The United States, Asia and the War against Maritime-related Terrorism

Michael Richardson

Much is now known about the operations and plans on land and in the air of Al-Qaeda, its affiliates and emulators. But less is known about the maritime-related activities of terrorist organisations with international connections and reach. The United States, Japan and other governments around the world are concerned not only that Al-Qaeda and like-minded terrorist groups will strike more frequently, but that they may strike with more powerful weapons in new ways, including via the sea.

Officials and counter-terrorism experts in the U.S., Europe and Asia have warned that the next step up in mass casualty terrorism may be an attack using chemical, biological, radiological or nuclear weapons. A ship or cargo container is regarded as one of the most likely delivery devices for a nuclear or radiological bomb. U.S., Asian and other officials who worry about such an attack believe that weapons of mass destruction and terrorism have become interlocking threats—and could, if more effective safeguards are not put in place, fuse in an extremely dangerous challenge to international security, stability and trade—and thus to the functioning of the globalised economy.

Al-Qaeda & Maritime Terrorism

Al-Qaeda understands the vital role of sea transport and has exploited it for years. In one of the earliest acts of maritime-related terrorism planned by the group, a cargo ship it controlled delivered the explosives that Al-Qaeda operatives used to bomb two U.S. embassies in East Africa in August 1998, killing 224 people and injuring more than 5,000. U.S. investigators say they have evidence that Al-Qaeda had bought or controlled ships at least as early as 1994, either to make money from trade or for operational purposes.

Al-Qaeda carried out the suicide attack in Yemen in October 2000 on the American destroyer USS Cole. Two years later, in October 2002, the French-registered oil tanker, Limburg, carrying crude oil off the coast of Yemen, was crippled and set ablaze in another terrorist attack using an explosive-laden small boat.

These are some examples of terrorist attacks on naval and commercial vessels or the use of ships for terrorist purposes.

Al-Qaeda has also shown an interest in cargo containers on ships to ferry agents,

weapons and terrorist-related material around the world. For example, shortly before his capture in Pakistan in March 2003, Al-Qaeda's director of global operations, Khalid Sheikh Mohammed, offered to invest about $US200,000 in an export firm in exchange for access to the containers used by the firm to ship garments to Port Newark in the New York-New Jersey harbour complex. As you know, Khalid Sheikh Mohammed is the alleged mastermind of the terrorist attacks on New York and Washington in September 2001 using hijacked civilian jet airliners to kill nearly 3,000 people from 80 nations, including many Asian countries. His interest in ships and their cargo containers must be regarded as an ominous warning sign.

Terrorism's New Frontier?

Global shipping is an industry of vast scale and labyrinthine complexity. It is also lightly regulated, frequently beyond the reach of the law and often secretive in its operations, especially in concealing the real owners of ships. Oceans cover 70% of the world's surface and most of this huge area is classified by law as international waters, or high seas, where ships are free to roam unhindered except in certain very specific circumstances.

Yet shipping is the heart of global trade. Most international trade—about 80% of the total by volume—is carried by sea. About half the world's trade by value, and 90% of the general cargo, is transported in containers.

Seaborne trade is vulnerable to a well-planned terrorist attack on two fronts. First, the port-city hubs that form an interdependent global trading web and increasingly dominate container shipping. There are over 30 such mega port-cities spread across Asia, North America and Europe. They include Tokyo, Yokohama, Nagoya, and Kobe here in Japan. Many of these giant port-cities are also the locations of the top 20 container terminals. Second, the handful of international straits and canals through which 75% of world maritime trade passes. For example, about one third of the world's trade and half its oil go through the Straits of Malacca and Singapore. These and other key international waterways are relatively narrow and could be closed, at least temporarily, to shipping in an accident or terrorist strike.

Over 50,000 ships a year involved in international trade, or an average of about 140 a day, transit the Straits of Malacca and Singapore and the traffic is growing. Many of these vessels carry inflammable, explosive, toxic or polluting cargo that could be of interest to terrorists who might want to turn ships into weapons. This has worried shipping companies, seafarers and regional governments, including China, Japan and South Korea that depend on unhindered passage and safe navigation through these shallow and increasingly congested chokepoints for most of their seaborne trade, including their vital oil imports.

Asian Threats

Against this background, let me summarise what is publicly known about recent maritime terrorist threats in East Asia.

In Southeast Asia, Al-Qaeda's affiliates, including Abu Sayyaf and Jemaah Islamiyah, have attacked shipping or planned to do so. Philippine officials now say they have conclusive evidence that Abu Sayyaf was responsible for placing the bomb that sank a passenger ferry in Manila Bay on February 26 last year, leaving 116 people either dead in the fire or drowned or still missing, presumed dead. In terms of loss of life, this is the worst maritime terrorist attack in recent years.

The Singapore government has said that when it cracked down on the Jemaah Islamiyah network starting in December 2001, it discovered that the group had made preliminary plans to prepare for suicide attacks on U.S. warships visiting Singapore. The JI group also intended to carry out multiple ammonium nitrate truck bomb attacks against Western and Israeli diplomatic and other targets in Singapore, including naval bases used by the American military in Singapore, and had started buying the explosives.

Japan is among the countries that have been singled out for attack by Al-Qaeda for supporting the U.S.-led military coalition in Iraq. Last May, Japanese police arrested five foreigners—three from Bangladesh, one from India and the other from Mali—who were said to have been in contact with Lionel Dumont, a 33-year old French national of Algerian descent believed to have ties to Al-Qaeda. Dumont was arrested in Germany in December 2003 and extradited to France in May 2004 for crimes he was convicted of committing there in the 1990s while belonging to a radical Islamist group known as the Roubaix gang. Japanese media have reported that Dumont tried to establish an Al-Qaeda cell when he worked as a used-car exporter in Japan in 2002 and 2003. He is said to have sent substantial amounts of money to one of the arrested Bangladeshis who had an office near the U.S. navy base in Yokosuka on the outskirts of Tokyo. The Yomiuri Shimbun reported that the office was suspected of being used to gather information on the base—the largest American naval facility outside the U.S.—in preparation for a terrorist attack.

Transport Security

The use of civilian planes as terrorist weapons exposed the vulnerability of the global transport system. New security measures were introduced, initially for aviation but later for other forms of transport as well, including shipping, ports and cargo containers.

Some of those rules are set out in the International Ship and Port Facility Security

Code and were applied from July to some 46,000 ships and 2,800 ports responsible for most seaborne trade. Passed by the International Maritime Organisation after the 9/11 attacks, the ISPS code makes it mandatory for ships and ports to have security plans, appoint security officers, keep security records and pass an audit proving they can put the plans into practice. Ships also had to install special equipment by the end of 2004 to alert authorities in case of a terrorist attack and enable them to respond.

Container Security Initiative

Concern that terrorists could mount a catastrophic attack on the U.S. by hiding a nuclear weapon in a shipping container, or a radiological bomb using conventional explosives to disperse radioactive poison, prompted the Bush administration to implement the Container Security Initiative. The CSI was first announced in January 2002. Eighteen countries have signed CSI agreements with the U.S. It is now operational in 34 major seaports in Europe, Asia, North America and Africa. Most of the 20 leading mega-ports that ship cargo containers to the U.S. are in Asia and Europe.

As many as 17 million containers are in circulation, crisscrossing the globe by sea and making over 230 million journeys through the world's ports each year. Nearly nine million containers arrive by sea in U.S. ports alone. These uniform steel boxes are the work horses of world trade. But they are also potential Trojan Horses in the 21st century.

The CSI programme is designed to sort out the small minority of containers that may pose a risk from the vast majority that carry legitimate trade goods. The programme identifies and checks suspect containers for possible weapons of mass destruction or dangerous radioactive substances that terrorists might try to place inside. The screening of suspect cargo bound for the U.S. is based on intelligence profiling and is done at foreign ports, before the boxes are shipped to America. Checks of containers reaching American ports by sea increased to 5.2% of total arrivals by September 2003, from 2% two years earlier. But worldwide, less than 1% of shipped cargo is screened using X-ray and Gamma-Ray devices to peer inside and check for explosives, radioactive substances or other dangerous materials.

WMD

Alarmed at loopholes in arms control treaties that allow countries like North Korea and Iran to import nuclear material and use it develop clandestine weapons programmes, the U.S. and other concerned nations launched the Proliferation Security Initiative in May 2003 to detect, deter and if necessary intercept shipments of weapons of mass destruction, their

delivery systems and related materials worldwide. This coalition is outside the framework of the UN and the international treaty system.

Before the PSI was established to coordinate the crackdown on international shipments of WMD materials, the U.S. and other countries trying to halt them had to rely on ad hoc exchanges of intelligence, and interceptions and searches that mostly took place in ports or the territorial waters of concerned nations. The PSI is likely to become a permanent feature of international arms control precisely because it provides teeth to existing treaties and multilateral arrangements, as well as national laws covering the export of strategically sensitive materials. If they fail to halt clandestine WMD programs and shipments, the PSI is intended to provide a safety net.

The PSI is being enlarged and made stronger by its members because of growing concern that countries or criminal organizations will pass WMD-related materials to terrorists who may use them to attack the U.S., its allies or other friendly countries. The exposure in February 2004 of an extensive and long-running nuclear black market that funneled weapons technology to Iran, Libya and North Korea from Pakistan has heightened these fears.

There are 15 core members of the PSI, after Russia joined last June. The others are Australia, Britain, Canada, France, Germany, Italy, Japan, the Netherlands, Norway, Poland, Portugal, Spain, Singapore and the U.S. But more than 60 countries have reportedly signalled that they support the aims of the PSI and are ready to take part in interdiction efforts on a case-by-case basis.

A major weakness of the PSI is its limited authority under international law. The U.S. and its partners are working to rectify this so that they can stop WMD shipments even when they take place outside the jurisdiction of the PSI countries. At sea, national authority extends no more than 12 nautical miles from the coast. Beyond this, in international waters, the state whose flag a ship flies must expressly consent before foreign warships can legally halt the vessel—except in the case of a few "universal crimes" such as piracy, slavery and unauthorised broadcasting.

The PSI gained additional legal authority in April 2004 when the UN Security Council unanimously passed resolution 1540 obliging all governments to adopt domestic controls, and where possible to cooperate, to prevent illicit trafficking in WMD materials and delivery systems. At the International Maritime Organization, the UN agency responsible for the safety of shipping at sea, the U.S. has tabled amendments to the 1988 Convention on the Suppression of Unlawful Acts Against the Safety of Maritime Navigation so that it will cover terrorist crimes, including using ships as weapons or to carry WMD-related materials. Meanwhile, America and Britain are negotiating bilateral deals with major flag states.

Flag State Consent

In February 2004, the U.S. and Liberia announced that they had agreed to new boarding and inspection arrangements on the high seas where either side has reasonable grounds to suspect that one of their ships is carrying items of proliferation concern. In May, the U.S. and Panama signed a similar agreement. In August, the Republic of the Marshall Islands followed suit. Panama and Liberia are, respectively, the world's largest and second largest ship registries; the Marshall Islands is the seventh biggest. Their combination, plus ships registered in PSI partner countries, mean that over 50% of total commercial shipping, measured in deadweight tonnage, is now subject to rapid action consent procedures for boarding, search and seizure by the U.S. or a PSI core member.

America can now request the right to board a suspect Panamanian-, Liberian- or Marshall Islands-flagged ship anywhere in international waters—and do so after waiting no more than two hours for a response from the register. In other words, no reply by then is to be taken as approval for boarding. The U.S. regards this arrangement as a model for similar agreements it is pursuing with a number of other key flag states.

East Asia's Response

How have East Asian countries reacted to international concern about the risk of maritime-related terrorism? In summary, reactions have varied, as they have in other parts of the world, depending on countries' available resources and the priorities of governments and the private sector, including the degree of dependence of national economies on seaborne trade.

ISPS Code

The International Maritime Organisation reported in August 2004 that ships and port facilities were approaching complete compliance with the new IMO security measures in the International Ship and Port Facility Security Code which came into effect on July 1. Yet many governments in Asia and elsewhere have been under pressure to allow quick procedures for approving compliance for ships and ports, even if sub-standard, because failure to do so could have resulted in substantial trade losses and damage to their reputation.

The real problem may be that implementation and enforcement of the ISPS Code is too lax, not too stringent. To achieve its maximum intended effect, the code depends on governments or their designated agents to apply its standards to the ships on their registers

and in the port facilities in their countries. In Southeast Asia, there have been reports of significant non-compliance in the Philippines. There are also doubts about the degree of security in Indonesian ports and on some Indonesian vessels.

Straits of Malacca

The coordinated naval patrols in the Strait of Malacca started last July by Indonesia, Malaysia and Singapore are a small step in the right direction to deter both pirate and terrorist attacks. But there is still considerable scope for the participants to improve and intensify their patrolling and information-sharing related to the straits.

In terms of operational effectiveness, it would make sense for the three littoral states to coordinate their activities with the Indian navy and coast guard. The latter are active in the western approaches to the Strait of Malacca and Singapore. India's Far East Naval Command is based in the Andaman and Nicobar Islands. Indian and Southeast Asian navies have frequently exercised together the past few years. In 2002 and 2003, in the build-up to the U.S.-led invasion of Iraq to remove the regime of Saddam Hussein, the Indian navy escorted U.S. noncombatant and merchant ships that were transiting the Strait of Malacca with high value military cargoes. The stated aim was to protect them from possible terrorist attack.

However, a formal Indian linkage to the tri-partite Strait of Malacca patrols might well be politically sensitive. China has said that while it supports efforts by the three coastal states, individually or jointly, to safeguard the straits and counter possible terrorist threats to shipping, any outside military intervention with no regard to the interests and sovereignty of the littoral countries would cause great concern in Beijing. China has expressed fears that in a conflict with America over Taiwan, the U.S. with support from Japan might mount a naval blockade to close the Southeast Asian straits to Chinese shipping, thus starving China of vital oil and other imports. India's increasingly close relations with the U.S. in recent years and its longstanding rivalry with China may make it similarly suspect in Beijing's eyes. China has made it clear that it is very concerned not just about security in key Southeast Asian straits but who is in charge of that security.

CSI

East Asian economies that do a lot of direct shipping trade with the U.S. have signed onto the U.S.-sponsored Container Security Initiative. In Northeast Asia, they include China, Japan and South Korea; in Southeast Asia, Singapore, Thailand and Malaysia. China agreed in principle in September 2002 to allow small U.S. Customs and Border Protection teams to

operate alongside their Chinese counterparts to check any suspect containers before they are shipped to the U.S. A U.S. inspection team has been stationed in Hong Kong port since May 2003 but the CSI has not yet been implemented in the Chinese mainland ports of Shanghai and Shenzhen.

Had major trading partners of the U.S. refused to participate in the CSI, they would have incurred substantial added costs and schedule disruptions as their cargo containers were delayed for inspection in U.S. ports or even refused entry into the world's biggest market.

PSI

Japan and Singapore are the only East Asian countries among the 15 core participants in the Proliferation Security Initiative. One of the most recent PSI maritime interdiction exercises was hosted by Japan last October. Japan, the U.S., Australia and France contributed operational assets. Eighteen other countries took part as observers, including five from the Asia-Pacific region – Cambodia, New Zealand, the Philippines, Singapore and Thailand. Other East Asian countries are reluctant to be openly associated with a U.S.-sponsored program either because they fear it may override national sovereignty and freedom of navigation, or because they don't want to be tagged as a follower of the U.S.

As convenor of the six-party talks on Korea, China is wary of joining the PSI because this would be taken by North Korea as a partisan and provocative move. South Korea shares this concern. Pyongyang sees the PSI as a hostile alliance to enforce a blockade to bring North Korea to its knees. China has other concerns about the PSI. It is worried the arrangement could be used as a pretext to seize legal Chinese missile and arms exports. It is also worried that the PSI could infringe on the right of innocent passage for Chinese ships through the territorial waters of a PSI member country, and their right of transit passage through straits used for international shipping, including key Southeast Asian waterways.

In Southeast Asia, Malaysia and other countries have shown interest in tightening their export controls over strategically sensitive items to prevent WMD trafficking. If the threat of nuclear proliferation in Asia and the associated trade in WMD-related goods becomes more acute, Southeast Asian countries are likely to become increasingly open in supporting the PSI and its aims. These are in line with ASEAN's South East Asian Nuclear Weapon Free Zone.

Future

Against this background, the second Bush administration can be expected to (1) seek to get additional countries, including India, Indonesia, Malaysia and perhaps eventually China and South Korea, to participate in PSI activities so that it becomes a more effective mechanism for exchanging timely intelligence and conducting joint operations to deter, and if necessary prevent, the trade in WMD-related materials at sea, on land and by air; (2) work with major U.S. trade partners in the World Customs Organisation and elsewhere to expand the scope of the Container Security Initiative and other supply chain security measures, so that they cover an ever larger proportion of world commerce, not just trade bound for the U.S.; and (3) encourage the three Strait of Malacca coastal states to improve security in the major international shipping arteries in Southeast Asia and work more closely with Japan and other leading users to that end.