Multilateral Counter-Piracy Cooperation
in Southeast Asia: the Role of Japan

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Executive summary

Japan has played a key role in multilateral counter-piracy efforts in Southeast Asia since the end of the Cold War. The administration of Prime Minister Obuchi Keizo seized the initiative with a series of ambitious proposals for regional cooperation, which resulted in the establishment of ReCAAP, the world's first international organization with the sole mandate of countering maritime piracy. Another milestone came in 2009, when the government of Aso Taro dispatched the Maritime Self-Defense Forces (MSDF) to the Gulf of Aden. However, Japan's involvement in multilateral counter-piracy efforts became less ambitious under the Abe administration, as the problem of piracy became one of many competing security priorities, subsumed within Japan's wider geopolitical considerations.

Although overall piracy rates declined in 2016, transnational criminal networks and extremist groups such as Abu Sayyaf have continued to carry out growing numbers of well-organized attacks. This includes a spate of crew abductions in the Sulu and Celebes seas, which has continued into 2017. Since late 2016, Abu Sayyaf has also been actively targeting large commercial vessels underway – previously considered at lower risk due to their size and speed. As a result, multilateral cooperation is more important than ever. Tackling these more complex forms of piracy will require structured and sustained law enforcement cooperation between regional countries. Unless such cooperation is institutionalized among countries across Southeast Asia, it will diminish as government priorities (and resources) shift elsewhere.

Japan is well placed to regain the regional initiative, either by expanding ReCAAP's mandate to include all forms of maritime crime, or by establishing a new organization. This paper argues that Tokyo will need to navigate deeply entrenched sovereignty concerns across the region while keeping its counter-piracy efforts separate from the wider competition with China.

Introduction

Japan is dependent on seaborne trade, which provides crucial raw materials and allows it to export goods across the globe. This dependence has made safeguarding critical sea lines of communication (SLOC) a key priority for any Japanese government. After the collapse of the Soviet Union at the end of the Cold War, the risk of confrontation with an adversarial navy diminished, and Tokyo began to focus on the problem of maritime piracy and armed robbery in Southeast Asia after rising attacks in the wake of the 1997 Asian financial crisis.

The Japanese public began to perceive piracy as a national security threat particularly after two high-profile attacks on Japanese vessels during the late 1990s. As a result, the government of Prime Minister Obuchi Keizo took the initiative in a region-wide response during the early 2000s, leading to the creation of a number of low- and mid-level mechanisms led by law enforcement agencies, principally the Japan Coast Guard (JCG). These organizations have worked to address nontraditional security threats in the Asia-Pacific through capacity building, information sharing, and joint exercises.

Japan and its coast guard played an important role in the establishment of organizations such as the Heads of the Asian Coast Guard Agencies Meeting (HACGAM); the North Pacific Coast Guard Forum (NPCGF); and the Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP) – the world's first multilateral organization created solely to counter maritime piracy. By assuming regional leadership, Japan proved it was capable of providing answers to security issues of common concern across the region despite continued legal and constitutional constraints on its security policy. Significantly, its initiatives gained the broad support of countries across the Asia-Pacific, including China.

However – although Tokyo never abandoned a law-enforcement-led approach – this paper argues that maritime piracy has been effectively 'securitized' within Japan, by being no longer perceived as a crime in political and public discourse, but rather as a national security threat. This was particularly evident in 2009, when the administration of Aso Taro dispatched the Maritime Self-Defense Force (MSDF) to the Gulf of Aden with the task of guarding commercial vessels against attacks by Somali pirates. This was the first time that the Self-Defense Forces (SDF), rather than a civilian agency, played the key role in counter-piracy efforts. Under successive administrations, piracy became steadily entrenched as a national security concern; for example, by being included as a priority in the 2013 *National Security Strategy*, alongside disputes over natural resources and sovereignty concerns in the South China Sea.

Nevertheless, given the growing geopolitical tensions in East Asia, which include Japan's intensifying competition with China, and North Korea's stream of nuclear and ballistic missile tests, piracy has become just one of many security issues competing for finite resources. Under the Abe administration, preoccupied with the territorial dispute over the Diaoyu/Senkaku Islands, maritime piracy has arguably become a secondary concern.

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This perception has persisted despite the near-continuous increases in Southeast Asian piracy since the start of the global financial crisis, with only a decline in 2016 offering the promise of a (temporary) respite. More significantly, evidence suggests that well-organized transnational criminal groups have become increasingly important in funding and organizing the growing number of major attacks. Meanwhile, the Philippines-based extremist group Abu Sayyaf carried out a series of crew abductions during 2016 and early 2017, relying on lucrative ransoms to fund its operations on land. Given the scale of the attacks, it appears as if multilateral regional frameworks are unable to offer an effective solution. In response, Southeast Asian countries have rapidly moved to improve law enforcement cooperation on a bi- and trilateral basis, outside such organizations. However, without sustained and structured cooperation, these agreements can peter out due to a lack of political will or the need to reallocate limited resources – allowing piracy rates to rapidly rebound.

Japan, with its wealth of experience in responding to piracy, is in an ideal position to form a regional response to institutionalize such *ad hoc* cooperation, and reclaim its leading role from the early 2000s. This paper outlines a series of policy recommendations, informed by an analysis of Japan's counter-piracy approach traced from its origins at the end of the Cold War, through its process of securitization, and to its eventual perception as just one of many competing priorities. In addition, this paper examines the nature of piracy in Southeast Asia, how it has evolved, and how it poses a threat to the region and Japan. Finally, the paper takes a closer look at the strengths and weaknesses of ReCAAP, one of the main successes of Japan's 'institution-building' efforts of the early 2000s. The assessment concludes that, while still effective, ReCAAP may have reached the limits of its ability to effectively address the increasingly sophisticated nature of pirate attacks in Southeast Asia.

This paper recommends that Tokyo continue to draw on the significant institutional expertise of the JCG, while ensuring the support of as many countries as possible. In this respect, it is vital to separate new counter-piracy initiatives from Japan's geopolitical competition with China to ensure the participation of Beijing and assuage concerns over Tokyo's intent. In concrete terms, new initiatives could take the more limited shape of reforms to ReCAAP, enabling the organization to tackle all forms of maritime crime, while enlisting the support of Indonesia and Malaysia, which remain outside the framework. Alternatively, Japan could develop a new organization that would institutionalize concrete law enforcement cooperation against maritime crime in Southeast Asia. The mandate of the organization would include exploring the possibility of loosening long-standing sovereignty concerns in the region. In this respect, it could build on recent progress by Indonesia, Malaysia, and the Philippines, and seek to introduce the right to maritime 'hot pursuit' in a region-wide agreement.

Maritime piracy and armed robbery in Southeast Asia

In order to more effectively analyze the scope and impact of piracy and armed robbery in Southeast Asia, the phenomenon must first be clearly defined, with the goal of differentiating between maritime piracy and armed robbery.

This paper relies on the internationally accepted definitions as outlined in the United Nations Convention on the Law of the Seas (UNCLOS) – which was adopted in 1982 and entered into force in 1994 – and Resolution A.1025(26) of the International Maritime Organization's (IMO) Code of Practice for the Investigation of the Crimes of Piracy and Armed Robbery Against Ships, adopted in 2009.

According to Article 101 of UNCLOS, piracy is defined as:[1]
(a)   any illegal acts of violence or 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:
>   (i) on the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft;
>   (ii) against a ship, aircraft, persons or property in a place outside the jurisdiction of any State;
(b)   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;
(c)   any act of inciting or of intentionally facilitating an act described in subparagraph (a) or (b).

The annex to IMO 2009 Resolution A.1025(26) defines armed robbery against ships as:[2]
1.   any illegal act of violence or detention or any act of depredation, or threat thereof, other than an act of piracy, committed for private ends and directed against a ship or against persons or property on board such a ship, within a State's internal waters, archipelagic waters and territorial sea;
2.   any act of inciting or of intentionally facilitating an act described above.

Based on these definitions, the vast majority of attacks in the Southeast Asia can be classified as 'armed robbery' rather than 'piracy,' since they predominantly take place within the internal, archipelagic, and territorial waters of regional states. The paper employs the term 'piracy' as shorthand for 'piracy and armed robbery' (in some literature abbreviated as PAR).

Characteristics

Maritime raiding, piracy, and robbery have been persistent problems in the Asia-Pacific for centuries, particularly in and around the Strait of Malacca and other important sea routes. Records of maritime raids date back to the 16th century, while the economic boom during the late 18th century – linked to the rise of a global commercial system – saw the emergence of long-distance raiding, or 'piracy.'[3] During the 1970s, the rising number

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[1] United Nations General Assembly, *United Nations Convention on the Law of the Seas* (1982/1994), at http://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf, accessed January 2016.
[2] International Maritime Organization, *Resolution A.1025(26)* (2009), http://www.imo.org/en/OurWork/Security/PiracyArmedRobbery/Guidance/Documents/A.1025.pdf, accessed January 2016.
[3] James F. Warren, "A Tale of Two Centuries: The Globalisation of Maritime Raiding and Piracy in Southeast

of attacks in Southeast Asia cemented its position as a global piracy hotspot; a mantle it has held ever since, with only short interruptions – such as the surge in incidents off the coast of Somalia between 2005 and 2013.

Spikes in the number of attacks have generally coincided with periods of economic instability and decline, when the lack of economic opportunities drove groups and individuals from coastal communities to resort to piracy and armed robbery.[4] Following the 1997-98 Asian financial crisis, many of these communities, particularly in Indonesia and Thailand, experienced skyrocketing unemployment and growing poverty. At the same time, government revenues stagnated across Southeast Asia as a result of the crisis, cutting expenditures devoted to maritime security in many countries. Finally, a near collapse of the Indonesian economy led to the overthrow of President Suharto in 1998, ushering in a period of political turmoil and lawlessness in parts of the country. In these conditions, organized crime and piracy began to spread. By 2000, pirate attacks across the globe and within Southeast Asia hit an all-time high.[5] That year, the International Maritime Bureau's (IMB) Piracy Reporting Centre registered 259 attempted and successful attacks in Southeast Asia.[6]

Although the number of attacks fluctuated over subsequent years, increased international counter-piracy cooperation and robust economic growth across Southeast Asia led to an overall decline in the number of attacks. The number of incidents reached a record low in 2009, just as the first effects of the global economic crisis were being felt. Slowing growth and rising unemployment – including in economically vulnerable coastal communities that barely recovered from the Asian financial crisis – led to a surge in the number of attacks after 2010. Apart from a small dip in 2012, the total number of incidents continued to rise into 2015, before once again declining in 2016.

Simultaneously, the focal point of attacks began to shift away from the traditional hotspot in the Strait of Malacca due to increasingly successful multilateral cooperation among nearby countries, as well as the impact of the 2004 tsunami, which destroyed pirate camps and small vessels along Indonesia's Aceh coast. Although piracy never fully disappeared from the Malacca area, the Singapore Strait, with its abundance of slow-moving vessels heading into the South China Sea, became the new focal point. As shown in *Figure 1* below, in 2015 the IMB recorded 108 incidents in Indonesian waters, with a total of 202 attacks across Southeast Asia as a whole. A further 11 and 13 attacks were

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Asia at the end of the Eighteenth and Twentieth Centuries", *Asia Research Institute* (June 2003), http://www.ari.nus.edu.sg/wps/wps03_002.pdf, accessed January 2016.

[4] Ger Teitler, "Piracy in Southeast Asia: A Historical Comparison", *Maritime Studies* 1 (2001): 68.

[5] Tamara Renee Shie, "Maritime Piracy in Southeast Asia: The Evolution and Progress of Intra-ASEAN Cooperation", in *Piracy, Maritime Terrorism and Securing the Malacca Straits*, ed. Graham Gerard Ong-Webb (Singapore: Institute of Southeast Asian Studies, 2006), 175.

[6] The number refers to attacks committed in the waters in and around Indonesia, the Malacca Straits, Malaysia, Myanmar, the Philippines, the Singapore Straits, Thailand, China, Vietnam and the South China Sea. For more information on attacks in 2000, see: IMB, "Piracy and Armed Robbery Against Ships Annual Report: 01 January – 31 December 2004", *IMB* (January 2005).

reported in Bangladesh and India, respectively.[7] During the same period, ReCAAP's Information Sharing Center (ISC) reported 187 incidents, with 22 taking place in Indonesia – although it recorded 104 in the "Straits of Malacca and Singapore", a neutral shorthand for either Indonesian or Singaporean waters. Indonesia remains the biggest source of pirate activity in the region due to its thousands of islands, long unpatrolled stretches of coastline close to the target-rich Singapore Strait, and relatively poor security in many ports and anchorages.

Nevertheless, during 2016, the recorded number of attacks declined substantially, plummeting by 58 percent compared to the year before.[8] Despite the lower numbers, however, this paper argues that maritime piracy in Southeast Asia remains a cause for concern for three reasons:

1. Maritime piracy is a highly complex phenomenon with changes that are difficult to predict. The scale of recorded piracy in any given area during a set period of time is the result of the interplay of multiple factors. These include the number of potential targets in a given area; weather conditions and sea swell; the presence of organized crime groups; fishing stock depletion and poor socio-economic conditions in littoral areas; underreporting by ship masters and the (in)effectiveness of law enforcement agencies.[9]

For example, as shown in *Figure 1*, maritime piracy in Asia rose substantially between 2012 and 2015 despite the post-crisis economic recovery across the region. Southeast Asian economies grew by an average of 4.4 percent in 2015, with Indonesia's gross domestic product (GDP) expanding by 4.8 percent.[10] This highlights the complexity of the problem, and suggests headline GDP growth is by itself insufficient to put a dent in piracy statistics, as long as other conditions – such as a lack of employment opportunities in deprived coastal areas in parts of Indonesia, the Philippines and elsewhere – remain unaddressed.

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[7] The majority of attacks took place in the Indonesian half of the Strait of Singapore between the islands of Great Karimun and Bulan. Other risk areas include Belawan port and the waters off the city of Dumai in Riau province. For more, see: IMB, "Piracy and Armed Robbery Against Ships Annual Report: 01 January – 31 December 2015", *IMB* (January 2016).

[8] ReCAAP ISC, "Annual Report: Piracy and Armed Robbery Against Ships in Asia 2016", *ReCAAP ISC* (2017), http://www.recaap.org/DesktopModules/Bring2mind/DMX/Download.aspx?Command=Core_Download&EntryId=473&PortalId=0&TabId=78, accessed February 2017.

[9] For more information, see: Sebastian Axbard, "Income Opportunities and Sea Piracy in Indonesia", *Uppsala University* (October 2014), http://aswede.iies.su.se/papers/ASWEDE_C1_Axbard.pdf, accessed April 2016; Elio Marchione and Shane D. Johnson, "Spatial, Temporal and Spatio-Temporal Patterns of Maritime Piracy", *Journal of Research in Crime and Delinquency* 50 (2013): 504-524; Markus Ludwig and Matthias Flueckiger, "Economic Shocks in the Fisheries Sector and Maritime Piracy", *MPRA* (July 1, 2014), https://mpra.ub.uni-muenchen.de/56959/, accessed April 2016; Noah D. Lombardo, "Underreporting Of Crimes At Sea: Reasons, Consequences, And Potential Solutions", *Oceans Beyond Piracy* (November 2014), http://oceansbeyondpiracy.org/sites/default/files/attachments/Underreporting.pdf, accessed September 2016.

[10] Asian Development Bank, "Asian Development Outlook 2016: Asia's Potential Growth", *Asian Development Bank* (March 2016), https://www.adb.org/sites/default/files/publication/182221/ado2016.pdf, accessed July 2016.

While a decline in the number of attacks may plausibly signal the beginning of a long-term trend, it may just as likely be a temporary success, akin to the short-lived reduction in attacks in 2012. In this respect, lower figures may be the result of short-term changes in any of the aforementioned risk factors.

Figure 1: Reported piracy incidents in Asia, 2011-2015[11]
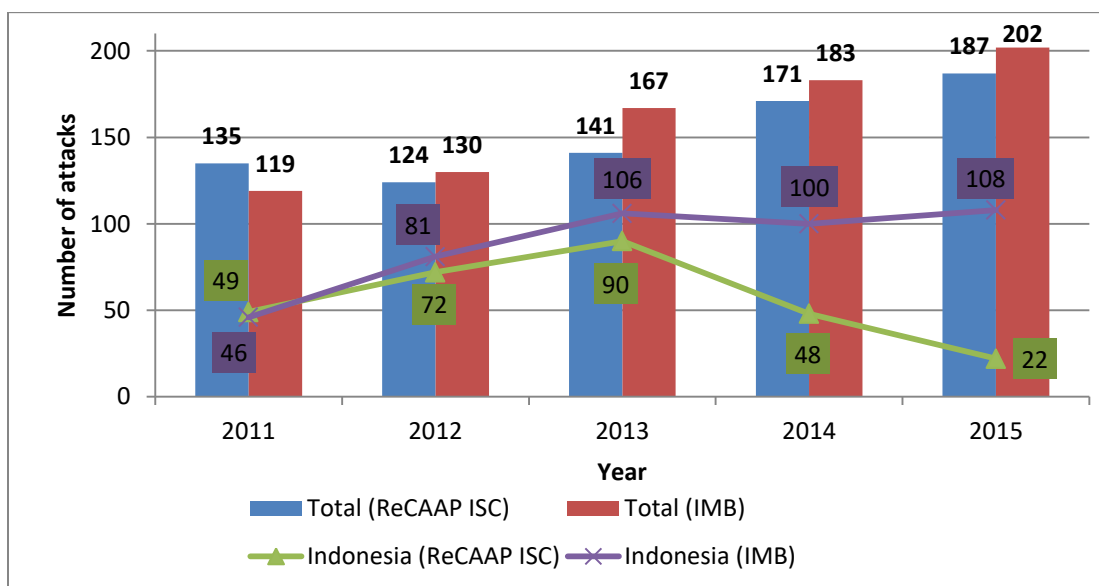
For example, one expert believes law enforcement coordination is the main cause behind the fall in the number of incidents in early 2016.[12] Lower global oil prices, too, have had a significant impact, with hijackings and fuel siphoning less lucrative than in the past, but liable to become so again rapidly once oil prices rebound. Consequently, unless law enforcement cooperation is transformed into sustained, structured long-term effort, the decline seen in 2016 will be a blip. In other words, attacks may simply shift into 'blind spots' currently overlooked by law enforcement.

The experience of multilateral efforts in the Strait of Malacca is a case in point. The Malacca Strait Patrols (MSP) – combining sea and air patrols – were established by

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[11] This graph contains data collected by both the ReCAAP ISC and the IMB, in order to illustrate the scale of the piracy problem and highlight the differences in reported figures. The discrepancy stems from a number of factors, including different volumes of incident reports received directly from ship masters, and differing definitions of certain geographic areas. The latter is most evident in the case of Indonesia, where the ReCAAP ISC registered a substantial decline in attacks after 2013, while the IMB observed an uptick in 2015. According to one expert interviewed for this paper, this is due to ReCAAP's sensitivity to sovereignty issues. Instead, the organization prefers to designate many of the attacks taking place in Indonesian or Singaporean waters as happening in the more neutral-sounding "Straits of Malacca and Singapore". For more information, see: IMB, "Piracy and Armed Robbery Against Ships Annual Report: 01 January – 31 December 2015", *IMB* (January 2016); ReCAAP ISC, "Annual Report, Jan – Dec 2015", http://www.recaap.org/AlertsReports/IncidentReports.aspx, *ReCAAP ISC* (2016), accessed July 2016.

[12] Telephone interview with Sam Bateman, Adviser, Maritime Security Programme, S. Rajaratnam School of International Studies, April 20, 2016.

Malaysia, Singapore, and Indonesia in 2004, and were part of a larger law enforcement cooperation effort that contributed to the reduction in piracy within the strait. However, as the number of incidents in the Strait of Malacca decreased, it began to rise in the south and east in areas with larger numbers of slow-moving vessels and fewer patrols, including in the Strait of Singapore and off the eastern coast of Malaysia. Even though the number of attacks in the Malacca Strait declined, the confinement of patrols to a relatively narrow and well-defined geographic area had no long-term impact on overall piracy rates in Southeast Asia, which continued to climb for the following decade.

2. There is evidence suggesting that the nature of maritime piracy in Asia is undergoing a gradual evolution. Traditionally, most attacks have been crimes of opportunity undertaken by small groups against vessels in ports or small slow-moving local ships underway. Most attacks occurred with limited planning, without the use of firearms and only infrequently resulted in ship hijackings, injuries, or crew fatalities. As a result, high-draft vessels underway have been rarely attacked, with most outlaws preferring to go after slow-moving tugs, barges, and small local tankers.

While the large majority of incidents still conform to the above characteristics, the number of well-organized attacks is on the rise. *Figure 2* below breaks down the types of incidents between 2011 and 2016 based on the ReCAAP methodology, which classifies attacks into four categories. All recorded successful attacks are classified based on the amount of violence and economic damage inflicted, wherein category 1 denotes a 'very significant' incident and category 4 represents attacks by small groups of unarmed perpetrators.[13] The figures for 2014 reveal a large spike in category 1 incidents, attributed by experts to well-planned vessel hijackings, crew kidnappings, and fuel siphoning. Such attacks have historically been relatively rare in Southeast Asia, and even the sporadic cases involving violence were predominantly the work of local criminal groups.

Although violence and crew fatalities remain a rare occurrence, perpetrators carried firearms in 18% of all attacks in 2016 – over double the 7% reported the year before.[14] Armed groups of outlaws, funded and directed by transnational criminal organizations, have begun to play a role in orchestrating increasingly well-organized attacks.[15] These organizations possess significant resources, often running a complex network, which can include "insiders" within ports and onboard ships; corrupt customs officials; document forgers; a 'phantom ship' for the transport of stolen goods; an investor funding the entire operation; and a middleman who provides all the necessary contacts. Although the total financial impact of these attacks is difficult to estimate, experts believe the direct damage (not including the potential impact on insurance premiums, discussed below) is "many millions every year" – with group leaders making as much as $109,000 per raid, and the middleman in excess of $545,000.[16]

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[13] This classification is explained in more detail as part of the ReCAAP case study later in this paper.
[14] ReCAAP ISC, "Annual Report: Piracy and Armed Robbery Against Ships in Asia 2016".
[15] Surabhi Sahu and Sameer Mohindru, "Piracy ebbs in Southeast Asia waters on lower oil price, better law enforcement", *Platts* (Sept. 9, 2016), http://www.platts.com/latest-news/shipping/singapore/piracy-ebbs-in-southeast-asia-waters-on-lower-27667102, accessed September 2016.
[16] Rodion Ebbighausen, "Southeast Asia – a pirates' paradise", *Deutsche Welle* (Aug. 17, 2016), http://www.dw.com/en/southeast-asia-a-pirates-paradise/a-18599742, accessed September 2016.

Exacerbating the issue is the increasing reliance of the extremist Abu Sayyaf group, based in the Philippines, on ransoms from crew kidnappings to fund its operations on land. Six major attacks during a short four-month period during 2016 underscored the proliferation of increasingly sophisticated attacks by the militants; reflecting the gradually changing nature of maritime piracy in Asia.

On March 26, 2016, 10 crew members of an Indonesian tugboat were abducted by 17 armed militants belonging to Abu Sayyaf. Just five days later, on April 1, four crew were abducted from a Malaysian tug boat, and on April 15 Abu Sayaff kidnapped four crew members off a tug boat in the border waters between Malaysia and the Philippines. Another kidnapping by the militants followed on 22 June, this time from a tugboat off the

Figure 2: Significance level of incidents, 2011-2016[17]
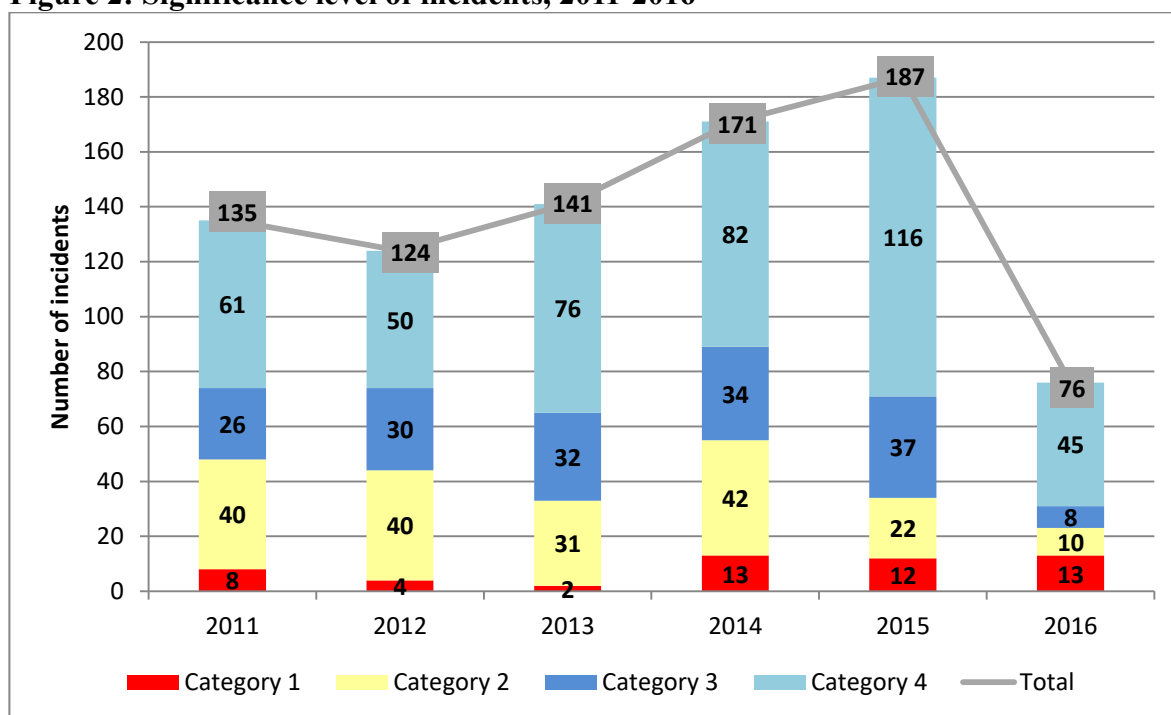
coast of Kalimantan. Finally, on July 9 and 18, another three and five crew were abducted from a fishing trawler and tug boat, respectively. In all but one of the incidents, the attackers carried firearms. Since October 2016, the group has been actively targeting large commercial vessels traversing the Sulu and Celebes seas. These vessels were previously considered at low risk of attack due to their size and speed, and the shift in tactics adds substance to the thesis that the nature of Asian piracy is undergoing a transformation.

As the spate of attacks after 2014 shows, criminal syndicates and extremist organizations may be more frequently relying on vessel hijackings and kidnappings for

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[17] ReCAAP ISC, "Annual Report: Piracy and Armed Robbery Against Ships in Asia 2016"; ReCAAP ISC, "Annual Report, Jan – Dec 2015", http://www.recaap.org/AlertsReports/IncidentReports.aspx, *ReCAAP ISC* (2016), accessed July 2016.

ransom as a considerable source of revenue – something that was previously rare, if not entirely unheard of. Given the value of the stolen goods, siphoned fuel and ransom money, such organizations are being furnished with considerable resources. These can either be used to fund more lucrative attacks against vessels, or support their activities on land. This includes, for example, Abu Sayyaf's insurgency against the Philippine government.

3. If not dealt with through sustained and structured law-enforcement cooperation, such well-organized attacks – whether done against large vessels or local tugs and barges – may become an increasing threat to freedom of navigation and the free flow of goods and commodities, which are transported in and out of Asia and across the globe. Although major container vessels and tankers remain at low risk due to their speed and size, a proliferation in hijackings and crew kidnappings would have direct implications for the global economy.

The 2005 labelling of the Strait of Malacca as a 'warzone' is a case in point. The designation by an influential London-based shipping insurer reflected a rise in attacks at the time. The decision led a number of insurance underwriters to increase premiums for shipping companies, which for very large crude carriers (VLCCs) reached as much as $63,000 for the base premium, with an additional $12,600 for every passage of the strait.[18] While the warzone label was rescinded in 2006, such surcharges represent a burden not only for ship owners and operators, but also for consumers. According to the International Trade Centre, there "can be little doubt" that sustained premium increases can cause economic damage by translating into higher costs of shipped goods.[19]

A hypothetical surge in attacks against ships in the Straits of Malacca and Singapore could result in the rerouting of trade through Indonesia's Lombok or Sunda straits. According to the US Energy Information Administration (EIA), the blocking of this strategic chokepoint would result in higher shipping costs and energy prices. Over a third of all shipping passes through the narrow strait every year, along with an estimated 15.2 million barrels of crude oil.[20]

Japan's role in countering piracy in Southeast Asia
Seaborne trade dependence and sea lane security

The scarcity of natural resources on the Japanese archipelago has made the country's economy vitally dependent on seaborne trade ever since the industrial revolution in the 19th century. Japan imports the vast majority of its raw materials, food, manufactured goods, and fuel. Manufacturers based within the country in turn depend on open SLOC for the unimpeded shipping of high value-added exports such as computers, semiconductors,

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[18] Nazery Khalid, "Security in the Straits of Malacca", *The Asia-Pacific Journal: Japan focus* (June 1, 2006), http://apjjf.org/-Nazery-Khalid/2042/article.html, accessed April 2016.
[19] International Trade Centre, "5.7-Logistics and insurance-War risk insurance in shipping", *International Trade Centre* (no date given), http://www.intracen.org/coffee-guide/logistics-and-insurance/war-risk-insurance-in-shipping/, accessed April 2016.
[20] Energy Information Administration, "World oil transit chokepoints", *Energy Information Administration* (Nov. 10, 2014). https://www.eia.gov/beta/international/regions-topics.cfm?RegionTopicID=WOTC, accessed April 2016.

and motor vehicles to key markets in Asia, North America, and Europe. For this reason, seaborne trade dependence, and the risk posed by piracy, have traditionally "loomed large" in the minds of policy makers in Tokyo.[21]

As of 2016, Japan depends on imports for over 90 percent of its primary energy needs. Although energy efficiency measures over previous decades reduced this number, dependence increased after the 2011 Great East Japan earthquake, and the subsequent closure of nuclear reactors.[22] Similarly, Japan relies on seaborne trade for its exports, which have continued rising since the 1990s, despite the country's slow growth after the bursting of the bubble economy. The total value of exports reached ¥75.6 trillion ($754 billion) in 2015.[23] Most of Japan's imports of oil and natural gas are delivered from the Middle East via the Strait of Hormuz and the Strait of Malacca; two key chokepoints highly vulnerable to blockades. The total imports of mineral fuels are worth some ¥27.7 trillion ($276 billion) per year, half of which consist of petroleum (¥13.9 trillion/$138.6 billion), followed by liquefied natural gas (¥7.8 trillion/$77.8 billion), and petroleum products (¥2.7 trillion/$26.9 billion).[24]

Given the scale of Japan's dependence on seaborne trade, minimizing dependence on energy imports, while simultaneously ensuring uninterrupted trade flows, are high on the list of priorities for any Japanese administration. Domestically, the country has relatively limited space for dealing with disruptions to maritime transportation. As a result of the first oil crisis in 1973-1975, Tokyo introduced a comprehensive energy program aimed at boosting energy conservation, diversifying Japan's energy sources, developing alternatives to petroleum, fully exploiting domestic energy sources, and stockpiling coal and oil supplies. Even though these measures would enable Japan to sustain a temporary disruption in crude oil imports, its industry's already lean energy profile means that reduced energy imports would quickly translate into lower industrial production.[25]

Having only limited domestic recourse to control the fallout from SLOC disruption, Tokyo has traditionally placed great emphasis on building sufficient capacity to manage threats to shipping, ever since Japanese ports were first fully opened to foreign trade in 1859. For almost a century and a half afterward, the main threat to SLOC stemmed from traditional security concerns, primarily other countries. Consequently, the Imperial

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[21] Telephone interview with Lindsay Black, University Lecturer, Leiden University, April 13, 2016.

[22] World Nuclear Association, "Nuclear Power in Japan", *WNA* (August 2016), http://www.world-nuclear.org/information-library/country-profiles/countries-g-n/japan-nuclear-power.aspx, accessed September 2016.

[23] Japan Foreign Trade Council, "Foreign Trade 2015: Trade by Major Area and Country", *Japan Foreign Trade Council* (April 2015), http://www.jftc.or.jp/research/pdf/ForeignTrade2015/chapter2.pdf, accessed August 2016; Trade Statistics of Japan, "Values by Country", *Ministry of Finance* (June 2016), accessed August 2016.

[24] Japan Foreign Trade Council, "Foreign Trade 2015: Trade by Major Commodity", *Japan Foreign Trade Council* (April 2015), http://www.jftc.or.jp/research/pdf/ForeignTrade2015/chapter3.pdf, accessed August 2016.

[25] Euan Graham, *Japan's Sea Lane Security, 1940-2004: A matter of life and death?* (London and New York: Routledge, 2005), 12-33; Mina Pollmann, "Japan: How Energy Security Shapes Foreign Policy", *The Diplomat* (March 16, 2016), http://thediplomat.com/2016/03/japan-how-energy-security-shapes-foreign-policy/, accessed August 2016.

Japanese Navy was the principal actor tasked with safeguarding Japan's maritime strategic interests until 1945.[26]

After the end of World War II, that role was taken up by the MSDF in cooperation with the US Navy. For the former, the protection of vital sea lanes became a major priority during the late 1970s, and the 1983 defense white paper specifically designated sea lanes within 1,000 nautical miles of Japan as the MSDF's responsibility – with the remainder safeguarded by the US Navy.[27] Due to Japan's postwar constitutional and legal constraints on the exercise of military force, diplomacy became another vital toolset. In Southeast Asia in particular, Japan began to rely on nonmilitary influence to ensure the uninterrupted flow of trade, which began to increase substantially in the postwar period.[28] This principle was based on a doctrine of peaceful cooperation with Southeast Asia, first outlined by Prime Minister Fukuda Takeo in 1977.[29] The region, with its many SLOC, strategic chokepoints, complex overlapping maritime claims, and persistently high rates of maritime piracy, remains a key focus for Japan's foreign and security policies.

After the end of the Cold War and the dissolution of the Soviet Union, the threat posed to SLOC by other navies virtually disappeared, with the supremacy of the allied US Navy largely unchallenged. Nevertheless, as conventional seaborne threats receded, nontraditional security risks, foremost in the shape of maritime piracy, began to assume greater importance in policy making during the 1990s.

Formulating and leading an international response to piracy

The 1990s: piracy becomes a national security concern

Even though piracy levels in Southeast Asia began to rise during the tail end of the Cold War, Japan was initially slow to react. While pirate attacks were beginning to be seen as a risk after the first incidents were reported in the Phillip Channel in 1981 – leading Japanese shipping companies to begin developing their own countermeasures – policy makers in Tokyo only began to react after a string of attacks against ships in the East China Sea during the early 1990s.[30] Although cooperation between Japan's Maritime Safety Agency (renamed the Japan Coast Guard in 2000) and Chinese law enforcement reduced the number of attacks in the area, pirate attacks continued unobstructed further south.[31]

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[26] Euan Graham, *Japan's Sea Lane Security, 1940-2004: A matter of life and death?*, 12-33.

[27] James Manicom, "Japan's Role in Strengthening Maritime Security in Southeast Asia", *The National Bureau of Asian Research* (November 2010).

[28] Telephone interview with Lindsay Black, April 13, 2016; Euan Graham, *Japan's Sea Lane Security, 1940-2004: A matter of life and death?*, 97-153.

[29] The so-called 'Fukuda Doctrine' remains at the centre of Japan's relationship with Southeast Asian countries. The doctrine consists of three elements: 1) pledging that Japan would never again become a military power; 2) building a "heart-to-heart" relationship between Japan and Southeast Asia, based on mutual confidence and trust; and 3) cooperating with the region and the Association of Southeast Asian Nations (ASEAN) as equal partners.

[30] Euan Graham, *Japan's Sea Lane Security, 1940-2004: A matter of life and death?*, 186.

[31] James Manicom, "Japan's Role in Strengthening Maritime Security in Southeast Asia".

It was not until the mid-1990s that the problem of piracy began to be perceived as a major threat. Between 1995 and 2001, a series of media reports and research papers warned about the threat of maritime piracy to Japan, effectively politicizing and 'securitizing' the problem.[32] By moving up the policy agenda and into general discourse, the Japanese public and policy-makers began to no longer perceive piracy as a criminal act – but rather as a threat to national security (a perception that remains entrenched to this day, as discussed further below).[33] Two major incidents during the second half of the 1990s were instrumental in cementing the perception of piracy as a major security concern in the eyes of the general public and the political elite. The first was the 1998 hijacking of the *Tenyu*, a Japan-owned cargo vessel. The second was the hijacking of the Japanese ship *Alondra Rainbow* off the coast of Indonesia in 1999. While the first incident attracted relatively limited attention from the Japanese public, the case of the *Alondra Rainbow* propelled piracy into the public spotlight.

The incidents prompted the government of Prime Minister Obuchi Keizo to attempt to muster a region-wide response to piracy with a series of ambitious proposals. However, in doing so, the government was not only mindful of the need to safeguard their economic interests, but also working out of a desire to project regional leadership. At the time, some observers in Japan – without credible evidence – speculated that China may have orchestrated the East China Sea attacks of the early 1990s, which were alleged to serve as a prelude to its naval expansion and power projection beyond the Japanese archipelago and into the Pacific. By seizing the initiative, Tokyo was at least in part driven by a desire to shape a pan-Asian response to piracy – with the support of the ASEAN states – and boost its influence at the expense of Beijing.[34] This intertwining of economic and (geo)political interests continues to shape Japan's anti-piracy response to this day.

Obuchi's early regional overtures encountered resistance from ASEAN states due to concerns over ceding sovereignty, as well as from a China wary of Japanese intentions. Two proposals illustrate the scope and ambition of proposals at the time. As early as 1996, the National Institute of Defense Studies (NIDS) first outlined its "Ocean-Peace Keeping concept", a comprehensive plan for regional governance which entailed close cooperation between East Asian law enforcement agencies and navies in securing SLOC, as well as conserving and managing marine resources in the Asia-Pacific.[35] In 1999 – in the wake of the *Tenyu* and *Alondra Rainbow* incidents – Prime Minister Obuchi proposed the creation of a regional coast guard. Like the Ocean-Peace Keeping concept, this ambitious proposal

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[32] The term securitization was first coined by international relations scholars belonging to the Copenhagen School of international relations during the late 1990s. According to one definition, outlined by Ralf Emmers, an issue becomes securitized once a securitizing actor (such as governments, politicians, or even the media) begins to contend that an already-politicized issue (such as piracy) is an existential threat, which must be addressed through extraordinary measures. This shapes public opinion, allowing the state to mobilize the resources needed to tackle the threat. For more, see: Ralf Emmers, *Non-Traditional Security in the Asia-Pacific: The Dynamics of Securitization* (Singapore: Marshall Cavendish, 2004).
[33] Graham Gerard Ong-Webb, "Piracy in Maritime Asia: Current Trends", in *Violence at Sea: Piracy in the Age of Global Terrorism*, ed. Peter Lehr (New York and London, 2008), 83.
[34] James Manicom, "Japan's Role in Strengthening Maritime Security in Southeast Asia".
[35] The concept was subsequently fully developed in 1999. See: Susumu Takai and Kazumine Akimoto, "Ocean-Peace Keeping and New Role for Maritime Force", *National Institute of Defense Studies* (2000), http://www.nids.go.jp/english/publication/kiyo/pdf/bulletin_e1999_3.pdf, accessed June 2016.

gained little traction.[36]

After 2000: Japan and the JCG assume a key regional role

Subsequent, more limited, proposals met with greater success. Further initiatives by Prime Minister Obuchi encompassed both multi- and bilateral cooperation, and their less ambitious scope successfully assuaged sovereignty concerns. In this respect, the emphasis on a law-enforcement-led response, rather than one overseen by regional navies, was significant. The focus on law enforcement efforts, combined with the smaller scope of the proposals, also had the effect of alleviating worries over rising Japanese regional influence. Some states – including ASEAN members and China – viewed Tokyo's newfound proactive foreign and security posture as a possible cover for resurgent militarism. While these concerns have never fully dissipated, Tokyo's new approach proved successful in attracting region-wide participation, including that of China.

Chief among the new initiatives was the Asia Anti-Piracy Challenge Conference, held in Tokyo in April 2000. The event brought together the heads of 17 regional coast guard agencies (from Bangladesh, China, Hong Kong, India, Japan, South Korea, Sri Lanka, and all 10 ASEAN members).[37] The result was the adoption of three documents; the Tokyo Appeal, the Asia Anti-piracy Challenge 2000 statement, and the Model Action plan. The conference and the three documents had little immediate impact on tangible counter-piracy efforts. Nevertheless, they marked a turning point in Japan's role as an important driver of international cooperation on nontraditional security threats, including on maritime piracy and SLOC security – and laid the groundwork for a follow-up conference in 2001 and the subsequent creation of ReCAAP.

Significantly, the early 2000s also affirmed the role of the newly-renamed JCG as one of the primary regional actors organizing and leading counter-piracy efforts. By doing so, the agency became an important instrument in Japan's 'law-enforcement-led' counter-piracy approach and within its foreign and security toolkit more broadly. Unlike the MSDF under the Ministry of Defense (MoD), the JCG's status as a civilian agency under the Ministry of Land, Infrastructure, Tourism and Transport (MLIT) has proved beneficial in securing cooperation from Southeast Asian states, some of which remain wary of Japan-led security and defense initiatives. The JCG's civilian status also exempted it from Japan's self-imposed defense spending cap, set at 1 percent of its gross domestic product (GDP). This has allowed the coast guard to expand and benefit from budget increases even during the era of lower defense spending of the early 2000s.[38] Significantly, its civilian status and ample resources made it effective in promoting multi- and bilateral cooperation on nontraditional security across the region.

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[36] John F. Bradford, "Shifting the Tides against Piracy in Southeast Asian Waters", *Asian Survey* 3 (2008): 484.
[37] MOFA, "Japan's efforts to combat piracy and armed robbery against ships", *MOFA* (November 2001), http://www.mofa.go.jp/region/asia-paci/asean/relation/piracy.html, accessed June 2016.
[38] Richard J. Samuels, "New Fighting Power!": Japan's Growing Maritime Capabilities and East Asian Security", *International Security* 3 (2007/08): 84-112.

The JCG remains one of the main providers of training and resources to law enforcement agencies across Southeast Asia. The coast guard was the principal conduit for the transfer of Japanese technology, equipment, and unarmed patrol vessels to other countries well before the Abe Shinzo administration lifted Japan's self-imposed ban on military exports in 2014. The lifting of the ban, and other changes to Japan's security posture, have paved the way for more direct security cooperation. Although this shift is increasing the relative importance of the MSDF in countering nontraditional security threats – now less burdened by regulatory constraints and benefitting from increased defense spending (discussed in more detail later in the paper) – the JCG has retained much of its significance in this regard.[39]

On a multilateral level, the JCG has been instrumental in spearheading a number of initiatives. Based on the initial reluctance of other East Asian countries to integrate their law enforcement agencies, these have primarily focused on capacity building, information sharing, and joint exercises. While many initiatives have taken the form of (*ad hoc* or recurring) conferences and summits, the JCG also established three organizations during the early 2000s which have come to exemplify the coast guard's importance in building regional mechanisms focusing on nontraditional security issues.[40]

In 2000, the JCG brought together representatives of five other countries to establish the North Pacific Coast Guard Forum (NPCGF). The forum is comprised of law enforcement agencies from Canada, China, Japan, South Korea, Russia, and the United States, and convenes twice a year. Members of the NPCGF work through a combination of tabletop and on-water training exercises in five key areas: maritime security, information exchange, combined operations, fisheries and illegal drugs, and migration. The forum's achievements to date include organizing coordinated patrols to combat illegal fishing; agreeing on common communication protocols for dealing with so-called "vessels of special interest"; and creating an information exchange system.[41]

Together with the Asia Pacific Economic Cooperation (APEC), Japan hosted the first Heads of Asian Coast Guard Agencies Meeting (HACGAM) in Tokyo in 2004. The meeting initially brought together law enforcement representatives from 18 countries in the Asia-Pacific. Its membership has since expanded to 20 states.[42] The forum provides a venue for multilateral discussion and capacity building on a number of issues, including

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[39] For more information on the significance of the JCG in bilateral security cooperation in Southeast Asia, refer to: Miha Hribernik, "The Japan Coast Guard (JCG) as a Foreign Policy Instrument in Southeast Asia", *Asia Pacific Bulletin 331* (Dec. 1, 2015).

[40] The three organisations were selected due to the key role played by Japan and its coast guard in their creation. However, Japan remains involved in a number of different organisations and forums, too numerous and diverse to effectively analyse in this paper. One such example is Tokyo's maritime security cooperation with ASEAN, which was historically limited, but was given momentum by the signing of a joint declaration in 2011. For more information, see: Nguyen Hung Son, "ASEAN-Japan Strategic Partnership in Southeast Asia: Maritime Security and Cooperation", *Japan Center for International Exchange* (2015), http://www.jcie.org/japan/j/pdf/pub/publst/1451/12_nguyen.pdf, accessed September 2016.

[41] Canadian Coast Guard, "North Pacific Coast Guard Forum", *Canadian Coast Guard* (April 14, 2016), http://www.ccg-gcc.gc.ca/e0007869, accessed June 2016.

[42] Australia, Bangladesh, Brunei, Cambodia, China, Hong Kong, India, Indonesia, Japan, Laos, Malaysia, the Maldives, Myanmar, Pakistan, the Philippines, South Korea, Singapore, Sri Lanka, Thailand and Vietnam.

search and rescue/humanitarian assistance and disaster relief (SAR/HADR), environmental protection and preventing and controlling unlawful acts at sea – including maritime piracy.[43]

There is no evidence to suggest that the NPCGF or the HACGAM are anything but effective in achieving their principal objectives: fostering cooperation, increasing trust, and building capacity among regional law enforcement agencies on a very broad spectrum of nontraditional security issues. However, both organizations have relatively narrow and limited mandates that do not extend beyond discussions, exercises and capacity building. In addition, neither was designed to address Southeast Asia's piracy problem, which remains one of many competing priorities.

This issue of piracy was instead tackled by the third organization created as part of Japan's 'institution-building' efforts of the early 2000s. Established in 2004, ReCAAP was the first international organization established specifically with the goal of tackling maritime piracy. It has done so by facilitating cooperation and information sharing between participating states, which allows for a rapid response by local law enforcement. From its original remit in the Asia-Pacific, the organization has expanded to include member states in Europe and North America, and its structure has gone on to serve as the blueprint for the Djibouti Code of Conduct, which plays a similar role to that of ReCAAP in countering piracy in the Gulf of Aden in East Africa.

As a result of its status as the first organization of its kind; its large global membership; influence on the formation of other organizations; and its (relative) effectiveness in boosting practical anti-piracy cooperation between states in the Asia-Pacific, ReCAAP's role, as well as its strengths and weaknesses, are analyzed in more detail below.

Case study: The role of ReCAAP

Origins and mandate

The origins of ReCAAP date back to the Asia Cooperation Conference on Combating Piracy and Armed Robbery against Ships, held in Tokyo in October 2001 as a follow-up to the successful anti-piracy conference in 2000. The event's main goal was to discuss a "medium- and long-term vision concerning [a] regional cooperation framework".[44] The conference formed part of a wider personal initiative by Prime Minister Koizumi who used it – and a subsequent diplomatic tour of Southeast Asia – to declare his intention of building a regional counter-piracy cooperation framework, with the JCG assuming the leading role.[45]

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[43] Department of Immigration and Border Protection, "Australia joins Heads of Asian Coast Guard Agencies Meeting (HACGCAM)", *Department of Immigration and Border Protection* (May 20, 2016), http://newsroom.border.gov.au/channels/Maritime-border-operations/releases/australia-joins-heads-of-asian-coast-guard-agencies-meeting-hacgam, accessed June 2016.

[44] MOFA, "Japan's efforts to combat piracy and armed robbery against ships".

[45] Lindsay Black, *Japan's Maritime Security Strategy: The Japan Coast Guard and Maritime Outlaws* (New York: Palgrave Macmillan, 2014), 127.

A series of expert meetings followed, funded by the Japan Foundation.[46] The talks included East Asian maritime officials, led by section chiefs and department heads from the Japanese Ministry of Foreign Affairs (MOFA) and the JCG, and laid the groundwork for the creation of the first international organization with the sole mandate of countering maritime piracy.[47] The meetings resulted in the ReCAAP agreement, which was signed on Nov. 11, 2004 by officials from 16 Asian states: Bangladesh, Brunei, Cambodia, China, India, Indonesia, Japan, Laos, Malaysia, Myanmar, the Philippines, South Korea, Singapore, Sri Lanka, Thailand, and Vietnam.[48] The agreement entered into force on Sept. 4, 2006, after it was ratified by 14 of its original signatories.

Indonesia and Malaysia were the only two signatories to decline ratification, citing concerns over the erosion of their sovereignty. The latter also suggested that the work of ReCAAP's newly established information sharing center (ISC) would duplicate that of the International Maritime Bureau's Piracy Reporting Centre, based in Kuala Lumpur, which collects information on piracy incidents from across the globe.[49] The two countries remain outside ReCAAP at the time of writing – but maintain a degree of cooperation with the organization in practice (analyzed in more detail below). ReCAAP's membership has expanded to encompass 20 countries in Asia, Europe, and North America, greatly expanding its original geographic remit. Norway was the first non-Asian contracting party, joining in 2009, followed by the Netherlands (2010), Denmark (2010), the United Kingdom (2012), Australia (2013), and the United States (2014).

The ratification of the ReCAAP agreement enabled the establishment of the Singapore-based ISC in November 2006. The city state also hosts ReCAAP's Secretariat and Governing Council, with the latter consisting of 20 representatives from ReCAAP's contracting parties. The organization is funded by voluntary annual contributions from its contracting parties, and headed by an executive director appointed by Japan.[50]

The ReCAAP ISC forms the core of the organization, and has three goals: [51]

1. **To facilitate communication and information exchange among participating governments in order to improve piracy incident responses. In addition, the ISC also collects, verifies and analyzes piracy statistics from incident reports and other independent sources.**

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[46] The Japan Foundation was founded in 1972 as a special legal entity under the Ministry of Foreign Affairs. It became an independent administrative institution in 2003, and has since been funded through a combination of government subsidies, investment revenue and private donations. The main goal of the Japan Foundation is to foster international cooperation and intellectual exchange, and promote Japanese language and culture worldwide.

[47] Lindsay Black, *Japan's Maritime Security Strategy: The Japan Coast Guard and Maritime Outlaws*, 128.

[48] J.H. Ho, "Combating piracy and armed robbery in Asia: The ReCAAP Information Sharing Centre (ISC)", *Marine Policy* 2 (2009): 432-434.

[49] Sam Bateman, "Piracy and Armed Robbery against Ships in Indonesian Waters", in *Indonesia beyond the Water's Edge: Managing an Archipelagic State*, ed. Robert Cribb and Michele Ford (Singapore: Institute of Southeast Asian Studies, 2009), 119.

[50] At the time of writing, the position of executive director is held by Kuroki Masafumi, who served as the Japanese ambassador to Serbia and Montenegro before assuming his post.

[51] ReCAAP ISC, "About ReCAAP", *ReCAAP ISC* (2016), http://www.recaap.org/AboutReCAAPISC.aspx, accessed June 2016.

This is the primary goal of the organization and forms the core of day-to-day activities. The ReCAAP ISC in Singapore serves as a hub for the collection of piracy incident reports, which are then disseminated among contracting parties.

Vessels that fall victim to pirate attacks can use a 24-hour web-based information network system (IFN) to report an incident to the nearest focal point managed by a ReCAAP participating government. The focal point subsequently informs the local law enforcement agency, which forms a response and provides assistance to the vessel. Finally, the agency provides more detailed information on the incident to the focal point, which then relays the information back to the ReCAAP ISC and its neighboring focal points.[52]

2. **Improve the counter-piracy capabilities of contracting parties through capacity building**

   The ReCAAP ISC works toward this goal by organizing workshops and meetings, and by operational visits to focal points within contracting states. In 2015, for example, it organized a capacity building workshop for focal point officials in Singapore, a meeting of senior officers from focal points in Sydney, and operational visits by ReCAAP ISC delegations to focal points in the US and the UK.[53]

   The ReCAAP Agreement also contains broad provisions that allow individual contracting parties and their law enforcement agencies to pursue bilateral cooperation under the ReCAAP umbrella.

3. **Cooperate with organizations and other parties on joint exercises, information sharing, capacity building, or other forms of cooperation**

   Externally, the ReCAAP ISC cooperates with non-member states (including Indonesia and Malaysia), intergovernmental organizations (such as INTERPOL, HACGAM and the IMO) and non-governmental organizations, the shipping industry, and maritime and research institutes.

   In 2015, for example, ReCAAP officials conducted a maritime security lecture in Malaysia, received a visit by the head of the Indonesian coast guard, attended sessions of the IMO Council and delivered a presentation at INTERPOL's 22nd Asian Regional Conference in Singapore in April of that year.[54]

Strengths and weaknesses

As the first organization of its kind in the world, ReCAAP represents an important milestone in multilateral efforts to eradicate maritime piracy in Asia. It also attests to Japan's ability to assume a leading role in regional security cooperation, even as its maneuvering space remains limited by postwar constitutional and legal restraints.

ReCAAP has three key strengths that have allowed it to have an outsized influence on multilateral counter-piracy cooperation despite its limited resources and remit.

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[52] ReCAAP ISC, "About ReCAAP".

[53] ReCAAP ISC, "Executive Director's Report 2015", *ReCAAP ISC* (2016), http://www.recaap.org/LinkClick.aspx?fileticket=qQ9-GFigbBg%3d&tabid=93&mid=542, accessed June 2016.

[54] ReCAAP ISC, "Executive Director's Report 2015".

Nevertheless, as discussed later in this case study, the organization also has weaknesses, which have become more apparent during the surge in piracy attacks since the global financial crisis, and the more recent involvement of well organized criminal groups, involved in crew abductions and fuel siphoning. This suggests that the organization may have begun reaching the limit of its ability to effectively address maritime piracy.

Strengths:
1. The organization's mandate may appear limited at first glance, considering its focus on information sharing and data collection, rather than possessing any concrete anti-piracy capabilities of its own. However, ReCAAP has played a crucial role in promoting cooperation and reinforcing trust in a region riddled with territorial disputes and overlapping exclusive economic zones. In this respect, the organization succeeded in securing the support of Southeast Asian states by finding something akin to the 'lowest common denominator' regarding sovereignty, in contrast to more ambitious earlier proposals, such as the creation of a regional coast guard. This allowed it to secure the support of many East Asian states, including China (but with the notable exceptions of Indonesia and Malaysia).[55]

As an example, the ReCAAP agreement stipulates that contracting parties must, among other things, "endeavor" to provide mutual legal assistance in criminal matters and upon request extradite individuals who committed acts of piracy/armed robbery in the waters of another contracting party.[56] In addition, the agreement has limited the ability of attackers to flee across maritime boundaries to avoid capture – a previously favored tactic given the close proximity of borders in piracy hotspots such as the Singapore Strait – by having the ReCAAP ISC notify local authorities, which can take over pursuit once suspects cross the maritime boundary.[57]

2. Another key contribution of ReCAAP has been the classification of each recorded piracy incident into one of four categories, determined by a combination of two criteria: *violence* employed during the attack (evaluated on the basis of the types weapons used, if any; the treatment of the crew by the attackers; and the number of pirates/robbers engaged in the attack) and the *economic factor* (the type of property taken from the ship and the value of the cargo or the hijacked ship). Based on the combination of the two factors, each recorded incident is classified into one of four categories, ranging from Category 1 (a large group of attackers with guns or knives, resulting in physical harm or threats to the crew and the

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[55] Despite this success, sovereignty concerns remain an impediment to greater counter-piracy cooperation in the region, as analyzed in more detail below.
[56] *Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia* (2004/2006), http://www.recaap.org/Portals/0/docs/About%20ReCAAP%20ISC/ReCAAP%20Agreement.pdf, accessed August 2016.
[57] For more, see Miha Hribernik, "Countering Maritime Piracy and Robbery in Southeast Asia: The Role of the ReCAAP Agreement", *European Institute for Asian Studies* (March 2013), http://www.eias.org/wp-content/uploads/2016/04/EIAS_Briefing_Paper_2013-2_Hribernik.pdf, accessed August 2016.

hijacking of the vessel or cargo theft) to Category 4 (petty theft by a small group of unarmed suspects).[58]

This classification has proven useful in providing a much needed degree of granularity, as total numbers of incidents can obscure the fact that most incidents in Asia – the recent rise in hijackings and crew kidnappings notwithstanding – take the form of petty thefts in ports and anchorages, thereby falling into Category 4. The added granularity is all the more important as ReCAAP collects incident data from all available sources, providing a more comprehensive picture of the piracy problem in Asia. According to one expert, the ReCAAP ISC focal point in Singapore also receives more direct incident reports than the IMB center in Kuala Lumpur, adding to the frequent discrepancy in the number and types of attacks logged by both organizations.[59]

As a case in point, the insurance industry in 2005 relied on the IMB's 'lump sum' data when it declared the Strait of Malacca a warzone simply due to the rise in the total number of attacks, driving up shipping insurance premiums in the process. This was arguably an overreaction, as the vast majority of large cargo vessels and tankers traversing the area were never at any risk from attackers mainly undertaking minor thefts in ports or hit-and-run attacks against berthed or small and slow-moving local vessels.

3. The ReCAAP agreement allows for tailored bilateral cooperation between contracting parties. In theory, this allows individual countries to use the organization as a framework to e.g. conduct bilateral exercises, confidence-building measures, and similar activities. The broad provisions on bilateral cooperation allow countries significant flexibility in defining the scope of cooperation. According to one expert, contracting parties make regular use of the provisions.[60] One example is the 2008 *Joint Declaration on Security Cooperation between Japan and India*, which specifically names ReCAAP as a venue for bilateral activities, and the two states have already used the declaration to conduct joint coast guard exercises.

4. Finally, one of ReCAAP's main achievements has been its influence on the creation of similar organizations in other piracy hot-spots. Its key strength – ensuring a constant flow of information and facilitating practical cooperation between law enforcement while only minimally infringing on participating states' sovereignty – has made it a model that has been emulated in the Gulf of Aden, the Gulf of Guinea, as well as in Singapore itself. In the former, ReCAAP influenced the framework of the 20-member Djibouti Code of Conduct (DCoC), which governs anti-piracy information sharing and cooperation in East Africa.[61] The ReCAAP ISC directly contributed to the DCoC's establishment by providing

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[58] For more detailed information on the criteria for each of the categories, see: ReCAAP ISC, "Annual Report, Jan-Dec 2015", http://www.recaap.org/AlertsReports/IncidentReports.aspx, *ReCAAP ISC* (2016), accessed July 2016.
[59] Telephone interview with Sam Bateman, April 20, 2016.
[60] Telephone interview with Sam Bateman, April 20, 2016.
[61] DCoC members are: Comoros, Djibouti, Egypt, Eritrea, Ethiopia, Jordan, Kenya, Madagascar, Maldives, Mauritius, Mozambique, Oman, Saudi Arabia, Seychelles, Somalia, South Africa, Sudan, Tanzania, the United Arab Emirates, and Yemen. For more on the organisation, its organisation and funding, see: IMO,

capacity building and assistance in setting up the latter's various information sharing centers across East Africa.[62]

Most recently, ReCAAP served as a model for the Yaounde Code of Conduct in the Gulf of Guinea (YCoC). The YCoC, established in 2013 in Yaounde, Benin, facilitates information sharing between 25 West and Central African countries.[63] Unlike ReCAAP, the mandates of the DCoC and YCoC go beyond maritime piracy, and include transnational organized crime, maritime terrorism, and illegal, unreported, and unregulated (IUU) fishing.[64]

According to Christian Brueger, ReCAAP also (indirectly) influenced another organization much closer to home. Brueger argues that ReCAAP generated the level of trust needed to allow Singapore to establish the Information Fusion Centre (IFC) in 2009, which serves to provide a holistic picture of maritime security across Southeast Asia.[65] The IFC, established by the Singapore Navy, is connected to 69 navies and maritime security bodies in 37 countries, and collects information on eight types of maritime security incidents: IUU fishing; piracy; irregular migration; weapons trafficking; general maritime incidents; contraband trafficking; natural events; and terrorism.[66] On average, the IFC monitors the movement of some 177,000 vessels in an area stretching from the Gulf of Aden to the South China Sea in real time.[67]

Weaknesses:
1. ReCAAP's geographic reach has increased substantially since it was founded. However, this expansion appears not to have had any direct impact on recorded piracy figures. This puts into question the utility of adding additional contracting parties, many of which are situated far from areas with pirate activity, and which contribute minimal financial resources (analyzed in more detail below). At the same time, Indonesia and Malaysia remain outside the framework. Both are major Southeast Asian countries located along important maritime routes and strategic chokepoints such as the Strait of Malacca, while the former is also dealing with significant numbers of pirate attacks and armed robberies in its waters and ports. Although the ISC closely cooperates with Malaysia, which according

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"Djibouti Code of Conduct", *IMO* (2016), http://www.imo.org/en/OurWork/security/piu/pages/dcoc.aspx, accessed August 2016.

[62] Christian Brueger, "Organizing Maritime Domain Awareness", in *Strengthening Maritime Security Through Cooperation*, ed. Ioannis Chapsos and Cassie Kitchen (Washington, DC: IOS Press, 2015), 54.

[63] Members of the YCoC are Angola, Benin, Burkina Faso, Burundi, Cameroon, Cape Verde, Central African Republic, Chad, Congo, DR Congo, Equatorial Guinea, Gabon, The Gambia, Ghana, Guinea, Guinea-Bissau, Ivory Coast, Liberia, Mali, Niger, Nigeria, Sao Tome and Principe, Senegal, Sierra Leone, and Togo. For more information, see: IMO, "West and Central Africa Regional Agreements and Information Sharing", *IMO* (2016), http://www.imo.org/en/OurWork/Security/WestAfrica/Pages/Code-of-Conduct-against-illicit-maritime-activity.aspx, accessed August 2016.

[64] The YCoC has had this broad mandate since its establishment. The DCoC expanded its remit in 2017, following the adoption of an amendment to its Code of Conduct in January.

[65] Christian Brueger, "Organizing Maritime Domain Awareness", 54.

[66] Christian Brueger, "Organizing Maritime Domain Awareness", 56.

[67] Razak Ahmad, "International Fusion Centre tackles ship hijackings", *The Star Online* (June 21, 2016), http://www.thestar.com.my/news/nation/2016/06/21/international-fusion-centre-helps-reduce-sea-hijackings/, accessed August 2016.

to one interviewed expert is "already behaving like a contracting party", Indonesia has been more reluctant to cooperate, citing sovereignty concerns.[68] Experts concur that the two states' absence is a limitation that hinders ReCAAP's effectiveness.[69]

As *Figure 3* below illustrates, the number of piracy incidents declined after 2005, particularly after 2006, the year the ReCAAP ISC was founded. Although a number of factors contributed to the decline in piracy – including the establishment of the MSP in 2004 – the ReCAAP ISC played an important role in this reduction. According to James Kraska, the organization represents "an effective regional approach" that formed a key part of the multilayered regional counter-piracy response, which led to a dwindling of incidents in the Strait of Malacca during the mid-2000s.[70]

However, the number of piracy incidents rapidly increased almost immediately following the outbreak of the global economic crisis of 2008/09. Notwithstanding a small dip in 2012, the numbers continued to climb in subsequent years, suggesting that counter-piracy measures did not have the means to decisively address the threat. Although the total number of attacks declined once again in 2016, the frequency of serious incidents, including crew kidnappings and attacks involving violence and the use of firearms, continued to rise. *Figure 3* shows that ReCAAP's expansion from its initial 14 contracting parties to 20 had no discernible impact on the number of attacks. Although incidents declined in 2012 – during the year that the UK acceded to the agreement – its impact on the temporary reversal can be safely ruled out, considering the geographic distance of the country and its southern Pacific overseas territories from any piracy hotspots.[71]

2. Second, the organization's funding has remained virtually unchanged between 2010 and 2015; a period which saw the total number of attacks climb by 40 percent, and the number of serious Category 1 incidents by 200 percent. *Figure 4* shows a breakdown of the ReCAAP's budget between 2010 (earliest available data) and 2015 (latest available data). The figure shows that the organization's funding has remained relatively steady over the six-year period, only approaching $3 million per year in 2014, when Japan made a one-time increase to its contribution. This growth notwithstanding, ReCAAP's contracting parties did not significantly adjust their contributions even as the number of attacks continued to increase. Quite the opposite, both Japan and Singapore, the organization's largest sources of funding, reduced their contributions between 2014 and 2015. In addition, three members – Australia, Denmark and the UK – to date only made one-time contributions in lieu of regular annual payments.

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[68] Telephone interview with Sam Bateman, April 20, 2016.

[69] Telephone interview with Sam Bateman, April 20, 2016; telephone interview with Lindsay Black, April 13, 2016.

[70] James Kraska, *Contemporary Maritime Piracy: International Law, Strategy, and Diplomacy at Sea* (Oxford: Praeger, 2011), 146.

[71] Similarly, piracy rates continued to rise a year after the US acceded in September 2014. Although the country's participation could have plausibly had an impact in reducing the number of attacks recorded during 2016, none of the interviewed experts or consulted sources referred to the role of the US as significant in this regard.

The organization may not require significant funding given its relatively limited mandate, leading countries to contribute only small amounts. Nevertheless, the absence of any sustained increases in resources during a six-year surge in piracy strongly suggests that the organization, in its current form and with current levels of funding, may have reached a ceiling as regards its resourcing and ability to tackle the threat of piracy. This perception has led the regional media, some maritime security experts and even the shipping industry to begin questioning the veracity of incident data provided by the ReCAAP ISC over the past several years. According to these allegations, which the ReCAAP ISC has strongly denied, the organization has been downplaying the true extent of the increase in piracy in recent years. According to one expert, the war of words was the result of tensions between ReCAAP and the IMB's Piracy Reporting Center in Kuala Lumpur. [72] Another factor is the animosity from parts of the shipping industry, whose crew members had previously been accused by the ISC of complicity in hijackings and oil siphoning.[73]

Regardless of the veracity of the accusations, their existence (and appearance in the press) means that doubts over the organization's effectiveness are more than an isolated phenomenon. Should they persist, they could erode trust in the organization and hinder its ability to work alongside the shipping community, regional governments, and other stakeholders; as well as translate into lower funding, which remains voluntary and at the discretion of individual contracting parties.

3. Even if the issues of membership and resourcing were addressed, ReCAAP's structure and mandate constrain its ability to address the growing role of organized criminal groups and extremist movements in Asian maritime piracy. According to Karsten von Hoesslin, ReCAAP is making only slow progress in adapting to these sophisticated operations. There are at least two reasons for this: the lingering mistrust between Southeast Asian countries, which hampers intergovernmental information exchange; and the main goal of ReCAAP and the regional states to "simply cut the number of attacks". Hoesslin argues that all efforts are directed against attackers, instead of at dismantling their support networks.[74]

In this respect, one of ReCAAP's key strengths – finding the 'lowest common denominator' in the fight against piracy to increase trust and information sharing between regional states – is also a notable weakness. Unlike, for example, the YCoC in West Africa, ReCAAP was never designed to tackle transnational organized crime, leaving it to deal with the symptoms, rather than the underlying causes. However, the organization has resisted calls to expand its remit into organized crime, and any significant reforms are off the table for the foreseeable future.[75]

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[72] For more on this dispute, see: Sam Bateman, "Piracy Monitoring Wars: Responsibilities for Countering Piracy", *RSIS* (May 13, 2015), https://www.files.ethz.ch/isn/191045/CO15115.pdf, accessed September 2016.
[73] Sam Bateman, "Piracy Monitoring Wars: Responsibilities for Countering Piracy".
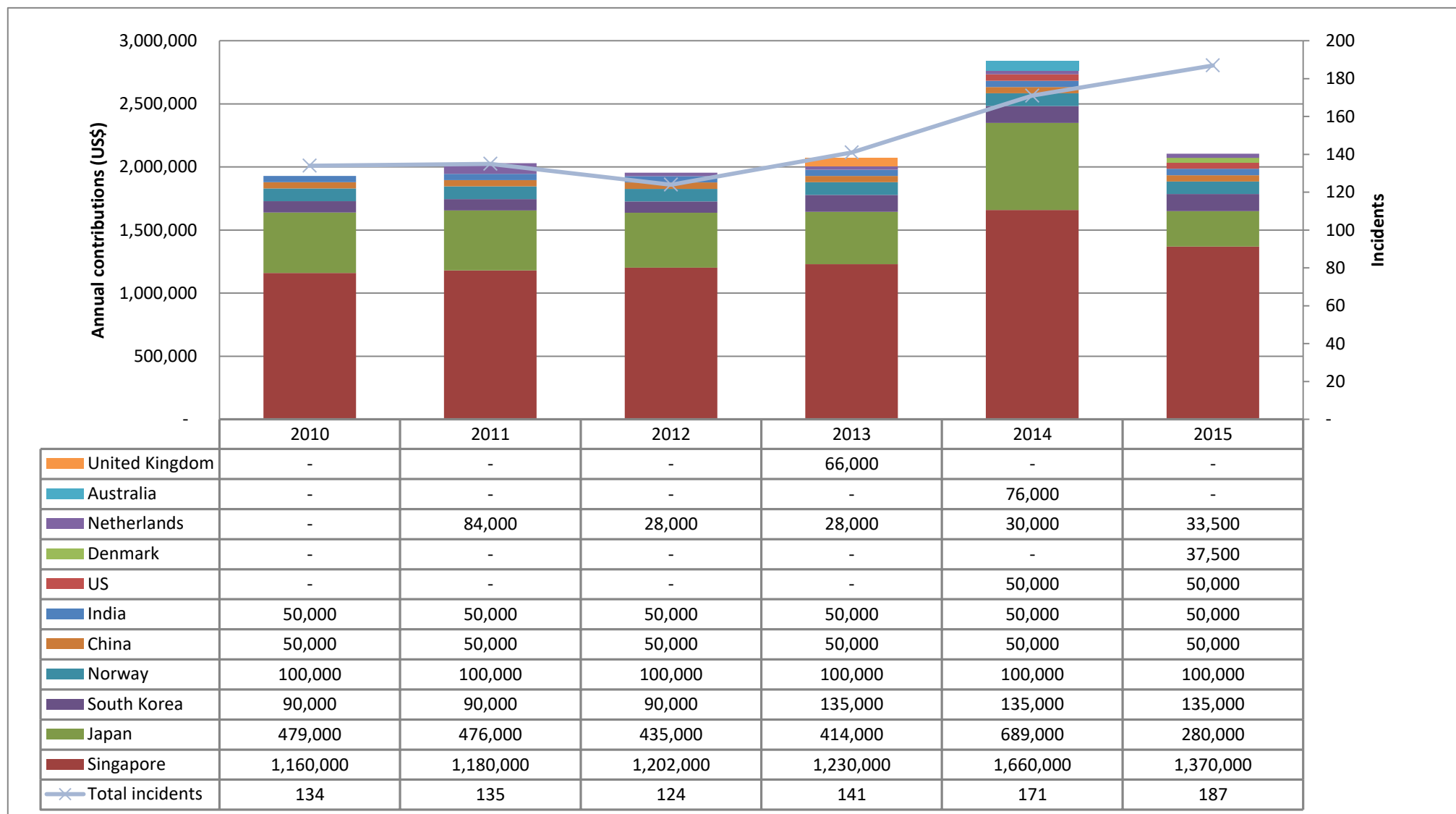[74] Quoted in Rodion Ebbighausen, "Southeast Asia – a pirates' paradise".
[75] Telephone interview with Sam Bateman, April 20, 2016.

Figure 3: Reported incidents and key milestones[76]

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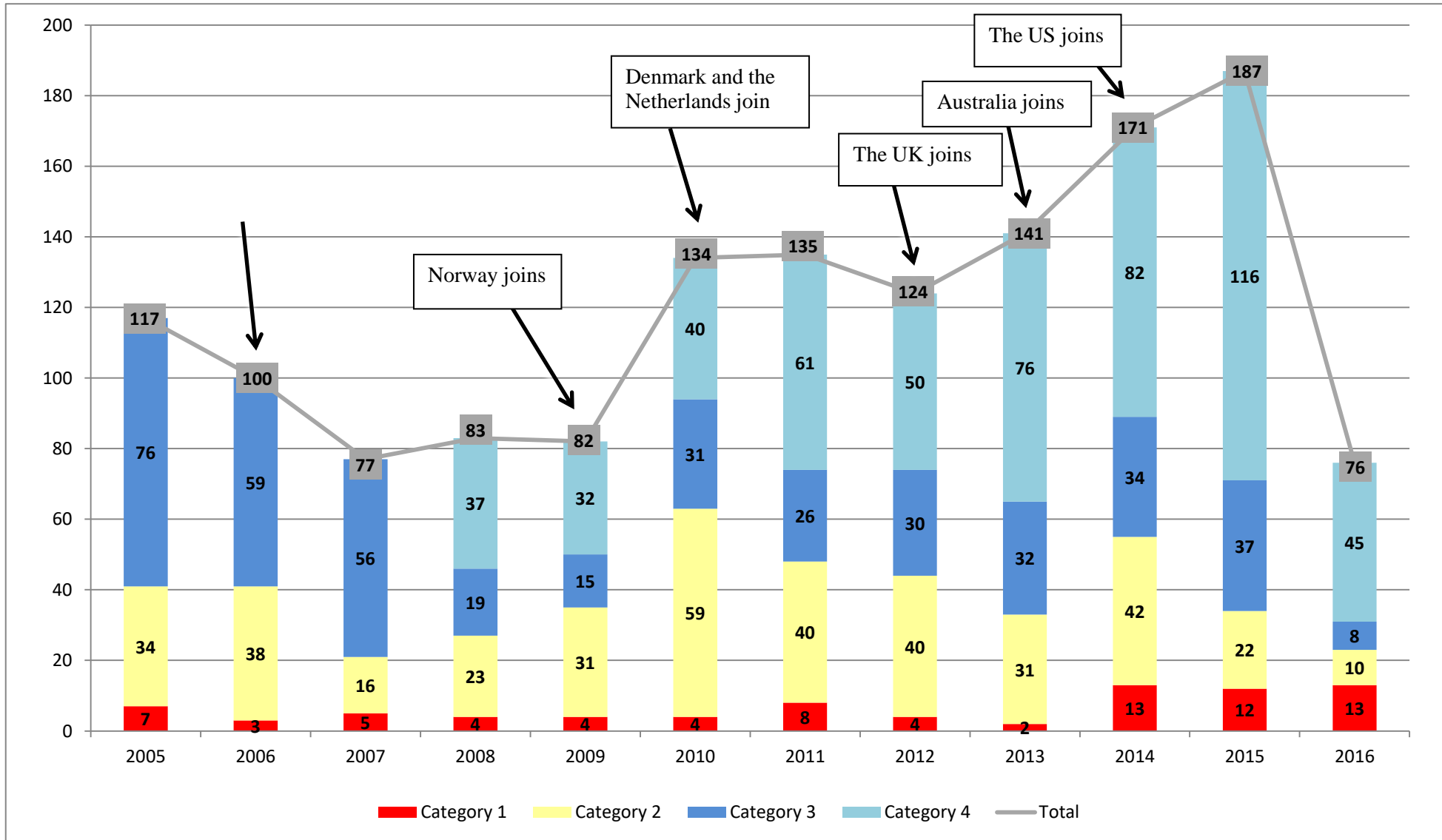
[76] Note that Category 4 (Petty theft) was only included as a separate category beginning in 2008. Figures for 2005-2007 therefore include petty thefts, but classified under a broader Category 3. For more, see: ReCAAP ISC, "Annual Report: Piracy and Armed Robbery Against Ships in Asia 2016"; ReCAAP ISC, "Annual Report, Jan – Dec 2015"; ReCAAP ISC, "Annual Report, Jan – Dec 2014", http://www.recaap.org/AlertsReports/IncidentReports.aspx, *ReCAAP ISC* (2015), accessed July 2016; ReCAAP ISC, "Annual Report, Jan – Dec 2013", http://www.recaap.org/AlertsReports/IncidentReports.aspx, *ReCAAP ISC* (2014), accessed July 2016; ReCAAP ISC, "Annual Report, Jan – Dec 2012", http://www.recaap.org/AlertsReports/IncidentReports.aspx, *ReCAAP ISC* (2013), accessed July 2016; ReCAAP ISC, "Annual Report, Jan – Dec 2011", http://www.recaap.org/AlertsReports/IncidentReports.aspx, *ReCAAP ISC* (2012), accessed July 2016; ReCAAP ISC, "Annual Report, Jan – Dec 2010", http://www.recaap.org/AlertsReports/IncidentReports.aspx, *ReCAAP ISC* (2011), accessed July 2016.

Figure 4: Annual contributions and total number of incidents[77]

	2010	2011	2012	2013	2014	2015
United Kingdom	-	-	-	66,000	-	-
Australia	-	-	-	-	76,000	-
Netherlands	-	84,000	28,000	28,000	30,000	33,500
Denmark	-	-	-	-	-	37,500
US	-	-	-	-	50,000	50,000
India	50,000	50,000	50,000	50,000	50,000	50,000
China	50,000	50,000	50,000	50,000	50,000	50,000
Norway	100,000	100,000	100,000	100,000	100,000	100,000
South Korea	90,000	90,000	90,000	135,000	135,000	135,000
Japan	479,000	476,000	435,000	414,000	689,000	280,000
Singapore	1,160,000	1,180,000	1,202,000	1,230,000	1,660,000	1,370,000
Total incidents	134	135	124	141	171	187

[77] The figure does not include data for 2016, which was not available at the time of writing. For more, see: ReCAAP ISC, "Executive Director's Report 2015", *ReCAAP ISC* (2016), http://www.recaap.org/LinkClick.aspx?fileticket=qQ9-GFigbBg%3d&tabid=93&mid=542, accessed September 2016; ReCAAP ISC, "Executive Director's Report 2014", *ReCAAP ISC* (2015), http://www.recaap.org/LinkClick.aspx?fileticket=Rr8uH0moIt8%3d&tabid=93&mid=542, accessed September 2016; ReCAAP ISC, "Executive Director's Report 2013", *ReCAAP ISC* (2014), http://www.recaap.org/LinkClick.aspx?fileticket=J1lTy9QrFWk%3d&tabid=93&mid=542, accessed September 2016; ReCAAP, "The Fifth Governing Council Meeting of the ReCAAP ISC", *ReCAAP ISC* (2012), http://www.recaap.org/Portals/0/docs/Newsletter/Issue%204-11.pdf, accessed September 2016; ReCAAP ISC, "The 4th Annual Meeting of the ReCAAP ISC Governing Council", *ReCAAP ISC* (2011), http://www.recaap.org/LinkClick.aspx?fileticket=5VG1Eiulc8I%3D&tabid=80&mid=393, accessed September 2016.

An opportunity for new Japanese initiatives

With existing multilateral mechanisms finding no sure-fire way of addressing the shifting nature of piracy in Southeast Asia, regional states have begun exploring new options for cooperation. Although this has foremost included improving bilateral law enforcement collaboration, it has left open the space for new multilateral initiatives. Japan has a wealth of experience it can draw upon to make a contribution and regain the regional leadership and initiative it held in the early 2000s – although doing so will require overcoming several challenges.

Securitizing piracy – from the Gulf of Aden to new security legislation

While it has traditionally perceived piracy as a threat, until recently Japan addressed the problem by relying on the use of (civilian) law enforcement agencies, along with multi- and bilateral cooperation with other countries. However, the 'securitization' of piracy within Japan since the 1990s appears to have accelerated in the second half of the 2000s, while simultaneously becoming subsumed within wider geopolitical tensions and security concerns.

The dispatch of Japanese forces to the Gulf of Aden in 2009 represented a milestone in this regard. In 2008, the Japanese ship *Takayama* was attacked off the coast of Somalia. The incident led to the deployment of two MSDF destroyers and P-3C patrol planes to an overseas Japanese base in Djibouti, which remain tasked with guarding commercial vessels against Somali pirates. Although the JCG has long-range vessels that could be based in Djibouti, they were less suited for operating in a high-risk environment where attackers were frequently armed with rocket-propelled grenades and other firearms.

The dispatch of the SDF was only possible after a vigorous debate in the Diet and the adoption of a new Anti-Piracy Measures Law. The new bill empowered the Minister of Defense to order the SDF to conduct counter-piracy operations – with the approval of the prime minister – in "case there is extraordinary necessity to take measures against acts of piracy".[78] Pressure by members of the government of Prime Minister Aso Taro and the ruling Liberal Democratic Party (LDP), intent on increasing Japan's role in international security affairs, was a key contributor to the law's adoption.[79] Aso referred to piracy as an immediate threat to Japanese citizens to speed the bill's adoption, mirroring the process of securitization that took place when Japan first began to take the initiative against piracy during the 1990s.[80]

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[78] Diet of Japan, *Law on Punishment of and Measures against Acts of Piracy* (2009), http://www.un.org/depts/los/LEGISLATIONANDTREATIES/PDFFILES/JPN_anti_piracy.pdf, accessed September 2016.
[79] Lindsay Black, "Debating Japan's intervention to tackle piracy in the Gulf of Aden: beyond mainstream paradigms", *International Relations of the Asia-Pacific*, 12 (2012): 270-3.
[80] Although the JCG was not entirely exempt from operations in the Gulf of Aden, the new law effectively relegated it to a supporting role. For example, coast guard officers were deployed on board the two destroyers due to their powers of arrest – which their SDF counterparts do not possess.

Another milestone in this securitization process came in 2013, when maritime piracy was specifically mentioned as a threat to national security in Japan's first *National Security Strategy* (NSS), adopted by the Abe administration. Although the document lists it alongside other nontraditional threats at sea – such as maritime disasters, illegal dumping, and contraband – the risks are tellingly placed under the same heading as more conventional, and potentially, far more significant, threats. These include "conflict of interests between or among states over natural resources", as well as sovereignty disputes in the South China Sea.[81]

At first glance, the above changes suggest maritime piracy has been given a more prominent role in Japan's national security calculus. Nevertheless, while it has remained securitized, a mixture of external and domestic factors will likely ensure that it will stay just one of many competing security concerns, rather than (re-)emerge as a major security priority. Tensions in East Asia are much more severe than during the late 1990s and early 2000s, when Tokyo assumed a more active regional counter-piracy role. The standoff with China over the disputed Diaoyu/Senkaku Islands; the myriad territorial rows in the South China Sea; and the seemingly endless stream of nuclear and ballistic missile tests in North Korea, have firmly fixed the attention of the Abe administration on traditional security issues.

These external risks, together with the prime minister's personal ambition of loosening postwar constraints placed on SDF, have translated into substantial changes to Japan's security legislation since Abe assumed office. Apart from the NSS, reforms include the 2014 establishment of the National Security Council and relaxation of the ban on arms exports that same year, along with the adoption of new security legislation, which entered into force in March 2016. The new laws have removed Japan's self-imposed ban on collective self-defense, and – among other things – now allow the SDF to take part in multilateral peace and security operations, and provide logistical and rear area support to friendly armed forces.[82] While not being raised as a priority issue by the legislation itself, the looming risk of piracy in Southeast played a role in facilitating changes to Japan's security posture. According to Lindsay Black, maritime piracy has been 'co-opted' by the Abe administration, and used as an example of a 'gray zone' scenario that could be most effectively addressed only through a revision of the Constitution and the maintenance of a fully-fledged military force.[83]

The increased focus on conventional security threats has brought into question the future of Japan's 'law-enforcement-led' counter-piracy approach, centered around the JCG and the resources and expertise provided by MOFA and MLIT. Robert Dujarric believes that the Abe administration's focus on China and North Korea has made piracy "secondary

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[81] Government of Japan, "National Security Strategy", *Government of Japan* (Dec. 17, 2013), http://japan.kantei.go.jp/96_abe/documents/2013/__icsFiles/afieldfile/2013/12/17/NSS.pdf, accessed September 2016.
[82] For more information, see: Ministry of Foreign Affairs of Japan, "Japan's Security Policy", *MOFA* (April 27, 2016), http://www.mofa.go.jp/policy/security/index.html, accessed September 2016.
[83] Telephone interview with Lindsay Black, April 13, 2016.

at best" in terms of importance.[84] Although, as analyzed earlier, the JCG remains very active in supporting law enforcement efforts in Malaysia, Indonesia, and the Philippines, this nevertheless means that it has had to devote significant resources to the East China Sea dispute, necessitating a reduction in its involvement in counter-piracy cooperation.

A list of recommendations

This paper makes the following policy recommendations, aimed at ensuring that Japan (re)gains initiative in fostering multilateral counter-piracy cooperation in Southeast Asia, and maintains it over the medium term. The first three recommendations are designed as broad policy guidelines, while the last two provide the basis for concrete and tangible cooperation.

1. *Maintain a law-enforcement-led approach*. Contrary to Japan's engagement in the Gulf of Aden, the JCG never ceased to play the lead in counter-piracy cooperation in Southeast Asia. However, given the proliferation of pressing security issues during the tenure of the Abe administration, the MSDF appears to be gradually gaining the upper hand in its longstanding institutional jostle with the JCG over resources and prominence.

However, the civilian coast guard retains several decisive advantages, which will almost certainly prove key in any future Japanese initiatives in Southeast Asia and mean that maintaining a presence in one of the world's key piracy hotspots will still need to reside with law enforcement.
- The JCG and MLIT have built up substantial operational expertise and accumulated institutional knowledge on counter-piracy cooperation over the past decades. The MoD and the MSDF, their experience in Djibouti notwithstanding, have a more shallow pool to draw from.
- As mentioned, its status as a civilian law enforcement agency provides the JCG with a major advantage in Southeast Asia, where regional governments continue to prefer a law-enforcement-led approach to countering piracy.
- Sovereignty concerns and a number of ongoing territorial disputes remain an impediment to closer cooperation in the region. A 'military-led' approach, with substantial, structured, and sustained involvement by the MSDF, would almost certainly raise questions in Beijing. Despite its prominent role in the East China Sea dispute, the JCG's status as a civilian agency would not raise the same level of concern.
- The legacy of WWII lingers in parts of the region. According to one expert, the legacy of "wartime issues and Japanese imperialism appears prominently on Southeast Asian government radars", again putting the MSDF at a disadvantage when dealing with the region.[85]
- Finally, despite the growing involvement of well-organized criminal groups and the persistent attacks from extremist groups such as Abu Sayyaf, the *modus operandi* of most pirates in Southeast Asia remains fundamentally different from those in the

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[84] E-mail interview with Robert Dujarric, Director, Institute of Contemporary Asian Studies, Temple University Japan, Sept. 10, 2016.
[85] Telephone interview with Lindsay Black, April 13, 2016.

Gulf of Aden and the Gulf of Guinea. Only limited numbers of attackers carry firearms, and the overwhelming majority of raids are undertaken against small, slow-moving or stationary local vessels, rather than large commercial vessels underway. This means that the problem is best addressed through law enforcement, rather than military assets, as in the case of the dispatch of the MSDF to Djibouti.

2. *Separate counter-piracy efforts from wider geopolitical considerations*. Several interviewees in this paper emphasized the significance of Japan's geopolitical rivalry with China, which has eclipsed all other priorities, and diverted the attention of Japanese policy-makers away from non-traditional security threats. In other words, Japan is diverting finite resources toward competition with China, and away from less pressing worries, such as piracy. This includes such measures as the procurement of new coast guard vessels or the March 2016 opening of a new radar station on Yonaguni Island. Indirect measures include providing equipment (e.g. new coast guard vessels), assistance and training to the armed forces and law enforcement agencies of countries embroiled in territorial disputes with China, such as the Philippines and Vietnam.[86]

Sam Bateman, for example, emphasized the positive impact of such indirect support to friendly countries, which keeps Japan "very active" in supporting coast guards in Southeast Asia.[87] Nevertheless, using the civilian JCG to provide equipment to regional countries could reduce China's appetite to one day cooperate in any (potential) new Japanese counter-piracy initiative. Although such support is in part provided with the goal of boosting the countries' counter-piracy capabilities, it also strengthens their hand in territorial disputes with China.[88] The Abe administration may find it tempting to continue providing such 'dual use' support. Robert Dujarric believes that one of the drivers of Japan's involvement in forming a more effective response to piracy in the region is its jostling for influence with China, or in other words "if Tokyo sees it as a way to improve its position vis-à-vis China in the ASEAN region".[89]

From the perspective of multilateral counter-piracy efforts, this would be a major obstacle. Dujarric points out that anything "which is good for Japan or the US looks bad for Beijing".[90] Indeed, as shown earlier, China was highly skeptical of Japanese intensions during the late 1990s and early 2000s, fearing that Prime Minister Obuchi's proposals, such as that for a regional coast guard, were part of wider Japanese efforts to contain China. Beijing's concerns were assuaged only once Japan scaled back its proposal to the 'lowest common denominator' as regards sovereignty concerns. It is doubtful China would be willing to contribute resources or manpower to any future Japanese initiatives that would include substantial provisions of equipment or capacity building support to

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[86] The Japan International Cooperation Agency (JICA) plays an important role in providing the funding for the JCG's training of maritime authorities in Southeast Asia. See: Nguyen Hung Son, "ASEAN-Japan Strategic Partnership in Southeast Asia: Maritime Security and Cooperation".
[87] Telephone interview with Sam Bateman, April 20, 2016.
[88] During September 2016, the administration of Philippine President Rodrigo Duterte signalled intent to distance itself from the US and to begin purchasing weapons from China. At the time of writing, it was unclear whether this shift would have implications for the Philippines' security relationship with Japan.
[89] E-mail interview with Robert Dujarric, September 10, 2016.
[90] E-mail interview with Robert Dujarric, September 10, 2016.

countries embroiled in territorial disputes with China.

3. *Initiate a reform of ReCAAP.* Although the organization continues to represent an important element in regional counter-piracy efforts, its limited mandate and funding leave it ill-equipped to tackle the spike in well-organized ship hijackings and crew abductions. With multilateral initiatives seemingly unable to make a difference, Southeast Asian countries have shown a preference for more focused 'minilateral' collaboration, which in some cases has pushed cooperation beyond levels envisioned by ReCAAP. A recent example is the September 2016 agreement between Indonesia, Malaysia, and the Philippines, which enshrines the right to 'hot pursuit' across maritime boundaries and introduces trilateral patrols in the Sulu Sea, with a focus on tackling piracy, terrorism, human trafficking, and drug smuggling.[91]

Japan, as one of the driving forces – and financiers – of ReCAAP could take the initiative to allow the organization to draw on the states' willingness to pool resources, and ensure that these new initiatives do not lose steam, either out of inertia or the loss of political will. In this respect, the following reforms would help improve the organization's efficiency:
- Renew efforts to gain the membership of Indonesia and Malaysia. Although both are informally cooperating in practice, membership of these two major Southeast Asian countries would not only improve the organization's effectiveness, but also boost its credibility.
- Improve cooperation with other regional organizations. Although the ReCAAP ISC is active in exchanging information and experience with other stakeholders in the region, such cooperation does not always translate into practice. One expert emphasized the need for closer cooperation with ASEANAPOL, which is "not fully developed" – and would-be pirates are not always caught and prosecuted as a result.[92]
- Secure the approval of the organization and its contracting parties to amend the ReCAAP agreement, and expand the organization's mandate to encompass other maritime law enforcement issues, such as organized crime. By tracking and collecting data on these issues the same way as on piracy – and perhaps classifying them in a manner similar to its four-level piracy incident classification – The ReCAAP ISC would contribute to a better understanding of their scale. In addition, by acting as a hub for information sharing, law enforcement cooperation and capacity building on these issues, the organization would make a step forward from addressing the 'symptoms' of the piracy problem, to addressing its underlying causes.
- Should ReCAAP's mandate expand, it would almost certainly require a commensurate increase in funding. Tokyo could lobby for an annual membership

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[91] Marguerite Afra Sapiie, "Indonesia to start joint sea patrols with Malaysia, Philippines", *The Jakarta Post* (August 2, 2016), http://www.thejakartapost.com/news/2016/08/02/indonesia-to-start-joint-sea-patrols-with-malaysia-philippines.html, accessed September 2016; Francis Chan, "Indonesian forces will be allowed to enter Philippine waters to pursue pirates: Duterte", *The Straits Times* (September 9, 2016), http://www.straitstimes.com/asia/se-asia/indonesian-forces-will-be-allowed-to-enter-philippine-waters-to-pursue-pirates-duterte, accessed September 2016.
[92] Telephone interview with Lindsay Black, April 13, 2016.

fee or a minimum mandatory contribution in lieu of voluntary donations.

4. *Reclaim regional leadership by developing a new multilateral initiative.* The most decisive way of reclaiming Japan's regional leadership in counter-piracy cooperation would be to develop a new multilateral cooperation framework. The Abe administration has not had any major, headline-grabbing, piracy attacks against Japanese vessels, akin to the *Alondra Rainbow* in 1999 or the *Takayama* in 2008. Although the government has continued to paint piracy as a security risk, it remains one of many threats and is not high on the list of priorities. The very 'gradual' approach of the Abe administration leaves scope for substantially enhancing Japan's role in promoting multilateralism.[93]

Developing a step by step blueprint for a new multilateral organization would be beyond the scope of this paper. However, the list below includes some key considerations – apart from the general ones listed above, such as the need to clearly separate any new initiative from territorial disputes in the South China Sea – which any new counter-piracy framework would need to consider. This would allow it to address the problem of maritime piracy and armed robbery in Southeast Asia, while ensuring the cooperation of a broad range of countries.

- Closer collaboration between law enforcement agencies in the region is of paramount importance, considering the increasing role of transnational organized crime in piracy incidents. This has become evident by the signing of recent agreements between Indonesia, the Philippines, and Malaysia, which have taken rapid and decisive action. Any new international organization with a mandate to address maritime piracy would need to focus on facilitating cooperation both 'on land' and 'on sea' – linking law enforcement across the region to address the causes, rather than the symptoms, of piracy.
- The institutionalization of regional law enforcement cooperation within a permanent framework would ensure that regional governments devote resources to the problem of piracy, even if the number of attacks diminishes. Political considerations, limited resources or a temporary decline in piracy rates in the Sulu Sea could eventually reduce the joint patrols agreed between Indonesia, Malaysia, and the Philippines in August 2016. This could, in turn, lead to a rebound in the number of attacks.
- Any effective response will require the membership of most, if not all, countries in Southeast Asia. With only a limited number of participating states, piracy would continue as before in unregulated areas, or simply 'shift' into blind spots not covered by the framework. In this respect, the support of Indonesia, with its long

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[93] In January 2017, the JCG announced it will create a "liaison body" to provide assistance to Southeast Asian law enforcement agencies. Few details are available at the time of writing. Although the mandate of the new organization will reportedly include counter-piracy cooperation, available information suggests its primary – though not exclusive – focus will be to assist countries involved in territorial disputes. If true, the new body would not be a dedicated counter-piracy forum, and would not meet the recommendations outlined in this paper – principally the need to separate the fight against piracy from geopolitical considerations. For more, see: Kyodo, "Japan Coast Guard to set up liaison body to help Southeast Asian counterparts deal with China", *The Japan Times* (January 7, 2017), http://www.japantimes.co.jp/news/2017/01/07/national/politics-diplomacy/japan-set-body-bolster-southeast-asian-coast-guards-amid-chinese-assertiveness-sea/#.WLUu1W997IU.

coastline and high rates of attacks, will be crucial. By focusing on a wider range of issues, the new organization may find it easier to secure the cooperation of Indonesia – as well as that of Malaysia – than was the case with ReCAAP. Both countries are concerned with the entire spectrum of maritime crime, of which piracy is only a small part. As mentioned earlier, piracy is a complex phenomenon, caused by an interplay of numerous factors, including poverty and the lack of economic opportunities. Illegal fishing and illegal migration, both caused by some of the same factors, are particular concerns for these two countries.[94] Any new organization would therefore likely find it easier to secure the cooperation of Indonesia and Malaysia by focusing on a wider array of issues linked to maritime crime.

- Sovereignty concerns in the region remain substantial, and would limit the ambition of any new initiative. However, as the recent Indonesia-Malaysia-Philippines hot pursuit agreement shows, such anxieties are not always a decisive obstacle to cooperation. Although historical attempts at enshrining the right of hot pursuit, such as the 1932 Harvard Draft Convention, did not succeed – and while there is no guarantee that the agreement will be consistently and effectively implemented – the trilateral accord does suggest there may be scope for progress. Any new organization may be able to build on this process, and pursue efforts to bind its members to respect a (limited) right of hot pursuit – while very clearly spelling out the conditions that would allow it, in order to alleviate sovereignty concerns.

Conclusion

Over the past two decades, Japan has played a key role in multilateral counter-piracy efforts in Southeast Asia. By taking the initiative during the late 1990s and early 2000s, the administration of Prime Minister Obuchi made a series of ambitious proposals, which resulted – among other things – in the creation of the world's first international organization with the sole mandate of countering maritime piracy. Efforts intensified during the late 2000s, with the dispatch of the MSDF to the Gulf of Aden, but became steadily less ambitious under the Abe administration as piracy became just one of many competing security policy priorities, subsumed in Japan's wider geopolitical considerations.

As transnational criminal networks and radical militant groups continue to engage in a growing number of well-organized attacks, the importance of multilateral cooperation is greater than ever before. The successful tackling of these more complex forms of piracy will require structured and sustained law enforcement cooperation between regional countries. Unless such cooperation is institutionalized, and undertaken by a large number of countries across Southeast Asia, it will eventually diminish as government priorities (and resources) shift elsewhere. Japan is well placed to regain the regional initiative in establishing such a framework, provided that it can successfully navigate sovereignty concerns while separating counter-piracy efforts from its wider competition with China.

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[94] Telephone interview with Lindsay Black, April 13, 2016.

APPENDIX A

List of Acronyms

ASEAN – Association of Southeast Asian Nations

EIA – Energy Information Administration

GDP – Gross domestic product

HACGAM – Heads of the Asian Coast Guard Agencies Meeting

IFC – Information Fusion Centre

IFN – Information network system

IMB – International Maritime Bureau

IMO – International Maritime Organization

ISC – Information Sharing Centre

IUU – Illegal, unreported and unregulated

JCG – Japan Coast Guard

MoD – Ministry of Defense

MOFA – Ministry of Foreign Affairs

MSDF – Maritime Self Defense Force

NPCGF – North Pacific Coast Guard Forum

ReCAAP – Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia

SAR/HADR – Search and rescue/humanitarian assistance and disaster relief

SDF – Self-Defense Forces

SLOC – Sea lane of communication

UK – United Kingdom

UNCLOS – United Nations Convention on the Law of the Seas

US – United States

VLCC – Very large crude carrier

YCoC – Yaounde Code of Conduct

Appendix B

About the Author

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