

# CHAPTER I

## INTRODUCTION

### 1.1 Background

The piracy in Malacca Strait is very important to be addressed for Southeast Asia and particularly the littoral state. If this is not apprehended correctly and effectively, it will only increase the unnecessary budget and in turn, it offers nothing to the international security. The Southeast Asian countries depend heavily on the Malacca Strait and if something were to happen to it, it would harm the economic development of the country if not the region. But, if the argument is that it was very important to the region and it is necessary for the region to safeguard the interest of the states involved then why there, not much effort done to secure the strait by the littoral state since the UNCLOS give back the responsibility to those states. In addition, what the UNCLOS proposed is no longer relevant to the current situation and therefore it needed the help from every country that benefited from the Malacca Strait.

To overcome the issue of piracy the Indonesian, Malaysian, and Singaporean Government are willing to work together in a cooperation and one of them is called MALSINDO since the year of 2004 but then was changed to Malacca Strait Sea Patrol (MSSP). MSSP is a codename for Malacca Strait Coordinated Patrol and it is a regional effort to suppress piracy. MSP conducts coordinated patrols within each state's territorial sea. However, out of respect for state sovereignty, the patrols are not allowed to engage in cross-border pursuit into the territorial waters of another state. MSSP has therefore struggled to significantly

reduce instances of piracy.<sup>1</sup> This cooperation can definitely work but it cannot perform as well as it was supposed to be because of its restriction in pursuit of the piracy perpetrators. It is so easy to evade the patrol because all the piracy and armed robbery actors need to do is go across the border of another state and that patrol – If the patrol is from another state – can no longer bring the sea thieves or robbers to justice.

Similarly, an aerial patrol known as “Eyes in the Sky” (EiS) has attempted to address this issue. The difference between the EiS and MSP Coordinated Patrol is that EiS allows the aerial patrols to travel up to three nautical miles over another state’s territorial sea. However, EiS has been criticized for the low number of flights actually taking place, and the limited resources available to respond to incidents spotted during aerial patrols.<sup>2</sup> To a certain extent, EiS is even more promising compared to MSP Coordinated Patrol because it can cross over another state’s border, but the problem is, it takes a lot of resource for this operation to work. If this is so effective, why did the government do nothing to further support and give the necessary resources for the operation to succeed.

For these reasons, the author believes that the cooperation in combating piracy and armed robbery against ships can be improved to further suppress or eliminate the number of piracy and armed robbery against ships reported in Malacca Strait. The challenges that must be well-ordered so that the result would be

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<sup>1</sup> Terence Lee and Kevin McGahan, “Norm Subsidiarity and Institutional Cooperation: Explaining the Straits of Malacca Anti-Piracy Regime,” *Piracy Studies*, 2015, accessed February 24, 2018, <http://piracy-studies.org/norm-subsidiarity-in-maritime-security-why-east-asian-states-corporate-in-counter-piracy/>.

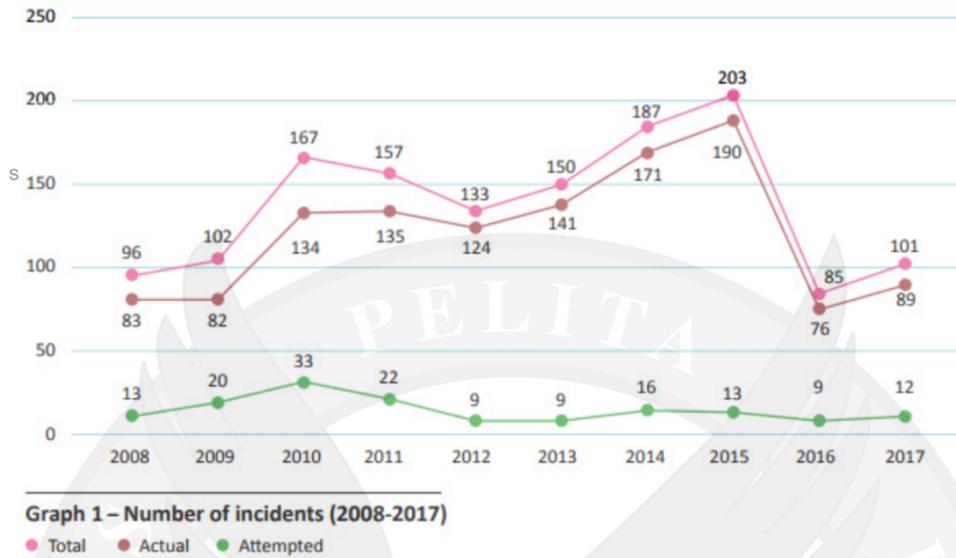
<sup>2</sup> Ibid.

satisfying in terms of increased security in Malacca Strait. In addition, the author picked the time period from 2009 to present because the ten years period covers two presidential terms in Indonesia. By doing so, the author can give a concrete development and attention given by the two presidential administrations.

Piracy and armed robbery against ships are two different criminal activities but to a certain extent is inextricable when it comes to Malacca Strait. The cases or reports are similar, and the only differentiating factor is the definition of the criminal actions itself. The number of reports annually is relatively progressive, and this raises the question despite the efforts made by the littoral countries, how come the number of cases is somewhat increasing. Certainly, this phenomenon, especially in Malacca Strait, does not occur only in the early twenty-first century, it dates back hundreds of years ago, however, the current government and in addition, the state-of-the-art technologies, cannot seem to shake the fact that piracy and armed robbery against ships still exist.

The Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia Information Sharing Centre (ReCAAP ISC) has released its annual report in January 16<sup>th</sup>, 2018 for 2017 highlighting that there was a 19 percent increase in the number of incidents over 2016 figures which will be represented in the graph below. The pink dot represents the total incidents reported; the brown dot represents the actual incidents, and the green dot represents the attempted piracy and armed robbery against ships.

Figure 1.1: Piracy and Armed Robbery against Ships in 2008 - 2017<sup>3</sup>



Source: ReCAAP-ISC

There were 101 incidents in 2017 of which 12 were failed attempts reported in the region compared to 85 in 2016. Of the incidents reported in 2017, the majority, 85 (84%), were armed robbery against ships, while 16 (16%) were piracy incidents. Two-thirds of the incidents occurred at anchor/berth<sup>4</sup> (68 incidents), while one-third of the incidents occurred on board ships while underway (33 incidents). Ship stores, engine spares and unsecured items on board ships were the most commonly stolen items. Masafumi Kuroki, Executive Director of ReCAAP ISC in response to the aforementioned report said:

*“While the number of incidents in 2017 continue to be among the lowest in the past decade, the increase that occurred over the last year is a reminder that there is no room for complacency in the fight against piracy and armed robbery against ships, and*

<sup>3</sup> Marex, “Asian Piracy Increased by Nineteen Percent in 2017,” *The Maritime Executive*, accessed February 24, 2018, <https://www.maritime-executive.com/article/asian-piracy-increased-by-nineteen-percent-in-2017>.

<sup>4</sup> Berth: a ship's allotted place at a wharf or dock

*underscores the need for enhanced vigilance among all stakeholders”<sup>5</sup>*

The small spike during the year of 2016 and 2017, based on the previously shown graph, is a reminder to the parties using the Malacca Strait that the fight is not over, the perpetrators of piracy and armed robbery against ships are still there and are waiting for the opportunities to reveal itself. The dramatic drop of the cases reported between 2015 to 2016 is an achievement for the stakeholders however, it is imperative that they must remain vigilant to subdue the numbers of the report and prioritize safety and the safe-passage of the crews on-board in Malacca Strait. formulate

According to the United Nations’ (UN) 2013 Global Report on Maritime Piracy, the attacks have been rising in that area over the year of 2011 and 2012. In 2008, the number of assaults in Southeast Asia reached a low of 80, but they have since increased to more than 150 registered incidents in the span of several years.<sup>6</sup> According to a recent report from the International ICC’s IMB Southeast Asia accounts for 55 percent of the world’s 54 piracy and armed robbery incidents since the start of 2015.<sup>7</sup>

Previously, the author argues that piracy and armed robbery against ships are inextricable in the context of Malacca Strait. The reason is that the cases occurred in Malacca Strait are relatively different compared to piracy cases in other

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<sup>5</sup> Marex, “Asian Piracy Increased by Nineteen Percent in 2017.”

<sup>6</sup> Sofia Diogo Mateus, “‘Worrying’ Rise in Piracy Attacks around Malacca Strait,” *Deutsche Welle*, 2014, accessed February 24, 2018, <https://www.dw.com/en/worrying-rise-in-piracy-attacks-around-malacca-strait/a-17780275>.

<sup>7</sup> “Piracy on the Rise,” *Maritime Security Alliance*, 2015, accessed February 24, 2018, <http://maritimesecurityalliance.com/piracy-on-the-rise/>.

parts of the world and it lies in the definition of piracy itself. According to the standard international legal definition of piracy is that used in the 1982 United Nations Convention on the Law of the Sea (UNCLOS), Article 101,<sup>8</sup> piracy is defined as violence on the high seas, that is, beyond any state's territorial waters. However, the aforementioned definition is not applicable when it comes to Southeast Asian nations because most sea robberies occur in territorial waters. Therefore no international agreement regarding the prevention of, and enforcement against, most "maritime violence" or "sea robbery", and arrest and prosecution is dependent on the state in whose jurisdiction the crime occurs.<sup>9</sup> To solve these problems, the ICC's IMB has defined piracy as an act of boarding or attempting to board any ship with the intent or capability to use force in furtherance of that act.<sup>10</sup> The definition by IMB is broader and in other words, the intention and the motive of the piracy remains the same however the location where it occurred is no longer taken into account. With this in mind, the definition by ICC's IMB is more applicable to Southeast Asia and suitable to be used in the context of piracy in Southeast Asia.

Subsequently, according to the Code of Practice for the Investigation of the Crimes of Piracy and Armed Robbery Against Ships, states that; armed robbery against ships means any unlawful act of violence or detention or any act of

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<sup>8</sup> "Preamble to The United Nations Convention on the Law of the Sea," *United Nations*, accessed February 24, 2018, [http://www.un.org/depts/los/convention\\_agreements/texts/unclos/part7.htm](http://www.un.org/depts/los/convention_agreements/texts/unclos/part7.htm).

<sup>9</sup> Young, Adam J., and Mark J. Valencia. "Conflation of Piracy and Terrorism in Southeast Asia: Rectitude and Utility." *Contemporary Southeast Asia* vol. 25, no. 2 (2003): 269-83., p.3, accessed February 24, 2018, <http://ezproxy.library.uph.edu:2056/stable/25798643>.

<sup>10</sup> Fred Services, "Piracy," *Risk Intelligence*, accessed February 24, 2018, <https://riskintelligence.eu/about/approach/piracy/>.

depredation, or threat thereof, other than an act of “piracy”, directed against ship or against persons or property on board such ship, within state’s internal water, archipelagic waters and territorial sea.<sup>11</sup> This definition is an interpretation or an in the sense of outlining the bigger picture of piracy in order to set a ground-rule on piracy from the UNCLOS article 101.

The term "Non-traditional security" was increasingly used since the mid-1990s by scholars as an effort to widen the scope of security studies and alert governments and public to new and emerging threats. It diverts the attention of the state as the only reference object and takes into account non-military aspects in terms of economy, health, environment, and human rights. This is contrary to the traditional security approach which is closely related to the tradition of realism and neorealism in international relations. Piracy is an inextricably a violation of the national security and thus, requires a deep understanding of the concept itself. Prof. Aleksius Jemadu in his book said that national security is an abstract concept because it is a vague generalization which refers to which actor.<sup>12</sup>

Piracy is classified as a non-traditional issue because the act itself does not represent a certain country or in other words, piracy is done by a non-state actor. The indicator of which a certain country's national security is being threatened can be seen through a situations or circumstances in which the basic elements that form a country such as sovereignty, territory, population or citizens, economic base,

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<sup>11</sup> “When Piracy Is Just Armed Robbery,” *The Maritime Executive*, accessed February 24, 2018, <https://www.maritime-executive.com/article/When-Piracy-is-Just-Armed-Robbery-2014-07-19>.

<sup>12</sup> Aleksius Jemadu, *Politik Global; Dalam Teori Dan Praktik*, 3rd ed. (Yogyakarta: Suluh Media, 2017).

government and constitutional system and the essential values embraced by its existence are guaranteed and can carry out functions according to their goals without interference or threat from any party.<sup>13</sup> Referring to the previous statement, it is clear that piracy falls in the category which poses a national security threat and is imperative to eradicate or at least subdue the number of piracy act reported.

Correspondingly, the Strait of Malacca is one of the busiest and most important strategic waterways in the world, faces an overwhelmingly great number of threats arising from its heavy use. It is the world's longest and busiest used for international navigation, hosts over 70,000 vessel movement annually, and provides a crucial trade link between the West and the East.<sup>14</sup> It is located in the area lying between the Westcoast of Thailand and Malaysia in the Northeast, and the coast of Sumatra in the Southwest.

Figure 1.2 Map of Strait of Malacca<sup>15</sup>



Source: Welt Atlas

<sup>13</sup> Ibid.

<sup>14</sup> Khalid, Nazery. "With a Little Help from My Friends: Maritime Capacity-building Measures in the Straits of Malacca." *Contemporary Southeast Asia* vol. 31, no. 3 (2009): 424-46. p. 3, accessed February 24, 2018, <http://ezproxy.library.uph.edu:2056/stable/41487398>.

<sup>15</sup> "Map of Malacca Strait," *Welt Atlas*, accessed February 24, 2018, [https://www.welt-atlas.de/map\\_of\\_strait\\_of\\_malacca\\_6-847](https://www.welt-atlas.de/map_of_strait_of_malacca_6-847).

The frequent use of the "littoral states" in the discourse of the strait may suggest a uniformity of views among Indonesia, Malaysia, and Singapore.<sup>16</sup> Littoral state also is known as coastal countries have the upper hand because of its accessibility to receive and send goods which mostly depend heavily on ships. One position the littorals definitely have in common is that the Strait of Malacca holds great socio-economic and strategic value. This view is core to the collaboration that has been forged among the littoral states over the years to cooperatively maintain order in the straits and to guarantee that it remains open to shipping, while at the same time ensuring their own national interests are safeguarded.

The UNCLOS grant the Strait of Malacca the status of an international strait in which liberty of passage for all users is ensured. However, UNCLOS also upholds the sovereignty and sovereign rights of the coastal states over the waterway. Although the management of the straits is the responsibility of the littoral states, issues and problems regarding the waterway attract international attention on account of its vital importance to global trade and its strategic value to the international community.<sup>17</sup> It is important for the littoral state to manage their own territory without any intervention whatsoever from the countries in which the ship is affiliated to. By doing so, the UNCLOS honor the sovereignty of the aforementioned countries and thus granting a safe passage within their territorial waters. Nonetheless, it may also raise an issue since the strait was so heavily used

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<sup>16</sup> Khalid, Nazery. "With a Little Help from My Friends: Maritime Capacity-building Measures in the Straits of Malacca."

<sup>17</sup> Ibid.

and there are many security threats, the other nations who depend on it failed to contribute to help reduce the number of threats.

According to the statement by ASEAN Regional Forum (ARF) on Cooperation Against Piracy and Other Threats to Security on June 17<sup>th</sup> 2003, piracy and armed robbery against ships and the potential for terrorist attacks on vulnerable sea shipping threaten the growth of the Asia-Pacific region and disrupt the stability of global commerce, particularly as these have become tools of transnational organized crime.<sup>18</sup> As ASEAN members relied mostly on sea-route to ship its goods in and out of the region, an act of piracy will subsequently affect the regional development of its member states.

## 1.2 Research Questions

The research conducted for this paper will be guided by several research questions, derived from the aforementioned background. In order to acquire further insights about the issue of piracy in Malacca Strait, and to deepen the understanding and to analyze the behavior of the state involved in the Malacca strait especially the littoral state. Therefore, the author wishes to gain more knowledge about how the piracy and armed robbery against ships can be exercised in contribution to the instability or threat to the security in Southeast Asia. In addition, what is the result that Indonesia wishes to accomplish from the combat of piracy and armed robbery

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<sup>18</sup> “ARF Statement on Cooperation Against Piracy and Other Threats to Security 17 June 2003,” *ASEAN*, accessed February 24, 2018, [http://asean.org/?static\\_post=arf-statement-on-cooperation-against-piracy-and-other-threats-to-security-17-june-2003-3](http://asean.org/?static_post=arf-statement-on-cooperation-against-piracy-and-other-threats-to-security-17-june-2003-3).

against ships in Malacca Strait. Based on the preliminary research that bears the fruits of the questions above, the research questions for this research are as follows:

1. How do the non-traditional maritime security issues affect the littoral states (Indonesia, Malaysia, and Singapore) of the Malacca Strait?
2. What kind of objectives does Indonesia want to achieve in addressing the non-traditional maritime security issues particularly the piracy and armed robbery against ships in Malacca Strait?
3. What are the actions that Indonesia has done to address the non-traditional maritime security issues particularly the piracy and armed robbery against ships in Malacca Strait?

The research questions above will act as a guideline to limit the focus of this research and will subsequently explain what happened to Malacca Strait piracy and armed robbery against ships from 2009 to present in a focused manner.

### **1.3 Research Objectives**

Through this descriptive analytics research, the author wishes to further share an information about the piracy and armed robbery against ships in Malacca Strait, broaden the knowledge regarding piracy and armed robbery against ships activity especially in Malacca Strait. This research also aims to describe and explain the piracy and armed robbery against ships in Malacca Strait. Based on the general objective above, the research objectives of this research are as follows:

1. To explain in what ways does the non-traditional security issues (piracy and armed robbery against ships) affect the littoral states of Malacca Strait.

2. To describe the objectives that Indonesia wants to achieve in addressing the non-traditional maritime security issues particularly the piracy and armed robbery against ships in Malacca Strait.
3. To analyze the actions that Indonesia has done to address the non-traditional maritime security issues particularly the piracy and armed robbery against ships in Malacca Strait.

#### **1.4 Research Contribution**

The author believes in the importance of this research to contribute to the safety of shipping-route, especially in Malacca Strait. Due to its heavy use, it is critically important to ensure the well-being of the crew, the security of the onboard cargo and the effectiveness of the trading-route. Aside from explaining the current situation and the danger it possesses, the author also believes that this research will significantly raise the awareness not only to the user of the Malacca Strait but as well as the government, the institution that guards the strait and the general population. The author is certain that the first step of problem-solving is to recognize that there is one. Therefore, based on the aforementioned statements, the research contribution is as follows:

1. To contribute to the maritime security especially in Malacca Strait, as well as to see the perspectives not only from Indonesia but also from other littoral states.

2. To raise the attention given by the Government of Indonesia regarding piracy and armed robbery against ships in Malacca Strait so that it would eradicate or at least subdue the number of the reported cases.
3. To provide information regarding the challenges faced by Indonesia in securing the shipping-route in Malacca Strait and what are the attempts made by Indonesia to overcome those challenges.
4. The result of this research is expected to give an in-depth knowledge about maritime security especially in terms of piracy and armed robbery against ships in Malacca Strait.

### **1.5 Structure of Writing**

Generally, it would be an achievement for the author if this research could give a deeper understanding of the matter in which are supported with facts and valid data. Structurally, the author wishes to produce a research that is coherent, concise and easy to understand. Therefore, in an attempt to do so, the author has divided this research into 5 (five) main parts, it is as follows:

#### **Chapter I: Introduction**

This part of the thesis explains the brief introduction regarding the topic, the background, the basic ideas that would later be used to make the reader easier to understand it, as well as the c insights regarding the piracy and armed robbery against ships particularly in Malacca Strait. This research stresses in terms of contribution such as actions, implementations, as well

as the effects and the result of said actions. Specifically, the assistance made by the littoral states that are Indonesia, Malaysia, and Singapore to ensure the safe passage of one of the world's most heavily used shipping routes. It also consists of research questions as well as the research objective and research contributions in which containing the elements that are needed in writing this thesis.

## **Chapter II: Theoretical Framework**

This chapter consists of theories and concepts to lay the foundation to later be used in analyzing the topic. It will act as the guiding instrument to keep this thesis focused on the topic discussed without having to include unnecessary items in this writing, support the topic and give the basic idea on which to set the crucial direction of this thesis so that it would not stray far from the topic. In addition, the author will also include arguments, discussions as well as contemporary debates in which are related to the topic in order to support the general idea in analyzing the topic picked by the author.

## **Chapter III: Methodology**

Moving on, in this chapter, the author will provide material about the process to obtain information and data necessary to support this research. The methods used may include, but not limited to, publication research,

surveys, other research techniques, etc. This chapter will subsequently give basic ideas of which how the author conducts its data gathering, and the methods used to obtain those data as well as to analyze it. It is to give the credibility and validity of the aforementioned information that is required to support this thesis.

#### **Chapter IV: Discussion and Analysis**

The aim of this chapter is to answer the research questions through analytical processes by applying the research methods and the theoretical framework. The author will also categorize topics and sub-topics that are related to the main discussion based on, but not limited to, the perspectives, chronological events, facts, supporting arguments by scholars, etc. In this part of the thesis, the author will also apply International Relations concepts, models and theories into the existing phenomenon regarding piracy and armed robbery against ships in Malacca Strait.

#### **Chapter V: Conclusion**

Consequently, the last chapter of this research, the author will summarize all the main components of this thesis especially regarding the data interpretations, analysis as well as the application of the theories. It is the overall discoveries throughout the research regarding the topic of this thesis and restates the outcome in a more concise and detailed manner. This chapter will also include the author's opinion in terms of the

recommendation of what should and should not be done by the involved parties such as the Government and the actors that are essential in maintaining security in Malacca Strait in particular.

### **Bibliography**

This part of the research contains the arrangement or list of citations including, but not limited to, books, journals, articles, and websites, which are used to support the main ideas during the thesis writing.

