

Privatization of Maritime Security in Southeast Asia

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1 Introduction

While Private Security Company (PSC)¹ operations are often thought to be largely confined to Africa and the Middle East, many PSCs today are active in Southeast Asia. The demand for private military and security services in this region comes in part from the maritime sector. This paper explores the role of private companies in securing vessels, ports, offshore energy installations and fishing grounds across Southeast Asia. Initially, the paper discusses the overall conditions and changes in the Asian (maritime) environment which have led to the growth of PSCs offering maritime services in recent years. It then describes the companies which operate in the maritime sector, details the different types of services offered by PSCs in Southeast Asia and explains why customers may prefer to rely on private, rather than on state provided security. Looking at the work conducted by PSCs, the paper then explores the impact and influence PSCs have today within and beyond Southeast Asia. The last part of the paper discusses problems and concerns about PSCs and the maritime services they offer, looking, for example, at the agitated response from Malaysian and Indonesian authorities to newspaper articles detailing the employment of armed PSC escort vessels in the Malacca Straits. The paper concludes by suggesting that PSCs will play an increasingly important role in maritime security in Asia, but stresses that there is a need for regulation of PSCs and their work practices.

2 Risks and Threats: The Maritime Environment

Since the advent of the recent war in Iraq, the work conducted by PSCs is primarily associated with the conduct of wars or post-war reconstruction efforts. PSCs, however, also operate in regions and countries that have not been involved in wars for prolonged periods of time. PSCs offering services addressing maritime security issues in Southeast Asia, for example, do not

¹ These companies are also sometimes referred to as Private Military Companies (PMCs). There has been an ongoing debate how to distinguish between PMCs and PSCs. Some observers have suggested that PMCs provide active security services, including military training, while PSCs offer more passive services. However, it has been argued that these distinctions are difficult to maintain in practice. However, as this article is concerned mainly with maritime security services offered – services mostly provided outside areas of active armed conflict or war – I will use the term PSC.

rely on actual wars to conduct business. However, a number of social, political and economic factors shaping the Asian maritime environment are conducive to the growth of the privatized maritime security industry in the region.

The maritime industry plays a crucial role in Southeast Asia and the region is home to important sea lanes and straits, such as the Malacca Straits, one of the busiest waterways in the world with more than 50,000 vessels on international routes transiting the straits each year. As the Malacca Straits connect the Indian Ocean with the South China Sea, tankers carrying oil from the Middle East to China, Japan and other East Asian countries which rely on imported oil pass through the straits. Also, after Hong Kong, Singapore harbor has the largest container turnover rate in the world, followed by the Chinese ports of Shanghai and Shenzhen. Vessels bound for these harbors, or other major East and Southeast Asian ports, also transit Southeast Asian waters. Additionally, many other vessels, including fishing boats, passenger vessels, and pleasure craft ply the regions' waters (Stehr 2004: 58f.).

The area is also rich in gas, oil and mineral resources and both onshore and offshore energy installations are operating in many Southeast Asian countries. Companies extracting oil, gas or other natural resources depend on terminals along the coast from which the extracted goods are shipped to various destinations around the world. A large number of mining sites and oil/gas fields in Southeast Asia are located in economically underdeveloped or politically volatile places, some with ongoing armed conflict. The exploitation of these fields is therefore only possible with efficient security arrangements in place. Theft, as well as protest or sabotage by local residents demanding compensation for pollution and damage to land and livelihood, or a share of the profits made from the exploitation of the resources for local community development, can pose a security threat for oil/gas and mining companies operating in the region. Indeed, there is a number of examples of such local resistance and violence against companies, including the protests against Unocal in East Kalimantan where locals demonstrated against the pollution of their seas and demanded payment of compensation money. In 2000, the conflict eventually resulted in violence. However, not only installations, but also the employees of oil/gas or mining companies are at risk. An example is the kidnapping of three employees of the British company Premier Oil in East Java in 2000-01 by local people, following concerns that the company's operations would endanger the environment and cause losses for local fishers and farmers because the exploration site was located too close to the shore (Down to Earth 2001b).

Additionally, as in other parts of the world, accidents and natural disasters also pose a threat for the maritime and offshore energy industry. However, many security risks in Southeast Asia are posed by criminals, terrorists

and separatist movements² operating in the region. Criminal activities at sea in Southeast Asia include illegal fishing, smuggling of goods and people, fraud and piracy. With the introduction of the concept of a 200 nautical mile Exclusive Economic Zone (EEZ) in 1982 and the increasing problem of over-fishing in parts of the region, illegal fishing has become a security concern and has resulted in conflict between local and foreign fishers and the loss of revenue for affected local fishermen and their home countries. Yet, while illegal fishing is without doubt a serious security concern in maritime Southeast Asia, it still plays only a minor role in regard to the work conducted by PSCs in the region. Smuggling of people, wildlife and valuable goods, such as cigarettes, weapons and alcohol, on small, medium-sized and large vessels is also a security concern in Asia, particularly since the 11 September 2001 terrorist attacks, as arms or components of weapons, including weapons of mass destruction for terrorist organizations, may be transported by sea.

Even more crucial in regard to the work conducted by PSCs in the maritime sector in Southeast Asia, at present, is perhaps fraud and maritime piracy. Fraud – or theft by deception – in the maritime sector includes various types of activities such as insurance fraud, document fraud and container fraud, to mention but a few. In cases involving fraud, one party falls victim to a deception, often trusting forged documents, and thus hands over money or goods willingly to the fraudster (Ellen 1997: 112–114). Losses for insurance companies, ship and cargo owners and other parties involved in maritime trade can be substantial as entire vessels or cargoes can go ‘missing’, or a seemingly valuable cargo can consist of poor quality goods. With Southeast Asia being such a busy place for maritime trade, fraud is a major concern for local merchants as well as traders, ship and cargo owners and insurance companies from outside the region.

The region has since the late 1980s also become one of the global hot spots of pirate attacks on commercial vessels and fishing boats. Modern day pirates are increasingly prepared to use violence to further their aims, with the number of pirates armed with automatic weapons on the rise. Injuries to the crew, assaults, and killings occur regularly in pirate attacks in the region. A further worry is the latest increase in hostage taking of crewmembers and vessels for ransom (ICC-IMB 1992–2004). However, the vast majority of pirate attacks in Southeast Asia today are simple “hit and run robberies”, committed by what can best be described as “common sea-robbers”. Such attacks are often brief affairs, lasting no longer than 15–30 minutes, and require a minimum level of organization and planning (ICC-IMB 1998: 3, 7).

2 The lines between criminal and politically illegal activities have become blurred, with an increase in the criminalization of separatist and terrorist movements in recent years.

In cases in which the pirates confront the crew onboard directly, these simple robberies can involve violence.

A second group of pirates can be characterized by a higher level of organization and sophistication. These organized pirate gangs – or syndicates – predominantly attack medium-sized vessels, including cargo ships, bulk carriers and tankers. Two different types of pirate attacks by organized gangs can be distinguished, so-called long-term and permanent seizures. Long-term seizures are attacks in which a vessel and its crew is held hostage for a limited time. An even higher level of organization and sophistication is required for permanent seizures. In these cases the entire vessel is hijacked by pirates and is then turned into a “phantom ship”³ (ICC-IMB 1998: 35f.).

Separatist groups and terrorists also pose a threat to vessels, ports and offshore energy installations in Southeast Asia. Volatile political environments in which separatists and terrorists operate can pose a threat to maritime security in two different ways. First, the disruption of the local economy by armed conflict, such as in southern Thailand at present, can increase the crime rate and may result in increased numbers of attacks and robberies of vessels at sea or in ports and can also cause problems, in the form of local unrest, for companies in the energy or mining sector operating in the area. Second, separatists or terrorists can target maritime facilities directly. In the Indonesian province of Aceh on the northern tip of Sumatra, for example, where offshore energy installations are located, the Free Aceh Movement (Gerakan Aceh Merdeka, GAM) has been involved in a struggle for independence for several decades and has reportedly conducted maritime attacks. The group has, for instance, launched offensives against foreign companies operating in the area, including ExxonMobil and their supply vessels. Indeed, in 2001 the attacks against ExxonMobil employees in Aceh were so severe that the company was forced to close its operations for four months (Phar Kim Beng 2004). In the southern Philippines, the Moro Islamic Liberation Front (MILF) and the Abu Sayyaf (AS) are active and have been involved in maritime attacks, including the bombing of the SuperFerry 14 in February 2004 by AS members in which more than 100 people lost their lives (Labog-Javellana/Tubeza 2004: A1). Other radical groups such as the Indonesian terrorist group Jemaah Islamiya (JI) and international terrorist organizations such as Al-Qaeda may also have the potential to conduct attacks on maritime

3 In those cases the vessel’s original cargo is disposed of and the original crew either killed, thrown overboard, or put into life rafts and left on their own device. The ship is then registered under a different name. Equipped with a new identity, the vessel is offered to an anxious shipper to transport his cargo. The cargo, however, will never arrive at its destined port, as the vessel is diverted and the cargo off-loaded in another port and sold to another consignee. The vessel is then once again re-registered under a different name and the play begins once again.

targets throughout Southeast Asia (Bradford 2005: 70). Furthermore, to operate successfully, terrorist and separatist groups require modern weapons, and the activities of such organizations in Southeast Asia have therefore intensified the illegal trade in arms and small weapons. In some parts of the region, such as the southern Philippines, weapons are today readily available to terrorists, separatists, crime syndicates and pirates alike.

Terrorism, separatism, as well as fraud, piracy and other criminal activities have existed in Southeast Asia for decades. However, the security environment changed considerably after the end of the Cold War in 1989, and particularly since the 11 September 2001 terrorist attacks, creating a crucial niche for PSCs to offer an increasing range of maritime security services. With a heightened fear of a major maritime terrorist attack, governments began to look at the world's oceans with grave concern, resulting in the implementation of the International Ship and Port Facility Security Code (ISPS) and the introduction of other new safety and security regulations in the maritime sector. This enhanced the emergence of a new security consciousness in the shipping industry, with many becoming aware that security improvements were necessary to adequately protect their assets, investments and crews. Nevertheless, there has been widespread concern about whether or not the implementation of the ISPS code and other new regulations will substantially increase maritime security, with many observers arguing that while everything looks good on paper, in reality nothing will change (Langewiesche 2003: 76f.). Even if the new regulations were to prove successful, the maritime environment would still remain one of the least regulated sectors – a legacy of the old maritime tradition of the freedom of the seas. This continuing lack of effective control leaves ample opportunity for illegal activities, and provides criminals and terrorists with space to conduct their business.

3 Companies and Services

To address the diverse maritime security challenges discussed above, a growing number of PSCs today offers a wide range of maritime security services. Being part of the overall process of the privatization of military and security services, the majority of companies presently operating in the maritime sector in Southeast Asia emerged after the end of the Cold War. However, their number increased after September Eleven. Many PSCs offering maritime security in the Southeast Asian region are part of, or linked to, either larger PSCs or transnational corporations outside the security industry. While many of the larger companies are based in the US and Great Britain, a number of them has established branch offices in the Asian region in recent years. One example is Hart which has opened an office in Singapore. Moreover, a num-

ber of smaller companies have been established in the region, such as Background Asia, with headquarters also in Singapore. Many other companies are based in other parts of the world, yet they offer maritime services covering the Southeast Asian region. These include in Britain Gray Page Limited, in Germany Marine Serve GmbH (MSG), in Israel G.S. Seals, in the USA the Trident Group and in Australia Counter Terrorism International (CTI), to mention just a few. There is, however, also a number of companies which have been working in the maritime security business in the region for decades. An example is Glenn Defense Marine (Asia) which was established in 1946 and has offices in Singapore, Hong Kong, Indonesia and other countries in Asia. Glenn Defense Marine is also exceptional in respect to its number of staff, with over 500 people from diverse backgrounds currently employed by the Glenn Group of Companies (Glenn Defense Marine [Asia] n.d.). Most other companies, in contrast, only consist of a limited number of permanent staff, an office and, usually, an impressive presence on the internet. These companies hire additional personnel and acquire necessary equipment on a case-by-case basis, once a contract with a client is signed, which allows the companies to run their business with limited expenses and capital.

Information provided by companies about their background, the company itself and the services they have conducted in the past, as well as information about the people they hire if required, is usually sparse. The majority of PSCs operating in the maritime sector seems to be founded and staffed by mostly ex-military or ex-law enforcement personnel, with the credentials and reputation of the company often linked to the past military experiences of its founding members and employees. Therefore, most companies advertise to employ former members of elite Special Forces from around the globe, with 'vast experience'. Whether or not this experience is in the maritime sector or related to the services and tasks they are now employed for by the company – including for example knowledge about the vulnerabilities of a ship or oil rig – is often unclear.

Despite the limited information available about individual companies and their staff, the number of PSCs offering maritime services in Southeast Asia is rising, as clients are increasingly willing to pay for protection of their maritime assets and employees. The maritime services offered by PSCs in Southeast Asia are not only sought after by clients based in the region, but also by ship owners, insurance companies, yacht owners, banks as well as gas and oil companies located in other parts of the world with business interests in the region. To cater to the needs of all these clients the services offered are equally diverse. While some companies specialize in the protection of specific assets, such as the London based company Yacht-Secure Ltd., most companies offer services for different types of facilities which focus largely

on the protection of ports, underwater assets, offshore energy installations and their supply chains, fishing grounds and a large variety of vessels, including (slow moving) commercial vessels, large fishing boats, cruise ships, tugs and Navy vessels visiting foreign ports. In order to guarantee the safety of these, often foreign, assets a large variety of specific services is offered by PSCs, ranging from risk assessment to crisis management.⁴ While not all companies offer all services, almost every company offers assistance with security plans and risk analysis consulting services, either consisting of general political risk reports published and updated regularly, or client-specific risk assessments. These range from port or vessel threat assessments and pre-employment screening to crisis management planning.

Most companies, however, also offer more active services which can be divided into two categories. The first category is comprised of services aimed at the prevention of attacks. These include the tracking of commercial vessels, guarding of offshore energy installations or ports, the employment of plain-clothed PSC personnel or (un)armed guards on ships or on noticeable escort vessels, as well as the training of seafarers and local law enforcement personnel. The second category of services focuses on crisis and post-attack/incident response. Services include the investigation and recovery of hijacked or missing vessels and stolen cargoes, negotiation in cases of kidnapped crew or employees, hostage rescue after negotiations have failed and first aid and evacuation assistance in emergencies or accidents.

Overall, the services offered address threats posed by smugglers, fraudsters, pirates, and terrorists and prepare companies for accidents or natural hazards. Risk assessment services and the preparation of security plans, for example, may prepare energy companies and their employees on offshore energy installations for possible attacks or increase awareness of potential risks, which can then be dealt with in an appropriate manner. Pirate or terrorist attacks on vessels or offshore energy installations may be prevented through better training of the crew or employees, or the presence of armed or unarmed guards onboard a vessel or oil/gas platform. Guards may also prevent smugglers or stowaways from boarding a ship and undercover PSC employees onboard a vessel may be able to prevent or respond to mutiny of the crew or other illegal activities conducted onboard. Also, pre-employment and crew background checks conducted by PSCs could not only increase the overall safety on vessels, but may also, in some cases, prevent the employment of a crew likely to collaborate with terrorists or pirates. Training of crews or employees in detection of explosives can, in addition, prevent a terrorist attack on a ferry. Furthermore, fraud victims or owners of detained

4 There is also a number of companies that offer a range of technical maritime security products, including electrical fences for vessels and non-lethal weapons.

vessels or cargo can hire a PSC to investigate the incident and assist in the recovery of the companies' assets, and victims of hijackings can rely on crisis management assistance during the event. Additionally, Southeast Asian nations can improve the capabilities and operations of their law enforcement personnel by receiving training in advanced skills from experienced ex-Special Forces personnel employed by PSCs. Governments can also hire PSC employees to protect their EEZs from poachers who fish illegally in their territory.

4 Why Private Security?

Southeast Asian countries have, unlike other countries such as Iraq or African countries in which PSCs operate, comparatively stable governments, existing law enforcement agencies and have in recent decades gone through a process of rapid economic development. The question then arises why the services of PSCs are needed in the maritime sector in Southeast Asia. Part of the answer may be that despite the economic development and the presence of law enforcement personnel in Southeast Asian countries, some law enforcement agencies and authorities have a reputation for being corrupt and have to operate with low, or insufficient, resources.⁵ Therefore, government authorities and agencies are often unable to provide security, training, and technical security equipment on the scale that is sought by the maritime industry since September Eleven or is required today as part of new security regulations, such as the ISPS code.

Another incentive for ship or cargo owners, banks or insurance companies to hire a PSC may be the general difficulty for outsiders to deal effectively with local authorities in Southeast Asia, and a lack of faith that the authorities will successfully handle the case and act in the victim's interest. The employment of a PSC in contrast promises the use of highly experienced and motivated individuals, working solely in the client's interest. Additionally, over the past decades some companies operating mostly in the gas/oil or mining sector in Southeast Asia have paid local law enforcement agencies to guarantee the safety of their assets and employees. These payments to state security forces have resulted in a number of controversies and problems, including accusations of corruption and human rights abuses by the paid agencies. An example is the disputed employment of the Indonesian military

5 The Center for Defense Information (2004) in Washington, D.C., states on its website that only about 20–25% of the Indonesian Navy's inventory is operational.

to protect Freeport's⁶ mining operations in Indonesia's eastern region of Papua, formerly known as Irian Jaya, from the 1970s onwards. The military was at the same time fighting against a rebellion for Papuan independence and allegations of corruption and excessive violence against the local population by the Indonesian military in Papua surfaced (Global Witness 2005). Another example are the allegations against Exxon Mobil, of having "paid and directed government forces who committed atrocities while protecting the oil company's facilities" in Aceh (Abid Aslam 2001).⁷ The case received international attention when the International Labor Rights Fund filed charges under the US Alien Tort Claims Act against ExxonMobil on behalf of 11 Acehnese who accused the Indonesian military guarding the oil company's installations of murder, rape and the kidnapping of local residents (Abid Aslam 2001).

Due to these and other factors endorsing the employment of private companies, PSCs in recent years have conducted a wide range of services in the maritime sector. PSCs therefore have considerable influence on the protection of assets and the assessment of risks in the maritime sector. They also have a bearing on decision making processes in the private and public sector within and outside Southeast Asia.

5 Impact

The impact and influence of PSC maritime services conducted in Southeast Asia are twofold. First, a number of companies have provided services that are in the broader sense in the realm of local law enforcement agencies. Work completed includes, for example, anti-piracy services in the Malacca Straits, with Background Asia having escorted tankers (Boey 2005: 3) and CTI recently providing protection for a vessel which departed from an oil rig and traveled through the Malacca Straits (Martino 2005). In regard to protection of energy installations, Group 4 was reportedly hired to manage security issues for the US based oil company Caltex Pacific Indonesia for their operations in Riau Province, Sumatra, Indonesia (Down to Earth 2001a).

Second, statements, reports and risk assessments produced by PSCs have an increasing impact on decision-making processes of governments and businesses, as well as the formation of opinion in the public sector. PSC personnel, for example, increasingly participate in conferences concerned with

6 More precisely, the Grasberg mine in Papua is operated by PT Freeport Indonesia, which is 90.64% owned by Freeport McMoRan and 9.36% owned by the Indonesian government.

7 These cases are, however seldom straightforward, as oil/gas and mining companies are known to have paid separatist and other local movements while similarly paying the state forces to protect them from attacks.

maritime security issues. A recent example is the Maritime Piracy 2005 conference held in October 2005 in Singapore organized by IBC Asia (S) PTE Ltd., where representatives from Glenn Defense Marine and Hart presented papers. The outcomes of PSC reports now also regularly find their way into the mainstream media and shape public perception of maritime security issues. These articles based on PSC reports can be problematic as the actual reports are mostly confidential. It is therefore often difficult, if not outright impossible, for outsiders to receive more detailed information about findings and assessments or to determine on which sources the reports are based and what research methods have been employed by the PSC which compiled the report.⁸ Risk assessments conducted by PSCs also impact decision making-processes of key operators in the maritime industry, namely insurance companies. The most prominent example is the decision by the Joint War Committee (JWC) – a body constituted of members of the Lloyds Market Association and the International Underwriting Association, which represents the interests of the London marine insurance community – to include the Malacca Straits in its Hull War, Strikes, Terrorism and Related Perils Listed Areas.⁹ In the past, such decisions have been based more on previous insurance losses (Bradsher 2005). The JWC decision to include the Malacca Straits as a high risk area, was, on the contrary, based on an assessment by Aegis Defence Services Ltd. a London-based PSC managed by its shareholders, among them, as Chairman and CEO, Lt-Col. Tim Spicer (Aegis Defence Services Ltd. n.d.). This new classification of the Malacca Straits impacts on the insurance premiums ship owners are required to pay when their vessels transit the straits, and, hence, has significant consequences for the maritime industry. The decision was consequently challenged by representatives of the shipping sector as well as regional governments. The foreign ministers of Singapore, Malaysia and Indonesia, for example, asked the JWC to review its assessment and pointed out that the decision was made without consulting or taking into account the maritime security efforts of the three littoral states (Sawatan 2005). Industry organizations, such as the International Chamber of Shipping, the Hong Kong Shipowners Association and the Singapore Shipping Association (SSA) raised concerns, arguing that there were flaws in the JWC's decision and that the Aegis report did not sufficiently distinguish between different types of security threats, namely between piracy and terrorism. At a meeting between Aegis, the JWC and representatives of shipping organizations, the latter therefore “questioned the methodology employed by Aegis” (ICS 2005). The SSA also criticized in a separate statement that the

8 For more details see Liss 2005, 2006.

9 While proof-reading this article, newspapers reported that Lloyd's had removed the Malacca Straits from the list about one year after it imposed the rating (Burton 2006).

“decision appeared to have been taken on the findings of a single report from one commercial security organization” and added that they were prepared to provide the JWC with additional information regarding the state of security in the Malacca Straits (SSA 2005). Furthermore, Mr. Mukundan, the director of the IMB, stated that: “[w]e do not feel that (the JWC decision) is justified. At this time, when the level of attacks are coming down, we don’t see (...) justifications to increase their rates. It may be appropriate when attacks were high but it is not anymore.” (Forbes 2005)

As demonstrated in this example, the work conducted by PSCs can provoke criticism from other interested parties. Generally speaking, customers of PSCs, academics, the public and other observers have to be aware that by relying on summary reports from PSCs, one relies on selective information provided in many cases by the very companies that sell solutions to security threats. It is therefore important to bear in mind that PSCs are primarily commercial enterprises, aiming at producing financial profit for the company and its shareholders. However, most of the crucial problems and controversies surrounding PSCs stem from the problematic nature and characteristics of services offered.

6 Problems and Controversies

While the services offered by PSCs sound promising, there are some practical, technical and legal problems and difficulties associated with a number of these services. For example, while crew background checks may be useful and prevent crimes, being able to get reliable information on the life, training and former experiences of, for example, Filipino citizens from remote islands can be difficult and therefore far too expensive for a ship owner. Furthermore, critics have pointed out that the employment of (un)armed guards on-board vessels has only a limited effect in deterring criminals or terrorists (Mukundan 2004). The extra costs for employing armed guards may therefore not be justified in the eyes of ship owners who have to remain commercially competitive. There are, however, some exceptions, such as the employment of armed guards on trawlers fishing in high-risk areas. Tuna trawler fleets operating in the southern Philippines, for example, have relied on armed guards to ward off pirates, who are known to steal the catch in this region (Clark 2004).

As mentioned earlier, on occasion oil/gas or mining companies have relied on local state law enforcement agencies to protect their assets and employees. If these companies hired foreign PSCs, problems with local forces could emerge. Therefore good local contacts are crucial for PSCs operating in Southeast Asia and the companies (not only for this reason) need to comply

with the laws and regulations set by the states in which they operate. This can be a complex task, especially when commercial vessels are protected by PSCs, as a vessel not only moves between various states and jurisdictions, using the right of innocent passage, but also usually sails under the flag of yet another state. Furthermore, some governments are concerned about a range of services offered by PSCs which are designed to be conducted in regional waters, including territorial waters and EEZs. For example, a number of companies offer armed escort vessels for shipping in high-risk areas and piracy hotspots, such as the Malacca Straits. The publication of a handful of newspaper articles in the Straits Times, describing these services (Boey 2005: 3; Sua 2005: H4–5) sparked an outcry from Malaysian and Indonesian authorities. Both countries rejected the employment of private armed escorts, with the Malaysian Director of Internal Security and Public Order, Datuk Othman Talib, warning that any such vessel found in Malaysian waters would be detained, and the crew arrested as either terrorists or mercenaries. They would then subsequently be charged under the Internal Security Act. He also pointed out that any PSC wishing to operate in Malaysian waters has to apply for permission from the Ministry of Internal Security (Marinelog.com 2005; Bloomberg.com 2005).

When asked about their operations in the Malacca Straits, PSC employees from various companies have stated in interviews with the author that in most cases the Indonesian and/or Malaysian authorities are informed about planned operations, either through a liaison officer or a personal contact. In the process money changes hands and the company receives ‘permission’ to conduct its work, even though not always in writing. Whether these ‘permissions’ to operate in Indonesian or Malaysian waters are the same as official permits, such as mentioned by Datuk Othman Talib, remains open to interpretation. The core problem in the debate as to whether or not PSCs are allowed to operate within Southeast Asian countries or their respective territorial waters or EEZs, is the fact that PSCs conduct work that sometimes requires their employees to carry firearms. Rules and regulations regarding the bearing and use of weapons by private companies vary from country to country. It is, for example, very difficult, if not impossible, for a PSC to receive permission for their employees to carry firearms in Singapore, despite the fact that some companies have their headquarters or offices based in the city-state (Weatherford 2005). Hence, employees of Background Asia, for example, are required to disassemble their weapons and lock the ammunition magazines and firing pins in separate locations when in Singapore waters (Boey 2005: 3; Sua 2005: H4–5). However, apart from applying for permits to employ armed personnel in other countries of the region, there are other ways for PSCs to conduct armed services. CTI, for example, occasionally

employs staff from local security companies, whom they have worked with before. The locals hired do not only have the required permission to operate in the country, but may also have additional local knowledge (Martino 2005).

The use of armed guards, however, can not only pose a problem in the legal sense and the choice of which security company to employ is crucial for potential clients. A ship owner or an oil/gas company, for example, has to trust a PSC to choose the right kind of people to be employed as armed guards on one of their oil rigs or vessels in order to avoid accidents and excessive use of violence. Representatives of the Federation of ASEAN Shipowners' Association, the International Maritime Organisation (IMO) and various other maritime organizations have pointed out that armed escorts may, in fact, escalate an already volatile situation and that a shoot-out on an oil or chemical tanker could prove disastrous (Malakunas 2005). Indeed, the question of the level of violence used by PSCs remains ambiguous, if not controversial. However, it is understood that if PSC employees carry guns, they are also prepared to use them, or as Alex Duperouzel from Background Asia explained in a newspaper interview: "Just like a cop who has to defend his own life, our men will not shoot to kill. It is a series of escalating events. If we can take out an engine, we'll do so. We will also go for the knees. But if we are forced to engage, we will engage to win." (quoted in Boey 2005: 3)

This statement emphasizes that PSC employees, at least from Background Asia, are indeed prepared to engage in armed conflict and therefore accountability, transparency and oversight of PSC operations are important.¹⁰ Oversight of the use of guns or other weapons in the maritime sector, however, is made difficult by the fact that operations often take place on vessels or oil/gas installations at sea and therefore far away from observers' eyes. Some PSCs, such as CTI, attempt to overcome this problem by videotaping their operations (Martino 2005). However, only an incident involving an alleged abuse of violence by PSC employees in the maritime sector in Southeast Asia will reveal how the victims, PSCs, their clients and regional governments will respond.

7 Conclusion

Services offered and conducted by PSCs in Southeast Asia in the maritime sector are diverse and range from risk and vulnerability assessment to the employment of armed guards on vessels or oil platforms. Some of the ser-

10 Particularly so because controversies involving human rights abuses by private contractors in places such as Iraq have been reported, including the accusations that employees of CACI International and Titan Corporation participated in the abuses at Abu Ghraib prison (Singer 2005b).

vices advertised and some of the companies, however, are still in the formative stages and only time will tell if this commercial alternative to provide maritime security solutions will be accepted. Given the increased security awareness in the maritime sector and the overall trend of outsourcing in the military and security field, the chances that PSCs will grow and prosper in the maritime sector in Southeast Asia seem good. Yet, there are a number of problems and controversial issues inherent in the private maritime security industry. If the employment of PSCs in this sector is to increase then improved regulation and oversight of these companies is needed, especially because controversial PSC operations in places such as the Malacca Straits – where armed PSC employees guard vessels and energy installations – are already a reality. It would therefore be beneficial for Southeast Asian countries which have not already done so, to address the issue and introduce and enforce clear guidelines, controls and permits for PSCs operating in their respective countries. The current system where PSCs employing armed personnel operate in some instances in an ambiguous zone may allow less-reputable companies and insufficiently trained guards to also work in the region. This could have dire consequences for the people involved and create unnecessary problems for local governments. Generally speaking, the employment of properly regulated PSCs can also have advantages for corporations. As mentioned above, the employment of PSCs by gas/oil or mining companies operating in politically volatile areas may, for example, be an alternative to hiring state law enforcement agencies, as this has resulted in some cases in the abuse of the local population in the past.¹¹ Unlike local forces, PSCs hired to protect foreign assets are generally not personally involved in internal conflicts in Southeast Asian states and may therefore not resort as readily to extreme forms of violence against local populations. However, two conditions are required for such a scenario to work. First, oil/mining companies hiring PSCs need to have a real interest in preventing human rights abuses and need to ensure that the PSC they employ conducts its work in a professional manner. Second, examples of PSCs accused of improper operations and human rights abuses from other parts of the world do exist, and oversight and clear regulation by external observers are therefore necessary to prevent the misuse of force by PSC employees in maritime Southeast Asia.

11 There are however, other, more preferable ways for oil/gas or mining companies to prevent local unrest, including respect for the local people and their culture, as well as the environment, and, a sincere consideration of the interests of the people in surrounding communities.