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Acronyms

AMISOM	African Union Mission In Somalia
ASEAN	Association of Southeast Asian Nations
AU	African Union
BMP	Best Management Practice
CGPCS	Contact Group on Piracy off the Coast of Somalia
CPT	The UNODC Counter-Piracy Programme
EEZ	Exclusive Economic Zone
FAO	Food and Agriculture Organization
HSP	The UNODC Hostage Support Programme
IGAD	Intergovernmental Authority on Development
IMB	International Maritime Bureau
IUU	Illegal Unreported and Unregulated
ILC	International Law Commission
LOSC	Law of the Sea Convention
IMO	International Maritime Organization
NATO	The North Atlantic Treaty Organization
PPTP	The UNODC Piracy Prisoner Transfer Programme
RECAAP	The Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia
SOLAS	Safety Of Life At Sea
UNCLOS	

UN	United Nations
UNDP	United Nations Development Programme
UNEP	United Nations Environment Programme
UNODC	United Nations Office on Drugs and Crime
UNGA	United Nations General Assembly
UNSCR	United Nations Security Council Resolutions
UNTOC	United Nations Convention Against Transnational Organized Crime
SUA	Convention for the Suppression of Unlawful Acts of Violence against the Safety of Maritime Navigation
TFG	Transitional Federal Government
WFP	World Food Programme
WMD	Weapons of Mass Destruction

For my Family

For their greaty Family ~~WB 7105~~ ~~WB 7105~~ ~~WB 7105~~ dev

Acknowledgements

It has been a great experience and a wonderful honor being a United Nations-Nippon Foundation Fellow. I would like to deeply thank the Nippon Foundation for awarding me this unique opportunity.

I would like to extend my deepest and most sincere appreciations to Ms Valentina Germany for her continuous support and endless precious considera

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the right of self-defense against piracy, but all civilized states had an affirmative obligation to

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merchant ships should be treated as pirates.¹² though major piracy and privateering ended in the 19th Century, maritime crime including piracy has continued as a global phenomenon

¹³ Despite of the declination of piracy attacks in the nineteenth and twentieth century, a new surge began in the 1990s.¹⁴ Capturing ships off the coast of Somalia and holding them and their crews for ransom had occurred since then.¹⁵ It was originally carried out by armed groups acting mostly in the

foreign fishermen, and its coastal waters, that were used as a dumping ground for waste in the absence of law enforcement institutions. The ramifications of these attacks are significant, not only in terms of the unimaginable anxiety of crew members and their families but also in terms of costs to ship owners, cargo owners, insurers and coastal states in the region.

The International Ma ¹⁶ Piracy Reporting Centre (IMB PRC) reported there have been 231 pirate attacks against vessels since the beginning of 2014.¹⁷ As for 2013, a

¹⁰ James Kraska, *Contemporary Maritime Piracy*, United States of America, PRAEGER, 2011, At 106.

¹¹ meaning raid.

¹² For further study about the history of piracy, see: A. Morita, *Piracy Jure Gentium*, Revisited- For

¹³ Public Side Event of the 16th Plenary Meeting of the Contact Group on Piracy off the Coast of Somalia (CGPCS), military Lessons on Somali Piracy off the Coast of Somalia-

CGPCS held its Sixteenth Plenary Session at the UN Headquarters in New York on 14 May 2014, under the Chairmanship of the European Union.

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The Royal United Services Institute Journal 78, At 78.

¹⁵ In the past decade, acts of piracy have been developing increasingly, especially off the coast of Somalia, Gulf of Aden, the South China Sea, and in the Straits of Malacca.

Eradicating maritime piracy and armed robbery against ships from all over the world is a significant challenge. As the legal perspective, notably, the United Nations Convention on the Law Of the Sea (1982) and its predecessor, the Convention on the High Seas (1958), accompanied with the SUA Convention, the Hostages Convention and 2000 United Nations

preventing and addressing piracy and armed robbery against ships in the pirate stricken regions in the Indian Ocean.

It is noteworthy to mention that piracy hot spots have changed from locations such as the Caribbean to those such as the Strait of Malacca (between Malaysia, Singapore, and Indonesia), the South China Sea, the Gulf of Guinea, and off the coast of Somalia into the Indian Ocean and the Red Sea (Gulf of Aden). The impact of piracy is felt most by its direct victims: those on the ships that are hijacked. These victims experience physical and mental suffering, the consequences of which can last for years. However, the growth and spread of piracy is creating an effect that stretches beyond oceans and beyond borders. The roots of piracy in state collapse, conflict, and instability demonstrate that the piracy problem is an international peace and security at both ends of the spectrum.

Because of the significance of the Indian Ocean and its choke points in international navigation and the export of goods and oil resources between the countries, some of those who are more concerned with, have already deployed their military navy to the area. Quite significantly, the Security Council of the United Nations pursuant to the Secretary-

which have deployed ships or aircrafts in the region to combat piracy and armed robbery threats.

The Islamic Republic of Iran²² since 2008 has dispatched its navy to the Indian Ocean region especially to the Gulf of Aden and Northern waterways of the Indian Ocean to patrol the waters using submarines and other advanced naval weaponry in order to contribute to the maintenance of peace and security in the region. However, the main reasons of such a security strategy are to promote Iran's strategic interests in its territorial waters, Strait of Hormuz, continental shelf, Exclusive Economic Zone, continental shelf and the high seas, in addition to safeguarding the maritime merchant fleet and oil tankers from the invasion of violent pirates and sea-robbers.

It is truism that piracy is a global problem that endangers maritime security interests on a global scale. For the purpose of this present thesis, the readers should keep in mind that there

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Chapter 1: Maritime organized crimes in the Indian Ocean Region and law of the sea

Chapter one of this part, first of all will address maritime organized crimes playing as maritime security challenges in the Indian Ocean Region and in the second section it will address the legal regime for combating piracy and armed robbery which is a matter of importance in the

3. Maritime organized crimes as security challenges in the Indian Ocean Region

Nowadays, the Indian Ocean like other strategic waterways existing on this planet is suffering from maritime organized

ocean management.²⁸ A

illegal, unreported and unregulated (IUU) fishing in light of the identification of food security as a major threat to international peace and security. Finally, intentional and unlawful damage to the marine environment as a particularly grave form of maritime pollution due to the potential to threaten the security of one or more states given the impact on social and economic interests of coastal states.

In addition, according to the aforementioned report of the Secretary-General on the United Nations, maritime security operations, also called maritime constabulary operations, are necessary to address maritime transnational crime, terrorism, maritime piracy, illicit trafficking, and maritime proliferation of chemical, biological, nuclear, radiological weapons and high explosives that constitute some of the most vexing threats to maritime security.³¹ Therefore, the UN has placed these categories of security threats which pose serious challenges to maritime security.

The International Maritime Organization (IMO) also has addressed questions of maritime security under the auspices of its Maritime Safety Committee since the 1980s. In this context, a distinction is drawn between maritime safety and maritime security. Maritime safety refers to preventing or minimizing the occurrence of accidents at sea that may be caused by sub-standard ships, unqualified crew or operator error, whereas maritime security is related to protection against unlawful and deliberate acts.³² To consider the relationship between two important paradigms in elaborating the discussions in my thesis in many aspects the fusion of maritime security and maritime safety is unavoidable. The legal regimes that regulate each activity are less distinct today than in the past and now share maritime security consists of conventional rules that originally regulate limited criminal activities and refer to Subsequent amendments dealt with a variety of forms of violence at sea and introduced the

³¹ UN Documents, A/63/63, Oceans and Law of the Sea, Report of the Secretary-General, Mar. 10, 2008, para.39.

³²

According to the report of the High Level Workshop on Transnational Organized Crimes, Convened by the European Union and INTERPOL on May 2014,³⁵ the concept of organized crime at sea has many facets, and covers numerous issues such as piracy, illegal fishing and money laundering and the scope of the challenge posed by the aforementioned organized crimes at sea is much broader than initially perceived. Accordingly proper maritime governance and security goes far beyond just acts of piracy and armed robbery at sea. Better responses are required to a broad range of cross-border and organized crimes including seaborne trafficking of arms, narcotics and human beings, as well as IUU fishing, the illegal dumping of waste, among others. These crimes require a proactive and vigilant approach, as they have widespread impact on the economic, social and security status of vulnerable populations.

and criminals are usually well-organized and well-equipped with advanced communications, weapons and high speed craft. Therefore, the world community is currently also faced with some legal challenges in combating piracy and armed robbery against ships at seas. The growth of the continuing problem of transnational organized crimes committed at sea, including piracy, has serious implications for the security of navigation and the safety of seafarers.

³⁴ Anna Oriolo,

me Security Policy: The Fight Against
The Global Community: Yearbook of International Law and
Jurisprudence, 2009, Issue 1, pp251-266, At 254.

Nowhere have these efforts been more productive than in developing an international regime to

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However, as *James Kraska* suggests
renaissance. Over the past two decades, the international law pertaining to maritime security evolved from a set of rules designed to avoid naval warfare by keeping maritime powers apart, toward a new global framework designed to facilitate maritime security cooperation by bringing countries together⁴⁰ In this regard, I will consider the applicable legal regime and the cooperative approach in fighting against maritime security threats in the Indian Ocean in the following sections.

1.2 Maritime security challenges threatening the Indian Ocean Region posed by piracy and armed robbery against ships at seas

A scrutiny of the principle *modus operandi* and the increasing nature of the severity of the crime show that the main focus of pirates off the Horn of Africa has been to take vessels and hostages for ransom. Whilst the focus in the early stages of the current phenomenon (2008-2009) was on hijacking vessels for ransom, targeting people as hostages for ransoms has risen in prominence. This has prompted a number of new pirate business models, including splitting hostage groups and holding them in a variety of locations ashore (to make military hostage recovery operations more difficult), and opportunistic shore based kidnapping.⁴¹

Contemporary piracy and armed robbery against ships is not limited to Somalia. In recent years for instance, piracy in the Gulf of Guinea has been the subject of the UN Security and armed robbery against ships in Southeast Asia has also been a source of international concern in recent years. However during the last decade piracy in

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Maritime challenges and Priorities in Asia, Implications from regional Security, Routledge, 2012. Pp 247-248.

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Summer 2009, At 113-114.

⁴¹ The United Nations Office on Drugs and Crime (UNODC), Hostage Support Programme, (Project 045- Part of the Maritime Crime Programme), 11 April 2014.

Somalia has been at the center of international attention, resulting in legal developments whose relevance may, in some cases, go beyond the specific situation off the coasts of Somalia.

Piracy has been a serious threat against safety of maritime navigation, life of seamen, crew members and passengers of ships, domestic economy of countries and global trade, maritime environment and safety of coastal and non-coastal ships. The neighboring states in the region have been suffering from the destructive effects of piracy and armed robbery upon it. The responses of international community and actions of governments in criminalizing the phenomenon in domestic law and international responsibility of them in violation of their international obligations can be very important in this regard. The international community has to resort not only to preventive actions, but also to a long-term multi-dimensional solution to address this serious threat. This phenomenon now represents a very serious menace to navigations coming from the Suez Canal and going through the Gulf of Aden to the narrow area between the Horn of Africa and the Arabian Peninsula.

Most of the attacks occurred i

near the coast either when the ships are in port or at anchor, within straits used for international navigation (quite notably such as the Hormuz Strait) or when they are transiting in the territorial sea.⁴² It should be noted here that as stipulated in UNCLOS, the regime dealing with piracy only applies to acts of piracy that have taken place on the high seas and in the EEZs of States. Piracy under UNCLOS can only take place seawards from territorial waters. Attacks against ships in areas under territorial sovereignty such as ports, inland waters, archipelagic

family basis, as in Somalia and in the Horn of Africa where a tradition has existed for generations.

- 7) Finally he mentions the promise of reward as the latest factor flourishing piracy and armed robbery against vessels; as the Organization for Economic Cooperation and Development (OECD) has observed, piracy can also be a highly lucrative venture.⁴⁵ Sums that might appear partly in the developed world make piracy well worth the risks to those involved.⁴⁶

The problem of piracy and armed robbery disrupts the critical sea lines of transportation in the two maritime choke points, one on the western end of Indian Ocean region- Bab el Mandeb and the Strait of Hormuz and one on the eastern end- the Malacca strait.

2. Any act of voluntary participation in the operation of a ship with knowledge of facts which make it a pirate ship.
3. Any act of instigation or of international facilitation of an act described in paragraph 1 or paragraph 2 of this article.⁵⁶

In addition, article two confirms the principle of universal jurisdiction over piracy, stating

⁵⁷ Article 14 explicitly provides for universal jurisdiction, stating that a nation that has taken lawful custody of a pirate may prosecute and punish the pirate.⁵⁸

The Convention on the High Seas (1958)

The International Law Commission⁵⁹ in an attempt to codify the international law of the sea took up the issue of Piracy in 1956⁶⁰, defining the crime of piracy in Article 39 of the Draft Articles. The ILC commentaries also make clear that for acts to fall within the definition of piracy, they must be committed for private ends, in international waters, by a private ship or

gainst the ship itself

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The Diplomatic Conference on codification of the law of the sea on the Convention on the High Seas (1958) agreed on codified standards and practices at sea, including an appropriate definition of piracy directly inspired by the draft convention prepared by the

⁵⁶ Ibid.

⁵⁷ Ibid.

⁵⁸ Ibid. At 745-46.

⁵⁹ The International Law Commission pursuant to the General Assembly Resolution 174 (II) dated 21 November 1947 is responsible for developing and codifying international law.

⁶⁰*Yearbook of the international law commission*, volopi0912 0 612 792 r7416.67 f50(f)-7(or)-7(d)23(e)-10(ve)-10(l)5(opi

of UN Convention on the Law of the Sea (UNCLOS). These relevant articles of UNCLOS repeat almost literally in articles 14 to 22 of the Convention on the High Seas of 1958, either as

Piracy and Armed Robbery against Ships should draw a clear distinction between these two
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Any illegal act of violence of detention, or any act of depredation, or threat thereof, other than an act of piracy committed for private ends and directed against a ship, or against persons or property onboard such ship,

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Therefore, an attack on a ship in a maritime zone under the sovereignty of a State is not considered piracy under international law. Since the attack took place within its territorial sovereignty, the general criminal law of the coastal State applies. The only State with the authority to exercise police power over such attacks is the coastal State. The fact that national legislation in some States classifies attacks on ships within the territorial sea as piracy is of no significance under international law. It follows from the above that universal jurisdiction is not applicable to acts con

coastal states in the waters of which such acts take place.⁶⁶

Article 100 of UNCLOS,
extent in the repression of piracy on the high seas or in any other place outside the jurisdiction

⁶⁷ Significantly, Article 101 provides a definition of piracy, but it imposes no obligation on States parties to enact national legislation making piracy as defined in UNCLOS a criminal offence with appropriate penalties. Moreover, Article 101 imposes no obligation on States to make acts of piracy outside the territorial sovereignty of any State an offence. However, as some authors truly believe in order for the problem of pirate impunity to be overcome, uniform domestic anti-piracy legislation across states needs to be coupled with a demonstrable willingness on the part of all states to prosecute and extradite perpetrators, not

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⁶⁸ One can see there is a gap in the criteria sets out in the UNCLOS articles regarding an obligation for State Parties to be undertaken in order to legally confront with the problem of piracy.

Article 105 of UNCLOS gives every State the right, in areas outside the territorial sovereignty of any State, to seize pirate ships and the property on board and to arrest the pirates, but it imposes no obligation on States to exercise such right. Article 105 imposes no obligation on States to make the changes necessary within their domestic legal system to give of their territorial sea. Under Article 105 of UNCLOS no jurisdictional link is necessary between the State exercising jurisdiction and the suspected offender(s), pirate ship(s) or victim(s).

It follows from the forgoing that although the current rules of international law on piracy are not entirely without deficiencies, as all other universally accepted rules of international law, they represent a balance of interests of the subject and thus correspond to a political reality. In other words, they constitute a set of norms that the world community of States is prepared to accept as international rules governing activities for the suppression of piracy. ⁶⁹ By an overview, it is noteworthy to emphasize that twenty years later, the international community has seen the limits of UNCLOS dispositions against the new kind of violent acts against ships at sea. SUA (the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation) is born from the international community commitment to develop an instrument that would complement the International Convention of

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⁶⁸ Martin N. Murphy, *Contemporary Piracy and Maritime Terrorism; The Threat to International Security*, Op.cit, at 13.

⁶⁹ Vladimir Golitsyn, *Maritime Security (Case of Piracy)* Liber Amicorum: Rudiger Wolfrum, Edited by Holger Hestermeyer (et al), Martinus Nijhoff Publishers, 2012, at 1176.

⁷⁰ Abbas Daher Djama, *The phenomenon of piracy off the coast of Somalia: challenges and solutions of the international community*, UN-Nippon 2011 Fellowship, De

Universal jurisdiction and Jurisdictional challenges of the national courts to prosecute and try pirates

The crime of maritime piracy has had a rich history in domestic and international law. As noted in the introduction part of this thesis, piracy is one of the first crimes in which universal jurisdiction applied and pirates as Cicero denounced are considered as *hostis humani generis*, a

aspects, is *sui generis*. Though statutes may provide for its punishment, it is an offence against

the right or the duty of any nation to police, he is denied the protection of the flag he may carry, and is treated as an outlaw, as the enemy of mankind whom any nation may in the

⁷¹By describing piracy under the law of nations in its jurisdictional aspects, as *sui generis*, international law regards piracy as a unique feature.⁷²

However, there are some difficulties in applying universal jurisdiction over pirates off the coast of Somalia. While approximately 1,200 pirates have been, or are being prosecuted in various parts of the world, almost all of them have been, or are low- level skiff pirates, with the

Piracy as defined in article 101 of UNCLOS should be a crime punishable by severe penalties but according to IMO report, only a few countries fully incorporate the definition of piracy contained in article 101 as well as a jurisdictional framework based upon the concept of universal jurisdiction. Secondly, in most cases, piracy is not addressed as an independent, separate offence with its own jurisdictional framework.

Courts should have jurisdiction to try persons who commit acts of piracy outside the territorial sovereignty of any State, even when such acts are committed by foreign nationals against foreign ships. UNCLOS has set a collection of rights and obligations of States with respect to the suppression of piracy. As

UNCLOS does provide coastal states with the right to pursue foreign vessels outside of territorial waters if the competent authorities have good reason to believe that the ship has violated the laws and regulations of that State.⁸⁰ This right, known as the right of hot pursuit, must be commenced when the foreign ship or one of its boats is within the internal waters, the archipelagic waters, the territorial sea or the contiguous zone of the pursuing State, and may only be continued outside the territorial sea or the contiguous zone if the pursuit has not been interrupted. The right of hot pursuit ceases as soon as the ship pursued enters the territorial sea of its own State or of a third State.⁸¹

Article 105 does not place any obligation upon a seizing State to prosecute a suspected pirate and merely provides that the courts of the seizing State *may* decide upon the penalties to be imposed. Neither is there an obligation to extradite to another State which has jurisdiction.⁸² Despite, some considerations may cause the fact that the seizing State often lacks the political will and resources to prosecute suspected pirates and to face them to a fair trial and as an obvious result, one can witness that most of the suspected pirates are frequently released without encountering justice. For example, some reasons stand for the heavy costs of prosecution and fulfilling the obligations to bring an arrested or detained pirate promptly before a judge, or another authorized officer by law to exercise judicial power within a reasonable time, providing transporting witnesses and evidence from remote countries,⁸³ in which the incidents occurred with this knowledge that in some cases the acts of piracy take place on-shore and off-shore and it is very difficult to afford all those obligations in a due manner.

Moreover, some State parties to the European Convention on Human Rights and fundamental freedoms have serious concerns about pirates who may ask for asylum on this basis that they would be posed to severe torture or even the death penalty in case of extradition

⁸⁰ Article 111 of UNCLOS.

⁸¹ Article 111 (3) of UNCLOS.

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⁸³ Working Group 2 on Legal Issues of the Contact Group off the Coast of Somalia, Copenhagen, 26-27 August 2009, at 5, Available at:

to their national country. Furthermore, after obtaining the so called asylum, they may try to re-communicate and reunion with the organized groups of their friends, families and relatives who may have their arms on the fire of piracy.

Consequently, it should be also noted that despite the status of piracy as a crime of universal jurisdiction, a careful study by Eugene Kontorovich found that of all clear cases of piracy punishable under universal jurisdiction, international prosecution occurred in no more

piracy surge that began in 2008, which accounts for the vast majority of

coming from or proceeding to an international destination. Second, state parties must enact domestic legislation to make Convention offences punishable under their laws. However, it also suffers from some unfortunate weaknesses: the main aim of the Convention is prosecution, not prevention; its central purpose is to ensure that States either prosecute or extradite.

Consequently, and in contrast to treaty and customary law on piracy, the SUA does not recognize or authorize preventive constabulary activity at sea. It is not applicable if the violence on

SUA was designed to deal with politically motivated violence at sea, because it addresses acts such as ship seizure and violence on board and damage to ships and cargo, it could also be

⁸⁷ However, it seems that nowadays piracy does always involve (threats of) violence and perhaps one could not make a distinction between piracy and violence in any cases. Finally it should be note

(d) Places or causes to be placed on a ship, by any means whatsoever, a device or substance which is likely to destroy that ship, or cause damage to that ship or its cargo which endangers or is likely to endanger the safe navigation of that ship; or (e) destroys or seriously damages maritime navigational facilities or seriously interferes with their operation, if any such act is likely to endanger the safe navigation of a ship; or

(f) Communicates information which he knows to be false, thereby endangering the safe navigation of a ship; or

(g) Injures or kills any person, in connection with the commission or the attempted commission of any of the offences set forth in subparagraphs (a) to (f).

2. Any person also commits an offence if that person:

(a) Attempts to commit any of the offences set forth in paragraph 1; or

(b) Abets the commission of any of the offences set forth in paragraph 1 perpetrated by any person or is otherwise an accomplice of a person who commits such an offence; or

(c) Threatens, with or without a condition, as is provided for under national law, aimed at compelling a physical or juridical person to do or refrain from doing any act, to commit any of the offences set forth in paragraph I, subparagraphs (b), (c) and (e), if that threat is likely to endanger the safe navigation of the ship in question. ⁸⁹

Unlike the UNCLOS provisions on piracy which only apply in the high seas and EEZ, the SUA applies no matter where the acts are committed, whether in the territorial sea, archipelagic waters, exclusive economic zone, international straits or the high sea except for the internal waters of a coastal State, provided that the ship navigate into, through or from waters beyond the outer limit of the territorial sea of a single State, or the lateral limits of its territorial sea with adjacent States ⁹⁰ According to the second paragraph of the Article 4, the Convention is also applicable when the offender or alleged offender is found in the territory of a State party other than the state referred to in Article 4 (1). Therefore, one can conclude that while the majority of hijacking attacks in Somalia coasts,

⁸⁹ Convention for the Suppression of Unlawful Acts of Violence against The Safety of Maritime Navigation, Entered into Force on 1 March 1992, treaties series, vol.1678, Nos. 28991-29006.

⁹⁰ Article 4 (1) of the SUA Convention,

Gulf of Aden and Indian Ocean Region occur within territorial waters and mainly waters along

In addition, the SUA as set forth in the Article 3 (2)(b) has extended the provision provided in the Article 101(b) of UNCLOS by covering the act of organizing SUA offences which may occur on shore. This criterion in the SUA provisions is very significant to be useful in some cases of maritime hijacking in which the attacks do not occur offshore or in the high seas and accordingly, the UNCLOS would lack the competence to be applied.

Under the SUA provisions, the State Party has an obligation to establish jurisdiction over specific offences described in the Convention, accordingly to make these acts of criminal offences punishable by serious penalties under their domestic law and adopt implementing nces.⁹¹ Unlike UNCLOS in which piracy is considered as an offence subject to universal jurisdiction, the SUA Convention requires a jurisdictional nexus between the offence and the State Party who wants to prosecute the alleged offender. It allows for the prosecution of offender without requiring any nexus to the prosecuting State except the presence of the offender.⁹²

As described below, the SUA Convention does apply over the more serious crimes of hijacking a vessel which would clearly fall under the definition provided in the first paragraph of the Article 3 of the SUA Convention, including acts of

obligation to prosecute offenders within its territory to its own jurisdiction even if the act allegedly occurred in the territory of the State or in another place.

The Convention obliges States, where the State within which the offender is found shall not initiate legal proceedings, to extradite offenders to a third State who has exercised his right under the Convention.⁹⁴ However, if persons who are alleged to have committed an offence under the SUA Convention are found in the territory of a State Party, that State Party is required to take the alleged offender into custody.⁹⁵ If that State Party does not extradite the alleged offender to another competent State Party, delay to its competent authorities for the purpose of prosecution, through proceedings in

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This requirement is in contrast to ⁹⁷ to prosecute provided for in UNCLOS.⁹⁸

particularly useful in connection with piracies off the Horn of Africa; it has been noted that, except for Ethiopia, Eritrea, and Somalia, all states within a thousand nautical miles of the Gulf

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flag State) may deliver to the authorities of a State Party a person who he has reasonable grounds to believe has committed one of the offences set forth in Article 3, provided that the master whenever practicable and if possible gives notice of delivery

⁹⁴ Article 6, para.1-2; Article 10 of the SUA Convention.

⁹⁵ Article 7 (1) of the SUA Convention.

⁹⁶ Article 10 (1) of the SUA Convention.

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Beckman and Tara Davenport, *Enhancing Regional Cooperation on Piracy and Maritime Crimes*, op,cit, At 155.

⁹⁸ Article 105 of UNCLOS.

⁹⁹ Statement of RADM William Baumgartner on International Piracy on the High Seas before the Subcommittee on Coast Guard & Maritime Transportation, Committee on Transportation & Infrastructure, U.S. House of Representatives, February 4, 2009. <http://www.findthatdoc.com/search-74230188-hPDF/download-documents-hoa-testimony-radm-william-baumgartner-uscg-pdf.htm>(visited February 3, 2013).

(b) Participates as an accomplice of anyone who commits or attempts to commit an act of hostage-taking

Likewise comm

- a. In its territory or on board a ship or aircraft registered in that State;
- b. By any of its nationals, or if that State considers it appropriate, by those stateless persons who have their habitual residence in its territory;
- c. In order to compel that state to do or abstain from doing any act;
- d. With respect to a hostage who is a national of that State if that State considers it appropriate.

State Parties are also obliged to establish jurisdiction over the offender if the alleged offender is in its territory and it does not extradite him to any of the States who have jurisdiction. And it points out that

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According to the Hostages Convention, any State Party in the territory of which the alleged offender is found shall, if it

The main purpose of the Palermo Convention against Transnational Organized Crimes has .¹¹⁵ Although like the Hostages Convention, the Palermo Convention was not drafted with the purpose of dealing with maritime offences; its provisions can be used to criminalize kidnap of crew or ship hijacking. Modern piracy and armed robbery movements sophisticated with heinous violence and taking advantages of modern technology as an illegal gift for pirates, has emerged as an organized threat to the most significant maritime waterways of the world. Increasingly, scouts appear to be used to provide intelligence on the movement of vessels and to monitor major ports in neighboring countries.¹¹⁶

The offences to which the 2000 Palermo Convention applies for are as follows:

- a) 117
 - b) 118
 - c) 119
- 120

Under article 5 (1) (a) of the Palermo Convention

- i. Agreeing with one or more other persons to commit a serious crime for a purpose relating directly or indirectly to the obtaining of a financial or other material benefit and, where required by domestic law, involving an act undertaken by one of the participants in furtherance of the agreement or involving an organized criminal group;

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al Organized Crimes: A

¹¹⁶ United Nations, Monitoring Group on Somalia, Report, Dec. 10, 2008, para.136.

¹¹⁷ Article 3 (1)(a) and Article 5 of the Palermo Convention.

¹¹⁸ Article 3 (1) (a) and Article 6 of the Palermo Convention.

¹¹⁹ Article 3 (1) (b) of the Palermo Convention.

¹²⁰ Article 2 (b) of the Palermo Convention.

- ii. Conduct by a person who, with knowledge of either the aim and general criminal activity of an organized criminal group or its intention to commit the crimes in question, take an active part in:
 - a. Criminal activities of the organized criminal group;
 - b. Other activities of the organized criminal group in the knowledge that his or her participation will contribute to the achievement of the above-described criminal aim;
 - c. Organizing, directing, aiding, abetting, facilitating or counseling the commission of serious crime involving an organized criminal group.

The way this Convention has defined laundering of proceeds of crime is noteworthy and is a unique practice by this instrument. Under article 6 (1), _____, in accordance with fundamental principles of its domestic law, such legislative and other measures may be necessary to establish as criminal offences, when committed intentionally.

T _____¹²¹ is defined as:

- a. (i) The Conversion or transfer of property, knowing that such property is the proceeds of crime, for the purpose of concealing or disguising the illicit origin of the property or of helping any person who is involved in the commission of the predicate offence to evade the legal consequences of his or her action;
- (ii) The concealment or disguise of the true nature, source, location, disposition, movement or ownership of or rights with respect to property, knowing that such property is the proceeds of crime;
- b. Subject to the basic concepts of its legal system:
 - i. The acquisition, possession or use of property, knowing, at the time of receipt, that such property is the proceeds of crime;
 - ii. Participation in, association with or conspiracy to commit, attempts to commit and aiding, abetting, facilitating and counseling the commission of any of the offences established in accordance with this article.

¹²¹ Article 6 (1) of the Palermo Convention.

The primary advantage of the Palermo Convention is that it can be used to criminalize the onshore preparation and organization of attacks against vessels at sea, and that it criminalizes other activities associa

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Moreover, under Article 3 of the

Based on what have been described so far, one can simply conclude that the Convention applies on State Parties in many cases of organized attacks of maritime piracy and armed robbery occurring off the coasts of Somalia, the Gulf of Aden and other crucial parts of the Indian Ocean region. The Convention will apply to those who participate in other acts associated with these attacks under the offence of the

too, for instance, ransom money has to be transferred and thus, those who receive and laundering the proceeds of crime under article 6 of the Palermo Convention.¹²⁴

The Palermo Convention requires state parties to establish jurisdiction over the offences they are committed in the territory of the State Party¹²⁵ or on board a vessel that is flying the flag of that State Party or an aircraft that is registered under the laws of that State Party at the time the offence is committed¹²⁶

The jurisdiction under Palermo Convention the same as the SUA Convention and the Hostages Convention is based both a nexus to the offence and a form of universal jurisdiction -¹²⁷ depending on the presence of the offender in the territory of a State Party.

The State Party under Palermo Convention also *may* establish jurisdiction when:

- a. The offence is committed against a national of that State Party;¹²⁸
- b. The offence is committed by a national of that State Party or a stateless person who has his or her habitual residence in its territory;¹²⁹

¹²⁴ Robert Beckman and Tara Davenport, *Enhancing Regional Cooperation on Piracy and Maritime Crimes*, op.cit, at 161.

¹²⁵ Article 15 (1) (a) of the Palermo Convention.

¹²⁶ Article 15 (1) (b) of the Palermo Convention.

¹²⁷ Douglas Guilfoyle,

c. The offence is the offence of participation in an organized criminal group and one

United Nations has initiated elaborate efforts to eradicate piracy and armed robbery against ships at seas. The efforts of UN are well exemplified by the intervention of the United Nations Security Council (UNSC). It was three years after the revision of the SUA Convention, at the urging of the Secretary-General of the IMO that the Security Council became specifically involved in efforts to repress maritime piracy and armed robbery against ships which had been growing in strategic arenas of the world. In 2008, the UNSC adopted no less than ten Chapter VII-based Resolutions (UNSCRs) aimed at containing the escalating threat of piracy and armed robbery against ships off the coast of Somalia.

On 25 September 2008 Somali pirates captured the Ukrainian ship *Faina*, with a cargo of combat tanks and other weaponry and notably on 15 November 2008, Somali pirates hijacked the oil tanker *Sirius Star* at around 450 nautical miles southeast of the coast of Mombasa, Kenya. These incidents renewed international efforts to stem maritime piracy and, on October 7, 2008, the United Nations Security Council, acting under Chapter VII of the Charter, adopted r

maritime activities to take part actively in the fight against piracy on the high seas off the coast of Somalia, in particular by deploying naval vessels and military aircrafts ¹³⁶

Furthermore, Security Council resolution 1851 authorizes states to undertake anti-piracy operations in Somali territorial waters as well as ashore and permits the seizure of property reasonably suspected to have been involved in the commission of acts of piracy.¹³⁷ There are currently a number of international fleets dedicated to combating piracy in the region that may benefit from this authority. The resolution was adopted in the wake of the seizure of the French luxury yacht *Le Ponant* by Somali pirates on 4 April 2008. French forces tracked

¹³⁶ See SC Res. 1838 (Oct.7,2008). The Security Council specified that this resolution applies only with respect to the situation in Somalia and

¹³⁷ See SC Res. 1851 of 16 December 2008.

In April 2010, resolution 1918 dealt with the prosecution of individuals charged with
for acts of piracy and armed
robbery at sea off the coast of Somalia undermines anti-piracy efforts of the international

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under their domestic law and favorably consider the prosecution of suspected, and
imprisonment of convicted pirates apprehended off the coast of Somalia, consistent with

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In April 2011, the Security Council adopted resolution 1976 encouraging States and
counter-piracy law enforcement capacities, including implementation of anti-money-
laundering laws, the establishment of Financial Investigation Units and strengthening forensic

¹⁴⁵ The resolution 1976

ad

The recent Security Council resolutions concerning the situation in Somalia might, at of control which Somalia has over its own territory and maritime waters is probably unique in

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With regard to the activities done by the United Nations General Assembly, It is noteworthy to be mentioned that on 14 December 1981, GA adopted resolution 36/125 which was a report of the United Nations High Commissioner for Refugees and was not directly

efforts in the suppression of piracy on the high seas, in accordance with their international obligations, and to take appropriate action to protect asylum seekers from acts of violence at

¹⁵⁵ Furthermore, UN General Assembly has been contributing to the international fight against piracy and other criminal activities in maritime domain by adopting annual resolutions to address the issues regarding oceans and law of the sea. Accordingly, since 1984 the General Assembly has considered developments pertaining to UNCLOS as well as those relating to

of maritime piracy and armed robbery against ships at seas as stipulated in the most recently

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In its resolution A/RES/68/70, adopted on 9 December 2013, the General Assembly
ration at the global, regional, sub-regional
and bilateral levels in combating, in accordance with international law, threats to maritime
security, including piracy, armed robbery at sea, and terrorist acts against shipping, offshore
installations and other maritime interests, through bilateral and multilateral instruments and
mechanisms aimed at monitoring, preventing and responding to such threats, the enhanced
sharing of information among States relevant to the detection, prevention and suppression of
such threats, and the prosecution of offenders with due regard to national legislation, and the
need for sustained capacity-

¹⁵⁹ The resolution also
coast of Somalia,
which are at the lowest level since 2006, continues to be gravely concerned by the ongoing
threat that piracy and armed robbery at sea continue to pose to the region, and acknowledges

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1.2 The United Nations Office on Drugs and Crime (UNODC)

The UNODC handles a range of issues including corruption, organized crime, human trafficking, money laundering, terrorism prevention and piracy among others. It is a relatively young body of UN, having been founded in 1997 following a merger between the United Nations Drug Control Programme and the Centre for International Crime Prevention.¹⁶¹ The

¹⁵⁸ United Nations General Assembly Resolution 68/70, A/RES/68/70, adopted on 9 December 2013, available at:

<http://daccess-ddsny.un.org/doc/UNDOC/GEN/N13/443/65/PDF/N1344365.pdf?OpenElement>

¹⁵⁹ Para 93 of the UNGA Resolution 68/70. Ibid.

¹⁶⁰ Para 106 of the UNGA Resolution 68/70. Ibid.

¹⁶¹ Emma Pryor, *The Counter- piracy Efforts of the UN Office on Drugs and Crime*, 3 November 2012, Available at: <<http://www.e-ir.info/2012/11/03/the-counter-piracy-efforts-of-the-un-office-on-drugs-and-crime>>

work of the UNODC is based upon three fundamental pillars:¹⁶² Field-based technical

UNODC is also investing in a long-term solution: the restoration of the rule of law in Somalia. This programme aims to enhance the legal capacities of Somalia and its neighboring countries in order to conduct in these countries trials in compliance with international treaties.

The Programme

Prisoner transfers are governed by the domestic laws of the sending and receiving states and often by bilateral treaties. Certain international human rights instruments may also apply in this case. In addition, some of the transfer arrangements between arresting states require the prosecuting state to seek the agreement of the arresting state before transferring convicted pirates to Somalia. UNODC will therefore engage with the relevant authorities to try and identify more immediate solutions to prisoner transfers to Somalia. These include the use of recently refurbished prison facilities in the Somali regions. UNODC is working with the

programme was carried out as an unfunded activity jointly between UNODC and UNPOS (United Nations Political Office for Somalia). After several successful hostage support activities, most notably the repatriation of 14 Myanmar citizens, the programme attracted funding support from the Contact Group for Piracy off the Coast of Somalia (CGPCS). The programme continued to be managed jointly by UNODC and UNPOS until the latter was dissolved in May 2012. The programme now continues, using the same staff on a contract basis but managed by two consultants under direction from the UNODC Global Maritime Crime Programme Headquarter in Vienna.¹⁸¹

The Hostage Support Programme

2.1 International Maritime Organization (IMO) and the International Maritime Bureau (IMB) and piracy

2.1.1 The role of International Maritime Organization (IMO) and its regulatory framework

Following the Second World War, the cooperative efforts by the international community were largely placed on an institutional footing through the creation of specialized international organizations. Particularly, in this respect, in 1948 in order to provide a permanent forum for the discussion of shipping issues, and amendment of shipping standards, the community of states established the International Maritime Organization (IMO) as a specialized agency of the United Nations.¹⁸³ Although the organization was created primarily as a forum to discuss maritime affairs and to recommend action to its members, it has come to play a central role in preparing technical standards for shipping.¹⁸⁴

According to article 1(a) of the IMO Convention which entered into force in 1958, its governmental regulation and practices relating to technical matters affecting all kinds of shipping engaged in international trade, to encourage adoption and facilitate the general of the highest practicable standards in maritime safety regarding matters, efficiency of navigation and

ships. Most recently IMO has focused its activities in the security topic which has obtained a

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It is significant to discussion and resolution of maritime issues. Moreover, the widespread participation of states and non-state actors in the work of the IMO, as well as the decision-making procedures it employs, both contribute to its success as a key institution in the evolution of the law of the

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The International Maritime Organization (IMO) has adopted many legal instruments aimed at minimizing maritime security threats. Accordingly, in 2002, member States of the IMO adopted major revisions to the 1974 Convention on the Safety of Life at Sea (SOLAS)¹⁸⁷ and in 2005 the international body completely revised the 1988 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA Convention, as discussed in detail in the previous chapter).

The SOLAS Convention for Safety Of Life At Sea,¹⁸⁸ in its successive forms is generally regarded as the most important of all international treaties concerning the safety of merchant ships. The treaty generally speaking deals with the seaworthiness of ships of all types. The first SOLAS Convention was adopted by a diplomatic conference in 1914, in response to the Titanic disaster. The second version was adopted in 1929, the third in 1948, and the fourth version as one of the first acts of the IMO when it came into existence was a new SOLA

communications, safety of navigation, carriage of cargoes including hazardous cargoes, safety

Western Indian Ocean and the Gulf of Aden recognizes the extent of the abovementioned problem in the region and takes into account and promotes the implementation of those aspects of UN Security Council resolutions 1816 (2008), 1838 (2008), 1846 (2008) and 1851 (2008) and of UN General Assembly resolution 63/111, which fall within the competence of IMO.¹⁹⁷ The Djibouti Code of Conduct urges the State parties to cooperate to the fullest possible extent, and in a manner consistent with international law, in the repression of piracy and armed robbery movements and commit themselves towards sharing and reporting relevant information through a system of national focal points and information centers.¹⁹⁸

In addition to aforementioned significance and crucial functions it has played to assist in anti-piracy measures, IMO issues reports on piracy and armed robbery against ships submitted by Member Governments and international organizations. The reports include names and descriptions of ships attacked, position and time of attack, consequences to the crew, ship or cargo and actions taken by the crew and coastal authorities and are now circulated monthly, with annual summaries.¹⁹⁹

2.1.2 The International Maritime Bureau (IMB) and piracy and armed robbery

The International Maritime Bureau (IMB) is a specialized division of the International Chamber Of Commerce (ICC) and represents the shipping industry. The IMB is a non-profit making organization, established in 1981 to act as a focal point in the fight against all types of maritime crime and malpractice.²⁰⁰ The International Maritime Organization (IMO) in its resolution A 504 (XII) (5) and (9) adopted on 20 November 1981, has inter alia, urged governments, all interests and organizations to cooperate and exchange information with each

Mauritius, Mozambique, Oman, Saudi Arabia, South Africa, Sudan and the United Arab Emirates have since signed the Djibouti Code of Conduct. For further information, Please see: <<http://www.imo.org/OurWork/Security/PIU/Pages/DCCMeeting.aspx>>

¹⁹⁷<<http://www.imo.org/OurWork/Security/PIU/Pages/DCoC.aspx>>

¹⁹⁸<<http://www.imo.org/OurWork/Security/PiracyArmedRobbery/Pages/Default.aspx>>

¹⁹⁹ Ibid.

²⁰⁰ For further study, see IMB (PRC) website: <<http://www.icc-ccs.org/piracy-reporting-centre>>

other and the IMB with a view to maintaining and developing a coordinated action in combating maritime fraud and malpractice to protect the integrity of international trade.²⁰¹

Quite significantly, the International Maritime Bureau (IMB) aware of the escalating level of piracy and armed robbery decided to provide a free service to the seafarer and established the 24 hour IMB Piracy Reporting Centre (PRC) in Kuala Lumpur, Malaysia. The PRC follows the definition of Piracy as laid down in Article 101 of the 1982 United Nations Convention on the Law of the Sea (UNCLOS) and Armed Robbery as laid down in resolution A.1025 (26) adopted on 2 December 2009 at the 26th Assembly Session of the International Maritime Organization (IMO). The main function of the PRC is twofold according to IMB Piracy Report Center information:²⁰²

- 1) To be a single point of contact for ship Masters anywhere in the world who are under piratical or armed robbery attack. The information received from the Masters is immediately relayed to the local law enforcement agencies requesting assistance.
- 2) The information received from the ship Masters is immediately broadcast to all vessels in the Ocean region - thus providing vital information and increasing the Masters Domain awareness.

The PRC works and shares information with the IMO, various governmental, inter-governmental and law enforcement agencies including all industry bodies in an attempt to understand the nature of this crime and reduce its effects to crew, vessel and cargo. The key services of the PRC are provided free of charge to all ships irrespective of their ownership or flag. These services are as follows:²⁰³

- 1) Issuing daily status reports on piracy and armed robbery to ships via broadcasts on the Inmarsat- C Safety NET service,
- 2) Reporting piracy and armed robbery at sea incidents to law enforcement,
- 3) Helping local law enforcement apprehend pirates and assist in bringing them to justice,

²⁰¹ (ICPO). See further: <<http://www.icc-ccs.org/icc/imb>>

²⁰² Ibid.

²⁰³ see IMB (PRC) website.

- 4) Assisting ship owners whose vessels have been attacked or hijacked,
- 5) Assisting crewmembers whose vessels have been attacked,
- 6) Providing updates on pirate activity via the internet,
- 7) Providing free updates to and ship owners and managers in-charge of the safety and security of their vessels
- 8) Publishing comprehensive quarterly and annual reports detailing piracy statistics

The main aim of the PRC is to raise awareness within the shipping industry, which includes the shipmaster, ship-owner, insurance companies, traders, etc, of the areas of high risk associated with piratical attacks or specific ports and anchorages associated with armed robberies on board ships.

It should be noted here that being a trusted point of reporting for worldwide piracy and immediately identify any shift in this criminal activity and alert all concerned parties. The PRC in its 2009 set of guidelines for avoiding pirate attacks has recommended States to stay six hundred nautical miles from the coastline when traveling past the East African coast.²⁰⁴ The recommended buffer only applies outside the Gulf of Aden, which has a mean width of roughly three hundred nautical miles, and therefore remains inadequate in some cases of piratical incidents which occur outside the aforementioned domain. However, the reports are compiled from the primary and best source of information from direct victims and secondary sources which makes IMB piracy reports a comprehensive, publicly available source of information rivaled only by the IMO.

4.2 Other organizations

2.2.1 European Union and the North Atlantic Treaty Organization (NATO)

Maritime transport has a vital importance for the European Union and it is the main trading partner of two thirds of the planet with the biggest proportion of sea-borne trade. Consequently, it is of an essential importance to develop maritime transport by enhancing

²⁰⁴ tices to Deter Piracy in the Gulf of Aden and off the Coast of Somalia 6 (2009), available at: <<http://www.icc-ccs.org/images/stories/pdfs/bmp.pdf>>.

security of European ships and port facilities as well.²⁰⁵

With regard to the global security at sea, where appropriate, the programme on maritime routes²⁰⁹

compliance with the international legal framework, a reduction of incidents of piracy and armed robbery at sea, more secure ports, better policing to counter illegal trafficking, improved administrative capacity to fight against crime and terrorism and enhanced risk-preparedness for

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In accordance with UN resolutions calling on States and international organizations to fight against piracy in particular off the coast of Somalia, NATO has undertaken multiple operations in the area to combat piracy and protect shipping lanes. The first two, Operation Allied Provider and Operation Allied Protector, were intended to deter, defend against, and disrupt pirate activity off the Somali coast and particularly in the later operation; NATO was initially in charge of escorting WFP ships through the monitoring process. These operations have been replaced and enhanced by Operation Ocean Shield, which also offers to assist states in the region in developing their own counter-piracy abilities.²¹¹

2.2.4

Subsequently, according to the Para 2 of Article 26 of the declaration, it should be s to combat acts of piracy, armed robbery and other unlawful acts against shipping through co-operation with other international

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The African Union is currently developing an African Integrated Maritime Strategy to facilitate implementation of the Charter, with emphasis on threats to maritime security such as piracy. The African Union in this regard in 2012 has set deadline for a continent-wide maritime

b
lost revenue and security.²¹⁴

Beside the general strategies of African Union in promoting maritime security in Africa, the Durban Resolution on Maritime Safety, Maritime Security and Protection of the Marine Environment in 2009²¹⁵

order to disrupt the pirate enterprise ashore and arresting piracy kingpins. Law enforcement expertise will be concentrated in a dedicated, autonomous Task Force.²²⁶

The CGPCS meets three times a year at UN headquarters in New York and its working groups frequently publish their expert views on issues related to the area studied.²²⁷ The group's m

As Daerama, Ointn, tn 57.

Part 2: Enhancing cooperation at the regional level and capacity development at the national level

As a conclusion to the substantial legal materials of the part one of the thesis, any comprehensive response to the ongoing threats of pirates and organized criminals to maritime security would have two main perspectives: The first is related to the instrumental measures and the management of the crisis situation; and the second explores that the protective measures to be implemented are in prevention and also in defence of upcoming incidents that may occur. These objectives can only be reached by a closer cooperation mechanism among the littoral and affected regional states and with a broader international community as a whole.

Undoubtedly, the promotion of harmonized measures and joint action is more effective than unilateralism. In this sense, the flourishing of international and regional cooperation has been extensive on numerous maritime issues and is a core element of combating maritime violence as piracy, armed robbery and terrorism. Quite significantly the approach towards maritime governance has traditionally been driven through the national governments on the individual country level and building up into multilateral arrangements or global international organizations such as the UN and IMO as its specialized agency.

In this part of the thesis, I will discuss issues relating to enhancing this kind of cooperation based on international law at the regional level and capacity development at the national level to address maritime organized crimes threatening the Indian Ocean. To this end, this significant part will first examine and Ocean governance contribution based on this perspective and it will further draw the attention to th how to achieve a stronger cooperation to eliminate maritime organized crime under International law and law of the sea and what are the upcoming and existing problems and their solutions in .

Chapter 1: O ctlo g' ugewt k{ " cr r t qcej gu' lp" Kcpa' i gi en' lt co gy qtm' cpf " Qegcp" governance contribution

As explained in the first part of the present thesis, piracy and relevant crimes thereof are a global problem that endangers maritime security interests on a global scale. It is important to keep in mind that there is a positive and synergistic relationship between articulating a modern counter

international cooperation. The process of developing a contemporary articulating a modern

and is the only state located on the entire length of the northern coast of Gulf and the Sea of

one of the most important straits economically, since it serves as a crucially significant strait affording the international community facilitated opportunity to conduct passage of goods, services and resources, with oil shipments at the heart of its economic importance.²³²

Transnational organized crime has notably been increasing across the Indian Ocean Region and has had a significant maritime dimension. A variety of sources of insecurity that afflict the

and the northern Indian Ocean playing the role of a critical sector of the globe 233

Amongst the threats affecting the security of the region, illicit migration and drug smuggling have been going on for generations, especially where people on both sides of modern borders share ethnic and family ties. In this regard, activities concerned not only include persistent challenges to maritime security, such as piracy or fisheries, but also contemporary challenges, in the form of maritime terror proliferation of WMD, drug trafficking and illicit migration. In some cases, particularly, in case of piracy and armed robbery against vessels which nowadays would manifest in various types of violence at sea and land, organized criminal groups would be associated with more than one illicit activity on seas and would result in significant obstacles both in respect of the prevention of such crimes and the applicable legal framework.²³⁴

Due attention should be paid to piracy and armed robbery at sea- particularly off the Somali coast- which remain top maritime security concerns in the Indian Ocean Region. It should be added that despite the efforts done by a multinational coalition to patrol the waters off east Africa, the area impacted by the Somali piracy remains enormous at approximately 2.5

²³² It should be noted that on land the Indian Ocean region is bounded and variously influenced by its surrounding states: Australia, Bahrain, Bangladesh, Comoros, Djibouti, East Timor, Egypt, Eritrea, India, Indonesia, Iran, Iraq, Jordan, Kenya, Kuwait, Madagascar, Malaysia, Maldives, Mauritius, Mozambique, Myanmar, Oman, Pakistan, Palestine, Qatar, Saudi Arabia, Seychelles, Singapore, Somalia, South Africa, Sri Lanka, Sudan, Tanzania, Thailand, United Arab Emirates, and Yemen.

²³³ David Michel and Russell Sticklor, *Op.cit*, at 12.

²³⁴ *The Interception of Vessels on the High Seas; Contemporary Challenges to the Legal Order of the Oceans*, HART publishing, Oxford and Portland, Oregon, 2013, at 14.

committed against vessels at very great distance from the coast.²³⁵ Undoubtedly, piracy and armed robbery as the main security concern of the region can undermine local and regional (and subsequently international) security and stability. In this regard, the following section will first discuss briefly other maritime organized crimes threatening the Indian Ocean Region and afterwards it will focus on the framework applicable to the piracy threats to the Indian Ocean

1) Illicit migration and Trafficking in arms, drugs and people

The sustained trafficking of illicit narcotics, drugs, weapons and people within and via the Indian Ocean in addition to the smuggling of migrants, oil, cigarettes, charcoal, endangered species, and other contraband have been continuing as a great concern for the neighbouring states in the region.

With regard to the organized crimes of human trafficking and smuggling of migrants in the region, one should be mindful of the legal difference between the two, as they are often mistakenly considered interchangeable. Technically speaking, these are the most important differences between the two. First difference is the element of consent. Smuggling of migrants involves their consent. Although the migrants may have to go through difficult or even life threatening situations, but this does not happen against their will and without their consent. On the other hand, trafficking victims have never consented to the situation. In many cases, they initially consented to put themselves in the hands of the traffickers without knowing what is actually awaiting them, and that consent has been rendered meaningless by the coercive,

comprehensive understanding of their dynamics. The Balkan and northern routes are the main heroin trafficking corridors linking Afghanistan to the huge markets of the Russian Federation and Western Europe. The Balkan route traverses the Islamic Republic of Iran (often via Pakistan), Turkey, Greece and Bulgaria across South-East Europe to the Western European market, with an annual market value of some \$20 billion.²⁴⁰

2) Maritime terrorism and proliferation of WMD

Some of the developing states in the region have limited resources to invest in their coast guard to make it capable of patrolling their EEZ and enforcing fishery regulations. However, Somalia has remained as a case in point regarding the loss of a national resource due to a lack of capacity for offshore management and regulation and this issue has posed the threat of piracy and armed robbery occurring off the coasts of Somalia, as a very serious crime to peace and security of the international community.²⁴⁸ In the lack of a development of a national government capable of regulating activities in its own EEZ, many offshore resources will be left vulnerable to illegal, unreported and unregulated fishing, with a great economic loss both to the concerned state and to local fisheries industries.

4) The crime of piracy and armed robbery against vessels- Somali Basin and Arabian Sea along with Sea of Oman and Persian Gulf

Maritime security concerns in the Indian Ocean continue to be dominated by piracy and armed robbery against shipping. The Horn of Africa, particularly Somalia, is a major base for pirates. Actually a combination of factors serves to explain how piracy and attacks against shipping have become such a significant and enduring challenge to freedom of navigation in the Indian Ocean. As some explain,²⁴⁹ one fundamental consideration is that the Horn of Africa borders key shipping lanes linking the Mediterranean to the Indian Ocean by way of the Suez

there is evidence of pirates becoming better equipped and organized, more flexible and responsive to counter-piracy efforts of the international community.²⁵² The Somali-based pirates utilizing sophisticated tools and modern weapons of various types including the captured merchant vessels in addition to dhows and fishing vessels as mother ships, explore the shipping routes through the Mozambique Channel, off Madagascar, near the Seychelles, towards the Maldives, and into the Arabian Sea and in some cases the Persian Gulf. It has been even witnessed that piracy attacks occurred within 200 miles of India, some 1500 miles from Somalia and far away from its coasts. Therefore, the piracy infested area stretches across thousands of miles, from the Southern Red Sea to the Arabian Sea and Sea of Oman.²⁵³

As the most heavily travelled and high-value Sea routes in the world, the points of confluence of sea lanes in the Indian Ocean and South China Sea have become an attractive hunting ground for pirates. Small-scale piracy- based on the capture of ships and cargo over the past few years near the Horn of Africa and the Strait of Malacca- has been supplanted by capture and ransom activities against lightly crewed vessels with high-value cargoes travelling from the Persian Gulf and the Suez Canal, even as piracy in the eastern Indian Ocean has declined.²⁵⁴ According to the IMB Piracy Report Centre, there have been 231 worldwide incidents reported to the centre in 2014 which among them, majority of incidents belongs to the Indian Ocean region.²⁵⁵

3.2 Impact of piracy on the current status of participation in international and regional instruments

The previous paragraphs discussed the most significant maritime security threats in the Indian Ocean and how they affect Iran and other countries in the region. Here, I will add

²⁵² John Garofano and Andrea J. Dew, Op.cit, at 115.

²⁵³ Charles H. Norchi and Gwenaelle Proutiere-Maulion, *Piracy, in comprehensive perspective: problems, strategies, law*, Editions A. Pedone & Hart, 2012, at 45.

²⁵⁴ David Michel and Russell Sticklor, at 76.

²⁵⁵ In a recent attack against an oil tanker around Musandam Island in Oman, in 30 March 2014, six persons in a skiff armed with machine gun approached a tanker underway and fired towards the accommodation and bridge. The master raised the alarm and mustered all crew. However, upon hearing the alarm the persons aborted the attempted attack. [airr1 0 0 1 \(oda\)v90\(a\)-10\(t\)5\(t\)5\(e\)2 792 ref1 0 0 1 82.5iia-pg \(oda\)](#)

relevant legislation and policies toward the aforementioned maritime security threats and importance of the maritime security threats of piracy and armed robbery in the Indian Ocean for the purpose of this thesis, the following section of this chapter will afterwards elaborate on

Noteworthy to add is that as a global response to the threat, in 1999, the international community, pursuant to the GA resolution 54/109 of 9 December 1999 at the fourth session adopted the International Convention for the Suppression of the Financing of Terrorism. The Convention

of the Regional Commission for Fisheries (RECOFI) and has ratified the agreement for the establishment of the Commission in 2001.²⁶⁶ Iran has in addition concluded some bilateral agreements with other countries to cooperate in fisheries issues.

2. Iranian perspectives toward piratical threats to maritime security in the Indian Ocean; capacity development approaches at the national level

The following section will first discuss Ocean to maintain maritime security and it will further explore on the necessity of adopting an anti-

international community and regional communities which contributed to constructing a more secure maritime order. Notably, the United Nations aimed at strengthening and assisting states to improve the security situation on land and offshore, which is essential for a better cooperation to fight piracy and armed robbery against ships in affected areas has linked the activities of pirates off the coast of Somalia with the notion of a threat to international peace and security.²⁶⁷ The Security Council in its Chapter VII Resolutions calls on all member states to take part in the fight against piracy. To this end, effectively patrolling the massive Indian Ocean and Gulf of Aden region requires the combined efforts of dozens of nations.²⁶⁸ Pursuant

element of the international response to piracy off the coasts of Somalia has been a military one in the shape of an enhanced naval presence and increased patrols off the Somali coasts. Naval vessels from a diverse array of interested states including the United States, a number of European states (notably Britain, Germany, France, and Spain), Australia, India, Iran, South Korea, Malaysia, Turkey, and Russia have been active in the fight against piracy over the past four years and consequently remarkable and unprecedented international naval cooperation designed to counter piracy and armed robbery threats against any kind of vessels. Within the region, antipiracy

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Being bound to the international obligation to fight against piracy and armed robbery attacks, over the course of the last years, the Islamic Republic of Iran navy has been conducting more naval exercises near the strategic Strait of Hormuz, through which the majority of the regional oil passes. Iran is a major petroleum exporter and depends on maritime shipping.

particularly valued by pirates because of the high ransoms that can be demanded for their return due to the reliance of many countries on the petroleum trade.²⁷⁰

With deterrence and defense towards any threat to the maritime security Iranian government officials has taken the threat posed by Somali piracy seriously and deployed warships to the Gulf of Aden to ensure safe shipping lanes for all of its vessels. It has been witnessed that the main reasons of such a security strategy are to promote Iran's strategic interests in its territorial waters, Strait of Hormuz, continental shelf, Exclusive Economic Zone, continental shelf and the high seas, in addition to safeguarding the maritime merchant fleet and oil tankers from the invasion of violent pirates and sea-robbers.

In response to these attacks, Iran has been since 2008 dispatching its navy to the Indian Ocean region especially to the Gulf of Aden to patrol the waters using submarines and other advanced naval weaponry in order to increase its capabilities in contributing to the

and the Ports and Maritime Organization of Iran dispatched its integrated fleet to respond to the request for assistance of the Chinese vessel and after successfully defeating 9 pirates originally from BOSASO, Somalia, escorted the Chinese ship to Bandar Abbas district. According to Iranian Navy Commander Rear-Admiral Sayyari, the head of the Islamic Republic of Iran Navy, the Navy also rescued a Liberia-

As a recent action, the 31st fleet of the Iranian navy, comprising Bayandor destroyer and Bandar Abbas military ship, has set sail for the high seas as part of Iran's plans to protect the country's cargo ships and oil tankers in different shipping routes. According to the report of Navy Public Relations Bureau, in another recent attack, the commandos of Iranian Navy's 31st Flotilla forced pirates in the Aden Gulf to flee, after several unsuccessful attacks against an Iranian

shipping lines to prevent and also counter possible pirate attacks during their navigation on the dangerous waterways in Persian Gulf, Arabian Sea, Gulf of Aden, Malacca Strait and Red Sea.

PMO according to the statutory functions of Ministry of Road and Transport is responsible and deals with port activity and navigation. However, once a time, subjects and functions of PMO pertaining to shipping and ports were extended and the organization was assigned the task of exercising the authority of the Government to control all ports and maritime affairs, implementation of port and coastal shipping regulations, promoting shipping and commerce, collecting port duties and taxes and registering Iranian vessels.²⁸⁴ It should be mentioned here that national merchant fleet and running the ships in terms of shipping and maritime trade and has no link with Ports and Maritime Organization and is under the a(unde)7(r R0 612 792 re

can be) grouped to address every challenge, opportunities for security cooperation and confidence-

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It is noteworthy to mention that although the cooperative solutions through regional approaches are ways to fight piracy, the focal point still remain the national jurisdiction of regional States. As Paul Musili Wambua instruments governing maritime security primarily UNCLOS and the SUA Convention and

domestic law²⁹³ "Moreover, States that have already enacted national legislation on piracy may wish to review it to ensure the implementation of the relevant provisions of UNCLOS. The General Assembly of the United Nations has also called upon "States to take appropriate steps under their national law to facilitate the apprehension and prosecution of those who are alleged²⁹⁴ and has urged all States to combat piracy actively, inter alia, by adopting measures and by adopting national legislation in co-operation with the International Maritime Organization (IMO).²⁹⁵

Subsequently, according to the Letter from the Secretary-General to the President of the Security Council dated 23 March 2012 with regard to the compilation of information received from Member States identified important measures have been taken by states to criminalize piracy under their domestic law and to support the prosecution of individuals suspected of piracy off the coast of Somalia and imprisonment of convicted pirates.²⁹⁶ Moreover, according to IMO Legal Committee Document, LEG 98/8 in 2011,²⁹⁷

Penal Code of the Islamic Republic of Iran (1991).²⁹⁹ In addition, in relation to piracy, the Islamic Penal Code of Iran.³⁰⁰ It is noteworthy that apart from this legislation, the Islamic Republic of Iran has no specific municipal law to deal with piracy.

107.³⁰³ Furthermore, Iran is a party to SUA and according to article 5 of SUA Convention: Iran is obliged to make the offences set forth in article 3 punishable by appropriate penalties. Although the article does not prescribe specific penalties for any of the offences and merely provides that the penalties should be "appropriate [taking] into account the grave nature of those offences".³⁰⁴

Hence, as a conclusion, in Iran, it is difficult to prosecute suspected pirates according to the existing legal framework and in recent years, the initiatives have been underway to adopt a new anti-piracy law or adding a new provision to the existing Penal Code. In addition as we already explored extensively about the increasing trends of maritime activities and operations of the Islamic Republic of Iran in the Indian Ocean to maintain maritime security, the attention should almost be paid to the importance of having a comprehensive legal framework to prosecute and deal with the apprehended suspected pirates and armed robbers in the hands of the Iranian naval forces. In this regard, formal legislations need to be enacted to tackle piracy and to integrate the provisions of UNCLOS 1982 and the IMO Convention on the suppression of Unlawful Acts against the Safety of Maritime Navigation (1988). Iran should enact an internal legislation on suppressing the unlawful acts of maritime crimes particularly piracy and armed robbery against ships at seas. Hence, in order to fill this gap, the relevant legal department in the Ministry of Foreign Affairs has started some initiative discussions aimed at finalizing draft legislation as a preliminary base to finally formulate sophisticated regulations to tackle piracy and armed robbery against ships.

Chapter 2: How to achieve stronger cooperation to eliminate maritime organized crime under international law and law of the sea: problems and solutions

In order to achieve stronger cooperation to eliminate maritime organized crime under international law and law of the sea and addressing the legal, social and economic challenges and their solutions, the first section of this chapter will discuss some considerations on the root

³⁰³ It s00009()-62(a)7(n7(ra)64 nBT/-()-44(s1M792 reW*n /Span <</MCID 4/Lang (en-GB)>> BDC BT/F5 7 Tf1 0 0 1 1

absence of the central government along with other problems constitute the root causes of rampant scale of piracy incidents and maritime terrorism off coasts and subsequently in the high seas particularly off the Horn of Africa and the Gulf of Aden. The problem of instability in failed states has been considered as a great concern particularly in Somalia and consequently within the entire region. The growing division and tensions between the Somali Islamists, violations of the UN arms embargo and insufficient influence of the African Union Mission in Somalia (AMISOM) in addition to the role of external factors in internal issues have further exacerbated the challenges arising from political instability. Several interference instances and hostile situations have been evident in Somalia and its neighboring states, specifically tensions in Ethiopia, Eritrea and interference of external States.³⁰⁵ Subsequently high rewards of piracy and ransom payments flourishing strongly in a little functioning state with a weak law enforcement system, particularly in the central and southern parts of Somalia along with an ineffective security structure in Puntland³⁰⁶ have exacerbated the problem of maritime crimes committed off the coasts of the country and spreading all through the region. As experts unanimously declare, the widespread maritime criminality off the Horn of Africa and the Indian Ocean is an extension of the land-based violence and general poverty and in this respect, the main threats of criminal activities arise from Somalia and its utmost scale of internal chaos, humanitarian crisis and socio-political instability which have been mainly thrived aft

The nexus between the onset of piracy and the depleted fishery in Somalia is quite apparent. As it has been explained in some arguments,³⁰⁹ genuine economic hardship and a illegal, unreported and unregulated overfishing and illegal dumping of toxic wastes into Somali

e, foreign fishing vessels have been ranged with flagged states allegedly from Italy, Pakistan, China, France, Germany, Korea, Spain, Japan, the UK, Taiwan, and Portugal, amongst others.³¹⁰ As some reports revealed it has been witnessed that illegal fishing not only depleted a huge amount of

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automatic assault rifles to anti-ship mines, hand-held mortars and RPGs as well.³¹⁵ Furthermore it has been evident that corruption and easily compromised judicial structures, as Peter Chalk argues³¹⁶

stal patrols whenever they appear to

has largely led to an exacerbation of illegal and criminal incidents off its coasts with the existing evidences which suggest that the government officials in Puntland have benefited from piracy and armed robbery against vessels off the coasts and have been engaging in the criminal activities committed at it shore and off-shore.³¹⁷

To add to the aforementioned reasons for the flourishing piracy surge, as some have argued,³¹⁸ the global financial crisis and the associated downturn in international shipping have

activities as for many gangs, the prospect of windfall profits is separately worthy with the assumption of confrontation with detention and prosecution.³¹⁹

The root causes of piracy primarily stem from land and lies in addressing the chaos on shore and confronting with domestic and regional challenges in the Horn of Africa and other affected countries in the Indian Ocean region. Therefore, more attention needs to be paid to addressing the underlying socio-economic drivers that exacerbate the piracy and armed robbery challenges in order to develop a long-term strategy towards maritime threats in the Indian Ocean.

Furthermore, It should be noted that the problem of piracy and armed robbery cannot be solved by military means without a detailed analysis of socio-economic aspects (particularly of those domestic, regional or international characteristics). This paper reiterates the importance of supporting local and coastal communities to tackle the underlying causes of piracy and improving effective use of Somali waters through regional maritime capacity building measures. In this respect a comprehensive approach mainly as cooperative solutions through regional approaches aimed at tackling both current symptoms and root causes of the problem is needed. The following section will examine the remedial and preventive approach towards a coherent strategy approach to the aforementioned root causes.

1.2 Preventive strategies and countermeasure solutions to the r

security forces), crisis response (hijacking negotiation) and intervention (liberate hostages or ships).³³¹

This aim of anti-piracy defense efforts to fight against sea criminals, either by an self-defense or establishing private military security guards on board could be a subject of a more de

should the crew be allowed and encouraged to fight off pirates, but States should also allow

³³² Although in reality, this -defense might be problematic in some aspects, mainly legal perspective, as no country has jurisdiction over the high seas, and thus the legal hurdle to a ship arming itself is the law of its state, which may permit or deny ship crews the right to carry arms.³³³

Furthermore, applying weapons on board of vessels carried by inexperienced crew could lead in oil/gas accidents, environmental pollution and many serious maritime incidents at seas and may not be prescribed in every case.³³⁴ It is significant to bear in mind that privatization of

anti-piracy defense efforts and allowing privately owned, armed ships to escort the commercial vessels are applicable for States without the stability or resources to provide protection, and states that cannot adequately patrol their sea-lanes.³³⁵ However, As John

readiness of a ship and its crew to engage in military confrontation with pirates will aggravate f the coastal governments can be convinced that arming cargo ships is a feasible way to combat piracy today, there is still

should take necessary initiatives to ensure to bring to justice the perpetrators of acts of piracy. To achieve this goal, legal capability and judicial capacity of the courts of the regional countries must be strengthened in order to put an end to immunity of pirates from appearing before justice

tried. However, these agreements have not been fully successful as they need to be signed by the coastal states, many of which are reluctant to do so.³⁴⁹

Furthermore, in order to develop the legal

For this purpose, the section will first elaborate on international obligations of States in the region to cooperate to maintain maritime peace and security and then it explains specific areas for capacity building to cooperate in demolishing maritime crimes, from international, regional, sub-regional and national perspectives and it will ultimately address the way forward to accomplish to this end.

3.1 International obligation of States in the region to cooperate to maintain maritime peace and security

International cooperation, whether directly among States or through the involvement of related international organizations or other international mechanisms eliminating maritime crimes at seas has been regarded as an indispensable key component of the global fight against piracy and armed sea robbery.³⁵³ In this respect, it is noteworthy that any international effort to suppress piracy and combat robbery against ships must take place in a manner that is consistent with the rules and principles of public international law governing criminal jurisdiction and in particular cooperation in criminal matters, including detention, prosecution and extradition of the criminals. Accordingly indeed, such a cooperation mechanism must be consistent with the legal regime established for the law of the sea, which is set out in UNCLOS.³⁵⁴

However, one of the most controversial and debated questions in this regard is piracy or also with a duty to do so, and whether States should be obliged to adopt and implement anti-³⁵⁵ In this regard, Article 100 of UNCLOS, contains the precise wording of article 14 of the 1958 Geneva Convention on the High Seas, under the title

freedom of navigation.³⁶³ In applying the broader interpretation, the presumption on cooperation in the face of piracy derives from the general principle of good faith in fulfilling

of justifying-based on factual, legal or other grounds-

³⁶⁴ For the purpose of

principle of international law,³⁶⁵ can be applied to justify the specific obligation which can be identified based on the general guideline sets out in article 100 of UNCLOS. These obligations are in general as including the whole piracy provisions of which should be interpreted in light

international cooperation in addressing the piracy incidents. According to the SUA Convention in its article 13, all States shall

information on acts related to piracy and armed robbery at sea and highlighted the importance of sharing evidence and information among States and international organizations for anti-piracy law enforcement purposes including with regard to the key figures of the criminal networks involved in piracy and armed robbery against vessels off the coast of Somalia.³⁷⁰

At the regional level, an excellent example of promoting an information sharing mechanism to contribute to effective and timely cooperation to eliminate illegal activities against vessels mainly piratical movements refers to the ReCAAP mechanism; the Regional Cooperation Agreement on Combating Piracy and Armed Robbery against ships in Asia. As Tara Davenport has explained,

Piracy and Armed Robbery and the establishment of the ReCAAP Information Sharing Centre in Singapore has also enhanced cooperation in combating piracy and armed robbery in the region mainly through the exchange of information and analysis of incidents of piracy and

deriving from the nature of the crime and the entities involved in counter-

adjacent to the Persian Gulf and Sea of Oman region). In order to appropriately eliminate maritime threats and the lucrative nature of criminal activities at sea, be multilateral and centralized and must seek to integrate the implementation of various convention regimes at the regional level, while remaining flexible and adaptive in

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Programme in Transnational Organized Crime to deal with those attacks that can be classified as major criminal hijacks.

As a matter of law, most major criminal hijacks are offences under the 1988 SUA Convention and du 1 2oq0.00000o.72 Tm0[0.00000o.72 Tm0[0.00000o.72 Tm0[0.00000o.72 tto1bT1 0 0 1 72.0

In addition, in order to achieve a more robust coordinated policy toward suppressing criminals in the region, the existing naval patrol arrangements should be enhanced and be revised periodically to determine whether adjustments or modifications are necessary based on realities. In other words, in order to harmonize ocean governance strategies of regional states and undertaking an efficient maritime security policy toward developing sufficient regional capacity building, establishing a coordinative mechanism among navies including (conducting joint exercises with the coast guards of countries), law enforcement agencies, and the private sector through providing necessary funds needs be viewed as a priority.

However, much greater focus should be devoted to promoting the coastal monitoring and interdiction capabilities of littoral States abutting pirate-infested waters and these examples of government, non-governmental, and private sector involvement in the suppression of piracy and armed robbery at sea must be incorporated into a horizontally and vertically integrated governance structure so that the collective knowledge and actions of all stakeholders are

³⁸¹ The international community should make further increasing efforts to sponsor public-private partnerships aimed at better employing and utilizing communication and defensive technologies.³⁸²

It is noteworthy to mention measures to control maritime crimes in the region should not be focused solely on piracy and armed sea robbery prevention or the risks of maritime terrorism. Such measures should recognize the interests of all stakeholders and encompass other illegal activities at sea, such as the prevention of trafficking in arms, drugs, and persons, as well as the operational dimensions of maritime safety, search and rescue, and marine environmental protection (violations). In particular, bilateral agreements between neighboring countries are essential for the reduction of illegal migration and smuggling and

³⁸¹ Elisabeth Mann Borgese and Francois N. Bailet, *Technology Cooperation and Transfer, Piracy and Armed Robbery at Sea: A Discussion Paper in Two Parts for UNICPOLOS II*, **Ocean Yearbook**, Vol. 17, (edited by Elisabeth Mann Borgese, Also Chircop and Moira McConnell, The International Ocean Institute, Marine and Environmental Law Programme Dalhousie Law School, 2003, at 489.

³⁸² Defensive technologies including as ShipLoc (a basic, but effective satellite tracking system that has long been endorsed by the IMB), SecureShip (a not-lethal electrical perimeter fence designed to prevent unauthorized boarding), and long-range acoustic devices that emit loud disorienting blasts of sound. Cited in Peter Chalk, *The Evolving Dynamics of Piracy and Armed Robbery at Sea in the Modern Era: Scope, Dimensions, Dangers and Policy Responses*, *Op.cit*, at 14.

³⁸⁶ This will definitely add to effective and efficient outcomes of the maritime operations to strengthen security in the region.

Final Remarks

The overlook through the existing legal instruments provides this clear understanding that the United Nations Convention on the Law Of the Sea (1982) and its predecessor, the Convention on the High Seas (1958), together with the 1988 Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (SUA) and its 2005 Protocol, the 1979 Hostages Convention and 2000 United Nations Convention against Transnational Organized Crime (UNTOC) have set an effective legal framework and a comprehensive toolbox for the arrest, prosecution and punishment of perpetrators of acts of kidnap for ransom and ship hijacking and all other illicit crimes including drug and contraband smuggling and money laundering.

The current modus operandi of all illegal activists at seas in a comparative approach clearly characterized by the use of the latest information technologies and highly adaptive lucrative structures which in contrast necessitates applying a proactive and flexible approach to achieve the prosperity in confronting with those ocean criminals. While pirates and criminals have been taking advantage of using information and advanced communications and technologies in their criminal operations, the organizational capacity of financial criminals networks clearly demonstrate the sophistication of the illegal activities and organized maritime crimes in the region.

The regional organized crimes will be eradicated only through such a comprehensive and multidimensional approach, including the establishment of alt

strengthen their commitment to international obligations deriving from binding international instruments in a way that an arresting state has an obligation to either prosecute the alleged offenders in its courts or extradite them to the requesting state.

In this respect, a more proactive and comprehensive approach is not only desirable but indeed essential. Iran acting as its separate part will continue to contribute to better implementation of existing international and regional instruments regarding maritime security and furthermore to better involve in law enforcement initiatives of the Indian Ocean holistic cooperative mechanisms. International law and regional arrangements between States and regional organizations provide appropriate legal basis to this end.

response must be integrated toward the adverse effects of maritime organized crimes which continue to be considered as a serious threat to regional and international shipping and security. Besides, considerations should be given to develop more robust mechanisms to address lack of capacity and security challenges in the Indian Ocean region and existence of underpinnings for the lack of a regional multileveled maritime policy.

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