SYSTEMS TO DETER AND SUPPRESS MARITIME CRIMES – ADDRESSING TRANSNATIONAL ORGANISED CRIME THROUGH A WHOLE OF NATION APPROACH

Martin A. Sebastian & Mohd Zul Ariff b. Abdullah

Centre for Maritime Security & Diplomacy – CMSD

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SYSTEMS TO DETER AND SUPPRESS MARITIME CRIMES – ADDRESSING TRANSNATIONAL ORGANISED CRIME THROUGH A WHOLE OF NATION APPROACH

Abstract

The measures being undertaken to address maritime security threats are obviously far from effective. The reasons for this are that seaborne smuggling of people, goods and wildlife, illegal fishing and piracy and armed robbery are on the rise. Though it is arguable that these measures are lopsided and that while maritime security agencies blame land security agencies for "sea blindness", the former themselves are guilty of "land blindness" where threat assessments and operations are concerned. This willful blindness affects domain awareness as maritime security threats are not stand-alone actions in the respective environment as the criminal logistics chain thrives on the land-sea nexus. A lack of coherent measures have impacted intelligence led operations thus raising costs on risk mitigation and crisis response. Inter service rivalry and lack of information sharing has allowed the "big fish to swim in warm waters". Most law enforcement operations have only targeted symptoms instead of the root causes of these crimes. This report articulates that maritime security threats like smuggling of people, goods and wildlife, illegal fishing and piracy/armed robbery are syndicated crimes, which means they are part of the transnational organised crime (TOC). On establishing this fact, the report later subscribes that maritime crimes have their locus on land, either the origin or the proceeds of the crime and therefore efforts must be made on land to deter and suppress them. The measures that are being proposed are centred on those that fuel and feed from the crime. It later attempts to illustrate international, regional and national measures to combat TOC. The report then analyses recent efforts by the government to deter and suppress crime through task group operations and the freezing of assets of kingpins including their collaborators in the government. Finally the report recommends a policy to deter and suppress maritime crimes through a concerted framework called the Whole of Nation (WoN) approach instead the current Whole of Government (WoG). This approach calls for systems to provide management solutions in harnessing the WoN approach towards holistic security governance.
1.0 Introduction

When addressing maritime security, the first thing to look at is ourselves and our institutional cultures in order to identify any systemic impediments to achieving effective and persistent national domain awareness. All countries have unique maritime security governance frameworks, for instance some coast guards are part of the navy, while others are separate, while in other smaller coastal nations, the coast guards are the navy. Still, the common trait in all coastal states is that multiple forces, ministries and agencies all have a strong interest in maritime surveillance, whether it’s the immigration department for illegal migrants, the national police for counter-narcotics, the fisheries department for illegal fishing, the coast guard for search and rescue, or the navy for sovereign presence and when necessary for combat. When these groups are stove-piped, acting separately, guarding their data jealously, and competing against one another for resources and influence, then they collectively do their countries a disservice,
and it becomes much easier for adversaries to identify and exploit the vulnerabilities that exist at the inter-agency seams.

![Atlas of Trafficking in Southeast Asia](image)

Figure 2 References on Transnational Crime

### 2.0 Problem Statement

When maritime security threats are seen only through the nautical lens, the vision becomes myopic. The fact remains that the origins of these threats are on land and the bounty from the crime is enjoyed on land as well. This means two thirds of the crime equation is on land. When combating maritime security threats, all efforts are concentrated at sea, making the efforts fruitless, as the seas are vast and no amount of assets can be present to combat these threats. Transnational Organised Crime (TOC) syndicates operate through their seamless world to fuel the crimes and feed from them using the sea as a medium for their activities. It is therefore vital to go back to basics and seek those who fuel and feed from these crimes, to deter and suppress their actions so as to break the logistics chain of TOC syndicates. Of late, Malaysia’s reputation has been tarnished with several negative grading as follows:
- Downgraded to 48 of 162 countries in Global Terrorism Index (GTI)
- Downgrade to 33 of 162 countries (2014) from 29 (2013) and 20 (2012) in the Global Peace Index (GPI)
- Downgrade to Tier 3 in US State Department Human Trafficking Report
- Named as Hub of Terrorism (US States)
- Named as Centre for Wildlife Trafficking by International news.

Therefore a concerted effort is needed not only to deter and suppress TOC but to display and project measures taken by Malaysia in addressing the threats.

3.0 Area of Study

The area of study covers maritime security crimes which are syndicated and therefore thrive in the transnational organised crime network.

4.0 Objectives of study

The objectives of this study are to:

a) Examine the types of syndicated maritime security threats.

b) Elaborate on the effectiveness of security architectures in addressing maritime security issues and challenges.

c) Articulate on the need towards a Systems Approach to be used by the Inter agency fusion centre which can provide management solutions for effective coordination to deter and suppress Transnational Organised Crime.
d) Recommend policy options for the government with a view to provide a holistic, comprehensive and integrated approach to break the logistics chain of crime

5.0 Significance of the study

There have been numerous studies on maritime security and the need to address it holistically. However these studies are very maritime focused. The land-sea nexus in addressing these issues are significantly poor thus the holistic effort is left in abeyance. This study will open new chapters in the study of maritime crime as it traces the origins of the crimes and focuses on the need to deter and suppress it at the root.

6.0 Methodology

There were several methods used to achieve the objectives of this study. Literature reviews were used to gain knowledge of the subject matter. In addition, field visits were conducted to government agencies and security structures in Sabah to gain firsthand knowledge.

7.0 Limitations

The information for this study is limited to open sources, interviews with relevant agencies and data received on restricted basis. The study is not for public consumption. The study focuses on seaborne crimes especially smuggling, illegal fishing and sea robbery/piracy.
8.0 Maritime Crimes = Transnational Organised Crime (TOC)

8.1 Illegal Cross Border Movements

8.1(a) People Smuggling

Smuggling of migrants is defined by Article 3 of the Migrant Smuggling Protocol supplementing the United Nations Transnational Organized Crime Convention (UNTOC), as “...the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a state party of which the person is not a national.” The specific nature of the sea-based component of the smuggling journey resulted in a dedicated section on the issue in the Migrant Smuggling Protocol. While smuggling by sea accounts only for a small portion of overall migrant smuggling around the world, the particular dangers of irregular travel at sea make it a priority for response; though more migrant smuggling occurs by air, more deaths occur by sea.
Attempting to isolate the issue of migrant smuggling by sea from other forms of migrant smuggling is in some ways an artificial and potentially misleading exercise. Migrant smuggling by sea generally occurs as part of a wider smuggling process often involving land and/or air movements. Furthermore, the complex nature of criminal migrant smuggling networks and their modus operandi means that smugglers who use sea routes cannot be identified purely by looking to the sea; the transnational criminal network itself must be traced from a smuggling vessel, back to the coast of embarkation, and from there back to countries of transit and origin.
As with other forms of organized crime, the groups concerned have increased their operations by shifting routes in a bid to expand into other markets and circumvent the responses of states. Criminal groups have merged or formed cooperative relationships, expanding their geographical reach and the range of their criminal activities. Some criminal groups view migrants as simply one of many commodities to be smuggled, alongside drugs and firearms. Since the smuggling of migrants is a highly profitable illicit activity with a relatively low risk of detection, it is attractive to criminals. The absence or inadequacy of national legislation to address the smuggling of migrants in many parts of the world often means that smugglers of migrants can continue to commit the crime with little fear of being brought to justice. Responses by states often target migrants, leaving smugglers, and especially organised criminal groups, which are more difficult to apprehend, at large.
Only a limited number of states have specific policies and mechanisms in place aimed at countering the smuggling of migrants, and a lack of capacity to investigate and prosecute the crime means that criminal justice systems are often unable to meet the challenge of combating it. Beyond this, failure to secure smuggled migrants as witnesses means that prosecutions are often difficult and opportunities to convict are missed. Moreover, the smuggling of migrants is not always considered a serious crime for which a heavy penalty could be imposed. Ensuring that priority is given to investigating higher-level smugglers and taking due account of aggravating circumstances in the prosecution of cases involving the smuggling of migrants could have a deterrent effect on organised criminal groups. The underlying social, economic and political pressures that fuel the crime cannot be ignored. Unemployment, war and persecution are but three of the many reasons people decide to leave their home country. Pull factors include demand for cheap, undocumented labour in countries of destination. To better
understand these dynamics and fully address the root causes of migration in order to prevent organized criminal groups from profiting from vulnerable groups such as migrants, a comprehensive response is required - one that involves examining the issues of migration and development.

### 8.1 (b) Smuggling of Goods

The sea is the circulatory system of the world economy, through which the economic blood of trade flows. At odds with this healthy economic lifeblood are the pathogens of theft, corruption, and illicit trafficking.

![Discipline & Integrity Issues of Custom Officers](image-url)

Figure 7 Discipline and Integrity Issues with Enforcement Agencies

In addition to patently illegal contraband, such as narcotics and weapons, numerous illicit goods move through the maritime transportation system, avoiding taxes and undermining legitimate trade. Tobacco is one of the most commonly smuggled illicit goods around the world. Next to it is narcotics. Heroin smuggling has been in the Asia Pacific region for years. As Afghan heroin has become more important in local markets, a new crop of traffickers has entered the scene, including Nigerian and Pakistani groups. In Malaysia, for example, Pakistani networks are active. They use Malaysia as a hub to redistribute Afghan heroin to
other countries in the region, including China and Australia.¹ In Indonesia, trafficking networks originating from India, Nepal, the Islamic Republic of Iran and Pakistan operate across the archipelago, particularly in Bali. Recent arrests indicate that international drug syndicates have recruited Cambodian, Indonesian and Thai nationals in place of the Iranians and Malaysians formerly used to smuggle heroin into Indonesia. In addition, West African criminal groups, particularly Nigerian groups, have increased their involvement in heroin trafficking though the region. According to the World Customs Organisation (WCO) only 2% of containers are checked in ports and therefore, the tendency of large scale smuggling through ports are very likely.

Illicit drug use been well thought-out as major social intimidation in Malaysia and has been declared as a threat to national security i.e. Malaysia’s number ONE enemy.² Malaysia’s geographical location has long made it a transit country for traffickers of illegal narcotics. The international drug syndicates appear not only to use Malaysia as transit point due to excellent air and trade links but now are also attempt to produce drugs, particularly ATS in “kitchen Labs” most of which is for export.

¹ www.unodc.org
² Ministry of Home Affairs, Country Report, May 2014
Intelligence reveals the emergence of Afghan opiates in Malaysian shore. It’s been trafficked from Afghanistan to Malaysia via Islamic Republic of Iran and Pakistan by the Iranian syndicates and the Pakistani syndicates which collaborate with the Nigerians and local syndicates. In their bid to avoid detection by the authorities, they diversify their mode of transportation from using air couriers to maritime trafficking (sea cargo). Even though maritime trafficking is the least common among cases involving other modes of transportation i.e. via air and land route, by weight of seizure reveals that maritime seizure is consistently the most likely to be a large seizure (more than 6 kg). A new maritime route from Afghanistan via ports in Islamic Republic of Iran, Pakistan and India is increasingly being used by drug traffickers to smuggle the drugs especially heroin to consumer markets through Malaysia.

Penang has turned out to be a haven of sorts for local syndicates, who base their operations on the island to produce drugs for the domestic and foreign markets.³ Bukit Aman Narcotics CID director Datuk Noor Rashid Ibrahim made this statement when busting a large consignment of heroin in June 2014. He added that syndicates preferred Penang because it was easily accessible by both land and sea. Syndicates would choose to produce drugs that were most in demand, which were currently heroin and syabu. Drug trafficking and abuse are serious issues confronting Malaysia.

8.1 (c) Smuggling of Wildlife

In East Asia, population growth and burgeoning affluence have led to rising demand for exotic and luxury products, including wildlife products. China is both the region’s largest economy and the largest consumer market for wildlife, imported for food, traditional medicinal ingredients, the pet trade, and exotic décor. A wide range of animal and plant products are imported, including those derived from protected species of bear, pangolin, reptiles, wildlife. Each of these products has a different trading chain, which may include domestic and international specialists involved in the storing, handling, transporting, manufacturing, marketing and retailing of wildlife. A number of techniques can be used to facilitate import, including the use of fraudulent paperwork and the mixing of protected species and lookalike species. Wildlife may also be “launched” though exotic farms, zoos, and greenhouses – species harvested from the wild may be passed off as captive bred.
Illegal wildlife is often openly sold in otherwise legal market contexts. Prominent markets exist in Indonesia and the Philippines, while international border crossings between China and Thailand also function as wildlife markets. The growth of internet commerce has facilitated illicit trade in wildlife products. Given the number of species involved, it is almost impossible to come up with a clear estimate of the volume or value of the wildlife traded. It is apparent, however, that the trade in lesser-known animals such as pangolins is far greater in scale than that of large, emblematic species like tigers, pangolins or rhinos. The World Wide Fund for Nature - Malaysia (WWF-Malaysia) and The Wildlife Trade Monitoring Network (Traffic) have urged the Malaysian government to act forcefully in combating poaching and wildlife trade in Malaysia.\(^4\) Thailand used to be the number one in South East Asia but the country has recently come down hard on the trade, which estimated rakes in some RM61 billion a year. International smuggling doesn’t only involve drugs and counterfeit goods. In fact, the illegal transport of wildlife parts has become one of the most lucrative forms of international crime. Black market demand has increased, threatening the future of the world’s most magnificent animals. In the international market, smuggled horns are sold at a rate of USD 17,500 per pound to factories where they were carved into fake antiques or ground to powder for “possible medicinal purposes.”

Bernama News Agency reported that Johor is now the main transit for syndicates smuggling exotic animals from Indonesia.\(^5\) The report mentioned that anteaters were among the highly sought after animals, commanding RM300 per kilogramme for their meat. Due to the high demand, syndicates were currently doubling their efforts to smuggle them in from Indonesia. Local syndicates with links in Indonesia use several secluded beaches in Muar and Batu Pahat, Johor to land their exotic cargo, said the source. Smugglers no longer use lorries to


minimise the risk of their entire precious cargo from being confiscated, but transport them in luxury cars instead to fool the enforcement authorities.

In 2013, an expose by Al Jazeera, the “Return of the Lizard King” documentary reported that the Department of Wildlife and National Parks (Perhilitan) must explain how convicted wildlife trafficker Anson Wong was able to continue trading.\(^6\) The ministry, had in October 2010, announced all licences held by Wong and his wife Cheah Bing Shee were revoked. However, when asked during a recent interview by Al Jazeera how he was able to continue trading, Wong replied: “Ask the government”. Wildlife trade monitoring network Traffic senior communications officer Elizabeth John said this was worrying and the government must clarify the situation. She pointed out the ministry, had in 2010, announced in Parliament it had taken steps to ensure officers within its agencies would be prevented from colluding with wildlife smugglers.

According to another news report on wildlife trafficking,\(^7\) Malaysia and Indonesia are havens for wildlife traffickers in terms of places where they can store their stocks before being sold worldwide. Criminals believe that they are able to get away with a great deal in Malaysia and Malaysia will continue to be used as a transit hub for wildlife trafficking. The report also claimed that Customs officials and wildlife officials were on the take and were often complicit in aiding and abetting wildlife traffickers. Poaching in Malaysia is not new; in fact it wiped out the Javan and Sumatran rhinos in the past 100 years, but for some time now, the trend has been to hunt any and all species with any perceived commercial value. Many poachers in Malaysia are foreigners from Indochina. However, locals living near forests are also involved, sometimes as middle men. Meanwhile, National Parks and protected areas become targets due to their higher numbers of wildlife

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and biodiversity.

The Malayan pangolin, once common almost everywhere, even in the 1990s, is now so rare that you should consider yourself lucky if you ever spot one in the wild. Towkay geckos are another one that is now virtually extinct in Peninsular Malaysia, due to the mistaken belief that their blood cures AIDS/HIV. Even the clouded leopards, once the most elusive of animals, are going extinct.

It has been largely the small fish who get caught in the illegal wildlife trade. Wildlife authorities, however, are attempting to change that scenario as they focus on those who are really behind the trade, the large organised criminal network run by kingpins. Department of Wildlife and National Parks (Perhilitan) deputy director-general Dr Zaaba Zainol Abidin says that it is tough for them because the big-time smugglers are very smart. He said his department's move to nab the kingpins involved deeper investigation and, for this, undercover operations were on the agenda. He added that Perhilitan's goal is to be one step ahead so that we can pinpoint the illegal activities of the criminal organization. Perhilitan has strengthened its wildlife crime and intelligence unit, enabling it to
expand its network of informants and enhance the intelligence received.\(^8\)

### 8.1 (d) Illegal Fishing

Illegal, Unreported and Unregulated (IUU) fishing is a significant transnational crime that costs developing nations up to $15 billion in economic losses annually.\(^9\) Perpetrators include established organized crime groups as well as commercial fishing operations; moreover the incidence of IUU fishing is often shaped and facilitated by corrupt public officials. Various economic drivers, the exceptionally high value of some species, and the Flag of Convenience (FOC) system of vessel registration contribute to the significance of the problem. Negative environmental impacts involve the depletion of fish stocks, damage to coral reefs, and stress on marine mammals and birds. Social and economic impacts are severe as well, and are most especially prevalent in developing nations. While an impressive number of initiatives, public and private, have been undertaken to address the problem, the very conditions that give rise to IUU fishing render attempts to combat the problem quite difficult.

In addition to violations by commercial fishing operators, it is not uncommon for organized crime groups to engage in IUU fishing. In the 1990s Russian criminal syndicates were estimated to earn $4 billion a year through the illegal exportation of some two million metric tons of seafood, mostly Caspian Sea sturgeon and other seafood products to Japan, Europe, and the United States. Elsewhere, the illegal harvesting of abalone is thought to generate $80 million annually, and involves Russian syndicates, Chinese Triads, and other Asian gangs. IUU fishing in South Africa is also associated with money laundering, drug trafficking, and racketeering. There has also been an observed overlap between IUU fishing and other forms of organised crime, including drug smuggling. Fishing vessels are integral to the transshipment of cocaine, activities which include the provision of


offshore refueling services for ships carrying drugs, the transport of cocaine from larger ships to remote landing sites and commercial ports, and direct point-to-point delivery of cocaine shipments. Fishing vessels are also associated with the traffic in other types of illicit drugs, including heroin, marijuana, and amphetamines.

A significant link exists between IUU fishing and other forms of transnational organised crime, including trafficking in persons for the purpose of forced labor on fishing boats—a practice that includes the exploitation of women and children. De facto slavery in the fishing industry occurs across the world’s oceans, but is especially prevalent off the coasts of West Africa and Southeast Asia. Working conditions are often brutal, and include physical abuse, sexual exploitation, and in some cases, death. The principal actors in these human trafficking crimes are recruiters, senior crew on fishing vessels, and the fishing company or operator. While it is widely agreed that IUU fishing is prodigious and global in scope, there exists substantial variability in the level and trend of IUU catches across regions. In a 2009 analysis of illegal and unreported catches in the territorial waters of 54 countries and 15 high seas regions, researchers found that illicit activity was greatest in the Eastern Central Atlantic and least in Southeast Asia. Increased control by coastal states has led to a decline in illegal fishing in the Western Indian Ocean, while an increase in illicit activity in the Northwestern Pacific is due almost entirely to the role played by Chinese and Russian operators poorly policed by their home governments. Estimates of illegal and unreported catch in the Northeastern Pacific is low and continues to decline, but in Southeast Asia the problem has been, and remains, relatively high, the waters about Indonesia are especially notorious as an area with a huge amount of unreported catch.

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In many nations, coral reef ecosystem benefits many sectors including fisheries, tourism, and shoreline protection that are important to people’s livelihoods, food security and well-being. As a result, threats to reefs not only endanger ecosystems and marine species, but also directly threaten the communities and nations that depend on them. The relative social and economic importance of reefs is further increased by the fact that many reef-dependent people live in poverty and have limited capacity to adapt to the effects of reef degradation.

More than 90 percent of Malaysia’s reefs are located off the coast of Sabah and consist mainly of fringing and barrier reefs. These reefs are part of the biogeographic Coral Triangle Core and support a far greater diversity of corals and fish than elsewhere in the country. Many of these reef fish benefit from close proximity to coastal mangroves, which provide habitat and protection from predators, especially during juvenile stages. Of the 73 known species of mangroves in the world, 40 can be found in Malaysia.12

While fish is an important food staple throughout the country, with an annual consumption rate of about 52 kg per person, East Malaysians are more dependent on fisheries for income and food security than those in Peninsular Malaysia. Nearly all reefs in Malaysia (99 percent) are threatened by local human activities, with more than 40 percent under high or very high threat. Overfishing, including destructive fishing, is the most widespread threat, affecting approximately 97 percent of reefs in Malaysia, including nearly all reefs in Sabah and Sarawak. Destructive fishing (blast and poison fishing) alone threatens 85 percent of Malaysia’s reefs. The highest threat is concentrated along the near shore reefs of Sabah.13 According to the Royal Malaysia Police, the number of detonators seized has risen from 280 in 2005 to 2557 in 2012.14

12 www.traffic.org/fisheries.
13 2012, Maurice Knight et al, Reefs and Risk Visited at the Coral Triangle, World Resources Institute,
14 Royal Malaysia Police, Sabah
Fish that are bombed enter the market in three different categories. The best go to the fish market, the second end up as salted fish and the bits and pieces are collected for prawn farms in Thailand and packed as fertilizers for Philippines.\(^\text{15}\) According to the leading Non Governmental Organisation (NGO), Tropical Research and Conservation Centre (TRACC),\(^\text{16}\) illegal fishing consists of two types of operations, small-motorised boats which fish on an opportunistic basis in nearshore waters for lobster, sea cucumber and fish, and larger live-aboard boats, which travel over very large distances. Most of these boats are fitted with hookah air compressors allowing diving to greater depths for cyanide fishing or increased exploitation of sea cucumbers living at greater depths. Local boats in areas with good fish populations search for fish by snorkelling, but most nearshore, shallow reefs are so badly overfished and blasted by bomb fishing that there are few (if any) fish big enough to be wanted by the live fish trade. Boats which supply the live fish trade are equipped with a car tyre air compressor and two long, reinforced hoses for air delivery. In Sabah, the fish are stored in

\(^{15}\) Hj. Abdullah bin Md. Dan, Deputy Director of Resource Protection Division, Department of Fisheries, Ministry of Agriculture (personal communication, October 28, 2014)

\(^{16}\) http://tracc-borneo.org/home/.
cages in Kudat and Kota Kinabalu bays until they are exported by live fish boats to Singapore or Hong Kong by syndicates. According to TRAFFIC, the number of Live Fish Exports from Malaysia to Hong Kong is the highest as compared to other countries.\(^{17}\)

\[\text{Figure 12 Fishing fleets around oil rigs}\]

### 9.0 Piracy and Armed Robbery

The Definitions of Piracy and Armed Robbery in accordance with UNCLOS & IMO MSC.1/Circ.1333 & MSC.1/Circ.1334. Unlike most of the other organised crime problems, piracy is not a trafficking, smuggling or exploitation issue. No contraband is moved, no illicit market serviced and no marine resource is taken. Rather, it is a violent, crime which acquires goods by force. It is transnational because a ship is considered the sovereign territory of the nation whose flag she flies. It is organised because commandeering a ship at sea requires considerable planning and some specialised expertise, including information on goods they carry and passage times. The crime will be impossible without a organised crime network.

\(^{17}\) http://www.traffic.org/fisheries/
The term “piracy” normally encompasses two distinct sorts of offences: the first is robbery or hijacking, where the target of the attack is to steal a maritime vessel or its cargo; the second is kidnapping, where the vessel and crew are threatened until a ransom is paid. In South East Asia, “petro-pirates” have been on the prowl...
The trend of incidents involving siphoning of fuel/oil from product and oil tankers at sea is not new. Statistics for 2014 reveal that the occurrence of such incidents took place more frequently compared to the annual numbers reported in the previous three years. Attributing to the surge in the number of incidents are various factors, including the market price of fuel/oil, the demand for fuel/oil in underground markets, the absence of authorities in locations where the siphoning occurred which in most instances, were outside areas of jurisdiction.

Between 2011 and 2014, a total of 29 incidents of siphoning of fuel/oil were reported, of which 16 incidents were successfully carried out. The other 13 incidents were foiled because of timely intervention by enforcement agencies arising from timely reporting of the incidents to the ReCAAP ISC or the authorities who triggered the relevant agencies to promptly respond to the incident. In other unsuccessful cases, the crew exercised enhanced vigilance by triggering the Ship Security Alert System (SSAS), or reporting the incident to vessels in the vicinity immediately. Of the 16 successful incidents of siphoning reported during the period, one each occurred in 2011 and 2012, two in 2013 and
twelve in 2014.¹⁸

Notably, the majority of the incidents occurred in the South China Sea (SCS). Of the 16 incidents reported during 2011-2014, eight occurred in the SCS, three in Indonesia, one in Malaysia and four in the Straits of Malacca and Singapore (SOMS). The SCS was far away from shore, and outside the area of jurisdiction of regional authorities who would require more time to arrive at the location of the incident. This worked in favour of the pirates who could ‘buy time’ in carrying out their siphoning activities, and escape before the arrival of the authorities.

The litany the seven incidents reported in the SCS, one in 2013 and seven in 2014 are as follows:

- *Danai 4* (10 Oct 13)
- *Sri Phangnga* (17 Apr 14)
- *Orapin 4* (28 May 14)
- *Budi Mesra Dua* (7 Jun 14)
- *Ai Maru* (14 Jun 14)
- *Moresby 9* (4 Jul 13)
- *Oriental Glory* (15 Jul 14)
- *Suratchanya* (15 Oct 14)

Of the other four incidents, two occurred in Indonesian waters in 2011 and 2012 involving *Namse Bang Dzod* while underway northeast of Surabaya on 15 Apr 11, and *Yunita* while anchored at Muara Berau anchorage, Samarinda, East Kalimantan on 11 Nov 12. One incident occurred off Port Klang, Malaysia involving *Naniwa Maru No. 1* while underway from Singapore to Port of Yangon, Myanmar on 22 Apr 14, and one incident occurred in the Malacca Strait involving *GPT 21* at approximately 6.8 nm west of Pulau Kukup, Malaysia on 7 Nov 13.

¹⁸ ReCaap ISC, Special Report on Incidents of Siphoning of Fuel/Oil at Sea in Asia, SR 01/2014 Singapore
Due to the high market price and taxes imposed on fuel/oil, illegal siphoning has been a lucrative business. So long there are demands for fuel/oil in underground markets, siphoning incidents would occur unless a holistic approach is adopted to tackle the problem by the authorities and the shipping industry collectively.

Several observations from the series of incidents reported between 2011 and 2014 are as follows:

a. Demand for fuel/oil remains high and pirates/robbers are likely to continue with this lucrative business unless governments and shipping industry can work together collectively to arrest the perpetrators to serve as a deterrence;

b. Pirates/robbers appeared to have knowledge of the amount and types of
fuel/oil carried onboard the tankers and the route taken by the tankers;

c. The possibility of conspiracy between two tankers as evident in the incident involving Scorpio and Sea Jade, which was later foiled had it not for the presence of MMEA patrol boat in the vicinity;

d. The possibility of conspiracy between the pirates/robbers and the master and crew of the victim tanker as in the case of Naniwa Maru No. 1 where the master together with Chief Officer and Chief Engineer left the tanker with the robbers, bringing along their personal belongings and travel documents. The crew was initially alleged to be kidnapped were deemed otherwise following investigation by local authorities.

10.0 Fuelling TOC - Money Laundering.

The term 'money laundering' allegedly originated in a scam set up by Al Capone in Chicago in the 1920s in which he set up a Chinese laundry through which he passed the profits of criminal activities in order to disguise their origins. The term money laundering nowadays means precisely that: disguising the origins of money, so that the profits of, for example, illegal drugs sales cannot be traced back to their origins. For law enforcement agencies around the world the struggle against money laundering has become one of the focal points of the struggle against organised crime. The idea is that organised crime will find it increasingly difficult to operate if it cannot transfer its ill-gotten gains from the criminal underworld into the legal 'upperworld'. From the standpoint of organised crime money laundering is an extremely important activity. Much money earned through crime remains, of course, within the criminal underworld. Some of the profits from one crime will simply be reinvested in other crimes.
Then again, the more profitable organised crime becomes, then the more important it is from the standpoint of the criminals, to find ways of shifting the profits into more legitimate activities. Criminals need a reliable legal income otherwise their lifestyle may attract the attention of law enforcement and tax authorities. Also investment in legal business may yield higher rates of return than some criminal activities. A luxurious lifestyle cannot be sustained without spending a large amount of income on goods and services in the legal sector. Such expenditure will need to appear to be from legal income deposits and sources. The history of money laundering in recent years has been something of an 'arms race' between the law enforcement agencies and organised crime with each side developing new techniques and detection systems in a spiral of competitions. There is a central contradiction which lies behind all attempts to understand and to combat money laundering. On the one hand, the law enforcement agencies have, particularly since the 1980s, increasingly focused on money laundering as a key if not **THE** key strategy in combating organised crime. Normal police methods leading to the arrest of organised crime operatives or the seizure by customs or frontier police of illegal commodities hardly scratches the surface of organised crime activities. If only it could be made impossible or at least very costly to get the profits of criminal activity into the legitimate banking system.\textsuperscript{19}

\textsuperscript{19} John Lea, *Money Laundering And Criminal Finance*, 2005
The basic money laundering process has three steps:

1. **Placement** - At this stage, the launderer inserts the dirty money into a legitimate financial institution. This is often in the form of cash bank deposits. This is the riskiest stage of the laundering process because large amounts of cash are pretty conspicuous, and banks are required to report high-value transactions.

2. **Layering** - Layering involves sending the money through various financial
transactions to change its form and make it difficult to follow. Layering may consist of several bank-to-bank transfers, wire transfers between different accounts in different names in different countries, making deposits and withdrawals to continually vary the amount of money in the accounts, changing the money's currency, and purchasing high-value items (boats, houses, cars, diamonds) to change the form of the money. This is the most complex step in any laundering scheme, and it's all about making the original dirty money as hard to trace as possible.

3. **Integration** - At the integration stage, the money re-enters the mainstream economy in legitimate-looking form, it appears to come from a legal transaction. This may involve a final bank transfer into the account of a local business in which the launderer is "investing" in exchange for a cut of the profits, the sale of a yacht bought during the layering stage or the purchase of a $10 million screwdriver from accompany owned by the launderer. At this point, the criminal can use the money without getting caught. It's very difficult to catch a launderer during the integration stage if there is no documentation during the previous stages. Money laundering is a crucial step in the success of drug trafficking and financing other criminal activities, not to mention white collar crime, and there are countless organisations trying to get a handle on the problem.\(^{20}\)

11.0 International Measures to Address TOC

United Nations Office of Drugs and Crime (UNODC) has taken necessary steps in addressing TOC. In combating a global phenomenon such as transnational organised crime, it advocates partnerships at all levels. Governments, businesses, civil society, international organisations and people in all corners of the world have a part to play. In the advisory, UNODC has noted some aspects that are critical in fighting organised crime which include:

a. **Coordination**: Integrated action at the international level is crucial in identifying, investigating and prosecuting the people and groups behind these crimes.

b. **Education and awareness-raising**: Ordinary citizens should learn more about organized crime and how it affects everyday lives. Express your concerns to policy and decision makers so that this truly global threat is considered by politicians to be a top priority among the public’s major concerns. Consumers also have a key role to play: know what you are purchasing, do so ethically and make sure that you do not fuel organized crime.

c. **Intelligence and technology**: Criminal justice systems and conventional law enforcement methods are often no match for powerful criminal networks. Better intelligence methods need to be developed through the training of more specialized law enforcement units, which should be equipped with state-of-the-art technology.

d. **Assistance**: Developing countries need assistance in building their capacity to counter these threats. An important tool that can help with this is the *United Nations Convention against Transnational Organised Crime*, which has been

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ratified by 170 parties and provides a universal legal framework to help identify, deter and dismantle organized criminal groups.

**ASEAN. ASEAN Plan Of Action To Combat Transnational Crime**

ASEAN's initial efforts in combating transnational crime were focused on drug abuse and drug trafficking, the prevalent crime then, which affected the growth and vitality of ASEAN. With globalisation, technological advancement and greater mobility of people and resources across national borders, transnational crime has become increasingly pervasive, diversified and organized. The region has to deal with many new forms of organised crimes that transcend national borders and political sovereignty such as terrorism, new types of drug abuse and trafficking, innovative forms of money laundering activities, arms smuggling, trafficking in women and children and piracy. The specific objectives of the Plan of Action are to urge the ASEAN Member Countries to:

a. Develop a more cohesive, regional strategy aimed at preventing, controlling and neutralising transnational crime;

b. Foster regional cooperation at the investigative, prosecutorial, and judicial level as well as the rehabilitation of perpetrators;

c. Enhance coordination among ASEAN bodies dealing with transnational crime;

d. Strengthen regional capacities and capabilities to deal with sophisticated nature of transnational crime; and

e. Develop sub-regional and regional treaties on cooperation in criminal justice, including mutual legal assistance and extradition.

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12.0 An Examination on Measures to Address TOC

12.1 Measures by the Government to Counter Syndicated Crimes

Whilst being part of a regional security structure, Malaysia works together with UNODC, Interpol and ASEANAPOL in addressing TOC. However, the Land-Sea nexus and the Whole of Nation (WoN) approach is still lacking. On the policy level, it is worthy to note several issues. At the leadership, the National Security Council (NSC) has the mission to formulate security policies on national security through a comprehensive, integrated and holistic effort. This means acting as a one-stop-centre for national security policies.

On the issue of law enforcement, the Ministry of Home Affairs (MOHA) has the core mission is to administer internal security and to ensure peace and well-being of the people. The Malaysian Maritime Enforcement Agency (MMEA) is housed under the Prime Minister’s Department. MMEA was formed as a result of a study undertaken by the Malaysian government in April 1999. The study revealed that enforcement was not effective because there were multiple maritime law enforcement agencies which resulted in overlapping functions, overlapping jurisdiction, and uneconomical use of resources.

On examining the land-sea nexus to address maritime security threats and TOC as a whole, it is obvious that MOHA and MMEA are structured in a stove piped manner where one addresses security threats on land whilst the other is focused at sea. The measures taken are not comprehensive and coherent and that the integrated nature of being organised as espoused by UNODC and ASEAN instruments is not apparent. Therefore, what we can see is disorganised law enforcement against organised crime. When only Whole of Government (WoG)

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23 https://www.mkn.gov.my/page/visi-dan-misi
measures are considered in addressing TOC, it will result in hole-in-the-government as integrated partnership encompassing governments, businesses, civil society, international organisations and people are not part of the play. The NSC may want to address this need as part of the security policy.

On the operational and tactical level; there has been several ad hoc agency initiatives, anti graft measures and task group operations has led to a number of success stories as follows:

- **Royal Malaysia Police (PDRM)** - The setting up of STING & STAFOC (Jan 2014) & recently STAGG (Dec 2014). The establishment of the Special Tactical Intelligence Narcotics Group (STING) and the Special Task Force On Organised Crime (STAFOC) has big impact on the Royal Malaysian Police (PDRM). STAFOC aims to address serious crimes, gangsterism, gambling, prostitution and human trafficking. STING's roles include identifying drug trafficking black spots which involves triads and stopping the entry of drugs at airports via land and sea routes. The Special Task Force for Anti-Vice, Gaming and Gangsterism (STAGG), an elite federal police team will mainly go after the "sharks" of illegal activities rather than the "smaller fish" often reported held by the authorities. Home Minister Datuk Seri Ahmad Zahid Hamidi said he agreed with news reports that the main operators and kingpins (sharks) behind vice, gambling and gangsterism runners appear to escape the full brunt of the law, leaving their downliners (runners) to face action by the authorities.  

PDRM has also collaborations with the New York Police Department (NYPD) to enhance the cooperation on police integrity and fight graft in police force

- **The Malaysian Anti Corruption Agency (MACC)** has launched OP BELOT which has unleashed graft busters to bring down law enforcers who allow vice dens to operate under their watch for years. The commission conducted comprehensive surveillance programmes involving staking out prostitution and gambling dens. Premises serving as operation centres for illegal syndicates have also not escaped surveillance. The commission believes these premises had come under the protection of the very men entrusted with shutting them down.\(^{28}\) MACC is also addressing graft with the Customs Department where both are studying systems and procedures to ensure there are no leakages. This effort follows the arrests of a group of senior Customs officers who were later charged with accepting bribes.\(^{29}\) Malaysian Anti-Corruption Commission (MACC) successfully crippled a smuggling syndicate in the Klang Valley that evaded more than RM1 billion in unpaid customs duties. MACC is also addressing the Peninsular Malaysia Forestry Department where both have agreed to establish a joint committee to strengthen the integrity of forestry and logging practices, as well as address graft within the industry.\(^{30}\)

Whilst addressing a number of initiatives and measures, task forces comprising several law enforcement agencies working closely with the Attorney General Chambers, Bank Negara and the Malaysian Communication and Multimedia Commission (MCMC), have conducted task forces operations like Op Titik which

saved 142 million liters of diesel worth RM 361.58 million since its launch in May 2014.31

12.2 Anti Money Laundering and Terrorist Financing Act (AMLATFA)

The Anti-Money Laundering and Anti-Terrorism Financing (Amendment) Bill 2013 was tabled at Parliament in 2014 and is aimed at combating monetary crimes as well as strengthening the country's security and economy. The legislation came into force in January 2002 and was known as the Anti-Money Laundering Act. In March 2007, the title was amended to what it is today because the Act was expanded to cover the offence of terrorist financing.

The Anti-Money Laundering and Anti-Terrorism Financing Bill 2013 now proposes to again lengthen the title, this time to the Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act.

The tabling of the bill is to make amendments to the Anti-Money Laundering and Anti-Terrorism Financing Act (Act 613) and the Anti-Money Laundering (Amendment) 2003 (Act 1208). In a statement to the press, the Deputy Finance Minister quoted that the government views seriously problems linked with criminal activities and revenue leakage, which if not contained, can threaten the economic stability and prosperity in the country.32 He added that the objective of the bill was also to provide a clearer provision on the responsibilities of the reporting institutions in ensuring preventive measures could be carried out more effectively. Apart from that, it would also enhance enforcement on cross-border movement of cash and bearer negotiable instruments. It will extend the scope of

investigation, as well as enforcement action, against money laundering and anti-terrorism financing cases through stiffer penalties,” he added.

Acting under AMLATFA, MACC has seized RM3mil in cash, 10 luxury cars, a shophouse along with 200 frozen bank accounts containing RM6mil when they arrested senior Customs Officers for graft.

It is evident that the government understands the all too familiar problems in combating TOC and therefore the need to operate in task groups and use AMLATFA to freeze assets. This only goes to show that the effort to deter and suppress TOC through concerted efforts is the key however, these efforts cannot be one-off and be governed through separate actions. A wholesome policy which encompasses a Whole of Nation (WoN) has to be formulated with targets identified to deter and suppress TOC. A strategy can then be devised to put a system in place to harness coordinated and comprehensive approach using the tools available. What is needed is not just operations and legislation. To be effective, it is pertinent to consider the following:

- **Effective Prosecution.** Deploy full range of capabilities to collect enough evidence to stay ahead of crime, decide response quickly and be effective to incriminate perpetrators.

- **Target Supply Chain.** The systematic dismantling of the crime supply chain is a better option than concentrating too much on the statistics of arrests

- **Increase Costs.** Reduce the gap between legitimate economy and shadow economy. When cost is high, crime will not be lucrative.
To effect the above needs, a one-stop-centre is needed to harness information and coordinate response for effective incrimination. Whilst concerted land-sea actions are coordinated, the effort must be to identify those who fuel and feed from TOC. The main idea is to reduce the gap between legitimate economy and shadow economy by increasing cost to crime. This costs can be implied through freezing of assets and accounts to deter and suppress TOC thus breaking the logistics chain of crime. There are many benefits in using systems as management solutions on this issue. One of them is that it harnesses the integrated approach and factors information as it develops. It enables enforcement agencies to be at the right place with the right information to arrest the right criminal and through them, identify the master minds and kingpins. It also enables systems to trace the origins of the crime, the funding of it through technical support and trends analysis. These measures will surely benefit the collection of information in a single repository which can be shared with regional and international partners in the effort to break the logistics chain of crime.

13.0 Recommendations

A policy to realise the Whole of Nation (WoN) by using systems to harness and manage information. The NAJIB system will comprise of law enforcement staff in a one-stop-centre to link with a multiple entities that will provide useful information to deter and suppress TOC.

14.0 Conclusion

There are huge threats out there that we are all familiar with: illegal trafficking by sea of humans, goods (fuel/weapons/narcotics) and wildlife; illegal fishing; and sea robbery and piracy. All of these activities have one thing in common: they rob coastal states of their rights to grow, to become more prosperous, and to contribute to making the global system stronger. The activities of transnational
criminal organisations in particular present a huge risk, because these sophisticated intelligence-driven criminal networks need to be enabled and protected ashore in order to be successful moving their contraband by sea or using the sea as a medium for the criminal activities. There is a need to protect our resources to regulate access to the fish protein that feeds our population, and to the marine ecosystem that brings tourists economy to raise our standards of living through investment and jobs.

TOC Syndicates spend vast sums of money analysing maritime security regimes in all countries, identifying and then exploiting vulnerabilities, including the corruption of officials in constabularies, customs agencies, ports, governments and industries. The net effect is billions in lost revenues that could have been spent on good governance, and on strengthening our national instruments of power, from defence, to transportation infrastructure, to education and healthcare.

The world has moved away from the need to know, to a much more effective need to share, and a responsibility to provide. Obviously, not everyone is there yet, because changing cultures is always a lot harder than changing processes. We all know that it’s often easier to cooperate with your regional partners than it is with the services and agencies in your own country. The technology has existed for years to enable this, to allow for multi-level security networks that link various maritime security partners under a scalable sharing permissions protocol, while respecting judicial and legislative boundaries. For example, in Canada, at the marine security operations centers, agencies are integrated in one place for the collaborative planning and execution of land-sea responses to at-sea security and defense incidents. Canada has brought together the navy, coast guard, federal police, and the departments of transport, fisheries and customs into one intelligence gathering system. They share information on a common network, and with allies, but the key actually, has been in identifying the obstacles to effective sharing, and eliminating them through building strategic trust between
the partners within the government. The Australian Customs and Border protection architecture has a similar system whilst Singapore’s Marsec has the Information Fusion Centre and Sense-Making Centre to enable capacity building and swift responses to threats.

When working together, it is an unfortunate cultural reality that we all are prone to believing that the people in other organisations are not as professional and well trained as are we, but when we actually do get together and jointly plan and execute a mission, we invariably end up developing a profound respect for one another, and realizing that we share the same mission in service to our countries. That is very powerful when it happens, especially when you realize that the process has made your country stronger. This process, when complimented with Systems to provide management solutions, synergises and makes the effort complete.

That said, maritime security relationships and governance are always evolving, they are never perfect. New lessons are always being learned. Still, the threat will forever be there, unless some form of deterrence and suppression is built regionally. This leads us back to the fundamental question: what is the best mix of capabilities for any coastal nation to achieve persistent decision quality national domain awareness? They say charity begins at home, and so, it is at home that a new approach has to be envisaged through a policy intervention. When others can do it, so can we.
15.0 Infographics

**Diagram 1: Discipline & Integrity Issues of Custom Officers**

- **Total Case**
- **Violation of Custom Procedure**
- **Misconduct**
- **Corruption / Misuse of power**
- **Dismissal**

*Source: Royal Malaysian Customs Dept., 2013*

**Diagram 2: Number of Trafficking in Person & Smuggling of Migrant Cases in Malaysia**

*Source: Secretariat of the Council for ATPSOM Malaysia, 2014*
Types of Armed Used During Attacks in Southeast Asia Region

Source: International Maritime Organisation, 2014
16.0 Bibliography

People Smuggling


Syuhada bt Abd Wahab Zen, Deputy Director of International and ATIPSOM Council Division, Ministry of Home Affairs (*personal communication*, October 24, 2014)


Smuggling of Goods


from The Star newspaper. Can be accessed via The Star Online: http://www.thestar.com.my/


Mr. Ruzairy Arbi, Head of Archeology of the Department of Heritage (personal communication, October 31, 2014)

**Smuggling of Wildlife**


Noor Alif Wira Osman, Principal Assistant Director of the Enforcement Division, Department of Wildlife (*personal communication*, October 27, 2014)

Pelan Strategik 2010-2015 Jabatan Perlindungan Hidupan Liar dan Taman Negara (PERHILITAN) Semenanjung Malaysia

**Illegal Fishing**


Hj. Abdullah bin Md. Dan, Deputy Director of Resource Protection Division, Department of Fisheries, Ministry of Agriculture (*personal communication*, October 28, 2014)

**Graph**


Aliza Shah & Hani Shamira Shahrudin (2014, October 17). *MACC gets tough*


http://www.themalaysianinsider.com/

Eileen Ng (2014, Nov 20). Rafizi write to Bank Negara, A – G on 1MDB’s Cayman fund. Retrieved from The Malaysian Insider website: 
http://www.themalaysianinsider.com/

Channel NewAsia (2014, Nov 3). Illicit funds have no places in Singapore’s financial system: Tharman. Retrieved from the Channel NewAsia website: 
http://www.channelnewsasia.com/

Nicole Tan (2014, Nov 7). Government agencies adopting more pro-business practices. Retrieved from the Channel NewAsia website: 
http://www.channelnewsasia.com/

**Piracy & Armed Robbery**


http://www.marinelink.com/

VIETNAMNET Bridge (2014, August 28). Maritime security labeled a priority by ASEAN states. Retrieved from VIETNAM Bridge website: 
http://english.vietnamnet.vn


ICC IMB.


Noel Choong, Head Asia Regional Office, International Maritime Bureau Piracy Reporting Centre (personal communication, October 2, 2014) *Terrorism & Security*


Muzliza Mustafa (2014, November 2). *Marriage proposals, failed studies prompt Malaysian women to join Islamic State.* Retrieved from The Malaysian Insider
website: http://www.themalaysianinsider.com/

