



A Report For
IDSS-NUPI
Public Seminar on
Maritime Security in
Southeast Asia



Institute of Defence and Strategic Studies, Nanyang Technological University
Block S4, Level B4, Nanyang Avenue, Singapore 639798
TEL: 65-6790-6982, FAX: 65-6793-2991
Email: wwwidss@ntu.edu.sg, Website: <http://www.idss.edu.sg>

29th November 2005
Traders Hotel, Singapore

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Mr Barry Desker delivering his opening remarks

OPENING REMARKS

In his opening address, **Mr Barry Desker, Director IDSS**, remarked that shipping is the heart of global trade. With increasing economic globalisation and intensification of maritime trade, eighty percent of world trade is currently pushed by sea, supported by a massive maritime trade network of 46,000 commercial vessels and 1.25 million seafarers calling at 4,000 ports while ninety percent of general cargo is now transported in containers. Mr Desker noted that as two of the world's most important shipping nations, the stakes for Norway and Singapore in global maritime commerce are equally high. Norway is the 5th largest, and Singapore, the 10th largest owner of merchant fleets by tonnage in the world. Mr Desker emphasised that mega-hubs like Singapore, the second busiest in the world, have become key container ports with connectivity in a 'hub-and-spoke system' to the world, which cannot be easily bypassed or substituted. Moreover these mega-hubs form the backbone of the global integrated supply chain involving economies of both maritime and nonmaritime continental states.

Mr Desker further elaborated that continuing industrialisation and trade, increasing regionalisation and economic integration between Asia and Europe, will buttress the high

levels of maritime trade and shipping that pass through maritime Southeast Asia whose geography straddles the Indian and Pacific Oceans. In fact, the Straits of Malacca is the vital sea-lane that bridges these two oceans and which serves as the shortest route between three of the world's most populous countries - India, China and Indonesia. The waterway carries an annual volume of commercial traffic of more than 50,000 ships, making it the world's busiest. More than a third of global trade and two thirds of the world's liquefied natural gas (LNG) trade also passes through the Strait. By extension, this makes Southeast Asia's maritime security, in traditional and non-traditional terms, an international concern.

In conclusion, Mr Desker emphasised the importance of the security of the world's sea-lanes and the freedom of navigation to Norway and Singapore as well as the international community. Mr Desker further pointed out recent developments in regional maritime security in the form of the signing of the Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP) in April this year and the recent launch in September of the 'Eyes in the Sky' initiative; a joint maritime air-patrol by the

littoral states over the Malacca Straits. Closing off his introductory speech, Mr Desker applauded the rapid pace of collaboration between IDSS and NUPI over the course of the year, which will culminate in the production of a book with the aim of sharing their findings with policy-makers, scholars and analysts.

Reiterating the similarities between Norway and Singapore mentioned in Mr Desker's opening address, **Mr John Skogan, Senior Researcher, NUPI**, added that both Singapore and Norway are 'small countries in a big boat' with similar problems and interests. Both countries are dependent on the sea and their shipping industries. The security of waterways are thus of great importance to both countries. Mr Skogan noted that although Norwegian littoral waters are not directly threatened by piracy, he likened the illegal fishing problem in northern Norwegian waters akin to piracy. Mr Skogan also pointed out that although Norway has yet to suffer from any terror attacks, Norwegian oil rigs on the Continental Shelf are potential terrorist targets. Mr Skogan concluded that although the physical distance between the 2 countries is great, both Singapore and Norway share similar problems and interests and thus there is much to gain from joint Singaporean-Norwegian cooperation.



Mr John Skogan delivering his opening remarks

KEYNOTE ADDRESS

Touching on the global importance of the shipping industry, **BG Tay Lim Heng, Chief Executive Maritime and Port Authority of Singapore**, highlighted the fact that shipping is the life blood of the global economy being responsible for the carriage of 90% of world trade. In today's world where no nation can be fully self-sufficient, every country is involved, at one level or another, in the process of selling what it produces and acquiring what it lacks. We live in a global economy, which cannot function if it were not for ships and the shipping industry. BG Tay further mentioned that advances in technology and management have allowed generalised transport costs in the shelf price of consumer goods to remain low. For example, shipping costs account for only around 0.8% of the shelf price of a DVD player and the typical cost of transporting a 20-foot container from Asia to Europe carrying over 20 tonnes of cargo is about the same as the economy airfare for a single passenger on the same journey.

Moving on to the challenges faced by the shipping industry, BG Tay noted that the shipping industry is a complex and extremely volatile business having gone through no fewer than fourteen business cycles since the beginning of modern shipping in 1869. The ability to manage volatility in the shipping industry has thus always been the primary concern of the shipping community. However, the recent years beginning from 2003 have been termed by the shipping industry as the 'New Golden Age' of shipping. This is because of the high current rate of growth at 4% and the strong performance by the Chinese economy that is expected to continue to fuel this growth. This is reflected in the order books of shipyards which totalled 223.3 million deadweight tons as at October 2005. On the other hand, these huge order books have generated concerns by many in the industry that supply might grow ahead of demand and trigger another downturn in the business cycle. BG Tay remarked that be it a hard or soft landing, it is

without doubt that the cycle will run its course and those who want to play in the game will have to juggle with the considerations and risks involved and determine the best course ahead.



BG Tay Lim Heng making his keynote address

On the issue of Maritime Security, BG Tay pointed out that the maritime community had to deal with issues related to piracy, blockades, wars and rumours of war from time immemorial but the events that occurred on September 11 gave it a much wider scope and a greater sense of importance. A key consideration in these issues is the element of cost. What are the costs associated with maritime security, and who will bear the burden? BG Tay argued that the Straits of Malacca and Singapore form a key maritime passageway between Europe, the Middle East, Africa and East Asia and it is in the keen interest of the international community that the Straits be always kept open, secure and safe. BG Tay further mentioned that one of the areas that governments should begin to engage each other on, is in consequence management, that is how to respond to an attack that disrupts the global supply chain. BG Tay stressed that the economic system cannot afford to have ports shut down and cargo movement impeded in such a situation. Rather, we need to have a set of procedures that will enable trade to keep flowing, and in thus doing, minimize the potential damage from such an attack. BG Tay concluded by saying that the security measures implemented thus far have not had a huge impact on the efficiency of shipping,

but we should be careful about striking the right balance between the need for security and efficiency.

MARITIME SECURITY IN SOUTHEAST ASIA (PART I)

Speaking on the **Contemporary Threat of Maritime Terrorism: Technologies, Tactics, and Techniques**, Dr Rohan Gunaratna, Head of the International Centre for Political Violence and Terrorism Research, IDSS, noted that the contemporary maritime terrorist threat that we see today originated in October 2000. The threat evolved from one that is very much localised to local insurgents to the attack against the USS Cole. The prelude to the USS Cole was the failed 4 January 2000 attack on the USS Sullivans in Aden. In the USS Sullivans attack, the terrorist cells did not rehearse their operations and the suicide boat sank without blowing up the USS Sullivans. As a result of the failure, Al Qaeda began to study methods of attacking warships and commercial ships and made significant investment in this area of operations. Dr Gunaratna further mentioned that the Jihadists still maintained their capability to conduct attacks from Yemen even after the USS Cole episode. A case in point was the 2002 strike on the French super tanker Limburg. The Jihadists waited for a US warship, but due to flawed intelligence the said warship did not arrive, and the Limburg then became the target of opportunity. Hence most targets of the Jihadist groups in the maritime sphere are now targets of opportunity. In the Southeast Asian region, Al Qaeda worked with JI to target ships both in Singapore and Malaysia and a budget of \$160,000 was proposed by a regional Al Qaeda leader to Bin Laden. Bin Laden however questioned the cost of mounting such attacks and the project was abandoned. Dr Gunaratna cautioned that despite this initial setback, the threat in Southeast Asia did not diminish and the current environment in Southeast Asia is one that is friendly for terrorist attacks, whereby terrorists are able to plan, prepare and execute their attacks.

He argued that if there was a lesson to be learnt, it is to hunt the terrorist organisations, not give them the time to attack, thus making it difficult for them to attack complex sophisticated targets.

In an attempt to dispel what he saw as the hype surrounding maritime terrorism, Dr Gunaratna urged for a deeper understanding of the phenomenon. He believes that we should view maritime terrorism as an extension of the terrorists' land capabilities, which left unchecked, would be extended to the sea. Dr Gunaratna added that the aim of maritime terror attacks is to generate publicity and that in order for the operation to be known, almost all maritime attacks are conducted in port or in coastal waters and there is no exception to this trend. As terrorists' capabilities do not remain static, Dr Gunaratna argued that there must be a continuous threat assessment, and countermeasures, be they offensive or defensive, and these must evolve with the changing threats. Dr Gunaratna further elaborated on Al Qaeda's development of a UDT capacity as an extension of their capabilities. Plans to set up diving schools to train terrorist divers were recovered in Kandahar. However the same plans demonstrated that Al Qaeda did not have an advance capability in this field achieving only a commercial capability instead of a military diving capability.



Dr Rohan Gunaratna making a point

Dr Gunaratna does not foresee the proliferation

of maritime terror attacks in Southeast Asia and pointed out that in both Thailand and Malaysia, there are currently no groups capable of mounting maritime attacks although JI does possess such a capability in Indonesia. Emphasising his point, Dr Gunaratna remarked that although Abu Sayef does heavily invest in maritime operations, 75% of its members are mariners and thus it is only natural for Abu Sayef to mount such attacks. Dr Gunaratna further reiterated that Jihadist groups in Southeast Asia from the Southern Philippines to Indonesia use the maritime domain largely for support operations such as movement of arms and not for attacks. Dr Gunaratna thus does not believe that Southeast Asian Jihadist groups have the capability to mount a USS Cole or Limburg type attack. In his concluding remarks, Dr Gunaratna made the point that the threat of Maritime Terrorism in Southeast Asia is of low probability and medium consequence. He argued that due to high importance of maritime routes, shipping will still continue even if 10 ships are attacked today. In his opinion, we can only counter the threat of maritime terrorism by developing a broad response instead of focusing on law enforcement. We must shadow these terrorist groups to understand them and the response must be based on their capabilities. In other words, the response must not be driven by existing technologies but threat driven.

The second presentation by **Mr Anders C. Sjaastad, Senior Adviser, NUPI**, touched on **Southeast Asian SLOC and Security Options**. Mr Sjaastad highlighted the importance of the Southeast Asian SLOCs to the economies of both established and emerging Asian powers and its significance to the overall global economy. Hence all parties, whether littoral states, user countries or other interested actors, will unanimously favour steps and arrangements that will safeguard innocent passage of commercial shipping through Southeast Asian waters. However differing national priorities, mistrust, lack of confidence and hidden agendas all combine to make things difficult when it comes to drawing up and agreeing upon ways and

means to achieve these aims. Mr Sjaastad stressed the point that for some of the littoral states that can still remember their colonial past, the principle of sovereignty is sacrosanct and any arrangement or action, which could be seen to undermine it, is taboo. Hence security in Southeast Asia is commonly regarded to be firstly domestic, secondly bilateral/trilateral and only thirdly multilateral, unlike in Europe where there is frequently a trade-off between sovereignty and cooperation in order to enhance common security, these attitudes will severely limit many potentially viable multilateral security options and even infringe upon the use of bilateral arrangements.



Mr Anders Sjaastad delivering his remarks

Speaking on the security challenges, Mr Sjaastad remarked that unlike in Europe, traditional military threats still prevail in most of Asia including Southeast Asia, and the use of military power to pursue political aims is still regarded as a state option. Furthermore new unconventional and asymmetrical threats have become prominent, widespread and imminent. As a result, military expenditure and the armed forces in parts of Asia have been substantially increased. Mr Sjaastad reflected that this military built-up could also be partially attributed to the lack of cooperation between the armed forces of the Asian countries and of the limitations that the principle of sovereignty places on the 'newly' independent countries. He added that apart from

conflicts rooted in unsettled or disputed borders stemming from historical animosity, the potentially most serious security challenges to Southeast Asian countries are derived from the complex territorial disputes in the potentially resource rich waters of the South China and East China Seas. None of the countries big or small are likely to compromise their claims in the South China Sea in the foreseeable future and that makes the South China Sea issues always potentially dangerous for Asia security. However Mr Sjaastad believes that apart from the territorial disputes, all potential security challenges and conflicts in Southeast Asia can, in principle, be handled through a pragmatic approach.

Finally, Mr Sjaastad discussed the various security options that are available. On a national level, Mr Sjaastad noted that the ability to pursue a successful national security policy differ significantly among the Southeast Asian countries. While Malaysia has devoted significant resources to building up a national capacity to police and patrol the Malacca Straits, Indonesia on the other hand lacks resources to pay for any monitoring installations and is in need of outside economic assistance. Moving on to bilateral security options, Mr Sjaastad noticed that Asia is full of bilateral security treaties, arrangements and relationships, and it is frequently difficult to correctly evaluate the significance of some of them. In the safeguarding of the Malacca Straits, Mr Sjaastad argued that one can speak of a loose trilateral cooperation. Malaysia and Indonesia have the closest relationship whereas Singapore is a more distant partner especially when it comes to shared interests. However even the limits to Malaysian-Indonesian cooperation are demonstrated when dealing with the sensitive topic of 'hot pursuit'. Mr Sjaastad further pointed out that when dealing with potential multinational security options for Asia, the most striking absence is the lack of available multinational security organisations. There exists neither an Asian collective defence alliance like the North Atlantic Treaty Organisation (NATO) nor any collective security

organisation like the Organisation for Security and Cooperation in Europe (OSCE). Regardless of what constructive role such institutions could have played in Asia's future security equation, they are not vaguely visible on the Asian horizon. Mr Sjaastad concluded his presentation with the proposition that Asia with its lack of formal institutions and organisations should try to solve its many hot territorial disputes by reaching a meaningful compromise combined with an agreement for shared resource extraction in disputed offshore waters.

MARITIME SECURITY IN SOUTHEAST ASIA (PART II)

Mr Joshua Ho, Senior Fellow, IDSS, opened the second half of the public seminar with a presentation on **The Security of Regional Sea Lanes**. Mr Ho started off by reiterating the importance of Southeast Asian sea lanes to the global economy. He highlighted the fact that the amount of traffic carried by the Malacca Straits makes it the second busiest Straits in the world and it is likely to be busier in the future as a result of increasing trade flows and energy demands in Asia. He argued that since these regional sea lanes are crucial for much of the world's transportation of oil and raw materials and the conveyance of container traffic, the free and safe navigation of commercial vessels in these particular waterways have become important issues. Mr Ho predicted that due to the heavy dependence on the sea as a mode of trade and transportation, the importance of regional sea lanes would only increase in the future. Mr Ho went on to list both piracy and the spectre of maritime terrorism as the main security threats to the security of regional sea lanes.

Touching on piracy, Mr Ho remarked that while worldwide piracy incidences decreased in 2004, attacks in the Malacca and Singapore Straits have increased by 50% over that of 2003. However the trend seems to be reversing somewhat as the number of attacks in the third quarter of 2005 has dropped to about 40% of the 2004 figure. Mr Ho cautioned that although the motivations



Mr Joshua Ho delivering his presentation

of terrorists and pirates are fundamentally different, much vigilance is still needed as piracy forms the background noise from which maritime terrorist attacks may materialise. Since the advent of containerisation, today's ports have evolved to become providers of complete logistics networks and much of the world's high volume mainline trade focuses on just a few mega ports. The closure of these hub ports could cause severe disruptions to inventory and production cycles and the hub ports are therefore potential lucrative targets for terrorists. Mr Ho argued that attacks on shipping could cause ships to divert from current sea lanes to a safer route at an increased cost to the shipping industry. However there is no indication of such attacks being planned or conducted by the JI in the maritime domain and attacks by the Abu Sayaff group have mainly been on ferries confined to the Philippines.

In the final part of his presentation, Mr Ho discussed the various countermeasures that have been taken to protect the regional sea lanes of Southeast Asia. At a national level, Singapore has increased both its patrol and surveillance activities, deployed armed naval security teams on more vulnerable vessels entering and leaving port, moved towards compliance with international measures like the ISPS code and AIS regimes and beyond ISPS; the tracking of vessels below 300 GRT via harbour craft transponder systems. Likewise Indonesia has

also increased its own patrols and taken measures to improve its capabilities by upgrading its patrol assets, setting up Navy Control Command Centres, creating Special Forces to respond to hijackings, and plans for the installation of a radar station chain along the Sumatran coast. Measures adopted by Malaysia include the installation of a string of radar stations, increased naval presence in affected areas, the setting up of dedicated anti-piracy task force, providing protection for softer targets like tugs and barges and the formation of a Maritime Enforcement Agency. On the subject of bilateral measures, Mr Ho noted that there are currently quite a number of coordinated patrols and joint surveillance activities that are in place such as those between Singapore and Indonesia, Malaysia and Indonesia, and between Malaysia and Thailand. On the other hand, multi-lateral countermeasures are limited and only starting to take shape in the form of the 'Eyes in the Sky' initiative and the Malacca Straits Coordinated Patrols (MALSINDO). Mr Ho concluded on the optimistic note that with the recognition of concerns of the international community by the littoral states, and the numerous individual, bilateral and multilateral measures that have been taken, regional sea lanes will continue to be safe for international shipping well into the future.



From left to right: Mr Anders Sjaastad, Dr Ralf Emmers, Mr John Skogan, and Mr Kwa Chong Guan

The next presentation was by **Mr Gunnar Stolsvik, Legal Adviser, Norwegian Coast Guard**, on the subject of **Flags of Convenience**

as a Complicating Factor in Combating Crime at Sea. In setting the parameters of his presentation, Mr Stolsvik highlighted the problem of ships registered in a state when there is little or no connection between the ship and the state, and that of the changing of nationality for the purpose of hiding the ship's true identity in order to conduct criminal activity. The fact that thousands of ships are registered in states with lax maritime regulations that promote or permit anonymity as a business advantage has given rise to some concern. Mr Stolsvik noted that such arrangements could cause problems when coastal states try to combat crime at sea. The fear is that terrorists, pirates or other criminal groups would register a ship of convenience and thus being able to hide their true nationality and identity when conducting the criminal activity. Mr Stolsvik remarked that the global economy is greatly influenced by the so-called offshore services provided by numerous states and



Mr Gunnar Stolsvik making his presentation

territories around the world. Besides ship registration, some of the services offered by states and semi-independent territories include passports, banking licenses, identity cards, registration of cars, registration of companies, bank services and internet domain registration. Since the offshore services provided by the actual state do not correspond with the place of registration and where the economic activity is conducted, the use of offshore services gives a sense of 'virtuality'. Mr Stolsvik warned that one

of the main problems of the flag state principle and flags of convenience is that often there exists a very weak link between the flag state and the ship. In such cases there exists virtually no genuine link between the state and the ship and this weakness is much clearer when a request to board a ship by the coastal or port state is left unanswered by the flag state. However in Mr Stolsvik's opinion, it will be utopian to change the order of the sea, as there are strong economical and political reasons to keep the strong position of the flag state.

On the other hand, Mr Stolsvik argued, it must also be possible to weigh these commercial needs against the need for security on the part of the coastal and port state. In his view, there are three possible approaches; the use of international pressure, the establishment of a net of bilateral agreements and as a last resort solution, to disregard the flag of the ship where there is clearly no genuine link between the state and the ship. Mr Stolsvik believes that convincing flag states to tighten the control of their ships might not be possible without some form of international pressure. Mr Stolsvik concluded that when combating the negative effects of convenience it is perhaps best from a political point of view, to establish common global recommendations that flag states should follow with the implementation monitored by an international organisation such as the Organisation for Economic Cooperation and Development (OECD). Only where there is suspicion of proliferation of weapons of mass destruction or other serious criminal activity onboard a ship, or that such acts are being planned against other ships or offshore installations, that one might, after concluding that the ship lacks any genuine link with the flag state, as a last resort solution, regard it as a stateless ship and board it.

The following speaker, **Dr Robert C. Beckman, Associate Professor, Faculty of Law, NUS**, touched on the **Archipelagic Sea Lanes (ASL) Passage in Southeast Asia**. Dr Beckman started off his presentation by explaining the

Archipelagic States Regime as the regime that allows archipelagic states to use straight baselines joining the outermost points of the outermost islands and drying reefs. The sovereignty of the archipelagic state extends to its archipelagic waters, to the air space above and to the seabed & subsoil below. However ships of all states have the right of innocent passage through the archipelagic waters while ships and aircraft of all states have the right of archipelagic sea lanes passage through and over archipelagic waters on designated sea lanes and air routes thereby imposing certain limits on the sovereignty of the archipelagic states.

Dr Beckman then moved on to the vital but thorny issue of the definition of the Archipelagic Sea Lanes. Dr Beckman brought to attention the



Dr Robert Beckman delivering his presentation

Indonesian proposal to the Maritime Safety Committee (MSC) in 1996, which was further referred to the NAV Sub-Committee. Subsequently the United States and Australia made submissions at the NAV Sub-Committee meeting in 1997 in objection to the Indonesian proposal on the grounds that it did not contain any east-west route. They argued that the Indonesian proposal should be considered a 'partial designation' because it did not include all normal routes used for international navigation and that they continued to have the right of ASLP through routes normally used for international navigation. In 1998, the MSC accepted recommendations of NAV Sub-

Committee on the procedures for the designation of sea lanes. Designation of sea lanes considered as a routing measure was henceforth to be dealt with by the MSC with assistance of NAV Sub-Committee. In 1998, Indonesia in consultation with IMO and Governments of the United States and Australia, submitted a revised proposal to MSC. Indonesia confirmed that its revised proposal was only a 'partial proposal'. The revised proposal was approved and adopted by MSC. However in 2003, the United States stated that Indonesia had not properly designated its sea lanes because it had not provided 6 months advance notice as required in the General Provisions, and had not circulated the English version of Regulation 37. The United States also advised that it would continue to exercise rights in all routes normally used for international navigation.

Dr Beckman indicated that there is a lack of agreement between Indonesia with Australia and the US over the east-west route although it is not clear from records what the exact nature of the disagreement is on the east-west route. Dr Beckman believes that although the issue could be taken to a compulsory binding dispute settlement under 1982 UNCLOS, a negotiated settlement is much more likely. Although the regime established in Part IV of 1982 UNCLOS has been accepted by major archipelagic states and major user states, the functions of the IMO and procedures for the designation of sea lanes were not spelled out in 1982 UNCLOS. However, they have been clarified as a result of actions taken at the IMO with regard to the sea lanes through Indonesia. In conclusion, Dr Beckman suggested that the sea lanes through Indonesia are likely to be finalised through discussions and negotiations with interested user states and that the designation of sea lanes through Indonesia would result in greater certainty for the designation of sea lanes of communications (SLOCs) through Southeast Asia in general.

Dr Sam Bateman, Senior Fellow, IDSS, began his presentation on **Building Good Order at Sea**

in Southeast Asia: The Promise of International Regimes, by asserting the importance of international regimes in the maritime domain, which he described as the 'global commons'. Maritime security regimes are of necessity based on the framework provided by the 1982 United Nations Convention on the Law of the Sea (UNCLOS). He also noted that in the Politics of the Sea, interests often coincide as well as conflict. In Dr Bateman's opinion, international regimes promise absolute rather than relative gains. In order to reap those benefits however, there must be a balance of interests in maritime zones between coastal States and user States and a need for compromises and cooperation.

Dr Bateman went on to identify two problem areas for maritime security: (1) the existence of conflict of security interests between user and coastal states, and (2) the complexity in the implementation of the United Nations



Dr Sam Bateman making his remarks

Convention on the Law of the Sea (UNCLOS). The UNCLOS, being a general convention, had built-in ambiguities and grey areas when it came to application of its principles to specific regions. In place of general rule, there is a need to develop specific rules that is tailored to the regional context. Another complication is also that the United States itself is not a party to the UNCLOS. Within Southeast Asia itself, the complex maritime geography, conflicting sovereignty claims, uses and abuses of territorial sea straight

baselines, innocent passage of warships, transit passage regime, ASL passage regime, rights and duties in the EEZ, and underdeveloped maritime cooperation are issues that impose limitations on what can be achieved. Different views have also emerged in East Asia over the rights and duties of coastal states in their EEZs vis-à-vis those of other states. Dr Bateman remarked that the EEZ remains a zone of tension between coastal state control and maritime state use of the sea. On a more optimistic note, Dr Bateman pointed out that the EEZ Group 21 that was convened had the aims of clarifying the rights and duties of both coastal states and user states in an EEZ and to provide a regional maritime confidence and security building measure. The last meeting of the EEZ Group 21 in September 2005 reached an agreement on Guidelines for Navigation and Overflight in the EEZ. The guidelines are non-binding in nature and may be generally regarded as reflecting the need for better understanding of the rights and obligations of states conducting activities in the EEZ of another country.

In conclusion, Dr Bateman emphasised that the law of the sea is a dynamic phenomenon and while the words in UNCLOS remain static, their interpretation will change over time. He believes that the US is unlikely to become party to UNCLOS and regional practice in East Asia will play a key role in shaping customary Law of the Sea in the future. In doing so, state practice in this theatre, under the influence of nationalistic domestic politics and regional tensions, may diverge from the orthodox, largely western view of the customary law of the sea. Dr Bateman argued that none of this suggests that we need to amend UNCLOS and it would be extremely difficult to obtain the necessary consensus in the contemporary world anyway. Instead the challenge in building an effective regional maritime security regime is to recognise the limitations of UNCLOS and to negotiate a regional consensus on aspects of the Convention that are less than clear or where differences of view exist.

In the final presentation of the public seminar,

Dr Ralf Emmers, Assistant Professor and Deputy Head of Studies, IDSS, spoke on the issue of **Maritime Disputes in the South China Sea**. Dr Emmers listed the Spratly Islands claimed by China, Taiwan, Vietnam, the Philippines, Malaysia and Brunei, and the Paracel Islands controlled by China since 1974 but claimed by Vietnam and Taiwan as the hotspots. Dr Emmers believes that economic, political and strategic interests influence the disputes. Dr Emmers pointed out that it is debatable whether most of the Spratly Islands can generate maritime zones since most of the disputed features do not offer any legitimate basis for claiming maritime jurisdiction. On the subject of overlapping claims, Dr Emmers argued that the claims made by the parties could be separated into historical claims of discovery and occupation and claims that rest on the extension of sovereign jurisdiction under interpretations of the provisions of UNCLOS. As illustrations, Vietnam claims both Paracels and Spratlys based on Discovery and Occupation while other ASEAN Claimants to the Spratlys rely more on Extension of EEZ and Continental Shelves than on History.

On the strategic environment in the South China Sea, Dr Emmers indicated that while the Chinese have used force on several occasions as a means of consolidating its position in the South China Sea (Against



Dr Ralf Emmers delivering his presentation

Vietnam for Control of Paracels in 1974, and the Spratlys in 1988). China has, since 1995, been acting as the status quo power, accommodating with ASEAN but making no concessions on sovereignty. On China's power projection capabilities, Dr Emmers saw China's naval position in Spratlys as weak with limited power projection capabilities. He further argued that the Spratlys are too small to sustain bases for further naval activities and in short, China cannot at this point impose a naval hegemony over the South China Sea. At this point in time, China still lacks the technology, the military capabilities and the power projection to control the area militarily. However, China has a relative advantage over most other claimant states with the build-up of its Southern Fleet, which is a particular concern for Vietnam and the Philippines. Dr Emmers elaborated that Hanoi has insufficient naval capabilities and no ally to counterbalance China while the Philippines is the weakest party in the dispute. Having limited power to deploy forces, both Vietnam and the Philippines have instead relied on ASEAN diplomacy and the negotiation of a Code of Conduct

Turning to the Declaration on the Conduct of Parties in the South China Sea, Dr Emmers views the ASEAN-China Interim Accord of November 2002 as a step in the right direction. Dr Emmers further commented on both the potential benefits and shortcomings of such an accord. While such a move contributes to the easing of tensions in the South China Sea, the accord is only a political statement short of a binding code of conduct and therefore unable to prevent territorial clashes or other conflicts. In conclusion, Dr Emmers noted that a strategic and diplomatic status quo exists, and the disputes are still essentially a political, rather than a military issue. As such, in the short to medium term, the risks of conflict are small although miscalculations or accidents may lead to limited confrontation. However, Dr Emmers cautioned that in the long run, peace could still be undermined if China increased its naval power projection capabilities, or there is proof of sufficient oil reserves for commercial usage in the South China Sea islands. The proof of oil reserves and increased energy pressure in East Asia could then force the Chinese to assert its claims over the islands.

Rapporteur: Ong Wei Chong

PUBLIC SEMINAR PROGRAMME

Tuesday, 29 November 2005

0800 Registration

0900 **Opening Remarks**

Mr Barry Desker, Director IDSS

Mr John K. Skogan, Senior Researcher NUPI

0920 **Keynote Speech**

Future Challenges to the Shipping Industry

BG Tay Lim Heng, Chief Executive, Maritime and Port Authority of Singapore

0945 **Maritime Security in Southeast Asia (Part I)**

Chairman: *Mr Kwa Chong Guan*, Head of External Programmes, IDSS

Contemporary Threat of Maritime Terrorism: Technologies, Tactics and Techniques

Dr Rohan Gunaratna, Head of International Centre for Political Violence and Terrorism Research, IDSS

Southeast Asian SLOC & Security Options

Mr Anders C. Sjaastad, Senior Adviser, NUPI

1030 Break

1045 **Maritime Security in Southeast Asia (Part II)**

Chairman: *Mr Kwa Chong Guan*, Head of External Programmes, IDSS

The Security of Regional Sea Lanes

Joshua Ho, Senior Fellow, IDSS

Flags of Convenience as a Complicating Factor in Combating Crime at Sea

Gunnar Stolsvik, Legal Adviser, Norwegian Coast Guard

Archipelagic Sea Lanes Passage in Southeast Asia: Developments and Uncertainties

Dr Robert Beckman, Associate Professor, Faculty of Law, NUS

Building Good Order at Sea in Southeast Asia: The Promise of International Regimes

Dr Sam Bateman, Senior Fellow, IDSS

Maritime Disputes in the South China Sea

Dr Ralf Emmers, Assistant Professor and Deputy Head of Studies, IDSS

1230 End of Public Seminar

LIST OF PARTICIPANTS

1. Arabinda Acharya
Associate Research Fellow
Institute of Defence and Strategic Studies
Nanyang Technological University
Blk S4 Level B4
Nanyang Ave
Singapore 639798
Email: isarabinda@ntu.edu.sg
2. Sam Bateman
Senior Fellow
Institute of Defence and Strategic Studies
Nanyang Technological University
Blk S4 Level B4
Nanyang Ave
Singapore 639798
Email: issambateman@ntu.edu.sg
3. Robert Beckman
Associate Professor and vice-Dean
Faculty of Law
National University of Singapore
13 Law Link
Singapore
Email: lawbeckm@nus.edu.sg
4. Jan Georg Christophersen
Researcher
Norwegian Police University College
Slemdalsveien 5
P O Box 5027 Majorstua
0301 Oslo
Norway
Email: janchr@phs.no
5. Barry Desker
Director
Institute of Defence and Strategic Studies
Nanyang Technological University
Blk S4 Level B4
Nanyang Ave
Singapore 639798
Email: isbdesker@ntu.edu.sg
6. Ralf Emmers
Assistant Professor & Deputy Head of Studies
Institute of Defence and Strategic Studies
Nanyang Technological University
Blk S4 Level B4
Nanyang Ave
Singapore 639798
Email: isremmers@ntu.edu.sg
7. Rohan Gunaratna
Head of International Centre for Political Violence
and Terrorism Research
Institute of Defence and Strategic Studies
Nanyang Technological University
Blk S4 Level B4
Nanyang Ave
Singapore 639798
Email: isrkgunaratna@ntu.edu.sg
8. Joshua Ho
Senior Fellow
Institute of Defence and Strategic Studies
Nanyang Technological University
Blk S4 Level B4
Nanyang Ave
Singapore 639798
Email: ishhho@ntu.edu.sg
9. Kwa Chong Guan
Head of External Programmes
Institute of Defence and Strategic Studies
Nanyang Technological University
Blk S4 Level B4
Nanyang Ave
Singapore 639798
Email: iscgkwa@ntu.edu.sg
10. Tay Lim Heng
Chief Executive
Maritime and Port Authority of Singapore
460 Alexandra Road
#19-00 PSA Building
Singapore 119963
11. Lawrence W. Prabhakar
Visiting Fellow
Institute of Defence and Strategic Studies
Nanyang Technological University
Blk S4 Level B4
Nanyang Ave
Singapore 639798
Email: lawrence_prabhakar@yahoo.com
12. Catherine Zara Raymond
Associate Research Fellow
Institute of Defence and Strategic Studies
Nanyang Technological University
Blk S4 Level B4
Nanyang Ave
Singapore 639798
Email: isczraymond@ntu.edu.sg

13. Anders C. Sjaastad
Senior Adviser
Norwegian Institute of International Affairs
C.J. Hambros plass 2 D
P O Box 8159 Dep
N-0033 Oslo
Norway
Email: AndersC.Sjaastad@nupi.no
14. John Skogan
Senior Researcher
Norwegian Institute of International Affairs
C.J.Hambros plass 2D
P O Box 8159 Dep
N-0033 Oslo
Norway
Email: JKS@nupi.no
15. Gunnar Stølsvik
Legal Adviser
Norwegian Coast Guard
Grev Wedels plass 9
0151 Oslo, Norway
Email: gstolsvik@mil.no
16. Christian Marius Stryken
Research Fellow
Norwegian Institute of International Affairs
C.J. Hambros plass 2 D
P.O. Box 8159 Dep. N-0033 Oslo
Email: cms@nupi.no
17. Enok Nygaard
Ambassador
Norwegian Embassy
Email: emb.singapore@mfa.no
18. Lise Nordgaard
First Secretary
Royal Norwegian Embassy
Email: lni@mfa.no
19. Michael Koh
Senior Manager
MINDEF
Email: cynthia_quek_ck@midhq.gov.sg
20. Ensley Tan
Senior Office
MINDEF
Email: cynthia_quek_ck@midhq.gov.sg

Other Participants

21. Yvonne Grawert
Research Officer, Political - Economic Section
Australian High Commission
22. Mark Jerrett
Defence Adviser
Australian High Commission
23. Nigel J. Race
Commander Royal Navy Liaison Officer and
Assistant Defence Adviser, British High
Commission
24. Dai Bing
Assistant to DA
Embassy of PRC
25. Gilles Bonavita
Defence Attache
French Embassy
26. Lee Sang Dae
Defence Attache
Embassy of the Republic of Korea
27. Francisco N Cruz Jr
Defence Attache
Philippines Embassy
28. Yury Zolotarev
Defence Attache
The Russian Embassy
29. Bengt Jarvid
Defence Attache
Embassy of Sweden
30. Charles Rivers Cleveland
US Defense & Naval Attache
US Embassy
31. Joe Brummund
Special Agent
NCIS, Singapore
32. Chan Beng Seng
Sea Transport
Ministry of Transport
33. Chang Li Lin
Head, Public Affairs
Institute of Policy Studies

34. Bernard Lim
Deputy Director
Security, Ministry of Transport
35. Lim Li Wei
HQ Republic of Singapore Navy
36. Ng Li Sa,
Assistant Director
Sea Transport, Ministry of Transport
37. Julie S. Seckel
Senior Analyst
NCIS Singapore
38. Teresa Tenorio
Senior Analyst
NCIS Singapore
39. Fabian Teo
HQ Republic of Singapore Navy
40. Alex Duperouzel
Managing Director
Background Asia Group
41. John Fawcett-Ellis
General Counsel & Regional Manager
INTERTANKO, Asia
42. Marcus Hand
Southeast Asia Editor
Lloyd's List
43. Ragnar E Hansen
Regional Manager
Det Norske Veritas Pte Ltd
44. Kenneth Kee
Managing Director
Petroships Pte Ltd
45. Steve Ladd
Regional Director
Raytheon's Integrated Defense Systems (IDS)
46. Kenneth Marshall
INTERTANKO, Asia
47. Sumathy Permal
Researcher
Maritime Institute of Malaysia
48. Teh Kong Leong
Executive Director
Singapore Maritime Foundation
49. Stephen Weatherford
Director of Operations
Maritime Security
Glenn Defense Marine (Asia) Pte Ltd
50. Mark Womersley
Manager Environmental Systems, BMT
51. T.S. Ramadas Rao
Asia Editor
Fairplay Ltd
52. Donald Urquhart
Correspondent
The Business Times
53. John Harrison
Manager (Research)
ICPVTR, IDSS
54. Bouchaib Silm
Research Analyst
ICPVTR, IDSS
55. Michelle Teo
Communications & Conference Coordinator, IDSS
56. Bobby Thomas
Research Assistant, IDSS
57. Jenny Fei
Institute of Defence and Strategic Studies
58. Horta Loro
Institute of Defence and Strategic Studies
59. Chairul Fahmy Hussaini
Institute of Defence and Strategic Studies
60. Lee Soon Tat Christopher
Institute of Defence and Strategic Studies
61. NadÉge Orban
Institute of Defence and Strategic Studies
62. Stephanie Theng
Institute of Defence and Strategic Studies

ABOUT IDSS

The Institute of Defence and Strategic Studies (IDSS) was established in July 1996 as an autonomous research institute within the Nanyang Technological University. Its objectives are to:

- Conduct research on security, strategic and international issues.
- Provide general and graduate education in strategic studies, international relations, defence management and defence technology.
- Promote joint and exchange programmes with similar regional and international institutions; organise seminars/conferences on topics salient to the strategic and policy communities of the Asia-Pacific.

Constituents of IDSS include the International Centre for Political Violence and Terrorism Research (ICPVTR) and the Asian Programme for Negotiation and Conflict Management (APNCM).

RESEARCH

Through its Working Paper Series, *IDSS Commentaries* and other publications, the Institute seeks to share its research findings with the strategic studies and defence policy communities. The Institute's researchers are also encouraged to publish their writings in refereed journals. The focus of research is on issues relating to the security and stability of the Asia-Pacific region and their implications for Singapore and other countries in the region. The Institute has also established the S. Rajaratnam Professorship in Strategic Studies (named after Singapore's first Foreign Minister), to bring distinguished scholars to participate in the work of the Institute. Previous holders of the Chair include Professors Stephen Walt (Harvard University), Jack Snyder (Columbia University), Wang Jisi (Chinese Academy of Social

Sciences), Alastair Iain Johnston (Harvard University) and John Mearsheimer (University of Chicago). A Visiting Research Fellow Programme also enables overseas scholars to carry out related research in the Institute.

TEACHING

The Institute provides educational opportunities at an advanced level to professionals from both the private and public sectors in Singapore as well as overseas through graduate programmes, namely, the Master of Science in Strategic Studies, the Master of Science in International Relations and the Master of Science in International Political Economy. These programmes are conducted full-time and part-time by an international faculty. The Institute also has a Doctoral programme for research in these fields of study. In addition to these graduate programmes, the Institute also teaches various modules in courses conducted by the SAFTI Military Institute, SAF Warrant Officers' School, Civil Defence Academy, Singapore Technologies College, and the Defence and Home Affairs Ministries. The Institute also runs a one-semester course on '*The International Relations of the Asia Pacific*' for undergraduates in NTU.

NETWORKING

The Institute convenes workshops, seminars and colloquia on aspects of international relations and security development that are of contemporary and historical significance. Highlights of the Institute's activities include a regular Colloquium on Strategic Trends in the 21st Century, the annual Asia Pacific Programme for Senior Military Officers (APPSMO) and the biennial Asia Pacific Security Conference (held in conjunction with Asian Aerospace). IDSS staff participate in Track II security dialogues and scholarly conferences in the Asia-Pacific. IDSS has

contacts and collaborations with many international think tanks and research institutes throughout Asia, Europe and the United States. The Institute has also participated in research projects funded by the Ford Foundation and the Sasakawa Peace Foundation. It also serves as the Secretariat for the Council for Security Cooperation in the Asia-Pacific (CSCAP), Singapore. Through these activities, the Institute aims to develop and nurture a network of researchers whose collaborative efforts will yield new insights into security issues of interest to Singapore and the region.

