Chapter 1

Maritime Security in East Asia and the Nonproliferation of Weapons of Mass Destruction

Since the terrorist attacks on September 11, 2001, there has been mounting concern in the international community over the proliferation of weapons of mass destruction (WMD), missiles, and WMD-related materials and equipment (hereinafter collectively referred to as "WMD and related materials") and their transfer to international terrorist organizations. There are a number of shipping routes in East Asia, such as the Malacca Strait, which are essential to the economic development of the region. In recent years, however, piracy in this region has been on the rise, posing a threat to the safe passage of ships. In addition, the danger has increased of terrorists using relatively unguarded and vulnerable routes to undertake acts of maritime terrorism and to transport WMD and related materials.

The attacks on the USS *Cole* in 2000 and the French tanker *Limburg* in the waters off Yemen in 2002, both carried out by members of al-Qaida, demonstrated that international terrorist organizations are capable of carrying out acts of terrorism at sea. As the activities of terrorists who prey on ships passing through the Malacca Strait, the world's busiest waterway, gravely affect the global economy, the security authorities of the littoral states are exercising unremitting vigilance. There is rising concern in East Asia that terrorists working in concert with pirates may carry out acts of maritime terrorism. No actual incident has taken place suggesting such collaboration between them, at least not yet. However, given the rampant piracy and the known existence of terrorist networks in Southeast Asia, the possibility cannot be ruled out.

How to prevent the transport of WMD and related materials along these maritime trade routes has become a serious issue, and the international community has taken measures to strengthen control of the navigation of ships and their cargoes. New initiatives endowed with a degree of enforcement power to prevent and control the outflow of WMD and related materials—such as the Proliferation Security Initiative (PSI) and the United Nations (UN) Security Council Resolution 1540—have been adopted. Some East Asian countries have shown relatively little interest in these initiatives, while Japan is making efforts to urge such countries to actively participate in these collective efforts.

1. Maritime Terrorism and the Proliferation of WMD in East Asia

(1) Threats of Piracy and Maritime Terrorism in Southeast Asia

East Asia is a region replete with diversity in terms of race, religion, language, political systems, and stages of economic development. Because of this diversity, it does not easily lend itself to region-wide integration or consensus of opinion. On the other hand, the diverse stages of economic development helped achieve a flying-geese pattern of development, spearheaded by Japan. As a result, East Asian economies as a whole have achieved long-term rapid growth in recent decades. This is unparalleled in the other regions of the world. Moreover, increasing intraregional trade has heightened the interdependence of the region's economies to such an extent that a self-sustaining economic cycle has begun to emerge. Foreign direct investment from Japan and newly industrializing economies (NIEs) into the countries and areas of the region has been the main driving force, which in turn has been fuelled by the region's relative stability. Thanks to the positive growth cycle of investment and trade, East Asian economies are highly likely to achieve further development in the decades to come. In recent years, these countries have actively worked out bilateral and multilateral free trade agreements among themselves, giving impetus to economic integration of East Asia in the future.

Table 1.1. Trends in East Asian intraregional exports

(In billions of $)

		Importing countries and areas				
Country	**Year**	**Japan**	**NIEs**	**ASEAN4**	**China**	**Total**
Japan	1981	–	21.3	10.7	5.1	37.1
	1991	–	66.9	25.4	8.6	100.9
	2001	–	87.5	37.5	30.9	155.9
NIEs	1981	9.1	8.3	9.2	0.2	26.8
	1991	32.0	41.7	27.7	1.9	103.3
	2001	49.9	87.1	58.6	28.3	223.9
ASEAN4	1981	16.2	8.9	1.7	0.4	27.2
	1991	23.1	23.4	4.1	2.3	52.9
	2001	40.3	58.8	18.0	58.8	175.9
China	1981	4.7	0.7	0.7	–	6.1
	1991	10.3	4.8	2.1	–	17.2
	2001	45.0	23.3	10.0	–	78.3

Source: Data from the Japanese Ministry of Economy, Trade and Industry, *White Paper on International Trade 2003*.
Note: "NIEs" here includes South Korea, Taiwan, and Singapore. "ASEAN4" covers Indonesia, Malaysia, the Philippines, and Thailand.

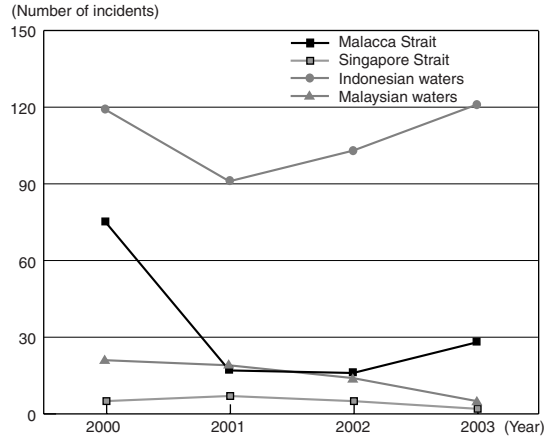
East Asian intraregional trade in terms of exports has expanded sharply since the 1980s (see Table 1.1). During the 20 years from 1981, the intraregional exports of NIEs have shown an approximate eight-fold increase, those of the ASEAN4 (Indonesia, Malaysia, the Philippines, and Thailand) around 6.5-fold and those of China more than 12-fold increases. In the process, furthermore, regional trade has changed from a vertical to a horizontal structure (exchanging parts and finished products) or to that of intra-firm and intra-industrial trade. This indicates that production networks have been created within East Asia. Due to the export-led growth of East Asian economies, the freight volumes handled by the region's major ports have been increasing dramatically. A survey shows that of the world's 10 largest container-handling ports in 2002, the top six were all in East Asia. Hong Kong, the largest, handled 19.14 million containers (up from 14.65 million containers in 1980, the then third largest in the world); Singapore, the second largest, 16.8 million (up from 9.17 million in 1980, the then sixth largest); Pusan 9.44 million (up from 6.34 million in 1980, the then 16th largest); and Shanghai 8.61 million (1980 figure unknown, ranking below the top 20). The increase in freight volumes handled by the major ports of South Korea and China stands out.

Maritime transport is the main means of transportation underpinning merchandise trade. Since resource-poor Japan depends on imports for its necessary resources for development, the security of maritime transport routes is an important issue directly affecting its national interests. Ensuring the safety of maritime navigation is also a crucial task for the steady development of the global economy. In East Asia, important sea-lanes leading to the South China and East China seas pass through the Singapore and Malacca straits. Roughly 50,000 vessels, carrying about a quarter of the world's seaborne cargo including half of the cargo originating from, or destined for, Northeast Asian countries (Japan, China, and South Korea), pass through the narrow waters of the Malacca Strait each year. More than 80 percent of the oil tankers bound for Japan and South Korea from the Middle East also pass through the same strait, making it a vitally important maritime route for Northeast Asia. In recent years, however, the damage inflicted by piracy in the Malacca Strait and its surrounding waters has increased, giving rise to serious concern about the safety of maritime transport in the area. The increasing incidence of attacks on soft targets such as tourist sites and commercial establishments by members of al-Qaida-linked organizations since the terrorist attacks on September 11, 2001, has also raised concern about maritime terrorism.

According to statistics compiled by the International Maritime Bureau (IMB) affiliated with the International Chamber of Commerce, worldwide incidents of piracy and armed robbery against ships decreased to 335 in 2001 after peaking at 469 in 2000. In 2002 and 2003, however, they reverted to levels approaching that of 2000: 370 and 445, respectively. The most dangerous area is Southeast Asian waters with 156 incidents in 2003, accounting for 35 percent of the world's total. This represents a decline from the area's share of 47 percent in 2000. This trend coincides with the introduction of more stringent maritime patrols carried out by Malaysia and Singapore. In fact, incidents of piracy in the Singapore Strait fell from five in 2000 to two in 2003. Those occurring in Malaysian waters also have declined from 21 to as few as five during the same period. By contrast, those that took place in Indonesian waters increased to 121 in 2003, representing 78 percent of the incidents in Southeast Asian waters and significantly driving up the total number of incidents that occurred in the region.

The number of incidents involving Japanese ships has been on the decline after peaking at 39 in 1999 and dropped to 12 in 2003. An overwhelming percentage of the incidents involving Japanese ships occurred in Southeast Asian waters: 27 out of 39 incidents took place in the peak year of 1999 and 11 out of 12 of them in 2003. A total of 138 out of 194 incidents, or 71 percent of the total, reported in the 14-year period from 1989 to 2003, have occurred in Southeast Asian waters. Most of them occurred in Indonesian waters, making the area the most dangerous.

Figure 1.1. Number of pirate attacks in Southeast Asia



Sources: Data from the International Maritime Bureau Web site.

In July 2004, the IMB also published data on piracy that had occurred in various parts of the world in the first half of 2004. According to the data, while the total number of incidents had decreased to 182, down 52 compared with the

Table 1.2. Incidents of piracy involving Japanese ships, by region

Year	Total	Regions					
		East Asia	Of which, Southeast Asia	India	Africa	Latin America	Others
1989	1	1	1	0	0	0	0
1990	4	4	4	0	0	0	0
1991	8	8	8	0	0	0	0
1992	7	7	7	0	0	0	0
1993	2	1	0	0	1	0	0
1994	8	6	6	1	0	1	0
1995	8	5	2	1	0	2	0
1996	11	10	8	0	1	0	0
1997	18	12	12	1	2	0	3
1998	19	14	14	1	4	0	0
1999	39	28	27	6	1	1	3
2000	31	22	22	5	0	3	1
2001	10	4	4	3	0	3	0
2002	16	12	12	0	2	1	1
2003	12	11	11	1	0	0	0
Total	194	145	138	19	11	11	8

Source: Data from the Japanese Ministry of Land, Infrastructure and Transport Web site.
Note: The figures represent the numbers of incidents in which pirates boarded a ship and/or stole goods and include only those voluntarily reported by ship-owning companies and other parties concerned.

corresponding period in 2003, those that had occurred in the Singapore and Malacca straits had increased sharply. The largest number of them (50, down from 64 in the first half of 2003), or one quarter of the total, took place in Indonesian waters. Those in the Malacca Strait increased to 20 (up from 15), the highest number since 1990. Those in the Singapore Strait had risen to seven (up from zero), the second highest since 1999. The combined number of incidents in these two straits was almost double that of the same period in 2003. What is worse, the number of crewmen killed by pirates had increased sharply, underlining the pirates' increasing propensity toward committing atrocities.

In addition to increasing pirate brutality, the IMB's report mentions the following as characteristic of recent piracy incidents:

(a) While hijackings of merchant ships and cargoes ceased in 2003, there was an increase in the number of attacks on small vessels such as tugboats and barges as well as military-style operations in which militant groups kidnap crewmen for ransom to raise funds for their activities.

(b) Attacks on tankers carrying dangerous cargoes have increased. The hijacking of such tankers by terrorists and extremists poses a serious threat to the environment and the security of the region.
(c) There have been an increasing number of coordinated and simultaneous attacks on ships using several boats in Indonesian waters, the Malacca Strait, and around Bintan Island.

Recent acts of piracy suggest a trend away from simple robberies of money and goods by inhabitants or fishermen based in surrounding areas to what is suspected to be the work of terrorists or extremists who are working for their causes such as separatist or independence movements. In Indonesia, the Suharto regime collapsed in the wake of the 1997 currency crisis, and economic recovery has since lagged behind the other members of the Association of Southeast Asian Nations (ASEAN). Worse still, the separatist or independence movements and the religious conflicts in Aceh and Maluku have not subsided. The clash between the National Armed Forces of Indonesia (TNI) and the Free Aceh Movement (GAM) flared up again in 2003. It is believed that these developments have fueled the rampant piracy in Indonesian waters. Thanks to the strengthened maritime patrols, acts of piracy in the Singapore Strait and Malaysian waters have decreased, proving the effectiveness of intensified maritime patrols in curtailing piracy. However, Indonesia is not in a position to reinforce its navy due to financial constraints, and the navy's current patrolling capability cannot completely cover the country's territorial waters that include thousands of small islands. This vulnerability in its maritime patrol system has contributed to an increase in acts of piracy in Indonesian waters. Meanwhile, as efforts by the United States and other countries to freeze the assets of international terrorist organizations as part of their war on terrorism are taking hold, terrorists might attack ships in search for a new source of funds. Southeast Asian waters where maritime patrols are infrequent and the control of ships' navigation lax might provide an easy staging ground for terrorist activities.

(2) Risk of Global Supply Chain Interruption

The terrorist attacks on September 11, 2001, have drawn international attention to the safety of maritime transportation. The attacks, which caused devastating damage using commercial aircraft, made the aviation authorities of many countries keenly aware of the necessity to tighten air cargo and passenger

controls. As a result, cargo inspection and immigration controls at airports have been progressively enhanced. Although many countries have tightened controls at ports, vigilance against terrorist acts and piracy is still less effective than the measures taken by civil aviation authorities. There is no uniform standard in the shipping industry for examining crew qualifications and, as many of them are not citizens of the flag state, there is a possibility of merchant vessels being infiltrated by terrorists. Many vessels are "flagged out," whereby they are registered in countries other than their own. Moreover, as merchant and passenger ships themselves are not equipped with any means of defense, they are vulnerable to attack after they have left port, their routes not being as strictly monitored as aircraft flights. As the value of cargoes and ships has risen, they represent attractive targets for attacks. Such vulnerabilities of maritime transportation, combined with increasing piracy in the waters around the Malacca Strait, have heightened the sense of vigilance against threats to maritime security.

In October 2000, the USS *Cole* was attacked by a rubber speedboat while at anchor at Aden Port, Yemen, and in October 2002 a French tanker was attacked in a similar fashion in the waters off Yemen. Both of these criminal acts are believed to have been carried out by al-Qaida. In May 2004, CNN reported that Western intelligence had uncovered plans by al-Qaida contemplating an attack on ships moored at ports and maritime choke points, including the Strait of Gibraltar, the Suez Canal and the Malacca Strait. Matthew Daley, US deputy assistant secretary of state for East Asian and Pacific affairs, expressed US concern in Singapore about the threat of maritime terrorism. Robert Mueller, director of the Federal Bureau of Investigation, also issued a warning in Hong Kong that not only ports but also commercial centers could be targets for terrorist groups. With al-Qaida believed to have the capability to attack vessels at sea, the international community is showing mounting vigilance against maritime terrorism. Unlike pirates who pursue financial gains by plundering money and goods from ships, acts of maritime terrorism are politically motivated, with terrorists setting out to achieve political aims by committing violent criminal acts. Sinking ships to interrupt maritime transport or using seized ships as weapons to attack port facilities, other ships, and oil refining facilities are possible methods of maritime terrorism. Therefore, tankers carrying oil, petrochemicals, or liquefied natural gas would be desirable targets for terrorists. If they are technically capable of sinking or blowing up tankers, such tankers themselves could be used as weapons to

interrupt the global supply chain and gravely affect the natural environment. Such terrorist acts would lead to rising transportation costs because of likely hikes in energy prices and insurance premiums and, by extension, have an adverse effect on the global economy.

Concern about maritime security is mounting in this region, particularly in the countries surrounding the Malacca Strait with its narrow waters and busy traffic of ships including oil tankers. The existence of the Jemaah Islamiyah (JI), an al-Qaida-linked terrorist network in Southeast Asia that has perpetrated atrocious terrorist attacks in the past, is the reason for the mounting concern about maritime terrorism in this region. In fact, the JI has been involved in the bombings in Bali in October 2002, of the JW Marriott Hotel Jakarta in August 2003, and in front of the Australian Embassy in Jakarta in 2004. In Mindanao, in the southern part of the Philippines, there is the Moro Islamic Liberation Front (MILF), which operates in conjunction with the JI, and the Abu Sayyaf, which has repeatedly taken hostages. Singapore has flourished by handling intermediary trade and become a hub port for world commerce—so much so that it has serious concerns about the threat of maritime terrorism. At the Shangri-La Dialogue, a regional security conference organized by the London-based International Institute for Strategic Studies in June 2004, Deputy Prime Minister Tony Tan of Singapore stressed the seriousness of the threat by pointing out that maritime terrorism would cripple the development of world trade and by raising the possibility of hijacked tankers or other ships being turned into 'floating bombs' and crashed into oil refineries or ports. He also expressed his support for the Regional Maritime Security Initiative (RMSI) proposed by the United States. In Indonesia, investigation into terrorist sites intensified in the aftermath of the terrorist bombing in Bali in 2002 and has since led to the arrest of a number of JI members. Their confessions strongly suggested the possibility of maritime terrorist attacks. In August 2004, Abdullah Mahmud Hendropriyono, chief of the State Intelligence Agency of Indonesia, announced that detained senior JI members admitted that they had plotted attacks on vessels passing through the Malacca Strait. In Singapore, a number of JI members were arrested toward the end of 2001 and their statements revealed the existence of plans to attack US Navy vessels calling at Changi Naval Base.

Pirate attacks against ships in recent years have also given indications suggesting their potential proximity to maritime terrorism. A case in point was

an oil tanker hijacking by a group of 10 pirates off the coast of Sumatra in March 2003. The pirates took the helm and steered the vessel, altering speed for about an hour. This incident touched off speculation that the terrorists might have used the tanker for training purposes in order to learn how to steer a ship. In January 2004, two Singapore-bound commercial vessels were attacked in Indonesian waters, and in February the same year armed pirates who were believed to be GAM members attacked two oil tankers. In April 2004, armed pirates attacked a tugboat in the sea off Sulu Island and fled with its captain and crewmen as hostages. The same month, armed pirates attacked a tanker in the Malacca Strait. Most of these recent incidents occurred in Indonesian waters, and the attacks have tended to target not only tankers but also small vessels such as tugboats. Some of the piracy incidents that have taken place in Indonesian waters are believed to have been conducted by extremist groups such as GAM, and it is suspected that they were forced to resort to piracy after being driven into a corner with their funding sources cut off by the operations of the TNI. It is possible that these extremist groups might join forces with terrorists to hijack tankers. The tugboats and other small vessels they seize might be used not only for carrying out attacks on ships but also for smuggling arms and drugs to raise funds. In fact, the Philippine authorities announced in July that they had seized small vessels carrying rifles and other assorted weapons, which were to be taken ashore to the MILF.

On February 27, 2004, *Superferry 14* was bombed in Manila Bay. The most tragic incident in Southeast Asia since the Bali bombing in October 2002, it left 63 people dead and 53 missing. The Abu Sayyaf claimed responsibility for the bombing, but initially the Philippine government discounted the claim. Subsequently, in October, the government charged six members of the Abu Sayyaf for their involvement in the bombing and announced that two of them who had planted a bomb aboard the ferry had been arrested. It is said that the owner of the ferry had received an extortion letter prior to the bombing from one of the culprits demanding the payment of $1 million in exchange for the unhampered use of the waters of Mindanao. The Abu Sayyaf has kidnapped foreigners, smuggled weapons on board small vessels, and bombed buildings in urban centers and port facilities on repeated occasions. The Philippine government has carried out joint exercises with US forces and has devoted major efforts to the destruction of the Abu Sayyaf, but the group has not yet been wiped out.

With economic globalization rapidly gathering pace, an interruption to the global supply chain by pirates or terrorists even on a limited scale would put a serious damper on the world economy. In recent years, how to stem the flow of WMD and related materials to terrorists through maritime routes as well as to prevent pirates and terrorists from bombing ships, attacking port facilities and smuggling weapons and drugs has become an issue of vital importance in ensuring maritime security.

(3) Ineffective Responses

Acts of piracy and terrorism are carried out for different motives. Pirates are motivated by economic reasons and set out to rob for money and plunder ships' cargoes. By contrast, terrorists are generally prompted by a sense of religious or racial alienation dating from the past and aim to resurrect their political and religious ideology. However, there are motivating factors common to both groups. These include economic disparities, growing poverty, and weak law enforcement capabilities. Economically and socially deprived groups are prone to committing crimes and are receptive to recruitment as operatives by international terrorist organizations. Therefore, addressing these common causes is effective in suppressing piracy and terrorism. However, remedying disparity in economic development and eliminating poverty are tasks that have to be addressed through development strategies in the countries concerned. As such, they require long-term remedial policies.

Along with a review of development strategies, maritime patrols must be strengthened, and cooperation at both regional and international levels is essential to deal with transnational crimes such as terrorism, piracy and smuggling. Internally, closer cooperation between different ministries and between private companies and government agencies is essential. The US-proposed RMSI was designed to bolster the regular patrols in the Malacca Strait, but it failed to reach fruition on account of strong opposition from Indonesia and Malaysia. They opposed the RMSI on the grounds that the participation of US naval vessels in the proposed patrols within their territorial waters would infringe their sovereignty. They also reportedly share the concern that the activities of the US Navy might provoke terrorists. China is showing a keen interest in ensuring security of Southeast Asian waters. At a conference on the Malacca Strait held in October 2004, Zhao Jianhua, councilor of the Department of Asian Affairs of the Chinese Ministry of Foreign Affairs, stated

that China has a serious interest in the security of the strait and that China, if requested by countries bordering the strait to do so, would extend assistance to them. As China's energy consumption has increased in recent years in step with the expansion of its economy, its imports of oil have increased. The Malacca Strait is a lifeline for its oil imports, and the maintenance of security in the strait has vital importance for China's development. Moreover, China wants to restrain the United States from building a stronger presence in Southeast Asian waters. Although Indonesia and Malaysia demand financial and technical assistance from China, they are likely to oppose China's military presence in the region as they will regard it as threatening their sovereignty.

Toward the end of June 2004, Indonesia, Malaysia, and Singapore agreed to conduct coordinated naval patrols in the Malacca Strait. Under this agreement, each of the three countries, in addition to conducting regular patrols, will deploy five to seven corvettes to bolster security in their respective territorial waters. They also agreed to open a hotline among the three navies to keep them continuously in contact. However, the agreement does not allow ships of one country to patrol the territorial waters of another. In the event that a pirate ship being pursued by vessels of one country enters the territorial waters of another, the navy of the latter country is to be alerted via the hotline. Although the question of sovereignty over territorial waters still remains unsettled, the deployment of these corvettes in areas surrounding the Malacca Strait is expected to have a considerable effect in deterring piracy in these waters.

International treaties designed to prevent piracy and other maritime crimes that jeopardize the safety of navigation include Article 100 of the United Nations Convention on the Law of the Sea (UNCLOS), which provides for the duty to cooperate in the repression of piracy, and the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA Convention) adopted in 1988. The SUA Convention establishes jurisdiction of a contracting government over a set of unlawful acts committed at sea, and obliges contracting

Naval vessels from Indonesia, Malaysia, and Singapore sailing through the Malacca Strait during a ceremony marking the commencement of coordinated patrols (Reuters/Kyodo Photo)

governments either to extradite or prosecute alleged offenders in the countries they reside. Once ratified and implemented by the countries suffering from piracy and terrorism, this convention could become the basis for effective countermeasures. However, Indonesia and Malaysia, where piracy is rife, have not signed the convention to guard against possible infringements to their sovereignty. Singapore finally signed it in February 2004. The convention is designed mainly to crack down on hijacking and sabotage, but some take the view that it is not effective for dealing with robbery and similar crimes that occur in the waters surrounding the Malacca Strait. Therefore, it may be said that coordinated patrols are the most effective means to improve security in Southeast Asian waters. While it is essential to strengthen patrols by helicopters, planes and guard ships, countries such as Indonesia and the Philippines that are facing fiscal difficulties lack the wherewithal to procure patrol planes or ships and have to look for technical and financial assistance from the international community.

2. New Nonproliferation Initiatives and East Asia's Response

(1) The Need for Tightening Shipping Controls

In recent years, free trade areas have been established across the world. In East Asia, there is a growing trend toward establishing free trade areas—a free trade agreement between China and ASEAN and an economic partnership agreement between Japan and ASEAN. It is clear that global trade will be liberalized further in the future, enhancing the free movement of people and capital. As a result, shipping routes will be exposed to various forms of threat. In East Asia, there is a missile exporting country, North Korea, and due to rapid industrialization in recent years, several countries have acquired the capability to produce WMD, WMD-related materials and equipment, as well as dual-use materials. Concerns are mounting that such materials might be passed on to terrorist organizations through maritime routes where security controls are relatively lax. To prevent WMD and WMD-related or dual-use materials from falling into the hands of terrorists, it is essential to tighten maritime security measures and strengthen cargo controls and inspections at lading and landing ports. As it is not an easy task to detect weapons and other dangerous materials once packed into a container, some sophisticated measures must be taken for detecting them.

In 2002, the United States proposed a Container Security Initiative (CSI) designed to detect container cargoes that pose a security risk. This is based on the assumption that containers be electronically inspected at the port of departure. Under this arrangement, the United States will formulate a risk standard that enables the identification of high-risk containers, and will dispatch a team of Customs and Border Protection officials to exporting countries to prescreen containers that pose a risk of terrorism. Most of the hub ports of the world, including those in East Asia, have joined the CSI. One drawback of this initiative is that it covers only those containers bound for the United States, not those bound for East Asian countries. Moreover, installation of the needed inspection facilities and training of the qualified personnel will be too costly for developing countries.

The United States also proposed a Secure Trade in the APEC Region initiative at the meeting of the Asia-Pacific Economic Cooperation (APEC). It contains measures to protect cargoes, ships, international aviation, and people in transit as part of antiterrorism measures to secure and enhance the flow of goods and people in the APEC region. This initiative was incorporated into the APEC Leaders' Statement on Fighting Terrorism and Promoting Growth adopted at the APEC summit meeting held in Los Cabos, Mexico, in October 2002. More specifically, the initiative consists of measures to ensure the security of ships and aircraft, strengthen patrols of seaport and airport facilities, toughen immigration controls and cargo inspections, and collect and transmit advance passenger information. However, it is feared that the cost required to implement the initiative might be high for many countries and produce a significant trade-off with their merchandise trade.

At the fifth meeting of the Conference of Contracting Governments to the International Convention for the Safety of Life at Sea held under the auspices of the International Maritime Organization in December 2002, an International Ship and Port Facility Security Code (ISPS Code) was adopted. Under this code, it was decided that ships over 300 gross tonnage were to be fitted with automatic identification systems by the end of December 2004, newly built vessels, passenger ships, and tankers over 50,000 gross tonnage by not later than July 1, 2004. In addition, it sets out the requirement that ships are permanently marked with identification numbers, maintain an onboard record of their history, and are fitted with a ship security alert system that identifies the ship and its location and transmits a ship-to-shore security alert to a competent

authority indicating that the security of the ship is under threat or that it has been compromised. To verify that a ship has met the requirements of the convention, the authorities of the port of call will set security levels and provide the security level information to that ship, and ensure that the ship complies with its requirements. In the event of a ship failing to meet these requirements being in port, the port authority will be able to take enforcement measures such as detention or expulsion of a ship from the port. When a ship that has failed to meet the requirement tries to enter a port within a country's territorial waters, the authority of that port can take necessary and appropriate measures including denial of entry into the port. While the ISPS Code may impose heavy costs on private shipping companies, it is effective for the prevention of piracy and acts of maritime terrorism.

Measures required to be taken under the CSI and the ISPS Code impose relatively less of a financial burden on industrialized countries and large corporations engaged in international trade, while the installation of automatic identification and security alert systems impose huge costs on developing countries in Southeast Asia and local small businesses engaged in coastal trade there. To ensure maritime security, a number of hurdles—conflicts of interest and the issue of sovereignty—have to be overcome. It may be necessary to combine several measures into a safety net, instead of relying on a single framework. It is essential for developed countries to extend wide-ranging assistance including the training of personnel and the supply of the necessary equipment to developing countries that cannot do so on their own. In addition to these strengthened control measures of ships and cargoes at ports, new initiatives, endowed with stronger enforcement powers and designed to contribute to WMD nonproliferation in broader terms, have been proposed in recent years. One is UN Security Council Resolution 1540; another is the US-led PSI.

Resolution 1540 was adopted unanimously by the Security Council on April 28, 2004. To prevent terrorist organizations and non-state actors from acquiring and using WMD and their means of delivery, Resolution 1540 requires of all UN Member States the following actions: (a) to refrain from providing any form of support to non-state actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use WMD and their means of delivery; (b) to adopt and enforce appropriate effective laws, in accordance with their national procedures, that prohibit any non-state actor to manufacture,

acquire, possess, develop, transport, transfer or use WMD and their means of delivery; (c) to take and enforce effective measures to establish domestic controls in order to prevent the proliferation of WMD, in particular their related materials, maintain effective physical protection over such materials, and control their export; and (d) to present a first report not later than six months from the adoption of this resolution to a committee of the Security Council on steps taken or intended to be taken to implement the resolution. Although the resolution does not have any provision for penalties and sanctions on nonfulfillment states, the resolution, adopted under Chapter VII of the UN Charter, provides the groundwork for the Security Council to take some form of enforcement measures against nonfulfillment states.

The PSI is an effort to launch collective measures, consistent with the national legal authorities of the participating countries and relevant international law, and is intended as a framework to impede and prevent the transport or transfer of WMD and related materials on land, at sea or in the air that pose threats to the peace and stability of the international community. It is a measure taken in accordance with the Statement of Interdiction Principles adopted by its 11 founding members at a meeting held in Paris in September 2003 (see overleaf). Boarding or searching a ship at sea in peacetime itself is nothing new, but so far there has been no scheme in which countries have systematically exchanged information or cooperated with each other to carry it out. The PSI is designed to complement and reinforce the existing export control regimes such as the Nuclear Suppliers Group, the Australia Group, and the Missile Technology Control Regime as well as the set of national measures and export controls mandated by Resolution 1540. As such, it is expected to play an important role in preventing the proliferation or transfer of WMD and related materials.

Following a maritime interdiction exercise carried out in the Coral Sea off the coast of Australia in September 2003, PSI participants have conducted similar exercises 13 times at sea, airports, and customs posts that sought to improve the skills of governmental agencies and strengthen their collaboration. One such exercise was hosted by Japan and carried out in Sagami Bay in October 2004. The ability to gather accurate intelligence is the key to improving the effectiveness of PSI activities, so much so that it is essential for the PSI participants to share intelligence with one another.

Standing in the way of improving the effectiveness of the PSI interdiction

PSI Statement of Interdiction Principles

At its meeting held in Paris in September 2003, the 11 founding members of the PSI, including Japan and the United States, adopted a Statement of Interdiction Principles that spells out the objectives of the PSI and the set of principles aimed to help impede and prevent the proliferation of WMD and related materials. At the same time, they released a press statement under the responsibility of the chair that expressed their willingness to engage in outreach activities by opening dialogue with other countries and seeking their views and comments, and stated that they stand ready to review and take into account inputs that would enhance their proposed efforts.

The main principles set forth in the statement may be summarized as follows. First, the PSI participants will undertake effective measures, either individually or in concert with other states, to interdict the transfer and transport of WMD and related materials to and from states and non-state actors of proliferation concern. Second, they will adopt streamlined procedures for the exchange of relevant information concerning suspected proliferation activity, while protecting the confidential nature of classified information. Third, to accomplish these objectives, participants in the PSI will review where necessary their relevant national legal authorities and work to strengthen relevant international law and frameworks.

The PSI calls on its participants to take the following concrete actions to the extent their national legal authorities permit and consistent with their obligations under international law and frameworks. First, the participating states, including any persons subject to their jurisdiction, will not transport or assist in the transport of any proliferation-related cargoes to or from states or non-state actors of proliferation concern. Second, on their own initiative, or at the request and good cause shown by another state, they will take action to board and search any vessel flying their flag in their internal or territorial waters, or areas beyond the territorial waters of any other state, that is reasonably suspected of transporting such cargoes to or from states or non-state actors of proliferation concern, and to seize such cargoes that are identified. Third, a PSI participant will seriously consider providing consent where necessary to the boarding and searching of its own flag vessels by other states and to the seizure of WMD-related materials that may be thereby identified. Fourth and more specifically, the PSI participants will take the following appropriate actions: (a) when any vessel is reasonably suspected of carrying WMD-related cargoes to or from a state or a non-state actor of proliferation concern, the participant concerned will stop and search such a vessel in its internal waters, territorial waters or contiguous zone (when declared), and seize such cargoes that are identified; and (b) when any vessel which is reasonably suspected of carrying such cargoes enters or leaves any of its ports, internal or territorial waters, the participant concerned will enforce conditions such as requiring that such a vessel be subject to boarding, search, and seizure of such cargoes prior to entry. Fifth, when any aircraft transiting the airspace of a participant is reasonably suspected of carrying WMD-related cargoes to or from a state or a non-state actor of proliferation concern, the participant concerned will (a) require such aircraft to land for inspection and

seize any such cargoes that are identified; and/or (b) deny such aircraft transit rights through its airspace in advance of such flight. Sixth and finally, when any vessel, aircraft or any other mode of transport reasonably suspected of carrying WMD-related cargoes uses its ports, airports, or other facilities as a transshipment point for shipment of such cargoes to or from a state or non-state actor of proliferation concern, the participant concerned will inspect and seize such cargoes that are identified.

activities are the following issues. International law prohibits countries from boarding and searching another country's flag vessel on the open sea without that country's permission. (The Statement of Interdiction Principles says that PSI participating states should seriously consider providing consent under the appropriate circumstances to the boarding and searching of its own flag vessels by other states, and to the seizure by these states of WMD-related cargoes that may be identified.) In 2004, therefore, with a view to increasing opportunities to board and search ships on the open sea, the United States signed with three leading flag-of-convenience states—Liberia (February), Panama (May), and the Republic of the Marshall Islands (August)—shipboarding agreements authorizing the United States to board and search ships of their flag vessels suspected of carrying proliferation-related cargoes. As a result, according to the US Department of State, more than 50 percent of the world's commercial shipping fleet dead weight tonnage, including that of the partners under the PSI, is now subject to rapid action consent procedures for boarding, search, and seizure by the United States. However, there is a limit to these measures. Even when the United States has signed agreements with flag-of-convenience states empowering it to board and search ships on the high seas, if a state of proliferation concern cancelled the registration of its ships with a flag-of-convenience state and operated them under its own flag, they could escape the boarding and search of its ships the United States may conduct pursuant to the shipboarding agreement.

(2) Lukewarm Responses of East Asian Countries

While paying lip service to the idea and objectives of the PSI, it can hardly be said that East Asian countries are committed to actively participating in the PSI-led interdiction activities. Japan, which does actively participate in PSI activities as a member of the core group, and Singapore, which keeps pace with

the United States in counterterrorist activities and WMD nonproliferation, are just about the only countries that have so far joined the PSI. China and South Korea, immediate neighbors of North Korea—which has no scruples about trumpeting the export of its ballistic missiles—have not participated. Nor did either of these two countries attend the First Anniversary Meeting of the PSI held in Krakow, Poland, on May 31–June 1, 2004.

China says that it favors the PSI's purpose in WMD nonproliferation efforts and that it has no difficulty with regard to information exchange and law enforcement cooperation within the framework of international law, but it has stayed away from the PSI on the grounds that it is concerned that the legitimacy of the interdiction measures taken or planned by the PSI core group might go beyond international law. However, PSI activities are carried out in accordance with the existing international law such as UNCLOS, so that it can hardly be said that interdiction activities envisaged in the PSI are in breach of existing international law. It may be that China has not participated in the PSI because it does not want to compromise the neutrality of its position as the host of the Six-party Talks in dealing with the nuclear issue of North Korea. Whatever the reason, it is imperative to enlist China's cooperation in order to ensure the effectiveness of PSI activities. Given the fact that China is a permanent member of the UN Security Council that bears a special responsibility for maintaining international peace and security, China is expected to maintain close cooperation with PSI core group members and to play a constructive role in this initiative.

South Korea, like China, has expressed its support for the ideas and purpose behind the PSI, but has not participated in its activities. Conscious of the fact that the Six-party Talks are going on, if only intermittently; that it has various forms of direct relationships with North Korea; and that North Korea criticized the multinational joint military exercises aimed at intercepting North Korean ships sailing on the open sea as preemptive military operations against North Korea, the government of President Roh Moo-hyun seems to take the view that its participation in the PSI would provoke North Korea to no purpose. However, the Roh Moo-hyun government's opposition to the proliferation of WMD and related materials has not changed, and it has not ruled out the possibility of participating in PSI activities under certain circumstances.

In Southeast Asia, responses to the PSI vary from one country to another. Except for Singapore, which is a core member of the PSI, Thailand was the only country of the 10 ASEAN members to participate in the First Anniversary

Meeting in Krakow. The Philippines indicates that it is studying the PSI, and participated as an observer along with Singapore, Thailand, and Cambodia, in the maritime interdiction exercise in Sagami Bay and Yokosuka Port, Japan, in October 2004. Meanwhile, Indonesia and Malaysia are cooperating in combating piracy in the Malacca Strait, but have declined to join the PSI.

Japan has long regarded proliferation of WMD and related materials as a threat to the peace and stability of Japan and the international community, and has been keen on eliminating nuclear, biological, and chemical weapons and preventing their proliferation. As the acquisition and use of WMD by states of proliferation concern and terrorist organizations has become a serious threat in recent years, Japan has actively participated in PSI activities and strengthened its cooperation with Asian countries in their efforts to enact national laws geared to WMD nonproliferation.

As the PSI has much in common with the approach Japan has long been taking for the prevention of proliferation of WMD and related materials, Japan has actively participated in its meetings and activities, including the drafting of the Statement of Interdiction Principles. For instance, in the maritime interdiction exercise conducted in the Coral Sea off the coast of Australia in mid-September 2003, the first ever exercise of its kind conducted under the auspices of the PSI, a patrol vessel and special security team from the Japan Coast Guard (JCG) conducted an on-site inspection of a suspect Japanese ship based on a scenario that a Japanese-registered ship loaded with chemical weapon-related materials was sailing offshore in the Coral Sea. Observers from the Japan Defense Agency and Self-Defense Forces (SDF) also participated in the exercise. Toward the end of October 2004, a maritime interdiction exercise against suspect vessels, hosted by Japan, was held in Sagami Bay and Yokosuka Port, with representatives from the maritime agencies (the navy, coast guard, and customs) of the United States, France,

JCG Investigators boarding a suspect ship during a maritime interdiction exercise conducted in Sagami Bay, Japan (October 2004) (Kyodo Photo)

and Australia taking part. During the exercise, JCG units conducted law enforcement activities such as pursuit, stopping, boarding, searching, and seizure. Meanwhile, the SDF carried out search and surveillance by vessels and aircraft, provided the information thus gathered, and conducted a training demonstration (such as boarding and searching) as part of the maritime interdiction activities.

Japan has been explaining the ideas and objectives of the PSI to its neighboring countries and has been urging them to cooperate and participate in PSI activities. For instance, at the Asian Senior-level Talks on Non-proliferation (ASTOP) held in Tokyo in November 2003, the focus of which was on strengthening efforts for the prevention of WMD proliferation, Japan stressed to representatives of ASEAN members and other Asian countries the need to cooperate with the PSI and the modalities of such cooperation. In May 2004, Japan held a two-week Asia Non-proliferation Seminar with a focus on maritime cooperation. Japan invited maritime law enforcement officials from ASEAN countries and has extended the technical cooperation necessary to strengthen the maritime law enforcement regime. Japan's Mid-term Defense Program (FY2005–FY2009) adopted by the Security Council of Japan and the cabinet on December 10, 2004, commits Japan to proactively participating in PSI activities, thus showing its readiness to actively tackle new threats and various emergencies through initiatives such as the PSI.

Resolution 1540 urges UN Member States to offer assistance among each other in implementing its provisions. This reflects the recognition that, due to the complexity of counterproliferation measures such as export controls, there are states lacking the legal and regulatory infrastructure, implementation experience and/or resources for fulfilling the provisions of the resolution. Only about half of the signatory states of the Chemical Weapons Convention (CWC) and the Biological Weapons Convention (BWC) have the national legal and regulatory infrastructure for implementing the provisions of these conventions. This suggests the urgency of the resolution in calling on UN Member States to take such measures. The lack of the necessary legal infrastructure in so many countries may be explained by the fact that because they do not intend, and have no capacity, to acquire chemical or biological weapons, they do not assign a high priority to the implementation of the CWC and BWC. However, unlike nuclear weapons that require an economic and technological infrastructure on a national scale, even non-state actors can develop or acquire biological,

chemical, or radiological weapons. Furthermore, as economies become increasingly industrialized, opportunities in signatory states to use biological and chemical agents and radiological materials will increase. Today, there is an increasing risk of non-state actors such as terrorist organizations acquiring and using biological and chemical agents or radiological materials. Enacting and enforcing national laws pursuant to the provisions of the CWC and BWC following the adoption of Resolution 1540 and thereby strengthening national systems for the surveillance of storage, use, and transfer of WMD-sensitive materials are imperative to prevent such materials from falling into the hands of terrorist organizations.

The same applies to East Asia. Eight out of the ten ASEAN member countries are CWC signatories, but, of these, only two countries have the domestic legal and regulatory infrastructure to implement its provisions. Aware of this, Japan has been extending various forms of cooperation and assistance to these countries, even prior to the adoption of Resolution 1540. ASTOP is part of such efforts. In addition, since 1993 Japan has been conducting an Asian Export Control Seminar each year with a view to fostering common awareness of the importance of export control.

The Group of Eight (G8) Action Plan on Nonproliferation, adopted at the G8 Sea Island Summit held in June 2004, also affirmed Resolution 1540. In accordance with Resolution 1540, the action plan called on UN Member States to effectively implement their obligations under the multilateral treaty regimes banning and controlling WMD, to build law enforcement capacity, and to establish effective export controls. The G8 nations including Japan expressed strong support for Resolution 1540 and declared their willingness to assist other states in promptly and completely implementing the resolution. Japan has participated in, and has actively promoted, all regimes for preventing the proliferation of WMD and related materials. In order to effectively prevent WMD proliferation in East Asia, Japan must appeal further to Asian countries for their cooperation in this common task by drawing to the fullest extent on the experience and ideas it has gained from these activities.