



## **SUPPRESSING PIRACY IN THE SOUTH CHINA SEA: TOWARDS A NEW COOPERATIVE ESTABLISHMENT**

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### **INTRODUCTION**

Piracy remains a persistent problem in the South China Sea. It is known that the sea area with its points in Hong Kong, Luzon Island, and Hainan Island is called "the Hainan Triangle" which was once a pirate resort. Although the international attention is focused on Somali piracy, piratical accidents in the South China Sea did rise in 2009. The report released by the ReCAAP Information Sharing Centre reveals that the piratical accidents in the South China Sea have actually increased in 2009: from three actual incidents in January-September 2008 to 10 during that period in 2009. This increase coincided with a general increase at the global level as the International Chamber of Commerce's International Maritime Bureau (IMB) said in a release that a total of 306 incidents were reported to the IMB Piracy Reporting Center in the first nine months of 2009 while the total number of attacks for 2008 was only 293. This increase also proves that piracy remains a serious concern in East Asia.

International law has established an obligation on States to cooperate in suppression of piracy and grants States certain rights to seize pirate ships and criminals. According to the 1982 UN Convention on the Law of the Sea (LOS Convention), all the countries have the obligation to "cooperate to the fullest possible extent in the repression of piracy on the high seas or in any other place outside the jurisdiction of any State", and "every State may seize a pirate ship or aircraft, or a ship or aircraft taken by piracy and under the control of pirates, and arrest the persons and seize the property on board".<sup>1</sup>

However, the definition on piracy in the LOS Convention only applies to this international crime on the high seas or areas beyond the jurisdiction of any state, thus limiting its application to similar criminal acts in the territorial seas and maritime areas

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<sup>1</sup> Article 105 of the LOS Convention.



close to the coasts.<sup>2</sup> Having realized that many piratical incidents did occur in the waters of national jurisdiction, the International Maritime Organization (IMO) developed a functional definition for the crackdown on piracy: while detaining the meaning of the LOS Convention definition on piracy, the IMO definition has been added “armed robbery against ships”, which has become a most popular applicable definition for the purpose of anti-piracy operations. This definition has now been accepted by the United Nations Security Council as well as incorporated into the 2004 Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP). As a result, there are now in fact two definitions in international law: one is contained in the LOS Convention while the other in the ReCAAP. Though both legally defined, their applicability is different: while the former limits its applicability to the high seas, the latter applies to all sea areas whether national or international. However, it is to be noted that in comparison with the LOS Convention, the ReCAAP is only a regional agreement applicable to the Asian region.

## **RECENT DEVELOPMENTS FOR MARITIME SECURITY IN THE SOUTH CHINA SEA**

The South China Sea is defined as a semi-enclosed sea under the LOS Convention and the littoral states are obliged under the Convention to cooperate in matters of their common concern. As we all know, all the coastal States are parties to the LOS Convention (see Table 1) and they have the responsibility to suppress piracy in the South China Sea in compliance with relevant provisions of the Convention.

However, due to the deficiency of the definition on piracy provided in the LOS Convention as well as territorial and maritime disputes among the littoral States, cooperation for the fight against piracy is not effective enough and there is a lack of established mechanism for that purpose. It is necessary, therefore, to seek a new way of cooperation.

Recent developments in the South China Sea have showed that there is a sound basis to formulate an anti-piracy mechanism. In addition to joining the LOS Convention, all the coastal States to the South China Sea are also parties to the ReCAAP.

### **ReCAAP**

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<sup>2</sup> For the discussion on the definitional deficiencies, see Zou Keyuan “New Developments in the International Law of Piracy”, *Chinese Journal of International Law*, Vol. 8, 2009, 341-344.



The ReCAAP was signed by 16 Asian countries including Bangladesh, Brunei, Cambodia, China, India, Indonesia, Japan, Laos, Malaysia, Myanmar, the Philippines, Sri Lanka, Singapore, South Korea, Thailand and Vietnam on 11 November 2004. The Agreement came into force on 4 September 2006 when it received 10 ratifications.<sup>3</sup> The Agreement obliges Contracting States (a) to prevent and suppress piracy and armed robbery against ships; (b) to arrest pirates or persons who have committed armed robbery against ships; (c) to seize ships or aircraft used for committing piracy or armed robbery against ships; and (d) to rescue victim ships and victims of piracy or armed robbery against ships.<sup>4</sup> The Contracting States pledge to implement the Agreement including preventing and suppressing piracy and armed robbery against ships “to the fullest extent possible” “in accordance with their respective national laws and regulations and subject to their available resources or capabilities” (Article 2.1).

For the above purposes, the Contracting States are required to cooperate between/among themselves. The first area required for cooperation is information sharing. Each Contracting Party designates a focal point responsible for its communication with the Information Sharing Center (ISC), and should “ensure the smooth and effective communication between its designated focal point, and other competent national authorities including rescue coordination centers, as well as relevant non-governmental organizations.” Each Contracting Party should “make every effort to require its ships, ship owners, or ship operators to promptly notify relevant national authorities including focal points, and the Center when appropriate, of incidents of piracy or armed robbery against ships” (Article 9). Contracting Parties are required to give prompt notification of the information about an imminent threat of, or an incident of, piracy or armed robbery against ships and in the event that a Contracting Party receives an alert from the Center as to an imminent threat of piracy or armed robbery against ships, that Contracting Party should promptly disseminate the alert to ships within the area of such an imminent threat (Article 9). The Agreement has created a right of request for all Contracting Parties regarding the information about piracy and armed robbery against ships. The requested Contracting Party has the obligation to implement such request by taking effective and practical measures.

The second area required for cooperation lies in the endeavours to take legal and judicial measures for the prevention and suppression of piracy and armed robbery including extradition and mutual legal assistance. According to the Agreement, a Contracting Party should endeavour to extradite pirates to the other Contracting Party

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<sup>3</sup> It is regretted that two major Straits States Indonesia and Malaysia have not yet ratified the Agreement.

<sup>4</sup> Article 3 of the ReCAAP.

which has jurisdiction over them and to render mutual legal assistance in criminal matters including the submission of evidence related to piracy and armed robbery at the request of another Contracting Party, but all these endeavours are subject to the national laws and regulations of the Contracting Party concerned.<sup>5</sup>

The third area required for cooperation is in the process of capacity building (including technical assistance such as educational and training programs) as the Agreement obliges each Contracting Party to endeavour to cooperate to the fullest possible extent with other Contracting Parties so as to enhance the capacity to prevent and suppress piracy and armed robbery against ships (Article 14.1). Contracting Parties can also make cooperative arrangements such as joint exercises between/among themselves (Article 15).

Another important legal arrangement made by the Agreement is the establishment of the ISC, which is located in Singapore. The Center is composed of the Governing Council (which is the decision-making body composed of one representative from each Contracting Party) and the Secretariat (which is headed by the Executive Director who is responsible for the administrative, operational and financial matters of the Center in accordance with the policies as determined by the Governing Council and the provisions of the Agreement). It is designed “to promote close cooperation among the Contracting Parties in preventing and suppressing piracy and armed robbery against ships” (Article 4.1). The ISC was officially launched in November 2007 and the information about its operations can be found at [http://www.recaap.org/index\\_home.html](http://www.recaap.org/index_home.html). The daily operations of the ISC are funded by the Host State as well as voluntary contributions from other Contracting Parties or even other sources as agreed by the Governing Council (Article 6.1). In addition to Singapore, three Contracting Parties –China, Japan and South Korea also provide operational funds for the ISC.

There are several characteristics regarding the ReCAAP. First, though the original negotiators of the Agreement are 16 Asian States, the accession to the Agreement is not exclusive; any State can join after its entry into force as provided for in the Agreement (Article 18.5). Second, the ReCAAP is the first specific international treaty concerning the prevention and suppression of piracy. Because of this, it becomes a model of law for other regional legal arrangements. It is reported that a similar agreement will be concluded for the Western Indian Ocean. Thirdly, the ISC established under the ReCAAP is a governmental international organization, different from other organizations which operate similar functions such as the IMB Piracy Reporting Centre (situated in Kuala

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<sup>5</sup> See Articles 12-13 of the ReCAAP.



Lumpur). Finally, it contributes to the legal definition on the piracy and armed robbery against ships as mentioned above.

### **The 2002 DOC**

Apart from legal instruments which can provide basis for the establishment of a regional anti-piracy mechanism for the South China Sea, some soft-law documents can also play an important role in this respect. In November 2002, ten ASEAN members and China signed the Declaration on the Conduct of Parties in the South China Sea (DOC), which pledges to

(1) “reaffirm their commitment to the purposes and principles of the Charter of the United Nations, the 1982 UN Convention on the Law of the Sea, the Treaty of Amity and Cooperation in Southeast Asia, the Five Principles of Peaceful Coexistence, and other universally recognized principles of international law which shall serve as the basic norms governing state-to-state relations”;

(2) “are committed to exploring ways for building trust and confidence in accordance with the above-mentioned principles and on the basis of equality and mutual respect”;

(3) “reaffirm their respect for and commitment to the freedom of navigation in and overflight above the South China Sea as provided for by the universally recognized principles of international law, including the 1982 UN Convention on the Law of the Sea”;

(4) “undertake to resolve their territorial and jurisdictional disputes by peaceful means, without resorting to the threat or use of force, through friendly consultations and negotiations by sovereign states directly concerned, in accordance with universally recognized principles of international law, including the 1982 UN Convention on the Law of the Sea”;

(5) “undertake to exercise self-restraint in the conduct of activities that would complicate or escalate disputes and affect peace and stability including, among others, refraining from action of inhabiting on the presently uninhabited islands, reefs, shoals, cays, and other features and to handle their differences in a constructive manner”, and “undertake to intensify efforts to seek ways, in the spirit of cooperation and understanding, to build trust and confidence between and among them, including:



a. holding dialogues and exchange of views as appropriate between their defense and military officials; b. ensuring just and humane treatment of all persons who are either in danger or in distress; c. notifying, on a voluntary basis, other Parties concerned of any impending joint/combined military exercise; and d. exchanging, on a voluntary basis, relevant information”, pending the peaceful settlement of territorial and jurisdictional disputes;

(6) “explore or undertake cooperative activities including a. marine environmental protection; b. marine scientific research; c. safety of navigation and communication at sea; d. search and rescue operation; and e. combating transnational crime, including but not limited to trafficking in illicit drugs, piracy and armed robbery at sea, and illegal traffic in arms”, pending a comprehensive and durable settlement of the disputes;

(7) “stand ready to continue their consultations and dialogues concerning relevant issues, through modalities to be agreed by them, including regular consultations on the observance of this Declaration, for the purpose of promoting good neighbourliness and transparency, establishing harmony, mutual understanding and cooperation, and facilitating peaceful resolution of disputes among them”;

(8) “undertake to respect the provisions of this Declaration and take actions consistent therewith”;

(9) “encourage other countries to respect the principles contained in this Declaration”; and

(10) “reaffirm that the adoption of a code of conduct in the South China Sea would further promote peace and stability in the region and agree to work, on the basis of consensus, towards the eventual attainment of this objective”.<sup>6</sup>

The document is significant in the sense that the South China Sea issue originally being bilateral has now turned to be a regional issue and should be solved under the framework of the China-ASEAN cooperation. As the Philippine President Arroyo declared, the agreement represented a “diplomatic breakthrough” for peace in the region and the first step in the implementation of the ASEAN Code of Conduct with China.

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<sup>6</sup> Text is available at <http://www.aseansec.org/13163.htm> (accessed 9 June 2008).



After the signing of the 2002 Declaration, the ASEAN and China established two mechanisms in 2005 for the purpose of implementing the Declaration: one is the “ASEAN-China Senior Officials Meeting on the Implementation of the Declaration on the Conduct of Parties in the South China Sea (DOC)”, and the other “ASEAN-China Joint Working Group on the Implementation of the DOC”. While the first, which is ad hoc, will review the progress of the implementation of the 2002 DOC and discuss principles and methods thereof, the second, which gathers twice a year, will function under the direction of the ASEAN-China Senior Officials Meeting.

The ASEAN-China Senior Officials Meeting which was held in December 2004 adopted the terms of reference of the joint working group (JWG). According to the Terms of Reference, the main task of the JWG is “to study and recommend measures to translate the provisions of the DOC into concrete cooperative activities that will enhance mutual understanding and trust”. The JWG can make recommendations regarding the guidelines and the action plan for the implementation of the 2002 DOC as well as regarding specific cooperative areas such as marine environmental protection, marine scientific research as listed in the 2002 DOC. The JWG Meeting held in Sanya, China in February 2006 exchanged views on guidelines for the implementation of the 2002 DOC, discussed project proposals within the related areas of cooperation and issued the 2006 Working Plan. Unfortunately, there is no further substantial progress afterwards.

Nevertheless, it is to be noted that the DOC clearly states that piracy and armed robbery at sea is one of the areas that the signatories should cooperate to work out a plan of action. It is an imperative task for the signatories to consider how to enhance the effectiveness of the DOC in its implementation. The cooperation in the suppression of piracy no doubt can become a yardstick to test the effectiveness of the DOC implementation.

### **China-ASEAN Non-Traditional Security Arrangements**

Since the disputes in the South China Sea are mainly between China and some ASEAN countries, China’s attitude and policy towards the South China Sea as well as towards the anti-piracy cooperation are very crucial. In the China-ASEAN relations, China carries out the policy to “maintain its own stability and development, uphold peace and security in the neighborhood areas, promote dialogue and cooperation, and foster harmony and common prosperity in the region”. China has attended the ASEAN Regional Forum (the ARF) since 1995. China openly supports the positive role played by the ARF in maintaining regional peace and stability, and in exploring and developing dialogue and cooperation in non-traditional security field, including counter-



terrorism/piracy. At the ARF SOM held in May 2002, China distributed its Position Paper on Enhanced Cooperation in the Field of Non-Traditional Security Issues. Besides, non-traditional security issues are also discussed at the ASEAN+1 forums and ASEAN plus China meetings.

In November 2002, the Joint Declaration of ASEAN and China on Cooperation in the Field of Non-Traditional Security Issues (the Joint Declaration) was adopted, which initiated full cooperation between ASEAN and China in the field of non-traditional security issues and listed the priority and form of cooperation. The two sides pledge to formulate measures and modalities to enhance their capacity handling non-traditional security issues so as to safeguard regional peace and security. They agree to cooperate in information exchange, personnel exchange and training, capacity-building, joint research, and other areas. The priorities at the current stage of cooperation include “combating trafficking in illegal drugs, people-smuggling including trafficking in women and children, sea piracy, terrorism, arms-smuggling, money-laundering, international economic crime and cyber crime.”

Following the China-ASEAN Declaration, China and ASEAN (under the authorization of the Governments of its member States) signed the Memorandum of Understanding between the Governments of the Member Countries of the Association of Southeast Asian Nations (ASEAN) and the Government of the People’s Republic of China on Cooperation in the Field of Non-traditional Security Issues (MOU on Non-Traditional Security Issues) in Bangkok on 10 January 2004,<sup>7</sup> attempting to make the objectives and principles contained in the Declaration implementable. The two sides pledge to develop practical strategies to “enhance the capacity of each individual country and the region as a whole in dealing with such non-traditional security issues”, but “in accordance with their national laws and regulations” (Art.1),<sup>8</sup> and identified the following four areas for their cooperation: (1) information exchange; (2) personal exchange and training and China should organize relevant workshops and training courses; (3) law enforcement cooperation including such fields as “evidence gathering, tracing of crime proceeds, apprehension and repatriation of criminal fugitives and return of crime proceeds”; and (4) joint research by experts and scholars.<sup>9</sup> The MOU came into effect on the date of its signing and would remain in force for a period of 5 years. It may be extended subject to the agreement of the two parties. In November 2007, China and

<sup>7</sup> Text is available at <http://www.aseansec.org/15647.htm> (accessed 1 May 2008).

<sup>8</sup> This wording is difficult to be understood in the fact that non-traditional security issues as listed in the MOU are transnational crimes and international law is indispensable for their prevention and punishment. But only national laws are mentioned here.

<sup>9</sup> See Article 2 of the MOU on Non-Traditional Security Issues.



ASEAN member States hold a consultative ministerial meeting in Bandar Seri Begawan and agreed to review and revise the MOU in 2009. Since piracy is one of the issues of priority within the non-traditional security field, it can be naturally included in the China-ASEAN cooperative agenda.

Besides, China has signed bilateral agreements on maritime cooperation with some ASEAN countries, for example, with Indonesia (25 April 2005), and with Malaysia (25 August 2006).<sup>10</sup> In terms of extradition and judicial assistance in relation to piracy suppression, China has begun to negotiate with its foreign counterparts bilateral treaties on judicial assistance and/or extradition since 1985 and signed such treaties with other East Asian countries (see Table 2).

### **MALACCA EXPERIENCES**

The Straits of Malacca and Singapore is a most important route of maritime transportation and links the Indian Ocean to the South China Sea. That means vessels passing through this straits must also pass through the South China Sea. A recent comparative analysis shows that more than 50,000 ships transit the Straits of Malacca each year accounting for 40% of the world's trade while about 21,000 commercial ships transit the Gulf of Aden per year (see Table 3).

Piracy used to be a serious issue threatening safety of navigation in the Straits. The riparian States to the Malacca Straits have contributed significantly to the establishment of an institutional mechanism in the fight against piracy. The tripartite cooperation among Indonesia, Malaysia and Singapore for the maritime security in the Malacca Straits began in the early 2000s. The three countries have been conducting a coordinated anti-piracy patrol off their waters in the Malacca and Singapore Straits. In the end of July 2005, a scheme of maritime air surveillance was discussed, aiming to strengthen the crackdown of piracy in this critical international waterway. In August 2005, the above three countries agreed to implement the scheme of air patrol over the Malacca Straits from September 2005 and also agreed to establish a Tripartite Technical Experts Group on Maritime Security. There are currently three anti-piracy mechanisms in place: Malacca Strait Sea Patrol (MSSP), 'Eye-in-the-sky' (EiS), and the Intelligence Exchange Group (IEG) (see Table 3).

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<sup>10</sup> See Joshua Ho, "Enhancing Safety, Security, and Environmental Protection of the Straits of Malacca and Singapore: The Cooperative Mechanism", *Ocean Development and International Law*, Vol.40, 2009, p.238.



Individually, among the three nations, Singapore is the most active in maintaining maritime security. Although all three Malacca Straits States are parties to the LOS Convention, only Singapore ratified the 1988 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (the SUA Convention)<sup>11</sup> as well as the ReCAAP. In 2007 the Singapore Government together with the IMO convened the Meeting on the Straits of Malacca and Singapore: Enhancing Safety, Security and Environmental Protection (Singapore Meeting) where the Cooperative Mechanism for the Straits of Malacca and Singapore was created. The Mechanism comprises the Cooperation Forum, the Project Cooperation Committee and the Aids to Navigation Fund. Straits user States, including inter alia, Australia, China, Japan, United Kingdom and the United States, expressed their strong support for this initiative.

Thanks to the efforts particularly made by the littoral States of the Straits, the number of piratical accidents has been significantly reduced (see Table 3).

### **SUPPRESSION OF SOMALI PIRACY: IMPLICATIONS FOR THE SOUTH CHINA SEA**

In recent years, piracy in Western Indian Ocean, especially adjacent to the Somali coast has been soaring (see Table 3). It has become an international concern. In June 2008 the UNSC passed a resolution on combating acts of piracy and armed robbery off Somalia's coast (Resolution 1816). While the Security Council expressed its grave concern about piracy and armed robbery against vessels in the waters off the coast of Somalia, it determined that such piratical incidents exacerbated the situation in Somalia "which continues to constitute a threat to international peace and security in the region". Therefore, the Security Council decided to act under Chapter VII of the Charter of the United Nations. It urges "States whose naval vessels and military aircraft operate on the high seas and airspace off the coast of Somalia to be vigilant to acts of piracy and armed robbery" and "to cooperate with each other, with the IMO and, as appropriate, with the relevant regional organizations in connection with, and share information about, acts of piracy and armed robbery in the territorial waters and on the high seas off the coast of Somalia, and to render assistance to vessels threatened by or under attack by pirates or armed robbers, in accordance with relevant international law".<sup>12</sup> More significantly, the Security Council decided that "for a period of six months from the date of this resolution, States cooperating with the TFG<sup>13</sup> in the fight against piracy and armed robbery at sea off

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<sup>11</sup> Text is reprinted in 27 ILM 672 (1988).

<sup>12</sup> See UN Doc S/RES/1816 (2008).

<sup>13</sup> It refers to the Transitional Federal Government of Somalia.



the coast of Somalia, for which advance notification has been provided by the TFG to the Secretary General, may: (a) enter the territorial waters of Somalia for the purpose of repressing acts of piracy and armed robbery at sea, in a manner consistent with such action permitted on the high seas with respect to piracy under relevant international law; and (b) use, within the territorial waters of Somalia, in a manner consistent with action permitted on the high seas with respect to piracy under relevant international law, all necessary means to repress acts of piracy and armed robbery”.

It is the first time that the UN Security Council had placed the issue of sea piracy on its agenda and treated it as a matter threatening international peace and security. According to the UN Charter, UN member States are obliged to implement UNSC resolutions as it is stipulated that UN members agree to accept and carry out the decisions of the Security Council in accordance with the Charter. Furthermore, UN Member States have the duty to contribute to the maintenance of international peace and security by supporting materialistically the actions undertaken by the Security Council, with armed forces, assistance, and facilities, including rights of passage.<sup>14</sup> These provisions in the UN Charter constitute a legal foundation for the UN member States to act in accordance with Resolution 1816.

After the UN Security Council passed several important resolutions concerning the suppression of piracy in Somalia, UN member States individually or collectively sent warships to the Somali waters and the Gulf of Aden in compliance with the UNSC resolutions. The Combined Maritime Forces led by the United States established Combined Task Force 151 (CTF-151) in January 2009 to conduct counter-piracy operations in and around the Gulf of Aden, Arabian Sea, Indian Ocean and the Red Sea. The European Union has launched its naval operations against Somali piracy under the European Security and Defence Policy framework called EU NAVFOR (Operation Atalanta). Several Asian countries have also sent warships to the Somali waters for the purpose of piracy prevention and suppression.

China, for the first time ever, sent warships to the sea areas around Somalia contributing to the international efforts to crackdown on Somali piracy. The Chinese naval fleet consisting of two destroyers and a large supply vessel completed its first escort mission on 6 January 2009 for four Chinese merchant ships. As expressed by the Foreign Ministry spokesman on 20 December 2008, the task of the Chinese navy is to protect Chinese ships and crew on board as well as ships carrying humanitarian relief materials provided by international organizations including the World Food Programme,

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<sup>14</sup> See Article 43 of the UN Charter.



in strict compliance with the UN Security Council resolutions and international law. According to a circular issued by the Ministry of Transport, Chinese merchant vessels including those from Hong Kong, Macao and Taiwan can apply for naval escort when entering the Gulf of Aden and Somali sea area through the Chinese Association of Shipowners.

The irony is: Asian countries carry out naval operations against piracy as far as in Africa while piracy remains a serious problem in their adjacent seas. People are wondering whether they can use their naval forces to clear up adjacent piracy which is much more threatening to maritime interests of Asian countries. Though in recent years, countries concerned have conducted military drills in the South China Sea for the purpose of maritime search and rescue as well as piracy suppression, it is now the time for the countries adjacent to the South China Sea to consider how to turn such kind of drills into real actions combating piracy.

### **CONCLUSION**

Based on the above explanations, some concluding observations can be made. First, there is no doubt that the legal basis for the formulation of the anti-piracy mechanism has been already provided. The countries concerned can use several existing channels to develop such a mechanism. The meetings for the implementation of the 2002 DOC could be one of these channels. It is expected that the governments concerned can demonstrate their political wisdom by moving a step further to “setting aside disputes for joint maintenance of maritime security” in the South China Sea. In order to remove worries about the impact on sovereignty claims, the governments concerned are expected not to seek unilateral benefits from anti-piracy cooperation. Such cooperation should produce a win-win result. The good experiences accumulated from the Malacca cooperation should be learned.

Secondly, information sharing is particularly important for security cooperation in the disputed sea areas. This can be achieved by establishing a shared database on maritime security in the South China Sea and an information exchange system. The experiences gathered from the ReCAAP Information Sharing Centre established in November 2006 can be borrowed.

Thirdly, with regard to the complex and changing traditional and non-traditional security issues, it is expected that the countries concerned can place security and anti-piracy cooperation in the South China Sea at the top of their agenda so as to build up consensus for the establishment of a multilateral maritime security cooperation



framework in the foreseeable future.<sup>15</sup> Such cooperation will be more feasible if a functionalist approach is taken.

Ten years ago, I presented a paper to the Piracy Seminar organised by the Singapore International Law Society, in which I called for regional anti-piracy cooperation in the South China Sea.<sup>16</sup> At that time there were no DOC, no ReCAAP, no institutional mechanisms for the Malacca Straits, and no UN resolutions. Now the conditions for cooperation have been much improved and more significantly, the UN Security Council has treated piracy as a threat to international peace and security, thus equivalent to terrorism. It is, therefore, reasonable to perceive that the countries concerned will work out a plan of action to deal with this long-infested crime and make the South China Sea a sea of peace and cooperation.

**Table 1: Ratification of International Anti-Piracy Conventions in East Asia**

States	The 1982 LOS Convention (d/m/y)	The 1988 SUA Convention (d/m/y)
Brunei Darussalam	05/11/1996	04/12/2003
Cambodia		18/08/2006
China	07/06/1996	01/03/1992
Indonesia	03/02/1986	
Japan	20/06/1996	23/07/1998
Korea (North)		
Korea (South)	29/01/1996	14/05/2003
Laos	05/06/1998	
Malaysia	14/10/1996	
Mongolia	13/08/1996	
Myanmar	21/05/1996	19/09/2003
Philippines	08/05/1984	06/01/2004
Singapore	17/11/1994	03/02/2004
Thailand		
Vietnam	25/07/1994	10/10/2002

<sup>15</sup> See Wu Shicun and Zou Keyuan, “Maritime Security in the South China Sea: Cooperation and Implications”, in Wu Shicun and Zou Keyuan (eds.), *Maritime Security in the South China Sea: Regional Implications and International Cooperation* (Surrey, England: Ashgate, 2009), 11-12.

<sup>16</sup> The revised version of the paper is published as Zou Keyuan, “Issues of Public International Law Relating to the Crackdown of Piracy in the South China Sea and Prospects for Regional Cooperation”, *Singapore Journal of International and Comparative Law*, Vol.3 (2), 1999: 524-544.



Source: compiled by the author

**Table 2: Bilateral Judicial Assistance/Extradition Treaties between China and Other East Asian Countries (as of 31 August 2008)**

State (d/m/y)	Type of Treaty	Signing	Entry into force
Cambodia	Extradition	09/02/99	13/12/00
Indonesia	Civil & criminal	24/07/00	28/07/06
Japan	Criminal	01/12/07	29/08/08*
Laos	Civil & criminal Extradition	25/01/99 04/02/02	15/12/01 13/08/03
Mongolia	Civil & criminal Extradition	31/08/89 19/08/97	29/10/90 10/01/99
North Korea	Civil & criminal	19/11/03	21/01/06
Philippines	Criminal Extradition	16/10/00 30/10/01	12/03/06
Singapore	Civil & commercial	28/04/97	27/06/99
South Korea	Criminal Extradition Civil & commercial	12/11/98 18/10/00 07/07/03	24/03/00 12/04/02 27/04/05
Thailand	Civil & commercial Extradition Criminal	16/03/94 26/08/93 21/06/03	06/07/97 07/03/99 20/02/05
Vietnam	Civil & criminal	19/10/98	25/12/99



Source: prepared by the author based on  
<http://www.fmprc.gov.cn/chn/wjb/zjzg/tyfls/tfscckzlk/zgywgsbtyylb/t422584.htm>.

\* The date of China's ratification

**Table 3: Horn of Africa and the Straits of Malacca: Comparative analysis**

Location	Horn of Africa/Gulf of Aden	Straits of Malacca
	Situated in North-East Africa/West Asia, the Gulf of Aden lies between Yemen and Somalia and connects the Indian Ocean to the Red Sea, the Suez Canal and the Mediterranean Sea. Major littoral states include Somalia, Djibouti, Eritrea, Egypt, Saudi Arabia and Yemen	Situated in Southeast Asia between Indonesia, Malaysia, and Singapore, the Strait of Malacca links the Indian Ocean to the South China Sea and the Pacific Ocean. Major littoral states include Malaysia, Indonesia and Singapore.
	<p><b>Importance to Maritime Commerce:</b> Approximately 21,000 commercial ships transit the Gulf of Aden each year. Over 10 % of the global waterborne transportation of oil passes through the gulf &amp; about 7 % of the world's maritime commerce transits the Suez Canal. .</p>	<p><b>Importance to Maritime Commerce:</b> More than 50,000 ships transit the Straits of Malacca each year accounting for 40% of the world's trade.</p>
<b>Number of Pirate Attacks (2003-2008)</b>	<p><b>Number of attacks (both attempted &amp; hijacked) in the Gulf of Aden, Red Sea and Somalia</b>• January-June 2009: 130 out of 240 worldwide (ww) attacks. • 2008: 111 out of 293 ww attacks. • 2007: 44 out of 263 ww attacks. • 2006: 20 out of 239 ww attacks. • 2005: 45 out of 276 ww attacks. • 2004: 10 out of 329 ww attacks. • 2003: 21 out of 445 ww attacks.</p>	<p><b>Number of attacks (both attempted &amp; hijacked) Strait of Malacca</b>• January-June 2009: 2 out of 240 worldwide (ww) attacks. • 2008: 2 out of 293 ww attacks. • 2007: 7 out of 263 ww attacks. • 2006: 11 out of 239 ww attacks. • 2005: 12 out of 276 ww attacks. • 2004: 38 out of 329 ww attacks. • 2003: 28 out of 445 ww attacks.</p>
<b>Ongoing Anti-Piracy Operations</b>	<p><b>Primarily multinational in approach:</b> • US-led, multinational Combined Task Forces, namely CTF 150 &amp; CTF 151; • European Union's 'Operation NAVFOR ATALANTA'; and • NATO's 'Operation Ocean Shield'.</p>	<p><b>Primarily regional in approach:</b> • Malacca Strait Sea Patrol (MSSP); • 'Eye-in-the-sky' (EiS); &amp; • Intelligence Exchange Group (IEG).</p>

Source: Roderick Chia, Pau Khan Khup Hangzo and Kevin Punzalan, "Maritime Predations in the Malacca Straits: Treading New Waters", NTS Insight, August/1 2009, p.10.