

Piracy, Law Efficiency, Statistics and Possible Solutions to that Severe and Growing Threat

NEW RISE IN SHIP PIRACY ALARM
...rise in attacks and violence in first quarter

RISE IN PIRACY RAIDS
...to fit electric fence to repel pirates

IMB WARNS OF HIJACK RISKS FOR SHIPPING
Report reveals 'worrying' rise in violent attacks

Development of the 5 highest rates of piracy as a percentage of the total attacks during that year (1994-2011)
(IMB January-September)

Year	Yemen - Gulf of Aden	Southern Somalia	West Africa	Eastern Africa	Caribbean
1994	15%	10%	5%	3%	2%
1995	18%	12%	6%	4%	3%
1996	20%	14%	7%	5%	4%
1997	22%	16%	8%	6%	5%
1998	25%	18%	10%	8%	7%
1999	28%	20%	12%	10%	9%
2000	30%	22%	14%	12%	11%
2001	32%	24%	16%	14%	13%
2002	35%	26%	18%	16%	15%
2003	38%	28%	20%	18%	17%
2004	40%	30%	22%	20%	19%
2005	42%	32%	24%	22%	21%
2006	45%	34%	26%	24%	23%
2007	48%	36%	28%	26%	25%
2008	50%	38%	30%	28%	27%
2009	52%	40%	32%	30%	29%
2010	55%	42%	34%	32%	31%
2011	58%	44%	36%	34%	33%

Georgios Elissaios

June 2015

ΑΚΑΔΗΜΙΑ ΕΜΠΟΡΙΚΟΥ ΝΑΥΤΙΚΟΥ
A.E.N ΜΑΚΕΔΟΝΙΑΣ

ΠΤΥΧΙΑΚΗ ΕΡΓΑΣΙΑ

ΕΠΙΒΛΕΠΩΝ ΚΑΘΗΓΗΤΗΣ: ΞΕΝΙΤΙΔΟΥ ΕΛΛΗ

**Piracy, Law Efficiency, Statistics and Possible Solutions
to that Severe and Growing Threat**

ΤΟΥ ΣΠΟΥΔΑΣΤΗ: ΕΛΙΣΣΑΙΟΥ ΓΕΩΡΓΙΟΥ
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<i>1</i>	<i>ΤΣΟΥΛΗΣ ΝΙΚΟΛΑΟΣ</i>	<i>ΔΙΕΥΘΥΝΤΗΣ ΣΠΟΥΔΩΝ</i>		
<i>2</i>	<i>ΞΕΝΙΤΙΔΟΥ ΕΛΛΗ</i>	<i>ΚΑΘΗΓΗΤΡΙΑ ΑΓΓΛΙΚΩΝ</i>		
<i>3</i>				
ΤΕΛΙΚΗ ΑΞΙΟΛΟΓΗΣΗ				

Ο ΔΙΕΥΘΥΝΤΗΣ ΣΧΟΛΗΣ: ΤΣΟΥΛΗΣ ΝΙΚΟΛΑΟΣ

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Summary:

Modern maritime piracy is a serious issue nowadays. The perception that the international community has eliminated sea piracy is far from true. Piracy has become increasingly more violent. Besides armed robbery, hijacking the whole ship and cargo is a routine job for today's pirates. The main objective of this thesis is:

- To determine if modern piracy has a significant influence on shipping companies' behaviour patterns in doing their business and if there can be found significant economic effects.

This objective is translated in a main research question:

- What is the influence of modern piracy on maritime commercial transport?

In order to get an answer to this question I researched the actual situation of piracy at sea, the possible effects, the direct and indirect consequences for shipping companies and the financial costs of piracy to the shipping industry. Most important information is acquired by sending a survey to shipping companies and maritime associations. Attention is given to the history perspective, the definition of piracy, the difference with terrorism, types of piracy, the most risky waters, working methods and the development of piracy in the last decade. Piracy is a crime, motivated and based on financial gain, instead of political goals. Pirates want to avoid attention and will inflict only as much harm and damage as necessary to accomplish their objective. Piracy can be classified into categories based on differences in violence and regions. The problem of piracy is an on-going and ever changing problem. Each area has their own features and requires their own solution for their specific situation.

Reasons why piracy occurs are political corruption, economics of the third world, willingness of shippers to pay the costs of piracy rather than higher insurance premiums, failure to develop international protection and today's small crews working on vessels. Published figures on piracy do not reflect the true extent of the problem. The true number of actual pirate attacks could be close to double the official numbers. Last years, there is an increase of pirate attacks in East- and West-Africa. Furthermore, piracy is moving away from the normal coastal attacks towards the open waters. Another trend in piracy-prone areas is the tremendous increase in the hijacked and hostage strategy.

Possible effects of piracy are divided into direct effects and indirect effects such as security costs, insurance costs, the possibility of changing steaming routes, reputation damage of maritime transport and the effects of arbitrariness of pirates comparing to their main targets. A piracy survey has revealed if this list of possible effects would have a significant influence on shipping companies. A part of 83% says that it is a significant problem for shipping companies. Especially the impact on seafarers and their relatives is one of the main reasons to point piracy as a significant problem. What can be concluded considering the piracy effects, is that a significant part says that piracy increase the transport price, leads to more

integration with the navy, to increasing sailing speed in dangerous areas, to more security equipment on board, to avoiding coastlines and sailing more nautical miles, to avoiding some ports, to other sailing routes and to an increase of the insurance premiums. About 20% to 30% of the correspondents think piracy, leads to more sailing in convoy, to a decreasing labour market for crewmembers and higher wages. According to the survey piracy have a minimum effect, less than 20%, to less (grow of) demand of maritime transport, to larger vessels, a decrease in the position or liability of maritime transport, that it will have an effect to attract investors or that it will influence the development of their company's global network.

The five most attacked types of vessels are container vessels, tanker chemical product, bulk carriers, general cargo vessels and tanker crude oil. What is evidently illustrated, is that chemical and product tankers show a dramatic increase in all the years and take the second place in the list in 2008. Danger exists due to the fact that most of world's oil and gas is shipped through the dangerous piracy regions. There is also some arbitrariness of piracy related to nationalities where the ship is managed or controlled. Especially German vessels are major targets, as pirates believe their owners are more willing and able to pay ransoms for the return of the crew and vessel. Furthermore, the successfulness of pirate attacks during the years ranges between 70% and 80%. There is an increase of large pirate groups while attacks with 1-4 persons are still most common with more than 50%. Deaths, injuries, traumas, kidnapped crew, stolen personal items, pressure on crews, stress, feeling of helplessness, fear among ship crew and extra duties and risks to safety of seafarers, demoralise crews and put pressure on their relatives. This contributes to the poor public image of working in the maritime industry. Furthermore, if lack of solving the problem continuous, shipping companies will choose for alternative routes which means that inventory levels increase. Piracy can also lead to environmental disasters and can lead to a spiral of weakness in the respective region. Evidence shows that there is a relationship between global pirate attacks and failed state indicators.

According to the financial estimation, a total cost of direct effects is about US \$250 million. Together with additional security, insurance costs, the chance of changing trade routes and reputation damage, piracy costs the shipping industry US \$9 billion. However, estimations of the cost of piracy vary widely and ranges between US \$1 billion and US \$16 billion per year. In relation with the US \$7.8 trillion industry of maritime commerce piracy costs approximately US \$20 for every US \$10.000 of goods shipped.

Concluding, in answer to whether piracy is a threat to commerce, threat exists but is not significant in respect to the financial costs. It is however a significant problem in respect to human safety on vessels in piracy prone areas.

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Chapter 1 - Introduction

Modern maritime piracy is a serious issue nowadays. Recent years, more attention to piracy was given in the media. South East Asia, the Horn of Africa, Gulf of Guinea and the Caribbean are still very dangerous waters for the shipping industry. It has been said that millions of dollars are lost as a direct result of maritime piracy. Piracy has become increasingly more violent. Besides armed robbery, hijacking the whole ship and cargo is a routine job for modern pirates. This phenomenon is a serious threat to the maritime shipping industry. I wonder if modern maritime piracy changes shipping companies behavior patterns in doing their business and if there can be found significant economic effects.

The number of pirates attacking is going on day by day and still it has no end in any side of the ocean. Of course there are several reasons, because of that piracy is once again backing in its old shape. After the 1982 a new trend comes up in the world to be globalize and liberalize, and it increases the sea trade throughout the world and is also providing an opportunity to the criminals to restart their activities within the sea.

But when piracy becomes a severe threat to the crew of the ship and also redounds at least 1% loss from their total income, all the major shipping companies like British National Union Of Marine, Aviation And Shipping Transport Officers (NUMAST) or The Baltic and International Maritime Council (BIMCO) put the sea piracy on the international agenda.

Chapter 2 – Piracy

2.1 Actual Situation of Modern Maritime Piracy

This chapter presents the history and the definition of piracy. I mention the different forms of piracy and the areas where most piracy attacks were reported in the last decade.

2.2 History Perspective

When we think of pirates, we often refer to the romantic and heroic stories and legends about the freedom and rich full life's at the open sea. Piracy is as old as the history of seafaring itself. In the Roman Empire period, pirates controlled the waters of important trading routes. Options to fight against it were to sign treaties and to deploy naval forces. From the 16th to the 19th century's European countries extended their territories to other contingents. Due to the growth of maritime trade, piracy became a real profession. Though in spite of the negative effects, in time of war, piracy was seen as a solution for their problem of defence. Governments permitted ship-owners to plunder ships from other nationalities. Famous and fearful pirates were Barbarossa (Redbeard), Edward Teach (Blackbeard) and Henry Morgan. These historic pirates could never imagine what passes along strategic passages for piracy nowadays.

Between 1970 and the 1980, piracy began to rise again as a serious threat to merchant ships and their crews. This was one of the reasons that the International Maritime Bureau (IMB) had set up piracy reports in 1981. More and more cases were reported during the following years, due to the fact that shipping companies became more aware of the IMB reports. The perception that the international community has eliminated sea piracy is far from true. The number of piracy attacks has tripled in the past decade. Today's pirates are trained fighters and drugged teenagers aboard speedboats, equipped with satellite phones and global positioning systems, armed with automatic weapons and rocket propelled grenades. Modern piracy is a violent, bloody and ruthless practice. Lloyd's Shipping Economist (1996) stated that potential piracy solutions are bound in a complex web of financial, political, legal and moral issues. Besides of that, shipping companies doing their business with increasing financial pressure and the necessity to cut costs which can lead to less vessel's security in dangerous waters.

Piracy has increasingly linked with terrorism as well. Terrorist could use the same methods to capture ships and to cause blockage of trade routes or to cause serious damage in ports. However, in this thesis I only refer to piracy. Therefore, in the next section, I raise attention to the definition and the difference between piracy and acts of terrorism.

2.3 Definition of Piracy

Different definitions of piracy exist as an effort of several institutions. The definitions of the United Nations, International Maritime Bureau (IMB) and the International Maritime Organization (IMO) are mentioned below.

UNCLOS Article 101: Definition of Piracy

In the United Nations Convention on the Law of the Sea (UNCLOS) 1982, "maritime piracy" consists of:

“(a) any illegal acts of violence or detention, or any act of depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft, and directed:

(i) On the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft

(ii) Against a ship, aircraft, persons or property in a place outside the jurisdiction of any State;

(b) Any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft;

(c) Any act of inciting or of intentionally facilitating an act described in subparagraph (a) or (b).”

This definition is unclear on the meaning of the word ‘illegal’. It is left to the courts of the countries to decide whether the act is designed as illegal according to the international law or according to the national law of the countries.

IMB Definition of Piracy

The International Maritime Bureau (IMB) defines piracy as:

“An act of boarding or attempting to board any vessel with the apparent intent to commit theft or any other crime, and with an intent or capacity to use force in furtherance of that act.”

The IMB’s definition is not concerned with a formal legal definition but can be mentioned as a quite practical one in a way to effectively register pirate attacks. This definition is broader than the international legal definition. However, the IMB is an organisation that does not seek to sensationalize stories for profit. According to international law, any illegal acts of violence and detention which are committed within State’s territorial waters are not defined as piracy. But, according to the IMB, nearly all illegal acts in Southeast Asia occur within territorial waters and thus would not fall under the definition of piracy. According to Chew (2005), the lack of a standard and comprehensive definition of piracy results in some subjectivity in the available statistics. In reality, a significant number of IMB’s reported incidents involve thefts from ships sailing close to land, at dockside or at anchor.

IMO Definition of armed robbery

The term modern piracy is often used to cover both ‘piracy’ and ‘armed robbery’ at sea. The IMO follows the United Nations Convention on the Law of the Sea (UNCLOS). IMO makes no distinction between attacks in international and territorial waters. The International Maritime Organisation (IMO) defines piracy as:

“Any unlawful act of violence or detention or any act of depredation, threat therefore, other than an act of piracy directed against a ship or against persons or property on board such ships, within a state’s jurisdiction over such offences.”

2.4 Regional Variations and Types of Piracy

According to the International Chamber of Shipping (ICS), piracy can be classified into three basic categories. First, there is “Low level” armed robbery which contains an attack with the intention of stealing. Whatever can be carried from the deck and hold would be stolen. Pirates are looking for money, crew belongings, cigarettes, alcohol, stores, ropes and mooring. Violence only occurs when the crew tries to stop them. Usually, the duration of such an attack lies between thirty and forty minutes.

The second form is called “Medium level” armed assault and robbery or armed assault with violence or threats of violence. Pirates usually come on board unnoticed and force the crew to hand over their cash and valuables. Cargo would also be stolen if possible. Each raid is over in less than an hour. The financial loss is usually in the order between US \$10,000 and US \$20,000.

The last category is called “Major criminal hijack”, which is defined by the ICS as carefully planned theft of the entire cargo. Pirates often know every detail of the cargo and the ship steaming plan. While some of the pirates hold the crew captive, others transfer the cargo to another ship. When the attack is over, the ship drift in the ocean with the bridge unmanned. This type of attack usually results in a million dollar loss.

Abhyankar (2002) used another classification. According to Abhyankar (2002), piracy can be divided in five specific forms, varying according to different regions. First, there is what can be called “Asian piracy”. Ships are boarded by pirates, sometimes disguised as coast guards or harbor police, and then cash and valuables are stolen from the safe and the crew with minimum violence. The ship's safe often contain large amounts of cash which is needed for payroll and port fees. These attacks are not the high seas as all the waters in the region are within the territory of the various countries. This form of piracy is characterized by night attacks, the high degree of skill that is used to come on board the ship and the fact that violence is only used when detected or getting resistance.

Secondly, there is “South American or West African” piracy . More violent attacks will happen where ships are berthed or at anchor. Targets are cash, cargo, equipment or anything which can be moved and carried. The high degree of violence, pre-planning and value and the lack of competence or willingness to respond on the part of law enforcement are the characteristics of this kind of piracy. Just as the first form, pirates come alongside in small craft and mount high-sided ships with remarkable skills.

“Piracy with military or political feature” is the third form of piracy. These are likely incidental incidents. Hijacking a ship, overpowering the crew and stealing the entire cargo can be stated as the fourth variation.

Finally, the latest form that can diversify is called “phantom- or ghost-“ship. The pirates force the crew off the ship and then sail it to a port in order to repaint it and give it a new identity through false papers. According to MacQueen (2004), registering a vessel can easily be done in Belize, Honduras or Panama. These governments do not ask the origin of the ship.

The objective of this kind of piracy is to use the ship to commit cargo frauds. The turnaround time for a phantom ship operation lies around the ninety days. Such ships can manage three or four voyages a year. It is a huge profitable business. The life time of a phantom ship is about two and a half years. After that, the ships which are not maintained very well will be abandoned by the pirates.

Another new trend in piracy is characterized by the fact that pirates attacked and kidnapped crewmembers and demanded ransom for their safe return. Modern pirates make use of the newest technology. They use mobile phones, modern speedboats, assault rifles, shotguns, pistols, mounted machine guns, and even rocket-propelled grenade and grenade launchers. In spite of that, more primitive weapons such as knives, batons, or boat-hooks are also often used.

According to the Munich Re Group (2006), the problem of piracy is ongoing and ever changing problem. Each area has their own features and requires their own solution for their specific situation. Reasons for a regional increase in piracy are different per region. Pirates are organized in different ways. Individuals, gangs, separatist groups, organized criminal gangs or pirates posing local military forces. However, there are also some similarities between these regions. First, where piracy is concerned, regional growth trends are always directly related to economic crises and inadequate legal and security systems.

Second, pirates often operate in regions of developing or struggling countries with smaller navies and large trade routes. Marine Log (2007) stated that socio-economic issues arising in regions where maritime trade meets poverty, social instabilities and an absence of effective law. The financial gain creating a breeding ground for piracy. Facilitators of the piracy development are maritime bottle necks, fishing fleet for camouflage, adequate boat facilities, existence of black markets and money laundering.

The most piracy-prone waters can be divided into three areas:

- South East Asia and the Indian Sub-Continent (Bangladesh, India, Indonesia, Malacca straits, Singapore Straits, Africa and Red Sea);
- Gulf of Aden and Southern Red Sea (Somali waters, West Africa);
- South and Central America and the Caribbean waters (Brazil, Haiti, Dominican Republic, Jamaica, Peru).

2.5 South East Asia and the Indian

The Malacca Strait is a narrow waterway that extends nearly six hundred nautical miles from the Andaman Sea to the South China Sea, between Malaysia and Indonesia. The strait provides a vital shipping lane for vessels sailing from Europe and the Middle East to East Asia, as well as smaller vessels on local voyages. Unfortunately, when we think of the Malacca Strait, images of a waterway infested with pirates often spring to mind. While this image could arguably have been justified in the past, it is now rather outdated. According to the International Maritime Bureau (IMB), which produces quarterly and annual reports on piracy and armed robbery against ships, there were only three successful and four attempted attacks by pirates on shipping in the Malacca Strait in 2007.



This low level of piracy has continued into 2008, with the Half Yearly Report issued by the Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP) Information Sharing Center in Singapore listing only one successful attack on a vessel in the Malacca Strait and three attempted ones.

Considering that around ninety thousand vessels transit the strait on an annual basis, the proportion of ships being attacked in the waterway is extremely small. With statistics such as these, one might wonder why we are still seeing the publication of articles such as one appearing in a recent issue of *National Geographic Magazine*, whose cover declares, “The Strait Malacca, Dark Passage: Pirates Haunt It. Sailors Fear It. Global Trade Depends on It.”

There seems to be a failure, particularly outside the region, to keep pace with the change in the frequency of pirate attacks and the scale of the problem. While piracy has certainly been a concern in the waterway in the past, with reported attacks reaching seventy-five in 2000, the number of cases has been falling since 2005, largely as a result of a number of countermeasures introduced by the three littoral states of Malaysia, Singapore, and Indonesia.

This decrease in attacks was achieved despite a 10 percent increase in cases worldwide. This article will discuss the reduction in pirate attacks in the Malacca Strait and how the attacks themselves have changed over the last decade. The measures attributed to the

reduction will then be discussed, as well as the underlying principles and attitudes that have shaped these initiatives.

Particular attention will be given as to how the issue of sovereignty, a principle of utmost importance in Southeast Asia, has impacted multilateral and bilateral cooperative efforts to address the transnational problem of piracy, including a series of International Maritime Organization (IMO) meetings convened to tackle pressing issues affecting the safety and security of shipping in the Malacca Strait. The conclusions will make recommendations regarding issues that require further action.

2.5.1 The Changing Nature of Piracy in The Malacca Strait

Piracy has occurred in the Malacca Strait for hundreds of years. The October 1992 creation in Kuala Lumpur of the IMB's Piracy Reporting Center (PRC), which was tasked with, among other things, collecting data on pirate attacks around the world, started to highlight the scale of the problem in Southeast Asia. However, it was not until the late 1990s that the issue came to the attention of the international community. This occurred primarily for two reasons. First, in 1997 the Asian financial crisis had a harsh impact on the region. It is believed that the deteriorating economic situation forced many people living in coastal areas in Indonesia and Malaysia to turn to piracy to supplement their incomes. The economic collapse also caused widespread political instability, in particular in Indonesia, making it easier for people to pursue illegal methods of income generation. Second, in the late 1990s several high-profile pirate attacks took place in the region, among them the attack on the *Petro Ranger* in 1998. This may have led to an increased tendency among shippers to report attacks, particularly attempted attacks or more minor cases.

As a result of these factors, by the late 1990s the annual number of reported pirate attacks in the strait had gone from virtually zero to seventy-five. Piracy was now seen as a significant problem that required urgent attention.

One year after piracy incidents peaked in the Malacca Strait, al-Qaida launched its attack on the Twin Towers in New York, demonstrating that ordinary means of transportation can be utilized to carry out large-scale attacks on economically important targets. This incident prompted a reassessment of the vulnerability of the maritime sector to attack by terrorists; in Southeast Asia, the presence of pirates operating seemingly unchecked highlighted how insecure the maritime domain was. Speculation soon began as to the likelihood that the region's pirates would cooperate with regional or international terrorist groups to carry out a devastating attack on shipping. During this period there were several different types of piracy taking place in the Malacca Strait.

These included robbery of vessels at sea, the hijacking of vessels, and kidnap-for-ransom attacks. Another common type of piracy takes place against vessels berthed in harbors or at anchor. However, this type of attack is unlikely to affect vessels on international voyages through the strait. The most common targets in this case would be smaller vessels that transit the coast of Indonesia or those on local voyages from, for example, Malaysia's Port Klang to the port of Begawan in Indonesia. The robbery of a vessel by pirates usually takes place while the ship is under way, often at night, and most often between one and six o'clock in the morning.

The pirates board the vessel using grappling hooks and then take any cash and valuables from the ship's safe and crew, including high-tech navigation equipment or whatever else they can seize quickly. In this type of attack the value of the stolen goods can be between ten and twenty thousand U.S. dollars. The ship can be taken over for up to a few hours by from five to ten pirates, although many incidents are over within half an hour. It is in this type of piracy that the most significant reduction has taken place since 2000. This may be partially due to an increased awareness on the part of crew members following the introduction of new maritime security requirements for vessels.⁸If a vessel is hijacked, it is usually seized for a significant length of time.

Perhaps for several days, while the cargo is unloaded at a port selected by the pirates or transferred to another vessel. Hijacking has been less common than the former type, simple robbery, because good intelligence gathering and careful planning prior to the attack are required to ascertain the cargo and route of the vessel. A secure port to unload the stolen cargo is also needed, not to mention a willing buyer.



A variation of this latter kind of piracy is the permanent seizure of a vessel by pirates, who turn the vessel into a “phantom ship”; the key difference is that once the pirates have disposed of the vessel's cargo, they do not abandon the vessel itself. The ship is repainted and the crew dumped or killed. The ship then sails to a new port with a false name and forged documentation.

In recent year's tugs have been favorite targets of pirates, perhaps because they do not usually have Automatic Identification System (AIS) equipment installed and yet are very valuable ships. Also, they are easier to attack, given their low freeboards. Once taken, they may be used in various maritime criminal activities, which would favor a small vessel of kinds commonly seen in ports and international waterways. Kidnapping is the most serious form of piracy taking place in the Malacca Strait since 2001. During a kidnap, armed attackers take over the vessel and abduct two or three senior crew members, who are then held ashore pending, ransom negotiations. The kidnapped crew members are usually released unharmed following payment by their employers. Ransoms demanded can range from US\$100,000 to US\$200,000.

However, the sum of money eventually paid to the attackers following negotiations is usually substantially lower, somewhere between ten and twenty thousand U.S. dollars.¹⁰ Of the three 2007 attacks deemed successful by the IMB in the Malacca Strait, one was a boarding of a containership under way northwest of Palau Perak: crew members spotted flashlights on the deck of their vessel, and when they raised an alarm a small boat was seen moving away from the ship. Another incident took place when several unlit fishing boats approached a containership while it was under way. The ship's master took evasive action to deter the suspected pirates; two were still able to board.

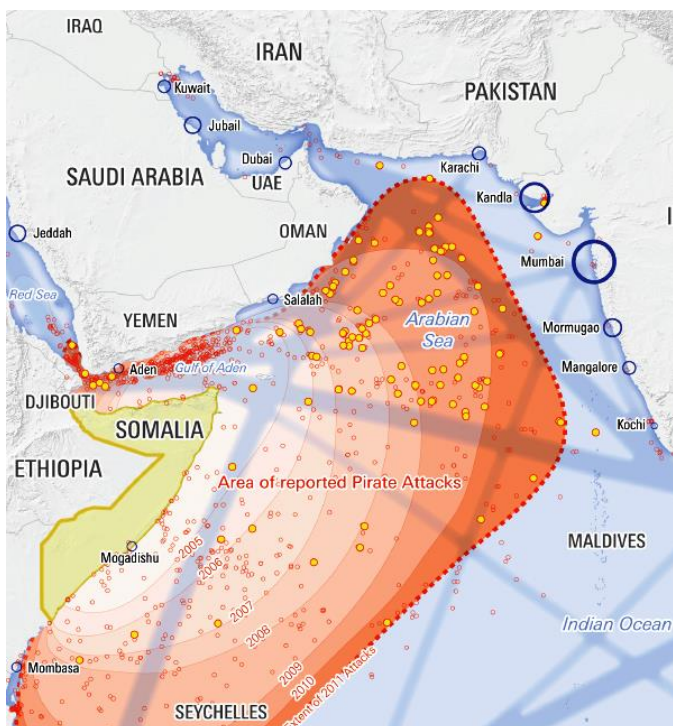
However, the pirates were unarmed; they were detained by the ship's crew and handed over to the authorities in Singapore. The third incident was a kidnapping; according to the

IMB report documenting the attack, “ten pirates armed with firearms boarded the tug towing the barge laden with steel billets. The pirates damaged all communications equipment and stole crew personal belongings and ship’s documents.” The pirates kidnapped the master and the chief engineer, whom they took ashore. A ransom was demanded, and eleven days after they were kidnapped, following payment of the ransom, the two were released. The details of the three incidents from 2007 reveal that two were essentially unsuccessful. Although they were classified by the IMB as “actual attacks” rather than “attempted attacks,” the pirates were able neither to steal anything nor attack anyone during the incidents.

Meanwhile, in the only successful case of piracy documented in the first half of 2008 in Recap’s Half Yearly Report, pirates reportedly attacked two fishing trawlers in the early hours of the morning while the vessels were under way. All the crew members were thrown overboard off a nearby island in Indonesia. The crews were rescued, but the trawlers have yet to be located. It is likely that the vessels and their cargoes were sold on the black market. If the overall frequency of pirate attacks in the Malacca Strait has been significantly reduced in recent years, however, kidnapping remains worrisome threat, especially given the great danger it poses to crew members. The continued occurrence of this form of piracy, even at low levels, necessitates a reexamination of the various countermeasures that have been implemented to improve security in the Malacca Strait.

The current practice is for the employers of kidnapped crews to pay ransoms for their release. It is widely acknowledged by experts in this field that not only does paying ransom encourage further kidnappings, but the ransom money often goes to finance weaponry to be used in future attacks. A policy of no negotiation with kidnappers must be adopted to make kidnapping a non-profitable industry.

2.6 Gulf of Aden and Southern Red Sea



Munich Re Group (2006) described that when the Bare regime in Somalia was deposed in the early 1990s, the state lost control of its own coastal waters and trawlers. Other countries were able to fish in Somali waters unhindered and this have led to violent collisions. The local fishermen were more or less defenseless against the large foreign trawlers and increasingly turned to piracy in order to save their maker of living. There is also a power conflict between the warlords, which has now extended to the sea.

The warlords use their power in Somalia for their own private attacks on ships, above all with the Intention of demanding ransoms. As a result of political instability, poverty, easy access to weapons

and the desire to acquire bigger vessels in order to become better skilled pirates, acts in Somalia become very violence. Somali piracy is characterized by the fact that pirates attacked and kidnapped crewmembers and demanding ransom for their safe return. Somali pirates use mother ships to launch attacks as far as 350 nautical miles offshore.

When a ship moves slowly or stops, due to engine failure for example, in this area of the coast of Somalia, there is a high possibility that vessel and cargo will be hijacked or crew kidnapped. During the Siad Bare regime, Somalia received aid from Denmark, Great Britain, Iraq, Japan, Sweden, USSR and West Germany to develop its fishing industry. Cooperatives had fixed prices for their catch, which was often exported due to the low demand for seafood in Somalia. Aid money improved the ships and supported the construction of maintenance facilities. After the fall of the Bare regime, the income from fishing decreased due to the Somali Civil War.

Also, there was no coast guard to protect against fishing trawlers from other countries illegally fishing and big companies dumping waste which killed fish in Somali waters. This led to the erosion of the fish stock. Local fishermen started to band together to protect their resources. Due to the clan-based nature of Somali society, the lack of a central government and Somalia's strategic location at the Horn of Africa, conditions were ripe for the growth of piracy in the early 1990s.



Armed pirates in the Indian Ocean near Somalia. After the picture was taken, the vessel's crew members opened fire on U.S. Navy ships and the ship's crew members returned fire. One suspected pirate was killed and 12 were taken into custody. Précis data on the current economic situation in Somalia is scarce but with estimated per capita GDP of \$600 per year, it remains one of the world's poorest countries. Millions of Somalis depend on food aid and in 2008, according to the World Bank, as much as 73% of the population lived on a daily income below \$2. These factors and the lucrative success of many hijacking operations have drawn a number of young men toward gangs of pirates, whose wealth and strength often make them part of the local social and economic elite. Abdi Farah Juha who lives in Garoowe (100 miles from the sea) told the BBC, "They have money; they have power and they are getting stronger by the day. They wed the most beautiful girls; they are building big houses; they have new cars; new guns."

Some pirates are former fishermen, whose livelihoods were hurt by foreign ships illegally fishing in Somali waters. Most of the pirates, observers say, are not former fishermen after seeing the profitability of piracy, since ransoms are usually paid, warlords began to facilitate pirate activities, splitting the profits with the pirates. Pirates even attack ships carrying humanitarian aid. In most of the hijackings, the bandits have not harmed their prisoners.

The Transitional Federal Government has made some efforts to combat piracy, occasionally allowing foreign naval vessels into Somali territorial waters. However, more often than not, foreign naval vessels chasing pirates were forced to break off when the pirates entered Somali territorial waters. To counter this, in 2008 (and renewed each year since then) the UN passed a resolution allowing international warships to pursue pirates into Somali territorial waters. The Royal Navy has regularly released Somali pirates, even when caught in the act, because of the risk they would request asylum if prosecuted in Europe. The government of Puntland has made more progress in combating piracy, evident in recent interventions.

Somali piracy is unique in many regards, as Somalia does not have a natural coastal terrain of the sort that is usually favorable to pirates. Pirates in other parts of the world typically operate in areas with numerous forested inlets and islands, where ships could be hidden from aerial and maritime surveillance while they are being renamed and repainted. Instead, Somali pirates have developed on-land sanctuaries from which they can launch pirate attacks and conduct ransom negotiations. This, no doubt, has affected their choice to focus on hostages rather than cargo. What may have been considered a deficiency has resulted in a very positive outcome for the pirates: the amounts they command for ransoms far exceed what they could have gained through robbery.

Traditionally, Somali pirates have operated from small, fast skiffs, waiting up to 50 nautical miles off the coast for a suitable vessel to attack. But as patrols have pushed them further out, they are increasingly using bigger fishing trawlers as “mother ships”. These larger vessels are usually able to carry several skiffs, as well as weapons (typically AK-47s and increasingly, rocket-propelled grenades). The visual horizon at sea is normally about three miles. The ability of pirates to locate target vessels in vast expanses of sea has led some to conclude that pirates are being provided with GPS coordinates by informants with access to ship tracking data. Crews of some hijacked vessels have said that the pirates appear to know everything about the ship on boarding, from the layout of the vessel to its ports of call. Calls made by pirates from their satellite phones from captured ships indicate an international network. From the time of first sighting, it generally takes the pirates some 15 to 30 minutes to board the ship. Once the vessel is targeted, the skiffs attack from a number of directions simultaneously, which usually allows one of the skiffs to approach the vessel unnoticed. Relatively slow ships with low sides, a small crew and insufficient surveillance are more vulnerable to pirate attacks. Pirates do not limit their attacks to one kind of ship, although bulk carriers, container ships and general cargo ships comprise the majority of piracy targets.

Most ships that are successfully captured by Somali pirates in the Gulf of Aden are brought to Eyl, Hobyo or Harardheere. There are also reports that Bargaal and Garaad are used as anchorage sites. As mentioned above, since the pirates are not concerned about concealing the vessel from public sight, negotiations are usually done with the ship

visibly anchored off the Somali coast.

In the first part of 2009, the average time that crews were held hostage was approximately two months, with the shortest time being six days and the longest six months. Negotiations for ransom are usually done directly between the pirates on the seized vessel and the ship-owners or head companies, although sometimes third-party intermediaries in Somalia and abroad are also used.

The negotiations are generally conducted via satellite telephones and the captured ship's communication equipment. In most instances, ransoms are paid in cash and are delivered to the pirates aboard the seized ship. The method of payment may be direct transportation of the money to the pirates by a representative of the ship-owner or even the parachuting of the ransom money. In a few cases, ransoms have been paid to a trusted third party representative outside Somalia.

Upon receipt of the money, the pirates release the hostages and usually leave separately to avoid tracking and capture.

2.7 Tactics of Modern Sea Pirates



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Chapter 3 – Law Efficiency

3.1 Piracy and International Laws

As we have come to know that the whole international community is dealing with the problems of piracy, so because of that the international law provides some definitions and powers to all the states regarding piracy. Here in this chapter we will discuss all the powers definitions and provided by the international laws and international conventions in this regards.

3.2 Codification Of Laws Related To Piracy

The history of modern piracy is not so much long and there were a lot of efforts on international level in this regard to control these crimes. Here we will explain a brief history of codification of the works of codification about the piracy in international laws.

- **League of Nations work!**

The issue of piracy was one of the most important issues which are presented in league of Nation. It prepares a commission for the progressive codification of the work of one of its subcommittee about piracy. That report of piracy has some ambiguities, as for it restricted piracy in the high seas, but excluded the acts of the state controlled vessels and acts for political purposes. There was also some solutions presented in that report but those are not recognized universally at all. The reaction of the states about that report was not good because some of the states think that this problem is not on high level in the world. The League of Nations assembly decides on the basis of that report to put the issue of piracy in its codification conference.

- **The Harvard Research Draft 1932**

This was the first ever draft to make some customary laws. It recognizes the competence of individual states over the offense, as for each state have the jurisdiction over piracy. This draft provides some extra powers to the states which are not available under the leagues Draft.

- **The Geneva Convention on the High Seas 1958**

The Harvard research draft formed the basis, after the Second World War, for the international law commission's work on piracy for inclusion in the UN's 1958 Geneva Convention on the high seas. There were some states in the world which were not satisfied by the Geneva Convention, so in the third meeting of UN, it was tried to make such a rule regarding piracy which should be acceptable by the all states overall. So it seems to have deemed it wise, therefore to avoid re opening old controversies by merely repeating verbatim the relevant articles on piracy from the 1958 convention.

- The United Nations Convention on the Law of the Sea 1982 (UNCLOS)
The United nation convention of 1982 has eight articles related to the problem of piracy (Article 100-107). The old errors and weaknesses are not only still available in this convention but also increase the problem because of some of its zonal provisions. This UN convention never pays any kind of attention to the report of International Law Association of 1970. Now this convention is applicable to the whole world regarding piracy but of course it has much weakness in it at all which demand to restore them for the better result of this convention.

3.3 Provisions of Piracy

The framework of the law of the sea is provided in article 100-107 in UNCLOS 1982. These articles replicate the articles 14-21 of High seas Convention 1958. Here we will explain that how both the conventions explain the Piracy.

3.4 Geneva Convention 1958



As we know that piracy is one of the oldest problems for the shipping industry and the international community as well, so it is first of all defined and discussed in detail at Geneva Convention 1958. Here we will see what are the rules and regulations prescribed by this convention about piracy.

- Article 13
Every State shall adopt effective measures to prevent and punish the transport of slaves in ships authorized to fly its flag, and to prevent the unlawful use of its flag for that purpose. Any slave taking refuge on board any ship, whatever its flag, shall *ipso facto* be free.

- Article 14
All States shall cooperate to the fullest possible extent in the repression of piracy on the high seas or in any other place outside the jurisdiction of any State.
- Article 15
Piracy consists of any of the following acts:
(1) Any illegal acts of violence, detention or any act of depredation, committed for private ends by the crew Or the passengers of a private ship or a private aircraft, and directed:
(a) On the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft;
(b) Against a ship, aircraft, persons or property in a place outside the jurisdiction of any State;
(2) Any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft;
(3) Any act of inciting or of intentionally facilitating an act described in sub paragraph 1 or subparagraph 2 of this article.
- Article 16
The acts of piracy, as defined in article 15, committed by a warship, government ship or government aircraft whose crew has mutinied and taken control of the ship or aircraft are assimilated to acts committed by a private ship.
- Article 17
A ship or aircraft is considered a pirate ship or aircraft if it is intended by the persons in dominant control to be used for the purpose of committing one of the acts referred to in article 15. The same applies if the ship or aircraft has been used to commit any such act, so long as it remains under the control of the persons guilty of that act.
- Article 18
A ship or aircraft may retain its nationality although it has become a pirate ship or aircraft. The retention or loss of nationality is determined by the law of the State from which such nationality was derived.
- Article 19
On the high seas, or in any other place outside the jurisdiction of any State, every State may seize a pirate ship or aircraft, or a ship taken by piracy and under the control of pirates, and arrest the persons and seize the property on board. The courts of the State which carried out the seizure may decide upon the penalties to be imposed, and may also determine the action to be taken with regard to the ships, aircraft or property, subject to the rights of third parties acting in good faith.

3.5 United Nations Convention on Law of the Sea 1982

The convention of United Nations on the law of the sea defines the sea piracy in these words and the articles about piracy in that convention are as follows.



- Article 100
All States shall cooperate to the fullest possible extent in the repression of piracy on the high seas or in any other place outside the jurisdiction of any State.

- Article 101
Piracy consists of any of the following acts.
(a) Any illegal acts of violence or detention, or any act of depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft, and directed.
 - (i) On the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft
 - (ii) Against a ship, aircraft, persons or property in a place outside the jurisdiction of any State.
(b) Any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft;
(c) Any act of inciting or of intentionally facilitating an act described in subparagraph (a) or (b).

- Article 102
Piracy by a warship, government ship or government aircraft whose crew has mutinied,
The acts of piracy, as defined in article 101, committed by a warship, government ship or government aircraft whose crew has mutinied and taken control of the ship or aircraft are assimilated to acts committed by a private ship or aircraft.

- Article 103
Definition of a pirate ship or aircraft
A ship or aircraft is considered a pirate ship or aircraft if it is intended by the persons in dominant control to be used for the purpose of committing one of the acts referred to in article 101. The same applies if the ship or aircraft has been used to commit any such act, so long as it remains under the control of the persons guilty of that act.

- Article 104

- *Retention or loss of the nationality of a pirate ship or aircraft*

- A ship or aircraft may retain its nationality although it has become a pirate ship or aircraft. The retention or loss of nationality is determined by the law of the State from which such nationality was derived.

- Article 105

- *Seizure of a pirate ship or aircraft*

- On the high seas, or in any other place outside the jurisdiction of any State, every State may seize a pirate ship or aircraft, or a ship or aircraft taken by piracy and under the control of pirates, and arrest the persons and seize the property on board. The courts of the State which carried out the seizure may decide upon the penalties to be imposed, and may also determine the action to be taken with regard to the ships, aircraft or property, subject to the rights of third parties acting in good faith.

- Article 106

- *Liability for seizure without adequate grounds*

- Where the seizure of a ship or aircraft on suspicion of piracy has been effected without adequate grounds, the State making the seizure shall be liable to the State the nationality of which is possessed by the ship or aircraft for any loss or damage caused by the seizure.

3.6 Explanation

Here we will explain the powers of the states provided by the UNCLOS regarding piracy.

- International cooperation

- In the first of all UNCLOS says in its article 100 to improve the regional and international cooperation in respect of piracy to control it. That cooperation must be on the high level, just like as the transfer on intelligence information's transfer of prisoners and to help each other states to control piracy. We can see that there are some examples in this regard about state cooperation in the worlds in this regards just like as Regional Cooperative Agreement on Combating piracy and Armed Robbery against ships in Asia (ReCAAP). The International Maritime Organization (IMO), United Nations Contact Group On piracy of the coast of Somalia, the International Maritime Bureau of the international Chamber Of Commerce and many of the others. The states are also free under this provision to make bilateral or regional contracts in this regard.

- Private Ends.

- We can see in the article 101 of the UNCLOS 1982, there are essential parts to declares some ones act as piracy, as for the act must be for some private and

- Contents of piracy

Whenever we have a look on the definition of piracy then we become aware that the UNCLOS makes this definition limited and create some restrictions on some ones acts to declare that as piracy. According to the article 101 there must be some essential parts in some ones acts and those parts are as follows, That act must be for private ends, there must be two ships involve, that must be against the other ship or aircraft and that act must be illegal and then in the end if some ship is involve or help the other ship in any activity having knowledge that the other ship is involve in piracy then the act of that ship must be called piracy also. And at last that piratical activity should be within the high seas, not within the jurisdiction of any state. We can see that it's not such b broad and clear definition. In the past some years there appears some incidents of piracy which are far from this definition for example if the crew of the ship itself or any passenger of the ship by force try to control or to move its way illegally than what could be that act called?

- Seizer of the ships

Then in article 105 the UNCLOS provides, lots of powers to all the states to arrest the pirate ships and to take the goods under control and to make the decision in good faith about the sentence of the pirates and the future of the ship and the goods also. No other state can interfere in this regards. But here one thing should be kept in mind that such arrest and seizer must be within the high seas and outside the jurisdiction of any other state.

3.7 Legal Actions Against Pirates

Whenever we read the UNCLOS 1982 and its provisions about the piracy then at that time there appears a question in our mind that, which kind of actions may be taken against the pirates? It's true that all the states of the world dislike this crime and want to punish piracy. But enforcement of actions against the pirates and the criminal prosecution of pirates are left to the individual states. We can see that there is not a single one institute department or organization in the world on international level to punish the pirates. The main reason is that the UNCLOS 1982 does not create any kind of international tribunal to hear the case of piracy against any individual brought before it. The history of criminal proceedings against the pirates is much long. We can see that in English American colonies the pirates were punished under the law of England in New York, and under the United States law as early as 1813. American's piracy cases continued through the nineteenth century. While pirates are treated and punished under the different laws and on the other hand the recovery from them create some other issues.

As justice Bruce & Charles F. Jemmett discussed:

“All ships, vessels, boats, specie, or other property recaptured from the pirates.. should be subject and liable to condemnation as droids and perquisites of Her Majesty in her office of Admiralty; but that if any part the said property should be duly proved to have belonged to, and to have been taken away from, any of Her

Majesty's subjects, or the subject of any foreign power, such property should be decreed to be restored to the former owner on payment. As salvage remuneration.”

3.8 Use of Force in Disruption of Piracy

Whenever we have a look on the piracy provisions of UNCLOS then we can see that in its article 110 this convention provides all the member states to use reasonable force to disrupt piracy. This article does not provide us all the details that the states can use how much power in this regard but it just provides a basic guideline for the member state. The navies of all the member states have a right to use reasonable force to combat piracy at all. The rules of engagement (ROAs) which are adopted by the navies of different states tell us that the actions of the navies and force used by the navies in the case of Somalia must be of police level rather than the military levels.

We can see that in the case of Indian war ship “Tabar” that attacked a suspected pirate ship and as a result the ship sinks. After the inquiry it becomes clear that that was not a pirate ship but was a fishing ship and recently hijacked by the pirates and having hostages on board as well. So here the navies must adopt some different strategy in these kind of cases when the hostages are on board. In the shipping industries it's a perception that the international law is much weaker in the matter of providing powers to the navies as against the piracy. But on the other hand the fact is that the navies have almost all the necessary powers which are required by the navies to combat this crime. But here one thing should be kept in mind that the navies cannot use these powers freely and must have some safety measures in this regard to save the other people.

3.9 Problems about Detention and Prosecution of Pirates



Unfortunately, near about 50 to 60% of arrested pirates are released by the navies who arrest them in the sea. We can see that the problems start from here with this action of navies with the pirates. There are also some reasons behind that act of navies. There is a confusion as to where to bring the arrested ship for prosecution and for

investigation etc. We can see that in a single act of piracy there are lots of jurisdictional problems. As there may be lots of states involved in one pirated ship regarding jurisdiction, the crew, the passengers, the pirates, the ship owner, the goods owner etc. and also the flag state. But the international law of the sea

provides a power to all the states to arrest the pirates and to try them in their courts.

To try a case of piracy it is necessary first of all that the trial state has the necessary domestic legislation in this regard. States must always keep in mind the instructions provided by the UNCLOS and SUA convention. The IMO assembly's resolution also provides some guideline in this regard that how to use the provisions of UNCLOS in this regard.

Another big problem is the willingness of the trial of the pirates by the states. We can see that there are a lots of western countries which are not agreed to trail these pirates within their states at all. The main reason is that these pirates demands the asylum after the trial and create lots of problems in those states also. Some states are involve in political crises some states have difficulties in proper prosecution and beyond the all lack of evidence and to prove the crime against the pirates is also a big problem to deal with these kind of problems.

Then in the end I would like to explain that these pirates are properly sophisticated persons and they know very well the importance of evidence, so they always try to destroy the Profs before to arrest during the piracy. More over when the trial is going on in one place and the investigation is happening in some other place and delay in decisions are all the main reasons to destroy the evidence and to destroy the facts as well. Then in the end there is a lack of international collaboration to investigate these kinds of cases.

3.10 Human Rights Laws And Sea Piracy



The treatment with the captured pirates under the international laws is also another major issue. Human treatment, basics facilities of life right to brought up before the proper court, restrictions on illegal detention, illegal torture on the prisoners and, to hand over these pirates to some third state for the prosecution of the case of murder all are considered as the basic points of human rights laws. The European convention on human rights and the international convention on civil and political rights impose some obligations upon the states regarding the matter of pirates.

As we know that all the European states which have the naval vessel in the coasts of Somalia are also the parties in the European Convention on Human rights. Though all these states have a right to sail on that part of sea under the authority of Security Council's resolution. The Security Council's resolution also forced to obey the human rights while dealing with the pirate's just like as their treatment with pirates, their capture, detention and transfer.

Under the human rights laws the detention of the pirates can be divided into three basic categories. First of all starts at that stage when the pirates are arrested with an intention to bring to the arrested state for prosecution. The ECHR applies here in this case immediately after the arrest of the pirates. The navies are bound

to inform the judicial officers about the arrest of the pirates and to bring them before the court without any delay.

Secondly, when some pirates are arrested and detained for some weeks with an intention to hand over them to some third state. Here the whole case is under the authority of the court. The court can also order to follow the rules of ECHR in extra-territorial sea as well. And in the end the third situation starts at that time when some pirates are arrested and it is not clear that who will prosecute these pirates at all. If the pirates are detained in this situation on the capturing states vessel, which ship would probably be assumed as being under the state's jurisdiction for the purpose of the ECHR, similar to a consulate or embassy. But on the other hand if the pirates are detained on their own ship then it is not clear that whether which kind of human rights laws would be applicable and who will be responsible for that.

The main purpose of the ECHR is to provide justice to the pirates. We can see that this commission is not covering the problems of human rights at all but on the other hand the courts have still an authority to issues some guidelines in this regards.

3.11 International Courts for Sea Pirates

As we know that there are lots of difficulties to deal with the pirates and also in their prosecution, so in this regards there are lots of international suggestions to create some international courts to deal with this crime. There are also some suggestions to increase the powers of current international court of justices to deal with these kinds of cases also. But these proposals remain fail to get much support on international level.



From the experience of other international tribunals we have come to know that it is a very lengthy process to establish such kind of international court. There are also some financial and human resources problems involve in it. Secondly the international courts will be available at that place when there is no other court to deal with such kind of case. But we can see that in case of piracy there are lots of national courts who are dealing with these problems. So we see that there is no need of international courts for this crime at all, what is needed, just to improve the laws and to make some proper and better way of proceedings in this regards.

3.12 Is the Present Legal Framework Sufficient?

Here we will talk about all the multinational agreements customary international laws, which provides adequate powers to the vessels of the states to stop inquire arrest the pirates and also to use the reasonable force against these kinds of activities. According to these laws the states can trial the pirates transfer them from one place to another and to recover the damages from them. As we know that the international laws are not applicable within the territorial jurisdiction of any state, so each state must create some local laws regarding piracy.

Each state must keep in mind these guide lines provided by the international laws, to make rules in this regards.

- Piracy should be a crime under its local laws.
- The provisions against piracy should be for the law enforcement agencies with certain required powers.
- That law must provide some authorities to the courts of the states to make trial of the pirates for justice.
- There must be some provisions regarding the recovery property from the pirates for its delivery to its real owner.

As we know in most of cases that there are a lots of problems in investigation and fair trail of the pirates when the pirates are arrested from the international seas and brought to some other states for their trial.

- So there must be some clear rules and regulations for the investigation and for the treatment with the pirates and for their handing over to some third state. There must be some detailed information's regarding the procedure of trial of the pirates.
- There must be some continuous efforts to improve the way of prosecution and thy way of transfer to some other country.
- All the states must affix some of its officials to work in this regard just like as to collaboration for investigation for negotiation and for dialogues with the other states.
- If it is possible then there must be a joint investigation department on international levels to deal with this crime, for investigation and to collect the evidence. All the rules made by this department should be acceptable for the whole international states.
- The UN and IMO must try to improve the standard of evidence ant to make some rules for the states to collect the better evidence as against the piracy.

As we know that if the pirates are arrested by the state A then they will be trailed by that states under their local laws rather than to trail those pirates in that state from there they belongs at all. So in it,

- There must be some legislation in this regards on the long term basis to trial these pirates in related countries.
- There must be some work regarding improvement of the intelligence system of the states. There should be some intelligence assistance from the concerned states in this regards to the trial states.
- There should be some international trust fund under the authority of UN or

IMO to provide some financial supports to the states to meet the expenses of trials against the pirates in poor states just like as Kenya and Somalia.

The European states must take some extra steps against piracy. Though these states are not involved as much in piracy but of course these are the states mostly affected by the activities of the pirates in the high seas. As we know that most of the shipping companies affected by the pirates belong from these countries so in such a case.

- These companies must also be ready to provide the evidence and witnesses against the piracy all the time.

As for the issues of the private security firms, there must be some special steps to be taken in this regards.

- There must be some rules regulations and standard of the security system of the companies acceptable on the international states as a whole.

Then we can see that unwillingness of public and also the shipping companies in the matter of the recovery of the ransom money is also another big problem. This is the one of the major cause which is spreading the piracy on such a large scale! Of course because of the latest technologies and the intelligence departments it becomes easy today to trace the ransom money.

- The arrested pirates in different cases are the best source to get the informational in this regards.

The law enforcement agencies and the intelligence agencies can get a lot of useful information's from these pirates in this regards.(where to pay the ransom what are the uses of that ransom money what are the ways to pay that ransom money etc.).

- Secondly the use of civil laws of any state with the help of information's of the law enforcement agencies and also intelligence reports can be much helpful in this regards.

- There must be some committee based on the shipping companies, insurance companies, and legal advisors and also on the intelligence reporters in this matter to recover such ransom amounts.

- We can see that the governments are also not showing much interest in recovering the ransom money. So the best solution is that there must be a trust fund in this regards to meet the expenses. Secondly there must be a rule to deposit some amount from the recovered ransom money in this fund also.

We can say that piracy is the not the real problem. Infect the real problem is that thing which promotes the piracy. The nations must try to cut those roots which are creating piracy.

- Poverty, illiteracy, lack of law and order and the lack of political establishments, these are the one of the major problems which is creating the piracy in the different parts of the world.

Chapter 4 – Statistics



4.1 Introduction

The International Maritime Bureau (IMB) maintains statistics regarding pirate attacks dating back to 1995, while the International Maritime Organization maintains reports since 1984. Published figures on piracy may however not reflect the true extent of the problem. Some experts believe the true number of actual pirate attacks could be close to double the official numbers. The IMB piracy reporting centre assumes that 50% remain unreported. According to the IMO, it is estimated that only one third of piracy incidents are reported and according to Daniel (2000) even only 10% are reported by the shipping industry.

Political reasons could prevent shipping companies from helping and mobilizing the local authorities. Munich Re Group (2006) mentioned that there were cases in which victims reported the attacks and then became involved in suspicious investigations or were even declared to be offenders themselves. The investigations could very lengthy as well. The associated loss of time leads that shipping companies not reporting an attack. It is therefore difficult to state any precise figures to the number of attacks. Due to experiences in the past, it is not strange that shipping companies prefer to negotiate the release of crew, ship and their cargo rather than absorb the costs, both in time and money, of reporting acts of piracy to local authorities. Reporting an attack to some local authorities is time consuming and can lead to a delay of several days. According to Percival (2005), the running sunk costs of a ship are approximately US \$25.000 per day. Due to this fact it is, especially in smaller cases, cheaper not to report the incident.

State authorities do not often report incidents that happened under their surveillance to international institutions, trying to minimize the risk of damaging the reputation of their harbor and sea routes. One good example is given by Hand (2008). He described that some Singapore-flagged ship-owners were told not to report attacks to the piracy reporting centre in Kuala Lumpur. Furthermore, the IMB is finding that attacks are not reported to it by rescue centres in the Asian region, but rather to the regional cooperation agreement on combating piracy and armed robbery against ships in Asia's Information

Sharing Centre (ISC) in Singapore. However, ISC is only open during office hours and does not play an active role in coordinating responses to attacks. Quick response can save seafarers lives and reduce the amount of financial costs. A list of reasons why shipping companies are reluctant to report attacks is mentioned below:

- State authorities often do not report incidents that happened under their surveillance to international institutions trying to minimize the risk of damaging the reputation of their harbor and sea routes;

- Due to the fact that there are different official piracy definitions, it leads to underreporting of incidents of piracy in territorial waters if captains and/or state officials act upon the UNCLOS definition and refrain from reporting them to the respective authorities;
- Some shipping companies only report to local institutions;
- Some shipmasters do not report pirate attacks because they expect that country's representatives cannot help them anyway;
- Fear of companies regarding bad publicity to customers or media attention;
- Small vessels attacked, belonging to small companies, not often see any interest in reporting such attacks, or even do not know that these attacks can be reported;
- In some areas when piracy takes place, it can happen that all people on board are killed and vessel seized. In case of a fishing vessel, no one will hear about this attack;
- In the highly competitive shipping industry, there is reluctance for shippers to report piracy incidents fearing missing contracts and fear that their customers will lose confidence in them;
- Shipmasters are aware of the fact that the more incidents are reported, the higher will be the costs of future risk insurances for the respective sea routes;
- Shipmasters fear that being a victim of piracy reflects unfavorably on their discipline and watch keeping;
- Shipping companies believe that by highlighting themselves, their risk of further attack is increased;
- Some shipping companies only report bigger ones, because daily attempted attacks are too much time consuming to report every day;
- Pirates themselves want to avoid attention as well.

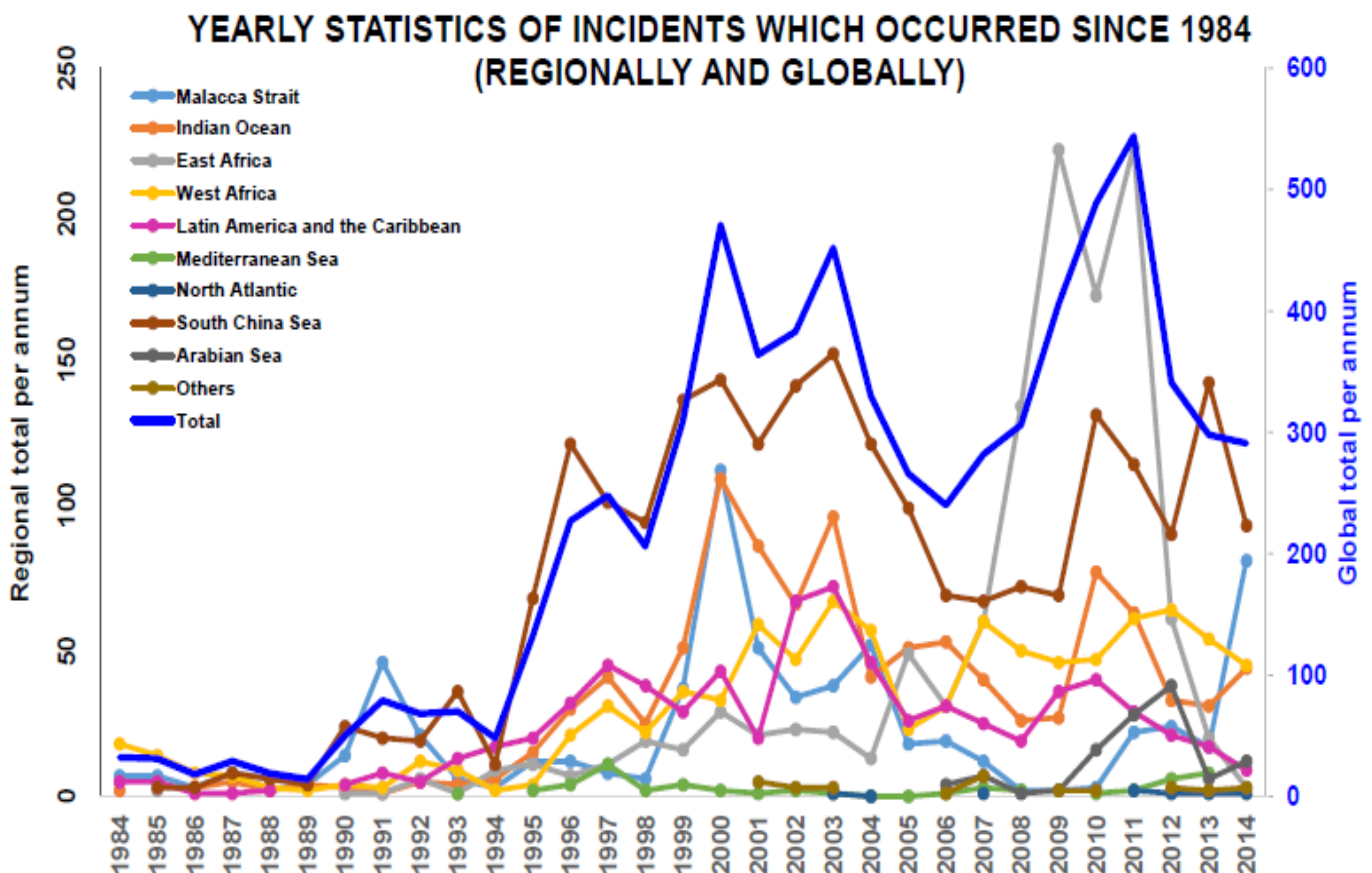
As said, the International Maritime Organization maintains piracy reports since 1984. The reports of IMO contain the names and descriptions of the ships attacked their positions and times of attack, consequences to the crew, ship or cargo and actions taken by the crew and coastal States to which the incidents were reported.

4.2 Yearly Statistics of Incidents since 1984

As shown in the diagram below, there can be seen a tremendous increase in reported pirate attacks between 1994 and 2003. After this period, pirate attacks declined until last year. One of the reasons in this aspect is that the maritime safety committee in May 1995 instructed to prepare monthly reports of all incidents of piracy and armed robbery against ships reported to the IMO.

Secondly, in 1994 the reporting centre of Kuala Lumpur started making monthly piracy reports as well. Another reason that has had influence on the amount of attacks was the tsunami in December 2004, which has led to a decrease in 2005. Other reasons of declined worldwide reported incidents in 2005 compared to the previous six years are mentioned by Fouché (2006).

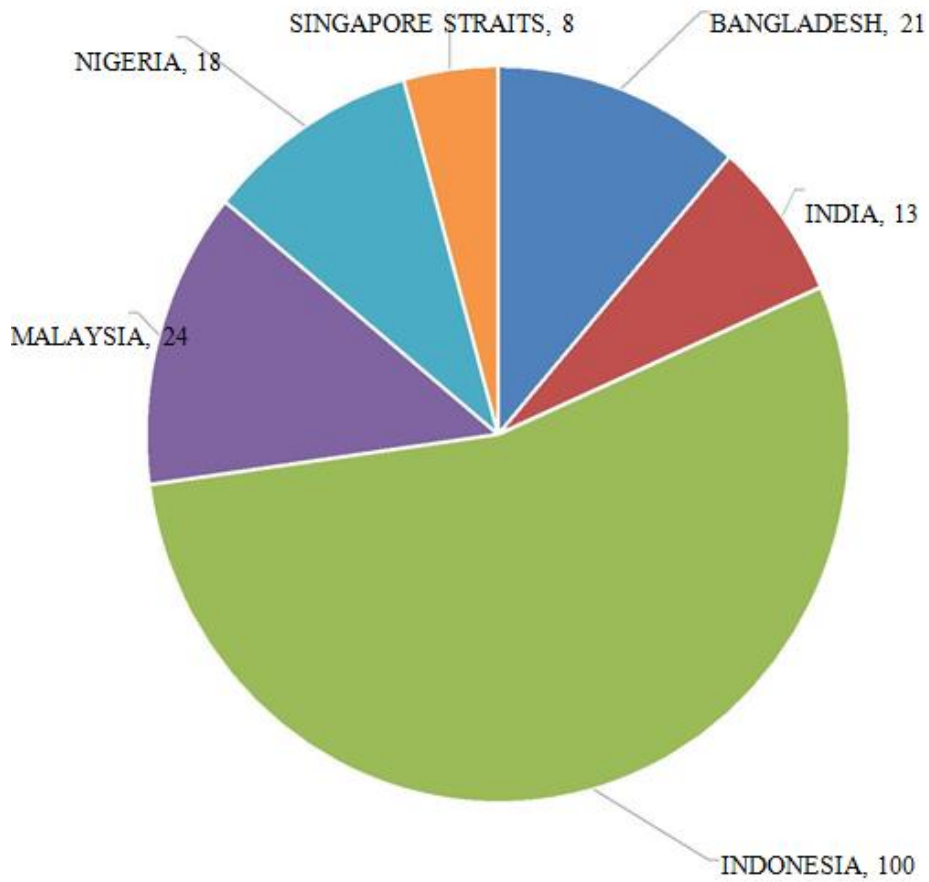
As a cause of the decrease in incidents he pointed out the increased awareness and anti-piracy watches by masters in risk prone areas, increase in law enforcement patrols and international pressure on some governments to take action.



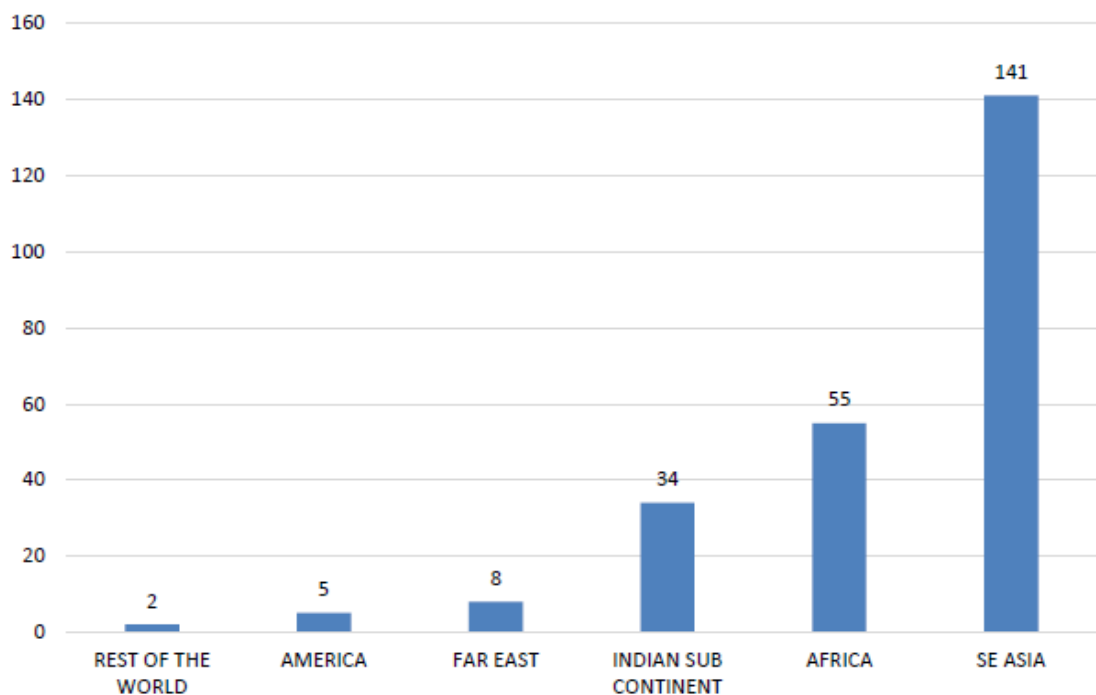
4.3 Locations of Actual and Attempted Attacks, 2010 - 2014

Locations	2010	2011	2012	2013	2014
S E ASIA					
Indonesia	40	46	81	106	100
Malacca Straits	2	1	2	1	1
Malaysia	18	16	12	9	24
Myanmar (Burma)		1			
Philippines	5	5	3	3	6
Singapore Straits	3	11	6	9	8
Thailand	2				2
FAR EAST					
China	1	2	1		
South China Sea	31	13	2	4	1
Vietnam	12	8	4	9	7
INDIAN SUB					
Bangladesh	23	10	11	12	21
CONTINENT					
India	5	6	8	14	13
SOUTH AMERICA					
Brazil	9	3	1	1	1
Colombia	3	4	5	7	2
Costa Rica	1	3	1		
Dominican Republic			1	1	
Ecuador	3	6	4	3	
Guyana	2	1		2	1
Haiti	5	2	2		
Peru	10	2	3	4	
Venezuela	7	4			1
AFRICA					
Algeria			1		
Angola		1			1
Benin		20	2		
Cameroon	5		1		1
Dem. Republic of Congo	3	4	2		1
Dem. Rep. of Sao Tome & Principe					1
Egypt	2	3	7	7	
Gabon				2	1
Ghana		2	2	1	4
Guinea	6	5	3	1	
Gulf of Aden	53	37	13	6	4
Ivory Coast	4	1	5	4	3
Kenya		1	1	1	
Liberia	1				1
Mauritania				1	
Morocco				1	1
Mozambique			2	2	1
Nigeria	19	10	27	31	18
Red Sea	25	39	13	2	4
Sierra Leone		1	1	2	1
Somalia	139	160	49	7	3
Tanzania	1		2	1	1
The Congo	1	3	4	3	7
Togo		6	15	7	2
REST OF					
Arabian Sea	2				
WORLD					
Iraq	2				
Mediterranean Sea		1			
Oman		1			2
Total at year end	445	439	297	264	245

4.4 Locations with the most Incidents



4.5 Total Incidents as per Region of the World in 2014



4.6 Types of Arms used During Attacks, 2010 -2014

Types of Arms	2010	2011	2012	2013	2014
Guns	243	245	113	71	62
Knives	88	69	73	81	83
Not stated	108	117	104	109	93
Other weapons	6	8	7	3	7
Total	445	439	297	264	245

4.7 Comparison of the Type of Attacks, 2010 - 2014

Category	2010	2011	2012	2013	2014
Attempted	89	105	67	28	28
Boarded	196	176	174	202	183
Fired upon	107	113	28	22	13
Hijack	53	45	28	12	21
Total	445	439	297	264	245

4.8 Types of Violence to Crew, 2010 – 2014

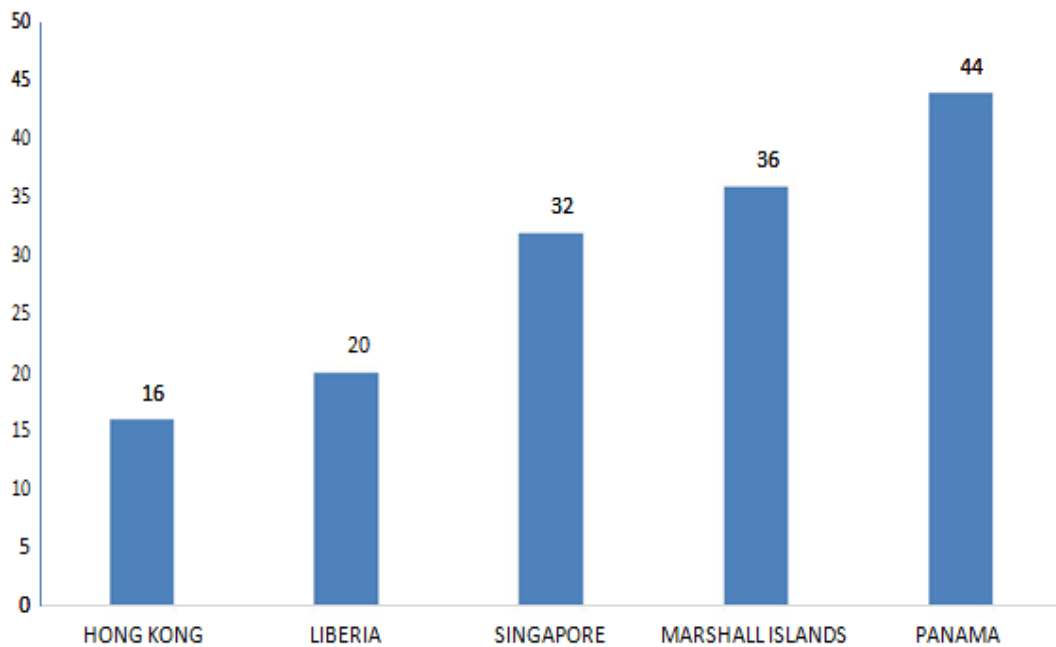
Types of Violence	2010	2011	2012	2013	2014
Assaulted	6	6	4	-	1
Hostage	1174	802	585	304	442
Injured	37	42	28	21	13
Kidnap/Ransom	27	10	26	36	9
Killed	8	8	6	1	4
Missing	-	-	-	1	1
Threatened	18	27	13	10	9
Total	1270	895	662	373	479

4.9 Countries where Victim Ships controlled / Managed, 2014

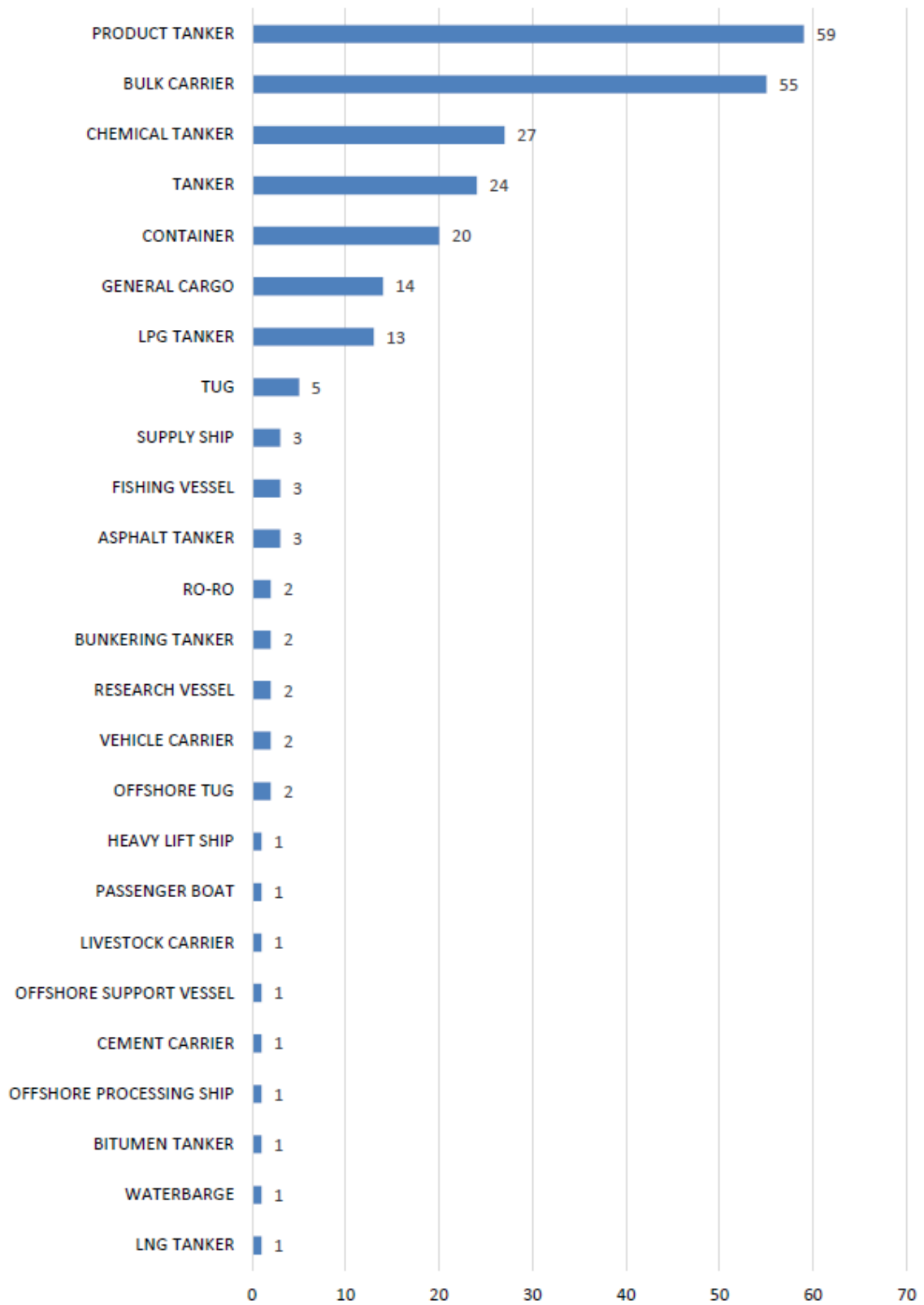
Country	No of Ships
Belgium	1
China	5
Cyprus	3
Denmark	8
Egypt	1
France	1
Germany	15
Ghana	1
Greece	30
Hong Kong	13
India	13
Indonesia	1

Italy	7
Japan	7
Korea South	4
Malaysia	11
Monaco	2
Netherlands	8
Nigeria	2
Norway	7
Philippines	3
Portugal	1
Romania	1
Singapore	63
Switzerland	1
Taiwan	2
Tanzania	1
Thailand	6
Turkey	3
UAE	4
Ukraine	1
United Kingdom	13
USA	2
Vietnam	4
Total	245

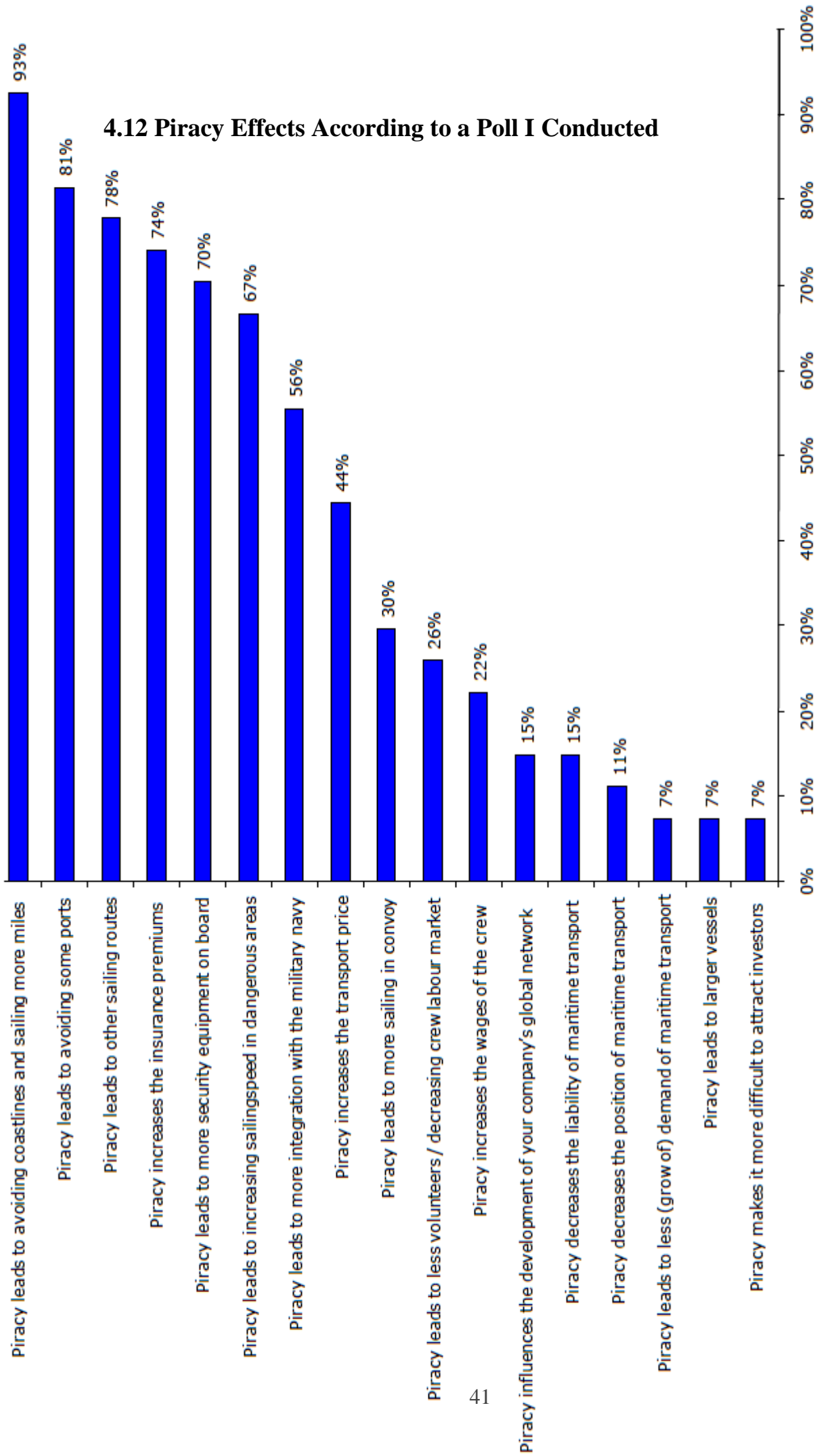
4.10 Flag States whose Ships Attacked the Most Times



4.11 Types of Vessels Attacked in 2014



4.12 Piracy Effects According to a Poll I Conducted



4.13 Classification and Boundary of Piracy Effects

Classification and boundary of piracy effects

Shipping Industry



Reputation damage

- Increasing investment risk premiums;
- Crew impact (traumas, injuries, deaths);
- Claims of crew and relatives;
- Smaller labour pool;
- Less quality maritime transport service;
- Increased workload on board;
- Double-pay danger money;
- Additional costs;
- Increase transport price.

Arbitrariness of piracy markets;

- Increased competition energy markets;
- Increase world's oil price;
- Increase general price levels;
- Change in level playing field;
- Specialisation.

Shipowners



Security costs

- Costs incurred in the fight against piracy;
- Additional security measures and costs;
- Increase transport price.

Insurance costs

- Higher premium in piracy-prone areas;
- Additional kidnap and ransom insurance;
- Additional costs;
- Increase transport price

Change in trade routes

- Longer distance;
- Longer travel time;
- Avoiding some ports;
- Increase costs;
- Increase transport price.

Pirate Attack



Direct Effects

- Delays caused by attempted attacks due to escaping maneuvers;
- Damage to the ship or cargo incurred in the attack;
- Loss of safe and cash money;
- Loss of cargo;
- Loss of hire;
- Loss of operation during the attack and investigation procedures;
- Loss of the whole ship as a cause of hijacking;
- Kidnap and ransom money for ship and seafarers;
- Investigation costs;
- Costs of negotiating and delivering the money;
- Contractual penalties due to delayed or damaged delivery;
- Cargo fraud with phantom- or ghost-ships.

Shipper



Environmental impact

- Environmental and ecological catastrophe;
- Major chokepoint closed for a long period of time.

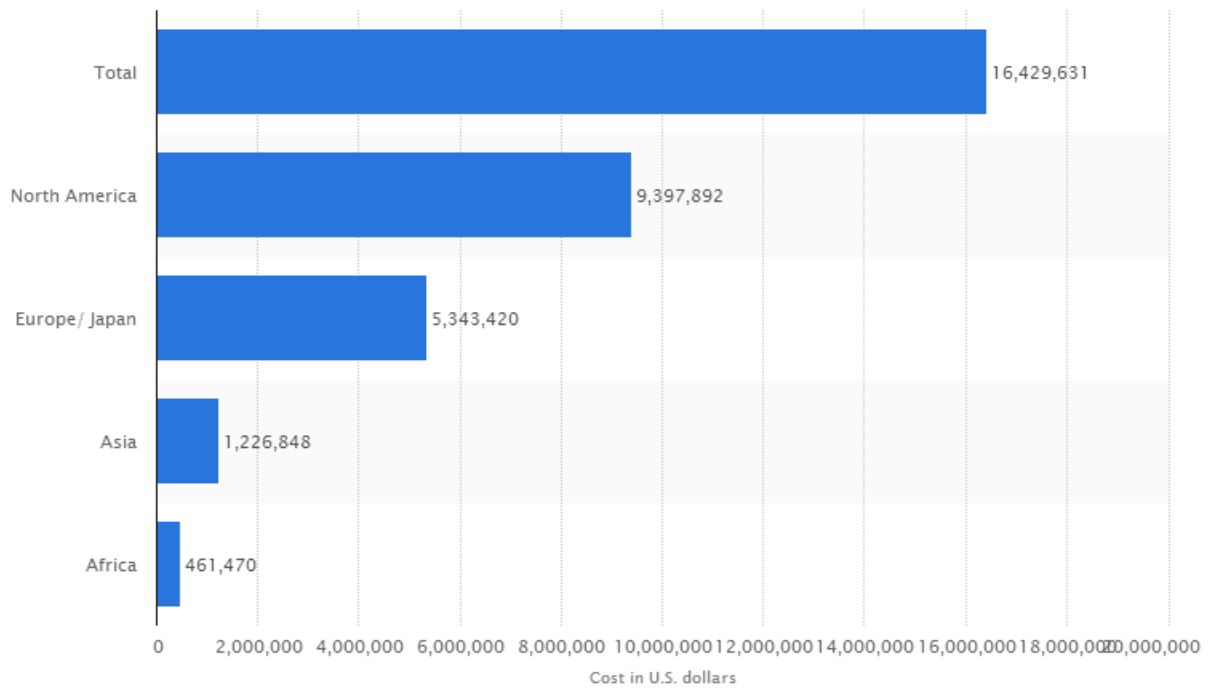
Political unrest and economic loss for the region

- Disruption import/export;
- Danger to local fishing fleet;
- Danger to food delivery aid;
- Danger to political instability;
- Economic loss for the region.

Liability maritime transport

- Lower liability maritime transport;
- Costs of higher inventory levels;
- Less (grow) of demand maritime transport.

4.14 Cost of Somali Piracy Prosecutions Worldwide in 2014



4.15 The Economic Costs of Maritime (Somalia) Piracy

Cost Factor	2011	2013	2014
Ransom	\$176 million	\$160 million	\$31.75 million
Insurance	\$460 million - \$3.2 billion	\$635 million	\$550.7 million
Re-routing Ships	\$2.4 - \$3 billion	\$486 million - \$681 million	\$290.5 million
Security Equipment and Guard	\$363 million - \$2.5 billion	\$1.064 - \$1.16 billion	\$1.65 - \$2.06
Naval Forces and Military Operations	\$2 billion	\$1.27 billion	\$1.09 billion
Prosecutions and Imprisonment	\$31 million	\$16.4 million	\$14.89 million
Counter Piracy Organizations	\$19.5 million	\$21.30	\$24.08 million
Cost to Regional Economies	\$1.25 billion	N/A	N/A
Labour	N/A	\$195 million	\$471.6 million
Increased Speed	N/A	\$2.71 billion	\$1.53 billion
Total Estimated Cost	\$7 - \$12 billion	\$6.6 - \$6.9 billion	\$5.7 - \$6.1 billion

Chapter 5 – Measures Against Piracy

5.1 Introduction

Piracy has been a threat to international shipping since the second phase of the civil war in Somalia in the early 21st century. Since 2005, many international organizations have expressed concern over the rise in acts of piracy. Piracy impeded the delivery of shipments and increased shipping expenses, costing an estimated \$6.6 to \$6.9 billion a year in global trade in 2011 according to Oceans Beyond Piracy (OBP).

According to the German Institute for Economic Research (DIW), a veritable industry of profiteers also arose around the piracy. Insurance companies significantly increased their profits from the pirate attacks, as the firms hiked rate premiums in response.

5.1.1 Preparation

Recent experience demonstrates that vessels can significantly improve their chances of avoiding or delaying an act of piracy by taking a number of relatively simple preparatory steps.

In a typical pirate attack small high speed (up to 25kts) open boats deploy from a mother ship, which is often a pirated fishing vessel. Commonly two or more of these small high speed open boats are used in attacks, often approaching from either quarter of the intended target.

Experience also suggests that, before pirates have gained control of a vessel, the sudden appearance of Naval Forces by air or sea usually persuades them to abandon the attack. Therefore, delaying the pirates at any stage of an attack buys additional time and can greatly increase the chance of Naval Force intervention.

Careful preparations by the ship may dissuade the pirates from pressing home an attack and hijacking a vessel if their closer inspection of the potential target reveals a number of protection measures.

If pirates choose to proceed with an attack the physical preparations may prevent or delay boarding of the vessel. If the pirates do manage to board the vessel, preparations on board can still delay or prevent them taking control and hijacking the vessel.

Owners of vessels that make frequent transits through the High Risk Area may consider making further alterations to the vessel beyond the scope of this booklet

and/or provide additional equipment and/or manpower as a means of further reducing the risk of piracy attack.

The guidance below primarily focuses on preparations that are within the capability of the ship's crew, using equipment and manpower that will normally be available. The guidance is based on experience of piracy attacks to date and may require amendment over time if the pirates change their methods.

5.2 Implementation of the Ship Security Plan (SSP)

A cornerstone of any response to an attack by pirates will be the Ship Security Plan (SSP), as required by the ISPS Code, and its effective implementation. This booklet is intended to supplement the ISPS not replace it. It is therefore important that, before entering the High Risk Area, the ship's crew should have practised and perfected the procedures set out in the SSP, taking into account the guidance given in Part B of the ISPS Code.

The use of private security firms for additional security and/or on board training is solely at the company's discretion.

5.3 Watch-keeping and Enhanced Vigilance

Prior to commencing transit of the High Risk Area, it is recommended that preparations are made to support the requirement for increased vigilance by:

- Making arrangements to ensure additional lookouts for each Watch
- ensuring that there are sufficient binoculars for the enhanced Bridge team
- Considering night vision optics, if available.



5.4 Closed Circuit Television (CCTV)

Once an attack is underway and pirates are firing weaponry at the vessel, it is difficult and dangerous to observe whether the pirates have managed to gain access to the vessel. The use of CCTV coverage allows a degree of monitoring of the progress of the attack from a less exposed position:

- Consider the use of CCTV cameras to ensure coverage of vulnerable areas, particularly the poop deck
- consider positioning CCTV monitors at the rear of the bridge in a protected position
- further CCTV monitors could be located at the Piracy Attack Crew Muster Point
- Recorded CCTV footage may provide useful evidence after an attack

5.5 Alarms

Sounding the ship's alarms/whistle serves to inform the vessel's crew that a piracy attack has commenced and, importantly, demonstrates to any potential attacker that the ship is aware of the attack and is reacting to it. It is important to ensure:

- Ensure that the Piracy Alarm is distinctive to avoid confusion with other alarms potentially leading to the crew mustering at the wrong location outside the accommodation
- Crew members are familiar with each alarm, including the signal warning of an attack and an all clear, and the appropriate response to it
- Exercises are carried out prior to entering the High Risk Area.

5.6 Upper Deck Lighting

It is recommended that the following lights are available and tested:

- Weather deck lighting around the accommodation block and rear facing lighting on the poop deck consistent with Rule 20(b) of the Collision Regulations
- search lights for immediate use when required

5.7 Deny Use of Ship's Tools and Equipment

Pirates generally board vessels with little in the way of equipment other than personal weaponry. It is important to try to deny pirates the use of ship's tools or equipment that may be used to gain entry into the superstructure of the vessel. Tools and equipment that may be of use to the pirates should be stored in a secure location.

5.8 Protection of Equipment Stored on the Upper Deck

Small arms and other weaponry are often directed at the vessel, and are particularly concentrated on the bridge, accommodation section and poop deck.

- Consideration should be given to providing protection, in the form of sandbags or Kevlar blankets, to gas bottles or containers of flammable liquids that must be stored in these locations
- Ensure that any excess gas bottles or flammable materials are landed prior to a transit.

5.9 Control of Access to Accommodation and Machinery Spaces

It is very important to control access routes to deter or delay pirates who have managed to board a vessel and are trying to enter accommodation or machinery spaces.

- All doors and hatches providing access to the accommodation and machinery spaces should be secured to prevent them being opened by pirates gaining access to the upper deck of the vessel
- careful consideration should be given to the means of securing doors and hatches
- it is recommended that once doors and hatch are secured a designated and limited number are used for access when required
- where the door or hatch is on an escape route from a manned compartment, it is essential that it can be opened by a seafarer trying to effect an exit by that route. Where the door or hatch is locked, it is essential that a key is available, in a clear position, by the door or hatch
- where doors and hatches are watertight, ensure all clips are fully dogged down in addition to any locks.

5.10 Enhanced Bridge Protection



The Bridge is usually the focus for the attack. In the initial part of the attack, pirates direct weapons fire at the bridge to coerce the vessel to stop. Once on board the vessel, they usually try to make for the bridge to enable them to take control. Consideration of the following further protection enhancements might be considered:

- Kevlar jackets and helmets available for the bridge team to provide a level of protection for those on the bridge during an attack. (If possible, jackets and helmets should be in a non-military colour)
- while most bridge windows are laminated, further protection against flying glass can be provided by the application of security glass film

- fabricated metal (steel/aluminium) plates for the side and rear bridge windows and the bridge wing door windows, which may be rapidly secured in place in the event of an attack
- the after part of both bridge wings (often open) can be protected by a wall of sandbags
- razor/barbed wire barricade on the external ladders on either side of the vessel leading up to bridge wing.

5.11 Physical Barriers

Pirates typically use ladders and grappling hooks with rope attached to board vessels underway, so physical barriers can be used to make this difficult. Before constructing any physical barriers, it is recommended that a survey is conducted to identify areas vulnerable to pirates trying to gain access:

- The construction of barriers will depend on the precise location used but might include barbed or razor wire
- extending the width of gunwales to prevent ladders and hooks gaining purchase may be considered
- coating gunwales and other potentially vulnerable structures with ‘anti-climb’ paint may be considered
- electrified barriers are not recommended for hydrocarbon carrying vessels, but following a safety assessment may be appropriate for some other types of vessel
- it is recommended that warning signs of the electrified fence or barrier are displayed – inward facing in English/language of the crew, outward facing in Somali
- the use of such outward facing warning signs might also be considered even if no part of the barrier is actually electrified.



5.12 Water Spray and Foam Monitors

The use of water spray and/or foam monitors has been found to be effective in deterring or delaying pirates attempting to board a vessel.



- Manual operation of hoses and foam monitors is not recommended as this is likely to place the operator in a particularly exposed position
- it is recommended that hoses and foam monitors (delivering water) should be fixed in position to cover likely pirate access routes
- once rigged and fixed in position, it is recommended that hoses and foam monitors are in a ready state requiring just the remote activation of fire pumps to commence delivery of water. Actual foam supply should not be used as this will be depleted relatively quickly and will leave the vessel exposed in the event that the foam supply is required for fire fighting purposes
- observe the water and foam monitor spray achieved by the equipment once fixed in position to ensure effective coverage of vulnerable areas
- Improved water coverage may be achieved by using baffle plates fixed a short distance in front of the nozzle.

5.13 Armed Private Guards



The use, or not, of armed Private Maritime Security Contractors on board merchant vessels is a matter for individual ship operators to decide following their own voyage risk assessment and approval of respective Flag States. This advice does not constitute a recommendation or an endorsement of the general use of armed Private Maritime Security Contractors. Subject to risk analysis, careful planning and

agreements the provision of Military Vessel Protection Detachments (VPDs) deployed to protect vulnerable shipping is the recommended option when considering armed guards.

These have become standard for many ships sailing through Somali waters in 2013. A large ship now typically sails with four guards. The industry has been dominated by British firms and guards who have had careers in the military, particularly highly experienced former Royal Marines who have been keen to cash in on their skills.

5.14 Naval Forces

As of 2013 three international naval task forces operated in the region, with numerous national vessels and task forces entering and leaving the region, engaging in counter-piracy operations for various lengths of time.

The three international task forces which compose the bulk of counter-piracy operations are Combined Task Force 150 (whose overarching mission is Operation Enduring Freedom), Combined Task Force 151 (which was set up in 2009 specifically to run counter-piracy operations) and the EU naval task force operating under Operation Atalanta.

All counter-piracy operations are coordinated through a monthly planning conference called Shared Awareness and Deconfliction (SHADE). Originally having representatives only from NATO, the EU, and the Combined Maritime Forces (CMF) HQ in Bahrain, it now regularly attracts representatives from over 20 countries.



Conclusion:

The perception that the international community has eliminated sea piracy is far from true. Today's pirates are trained fighters and drugged teenagers aboard speedboats, equipped with satellite phones and global positioning systems, armed with automatic weapons and rocket-propelled grenades. Modern piracy is a violent, bloody and ruthless practice. Different legal and practical definitions of piracy exist as an effort of several institutions like the UN, IMB and IMO. In spite of the fact that piracy has increasingly linked with terrorism, there can still made a well argument distinction. Similarities between piracy and terrorism are that both can be seen as acts of international or transnational crime, that the same tactics and methods are used and that both use same types of equipment, weapons and violence in achieving their objectives. Due to the fact that piracy has become more violent it becomes closer to an act of terrorism. However, piracy is a crime, motivated and based on financial gain, instead of political goals. Pirates want to avoid attention and will inflict only as much harm and damage as necessary to accomplish their objective.

Piracy can classified into three basic categories, namely Low level armed robbery, Medium level armed assault and robbery and Major criminal hijack. Piracy can be divided in five specific forms, varying according to different regions, namely Asian piracy, South American or West African, Piracy with military or political feature, Hijacking and finally Phantom- or ghost-ship. A new trend in piracy is characterized by the fact that pirates attacked and kidnapped crewmembers and demanding ransom for their safe return.

The problem of piracy is an on-going and ever changing problem. Each area has their own features and requires their own solution for their specific situation. Similarities between these regions are socioeconomic issues, poverty, social instabilities and an absence of effective law. The most piracy-prone waters are South East Asia and the Indian Sub-Continent, Gulf of Aden and Southern Red Sea and South and Central America and the Caribbean waters.

Reasons why piracy occurs are political corruption, economics of the third world, willingness of shippers to pay the costs of piracy rather than higher insurance premiums, failure to develop international protection and today's small crews working on vessels as a consequence of cost saving tactics. Published figures on piracy not reflect the true extent of the problem. Dark figures suggest about 20% to 70% higher than the statistics reveals. The true number of actual pirate attacks could be close to double the official numbers.

Last year's there is an increase of pirate attacks in East Africa and West Africa. Other trends are that pirate attacks moving away from the normal coastal attacks towards the open waters and that it has become more violent. In respect to a comparison of the monthly attacks, there cannot be seen a significant seasonal patron.

Piracy effects are divided into direct effects and indirect effects such as security costs, insurance costs, the possibility of changing steaming routes,

reputation damage of maritime transport and the effects of arbitrariness of pirates comparing to their main targets. Direct effects are directly related with an attack themselves and based on an individual case while indirect effects are related to the whole chain, like the total shipping industry, ship owners and shippers. The effects and therefore the actual cost of piracy can be measured in several ways, human, political, economic, and environmental. However, in my opinion the factors of liability of maritime transport, environmental costs, political and economic losses to piracy should not be measured in the calculation of financial piracy costs to the shipping industry. The possible effects of modern maritime piracy were revealed by a survey with a total amount of 1870 vessels and a total capacity of 95.349.536 DWT or 4.2% and 8.6% of the world merchant trading fleet. The main body thinks that the actual numbers of the pirate attacks is a real indicator. However, 40% say that these are too low which 73% of them think about twice more attacks. Furthermore, about 22% say that they have not reported some cases. In total, 41% were a victim of an attempted attack and 31% of a committed attack this year. Most of the correspondents think that piracy cost estimations of US \$16 billion is a true indicator. Nevertheless, 29% says that this number is too low. A part of 18% says that this number is even too high. In respect to insurance, 64% say not taken additional kidnap and ransom insurance. Furthermore, the main body, namely 83% say that it is a significant problem for shipping companies. Especially the impact on seafarers and their relatives were one of the main reasons to point piracy as a significant problem.

What can be concluded about the piracy effects is that, a significant part say that piracy increase the transport price, leads to more integration with the navy, to increasing sailing speed in dangerous areas, to more security equipment on board, to avoiding coastlines and sailing more nautical miles, to avoiding some ports, to other sailing routes and to an increase of the insurance premiums. About 20% to 30% of the correspondents think piracy, leads to more sailing in convoy, to a decreasing labour market for crewmembers and higher wages. According to the survey piracy have a minimum effect, less than 20%, to less (grow of) demand of maritime transport, to larger vessels, a decrease in the position or liability of maritime transport, that it will have an effect to attract investors or that it will influence the development of their company's global network. A large part of the respondents added that especially the impact to their crew must not be forgotten.

A trend in piracy-prone areas is the tremendous increase in the hijacked strategy. Other trends that can be mentioned are that Somali pirates strike deeper on the high seas. After 2002 the attacks that taken place in international and territorial waters are increased while the amount of attacks in port areas decreased.

Therefore, the portion of attacks while berthed are also decreased and attacks when ships are anchored are decreased in last two years. In this period the attacks to steaming ships are increased. Furthermore, evidence show that shipping companies practices the IMO warning to steam in a curve far outside the Somali territorial waters.

Easy targets are small and medium-size vessels travelling at maximum speeds of 16-17 knots and a low freeboard. The five most attacked types of vessels are container vessels, tanker chemical product, bulk carriers, general cargo vessels

and tanker crude oil. Last three years with exception of 2008, bulk carriers show a tremendous decrease of their portion in the total attacks. Container vessels are the most target vessels by pirates. General cargo vessels show a kind of constant level of attacks during last fourteen years. Furthermore, what is evidently illustrated, is that chemical and product tankers show a dramatic increase in all the years and takes the second place in the list in 2008. Danger exists due to the fact that the most of the world's oil and gas is shipped through the dangerous piracy regions. However, there is no significant relation comparing the boarded attacks and hijacked vessels with the development of the world crude oil price. However, comparing the oil price with the amount of seafarers taken hostage during the years, there can be stated a small relation. During decreasing amount of hostages, world oil price are steady while both show increasing numbers in the same years. However, these effects can be the result of huge media attention and are bilateral as well. There is also some arbitrariness of piracy related to nationalities where the ship is managed or controlled.

Today, the shipping industry believe that the main solution to piracy is that more nations have to commit naval vessels in the area engage effectively, actively and forcefully against any act of piracy, and to intercept and bring to justice the criminals in order to re-establish safety and security to strategic important shipping lanes. The industry believes there is currently a lack of political will on the part of governments to give military forces the clear rules of engagement they need.

References:

Piracy reports:

- ReCAAP ISC <http://www.recaap.org>
IMO Reports on piracy and armed robbery against ships <http://www.imo.org/>
ICC-IMB Piracy and armed robbery against ships reports <http://www.icc-ccs.org/>
- Annual and quarterly reports <http://www.icc-ccs.org/main/publication.php>
- Weekly reports <http://www.icc-ccs.org/prc/piracyreport.php>
- Live reports <http://www.icc-ccs.org/extra/display.php>

Organisations:

- Baltic and International Maritime Council (BIMCO) <http://www.bimco.org/>
European Community Shipowners' Association (ECSA) <http://www.ecsa.be/>
ICC International Maritime Bureau (ICC-IMB) <http://www.iccccs.org/imb/overview.php>
Intercargo <http://www.intercargo.org/>
International Chamber of Shipping (ICS) <http://www.marisec.org/>
International Group of P&I Clubs (IG P&I) <http://www.igpandi.org/>
International Maritime Organisation (IMO) <http://www.imo.org/>
International Union of Marine Insurance (IUMI) <http://www.iumi.com/>
Maritime Security Council <http://www.maritimesecurity.org/index.htm>
National Union Marine Aviation Shipping Transport <http://www.nautilusuk.org/>
Ocean Schedules <http://www.oceanschedules.com/>
UN Atlas of the Oceans <http://www.oceansatlas.org>
United Nations (Ocean Affairs and the Law of the Sea) <http://www.un.org/english>
World Shipping Council <http://www.worldshipping.org/>
The Maritime Security Centre Horn of Africa <http://www.mschoa.org/>

Literature:

Abhyankar, J. Piracy and maritime violence: A continuing threat to maritime industry.

BIMCO Piracy guide: tips on avoiding piracy, robbery and theft.

BIMCO Shipping in piracy crisis call to IMO and UN.

Birnie, P.W Piracy: past, present and future. Marine Policy

Busch, W. Vom Covering Maritime Piracy in Southeast Asia, media project Asia

- Cockroft, D.** Working together is key to solving seafarer shortages. Lloyd list
- Daniel, M.S.** Mc Modern high seas piracy, Presentation presented at the Port of Chicago
- Dillon, D.** Maritime piracy: Defining the problem. SAIS Review
- Ellen, E.** Shipping at risk: The rising tide of international organised crime.
- Frank, J.** Somali pirates strike deeper on the high seas. Lloyd List
- Grissim, J.** Pirates, a growing threat with attacks worldwide showing a sharp increase.
- Hand, M.** Survey reveals human cost of piracy. Lloyd List
- IMO** Piracy and Armed Robbery against Ships: Guidance to shipowners and ship operators, shipmasters and crews on preventing and suppressing acts of piracy and armed robbery against ships.
- Kissack, R.** Modern Piracy: Institutional responses to a real or perceived threat?
- Mo, J.** Options to combat maritime piracy in Southeast Asia. Ocean Development & International Law
- Munich Re Group** Piracy- threat at sea: A risk analysis.
- NUMAST** report on the threat to merchant shipping posed by piracy, armed robbery and terrorism. London, National Union of Marine, Aviation and Shipping Transport Officers (NUMAST)
- Osler, D.** Ship owners turn to private security for piracy protection. Lloyd List
- Petretto, K.** Weak states off-shore- piracy in modern times. German Institute for International and Security affairs, discussion Paper
- Seltmann,** A. Global marine insurance report 2007. Fact and figures committee, CEFOR, Norway.
- Wallis, K** Pirates attacking vessels further off Somali coast. Lloyd List
- Leonard Remondus van der Meijden** A Thesis on Modern Piracy
- Muhammad Tahir Hanif** Law of the sea report
- OCIMF** Piracy: The East Africa / Somalia Situation

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