

Security threats and chances for sea transport in the Indonesian Archipelago - Pawel Bienkowski

[Pawel Bienkowski](#)



Because of the upholding challenge from the Somali pirates, the attention of countries, enterprises and analysts of maritime security has been focused on the Western area of the Indian Ocean. It comes as no surprise, especially taking into consideration the fact that among all the 142 recorded acts of piracy in the first quarter of 2011, 97 took place in this region. At the same time the situation in the eastern areas of the Indian Basin is much neglected. In this region the threads for maritime transport safety and freedom are strictly connected with national sovereignty and security, what in the biggest extent concerns the insular Indonesia.

The government of Indonesia has been trying to draw the world's attention to the issue of ship transport through the waters directly surrounding the country for many years, stressing at the same time their strategic importance. Quite so, half of the crude oil transported by sea and 30% of the world trade volume goes through the Indonesian straits on board of 23 000 oil tankers 90 000 ships with a displacement exceeding 100 ton every year. Despite the regulations of the United Nations Convention on the Law of the Sea of 1982, which introduced laws and regulations concerning sea territories and rules of maritime transport, there is still a long way to their implementation and systematic application and most of all to the enforcement of coastal countries laws.

According to professor Hasjima Djalala, an adviser to the Prime Minister of the Indonesian Ministry for Maritime Affairs and Fisheries and one of the negotiators of the Convention on the Law of the Sea, from the Indonesian standpoint we can differentiate five problems connected with the use of the sea by other nations: issues of national sovereignty and national interests, piracy and sea terrorism, territorial claims and delimitation of sea borders, interests of world superpowers and military activity of countries in the region of exclusive economic zones of countries other than own.

Pursuant to the Convention on the Law of the Sea of 1982 which was signed and ratified by the majority of the world's countries, a country exercises sovereignty over its internal waters and territorial seas up to 12 nautical miles from its basic land borders. The countries have also partial sovereignty over the adjacent sea area and exclusive economic area which spreads not further than 200 nautical miles from its basic land borders. In the case of Indonesia the situation is complicated by archipelago seas located in the direct vicinity of land and by straits which have an international importance. All countries have the right to sail through internal waters (in some cases), territorial seas and archipelago waters. In straits where international sailing takes place additionally the rule of transit passage is in effect. According to the Indonesian people up till now other countries have benefited from the waters surrounding Indonesia leaving the burden of their exploitation to the Indonesian government and society.

Indonesia as an insular country faces numerous problems connected with upholding their territorial integrity and government sovereignty in the internal dimension. Generally speaking Indonesia faces problems with effective execution of national authority over the country's entire varied and inconsistent territory. The 20th century history has proven that separatist movements, such as those in Aceh, the West Papua region or the Democratic Republic of Timor-Leste as well as Islamic terroristic groups can successfully undermine the country's sovereignty and its territorial integrity. Hence the considerable attention the Indonesian people pay to the execution of exclusive control over their waters which is granted to them by

international agreements. The exceptional wealth of Indonesian waters and sea bed with its unique biological variety is also a source of problems such as illegal fishing which, according to the Prime Minister of the Indonesian Ministry for Maritime Affairs and Fisheries cost the country over 3 billion dollars per year. When taking into consideration the utmost intense overflight of ships, including those who carry crude oil and dangerous substances, we encounter another delicate issue, that is environment protection. The destruction of it caused by overflight and transit affects first and most of all Indonesia. Apart from it, the seas are the area of criminal activity and serves as a transport route for materials, resources and goods acquired illegally in Indonesia, such as tropical wood (worth approximately 3 billion dollars per year), rare animal species, natural resources, drugs or even slaves. The spatial character of Indonesia favors the inflow of terrorists and criminals who use the sea to get on the territory of the country. From the country's perspective an utmost important issue is to demarcate its sea borders- in the case of Indonesia this process has not been completed yet despite the fact that 17 agreements regulating this issue have already been concluded with neighboring countries. Finally, even despite the rule of harmless sailing and archipelago sailing through maritime routes, the usage of those rights by war ships of foreign countries arouses serious controversy. Especially the usage of those rights by massive groups of aircraft carriers, nuclear U-boats and ships carrying dangerous materials. The lack of international initiative and will to create regulations concerning the status of such vessels in this region has been known for many ears. The reason for such a state of affairs can be traced at the failure of the Southeast Asian Nuclear-Weapon-Free Zone Treaty (SEANWFZ) also known as the Bangkok Treaty of 1995, which Additional Protocol was not signed by countries officially possessing nuclear weapons mainly because it would limit the sailing freedom of their vessels which could potentially carry nuclear weapons. From an internal perspective, the sea is for Indonesia a basis for interpersonal contacts, on the one hand dividing but on the other hand connecting particular parts of its population thanks to ferry connections and shore trade sailing, which constitutes the "life line" of the country.

Indonesia is also affected by the problem of piracy. The foundations of the problem of piracy can be found in the geographical specification of the country, which was described above, as well as social conditions and poverty. Nevertheless, rarely one can encounter a correct classification of this phenomenon. On the basis of article 100 of the Convention, piracy can be defined as an act committed only at sea and countries have the duty to cooperate in fighting it. On any other waters we deal with an armed attack on a ship, which remains in the sole jurisdiction of the country which serves sovereignty over those waters. The government in Jakarta is utmost interested in such a turn of events which would not diminish his authority, all in all, over his own national territory.

The importance of this problem is significant, especially when we take into consideration the fact that the most important for maritime transport regions (and consequently for the entire world) of the Malacca, Makassar, Sudan or Lombok Strait are waters which are under the sole jurisdiction of Indonesia and any acts of sea violence are regulated by it. No warship can

make inspections or aboard any other ship on this territory without a direct permission of the Indonesian government (or the government of Singapore in the northern part of the Singapore Strait). Taking into consideration the entire sea area of this country, according to government calculations the Indonesian navy needs more than 300 war ships to effectively secure its waters against transport routes threats. Whereas, according to the data of *The Military Balance 2011*, this type of armed forces in Indonesia consists of only 11 frigates and 66 patrolling units which are capable of engaging in direct actions against armed attacks. From all of them at most 25 units are located in operational mission as you read. Indonesia is trying to counteract those shortages in numerous ways, first of all by investing in new patrolling ships, radar stations and communication systems, counting at the same time on external support and help in equipping its own navy. The government of this country is clearly giving signs to other countries that a "Somali crisis" in this region would have unimaginable consequences. And it is so indeed. As compared to the 93 attacks on ships on the territory of Indonesia in 2004, this number fell down dramatically to only 28 four years later and in the Malaccan Strait in the same period the number of attacks fell down from 37 to 2 (according to the data quoted by professor Robert Beckman, the head of the Centre for International Law of the National University of Singapore.)

On the other hand Indonesia accepts the need of implementing article 43 of the Convention which is seriously neglected by the international society. This article imposes on the countries located at the shores of straits and on the countries which use those straits the duty to keep in perfect condition all navigational devices and all devices which "serve the purpose of security" as well as to prevent, decrease and control all pollutions caused by ships. The countries interpret this article as being in direct conflict with Article 26, which clearly forbids imposing any fees for ship sailing through straits. Up till now only Japan showed some real cooperation when it comes to implementing article 43 by providing financial resources for the so called Cooperation Mechanism. Indonesia and Singapore took up actions together at the beginning of the 70's to ensure secure sailing in straits by appointing expert groups and recommending the International Maritime Organization to accept a series of regulations concerning ship traffic, obligatory space between the ship's keel and the sea bottom (water depth in straits is more than not only 20 meters) and an obligation to inform about ship sailing through the straits. Finally in 2007 the International Maritime Organization accepted a proper Cooperation Mechanism which would help implement Article 43 of the Convention. Nevertheless the Cooperation Mechanism regulates only issues connected with sailing security and environment protection and not necessarily with ship protection against threats independent from them. The Cooperation Mechanism consists of the Cooperation Forum which serves the purpose of a dialogue platform, the Project Coordination Committee, which is an association for countries carrying out specific goals, the Aids to Navigation Fund - over 9 million dollars which were provided mainly by China, Japan, South Korea and some Arab countries and finally the International Maritime Organization Malacca and Singapore Straits Trust Fund which is founded mainly by European countries. Both, the make-up of those organs as well as origin of funds indicates a clear majority of Asian countries involved in the security of straits. This concerns not only governments but also a group of non-governmental organizations which regularly provide resources for the those projects. Maritime carriers are not so willing to cooperate. Among them only Japanese companies provide financial resources. The actions of Japan are utmost interesting because of the fact that they can be

applied not only in the Indonesian region but also in the countries of the Horn of Africa. Japan, firstly acts to increase the resources of shoreline countries in order to help them fight with maritime threats, secondly tries to eliminate poverty in the shoreline regions which is the cause of piracy and its crime. Hence a number of programs and agencies which deal with those issues with success: according to Japanese data, in the Indonesian regions where help programs were introduced a 500 per cent growth of income among local people has been recorded during the last 12 years.

Practically the regulations concerning counteracting piracy violence against ships were made on the global level and on the level of smaller country groups. Article 108 of the Convention on the Law of the Sea imposes on countries a duty to cooperate in fighting drug trade. Indonesia signed an agreement with Singapore and Malaysia which concerns cooperation of those countries in hot pursuits and patrols. The Philippines were incorporated into the information exchange procedures in 2002. The Royal Thai Navy also takes part in joint patrols. Effort has been made by the Association of South-East Asian Nations and the wider Association of South-East Asian Nations Regional Forum to unify those regulations in particular countries. Among other initiatives to assure security of sailing we have to mention the Regional Cooperation Agreement on Anti-Piracy – ReCAAP, EU-ASEAN Experts Group Meeting on Maritime Security and American actions: Proliferation Security Initiative (PSI), Regional Maritime Security Initiative (RMSI) or Container Security Initiative (CSI), which connect the efforts to ensure safe and secure sailing and to fight international terrorism.

Professor Robert Beckham also mentions a series of factors which caused a fall in the number of attacks on ships in the Indonesian Archipelago. After a temporary increase in the number of incidents which took place from 2001, the Coordinated Sea Patrols which were initiated three years later made it much more difficult for criminal groups to swim across the Indonesian waters. The December tsunami which hit the country in 2004 literally swept many criminal headquarters from the surface of earth. Additionally, a peace treaty concluded a year later in the Aceh province led to stabilization in this region. We have to also mention the actions carried out since 2005 such as regular air patrols, regular information exchange between Singapore and Indonesia, an agreement on patrol procedures in the Malaccan Strait from 2006, ReCAAP's activity and the United States' support. What is important, a direct relation between the constantly functioning in this archipelago terroristic groups and attacks on trade ships have not been found yet. There are no signs whatsoever that regional crime groups have developed the Somali operation model which is based on the use of "mother-ships" which serve to commerce multiple simultaneous attacks on ships and high jacking them for ransom. A more often phenomenon are crimes connected with high jacking local cabotage vessels by organized crime groups, what, nevertheless, does not influence international sailing directly.

Much still has to be done in the issue of reducing asymmetric sea threats in this region. This concerns mainly ratifying and implementing by appropriate countries proper antiterrorist conventions, especially those which strike directly financing of terroristic actions what can potentially connect piracy with terrorism. There is also an urging need to introduce international regulations concerning the security of shoreline countries, through the territory of which a definite majority of national and commercial communication goes through and which do not have any reliable protection from the international law. Finally, the last problem constitute vessels under the so called "cheap ensigns", towards which it is difficult to appoint any effective supervisory authority which would regulate the safety issues.

In the face of insufficient international efforts concerning the issue of fighting piracy in the Aden Bay also private companies such as Shell Shipping suggested taking steps to directly ensure the safety of ships which can also be applied on the waters of the Indonesian Archipelago. Among them are, among others, such steps like surrounding the broadsides with barbed wire, locating water cannons and water (safety) curtains along the broadsides, additional guards, determining "safe corridors" for ship and running a detailed risk evaluation for each cruise. Nevertheless, private companies are still divided when it comes to armed protection of their vessels, pointing the unclear international law regulations on this issue, diversity of legal systems when it come to the use of weapons by ships on territories of national ensigns, the destination and starting harbors and first of all the risk of conflict escalation which would make a trading company a involved in an armed conflict. This is why maritime companies count on all radical decision of countries which would assure sailing security, on their cooperation with the private sector and on the need to eliminate the above mentioned basic sources of piracy on land.

Among other threats for the security of sailing in the South-East Asia we should also mention interests of superpowers and conducting by numerous countries military exercises on the waters used by trade vessels. Indonesia has a very specific geo-political location between India which is oriented more and more towards East and China which sea expansion is oriented towards South and West. Hence the increased movement of military vessels of those countries on the Indonesian waters. Ever since the United States of America declared "War on Terror" they have also been interested with their military presence in the region, trying to counteract negative aspects of Islamic fundamentalism in the biggest, when it comes to population, Muslim country in the world. It is possible, that in the nearest future South-East Asia will become a region of confrontation for those three countries, trying at the same time to gain or maintain the position of a sea superpower. In the last few years military maneuvers have also been intensified, especially those carried out by China on the South-Chinese Sea. The presence of large groups of war ships, firing more than not live ammunition on those waters which serve intensified trade sailing, creates a series of additional problems. Pursuant to the United Nations Convention on the Law of the Sea, areas of sole economic spheres on

which war games are often carried out are considered as free for sea and air traffic for all ships and airplanes. On the other hand, the same document imposes on countries a ban on violating laws of other international society members. Similarly, according to the Convention, open sea can only be used for peaceful purposes. Conducting war games and war maneuvers arouses thus numerous and justified controversy connected with the freedom and safety of sailing.

The conclusions which arise after the analysis focus on reflecting the relatively optimistic state of maritime transport safety in the Indonesian Archipelago region. This is a result first of all of numerous effort of sea line countries and numerous international cooperation mechanisms which were initiated in recent years. Successful actions undertaken by private non-government parties including private enterprises should also be noted.

Therefore the need to incorporate interests of shoreline countries, particularly stressing their sovereignty, should be taken into consideration by units using sailing routes what requires further explanation and a proper approach. Therefore the proper and successful so far means of fighting with local sailing security problems is providing national countries with suitable resources and assets which can be effectively used within the scope of their own systems of protecting law and order. Implementation of already existing international legal regulations and creating new ones is also necessary, especially encompassing the issues of maritime transport security and fighting violence, which would build an agreement and cooperation platform for the cause of sailing security.

Pawel Bienkowski

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