliation from the local governments or militias, which are often directly or indirectly involved in the piracy business. At the same time, the inviolability of international borders protected

212 Somali Piracy Report (2010, November 6) *Ecoterra*.

213 *EU NAVFOR Warship Attacked By Pirates Vessel Whilst Protecting AMISOM Escort* (2010, November 8) *EU NAVFOR Public Affairs Office*. Retrieved April 18, 2012, from <http://www.eunavfor.eu>; *Pirates Use Hijacked Vessel To Attack Spanish Warship* (2010, November 9) *CNN*

214 *MV Izumi Released From Pirate Control* (2011, February 28) *EU NAVFOR Public Affairs Office*. Retrieved April 18, 2012, from <http://www.eunavfor.eu> ; *Somali Pirates Release MV Izumi* (2011, February 28) *The Voice Of Russia*.; *Suspicious Activities Surround The MV IZUMI* (2011, March 3) *Somalia Report*. Retrieved April 18, 2012, from <http://www.somaliareport.com>

215 *U.S. Navy Frees Ship From Suspected Indian Ocean Pirates* (2011, March 7) *CNN*

216 *USS Bulkeley Frees Ship And Crew From Pirates* (2011, March 7) *Combined Maritime Forces Public Affairs Office*. Retrieved April 18, 2012, from <http://www.cusnc.navy.mil>

217 Martin, Alex (2011, November 5) *Age Questions Prompt Toyko To Dismiss Piracy Suspect's Indictment*. *The Japan Times Online*. Retrieved April 18, 2012, from <http://www.japantimes.co.jp>

them from the intervention of foreign warships. When pirates are caught in international waters, the lack of political will, the difficulties in evidence gathering and the problem of pirates seeking asylum upon release complicate the prosecution of pirates. For this reasons, it became common practice to release pirates after confiscating weapons, ladders and piracy paraphernalia. According to the June 26, 2010, Report of the UN Secretary-General:

The commanders of the European and NATO naval forces off the coast of Somalia estimate that around 700 suspects apprehended by the ships under their command have been released between January and June 2010. The principal reason cited is lack of evidence sufficient to support prosecution.²¹⁸

Only in a limited number of cases, in particular those involving the murder of foreign citizens, pirates have been extradited to European countries, USA or Japan. However, at present, extradition to neighbouring countries such as Seychelles and Kenya seems to be considered by the countries contributing to the patrol of the waters off Somalia as the best alternative.

In 2005, a meeting addressing piracy and armed robbery at sea was held in Sana'a, Yemen, to bolster regional co-operation in the field of maritime security and a follow-up meeting was held in Muscat, Oman, the following year.²¹⁹ The President of the UN Security Council encouraged in 2006 naval vessels and military aircraft operating off the coasts of Somalia to take "appropriate action" to protect the safety of shipping and called for the Transitional Federal Parliament to address the problems concerning security on the land.²²⁰ In 2007 other recommendations to enhance

218 UN Security Council (2010, June 26) *Report of the Secretary-General on possible options to further the aim of prosecuting and imprisoning persons responsible for acts of piracy and armed robbery at sea off the coast of Somalia, including, in particular, options for creating special domestic chambers possibly with international components, a regional tribunal or an international tribunal and corresponding imprisonment arrangements, taking into account the work of the Contact Group on Piracy off the Coast of Somalia, the existing practice in establishing international and mixed tribunals, and the time and resources necessary to achieve and sustain substantive results*. Retrieved April 20, 2012, from <http://www.un.org>

219 International Maritime Organization (2008) *Resolutions And Other Decisions Of The 25th Assembly*. Beccles: CPI William Clowes Ltd

220 UN Security Council. (2006, July 26) *Statement Of The President Of The Security Council*. Retrieved April 20, 2012, from <http://www.un.org>

maritime security, including some concerning the contrast of piracy, were adopted at the Subregional Seminar on Maritime Security for the Persian Gulf Area, held in Manama, Bahrain.²²¹

UNSC Resolution 1816

The Resolution, adopted by the Security Council on 2 June 2008, calls upon the member States and international organizations to assist Somalia and other coastal states of the area in enhancing their coastal and maritime security. As in the Statement Of The President Of The Security Council of June 2006, states are urged to take action against piracy, prompting coordination as well as information sharing. The Resolution underlines the importance of cooperation also for what concerns investigation and prosecution of suspect pirates.²²²

Moreover, following the consent expressed by the TFG in its letter to the President of the Security Council of 27 February 2008, the states are called to cooperate with the TFG in the fight against piracy and, once they receive the permission by the TFG, are enabled to enter into Somali territorial waters to repress with all necessary means piracy and armed robbery at sea. The provisions of Resolution 1806, initially applied for a period of six months, were extended by following UNSC Resolutions.²²³ The Resolution does not undermine the sovereignty and independence of Somalia, as the actions are subordinated to the TFG permission, but had a strong political effect as the measures approved in 2008:

...enabled governments that encountered opposition internally to the conduct of anti-piracy operations overseas, such as Japan, to argue that they were working to support the interests of the international community.²²⁴

221 International Maritime Organization (2008) *Work Undertaken By The International Maritime Organization (IMO) In An Effort To Prevent And Combat Terrorism*. Retrieved from

<http://www.osce.org>

222 UN Security Council (2008, June 2) *Resolution 1806*. Retrieved April 20, 2012, from

<http://www.un.org>

223 UN Security Council (2008, December 2) *Resolution 1846*. Retrieved April 20, 2012, from

<http://www.un.org>

224 Murphy, Martin N. (2011) *Somalia: The New Barbary? Piracy and Islam in The Horn of Africa*. London: C. Hurst & Co.

UNSC Resolution 1851

Resolution 1851, adopted on December 2008, encourages the member states and regional organization to establish an international cooperation mechanism and consider creating a regional centre to coordinate information sharing. This led to the establishment, on January 2009, of the Contact Group on Piracy off the Coast of Somalia (CGPCS). In addition, States are invited to conclude special agreement for the embarking of law enforcement officials from countries willing to take custody of pirates and to make their citizens and vessels available for investigation at the first port of call “after any act or attempted act of piracy or armed robbery at sea or release from captivity”. The Security Councils express also its concern for the lack of enforcement of the arms embargo which, combined with high ransom payments, enabled pirates to have access to a wide range of arms and ammunitions. Furthermore, the Council reminds that the authorizations to enter territorial waters concern only the Somali situation and do not establish customary international law.²²⁵

UNSC Resolutions 1918 and 1950

In 2010, the Council renewed its call for taking action against piracy with a series of Resolutions concerning the situation in Somali waters. Resolution 1918 underlines the effects on anti-piracy efforts of the failure to prosecute pirates, calling on states to criminalize piracy under their domestic law, while Resolution 1950 stresses the need to investigate the involvement of transnational criminal networks and to prosecute those who indirectly take part in or unlawfully profit from piracy.²²⁶ Particular concern is expressed regarding illegal fishing and dumping in the Somali waters.²²⁷

225 UN Security Council (2008, December 16) *Resolution 1851*. Retrieved April 20, 2012, from <http://www.un.org>

226 UN Security Council (2010, April 27) *Resolution 1918*. Retrieved April 21, 2012, from <http://www.un.org>

227 UN Security Council (2008, November 23) *Resolution 1950*. Retrieved April 21, 2012, from <http://www.un.org>

UNSC Resolution 1976

The Council, with its Resolution 1976 passed on April 2011, emphasizes the importance of the actions undertaken on Somali territory by local authorities, including the adoption of counter-piracy laws, and urges them to establish rule of law on the whole territory to hit land-based activities linked to or facilitating piracy. The Resolution condemns the practice of hostage-taking and calls upon states to cooperate on the issue. Moreover, the Council considers the establishment of specialized Somali courts to try suspected pirates and urges member states to support the construction of additional prisons for pirates in Puntland and Somaliland.

The Resolution addresses also the issue of sustainable economic growth and the development of national fisheries. The Council requests to the Secretary-General to report on the protection of natural resources as well as on the problem of illegal fishing and dumping. The member states are urged to investigate on the latter, as:

...allegations of illegal fishing and dumping of toxic waste in Somali waters have been used by pirates in an attempt to justify their criminal activities...²²⁸

The Djibouti Code of Conduct

On 29 January 2009, representatives from Djibouti, Ethiopia, Kenya, Madagascar, Maldives, Seychelles, Somalia, Tanzania and Yemen met for a IMO-sponsored meeting in Djibouti to develop a regional approach towards maritime security.²²⁹ At the meeting, a non-binding agreement providing the framework for assisting regional States to counter piracy and armed robbery at sea, the Code of Conduct concerning the Repression of Piracy and Armed Robbery against Ships in the Western Indian Ocean and the Gulf of Aden (the Djibouti Code of Conduct), was adopted.²³⁰ The Code, modelled on the basis of ReCAAP, was later signed by Comoros,

228 UN Security Council (2011, April 11) *Resolution 1976*. Retrieved April 21, 2012, from <http://www.un.org>

229 Kraska, James & Wilson, Brian (2009) *Combating Pirates In The Gulf Of Aden: The Djibouti Code And The Somali Coast Guard. Ocean And Coastal Management*.

230 International Maritime Organization (2009, April 3) *Protection Of Vital Shipping Lanes*. Retrieved

Egypt, Eritrea, Jordan, Mauritius, Oman, Saudi Arabia, Sudan and the United Arab Emirates

The signatories agreed to co-operate in the investigation, arrest and prosecution of suspect pirates, as well as in the interdiction and seizure of suspect vessels. The code aims also to facilitate rescue operations and information sharing, establishing information centres in Sana'a, Yemeni, Dar es Salaam, Tanzania, and Mombasa, Kenya, which became operational in 2011.²³¹ On October of the same year, President Ismail Omar Guelleh and the director of the Maritime Safety Division of IMO Sekimizu Koji laid the foundation stone of a Regional Training Centre in Djibouti.²³²

The centre and other initiatives related to the Code have been sponsored through the Djibouti Code Trust Fund: the main contribution to the fund came from Japan, with \$14,6 million donated between 2009 and 2011. The Republic of Korea, Saudi Arabia and Marshall Islands contributed with \$100,000 each, other donations came from the Netherlands, Norway and France.²³³ Furthermore, the signatory states aim at developing regional cooperation to establish a co-ordinated regional coast guard, as well as train and equip a Somali coast guard, with well-defined rules of engagement (ROE) and establish protected corridors for safe transit in piracy-prone areas.

Multilateral Initiatives

Combined Task Force 150

Following the terrorist attacks of 11 September 2001, the Combined Task Force (CTF) 150 was established under the authority of UN Security Council Resolutions 1368

April 22, 2012, from <http://www.imo.org>

231 International Maritime Organization (2011, November) *Status Of Implementation Of The Djibouti Code Of Conduct*. (p.2) Retrieved April 22, 2012, from <http://www.imo.org>

232 International Maritime Organization. Press Briefings ((2011, October 31) *Regional Training Centre In Djibouti – Foundation Stone Laid*. Retrieved April 22, 2012, from <http://www.imo.org>

233 International Maritime Organization. Press Briefings ((2011, September 21) *Saudi Arabia Gives Boost To IMO Djibouti Code Trust Fund To Combat Piracy*. Retrieved April 22, 2012, from <http://www.imo.org> ; International Maritime Organization (2011, November) *Status Of Implementation Of The Djibouti Code Of Conduct*. (p.1) Retrieved April 22, 2012, from <http://www.imo.org>

and 1373 to conduct Maritime Security Operations (MSO) in an area ranging from Pakistani coast to Somalia.²³⁴ Since then, Australia, Canada, Denmark, France, Germany, Italy, the Republic of Korea, the Netherlands, New Zealand, Pakistan, Portugal, Singapore, Spain, Turkey, the U.K. and the U.S. participated to the operations of the task force. The aim of these operations, started from 2002, was initially limited to the contrast of terrorism and illegal trade in drugs in the Gulf of Aden, Golf of Oman, Arabian Sea, Red Sea and West Indian Ocean. The Japanese Maritime Self Defense Forces (MSDF) supported CTF-150 and Operation Enduring Freedom (OEF) in Afghanistan by sending refuelling ships in the area from 2001 till 2010.²³⁵ In the same period, the Combined Joint Task Force – Horn of Africa (CJTF – HOA) arrived in the area and was transferred to Camp Lemonnier, Djibouti, in 2003.²³⁶ Although anti-piracy was not included in its tasks, in the following years CTF-150 took an active role capturing suspected pirate vessels and establishing a Maritime Security Patrol Area (MSPA) to provide a secure transit zone for commercial vessels off the coast of Yemen.

Combined Task Force 151

In January 2009, CTF 151 was established by the U.S. Navy for the specific purpose of combating piracy: by April, personnel and vessels from Canada, Denmark, France, Germany, Greece, Italy, the Netherlands, Saudi Arabia, Spain, Turkey, U.K., U.S. and Yemen had joined the mission-based task force.²³⁷ A new International Recommended Transit Corridor (IRTC) was established on February 2009 to avoid Yemeni fishing boats. Before the end of 2009, efforts were made to improve synchronization with other naval units in the area, in particular Chinese, Russian and Indian vessels, through the Shared Awareness and Deconfliction Meeting (SHADE).

234 UN Security Council (2001, September 12) *Resolution 1368*. Retrieved April 23, 2012, from <http://www.un.org>; UN Security Council (2001, September 28) *Resolution 1373*. Retrieved April 23, 2012, from <http://www.un.org>

235 Ansari, Usman (2008) *CTF 150: The Coalition Is Seen As A Force For Good*. Retrieved April 23, 2012, from <http://usmanansari.com>; Yamaguchi, Mari (2010, January 15) Japanese Resuelling Mission In The Indian Ocean Ends. *AP*.

236 *Camp Lemmonier - History*. Commander, Navy Installation Command Website. Retrieved April 23, 2012, from <http://www.cnic.navy.mil>

237 Ploch, L., Blanchard, C. M., O'Rourke, R., Mason, R. C., King, R. O. (2009, April 24) *Piracy off the Horn of Africa*. CRS Report for Congress

NATO operations

On 25 September 2008, Ukrainian, Belize-flagged, Roll-On Roll-Off (RoRo) freighter *Faina* was hijacked while heading to Kenya. After the boarding, the pirates realized that the vessel they had seized was carrying thirty-three T-72 tanks, six anti-aircraft guns, one hundred fifty grenade launchers and various ammunitions.²³⁸ Although the pirates had not the possibility to unload the tanks, which despite Kenyan deny appeared to be destined to South Sudan, and the vessels had been under U.S. naval and air surveillance during the months-long negotiations which followed, the incident increased the concern of the international community for Somali piracy.²³⁹ The already high 2007 figures concerning pirate attacks had doubled by 2008.

On 24 October, NATO Standing Maritime Group 2 (SNMG 2) was ordered to prevent pirate attacks against WFP ships near the Horn of Africa: Italian destroyer ITS *Durand de la Penne*, Greek frigate HS *Temistokles*, Turkish frigate TCG *Gokova* and British frigate HMS *Cumberland* patrolled the waters off Somalia with the support of German tanker FGS *Roehn* until the end of the mission, named Operation Allied Provider, on 12 December.²⁴⁰ In 2009 SNMG2 was involved in another series of anti-piracy patrols in rotation with SNMG 1 as part of Operation Allied Protector.²⁴¹ On August 2009 the mission was replaced by Operation Ocean Shield, conducting intelligence, surveillance and reconnaissance missions while supporting the region's governments in their capacity building efforts.²⁴²

EU NAVFOR – Operation Atalanta

238 Mc Gregor, Andrew (2009, February 12) Russia's Arms Sales to Sudan a First Step in Return to Africa: Part Two. *Eurasia Daily Monitor*. Vol. 6 No. 29

239 Confusion Looms Over Ownership Of Seized Ukrainian Military Cargo (2008, September 29) *Xinhua*.; Njeri, Juliet (2009, February 5) High Stakes Remain On Somali High Seas. *BBC*.; Jones, Sam & McGreal Chris (2009, February 6) Somali Pirates Release Ukrainian Arms Ship. *The Guardian*. Retrieved April 23, 2012, from <http://www.guardian.co.uk>

240 *Operation Allied Provider*. Allied Command Operations Website. Retrieved April 23, 2012, from <http://www.aco.nato.int>; *Operation Allied Provider* (2008, December 1) Media Operations Centre Fact Sheet. Retrieved April 23, 2012, from <http://www.nato.int>

241 *NATO's Operations 1949 – Present*. Retrieved April 23, 2012, from <http://www.aco.nato.int>

242 *Operation Ocean Shield* (2012, March) NATO Fact Sheet. Retrieved April 23, 2012, from <http://www.nato.int>

Started on December 2008, European Naval Force Somalia - Operation Atalanta is the first naval campaign launched within the framework of the EU Common Security and Defence Policy (CSDP).²⁴³ The mission, extended until December 2014, aims at protecting “vulnerable” shipping off the coasts of Somalia, with particular concern with WFP and AMISOM vessels, and to suppress piracy in the region.²⁴⁴ The force comprises around 1,5000 military personnel, four to seven navy vessels and two to four Maritime Patrol and Reconnaissance Aircrafts (MPRA): the number may vary depending from the monsoons, which have a much greater impact on piracy than any naval force had so far. Forces from EU countries and non EU partners such as Norway joined EU-NAVFOR, which has its Operational Headquarters based in Northwood, United Kingdom.²⁴⁵ Besides AMISOM and WFP, the international force works in conjunctions with the EU Training Mission in Somalia and established a 24 hour manned monitoring of vessels transiting through the Gulf of Aden, the Maritime Security Center – Horn of Africa (MSC – HOA), similar to the U.K. Maritime Trade Operations office in Dubai and the US Navy's Maritime Liaison Office in Bahrain. In May 2012, following the decision taken on 23 March by the UE Council, EU helicopters conducted their first onshore attack: pirate's speedboats, weapons and fuel depots were destroyed during the attack, approved by the TFG. No casualties were reported and EU troops apparently did not land on Somali ground during the operation.²⁴⁶

China's Initiatives

In December 2008 China deployed a naval force consisting of two People's Liberation Army Navy (PLAN) destroyers, Type 052B *Wuhan* and Type 052C *Haikou*, supported by replenishment vessel *Weishanhu*, to fight piracy off the Horn of Africa. Chinese support for the international efforts to suppress piracy in the region was

243 *The Struggle Against Piracy: The Somalia Case And Turkey's Position. Report No.1* (2009, March) Center For Middle Eastern Strategic Studies. Retrieved April 24, 2012, from <http://www.strategicforesight.com>

244 COUNCIL DECISION 2010/766/CFSP of 7 December 2010 (2010, December 11) *Official Journal Of The European Union*.

245 Vego, Milan (2009) Counter-Piracy: An Operational Perspective. *Tidskrift i Sjöväsendet*. Tyresö: The Royal Swedish Society of Naval Sciences

246 EU NAVFOR Public Affairs Office (2012, March 15) *EU Naval Force Delivers Blow Against Somali Pirates On Shoreline*. Retrieved May 28, 2012, from <http://www.eunavfor.eu>

warmly welcomed by UN Secretary-General Ban Ki-moon and UN Security Council Neven Jurica.²⁴⁷ The deployment came after different Chinese vessels and ships of other nationalities bound to China came under attack off the coasts of Somalia. As an example, on 17 December 2008 MV *Zhenhua 4* was attacked by nine pirates armed with RPG and automatic weapons.²⁴⁸ The crew resisted for about four hours using water cannons and molotov cocktails before being rescued by Malaysian Navy.²⁴⁹

As for other nations involved in anti-piracy operations, the objectives of Chinese naval deployment are not limited to the protection of merchant ships. More specifically, the anti-piracy mission appears to be a good chance to improve China's integration within the international security cooperation framework and promote its image abroad. Being piracy a widely recognized menace against the ships of every nation, Chinese intervention has been positively evaluated by the international community, especially considering that PLAN is operating under UN mandate.²⁵⁰ In the following years, as part of the rotation of Chinese forces in the region, PLAN missile frigates were dispatched in the area and Type054 stealth frigate *Ma'anshan* successfully escorted WFP vessels.²⁵¹ Beijing joined the Contact Group on Piracy off the Coast of Somalia but did not take part in CTF-151 and multilateral cooperation with other navies remained an open issue. At the beginning of the mission, unclassified emails have been reportedly used by U.S. and Chinese naval officers to communicate.²⁵² However, according to U.S. Deputy Assistant Secretary of Defense for Asia and Pacific Security, David Sedney, PLAN work has been "well coordinated with the United States".²⁵³ The need for further coordination with other navies became apparent after the *De Xin Hai*, a Chinese ship transporting coal from South Africa to India, was hijacked by Somali pirates on October 2009. PLAN vessels, far from the area

247 UN hails naval escorting operations by China in Gulf of Aden, Somali waters (2008, December 23) *Xinhua*.

248 Chinese sailors fend off pirates in Gulf of Aden (2008, December 19) *Xinhua*.

249 Desperate Chinese sailors fight off Somali pirates with beer bottles and Molotov cocktails (2008, December 23) *The Daily Mail*. Retrieved April 30, 2012, from <http://www.dailymail.co.uk>

250 You, Ji & Lim Chee Kia (2009) *China's Naval Deployment To Somalia And Its Implications*. EAI *Background Brief No. 454*. Singapore: East Asian Institute

251 Chinese Warship Escorts World Food Program Ship To Somalia (2011, July 12) *DefenceWeb*.

252 Christoffersen, Gaye (2009) *China and Maritime Cooperation: Piracy in the Gulf of Aden*. Institute for Strategic, Political, Security and Economic Consultancy. Retrieved April 30, 2012, from <http://www.ispsw.de/>

253 U.S. praises China anti-piracy role off Somalia (2009, February 28) *AP*.

of the attack, were unable to rescue the ship, which was held by pirates for two months. Major General Qian Lihua, director of the foreign affairs office of China's Ministry of Defense, suggested that coordination with other navies had to be improved, as "there is a lack of strategic mutual confidence between us [China and U.S.]."²⁵⁴

The ongoing Chinese naval mission expresses also China's need to secure its SLOCs, a task that the PLAN will be called to fulfil with growing assertiveness according to Liberation Army Daily commentator Huang Kunlun.²⁵⁵ The Chinese task force includes some of PLAN most advanced vessels, designed and manufactured by Chinese shipbuilders, which have the possibility to pursue blue-water combat training without raising international concern about the so-called "China threat". The task force is composed by about 800 troops, including 70 PLA Special Operations Forces personnel.

Japan's Initiatives

After a series of attacks against Japanese ships in the waters off Somalia (*Golden Noi, Takayama, Stella Maris, Irene, Stolt Valor*), the Nippon Foundation and the Ocean Policy Research Foundation presented Prime Minister Asō Tarō a proposal recommending the prompt implementation of measures to prevent pirate attacks against vessels related to Japan.²⁵⁶ The Policy Proposal Regarding Japan's Response to Emerging Piracy off the Coast of Somalia, submitted on 18 November 2008, summarized the concerns expressed at the Emergency Conference on Measures to Thwart Somali Offshore Pirates held in Tōkyō in the same month. In the following years similar appeals for a stronger response to piracy came also from Keidanren (Japan Business Federation), as in the case of the Proposal to Take Stronger Measures to Control Piracy published on October 2011.²⁵⁷ As Japan was importing about 90% of its oil from the Middle East and Japanese imports from the region had just doubled

254 Buckley, Chris (2009, October 22) China Mulls Military Options Over Hijacked Ship. *Reuters*.

255 Lam, Will (2009, January 12) China Flaunts Growing Naval Capabilities. *China Brief*. Vol. 9 No.1 Retrieved April 30, 2012, from <http://www.jamestown.org>

256 *Policy Proposal Regarding Japan's Response to Emerging Piracy off the Coast of Somalia* (2008, November 14) The Nippon Foundation – Ocean Policy Research Foundation. Retrieved April 27, 2012, from <http://www.sof.or.jp>

257 Keidanren (2011, October 18) *Proposal To Take Stronger Measures To Control Piracy*. Retrieved April 27, 2012, from <http://www.keidanren.or.jp>

between 2003 and 2007, piracy started to be perceived as an effective threat to Japanese economy.²⁵⁸ Already in September 2008, the Japanese ambassador in Yemen had suggested that Japan might train Yemeni coast guard and provide patrol boats. In an interview published on 9 January 2009, U.S. Ambassador Thomas Shieffer urged Japan to respond to the menace of piracy by sending MSDF ships to the Horn of Africa. In the article, Shieffer expressed his view that the whole debate concerning Article 9 of the Constitution, which prohibits acts of war, had no connection with the fight against criminals without flag such as pirates, implying that Japanese government was not taking the necessary measures to protect its citizens.²⁵⁹ In February, Japan joined the CGSPC meeting in Bruxelles and on 13 March the cabinet submitted the Draft Law on the Penalization of Acts of Piracy and Measures against Acts of Piracy, followed by a statement of Minister for Foreign Affairs Nakasone expressing the “determination to take further measures, including the utilization of ODA, to eliminate the piracy off the coast of Somalia”.²⁶⁰ In Nakasone's statement, specific reference was made to the fact that the only durable solution to the problem of piracy was the stabilization of Somalia and to Japan's role in assisting the TFG and AMISOM.

MSDF vessels sail to Africa

Despite the constitutional restrictions of Article 9, on 14 March 2009 Japanese government dispatched JS *Sazanami* and JS *Samidare* MSDF destroyers to the coast of Somalia and the Gulf of Aden under the pre-existing Maritime Security Operation law. The ships were equipped with SH-60J anti-submarine helicopters and transported personnel from the Special Boarding Unit.²⁶¹ Although the mission was limited to the protection of Japanese-registered vessels, Japanese-owned vessels and ships with Japanese nationals aboard, strict ROE limited MSDF vessels' possibility to respond to

258 Kemp, Geoffrey (2010) *The East Moves West*. Washington, D.C.: Brookings Institution Press

259 Exclusive Interview With Thomas Shieffer. Strong Japan-U.S. Alliance Means Stable Asia (2009, January 9) *Yomiuri Shimbun*; US Envoy Urges Japan To Join Somalia Anti-Piracy Mission (2009, January 9) *AFP*.

260 *Statement by Mr. Hirofumi Nakasone, Minister for Foreign Affairs, on the Cabinet Decision on the Draft Law on the Penalization of Acts of Piracy and Measures against Acts of Piracy* (2009, March 13) Retrieved April 27, 2012, from <http://www.mofa.go.jp>

261 Government of Japan. Ministry of Defense. *Defense of Japan 2010* (p. 248) Retrieved April 27, 2012, from <http://www.mod.go.jp>

pirate attacks. To facilitate the arrest of suspect pirates, together with the 400 MSDF personnel also eight JCG officers were assigned on board the vessels.²⁶² Since June 2009, Japanese P-3C *Orion* fixed-wing maritime patrol aircrafts began patrol operations in the Gulf of Aden and 150 MSDF personnel were moved to Camp Lemmonier US Naval Base, Djibouti.

After the anti-piracy bill was passed on 19 June 2009, MSDF vessels are authorized to escort foreign ships, modified ROE enable them to fire at pirates or suspect ships if warnings are ignored and personnel is under direct threat. The anti-piracy bill opened also to the collaboration and coordination with other naval forces deployed in the region.²⁶³ The Ministry of Land, Infrastructure, Transport and Tourism (MLIT) was charged to appraise the priority of vessels applying to be escorted and forward it to the SDF: after the new law became effective in July, the same procedure is applied to non Japan-affiliated ships, although priority is given to Japanese vessels.

A Comprehensive Approach

Japan's approach towards the problem of piracy in the waters off Somalia has, since its inception, combined an extension of the role of MSDF and an application the lesson learned from its experience in the fight against piracy in Southeast Asia: long-term solutions to maritime piracy come from economic stability and improvement of the rule of law on the coasts. Objectives that can be reached through joint national and regional initiatives, as time and money consuming international naval missions have quite a limited impact on the root causes of piracy.

Japan is a major contributor of the Djibouti Code Trust Fund and has been available to share its experience earned from the activities of the ReCAAP Information Sharing Center. Official Development Assistance flow to Yemen and Djibouti increased in 2009. In Djibouti, Japan aimed at improving food security on middle and long term by enhancing agricultural production and supporting capacity building concerning ship

262 Kiyota, Tomoko (2009, March) Japan Self Defence Force in Somalia Coast. *ICPS Issue Brief*. No.95; Christoffersen, Gaye (2009) Japan And The East Asian Maritime Security Order: Projects For Trilateral And Multilateral Cooperation. *Asian Perspective*. Vol.33 No.3

263 Japan Eyes Naval refuelling For Anti-Piracy Mission (2009, October 27) *AP*.

operation and maintenance.²⁶⁴ Somali TFG police officers have been trained in Djibouti before returning to Mogadishu, where Japan contributed to their stipends as well as to job training and infrastructure improvement in the port area. Moreover, the Japan International Cooperation Agency (JICA) launched in 2012 a study of water supply, sanitation and hygiene for IDPs living in the area surrounding Mogadishu.²⁶⁵ Even if Japan strongly supported the role of the TFG and AMISOM, at the February 2012 London Conference on Somalia, Parliamentary Senior Vice-Minister for Foreign Affairs Yamane Ryuji warned that “International assistance may vanish in smoke unless the TFG follows its own roadmap to establish constitutional law and make political reforms.”²⁶⁶

The Role of Djibouti

Notwithstanding its extremely limited territory and population, Djibouti is located in a strategic position both as Ethiopia's primary link to the sea and as a safe port for naval forces engaged in the anti-piracy missions. The authoritarian government of Ismail Omar Guelleh, President since 1999, wisely exploited the favourable geography of the country and the instability of its neighbours to receive the international support necessary for its survival. High unemployment, unequal distribution of wealth, absence of independent media and the exclusion of every credible opposition movement from the political life of the country characterized his three terms in office.²⁶⁷

Djibouti hosts the 2,900-strong Forces Françaises à Djibouti (FFDJ), about 1,500 U.S. troops at Camp Lemmonier and a growing number of Japanese troops at the Japanese Facility for Counter-Piracy Mission in Djibouti. Guelleh government is also actively involved in the Somali peace building process through the IGAD, whose

264 Japanese Government. Ministry of Foreign Affairs. *Japan's ODA Data*. Retrieved April 29, 2012, from <http://www.mofa.go.jp>

265 Japan Founds IOM Water Treatment Project For IDPs In Somalia (2012, February 21) *Panapress*.

266 Embassy of Japan in Kenya (2012, February 23) *Statement by H.E. Mr. Yamane Ryuji - Parliamentary Senior Vice-Minister for Foreign Affairs of Japan At London Conference on Somalia*. Retrieved May 1, 2012, from <http://www.ke.emb-japan.go.jp>

267 U.S. Government. Department of State (2011) *2010 Human Rights Report: Djibouti*; Amnesty International (2011) *Djibouti – Amnesty International Report 2010*. Retrieved May 1, 2012, from <http://www.amnesty.org>

headquarter is located in the country.

Between 2005 and 2008 Djibouti received ODA mainly from French, with significant contribution also from the United States. In 2009, Japan and Italy increased their ODA flows: Japan, in particular, assisted the Project for the Improvement of Maritime Transportation Capacity in the Gulf of Tadjoura, the Capacity Development of Ship Operation and Maintenance project and the Project for the Rehabilitation of the Equipment for the Production of Programs at the Radio and Television Station.²⁶⁸ In December 2010, president Guelleh and minister of foreign affairs Mahmoud Ali Youssef visited Japan together with a business delegation led by the Said Omar, president of the Djibouti Chamber of Commerce. Guelleh meeting with president Kan and the business delegation's tour aimed at enhancing economic cooperation, attracting further investments in the small African country. In addition, a memorandum of understanding was signed between Tokushukai Medical Corp. And the Djibouti Health Fund for the realization of a new hospital with Japanese technological support.²⁶⁹

The SDF in the Horn of Africa: Further Developments

At the time of writing, although the key role of MSDF seems out of question, other branches of the SDF have been involved in the anti-piracy activities: the protection of P-3C aircrafts in Djibouti required the deployment of Ground Self Defense Force (GDSF) personnel, while Air Self Defense Force (ASDF) C-130H and U-4 aircrafts provide the air transport service needed to support the units working in the region.²⁷⁰

268 Japanese Government. Ministry of Foreign Affairs. *Japan's ODA: Rolling Plan For Djibouti*. Retrieved April 29, 2012, from <http://www.mofa.go.jp>

269 Ali, Ahmed Arait (2011, June 27) Nation Consolidates Position As Africa's Gateway. *The Japan Times*.

270 Government of Japan. Ministry of Defense. *Defense of Japan 2010* (p. 244) Retrieved April 27, 2012, from <http://www.mod.go.jp>



The struggle against piracy introduced another relevant change in Japan's defence strategy: for the first time since the end of World War II, a Japanese military base was established outside national territory. The Japanese Facility for Counter-Piracy Mission in Djibouti, located inside Djibouti International Airport, was opened on 1 July 2011, making SDF the third foreign military force based in the country, together with U.S. and French military.²⁷¹ The base includes commanding headquarters, personnel quarters, airport ramp, hangar and gymnasium.²⁷² Differently from other SDF temporary camps abroad, as those in Cambodia and Iraq, the Djibouti facility seems meant to stay and uses local infrastructure for electricity and water supplies. At the time of its opening, the camp was planned to be used for about ten years to facilitate SDF intervention in Africa and Middle East, as officials reportedly stated.²⁷³ Jeffrey W. Hornung, professor at the U.S. Department of Defense Asia-Pacific Center for Security

271 Japanese Facility For Counter-Piracy Mission In Djibouti (2011) *Japan Defense Focus*. No.22

272 SDF readies overseas base in Djibouti / 1st outpost abroad to help fight piracy (2011, May 29) *The Yomiuri Shimbun*.

273 Furukawa, Hajime (2011, May 29) Djibouti Base 'In Natl Interest'. *The Yomiru Shimbun*; Kato, Yoichi (2011, August 5) SDF's New Anti-Piracy Base Creates A Dilemma. *The Asahi Shimbun*.

Studies, closely connected with the MSDF, suggested that Japanese forces in the region might have a role during or after a war in Iran. This includes the protection of Japanese ships transiting in the Strait of Hormuz, the refuelling of other nation's warships and post-conflict minesweeping. According to Hornung: "While diplomacy and economic sanctions are still the primary tools to deal with Iran, it is Noda's responsibility to consider what role the SDF can play in a contingency, if necessary".²⁷⁴

Clear strategy, dubious results

Japan's addressed the problem of maritime safety off the Horn of Africa aware of the fact that a durable solution can be achieved only by improving the situation in Somalia. On a short term, the dispatch of MSDF forces for patrol and escort missions, with new, well defined ROE and in coordination with other countries has been chosen as the best response to the surge in pirate attacks. The international naval response, however, has been so far unable to produce significant results: the pirate's area of activity is too extended to be successfully patrolled by even dozens of warships; the lack of reliable information and the "Black Hawk Down syndrome" ground assaults on the coastal bases. The inability or lack of political will to persecute pirates once they had been captured further undermines the concept of deterrence. In the first half of 2009, about 700 pirates appeared to be released after being caught by naval forces.²⁷⁵ Agreement for their extradition to other countries for trial have been reached, but difficulties remain. Despite the impressive number of warships dispatched off the coasts of Somalia, the number of pirate attacks has been constantly rising in the last years.²⁷⁶

On medium and long term, Japan, as other international actors involved in the fight against Somali piracy, attempted to apply the anti-piracy model used in Southeast Asia to Somalia. The promotion of regional forums or agreements such as the Djibouti Code of Conduct (based on the ReCAAP) to enhance information sharing and cooperation are examples of initiatives focused on medium term objectives. The same

274 Hornung, Jeffrey W. (2012, April 7) Noda Has An SDF Moment. *The Japan Times*.

275 Graziani, Francesca (2009) *Il Contrasto della Pirateria Marittima nel Diritto Internazionale* (p227). Napoli: Editoriale Scientifica

276 Data based on ICC-IMB Annual Reports 2007-2011

can be said for what concerns the projects of training coast guards from Yemen, Oman, Kenya and Tanzania. On the long term, it is widely recognized that the rebuilding state institutions in Somalia will be the only definitive solution to end the problem of Somali piracy. Japan, in line with most part of the international community, is attempting to reach this objective by supporting the TFG and improving living conditions in Somalia. The efforts to legitimize the role of the TFG passes through donations, training of law enforcement officers and support of AMISOM. Japan donated approximately \$7 million to improve order and security in the country, through UNDP and other agencies. Moreover, more than \$60 million have been spent in humanitarian assistance: this includes food assistance through the WFP, refugee and IDP aid, measures against human trafficking, initiatives to improve health and education.²⁷⁷

These medium and long term initiatives suffer of significant weaknesses. Piracy in Southeast Asia has been based on the territory of weak governments with underfunded or corrupt law enforcement agencies that, at least for some years, had been unable to overcome sovereignty concerns in order to fight piracy. In Somalia, the pirate bases are located on a territory where a government simply does not exist or where, as in the case of Puntland, local authorities at all levels are actively taking part in the pirate's business. For this reasons, the term “regional cooperation”, which in Southeast Asia refers to the cooperation between all the nations affected by piracy, in the Horn of Africa it refers to the coordinated actions of all the nations in the area with the exception of the only one which is the source of the problem. Moreover, even this limited cooperation is undermined by conflicts of interests between regional states. Not only Somalia is not Indonesia, but also Djibouti is definitely not Singapore. In addition, the value of the government experiences of the ICU, Somaliland and Puntland has been ignored, while the TFG is pictured as the only possible solution, despite its history of corruption and inefficiency.

Conclusion

277 Government of Japan. Ministry of Foreign Affairs (2009, June) *Multi-Faceted Approach To Deal With Piracy Off The Coast Of Somalia*. Retrieved May 1, 2012, from <http://www.mofa.go.jp>

The anti-piracy initiatives in the waters off Somalia have limited the number of successful attacks and lead to the arrest of some of the pirates captured during the missions. Besides these results, the number of attempted attacks did not decreased and political stability in Somalia seems still far to be reached. The international response has been focused on strengthening security at sea, addressing one of the effects of the Somali crisis and not its roots. On the other side, pirates proved to be able to avoid the military units at sea by expanding their area of operations. A direct and prolonged intervention on the pirate ports on Somali territory can probably be excluded considering the results of past foreign interventions, the lack of intelligence and the fact that there is no reason to believe that such raids will have a serious impact neither on those pirates which do not need a port to operate nor on the leaders of pirate gangs, which might be easier to find following the ransom money more than the ships. Regional coordination and international aid have not achieved long-lasting, satisfying results due to the intrinsic weakness of what the international community continue to consider the legitimate government of Somalia, the TFG: a government which lacks of local legitimation and whose survival still depends on foreign military and financial support.

PIRACY, SLOCS AND “DYNAMIC DEFENSE”

Comparing the Southeast Asian anti-piracy experience and the Somali situation, a shift can be noticed in Japanese approach towards piracy. The MSDF is currently semi-permanently deployed in the Indian Ocean and Japan opened its first overseas military facility in Africa. Anti-piracy apparently has been a useful tool to deploy military forces, with new ROE, in situations which were inconceivable a decade before. This chapter will analyse the reasons which, in our view, led to the reinforcement of Japan's sea power and how anti-piracy has been functional to the extension of Japan's naval capabilities.

Japan's Economic Interests in the Middle East

Overview

Japan developed profitable economic relations with a number of countries in the Middle East to meet its energy needs. Despite its investments in research and development of alternative sources of energy, Japan's dependence from oil and LNG imports is estimated to continue, at least in the near future, after Japan's shift in energy policy following the Fukushima Dai-ichi nuclear disaster.²⁷⁸ Although the core of Japan's trade with most Middle East countries is represented by energy imports, the region represents also an important market for Japan's exports of automobiles, machinery and electrical equipment.

During his visit in Saudi Arabia in 1997, Japanese Prime Minister Hashimoto called for a Comprehensive Partnership Toward the 21st Century, followed in 1998 by the Japan-Saudi Arabia Cooperation Agenda, aimed at developing investments and technological exchange. A further enhancement in the Japan – Saudi relations came when Foreign Minister Kono announced in 2001 a series of initiatives to promote the dialogue with the Islamic World and developing water resources.²⁷⁹ In 2006, Crown Prince 'Abd ullāh ibn 'Abd al-'Azīz Āl Su'ūd visited Japan for his first foreign tour since assuming new office, reassuring Japan of his country's will to continue supplying Japan's need of crude oil²⁸⁰. In August 2005, Saudi oil company Aramco and Japan's Sumitomo Chemical signed a joint venture agreement and in 2009 opened a new petrochemical complex in Rabigh.²⁸¹ Saudi Arabia provided in 2010 30.8% of Japan's total crude oil imports, followed by United Arab Emirates and Iran (21.1% and 9.8% respectively).²⁸²

Japan's economic relations with Iran have been jeopardized by U.S. pressures to isolate Tehran over its nuclear program. Japan's imports of oil from Iran amounted to \$18.5 billion in 2008 but decreased to \$10.4 in 2010, although Japan remained the

278 McCurry, Justin (2012, May 3) Anxious Japan Prepares For Life Without Nuclear Power. *The Guardian*. Retrieved May 13, 2012, from <http://www.guardian.co.uk>

279 Government of Japan. Ministry of Foreign Affairs. (2012, January) *Japan – Saudi Arabia Relations*. Retrieved May 13, 2012, from <http://www.mofa.go.jp>

280 Sager, Abdulaziz (2006, April 5) *Saudi Arabia – Japan Relations*. Saudi – U.S. Relations Information Service

281 *Petro Rabigh's History*. Retrieved May 13, 2012, from <http://www.petrorabigh.com>

282 *United Nations Commodity Trade Statistics Database*

second top export destination for Iran's oil (17% of Iran's oil exports).²⁸³ The cuts of Iran's oil imports, which continued in 2011, were welcomed by U.S. Secretary of State Hillary Clinton in March 2012, when the U.S. State Department announced that Japan will be exempt from U.S. Sanctions.²⁸⁴

In the ADMA Block, United Arab Emirates, Japan Oil Development Company (JODCO), a wholly owned subsidiary of Inpex since 2004, holds a 12% stake in the Umm Shaif, Lower Zakum, Upper Zakum, Umm Al-Dalkh, Nasr and Umm Lulu fields, as well as a 40% stake in the Satah field.²⁸⁵ Investments have been made in different UAE, notably in the Mubarras Island, and Qatar fields by Nippon Oil, Cosmo Oil, Tōkyō Electric, Chubu Electric and Kansai Electric.

As world's top LNG exporter, Qatar, from which Japan imported 10.9% of its LNG in 2010, plays a strategic role in Japan's energy relations with the Middle East.²⁸⁶ In 2011 Japan prepared its port for receiving new Qatari LNG tankers Q-Flex and Q-Max, the largest LNG carriers in the world, developed by Qatargas and constructed in South Korea.²⁸⁷ The Japan-Qatar Joint Economic Committee holds annual meetings in Tōkyō since 2006 to enhance bilateral relations. At the 2011 meeting, attended by Japan's Foreign Minister Gamba, Minister of Economy, Trade and Industry Edano and Qatari Deputy Premier Abdullah al-Attiyah, the expectation for Japanese companies to participate in infrastructure projects in view of 2022 World Cup was expressed.²⁸⁸ The Japan Bank for International Cooperation (JBIC) signed in November 2006 a memorandum of understanding (MOU) with Qatar Petroleum to promote Japanese firms investments in the emirate and in October 2008 a further MOU was signed to facilitate business in the environmental sector.²⁸⁹ In the same year, JBIC, financed the power generation and water desalination project of Ras Qartas Energy Plant through a

283 Japan 'To Reduce Iran Oil Imports' (2012, January 12) *BBC*

284 Nakajima, Kentaro (2012, March 22) U.S. sanctions on Iran oil exempt Japan / 10 European countries also win waivers. *Daily Yomiuri Online*. Retrieved May 13, 2012, from <http://www.yomiuri.co.jp>

285 Inpex Corporation. *Our Business – Middle East and Africa*. Retrieved May 15, 2012, from <http://www.inpex.co.jp>

286 Top LNG Exporter Qatar Eyes Investment In 'Rival' Australia (2011, October 3) *Arab Times*.

287 Qatargas. *Future Fleet*. Retrieved May 14, 2012, from <http://www.qatargas.com>

288 Japan, Qatar agree on infrastructure, energy projects (2011, October 6) *Kyodo News*.

289 Japan Bank for International Cooperation. *JBIC Signs MOU on Comprehensive Strategic Partnership with Qatar Petroleum* (2006, November 17) Retrieved May 15, 2012, from <http://www.jbic.go.jp>; Japan Bank for International Cooperation. *JBIC Signs MOU with Qatar Petroleum* (2008, November 4) Retrieved May 15, 2012, from <http://www.jbic.go.jp>

loan agreement of \$1,500 million.²⁹⁰ In 2007 Doha Bank opened a representative office in Tōkyō to promote bilateral opportunities and foreign direct investments in Japan.²⁹¹ Japanese firms Idemitsu, Cosmo, Mitsui and Marubeni hold relevant shares of the new Laffan Refinery, which started its activities from September 2009.²⁹²

JBIC provided loans also to Oman in 1999 and 2006 for the construction of the port of Sohar and other infrastructures in the area.²⁹³ In 2007, JBIC and the government of Oman signed a \$660 million loan for the construction of a port equipped with dry docks for repairing LNG and oil tankers in Duqm district, reducing ship maintenance costs for Japanese firms.²⁹⁴ JBIC financed a power infrastructure project in Oman for the first time in 2011: the Sur IPP Power Generation Project, Oman's biggest natural gas-fired combined cycle plant, expected to be completed in 2014 and cover one quarter of the sultanate's power demand.²⁹⁵

In Kuwait, Mitsui won a \$1.3 billion Engineering, Procurement and Construction (EPC) order in 2007 to build Shuaiba North Co-Generation Plant, the country's first co-generation power and distillation project.²⁹⁶ During the 2004 – 2006 deployment of the Japanese Iraq Reconstruction and Support Group, Kuwait has been used as a base from which airlifting equipment, personnel and humanitarian relief supplies to Samawah, Iraq.²⁹⁷ The ASDF continued airlifting troops and material from Kuwait for the U.S.-led coalition and the United Nations until 2008.²⁹⁸ In the occasion of his visit to Kuwait in 2007, Prime Minister Abe visited ASDF troops and met Kuwait Prime Minister Sheikh

290 Japan Bank for International Cooperation. JBIC Signs Loan Agreement for Power and Desalination Project in Qatar (2008, August 6) Retrieved from <http://www.jbic.go.jp>

291 Iida, Mai (2007, February 4) Doha Bank to promote two-way investment between Japan, Qatar. *The Japan Times*.

292 Japanese consortium joins Qatar refinery (2006, November 29) *Reuters*; Qatargas. *Laffan Refinery*. Retrieved May 15, 2012, from <http://www.qatargas.com>

293 Japan Bank for International Cooperation. *Improving the Investment Climate*. Retrieved May 15, 2012, from <http://www.jbic.go.jp>

294 Japan Bank for International Cooperation. *Loan for Port Development Project in Oman*. Retrieved May 15, 2012, from <http://www.jbic.go.jp>

295 Prabhu, Conrad. Japanese-led consortium scoops licence for Sur IPP (2011, June 29) *Oman Daily Observer*; Sur IPP to be based on superior power generation technology (2011, July 16) *Oman Daily Observer*; Japan Bank for International Cooperation. *Loan for Sur IPP Power Project in Oman* (2011, November 22) Retrieved May 15, 2012, from <http://www.jbic.go.jp>

296 Japan Cooperation Center for the Middle East. *The Second Meeting of the Japan-Arab Economic Forum*. Retrieved May 15, 2012, from <http://www.jccme.or.jp>; Mitsui wins \$1.3bn Kuwait deal (2007, June 27) *Gulf Daily News*.

297 Iraq: Japan to order dispatch of advance ASDF team to Kuwait, Qatar (2003, December 10) *KUNA*.; Japan's main ASDF unit arrives in Kuwait on Iraq mission (2004, January 24) *Xinhua*.

298 ASDF airlifts from Kuwait to Iraq end soon (2008, November 23) *Kyodo News*.

Nasser.²⁹⁹ In a joint statement issued on May 2007:

“The Kuwaiti side expressed its commitment to assure steady and stable oil supplies to Japan. The Japanese side also expressed its willingness to enhance technical cooperation and other support for the upstream and other oil sectors in Kuwait.”³⁰⁰

Appreciation was expressed on the Kuwaiti side for the results of the Initiative for Kuwait-Japan Cooperation on Environmental Issues and Technology Transfer. Began in 2002, the Initiative included a project for the environmental rehabilitation of Kuwait Bay commissioned by the Japanese government to the Japan External Trade Organization. A project team composed by IDEA Consultants, Fuji Electric Water Environmental Systems, Penta Ocean Construction and Arabian Oil cooperated with Kuwait Environment Public Authority to find solutions for the bay's environmental pollution.³⁰¹ Other initiatives included the modernization of oil industry and a Human resources Development Program. Moreover, the two Prime Ministers expressed their support to the expansion of cooperation in the education field between Japan and Kuwait. After the 2011 Tohoku Earthquake, Kuwait donated 5 million barrels of crude oil to Japan. At the December 2011 Kuwaiti-Japanese Businessmen meeting, Japanese firms expressed their interest in participation and technical cooperation in Kuwait's Five-Year Development Plan. Hitachi Ltd. and JCG Corp. Presented, respectively, a modern urban transit system and a environment-friendly urban development project.³⁰²

Japan – GCC trade

Trade between Japan and the Gulf Cooperation Council (GCC) states increased

299 Penn, Michael (2007, November 8) Is There a Japan-Iraq Strategic Partnership? *The Asia-Pacific Journal: Japan Focus*. Retrieved June 2, 2012, from <http://www.japanfocus.org/>

300 Government of Japan. Ministry of Foreign Affairs. Joint Statement between the State of Kuwait and Japan. Retrieved May 15, 2012, from <http://www.mofa.go.jp>

301 El Gamal, Rania (2007, December 4) Kuwait Takes Over Bay Rehabilitation. *Kuwait Times*.

302 Embassy of the State of Kuwait. *News*. Retrieved May 15, 2012, from <http://kuwait-embassy.or.jp>

significantly in the mid-2000s, experienced a sharp decline in 2009 and recovered in the 2010-2011 biennium. The increase of value of the two-way trade between Japan and the six Gulf countries, from \$122.4 billion in 2010 to \$162.2 billion in 2011, has been attributed to the rise of hydrocarbons price as well as to the increment of the volume of Japan's fuels imports. Exports from the GCC countries to Japan reached \$141.1 billion in 2011, a significant enhancement from 2010, when they accounted for \$101.9 billion. Japanese exports to GCC countries declined in the same period from \$20.1 billion to \$19.6 billion.³⁰³

Particulars	2005	2005	2007	2008	2009	2010
Crude oils	60,372.06	76,058.51	76,976.39	115,658.03	62,217.15	78,752.88
Petroleum Gases	8,775.55	12,790.67	14,264.22	20,751.76	12,764.63	15,989.84
Light oils and oil products	5,041.02	5,913.20	6,253.77	7,508.30	5,044.00	6,446.06

Source: Japan customs, compiled by World Trade Atlas

Trade between Saudi Arabia and Japan, which had grown from \$22 billion in 2004 to \$58.7 billion in 2008, dropped to \$34,6 billion in 2009. Japan – Saudi trade surged in 2010 to \$42 billion and again in 2011 to \$57 billion. Japan crude oil imports from the Kingdom registered a 5.5% increase, in a period in which the average price of Saudi crude oil rose by approximately 37%. In the same biennium, gas imports declined by volume (- 7.3%) but the rise of the average price (+ 21%) increased their value (+ 12%). Organic chemicals, plastics and copper articles imports registered considerable increases, respectively + 40%, + 80% and + 44%. Exports of passenger motorcars, clocks, prepared meat and fish, furniture and beddings declined in the same period. Nevertheless, exports of trucks, tractors, motorcycles, general machinery, iron and steel increased in 2011.³⁰⁴

The United Arab Emirates accounted for 25% of Japan's oil imports in 2007, and the following year bilateral trade between the two countries registered a + 41.8% increase reaching over \$57 billion.³⁰⁵ The dramatic fall of 2009, when Japan-UAE trade

303 KSA: Japan's largest Gulf trade partner (2012, May 10) *Saudi Gazette*.

304 Japan External Trade Organization. *Japan-GCC Trade During The Year 2010* (2011, June 2) Retrieved May 15, 2012, from <http://www.jetro.go.jp/>

305 Debjani, Paul (2009, May 12) Japan exports body reports 41.8% climb in trade with UAE. *Gulf News*. Retrieved May 15, 2012, from <http://gulfnews.com/>

registered only \$29.2 billion, has been partially compensated in 2010. In this year, bilateral trade grew again to nearly \$37 billion. UAE, Japan's top export destination among the GCC countries, saw its imports of Japanese products gradually increasing from \$6.5 billion in 2009 to \$7.33 and then \$7.44 billion in 2010-2011. Motor vehicles exports, which represents 47.6% of Japan's total exports to the UAE, almost doubled from 2009 to 2010, while general and electrical machinery declined in 2010. Hydrocarbon imports represented the 98.5% of Japan's imports from the UAE, which remained the second-largest supplier of crude oil to Japan: 278.12 million barrels in 2010, covering about 21% of the country's crude oil imports. In the same year, UAE has been the 10th largest supplier of aluminium to Japan: 139,641.56 metric tons, corresponding to about 4.11% of Japan's 2010 aluminium imports.

Japan's third largest partner and top supplier of LNG among the GCC countries, Qatar saw an increase of the value of its trade with Japan due to the increase of the average price of crude oil and gas. Japan – Qatar trade recovered from 2009 contraction (\$17,5 billion, compared to \$28,4 billion in 2008) reaching \$22,8 billion in 2010, but the increase in value did not reflect a similarly steady increase in volume. Japan imported 10.5 million tons of natural gas and 159.6 million barrels of crude oil in 2009: gas imports increased by only 500.000 million tons in 2010, while crude oil imports in fact decreased to 158.9 million barrels. Also Japan's exports to Qatar, including general machinery (-71.7%) and electrical machinery (-74.4%), declined, with the exception of vehicle exports which increased by 58.5% in 2010.

Bilateral trade between Kuwait and Japan declined from \$17,3 billion in 2008 to \$10,2 billion in 2009, with a slight increase in 2010 (\$11,7 billion). Japan's imports of hydrocarbons constituted 99.95% of the total imports from Kuwait. Japan oil and gas import declined in volume, -11.28% and -14.6% respectively, but rose (for what concerns crude oil, significantly: +32%) in value. Thus, the surge of the price of hydrocarbons has been the main reason of the increase of value of Kuwait – Japan trade in 2010. Japan's export of motor vehicles, rubber products, optical instruments, iron and steel products to Kuwait increased, while export of general and electrical machinery significantly decreased.

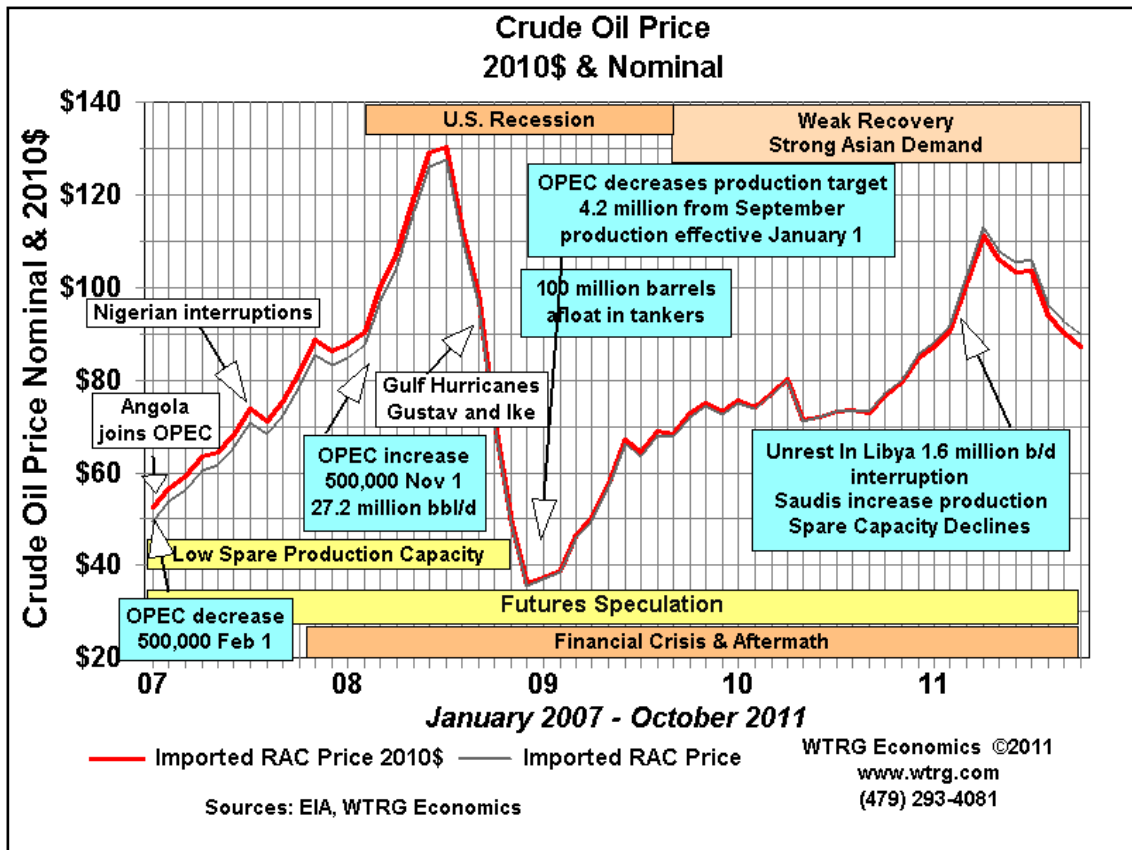
Japan - Oman trade increased from \$3.1 billion in 2002 to over \$9.5 billion in 2008. Bilateral trade fell to \$5.7 billion in 2009 and increased by \$34.4% in 2010,

reaching \$7.6 billion. Crude oil and gas imports had increased in 2010, both in value and volume. Japan's crude oil imports rose to 43 million barrels, corresponding to a 16.2% increase compared to the 37 million barrels of the year before. In the same period the value of crude oil imports from Oman had grown by almost 45%. Gas imports increased by 12.6% in value and about 11% in volume. Oman has been the third largest importer of Japanese motor vehicles among GCC countries in 2010 and motor vehicles exports represented about 85% of Japan's exports to Oman, registering a 38.5% surge from 2009. Electrical machinery, which together with transport equipment played a major role in the 2008 export growth to Oman (+54%), grew again in 2010.³⁰⁶

Bilateral trade with Bahrain increased from less than \$1 billion in 2009 to \$1,25 billion in 2010 and decreased again to 1,03 billion in 2011.³⁰⁷ Crude oil imports from Bahrain were limited to \$78 million, while light oils and oil preparations amounted to almost \$ 490 million. Aluminium imports from Bahrain rose by 56% in 2010 reaching 30,566 metric tons. Japan's exports to Bahrain, mainly motor vehicles, registered a general increase. General machinery exports rose by 35% and electrical machinery exports increased by 42.4%, while iron and steel products passed from \$5.6 million in 2009 to \$13.6 million in 2010 (+143.84%).

306 Kemp, Geoffrey (2010) *The East Moves West*. Washington, D.C.: Brookings Institution Press; U.S. Government. Department of Energy. Energy Information Administration (2011, March 15) *Japan Energy Data, Statistics and Analysis - Oil, Gas, Electricity, Coal*.

307 Embassy of Japan in Bahrain. *Bilateral Relations*. Retrieved May 15, 2012, from <http://www.bh.emb-japan.go.jp>



The road towards a Japan–GCC Free Trade Agreement

Preliminary talks between Japan and the GCC countries about a Free Trade Agreement (FTA) started in 2006 and evolved into full-scale negotiations in the following years. The agreement could have allowed a stimulation of Japan's vehicle and machinery exports through reduced tariffs in the GCC countries, as well as further securing its energy supplies in view of a reduction of Japan's economic ties with Iran.

Japan- GCC total trade – by country (value in million US \$)					
Country	2008	2009	2010	G. Rate %	Share %
Saudi Arabia	58,740.1	34,582.8	42,374.0	22.53	34.62
UAE	57,645.9	29,205.1	36,617.9	25.38	29.91
Qatar	28,453.5	17,552.6	22,842.7	30.14	18.66
Kuwait	17,335.6	10,233.2	11,707.7	14.41	9.56
Oman	9,513.2	5,671.4	7,623.4	34.42	6.23
Bahrain	1,360.3	961.5	1,257.5	39.79	1.03
Total	173,048.6	98,206.6	122,423.2	-----	100.00

Source: Japan Customs, compiled by World Trade Atlas

In 2005, GCC countries had accounted for 75% of Japan's oil imports and Iran

for about 15%. After a preliminary meeting in May 2006, the process began in September 2006 with the first round of the FTA talks in Tōkyō, which saw the participation of Deputy-Minister-class Japanese officials and a delegation headed by Deputy Minister of Finance for Economic Affairs of the Kingdom of Saudi Arabia Hamad Bin Sulayman al-Bazai.³⁰⁸ Japan and the six Gulf nations initially expected to finalise the agreement by 2008, with Japan urging the GCC countries to proceed as quick as possible: according to senior executive director of JCIC Hoshi Fumio, Japan aimed at concluding the agreement already in the first half of 2007.³⁰⁹ On January 2007, Japan's ambassador to the UAE Hatano Takuma, while recalling Japan – UAE's high level of economic interdependence, confirmed that "All the critical and substantial issues related to the agreement have been already resolved, and accordingly the substance of the agreement should be final by the end of 2007".³¹⁰ Japanese Prime Minister Abe visited UAE in April 2007 with a delegation of 180 Japanese businessmen and confirmed Japan's will to accelerate the FTA talks and reach an agreement by 2008.³¹¹ According to then Japanese Ambassador in Qatar Horie Masahiko, the initial proposal was to conclude separate FTA agreements with each GCC country but, in 2007, "the GCC countries collectively have come forward with suggestions that the FTA can be concluded on a bloc basis. Hence there is no need for discussions with each Gulf State on the proposed FTA."³¹²

308 Government of Japan. Ministry of Foreign Affairs. (2006, September 15) *The First Meeting of the Free Trade Agreement Talks (FTA) with the Gulf Cooperation Council (GCC)*. Retrieved May 15, 2012, from <http://www.mofa.go.jp>

309 AMEinfo (2006, November 23) *GCC-Japan FTA Hopes*. Retrieved May 15, 2012, from <http://www.ameinfo.com/>

310 Elewa, Ahmad A. (2009, May 12) GCC-Japan Trade Deal Takes Shape. *Gulf News*. Retrieved May 15, 2012, from <http://gulfnews.com/>

311 Japan-UAE Boost Trade Ties (2007, April 30) *Gulf Daily News*.

312 GCC-Japan FTA Talks To Begin 'Soon' (2007, July 25) *Gulf Times*.

Trend in Japan's imports from the GCC

Country	2008	2009	2010	G. Rate %	Share%
Saudi Arabia	50,840.8	29,192.0	35,891.0	22.95	35.07
UAE	46,759.0	22,713.8	29,285.2	28.93	28.62
Qatar	26,422.4	15,924.2	21,701.6	36.28	21.21
Kuwait	15,226.6	8,988.9	10,289.6	14.47	10.05
Oman	5,566.5	3,317.1	4,509.4	35.94	4.41
Bahrain	419.0	525.6	659.2	25.43	0.64
Total	145,234.3	80,661.6	102,336.0	----	100.00

Source: Japan Customs, compiled by World Trade Atlas

Trend in Japan's exports to the GCC

Country	2008	2009	2010	G. Rate %	Share %
UAE	10,886.9	6,491.2	7,332.7	12.96	36.52
Saudi Arabia	7,899.2	5,390.8	6,483.0	20.26	32.29
Oman	3,946.6	2,354.2	3,114.0	32.27	15.51
Kuwait	2,108.9	1,244.3	1,418.0	13.96	7.06
Qatar	2,031.2	1,628.4	1,141.2	-29.92	5.68
Bahrain	941.3	435.9	589.3	35.18	2.94
Total	27,814.1	17,544.8	20,078.2	----	100.00

Source: Japan Customs, compiled by World Trade Atlas

On September 2007 the agreement was yet to be signed and Japan's Ambassador to Bahrain clearly stated that "Japan is ready - but we understand there needs to be a consensus agreement among GCC countries".³¹³ Further statements on the importance of Japan-GCC economic ties and the need for reaching a FTA agreement followed: in October 2008, Bank of Tōkyō-Mitsubishi UFJ Middle East regional head Kato and Japan's Minister for Foreign Affairs Nakasone confirmed that negotiations were at an advanced stage.³¹⁴ However, despite the requests issued by the Japan Business Federation to the Japanese government, negotiations have been suspended in 2009 and resumed only in 2011.³¹⁵ At the moment of writing, the Japan-Gulf Cooperation Council Free Trade Agreement is still under negotiation.

Japan's Middle East Policy in the 2000s

313 Summers, Mark (2007, September 14) Bahrain Urged To Boost Trade Ties With Japan. *Gulf Daily News*.

314 Singh, Mandeep (2008, October 9) Free Trade Deal On The Way. *Gulf Daily News*; Kader, Binsal Abdul (2008, October 19) UAE And Japan Are Set To Finalise Tax Treaty. *Gulf News*. Retrieved May 15, 2012, from <http://gulfnews.com/>

315 Nippon Keidanren (2009, October 20) *Requests for the Japan-GCC Free Trade Agreement*. Retrieved May 15, 2012, from <http://www.keidanren.or.jp>; Japan, Qatar agree to resume negotiations on FTA with GCC (2011, October 7) *CNN*

The Israeli-Palestinian conflict

Despite its involvement in the controversial 2003 Iraq campaign, Japan has been able to balance its support for U.S. initiatives with simultaneous, autonomous efforts aimed at securing its interests in the region even when they did not coincide with those of the U.S..

Japan has been a major donor to the Palestinian Authority, contributing to Palestine's economic, social infrastructure and governance-building with \$1.2 billion since 1993.³¹⁶ Japan encouraged the Middle East peace process, supporting a future coexistence of Israel and an independent Palestine, trying to avoid any interference in Palestinian affairs: financial aid to the Palestinian Authority continued both under U.S.-supported Mahmood Abbas government (\$60 million in 2004 and \$100 million in 2005) and partially under U.S.-hostile Hamas rule.³¹⁷ However, Japan considers Hamas as a terrorist organization and since 2005 has frozen its assets.³¹⁸ In 2006 Japan proposed the creation of the Corridor for Peace and Prosperity, a project to promote regional agro-industrial cooperation and facilitate transportation of goods in the framework of the international Valley of Peace initiatives on the Israeli-Jordan border.³¹⁹ Japan's Foreign Minister Aso Taro participated in August 2007 to the Valley of Peace launching ceremony and in the same days offered a \$20 million for humanitarian assistance and improving economic conditions in the Palestinian territories.³²⁰ During Israel's Operation Cast Lead in the Gaza Strip, which resulted in hundreds of civilian casualties and widespread infrastructure destruction, Japan did not lined up with the U.S. on its position on the conflict and the Japanese government condemned Israeli bombing of hospitals and United Nations Relief and Works Agency for Palestine Refugees in the

316 Government of Japan. Ministry of Foreign Affairs (2012, April 14) Meeting between the Prime Minister of Japan and the President of the Palestinian Authority. Retrieved May 16, 2012, from <http://www.mofa.go.jp>

317 Miyagi, Yukiko (2011, July) Japan's Middle East Security Policy: Rethinking Roles and Norms. *Ortadoğu Etütleri*. Vol. 3, No 1

318 Government of Japan. Ministry of Foreign Affairs. *Diplomatic Bluebook 2005*.

319 Government of Japan. Ministry of Foreign Affairs (2006, July) *Japan's Concept for Creating the Corridor for Peace and Prosperity*. Retrieved May 17, 2012, from <http://www.mofa.go.jp>

320 'Peace Vally' project ceremony takes place in Jerico (2007, August 15) *Israel News*; Government of Japan. Ministry of Foreign Affairs (2007, August 15) *Announcement of Assistance to the Palestinians by Mr. Taro Aso, Minister for Foreign Affairs, and Exchange of Notes concerning Non-project Grant Aid to the Palestinian Authority*. Retrieved May 17, 2012, from <http://www.mofa.go.jp>

Near East (UNRWA) buildings, urging Israel and Palestinian militants for a ceasefire.³²¹ The U.S. government, instead, blamed Hamas for the suffering experienced by the civilian population of Gaza and did not adopt UN Resolution 1860, which called for an immediate ceasefire and Israeli withdrawal from the Gaza Strip.³²² The continuous tensions between Israel and Palestine militants, as well as between different Palestinian factions, did not impede the implementation of the Corridor for Peace and Prosperity Initiative: in October 2010 the new road to the Jericho Agricultural Industrial Park (JAIP) has been inaugurated and the JAIP itself should be completed by the end of 2012. According to a Ministry of Foreign Affairs' 2010 Fact Sheet, the Corridor Initiative is part of a comprehensive Japan's assistance plan composed by:

- “Corridor for Peace and Prosperity” Initiative
- Assistance for building of the future Palestinian state:
 - Small and medium enterprise support
 - Agriculture
 - Tourism
 - Local governance
 - Improvement of public financial management
 - Water resource development and waste water treatment
 - Maternal and child health
- Assistance for improving financial conditions
- Vitalizing private sector in the Palestinian territories
- Co-operation with East Asian Countries for Assistance to the Palestinians
- Assistance to Gaza strip:
 - Clearance of unexploded ordnance and rubble removal
 - Support for socially vulnerable people

321 Government of Japan. Ministry of Foreign Affairs (2009, January 16) *Statement by Mr. Hirofumi Nakasone, Minister for Foreign Affairs, on the Situation in the Gaza Strip*. Retrieved May 17, 2012, from <http://www.mofa.go.jp>; Gaza: Humanitarian Situation (2009, January 30) *BBC*; B'Tselem (2009) *B'Tselem's Investigation Of Fatalities In Operation Cast Lead*. Retrieved May 17, 2012, from <http://www.btselem.org>

322 UN Security Council (2009, January 8) *Resolution 1860*. Retrieved May 17, 2012, from <http://www.un.org>; Olmert Says Called Bush To Force Change In U.N. Vote (2009, January 13) *Reuters*; Bush Speaks Out On Gaza Crisis (2009, November 2) *Voice of America*. Retrieved May 17, 2012, from <http://www.voanews.com/>

- Assistance to the Palestinian refugee
- Humanitarian Assistance³²³

Minister of Foreign Affairs Gemba visited the JAIP construction site on May 2012, expressing Japan's intention to bolster its financial support to the Palestinian Authority.³²⁴ During its visit in the region, Gemba met Deputy Prime Minister and Minister of Foreign Affairs of Israel Liberman: Gemba requested the freezing of settlement activities and expressed Japan's opposition to an Israeli pre-emptive military strike on Iran's nuclear facilities.³²⁵

Neutrality in the Israeli-Palestinian conflict continues to be a “normative cornerstone of Japan’s Middle East policy”, as Durham University researcher Miyagi Yukiko wrote.³²⁶ Avoiding to support some aspects of U.S. Middle East policy, seen in and outside the region as often uncritically pro-Israel, Japan has been able to pursue an approach functional to maintain good relations with the Arab states as well as prevent a major conflict in the region, namely a Israel-Iran war, and the catastrophic effects it might have on Japan's interests in the Gulf.

The reconstruction of Iraq

During the Koizumi presidency, Japan strengthened its ties with the U.S. providing naval refuelling capabilities in the Indian Ocean to support vessels involved in Operation Enduring Freedom (EOF) in Afghanistan.³²⁷ After the U.S.-led invasion of Iraq in 2003 Japan saw the opportunity to restore its international prestige and its role of U.S. allied, both weakened by the non-participation to Operation Desert Storm in 1991.

323 Government of Japan. Ministry of Foreign Affairs (2010, November) *Japan's Assistance To The Palestinians*. Retrieved May 17, 2012, from <http://www.mofa.go.jp>

324 Government of Japan. Ministry of Foreign Affairs (2012, May 3) *Visit to Israel, the Palestinian Territories, and Jordan by Minister for Foreign Affairs Koichiro Gemba*. Retrieved May 17, 2012, from <http://www.mofa.go.jp>

325 Government of Japan. Ministry of Foreign Affairs (2012, May 2) *Visit to Israel by Minister for Foreign Affairs Koichiro Gemba*. Retrieved May 17, 2012, from <http://www.mofa.go.jp>

326 Miyagi, Yukiko (2011, July) Japan’s Middle East Security Policy: Rethinking Roles and Norms. *Ortadoğu Etütleri*. Vol. 3, No 1

327 Knishi, Weston S. (2009, August 12) *The Democratic Party Of Japan: Its Foreign Policy Position And Implications For U.S. Interests*. Congressional Research Service Report for Congress. Retrieved May 17, 2012, from <http://www.voltairenet.org>

In addition, participating in the Iraqi campaign did not impair Japan's interests in the region: on the contrary, the overthrown of Saddam and its substitution with an U.S.-friendly regime would have presumably opened new opportunities for Japan's oil companies.³²⁸

At the outbreak of the war, Prime Minister Koizumi established and chaired an ad hoc office within the Cabinet Secretariat, the Iraku Mondai Taisaku Honbu (Iraq Crisis Response Team), which included a small group of Japan Defense Agency and Ministry of Foreign Affairs officials under Assistant Cabinet Secretary Omori Kenji.³²⁹ The group was assigned to develop a new law to provide a legal framework to the SDF deployment in Iraq. In June, the group expressed the need for a new law based on UN Resolution 1483 (calling upon member states to respond to the humanitarian crisis in Iraq and support reconstruction), as the deployment in Iraq would have been not justifiable under the pre-existing PKO Law.³³⁰ SDF airlift service to support humanitarian relief operations was approved in July and in August the Special Measures Act concerning Implementation of Humanitarian Reconstruction Aid Activities and Safety Assistance Activities in Iraq was promulgated.³³¹ The new law restricted the area of the operations to noncombat zones and did not review SDF's ROE.³³² Koizumi's insistence on the U.S.-Japan alliance as the only protection from the North Korean threat avoided major popular mobilisations against the Iraqi mission and in December the Japanese Diet passed the Basic Plan regarding Response Measures Based on the Law Concerning the Special Measures on Humanitarian and Reconstruction Assistance in Iraq.³³³

328 Miyagi, Yukiko (2011, July) Japan's Middle East Security Policy: Rethinking Roles and Norms. *Ortadoğu Etütleri*. Vol. 3, No 1

329 Boyd, Patrick J.&Samuels, Richard J. (2005) Nine Lives?: The Politics Of Constitutional Reform In Japan. *Policy Studies*. No.19. Washington: East-West Center

330 UN Security Council (2003, May 22) *Resolution 1483*. Retrieved May 17, 2012, from <http://www.un.org>;

331 Government of Japan. Ministry of Foreign Affairs (2003, July 4) *Transportation by Japan Self Defense Forces (JSDF) Aircraft for Affected People in Iraq and the Neighboring Countries*. Retrieved May 17, 2012, from <http://www.mofa.go.jp>

332 The Japanese Law Concerning The Special Measures On Humanitarian And Reconstruction Assistance In Iraq (2004) *Pacific Rim Law & Policy Journal*. Vol.13, No.3

333 Government of Japan. Ministry of Foreign Affairs (2003, December 9) *Basic Plan regarding Response Measures based on the Law Concerning Special Measures on Humanitarian and Reconstruction Assistance in Iraq*. Retrieved May 17, 2012, from <http://www.mofa.go.jp>; Samuels, Richard J. (2007) *Securing Japan: Tōkyō's Grand Strategy And The Future Of East Asia*. Cornell University Press

In January 2004, GSDF forces were dispatched to Samawah, Iraq but did not take government responsibilities and their tasks were limited to civil engineering, water purification and humanitarian assistance under the protection of British and Dutch forces. Japan Defense Agency political advisors helped the GSDF to coordinate with other coalition forces and had a relevant role also in interagency coordination between the MOFA (responsible for financial aspect of the initiative), the Japan Defense Agency and the GSDF.³³⁴ Kuwait-based ASDF C-130H airlifted troops and supplies for the UN and the multinational forces in Samawah: after GSDF withdrawal in 2006, the ASDF activities were expanded for two years to Baghdad and Erbil. For the first time a SDF humanitarian mission, although in accordance with UN Resolutions, was carried out outside UN PKO framework. The GSDF did not use their weapons, nor they suffered any casualties, and the GSDF succeeded in their reconstruction tasks, although the results did not always match the of the locals' high expectations.³³⁵

Nine years after the invasion, negotiations between the new Iraqi government and Japanese oil companies are still ongoing and the persisting political turmoil in the country does not allow drawing conclusions on the future of the economic relations between the two countries.³³⁶

Iran's nuclear program

On the issue of Iran's nuclear program, Japan managed to partially follow his own agenda without compromising the U.S.-Japan alliance. Oil plays a major role in Japan-Iran economic relation and for most of 2000s Iran has been Japan's third largest supplier of crude oil imports after Saudi Arabia and the UAE. In the past years Japan directly invested in Iran's energy infrastructure, notably in the development of the Azadegan field. A consortium led by Japan's INPEX and the National Iranian Oil Company (NIOC) was created in February 2004 to develop a portion of the field. The investments were sanctionable under the U.S. Congress Iran Libya Sanctions Act

334 Fouse, David (2007, July) *Japan's Dispatch Of The Ground Self Defense Force To Iraq: Lessons Learned*. Asia-Pacific Center for Security Studies. Retrieved May 17, 2012, from www.dtic.mil

335 Ono, Keishi (2006) Japan Self-Defense Forces And Their Reconstruction Support Operations In Iraq. *Liaison*. Vol.4, No.1

336 Iraq Negotiating With SK And Japan To Sell Oil (2012, January 29) *Aknews*; Republic of Iraq. Ministry of Oil (2012, April 19) *Press Release*.

(renamed Iran Sanctions Act in 2006): INPEX share was initially 75% but gradually withdrew from the project, reducing its stake to 10%. The Comprehensive Iran Sanctions, Accountability, and Divestment Act (CISADA) of 2010 further jeopardized Japan's investments in the country and the Azadegan agreement was abandoned. Moreover, under the Bush and Obama Administrations pressures, Japan reduced its imports by about 50% from 2003 to 2011. The CISADA was followed by similar initiatives in Europe, Canada and Australia: Japan adapted its position to the new international trend suspending all new oil and gas investments and sanctioning a number of Iranian banks. Japan however was able to maintain its position as one of Iran's main oil customer, being exempted by spring 2012 U.S. sanctions as it had already significantly reduced its oil imports in the past years. Thus, while not actively joining U.S.-led initiatives against the Iranian nuclear program, Japan was able to gradually reduce its presence in the country without completely abandoning a valuable oil supplier. A more autonomous approach would have been hard to follow due the high priority that Washington publicly gave to the issue. The risk that Japan's ties with Iran could have endangered its alliance with the U.S. and its role as a supporter of the rule of law in the international scenario. Iran's nuclear ambitions are in contrast with Japan's promotion of a WMD-free Middle East, a project actively supported at the Non-Proliferation Treaty (NPT) Meetings.³³⁷ A WMD-free area in the region is difficult to conciliate with U.S. double standards in dealing with Israel's existing nuclear arsenal and Iran's nuclear projects. The perceived threat coming from Iran's opaque nuclear program may have a role in persuading Washington to exert pressure on Israel as well and join Japan in its campaign for a WMD-free Middle East, a need already expressed in the 1991 UN Security Council Resolution 687.³³⁸ The Iranian issue is equally linked to

337 Delegation of Japan to the Conference on Disarmament (2011, November 14) *Statement by H.E. Mr. Mari Amano*. Retrieved May 23, 2012, from <http://www.disarm.emb-japan.go.jp>; Vienna Center for Disarmament and Non-Proliferation (2012, May 10) *VCDNP Holds A Number Of High-Profile Events During The 2012 NPT Preparatory Committee Meetings In Vienna, Austria*. Retrieved May 23, 2012, from <http://vcdnp.org>

338 UN Security Council (1991, April 8) *Resolution 687*. Retrieved May 23, 2012, from <http://www.un.org>; Cohen, Avner (2006, April 28) Israel Crosses The Threshold. *National Security Archive Electronic Briefing Book No. 189*. Retrieved May 23, 2012, from <http://www.gwu.edu>; Lake, Eli (2009, May 6) Secret U.S.-Israel Nuclear Accord In Jeopardy. *The Washington Times*; Chomsky, Noam (2012, March 2) What Are Iran's Intentions?. Retrieved May 23, 2012, from <http://www.inthesetimes.com>; Oren, Amir (2012, March 4) Israel's Atomic Arsenal Could Fall Victim To A New U.S. Nuclear Policy. *Haaretz*

the North Korean nuclear program: Tōkyō's support for U.S. sanctions against Iran serves Japan's interests as it would decrease the suspected Iran-DPRK nuclear technology cooperation and reinforce U.S. commitment in Northeast Asia. Furthermore, an Israel attack against Iran motivated by the nuclear issue is a direct threat to Japan's interests in the region that must be avoided at any cost and according to political adviser Vance Serchuk: "Japan's leaders have likely accepted that participation in a more robust global sanctions regime is the lesser of two evils."³³⁹

The Japan-U.S. Alliance: 2001 - 2009

Relations between Japan and the U.S. have been particularly positive in the first years of the Bush administration. The vital importance of the U.S.-Japan alliance and its need, from an American perspective, to be upgraded were displayed in the 2000 so-called Armitage-Nye report, calling for an enhancement of power sharing and intelligence cooperation. Moreover, the report suggested that Japan should reconsider its opposition to collective self-defense, overcome constitutional limits to the use of force and improve missile defense cooperation.³⁴⁰ The Koizumi administration managed to boost the defense ties with Washington through missile defense cooperation, the dispatch of MSDF vessels in the Indian Ocean and the deployment JDF personnel in Iraq. Divergences on the approach adopted by Japan and the U.S. over North Korea, as well as the unresolved debate over U.S. military bases in Okinawa, eventually led to a reduction of cooperation in the second half of 2000s.

Operation Enduring Freedom – Maritime Interdiction Operations

The U.S.-led initiatives in Central Asia and in the Indian Ocean on the wake of

339 Benn, Aluf (2012, March 15) Netanyahu Is Preparing Israeli Public Opinion For A War On Iran. *Haaretz*; Serchuk, Vance (2012, April 30) *Iran's Nuclear Program: A Case Study In Successful U.S.-Japan Alliance Management*. Retrieved May 23, 2012, from <http://project2049.net>

340 Green, Michael (2001, January 17) *On the Armitage--Nye Report*. Research Institute of Economy, Trade and Industry. Retrieved May 26, 2012, from <http://www.rieti.go.jp>; Clemons, Steven C. (2001, February) *The Armitage Report: Reading Between the Lines*. Japan Policy Research Institute Occasional Paper. No. 20

the 11 September 2001 terrorist attacks offered a good chance for the Armitage-Nye report's suggestions to be implemented. From November 2001, the MSDF conducted refuelling operations in the Indian Ocean to support Operation Enduring Freedom.³⁴¹ The mission was possible due to the Anti-Terrorism Special Measures Law (a temporary law enacted in 2001 and extended in the following years) and included the deployment of MSDF replenishment ships escorted by destroyers.³⁴² The first group was composed by supply ship *Hamana*, destroyer *Kurama* and destroyer *Kirisame*.³⁴³ The forces operated following a regular rotation, but suspicions over the real magnitude and scope of the deployment grew after in Aegis-equipped *Kongo*-class destroyers joined the operation. Professor Richard Tanter argued, in our view correctly, that, being the *Shirane*-class and *Murakame*-class destroyers capable of providing air defense for the supply vessels, the deployment of Aegis-equipped destroyers might have been motivated by the need to provide the MSDF with war zone cooperation experience. The Aegis surveillance and tracking capacities: “[...] would have enabled the MSDF ships to cooperate with both US and UK navy and air units operating not only in the Indian Ocean, but possibly over Afghanistan itself”. In addition, being the U.S.-led coalition forces taking part in Operation Enduring Freedom-Maritime Interdiction Operations (OEF-MIO) engaged in boardings and inspections in the waters between Pakistan to Somalia, Tanter argued that MSDF vessels might have cooperated in ships inspections.³⁴⁴ Nevertheless, it is difficult to agree on this latter point. The involvement in interceptions, inspections or arrests would have been incoherent with the MSDF deployment's risk-avoidance approach and Tanter does not provide detailed sources.

In 2005 the number of escort destroyers was reduced to one and since November of the same year this role was assigned to vessels which were not equipped with Aegis. The Anti-Terrorism Law was extended again in 2006, but only for a period of

341 McCormack, Gavan (2001, November 5) Japan's Afghan Expedition. An abridged version of this article appears in Japanese in *SEKAI*, no. 695 (December 2001) Original English version retrieved from <http://www.iwanami.co.jp>

342 Government of Japan. Cabinet Secretariat (2001, October) *The Anti-Terrorism Special Measures Law (Tentative English Summary)*. Retrieved May 26, 2012, from <http://www.kantei.go.jp>

343 Japan to dispatch 3 MSDF vessels to Indian Ocean (2001, November 8) *Kyodo*. Japan's Efforts based on Anti-Terrorism Special Measures Law. Retrieved June 1, 2012, from www.mofa.go.jp;

344 Government of Japan. Ministry of Foreign Affairs (2005, October) ; Tanter, Richard (2006, May 15) Japan's Indian Ocean Naval Deployment: Blue water militarization in a “normal country”. *The Asia-Pacific Journal: Japan Focus*.

one year.³⁴⁵ Japan's Prime Minister Abe strongly defended the necessity to continue the Indian Ocean deployment. Facing Ozawa Ichiro's DPJ opposition in the Upper House, he resigned in September 2007, leaving new Prime Minister Fukuda Yasuo to handle a situation which became even more pressing when it was made public that the precedent government had inaccurately reported the volume of fuel supplies, in reality four times bigger than what was stated.³⁴⁶ In order to overcome the emerging difficulties, the law was substituted by the Replenishment Support Special Measures Law, limiting the mission to ship refuelling in the Indian Ocean. After months of political wrangling, the law was passed and the refuelling operations resumed in 2008.³⁴⁷

The Indian Ocean operations related to OEF can be considered a prelude to the evolution of the SDF's role in the protection of SLOCs which took place in 2009 thanks to the anti-piracy mission. The deployment helped the MSDF to enhance their blue water operational capabilities, providing their vessels and crews with practical war zone cooperation, manoeuvring and interdiction experience. Moreover, this took place within the framework of a mission welcomed by Washington and accepted by the international community, thus improving Japan's image of U.S. partner and responsible international stakeholder. The Indian Ocean refuelling mission was not the only Japanese initiative related to the crisis in Afghanistan: Japan supported the reconstruction by funding infrastructure development, police equipment and media broadcasting in the country. Moreover, Japan financially assisted the Karzai administration, the electoral process and a wide range of initiatives for humanitarian assistance.³⁴⁸

The Democratic People's Republic of Korea

345 Government of Japan. Ministry of Foreign Affairs (2005, October 27) *Japan decides to continue to dispatch MSDF vessels to the Indian Ocean in order to support international efforts to fight against terrorism (Extension of the Anti-Terrorism Special Measures Law)*. Retrieved June 1, 2012, from www.mofa.go.jp

346 Government of Japan. Ministry of Foreign Affairs. The National Institute for Defense StudiesJapan (2008) Japan—Aiming for Broader, Deeper Regional Security Cooperation. *East Asian Strategic Review 2008*

347 Government of Japan. Ministry of Foreign Affairs (2008, January 11) *Statement by Prime Minister Yasuo Fukuda On Enactment of the Replenishment Support Special Measures Law*. Retrieved June 1, 2012, from www.mofa.go.jp

348 Government of Japan. Ministry of Foreign Affairs (2007, March) *Japan's Contribution To Afghanistan*. Retrieved May 26, 2012, from www.mofa.go.jp

The Japanese government and citizens proved to be particularly sensitive to the North Korean threat. The DPRK repeatedly abducted Japanese citizens between 1977 and 1983: a phenomenon, called *rachi jiken / mondai* (abduction incidents/problem), which deeply influenced Japanese public opinion as it represented an easily perceptible threat coming from an enemy able to land on Japan's territory and kidnap civilians leaving no traces behind. In 2001 President Koizumi visited Pyongyang offering humanitarian assistance and asking for a normalization of relations between the two countries (although Japan continues to consider the Republic of Korea as the only legitimate government of the Korean Peninsula). In that occasion, Supreme Leader Kim Jong-Il admitted DPRK responsibility for kidnapping 11 Japanese citizens and apologized, authorizing those who were still alive to return to Japan. The results of the meeting were summarized in the Pyongyang Declaration, signed by the two leaders.³⁴⁹ Koizumi apparently dealt with the Korean dictator independently from the DPRK-Washington dialogue framework: he was, according to James L. Schoff, the most prominent member of the “dialogue faction”, in opposition to Abe Shinzo's hawkish “pressure faction”.³⁵⁰ Japan, together with the Russian Federation, the U.S., DPRK, ROK and PRC, took also actively part in the Six-Party Talks, a series of meeting concerning the North Korean nuclear program, since their inception in 2003.

The debate over DPRK nuclear program directly involved Japan, a constant objective of the harsh North Korean propaganda, for its role as U.S. allied in the region. During the 1993-1994 DPRK-U.S. tensions over the International Atomic Energy Agency (IAEA) inspections, Japan would have been unable to offer any real support to the U.S. in case the situation would have worsened.³⁵¹ This led to a new National Defense Program Outline focused on regional security:

The close cooperative relationship between Japan and the United States, based on the Japan-U.S. security arrangements, will help to create a stable security environment, provide the foundation for securing the engagement of the

349 Government of Japan. Ministry of Foreign Affairs (2002, September 17) *Japan-DPRK Pyongyang Declaration*. Retrieved May 23, 2012, from www.mofa.go.jp

350 Schoff, James L. (2006) *Political Fences And Bad Neighbors: North Korea Policy Making In Japan And Implications For The United States*. Cambridge: Institute for Foreign Policy Analysis

351 Samuels, Richard J. (2007) *Securing Japan. Tōkyō's Grand Strategy And The Future Of East Asia*. Ithaca: Cornell University Press.

United States and the U.S. military presence which are necessary for peace and stability in this region, and thus will continue to play a key role for the security of Japan, as well as the stability of the international community.³⁵²

Washington sought also Japan's cooperation on missile defense research and development. Japan accepted after a 1998 DPRK satellite launch which, although harmless, proved North Korea's ability to effectively fire SCUD-like missiles through Japanese airspace. In 2005 Japan started the upgrading of its Aegis-equipped MSDF destroyers with SM-3 ship-based anti-missile and anti-satellite system, which was later tested for the first time in 2007.³⁵³

Another issue which raised tension between Japan and DPRK has been the infiltration of North Korean agents and smugglers through the use of spy-boats. One of these boats was discovered ashore near the town of Mihama in 1990.³⁵⁴ In March 1999, two suspected DPRK ships were spotted by JCG off the Noto Peninsula disguised as Japanese fishing boats. Japanese vessels and aircrafts chased the two boats and, for the first time after Second World War, fired warning shots near them³⁵⁵. The spy-boats eventually made their way back to North Korea, pushing the Japanese government to deploy armed high-speed boats to prevent such kind of incidents to happen again. Between 1998 and 2000, large amounts of allegedly DPRK-produced narcotics were seized by Japan's National Police Agency. One vessel suspected of transferring 290kg of amphetamine to a Japanese fishing boat in 1998 was spotted again in December 2001 in Japan's EEZ off the coast of Kyushu.³⁵⁶ In the meanwhile, JCG Law had been revised and JCG was now authorized to prevent maritime intrusions with the use of force, in emergency situations and for "justifiable defense".³⁵⁷ About 20 ships and 14 aircrafts

352 Government of Japan. Ministry of Foreign Affairs (1995, December) *National Defense Program Outline In And After FY 1996*. Retrieved May 23, 2012, from www.mofa.go.jp

353 Japan Shoots Down Test Missile In Space: Defence Minister (2007, December 17) *AFP*; U.S. Government. Department of Defense. Missile Defense Agency (2012, May 9) Ballistic Missile Defense Intercept Flight Test Record. *MDA Fact Sheet*.

354 Government of Japan. National Police Agency (2005, October) *Syouten. [Focus] Vol.271*

355 Nanto, Dick K. (2003, March 18) *North Korea: Chronology Of Provocations, 1950 – 2003*. Congressional Research Service Report for Congress. Retrieved May 17, 2012, from <http://www.fas.org/>

356 Brooke, James (2001, December 25) Japan Says A Mystery Boat Fired Rockets At Its Ships. *The New York Times*

357 Samuels, Richard J. (2007, September) "New fighting power!" For Japan? *Audits of the Conventional Wisdom*. Center for International Studies. Massachusetts Institute of Technology.

chased the ship, which headed towards China's EEZ. After a series of warning shots, the ship was hit by direct shots, some of them provoked a fire in the stern.³⁵⁸ After the fire extinguished, the crew fired at the approaching Japanese vessels with automatic weapons and shoulder-held rocket launchers: in the ensuing firefight, three Japanese sailors were injured and three ships damaged.³⁵⁹ The boat sank in the waters off Amami-Ōshima after an explosion, possibly caused by the North Korean crew to avoid capture, broke the hull.³⁶⁰ Although not all the bodies have been recovered, the 15 crewmembers presumably died. Computers, DPRK-made items, as well as over 100 weapons and ammunitions, were discovered on board after the boat (which was also found having a hidden exit door for speedboats) was raised.³⁶¹

After North Korea expressed its will to restart its nuclear program in 2005, the following year two events reinforced the Japan-U.S. Alliance and pushed Japan towards a more pressure-oriented position. On 5 July, North Korea tested a total of seven missiles (Scud-C, Nodong-A and one intercontinental Taepodong-2: the latter went out of control a few seconds after the launch) in the Sea of Japan.³⁶² Both Japan and U.S. strongly condemned the tests, menacing a strengthening of economic sanctions against the country.³⁶³ Ten days later, the UN Security Council unanimously adopted Resolution 1695 which affirmed that: “such launches jeopardize peace, stability and security in the region and beyond, particularly in light of the country's claim that it has developed nuclear weapons”.³⁶⁴ On 9 October, a few weeks after Abe Shinzo's elections as Prime Minister, North Korean announced having tested its first nuclear device. President Bush accused Pyongyang to raise tension in the Korean Peninsula and threat international peace. Moreover, he stated: “I reaffirmed to our allies in the region, including South

358 Japan Fires On 'Intruding' Boat (2011, December 22) *BBC News*; Kwon, Dae-Yul (2001, December 23) Suspected NK Spy Ship Sunk In East China Sea. *The Chosun Ilbo*.

359 Japan Says 'Spy Ship' Fired Rockets (2001, December 25) *BBC News*

360 Watts, Jonathan (2001, December 24) Japan Defiant Over Boat Sinking. *The Guardian*.

361 Japan Announces Sunken Boat Was N. Korean Spy Ship (2002, October 7) *Kyodo*.

362 Yoshida, Reiji (2006, July 6) Pyongyang Fires Seven Missiles Into Sea Of Japan. *The Japan Times Online*. Retrieved May 24, 2012, from <http://www.japantimes.co.jp>; Vick, C.P. (2006, October 7) *May, June, July 2006 Build-Up To The Taep'o-dong-2C/3 Satellite Launch Attempt*. Retrieved May 24, 2012, from <http://www.globalsecurity.org>

363 Seventh Missile Launched: Report (2006, July 5) *The Sydney Morning Herald*; Bush Says Missile Test Would Further Isolate North Korea (2006, July 22) *Voice Of America*. Retrieved May 24, 2012, from <http://www.voanews.com>

364 UN Security Council (2006, July 15) *Resolution 1695*. Retrieved May 24, 2012, from <http://www.un.org>

Korea and Japan, that the United States will meet the full range of our deterrent and security commitments".³⁶⁵ Once again, the UN Security Council unanimously condemned DPRK. Resolution 1718 imposed an embargo on nuclear technology, large-scale weapons and luxury goods, calling for states to inspect cargos to and from North Korea.³⁶⁶ Additional restrictions were imposed by Resolution 1874 after DPRK second nuclear test in 2009.³⁶⁷

North Korea was removed from the U.S. Department of State list of State Sponsors of Terrorism in 2008: U.S. government apparently decided to focus on the debate over the DPRK nuclear program, delinking the abduction issue from the insertion in the list.³⁶⁸ Japan, on the opposite, considers the abduction issue still unresolved, despite the return of some of the abductees. According to Japanese officials, there are grounds to believe that other Japanese citizens have been (or are still) held in North Korea. Moreover, members of the Nihon Sekigun (Japanese Red Army) responsible of a jet hijacking in 1970 are believed to be still harboured in the country.³⁶⁹ While Japan's approach had shifted from the Koizumi-led dialogue to a constant diplomatic pressure under the Abe administration, an equal development did not took place in the U.S. and Abe's hardline policy over North Korea was eventually undermined by Washington's intention to pursue further negotiations.

The Japan-US Alliance in 2007-2009

During the short premiership of Fukuda Yasuo, Japanese officials repeatedly stated their desire to enhance economic and security cooperation with the United States. Moreover, on 18 March 2008, Japan was one of the few Asian nations

365 White House Office of the Press Secretary (2006, October) *President Bush's Statement On North Korea Nuclear Test*. Retrieved May 24, 2012, from <http://georgewbush-whitehouse.archives.gov>

366 UN Security Council (2006, October 14) *Resolution 1718*. Retrieved May 24, 2012, from <http://www.un.org>

367 UN Security Council (2009, June 12) *Resolution 1874*. Retrieved May 24, 2012, from <http://www.un.org>

368 U.S. Government. Department of State. *State Sponsors of Terrorism*. Retrieved May 24, 2012, from <http://www.state.gov>

369 Nicksch, Larry A. & Perl, Raphael (2007, December 11) *North Korea: Terrorism List Removal?* Congressional Research Service Report for Congress. Retrieved May 24, 2012, from <http://fpc.state.gov>; Nicksch, Larry A. (2010, January 6) *North Korea: Terrorism List Removal*. Congressional Research Service Report for Congress. Retrieved May 24, 2012, from <http://fpc.state.gov>

recognizing the Republic of Kosovo, in line with the US policy in the Balkans.³⁷⁰ In the occasion of a speech at the Munich Conference on Security Policy, Minister for Foreign Affairs Kōmura Masahiko underlined the importance of regional cooperation in between Asian countries but reminded to the audience the dependence of Asian economy from the U.S. market and called for a continuation of U.S. engagement in Asia, described as “a lynchpin for the stability of the region”.³⁷¹ In the view of the Fukuda administration, a close policy coordination was necessary due to the crucial role of the Japan-US alliance in the security of Japan and in the development of Asia. The stability of the Asia-Pacific region, according to the MOFA Diplomatic Bluebook of 2008, depended on the bilateral security agreement centred on the US.³⁷² Kōmura expressed again the government's hope to a strengthening of the Alliance during a meeting with US Secretary of Defense Robert Gates in November 2007. During the talks, Kōmura communicated Japan's commitment to resume the refuelling mission in the Indian Ocean.³⁷³ As for the situation in the Korean Peninsula, the Japanese government recognized that some improvements came from the Six-Party Talks but the denuclearization of the Peninsula was still an objective far to be reached. Nevertheless, the lack of collaboration from the North Korean side about the abduction issue prevented any significant progress on the path towards a normalization of the Japan-DPRK relations.³⁷⁴ Fukuda's firm alignment with the US was balanced with some overtures to China: Chinese destroyer *Shenzhen* participated in PLAN's first port call in Japan, receiving a warm welcome in Yokosuka by Admiral Yoshikawa.³⁷⁵

With the worsening of the situation in the Somali waters in 2008, Japan

370 Government of Japan. Ministry of Foreign Affairs (2008, March 18) *Statement by Foreign Minister Masahiko Kōmura on the Recognition of the Republic of Kosovo*. Retrieved May 26, 2012, from www.mofa.go.jp

371 Government of Japan. Ministry of Foreign Affairs (2008, March 10) *Speech "Asia: Building the International Stability" by Minister for Foreign Affairs of Japan Masahiko Kōmura at the Munich Conference on Security Policy 44th Conference*. Retrieved May 26, 2012, from www.mofa.go.jp

372 Government of Japan. Ministry of Foreign Affairs (2008) *Diplomatic Bluebook 2008*. Retrieved May 26, 2012, from www.mofa.go.jp

373 Shimizu, Kaho (2007, November 9) Gates hears Kōmura vow to get MSDF bill passed. *The Japan Times Online*. Retrieved May 26, 2012, from <http://www.japantimes.co.jp>

374 Government of Japan. Ministry of Foreign Affairs (2008) *Diplomatic Bluebook 2008*. Retrieved May 26, 2012, from www.mofa.go.jp

375 Talmadge, Eric (2007, December 1) Beijing's military shenanigans irk U.S., Japan. *The Japan Times Online*. Retrieved May 29, 2012, from <http://www.japantimes.co.jp> (A few days before, Chinese government had refused USS *Kitty Hawk* and other vessel 's scheduled visit in Hong Kong without any explanation, allowing the entrance only the following day.)

addressed for the first time the problem of piracy far from East Asia. Vice-Minister for Foreign Affairs Nishimura Yasutoshi expressed the necessity to create in the Horn of Africa a cooperation framework based on the ReCAAP model and Japan's determination to take an active role to promote the improvement of the situation in Somalia.³⁷⁶ In 2008 Japan, together with other countries, co-sponsored the UN Resolution 1816 and 1846 to coordinate the international response to the problem of piracy in the waters off the Horn of Africa.³⁷⁷

After Fukuda's resignation in September 2008, Aso Taro was designed as Prime Minister of Japan. Similarly to Fukuda, Aso pursued a policy of reinforcement of the Japan-US alliance and indicated the Korean Peninsula and the Taiwan Strait as areas of instability which might menace peace in the region.³⁷⁸ Aso Taro was the first foreign dignitary to visit US President Obama in February 2009: in the occasion, Aso underlined the fact that the Japan-US alliance is the "cornerstone" of East Asian security.³⁷⁹ Thus, an improvement of the relations with China and South Korea was believed to be critical, together with the promotion of a broader regional cooperation in the framework of ASEAN and ARF.³⁸⁰

The pivotal importance of stability in the Middle East for the security of Japan's energy imports was expressly stated in the MOFA 2009 Diplomatic Bluebook, which suggested further promotion of the collaboration with the government of the region. While the ASDF were completing their withdrawal from Iraq, Secretary for Foreign Affairs Hashimoto visited the country in December 2008. In January 2009, Special Envoy of the Prime Minister Abe Shinzo met Deputy Prime Minister of Iraq Barham Salih for the signature of the Declaration on Establishing a Comprehensive Partnership between the Government of Japan and the Government of the Republic of Iraq. The partnership aimed at improving Iraq electricity production through Japanese assistance

376 Government of Japan. Ministry of Foreign Affairs (2008, December 18) *Statement by Mr. Yasutoshi Nishimura Parliamentary Vice-Minister for Foreign Affairs of Japan On the Occasion of the Ministerial Meeting of the Security Council on the Issue of Piracy off the Coast of Somalia*. Retrieved May 26, 2012, from www.mofa.go.jp

377 Government of Japan. Ministry of Foreign Affairs (2008) *Diplomatic Bluebook 2008*. Retrieved May 26, 2012, from www.mofa.go.jp

378 Government of Japan. Ministry of Foreign Affairs (2009) *Diplomatic Bluebook 2009*. Retrieved May 26, 2012, from www.mofa.go.jp

379 Obama: U.S.-Japan alliance "cornerstone" of East Asia security (2009, February 25) *Xinhua*

380 Government of Japan. Ministry of Foreign Affairs (2009) *Diplomatic Bluebook 2009*. Retrieved May 26, 2012, from www.mofa.go.jp

and strengthening bilateral ties.³⁸¹

The resumption of the MSDF activities in the Indian Ocean facilitated the implementation of measures against piracy in the Horn of Africa: the Law on the Penalization of Acts of Piracy and Measures against Acts of Piracy authorized the MSDF vessels and JCG officials to conduct “maritime police operations” with the support of ASDF P-3C aircrafts.³⁸² The security of sea lanes was clearly indicated as “an issue directly linked to the existence and prosperity of Japan”.³⁸³

The Japan-U.S. Alliance: Recent Developments

The LDP, which ruled Japan almost continuously since 1955, was defeated in the 2009 elections by Hatoyama Yukio's DPJ.³⁸⁴ The DPJ victory had a relevant impact on the Japan-US relationship, although it did not alter the core principles of the alliance. The largest part of the DPJ members openly support the alliance and US military presence in East Asia, even if they maintain a more UN-oriented position in comparison with the LDP. In Hatoyama initial programs, Japan's foreign policy had to be renewed on the base of a more balanced partnership with the United States. This included the closure of Futenma Marine Air Station in Okinawa and a new approach to Japan's neighbours through the construction of an East Asian Community, an economic cooperation project with extremely vague deadlines.³⁸⁵

The new government withdrew the MSDF vessels involved in the refuelling operations in the Indian Ocean, but assured Japan's commitment to support nation

381 Government of Japan. Ministry of Foreign Affairs (2009, January 28) *Declaration on Establishing a Comprehensive Partnership between the Government of Japan and the Government of the Republic of Iraq*. Retrieved May 26, 2012, from www.mofa.go.jp

382 Government of Japan. Cabinet Secretariat (2009, June 19) *Statement by Prime Minister Taro Aso on the Enactment of the Law on the Penalization of Acts of Piracy and Measures against Acts of Piracy*. Retrieved May 26, 2012, from <http://www.kantei.go.jp>; Chanlett-Avery, Emma & S. Konishi, Weston (2009, July 23) *The Changing U.S.-Japan Alliance: Implications for U.S. Interests*. Congressional Research Service Report for Congress. Retrieved May 26, 2012, from <http://www.dtic.mil>

383 Government of Japan. Ministry of Foreign Affairs (2009) *Diplomatic Bluebook 2009*. Retrieved May 26, 2012, from www.mofa.go.jp

384 Green, Michael J. (2009, August) U.S.-Japan Ties under the DPJ: Reluctant Realism Redux. *Oriental Economist*.

385 Japanese FM outlines vision for East Asian Community, Japan-U.S. Ties (2009, October 7) *Xinhua*.

building, containment of insurgency and reintegration of former rebels through a donation of about ¥80 billion to Kabul: the first segment of a financial assistance plan to provide the Afghan government with about \$5 billion in the following five years.³⁸⁶

The end of LDP rule led to another relevant development: in 2010, the Ministry of Foreign Affairs released a set of previously classified documents according to which one of the “non-nuclear principles” was not respected: nuclear-armed U.S. warships had visited Japanese ports under a secret agreements with the Japanese government. Moreover, after the return of Okinawa to Japan, the U.S. maintained the right to bring nuclear weapons back in the Japanese territory until 1991.³⁸⁷

However, new equilibrium in the US-Japan alliance has been found, after two events: first, Hatoyama's resignation in 2010 following his U-turn over the Futenma issue; then, the effects U.S. Operation Tomodachi in 2011. Considering Obama administration increasing interest in the Asia-Pacific region and the importance given to Noda Yoshihiko's visit in Washington in 2012, a rupture of the alliance is unlikely.

The US military presence in Okinawa

Although Okinawa represents only less than 1% of Japan's land area, over half of the lands which host US Forces Japan (USFJ) bases are located in this small prefecture.³⁸⁸ The coexistence of US troops and locals has been repeatedly put at risk by the environmental degradation, noise pollution and numerous accidents and crimes involving USFJ personnel. In particular, the abduction and rape of a schoolgirl in 1995, the alleged rape of a second schoolgirl in 2008, as well as a series of car and helicopter accidents, induced the residents to call in several occasions for a total or at least partial removal of the bases.³⁸⁹ The local government and the DPJ backed the popular demands, asking for a reduction of the US military presence.

386 Government of Japan. Ministry of Foreign Affairs (2009, November) *New strategy to counter the threat of terrorism*. Retrieved May 26, 2012, from www.mofa.go.jp

387 Government of Japan. Ministry of Foreign Affairs (2010, March 5) *Iwayuru “mitsuyaku” mondai ni kansuru gaimushō chōsa hōkokusho* [Research report of the Ministry of Foreign Affairs over the so-called “secret agreement” question]. Retrieved June 1, 2012, from www.mofa.go.jp

388 Yoshida, Reiji (2008, March 25) Basics of the U.S. military presence. *The Japan Times Online*. Retrieved May 26, 2012, from <http://www.japantimes.co.jp>

389 Mancastroppa, Yacine (2011) *Basi militari americane e violenza sulle donne: il caso di Okinawa (1945-2010)*. *Deportate, Esuli e Profughe*. no.15

The Futenma Marine Air Station has been one of the core issues of the debate since 1996, when it was agreed to relocate most aircraft and a large number of troops to less populated areas. Furthermore, approximately 8,000 Okinawa-based III Marine Expeditionary Force (III MEF) personnel and their dependents were planned to be moved into new facilities in Guam.³⁹⁰ Despite the fact that minor relocations have taken place during 2000s, the resolution of the Futenma and III MEF issues has been slow and incomplete.³⁹¹ The redeployment of the III MEF was linked to the construction of a new Marine facility, Camp Shwab, in Henoko.³⁹² During the electoral campaign, Hatoyama had openly opposed the relocation of the remaining US marines within Okinawa, but after the election eventually endorsed the initiative. The same position was maintained by his DPJ successors but popular opposition remained strong. After April 2012, the US government agreed that the relocation of marines outside of Japanese territory was not to be linked any more with the Henoko issue, but further local protests are expected in relation to the announced deployment of MV-22 *Osprey* tiltrotor aircrafts to Futenma in 2012.³⁹³

Humanitarian assistance and disaster relief

In the last two decades, cooperation between US and Japan in humanitarian assistance and disaster relief (HA/DR) operations enabled both countries to enhance and standardize their operating procedures, as well as enhance information-sharing mechanisms. The involvement of Japan in HA/DR operations worldwide not only strengthened the alliance, but such mission have proved to be useful rapid deployment exercises. Furthermore, JDS gained experience in coordinating with non-governmental organizations and privates.

Japan, in coordination with the US and other nations, took part in various

390 Detailed information available at: <http://www.mofa.go.jp/region/n-america/us/security/>

391 Brooks, William L. (2010) *The Politics Of The Futenma Base Issue In Okinawa: Relocation Negotiations In 1995-1997, 2005-2006*. *Asia-Pacific Policy Papers Series*. No. 9. Edwin O. Reischauer Center for East Asian Studies.

392 Government of Japan. Ministry of Foreign Affairs (2012, August 31) *Futenma Replacement Facility Bilateral Experts Study Group Report*. Retrieved May 26, 2012, from www.mofa.go.jp

393 Chanlett-Avery, E., Cooper, W. H., Manyin, M.E. (2012, May 4) *Japan-U.S. Relations: Issues for Congress*. Congressional Research Service Report for Congress. Retrieved May 26, 2012, from <http://www.fas.org>

HA/DR operations far from the homeland, such as those in Bangladesh (Cyclone Marian, 1991), Honduras (Hurricane Mitch, 1998), East Timor (support to the UN High Commissioner for Refugees, 1999-2000 and again after 2002), Indonesia (December 2004 Indian Ocean tsunami, 2006 Java earthquake, 2009 Sumatra earthquake and other emergencies), Pakistan (2005 Kashmir earthquake and 2010 floods) and Haiti (January 2010 earthquake). The SDF experience with earthquake-related disaster relief operations and the broad range of expertise of its NGOs make Japan a formidable ally for the US in the field HA/DR, where constitutional limits have less influence. Since the enactment of the Law Concerning the Dispatch of Japan Disaster Relief Teams in 1987, revised in 1992 to allow the participation of the SDF, 121 Japanese disaster relief teams have been deployed in 40 countries.³⁹⁴ In August 2000 the Japan Platform, an organization linked to the MOFA, was established to fund and coordinate the actions of Japanese NGOs involved in HA/DR missions, enhancing their cooperation with private and governmental actors.³⁹⁵ Since 1996, disaster relief activities were included in the primary roles of the SDF and coordination with police, firefighters and local governments improved.³⁹⁶ During the 2004 Chūetsu earthquake, the SDF deployment was

“covered extensively on television and watched throughout the country, conveying the impression that the SDF is essentially an equal partner to police officers and firefighters when it comes to disaster relief operations.”³⁹⁷

The Japan's improvements in HA/DR were apparent in the 2004 Indian Ocean tsunami, when the Japanese government deployed a 1,600 men-strong HA/DR contingent and medical teams in the region. The coordination with US forces was strengthened by the presence of Japanese personnel in Thailand. Such operations improved the public

394 Government of Japan. Ministry of Foreign Affairs (2011, December) *Japan Disaster Relief Teams Deployed from 1987 to Dec 2011*. Retrieved June 1, 2012, from www.mofa.go.jp

395 Government of Japan. Ministry of Foreign Affairs (2005, March 11) *Funding for the Japan Platform (JPF)*. Retrieved June 1, 2012, from www.mofa.go.jp

396 Spurlock, Kenneth R. (2008) *Hospital Ships: A Transformational Necessity for Japan*. Retrieved June 1, 2012, from www.nids.go.jp

397 Schoff, James L. (2007, April) *In Times Of Crisis. Global and Local Civil-Military Disaster Relief Coordination in the United States and Japan*. The Institute for Foreign Policy Analysis and Osaka School of International Public Policy, Osaka University

opinion's perception of the Japan-US alliance and of the SDF: this was particularly true after the events of March 2011.

In the aftermath of the triple disaster that struck Japan on 11 March 2011, when a strong earthquake triggered a massive tsunami which brought destruction on the Pacific coast of Tohoku and damaged Fukushima Dai-ichi nuclear plant, over 100,000 SDF troops were deployed to search for survivors and to construct temporary housing for displaced people. In response to this unprecedented event, the United States launched Operation Tomodachi ("Friends"): 24, 000 men, 189 aircrafts and 24 ships were deployed to help the affected prefectures.³⁹⁸ During the operation, US troops operated for the first time under Japan's command: US aircrafts and vessels transported SDF personnel, vehicles and equipment, while SDF helicopters used US vessels as refuelling bases.

Japan has shown an increasing interest in taking part in HA/DR missions abroad. HA/DR missions had a relevant impact on the afflicted populations and consequently on their perception of Japan, even in areas where the memory of Japan's occupation is still strong. It also strengthened Japan's ties with those governments, from Pakistan to Taiwan, which can help Japan to secure the SLOCs vital for its economic survival. The impressive joint Japan-US response to the March 2011 triple disaster underlines how the increasing role of the SDF in HA/DR has been combined with an enhancement of SDF-US military interoperability.

The SDF and Maritime Security

The evolving role of SDF: 1954 - 1998

Since their establishment in 1954 under the Japan Defense Agency, the SDF underwent a deep change, related to the evolution of Japan's security agenda and the progressive re-interpretation of Article 9 of the Japanese Constitution. Before 1954, during the initial phase of the debate over the original intent of Article 9, the renounce to "war potential" had already been interpreted as an abandonment of military

398 Johnston, Eric (2012, March 3) Operation Tomodachi a huge success, but was it a one-off? *The Japan Times Online*. Retrieved June 1, 2012, from <http://www.japantimes.co.jp>

capability that might be used for aggression which should not prevent Japan's right to self-defense. In the light of this interpretation, Japan had the right to respond with the minimum necessary use of force to imminent and illegitimate acts of aggression in the absence of other means of defense. Consequently, the possession of long-range missiles, aircraft carriers and other instruments of power-projection were excluded. Other guidelines of Japan's defense strategy have been the limitation of defense budget under 1% of the country's GDP, the ban on defense exports and military use of space, as well as the "three non-nuclear principles": Japan will not possess, produce or allow the introduction of nuclear weapons on its territory. The third principle, however, was object of a secret agreement with the U.S. government, which maintained the right to violate it at least until 1991.

The 1976 National Defense Program Guidelines, which incorporated the Basic Defense Force Concept adopted in 1975, was influenced by the easing of relations between the United States and the Soviet Union. The Basic Defense Force Concept was based on the assumption that a direct military conflict between the two superpowers was unlikely and the Treaty of Mutual Cooperation and Security between the United States and Japan could prevent a full-scale invasion of Japan. For these reasons, the SDF had to focus on intelligence, surveillance and enhancement of defense capabilities to contrast small-scale invasions. Hence, the priorities identified by the 1976 NDPG were the reinforcement of the SDF with particular attention to the possibility of a limited invasion of Japan's territory and the maintenance of the deterrence provided by the Japan-US security agreements. As Richard J. Samuels noticed, the establishment of "an independent military capability that would upset the regional balance of power" had to be avoided.³⁹⁹ However, between the late 1970s and the early 1980s the increasing dependence of Japanese economy from the security of the SLOCs, the soviet submarine threat and Washington's pressure for greater defense "burden sharing" altered the SDF priorities.

These issues were discussed during the May 1981 meeting between Japanese Prime Minister Suzuki and U.S. President Reagan: Japan planned to expand its naval

399 Samuels, Richard J. (2007) *Securing Japan: Tōkyō's Grand Strategy And The Future Of East Asia*. Cornell University Press ; Government of Japan. Ministry of Defense (2010) *National Defense Program Guidelines for FY 2011 and beyond*. Retrieved June 2, 2012, from www.mod.go.jp

defense responsibilities in the area surrounding Japan and in the SLOCs up to 1,000 nm from Japan.⁴⁰⁰ In the following years, Japan enhanced its air and maritime patrol capabilities investing in high technology equipment and reducing the GSDF budget share. Japan increased the number of its P-3Cs and focused on modern communication technologies.⁴⁰¹ In the end of 1980s, Prime Minister Nakasone considered the possibility of sending MSDF minesweepers in the Persian Gulf. However, the MSDF did not sailed to Middle East until 1991, after Operation Desert Storm.

During the U.S.-led campaign against Iraq, Japan resisted Washington's pressures to dispatch SDF troops to join the international coalition and responded with only a (substantial) financial contribution.⁴⁰² This led to widespread criticism in the West and in particular in the United States, where Japan's interpretation of "burden sharing" was harshly censured.⁴⁰³ The dispatch of minesweepers in the Gulf after the end of the hostilities did not received particular attention in the West and the accuse of pursuing a "checkbook diplomacy" continued to conditioned Japan-US relations in the following years.⁴⁰⁴ Japan's efforts to re-gain international prestige are one of the reasons which led to the enactment of the 1992 International Peace Cooperation Law: since then, SDF personnel were authorized to take part in UN PKO. The SDF actively participated in PKO in an increasingly higher number of regions, including Cambodia, Mozambique, East Timor, the Golah Heights, Rwanda and Nepal.⁴⁰⁵ Recently, however, Japan's participation to PKO was limited by to the fact that, in Africa in particular, a greater number of UN missions are "Chapter VII" operations, where the use of force authorized might be not compatible with the SDF's ROE.⁴⁰⁶

400 Graham, Euan (2006) *Japan's Sea Lane Security, 1940-2004: A Matter of Life and Death?* New York: Routledge

401 Levin, Norman D. (1988) *Japan's Changing Defense Posture*. The Rand Corporation. Retrieved June 2, 2012, from <http://www.dtic.mil>

402 Azad, Shirzad (2008, June) Japan's Gulf Policy and Response to the Gulf War. *Middle East Review of International Affairs*. Vol. 12 No. 2

403 Blustein, Paul (1991, February 24) The Politics Of Hesitation. *The Seattle Times*; Friedman, Thomas L. (1991, November 12) Baker Asks Japan To Broden Role. *The New York Times*

404 Woolley, Peter J. (1996, August) *Japan's 1991 Minesweeping Decision: An Organizational Response*. Asian Survey. Vol.36 No.8 Berkeley: University of California Press

405 Government of Japan. Ministry of Foreign Affairs (1997, January) *Current Issues Surrounding UN Peace-keeping Operations and Japanese Perspective*. Retrieved June 2, 2012, from www.mofa.go.jp; Fenwick, Mark (2005) Japan's Response To Terrorism Post-9/11. In Roach, K.; Ramraj, V.V.; Yew Meng Hor, M. (Eds) *Global Anti-Terrorism Law And Policy*. New York: Cambridge University Press

406 Findlay, Trevor (2002) *The Use Of Force In UN Peace Operations*. New York: Oxford University Press; Fouse, David (2012) Japan's Transnational Security Agenda. In Fouse, D. *Issues for Engagement:*

The 1995 NDPG further expanded the role of the SDF, with the inclusion of the participation to international peacekeeping and HA/DR missions. However, much more significant was the extension of the SDF area of operation coming from the Japan-U.S. Guidelines for Defense Cooperation promulgated in 1997. The SDF and the U.S. forces will cooperate in “situations in areas surrounding Japan” but this does not limit the area of the operations to East Asia as “the concept, [...], is not geographic but situational”. In other words, the MSDF, although limited in its actions by strict ROE, could sail far from Japan's “geographical” defensive perimeter for taking part in “activities initiated by either government”.⁴⁰⁷ Just one year before the promulgation of the guidelines, Tōkyō had proposed of a Japan-led international Ocean Peacekeeping Force to fight piracy and secure the South China Sea and the Strait of Malacca. After the extension of the MSDF area of responsibility in the early 1980s, another step was taken to expand Japan's seapower.

Japan's new seapower and the protection of SLOCs

The expansion of Japan's seapower since 1999, part of a general strengthening of the SDF, followed different tracks. A strong response to DPRK spy boats and the participation to the PSI (including the inspection of all DPRK ships visiting Japanese ports) has shown what Japan can and has the political will to do. The fight against piracy and the Indian Ocean refuelling mission further expanded the area of responsibility of the JCG and MSDF.

According to John Bradford, Country Director for Japan in the Office of the Secretary of Defense at US Navy, the *Alondra Rainbow* incident in 1999 has been a turning point for the securitization of piracy and the subsequent initiatives in Southeast Asia.⁴⁰⁸ After the increasing number of pirate attacks in Southeast Asia in the late 1990s, Japan's maritime industries and research institutions urged the Japanese

Asian Perspectives on Transnational Security Challenges. Honolulu: Asia-Pacific center for Security Studies.

407 Government of Japan. Ministry of Foreign Affairs (1997, September) *The Guidelines For Japan-U.S. Defense Cooperation*. Retrieved June 2, 2012, from www.mofa.go.jp; Xu, Heming (1998, July) *The Redefinition Of Japan-U.S. Security Alliance And Its Implications For China*. Washington D.C.: Sigur Center for Asian Studies

408 See Chapter 1

government to take measures to prevent further incidents involving Japanese ships. Although, as we have seen, the protection of SLOCs had been clearly identified as vital for the defense of Japan since the late 1970s and piracy was already a serious menace in the mid-1990s, the *Alondra Rainbow* incident and the fate of his crew received unprecedented attention from the media. Bradford underlines the fact that:

Both the humanization and the “Japanization” of piracy are important because safety, victimization and communal welfare are exceptionally strong triggers in Japanese society. In the case of piracy, the human issues are particularly powerful not only because Japan is seen as being the victim, but because the maritime and violent nature of the attacks are easily associated with other socially disturbing phenomenon such as the abductions conducted by North Korean spy boats, organized crime, and terrorism.⁴⁰⁹

Furthermore:

Political interest groups have also sought to use the piracy issue as a vehicle to expand Japan's overseas presence and further “normalize” Japanese security policy. For many of these groups, the piracy threat presents an opportunity to justify the overseas deployment of forces thereby setting a precedent for future actions.⁴¹⁰

However, Japan's proposal of Ocean Peacekeeping and other multilateral initiatives were met with suspicion from Southeast Asian countries: cooperation was limited to bilateral initiatives and eventually no MSDF took part in joint patrols in the Malacca Straits. Nevertheless, the activities in support of Southeast Asian law enforcement agencies have been used to ease the ban on arms export, as well as enhance cooperation between the JCG and foreign authorities.⁴¹¹

409 Bradford, John F. (2004) Japanese Anti-Piracy Initiatives in Southeast Asia: Policy Formulation and the Coastal State Responses. *Contemporary Southeast Asia* 26, no. 3 (p.486) Singapore: ISEAS

410 Bradford, John F. (2004) Japanese Anti-Piracy Initiatives in Southeast Asia: Policy Formulation and the Coastal State Responses. *Contemporary Southeast Asia* 26, no. 3 (p.488) Singapore: ISEAS

411 Japan to hold drills with India, Malaysia to combat piracy (2000, October 30) *Kyodo*; Ballantyne, Robin (2005, December 1) Japan's hidden arms trade. *The Asia-Pacific Journal: Japan Focus*. Retrieved June 2, 2012, from <http://www.japanfocus.org/>

The Japanese Coast Guard

The Japanese Maritime Safety Agency, established in 1948 under the Ministry of Transport, has been significantly upgraded since 2000, when it was renamed as Japanese Coast Guard. After the failed attempt to pursue DPRK spy-boats off the Noto Peninsula, a revision of the JCG Law authorized since November 2001 the use of direct fire to disable intruding ships if warning shots were ignored.⁴¹² In the same year, the MSDF Special Boarding Unit was created: even if it did not take part in the following Amami-Ōshima events, it is now engaged in the anti-piracy operations off the coast of Somalia.⁴¹³ The JCG budget was increased to enhance the speed and range of its fleet. In 2005-2006, a period in which JDA budget was reduced, Professor Richard Samuels noticed that “ the CG equipment budget was increased to an average of 50 billion yen per year for the next 7 years” and

the CG received delivery of two long-range (12.000 mile) Gulfstream V jets configured like unmanned aerial vehicles for continuous data collection and real time ship identification, as well as two patrol ships with advanced fire-control system, 20mm and 40mm cannons, and advanced-targeting night vision capabilities, which it dispatched for duty near the disputed Senkaku Islands.⁴¹⁴

Soon after the law revision, JCG vessels chased a “suspicious ship” detected into Japan's EEZ, firing warning shots and then hitting directly the enemy boat. The JCG pursued the ship long after it had left Japanese waters, entering China's EEZ. The crew, later identified as North Korean, opened fire against the JCG vessels and later apparently sunk its own ship with an explosive device. Only a few bodies were recovered. The timing and the unprecedented use of force appear linked to Japan's will show its new “fighting power” and test the public opinion's reaction to it. While the

412 Mochizuki, Mike M. (2004) Japan: Between Alliance And Authonomy. In Tellis, Ashley J. & Wills, Michael (Eds.) *Strategic Asia 2004-05: Confronting Terrorism in the Pursuit of Power*. Seattle: National Bureau of Asian Research

413 See Chapter 2

414 Samuels, Richard J. (2007) *Securing Japan: Tōkyō's Grand Strategy And The Future Of East Asia*. Cornell University Press

SDF still avoids the word “senryoku” (“war potential” / “fighting power”), Samuels noticed that the 2006 Japanese Coast Guard Annual Report uses the words “arata na senryoku” (“new fighting power”).⁴¹⁵ Apparently, the public opinion and opposition parties, even when opposing JDA spendings, generally accepted this upgrade of the JCG and its increasing role in the national defense.

The JCG expanded also Japan's cooperation with countries which would not have accepted the presence of MSDF vessels. Between 2000 and 2004, the JCG patrol vessels and aircraft visited Brunei, Indonesia, India, Singapore, the Philippines, Malaysia and Vietnam. Joint exercises with Southeast Asian nations' law enforcement agencies increased and are now considered as common routine.⁴¹⁶ The JCG assisted in particular Malaysia and Indonesia with capacity building and training programs to support the creation of local coast guards.⁴¹⁷ Thus, civilian-controlled but armed Japanese vessels were already an accepted presence near the SLOCs between Middle East and East Asia before the Indian Ocean refuelling mission. In the following years, the JCG conducted also joint trainings with the MSDF and JCG officers with have taken part in the SDF mission off the coasts of Somalia to arrest suspect pirates.

415 Samuels, Richard J. (2007, September) “New fighting power!” For Japan? *Audits of the Conventional Wisdom*. Center for International Studies. Massachusetts Institute of Technology.

416 Bateman, Sam (2003, January) *Coast Guards: New Forces For Regional Order and Security. Analysis from the East-West Center*. Honolulu: East-West Center

417 Raj, Andrin (2009) *Japan's Initiatives in Security Cooperation in the Straits of Malacca on Maritime Security and in Southeast Asia: Piracy and Maritime Terrorism*. The Japan Institute for International Affairs. Retrieved March 31, 2012, from <http://www2.jiia.or.jp>



JCG patrol boat *Yashima*⁴¹⁸

The JCG fleet is at present composed by 448 ships, including 13 large helicopter carrying patrol vessels and other units with blue-water capability, 46 helicopters and 27 airplanes. The JCG has also a counter-terrorist unit, the Special Security Team, created in 1985. This impressive numbers should not lead to an overestimation of the JCG capabilities: its vessels do not have torpedoes, cruise missiles, anti-aircraft or anti-missile defense systems. Their armament and detection systems are not sufficient to sustain a naval battle and their range is limited by the absence of replenishment vessels. Notwithstanding these limits, the JCG plays will play an increasing role in the patrol of Japan's territorial waters and in the disputed areas of the East China Sea, especially in situations where a MSDF intervention might be considered controversial.

Japan's "Dynamic Defense" and the MSDF

In March 2004, LDP's Defense Policy Studies Subcommittee released a report suggesting the shift from the Basic Defense Force Concept to a "flexible" defensive

418 Japanese Coast Guard. <http://www.kaiho.mlit.go.jp>

posture, underlining the changes taking place in East Asia: the DPRK nuclear program, as well as its ballistic missile launches, and the expansion of PLAN's area of operations. The report recommendations included the amending of Article 9 to allow collective self-defense and recognize the legitimacy of Japan's "war potential", the revision of the ban on arms export and the strengthening of the PM's role in the defense decision making process and the examination of the possibility to target enemy missile bases if an attack is believed to be imminent. Moreover, it suggested the expansion of international peace cooperation missions: for this purpose, the development of rapid-response ground units with enhanced naval and air transport capability was indicated as prioritary.⁴¹⁹

Some of these suggestions were adopted by the Council on Security and Defense Capabilities (the so-called Araki commission). The commission suggested the upgrade of the SDF's intelligence gathering capabilities, training programs and technological equipment. Japan was called to cooperate with the United States in the joint development of a missile defense system: thus, the revision of the ban on arms export was justified as necessary for the defense of Japan's territory.⁴²⁰ The Commission considered also the international peace cooperation missions as a contribution to Japan's security as they are functional to the improvement of the international security environment. The participation to missions abroad, which included the expansion of long-range air transportation capabilities of the ASDF, was directly linked to national security. The report avoided the controversial topic of the revision of Article 9 and concentrated its attention on the posture of the SDF inside the existing constitutional framework. The Cold War's approach based on the prevention of small-scale invasions and anti-submarine warfare was considered incoherent with the post-1991 situation. Thus, instead than on artillery and tanks, the GSDF was invited to focus on the role of infantry, while the MSDF was urged to develop anti-missile capabilities.⁴²¹ The 2004 Guidelines led also to the creation of the 300-member GSDF

419 Fouse, David (2006, March) Japan's FY 2005 National Defense Program Outline: New Concepts, Old Compromises. *Asia-Pacific Center for Security Studies*. Vol.4 No.3

420 Government of Japan. Ministry of Foreign Affairs. The National Institute for Defense Studies Japan (2008) Japan—Aiming for Broader, Deeper Regional Security Cooperation. *East Asian Strategic Review 2008*

421 Tatsumi, Yuki (2004, October 23) First step to a national security strategy. *The Japan Times Online*. Retrieved June 2, 2012, from <http://www.japantimes.co.jp/>

Special Operation Unit, trained for anti-terrorist and anti-guerrillas operations.⁴²² According to the JDA, the unit is supposed to work mainly within Japan's territory in coordination with police forces. In 2007 they joined the 3,200-strong Central Readiness Force, responsible for international PKO and HA/DR, emergency repatriation of Japanese citizens, anti-piracy, contrast of guerrilla and foreign special operation forces.⁴²³

The principles expressed by the Defense Policy Studies Subcommittee and the Araki commission, as the identification of international peace cooperation as part of Japan's national defense strategy, were included in the 2004 NDPG. The reports indicated effective deterrence and response, the stabilization of the Asia-Pacific security environment and the improvement of global security as SDF's main roles. The new NDPG highlighted the threats coming from cyber attacks, ballistic missiles, guerrillas and special forces operations. The outdated Basic Defense Force Concept had to be integrated with the principle of "Dynamic Defense Force", including the enhancement of intelligence functions and the strengthening of joint and international cooperation activities. The MSDF was urged to enhance its capabilities to protect the seas surrounding Japan, its offshore islands and the SLOCs (on November 12, a Chinese submarine had entered Japan's territorial waters). The MSDF Aegis-equipped vessels were indicated as the first line of Japan's anti-missile defense, integrated by the deployment of *Patriot* Pac-3 batteries near the SDF bases.⁴²⁴

China: territorial issues, naval modernization and "America's Pacific Century"

China is equally dependent on the security of the SLOCs: geographic factors give it more possibilities to diversify its routes and sources of energy supply, but sea trade will remain vital for China's growth. The fate of Taiwan and other Chinese (or considered as such by Beijing) insular territories will determinate also the control of

422 Shimoyachi, Nao (2004, march 30) GSDF inaugurates undercover antiterrorist squad. *The Japan Times Online*. Retrieved June 2, 2012, from <http://www.japantimes.co.jp>

423 Japan launches counter-terrorism force (2007, April 1) *AFP*; Government of Japan. Ministry of Defense. *What is the CRF (Central Readiness Force) ?* Retrieved June 2, 2012, from <http://www.mod.go.jp>

424 Government of Japan. Japan Defense Agency (2004, December 10) *The National Defense Program Guidelines for FY2005 and beyond (2004 NDPG)*. Retrieved June 2, 2012, from www.mod.go.jp

East Asian SLOCs and the security of China's access points to the Pacific Ocean.

Political and economic relations between Japan and Taiwan are strong and deeply rooted. The peak of Japan's involvement in the island's security was reached in 2005 when a joint Japan-U.S. Statement declared the peaceful resolution of the Taiwanese issue a common strategic objective.⁴²⁵ More recently, the Japan Interchange Association and Taiwan's East Asian Relations Commission representatives signed an arrangement to facilitate and protect mutual investment.⁴²⁶ Japan has equally profitable economic ties with Beijing, but the reunification of China would deeply influence Japan's security: the safety of navigation in the waters surrounding Taiwan is vital for Japan's trade. A military crisis might result even more dangerous than a pacific reunification, as the Taiwan-U.S. and Japan-U.S. military ties would involve Japan's security: directly in the case of Japan's participation in the defense of Taiwan, indirectly if the U.S. military facilities in Okinawa will be targeted.

Trade between China and Japan set a new record in 2011 and it is expected to exceed \$350 billion in 2012, but tension between the two countries regularly rises over historical and territorial issues.⁴²⁷ Some Japanese political leaders' ambiguity in the recognition of Japan's responsibilities during the Second World War is strongly contested by Chinese government and public opinion. However, in the last decade the dispute over the Senkaku/Diaoyu islands, located in the East China Sea, has been source of greater concerns. Beijing and Taipei consider the small islands as part of China's territory and historically separated from the Ryūkyū kingdom, incorporated by Japan. Tōkyō claims they have been discovered by Japanese government in the end of 19th Century and should be considered part of the Okinawa prefecture. Since Okinawa returned under Japanese control in the 1970s, also the Senkaku/Diaoyu islands are considered part of Japanese territory.⁴²⁸ Considering the limited size of the islands, disputes concern mainly the redefinition of maritime delimitations and the access to the hydrocarbon resources in the area. The constant penetration of Japanese territorial

425 Government of Japan. Ministry of Foreign Affairs (2005, February 19) *Joint Statement. U.S.-Japan Security Consultative Committee*. Retrieved June 3, 2012, from www.mofa.go.jp

426 Taiwan signs historic pact with Japan (2011, September 23) *The China Post*; Taiwan, Japan sign protection pact (2011, September 23) *Taipei Times*

427 Japanese External Trade Organization (2012, February 23) *Analysis of Japan-China Trade in 2011 and Outlook for 2012*. Retrieved June 3, 2012, from <http://www.jetro.go.jp>

428 Lee, Seokwoo (2002) Territorial Disputes among Japan, China and Taiwan concerning the Senkaku Islands. *Boundary & Territory Briefing* Vol3. No.7

waters by Chinese submarines, aircrafts and hydrographic research vessels slowed considerably the negotiations. After a series of bilateral meetings in 1997, 2001 and 2004, which did not led to any definitive agreement on the status of the islands, the Japanese government announced in June 2005 having granted to Teikoku Oil permission for trial drilling in the East China Sea.⁴²⁹ In September five PLAN destroyers were spotted near Kashi gas field in the East China Sea and in October Tōkyō announced a joint Japan-U.S. training to simulate the protection of “remote islands”.⁴³⁰ In 2006 China proposed a joint gas field development project. In 2007 and 2008, for the first time, a PLAN vessel entered a Japanese port and a MSDF ship visited China. Further negotiations in 2008 and 2010 were partially interrupted after the collision between JCG patrol boat *Mizuki* and a Chinese fishing boat near the disputed islands, which resulted in an exchange of accusations between the two governments, in particular after the leakage of a JCG video of the collision.⁴³¹ At the time of writing, although both parts agree on joint development on the base of the 2008 negotiations, mutual mistrust still prevails.⁴³² An early solution of the South China Sea disputes seems equally unlikely: Chinese claims over the Spratly and Paracel islands led to a series of confrontations with Vietnam and the Philippines. Both countries are reinforcing their military ties with the United States and the Philippines government's intention to expand its military presence in the Spratly archipelago could have dangerous consequences on the stability of the region. In 2011, Chinese boats twice interrupted Vietnamese underwater cables and Vietnamese boats were fired upon near the contested border areas.⁴³³

From the point of view of Beijing, the security of SLOCs in East Asia is threatened not only by the possibility of piracy-related incidents in the Straits of Malacca, but also by unresolved territorial claims and the possibility of a U.S. blockade if a crisis over Taiwan would break out. While Japan, taking the lead of anti-piracy

429 Przystup, James J. (2006) Japan-China Relations: Looking Beyond Koizumi. *Comparative Connections*

430 Japanese military will train in Hawai'i (2005, October 30) *The Honolulu Advertiser*

431 Yingchun, Gong (2011, December) The Development and Current Status of Maritime Disputes in the East China Sea. In Schofield, Kleid (Ed.) *Maritime Energy Resources in Asia: Energy and Geopolitics*. The National Bureau of Asian Research

432 Okudera, Atsushi (2012, May 17) No progress on island row in 1st Japan-China sea talks. *The Asahi Shimbun*

433 Fukasawa, Junichi & Yamada, Makiko (2011, June 16) Anti-China feelings rising in Vietnam. *Yomiuri Shimbun*

activities in Southeast Asia, tried to secure the area with development assistance and joint development of local law enforcement agencies, China did not actively take part in anti-piracy until recently. However, its role as one of the main economic partners of Southeast Asian nations increased interdependence and integration in the region. China's excessive dependence from the security of SLOCs led to investments in infrastructure development in Cambodia, Myanmar, Bangladesh, Pakistan and central Asia, as well as the signing of the 2003 Russia-China agreement for the construction of a pipeline leading Siberian oil to China and Pacific Ocean ports. Neither Russian pipelines, nor Pakistan or Myanmar land routes can, however, be considered as reliable substitutes for the SLOCs. A Booz Allen Hamilton consulting firm report suggested in 2005 that China investments in port developing in Myanmar, Bangladesh, Sri Lanka and Pakistan would be part of a "string of pearls", a system of naval bases and "monitoring stations" aimed at securing SLOCs and entangling India. As for the piracy-terrorism connection theory, weak factual basis did not prevent this theory to enjoy a certain success in the following years.⁴³⁴ As there is no evidence about neither a direct PLAN involvement in these ports, nor interest from coastal states to line up with Beijing breaking their ties with India and the U.S., the "pearls" are apparently nothing more than civilian facilities which might support PLAN vessels but cannot be considered as a network of military bases.⁴³⁵ China's anti-piracy mission in the Gulf of Aden in 2008 has been met with equal suspicion, in particular after Beijing's announce that it would use Seychelles port for refuelling operations.⁴³⁶ As Japan, China sees of course anti-piracy as a mean to secure its SLOCs and provide the PLAN with combat-operation training in proximity of Indian, Russian, U.S. and other nations' units. However, there is no evidence of a coordinated strategy to use the naval deployment in the Indian Ocean for offensive purposes. A network of military bases in the Indian Ocean would have relevant economic and political costs. So far, China did not show interest in such large-scale deployment or in any form of intervention which might undermine other nation's

434 Pehrson, Christopher J. (2006, July) *String of Pearls: meeting the challenge of china's rising Power across the Asian littoral*. Strategic Studies Institute. U.S. Government; Kim, Shee Poon (2011) *An Anatomy of China's 'String of Pearls' Strategy. The Hikone Ronso*

435 Townshend, Ashley S. (2011, September 16) *Unraveling China's "String of Pearls"*. Yale Center for the Study of Globalization

436 Rahman, Maseeh (2012, March 22) Chinese plans in Seychelles revive Indian fears of encirclement. *The Guardian Online*. Retrieved June 3, 2012, from <http://www.guardian.co.uk>

sovereignty, even when Chinese citizens came under attack (as it happened in Pakistan, Ethiopia or Sudan).⁴³⁷

The modernization of China's naval fleet, started in 1990s, will probably have a greater impact on the Pacific Ocean military balance than on the Indian Ocean. The PLAN is developing anti-access capabilities based on the use of submarines and anti-ship ballistic missiles to prevent a U.S. intervention in a conflict over Taiwan or other Chinese insular territories, as well as enhancing SLOCs protection and enforce China's view that it has the right to regulate foreign military activities in its EEZ. The "America's Pacific Century" program presented by Secretary of State Clinton is expected to have relevant consequences on the security of SLOCs and on Japan's role in the region. The United States declared its intention to increase the number of ships visits to the Philippines and continue the training of local counterterrorism forces. Moreover, U.S. littoral combat vessels will be deployed in Singapore and the United States will support India (which is expanding its military presence in the Adaman and Nicobar islands) as the "linchpin" of a "more economically integrated and politically stable South and Central Asia". According to the Secretary of State, the economic growth of China and other Asian countries should be considered the result of U.S. efforts to support and militarily protect a rules-based international system. As "there should be no doubt that America has the capacity to secure and sustain our global leadership in this century as we did in the last", China is invited to join the U.S. in a military-to-military dialogue.⁴³⁸ Naval trainings with Vietnam and recent U.S. overtures towards Myanmar appear functional to this strategy.⁴³⁹ The United States challenged China also on the economic front, declaring their interest in joining the Trans-Pacific Partnership (TTP), a multilateral FTA which involves environmental and intellectual property regulations which would exclude China's participation. Singapore, Brunei, New Zealand and Chile have been the first signatories in 2005, while Japan, Australia and other countries later joined the U.S. in the negotiations.

The U.S. announced that a partial withdrawal of troops from South Korea and

437 China workers killed in Pakistan (2006, February 15) *BBC News*; Scores die in Ethiopia oil attack (2007, April 24) *BBC News*; Chinese oil worker killed in Sudan conflict state: embassy (2011, October 3) *AFP*

438 Clinton, Hillary (2011, November) *America's Pacific Century*. *Foreign Policy*

439 Barta, Patrick (2011, July 16) U.S., Vietnam in Exercises Amid Tensions With China. *The Wall Street Journal*; US suspends sanctions on investment in Myanmar (2012, May 17) *Reuters*

Japan will be compensated by an increase of U.S. military presence in Australia. This shift appears linked to the modernization of the PLA. The PLAN is enhancing its theatre-range anti-ship ballistic missiles and submarine-launched anti-ship cruise missiles.⁴⁴⁰ The modernization of the submarine fleet and over-the-horizon targeting capability will provide the PLAN further influence over the East and South China Sea.⁴⁴¹ Moreover, the PLA conducted anti-satellite and cyberwarfare exercises which seem aimed at reducing the Beijing-Washington technological gap. According to the 2011 Report to Congress of the U.S.-China Economic and Security Review Commission, a PLA's *Dong Hai-10* land attack cruise missile launched by air could hit targets up to 3,700 km away.⁴⁴² This implies that U.S. military bases in Korea, Japan and probably even Guam would be within China's missiles range in case of conflict. The result is a reduced bargain power for Tōkyō in the relations with its ally and an increasing role for Australia in the region. Facing a reduction of Japan's role as “unsinkable aircraft carrier”, as Prime Minister Nakasone used to define it, past overtures to missile-defense cooperation with the United States were followed by Noda government's decision to relax the weapons export ban in December 2011, a choice which was expected to boost Japan's defense industry.⁴⁴³ These expectations, however, are linked to the joint development of 5th generation F-35 fighters, a process which might be influenced by the economic situation of other nations involved in the project.⁴⁴⁴ In the end of 2000s, military cooperation with other nations (such as Australia, ROK and the Philippines) was improved.⁴⁴⁵ Tōkyō signed a security pact with Australia in March 2007, in June in the same year the first Japan-Australia Joint Foreign and Defense Ministerial Consultations and the first Japan-U.S.-Australia Defense Ministers' Meeting

440 O'Rourke, Ronald (2012, March 23) *China Naval Modernization: Implications for U.S. Navy Capabilities-Background and Issues for Congress*. Congressional Research Service Report for Congress. Retrieved June 3, 2012, from fpc.state.gov

441 U.S. Government. Ministry of Defense (2011) *Military and Security Developments Involving the People's Republic of China*. Annual report to Congress. Retrieved June 3, 2012, from <http://www.defense.gov>

442 U.S.-China Economic and Security Review Commission (2011, November) *2011 Report to Congress*. Retrieved June 3, 2012, from <http://www.uscc.gov>

443 Harlan, Chico (2011, December 27) Japan Relaxes Longtime Weapons Export Ban. *The Washington Post*

444 Hornung, Jeffrey W. (2012, April 5) How the F-35 May Hurt U.S.-Japan Ties. *The Diplomat*. Retrieved June 3, 2012, from <http://the-diplomat.com>

445 Wallace, Correy (2012, May 24) Alliance Diversification Watch: Japan and the Philippines. *Japan Security Watch*. Retrieved June 3, 2012, from <http://jsw.newpacificinstitute.org>

took place. In October, the MSDF participated in a joint exercise with the U.S. Navy and the Royal Australian Air Force. Both countries regularly take part in RIMPAC, a multinational naval drill in the waters off Hawaii, and a new Australia-Japan bilateral naval exercise took place in June 2012.⁴⁴⁶ Furthermore, Japan's need of LNG after March 2011 events provided further reasons to expand its links with Australia.

The 2011 NDPG indicates a reduction of the GSDF equipment and personnel to strengthen the MSDF capabilities: submarine warfare capabilities will be expanded and the Aegis-equipped destroyers will have a pivotal role in anti-missile defense. Explicit reference is made to the PLAN acquisition of new frigates and its first aircraft carrier: one of the SDF mission will be to enhance its capabilities “to respond to attacks on offshore islands”.⁴⁴⁷ For what concerns the anti-piracy mission in Somalia, the document recognizes that few results have been achieved and further efforts are needed. The Guidelines follow the indications of the Basic Plan on Ocean Policy, adopted by the cabinet in 2008: development of new fixed-wing patrol aircrafts, increase of the number of submarines and minesweepers, enhancement of the cooperation between MSDF and JCG. Thus, the Maritime Self Defense Forces are expected to continue playing a crucial role in the foreseeable future.

CONCLUSION

Japan's dependence from the safety of the Sea Lines of Communication and the flow of energy resources from the Middle East shaped the country's approach to piracy and maritime security. The anti-piracy initiatives have been functional to the development of Japan's naval power, part of a general strengthening of the Self Defense Forces. The United States' request for greater “burden sharing” in the alliance between the late 1970s and early 1980s contributed to the expansion of Japan's naval defense responsibilities to the SLOCs up to 1,000 nm from the country's coasts.

The MSDF minesweeping operation in the Persian Gulf and the SDF personnel participation to Peacekeeping Operations abroad in the early 1990s anticipated the following inclusion of International Peacekeeping and Humanitarian Assistance /

446 Simpson, James (2012, June 2) Japan-Australia Naval Exercises to Kick Off, June 4th. *Japan Security Watch*. Retrieved June 5, 2012, from <http://jsw.newpacificinstitute.org>

447 Government of Japan. Ministry of Defense (2010) *National Defense Program Guidelines for FY 2011 and beyond*. Retrieved June 3, 2012, from www.mod.go.jp

Disaster relief as SDF' new missions. Tōkyō proposed to contrast the surge of piracy in Southeast Asia with multilateral joint coast guard patrols, part of a Japan-led Ocean Peacekeeping Force. A further development can be found in the 1997 Japan-U.S. Guidelines for Defense Cooperation: the cooperation between the SDF and U.S. military forces in “situations in areas surrounding Japan” changed its geographic limits as, according to the Guidelines, the “areas surrounding Japan” was to be considered a “situational” concept.

In 1999, the *Alondra Rainbow* incident and the failed attempt to capture DPRK spy boats off the Noto Peninsula helped the Japanese government to gain the public opinion's support to Japan's plans concerning security and overseas deployments, including the anti-piracy initiatives and the reform of the Japanese Coast Guard. Not only the JCG, which is not subject to the SDF's budget limits, expanded its fleet and rules of engagement, but dialogue between coast guards became a useful tool to expand Japan's cooperation initiatives to areas of Southeast Asia where the MSDF would not have been welcomed. Japan's multilateral anti-piracy plans were rejected by the littoral states and cooperation was limited to bilateral agreements: however, Japan's financial and technological contribution to local law enforcement agencies has been of pivotal importance for the littoral state's coordinated initiatives which eventually led to a reduction of piracy in the Straits of Malacca. MSDF and JCG's participation to the Proliferation Security Initiative exercises marked another step in the improvement of Japan's assertiveness on the seas.

The SDF refuelling mission in the Indian Ocean in support of Operation Enduring Freedom-Maritime Interdiction Operations introduced the possibility to deploy MSDF vessels (including Aegis-equipped destroyers) far from East Asia, assisting other nation's military units involved in war missions. Coherently with Japan's interest in the flow of resources from the Middle East to East Asia, a Japan-GCC Free Trade Agreement is under negotiations and Japanese vessels participated in joint naval trainings with India. The Japanese military presence in the Indian Ocean, despite some short interruption, became semi-permanent with the beginning of the anti-piracy mission off the coasts of Somalia and the subsequent creation of a SDF facility in Djibouti. Differently than in Southeast Asia, Japan's initiatives in the Horn of Africa include a significant involvement of the military. On the medium and long term, Japan and

other nations's plans are based on the support of the Transitional Federal Government and other governments in the region. However, conflicts of interests between neighbouring countries, as well as the TFG's inefficiency, weakened these initiatives to improve the situation within Somalia. Also the short-term initiatives for the contrast of piracy in the waters off the Horn of Africa did not produced significant results. Nevertheless, the anti-piracy missions gives to a number of nations, including Japan, the possibiliy to purse blue-water combat training near other navies while operating under UN mandate.

China, similarly to Japan, is heavily dependent on the safety of navigation between East Asia and the Middle East: after avoiding a direct involvement in Southeast Asia anti-piracy initiatives, later decided to deploy the People's Liberation Army Navy vessels off the coasts of Somalia. PLAN's presence in the Indian Ocean raised concerns over the real purpose of China's investments in the coastal states situated near the SLOCs, but no evidence has so far emerged about a coordinated strategy to use these forces or their supply bases in the Indian Ocean for offensive purposes. In East Asia, on the contrary, the security of SLOCs could be jeopardized by territorial disputes between Japan and China, as well as between China and other Asian nations. Moreover, the freedom of navigation in the SLOCs connecting Japan and the Indian Ocean could be endanger by a reunification of China. From the point of view of Beijing, Japan's new seapower could imperil China's access to the Pacific Ocean.

For what concerns the Japan-U.S. Alliance, the PLA modernization reduced Japan's bargain power: South Korea, Japan and proably Guam are now within the range of chinese missiles. The "America's Pacific Century", as Secretary of State Hillary Clinton defined the United State's foreign policy objectives in the Asia-Pacific region, is expected to have Australia, and no more Japan, as lynchpin. The new security environment led Japan to seek for new allies in the region and relax the weapons export ban. A rupture of the Japan-U.S. Alliance is extremely unlikely, in particular after Washington's efforts in Operation Tomodachii and the increased military interoperability, and the DPJ victory in 2009 did changed the strong Japan-U.S. security ties. However, Japan is expected to increase its military capabilities to play a more autonomous role on the international scenario. The 2001 National Defense Program Guidelines suggest us that, once again, a MSDF will have a pivotal role: securing the

Japanese territory with improved anti-missile and submarine capabilities, as well as patrolling the SLOCs from the Gulf of Aden to the Ochotsk Sea thanks to Japan's increasing participation to peacekeeping, HA/DR and anti-piracy mission.

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