UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT

UNCTAD

MARITIME PIRACY

PART II AN OVERVIEW OF THE INTERNATIONAL LEGAL FRAMEWORK AND OF MULTILATERAL COOPERATION TO COMBAT PIRACY

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ABBREVIATIONS AND ACRONYMS

AFRICOM	United States Africa Command
AMISOM	African Union Mission in Somalia
AMSSA	African Maritime Safety and Security Agency
APS	Africa Partnership Station
ASF	Asian Shipowners' Forum
BIMCO	Baltic and International Maritime Council
BMP	best management practices
CGPCS	Contact Group on Piracy off the Coast of Somalia
CMI	Comité Maritime International
CSDP	common security and defence policy
CTF-150	Combined Task Force 150
DCoC	Djibouti Code of Conduct
ECHR	European Convention on Human Rights, 1950
EEZ	exclusive economic zone
EUCAP NESTOR	European Union Regional Maritime Capacity-building for the Horn of Africa and the Western Indian Ocean
EU-NAVFOR	European Union Naval Force
EUTM	European Union Training Mission for Somalia
FAC	Foreign Affairs Committee (United Kingdom of Great Britain and Northern Ireland)
FAO	Food and Agriculture Organization
FATF	Financial Action Task Force
GISIS	Global Integrated Shipping Information System
IBF	International Bargaining Forum
ICC	International Criminal Court
ICC	International Chamber of Commerce
ICG	International Contact Group on Somalia
ICS	International Chamber of Shipping
ICOC	International Code of Conduct
IGAD	Intergovernmental Authority on Development
IMB	International Maritime Bureau
IMB PRC	International Maritime Bureau Piracy Reporting Centre
IMO	International Maritime Organization
IMO FAL	International Maritime Organization Facilitation Committee
IMO LEG	International Maritime Organization Legal Committee
IMO MSC	International Maritime Organization Maritime Safety Committee
IMSA	Independent Maritime Security Associates
INTERPOL	International Criminal Police Organization (also ICPO)
INTERTANKO	International Association of Independent Tank Owners
IOC	Indian Ocean Commission
ISAN	International Seafarers Assistance Network
ISF	International Shipping Federation
ISO	International Organization for Standardization
ISPS	International Ship and Port Facility Security Code
ITF	International Transport Workers' Federation

ITLOS	International Tribunal for the Law of the Sea
IUMI	International Union of Marine Insurance
LMA	Lloyd's Market Association
MLC	Maritime Labour Convention
MMSS	multi-mode sensor seeker
MOWCA	Maritime Organization of West and Central Africa
MPHRP	Maritime Piracy Humanitarian Response Programme
MSCHOA	Maritime Security Centre – Horn of Africa
MSPWG	Intersessional Maritime Security and Piracy Working Group
NATO	North Atlantic Treaty Organization
NGO	non-governmental organization
NSC	NATO Shipping Centre
OEF	One Earth Foundation
OGTCL	open general trade control licence
PCASP	privately contracted armed security personnel
PMPF	Puntland Maritime Police Force
PMSC	Private Maritime Security Companies
RAPPICC	Regional Anti-piracy Prosecution and Intelligence Coordination Centre
ReCAAP	Regional Cooperation Agreement on Combating Piracy and Armed Robbery Against Ships in Asia
ReCAAP ISC	ReCAAP Information-sharing Centre
SAMI	Security Association for the Maritime Industry
SCEG	Security in Complex Environments Group
SOLAS	International Convention for the Safety of Life at Sea, 1974, as amended
STCW	International Convention on Standards of Training, Certification and Watchkeeping for Seafarers
SUA	Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, 1988
TFG	Transitional Federal Government of Somalia
UDHR	Universal Declaration on Human Rights
UKMTO	United Kingdom Marine Trade Operations
UNCLOS	United Nations Convention on the Law of the Sea, 1982
UNCTAD	United Nations Conference on Trade and Development
UN-DOALOS	United Nations Division for Ocean Affairs and the Law of the Sea
UNDP	United Nations Development Programme
UNICRI	United Nations Interregional Crime and Justice Research Institute
UNODC	United Nations Office on Drugs and Crime
UNODC CPP	United Nations Office on Drugs and Crime Counter-Piracy Programme
UNPOS	United Nations Political Office for Somalia
WFP	World Food Programme

TABLE OF CONTENTS

Pages

ANNEXES

Pages

TABLES

I. Introduction

1. In a world where trade, economies and populations are growing fast, the long-term availability of cost-effective, efficient, environmentally sustainable, safe and secure maritime transport services is crucial. As part I[1] of this report shows, maritime piracy has developed from a localized maritime transport concern to a cross-sectoral global challenge with humanitarian and security implications and with a range of important repercussions for the development prospects of affected regional economies as well as for global trade.

2. Addressing this challenge in an effective manner requires strong cooperation at the political, economic, legal, diplomatic and military levels, as well as collaboration between diverse public and private sector stakeholders across regions.[2] To some extent, such cooperation has been effective when the international community joined forces to combat piracy in East African waters. Multilateral cooperation efforts in the region have involved Governments, regional organizations, intergovernmental organizations as well as the shipping industry. However, much remains to be achieved.

3. Despite the significant drop in the number of reported attacks off the coast of Somalia/Gulf of Aden in 2012 and 2013, the problem has not gone away. As pointed out by one observer, "the pirates are still there – they haven't gone away, they are just sleeping. It might be contained now […] but the networks or individuals involved in piracy could easily go back into piracy depending on the situation".[3] In the meantime, a surge in the number of piracy incidents in the Gulf of Guinea and the associated high level of violence are further raising the stakes and are keeping the issue of piracy firmly among the priorities on the agenda of the international community and of the shipping industry. Thus, a recent online survey carried out by *Lloyd's List* indicates that 53 per cent of the respondents considered escalating piracy as a future threat to shipping.[4] About two-thirds of respondents considered West Africa as a likely hotspot for future threats, followed by East Africa and the Indian Ocean (40 per cent of respondents) and the Malacca Strait and South China Sea (33 per cent of respondents). Also worth noting is that a significant majority of respondents to the survey (70 per cent) were of the view that the coast of Somalia continues to present risks to shipping.

4. While prevention, deterrence and punishment constitute key approaches to addressing the maritime piracy challenge, efforts to eradicate the problem continue to be hindered by obstacles spanning a broad range of areas, including economic, financial, political and legal. Bearing in mind the main issues at stake, highlighted in Part I of this report, and the associated direct costs and second order implications, responding effectively to the challenge of maritime piracy remains a matter of strategic importance.

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[1] Maritime Piracy, Part I: An Overview of Trends, Costs and Trade-related Implications, UNCTAD/DTL/TLB/2013/1. Available at http://unctad.org/ttl/legal.

[2] See for example BIMCO (2012). Reflections 2013. An Ocean of Expertise.

[3] Mary Harper (2013). Pirates are just sleeping. Ship Management International. Issue 45. September/October. Page 50.

[4] Lloyd's List Security Survey (2013). Future Threats to Shipping. 21 November. Available at http://www.shiptalk.com/wp-content/uploads/2013/11/LL-Security-Survey.png.

5. To assist in the understanding of the scope and reach of existing anti-piracy policy and legal mechanisms, part II of this report provides an overview of the contemporary international legal regime for countering piracy and identifies key examples of international cooperation and multilateral initiatives to combat piracy.

II. The contemporary international legal regime for countering piracy

6. While no international convention solely dedicated to the eradication of piracy has been developed, piracy was the first crime to be recognized as a crime against international law and subject to universal jurisdiction.[5] In the famous "lotus case", which was heard before the Permanent Court of International Justice in 1927, Judge Moore described piracy as "an offence against the law of nations" and pirates as "the enemy of mankind – *hostis humani generis* – whom any nation may in the interest of all capture and punish".[6] More recently, piracy has been described as the "only true case of universal jurisdiction" under customary international law.[7]

7. Following numerous attempts to codify international law provisions on piracy, the Convention on the High Seas was adopted in 1958. The 1958 Convention restates provisions that were considered to be generally declaratory of established principles of international law at that time. The provisions of the 1958 Convention, in turn, formed the basis of the 1982 United Nations Convention on the Law of the Sea (UNCLOS) provisions on piracy. These provisions, which are presented in overview below, provide the contemporary international legal framework for countering piracy; they are binding for Contracting States to UNCLOS, but are considered to also reflect customary international law.[8]

8. It is worth noting, however, that the relevant provisions in UNCLOS are not in all respects comprehensive. For instance, UNCLOS does not provide procedures for investigation or prosecution of pirates or regulate liability issues arising in the context of modern anti-piracy measures.[9]

9. Other conventions that may be of relevance in the repression and effective prosecution of piracy include:

(a) The Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, 1988, and its Protocols;

(b) The International Convention Against the Taking of Hostages, 1979;

(c) The United Nations Convention on Transnational Organized Crime, 2000.

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[5] Shearer I (2010). Piracy. Max Planck Encyclopedia of Public International Law, paragraph 1.

[6] The Lotus Case (France v Turkey) (1927). PCIJ Series. A No.10: 70.

[7] The Arrest Warrant Case (Democratic Republic of the Congo v Belgium) [2002]. ICJ Rep. 3.

[8] See e.g. Security Council resolution 1950 (2010), preamble. See also IMO (2011a). Piracy: Elements of National Legislation Pursuant to the United Nations Convention on the Law of the Sea, 1982. Submitted by the United Nations Division for Ocean Affairs and the Law of the Sea (UN-DOALOS). LEG 98/8/1, paragraph 1.

[9] At a seminar dedicated to maritime piracy in March 2012, in his keynote speech, the Vice-President and Commissioner for Transport of the European Commission, Siim Kallas, spoke of an urgent need to reduce gaps in legislation surrounding anti-piracy measures. The full text of the speech is available at http://europa.eu/rapid/press-release_SPEECH-12-247_en.htm.

10. While it does not appear that the above Conventions have so far played any major role in piracy convictions that have been secured over recent years,[10] aspects of the Conventions that may be relevant to the repression and effective prosecution of piracy are also briefly presented below.

A. Development of contemporary international law provisions on piracy

11. In an attempt to codify international law provisions on piracy, a group of prominent legal scholars produced, in 1932, a Draft Convention on Piracy.[11] The 1932 Draft Convention restated the existing international law on piracy in the form of a proposed treaty consisting of 19 articles.

12. In 1954, the United Nations General Assembly requested that the International Law Commission (ILC) consider international rules that apply to the high seas and other areas of the oceans.[12] At the eighth session of ILC in 1956, a draft treaty concerning the oceans was produced that contained a number of provisions related to piracy, namely articles 38-45, which were drawn heavily from the 1932 Draft Convention.[13] The ILC's articles concerning the law of the sea formed the basis for the provisions of the 1958 Convention on the High Seas, which in turn formed the basis of the UNCLOS provisions on piracy. The drafting of the provisions of UNCLOS closely follows that of the original ILC articles. The ILC's Commentary to its articles may therefore be useful in understanding the meaning of these provisions.

13. Following the discussion of the report of ILC on the work of its eighth session, the United Nations General Assembly adopted resolution 1105 (XI) of 21 February 1957, by which it decided to convene the first United Nations Conference on the Law of the Sea, which was held in Geneva, Switzerland from 24 February to 27 April 1958. On 29 April 1958, the Conference adopted four conventions and an optional protocol (table 1).

14. The Convention on the High Seas, 1958, is a collection of provisions that were considered to be generally declaratory of established principles of international law at that time. The term "high seas" is defined in article 1 of the 1958 Convention as "all parts of the sea that are not included in the territorial sea or in the internal waters of a State".

[10] See IMO 2011(b). Establishment of a Legislative Framework to Allow for Effective and Efficient Piracy Prosecutions. Submitted by the United Nations Office on Drugs and Crime (UNODC). LEG 98/8/2.The document, dated 17 May 2011, at paragraph 5, notes that "of the approximately 500 piracy convictions secured around the world in the last two years, all have relied upon domestic enactments of UNCLOS or on domestic criminal offences unrelated to any other international convention or treaty".

[11] Draft Convention on Piracy, with Comments (1932). American Journal of International Law. Supplement: Research in International Law (26). Harvard Research in International Law. See also, Kraska J (2011). Contemporary Maritime Piracy: International Law, Strategy, and Diplomacy at Sea. Praeger. Santa Barbara: 114–122.

[12] United Nations General Assembly resolution 899 (IX), 14 December 1954.

[13] United Nations (1956). Report of the International Law Commission Covering the Work of Its Eighth Session, 23 April to 4 July 1956. Commentary to the Articles Concerning the Law of the Sea. A/3159, pages 27–29. For the text of articles 38–45 with commentary see also Kraska J (2011). Contemporary Maritime Piracy: International Law, Strategy, and Diplomacy at Sea. Praeger. Santa Barbara: 118–122.

Table 1: Conventions adopted at the first United Nations Conference on the Law of the Sea, 1958

Title	Date of adoption	Date of entry into force	Contracting Parties
Convention on the Territorial Sea and the Contiguous Zone	29 April 1958	10 September 1964	52
Convention on the High Seas, 1958	29 April 1958	30 September 1962	63
Convention on the Continental Shelf	29 April 1958	10 June 1964	58
Convention on Fishing and Conservation of the Living Resources of the High Seas	29 April 1958	20 March 1966	39
Optional Protocol of Signature concerning the Compulsory Settlement of Disputes	29 April 1958	30 September 1962	38

B. United Nations Convention on the Law of the Sea, 1982

15. Subsequently, in 1982, the third[14] United Nations Conference on the Law of the Sea adopted the United Nations Convention on the Law of the Sea (UNCLOS). The 1982 Convention has superseded the earlier Conventions, which are now seen by many as obsolete,[15] as the Contracting States to UNCLOS include most of the States previously bound by the Geneva Conventions. As a result, the earlier Conventions remain binding only as between, or in the relationships with, the few States that are parties to the relevant Geneva Convention and not parties to UNCLOS. This is, for example, the case for the United States of America.

16. Nonetheless, at the time of their adoption, many of the provisions of the Geneva Conventions reflected customary international law. In particular, the definition of piracy provided by article 15 of the Convention on the High Seas was widely accepted and considered a peremptory norm that was binding upon all States. Most of the articles of the Convention on the High Seas are reproduced in UNCLOS, including the earlier definition of piracy, which is repeated almost verbatim in article 101.

[14] A second conference was held in 1960 to consider the topics which had not been agreed upon at the 1958 Conference. See further http://untreaty.un.org/cod/diplomaticconferences/lawofthesea-1960/lawofthesea-1960.html.

[15] Article 311(1) of UNCLOS states that the 1982 Convention "shall prevail, as between State Parties, over the Geneva Conventions on the Law of the Sea of 29 April 1958".

Table 2: Comparative table of relevant articles in the Convention on the High Seas 1958 and the United Nations Convention on the Law of the Sea, 1982

Convention on the High Seas, 1958	United Nations Convention on the Law of the Sea (UNCLOS), 1982	
Article 14	Article 100	Duty to cooperate in the repression of piracy
Article 15	Article 101	Definition of piracy
Article 16	Article 102	Piracy by a warship, Government ship or Government aircraft whose crew has mutinied
Article 17	Article 103	Definition of a pirate ship or aircraft
Article 18	Article 104	Retention or loss of the nationality of a pirate ship or aircraft
Article 19	Article 105	Seizure of a pirate ship or aircraft
Article 20	Article 106	Liability for seizure without adequate grounds
Article 21	Article 107	Ships and aircraft which are entitled to seize on account of piracy
Article 22	Article 110	Right of visit
Article 23	Article 111	Right of hot pursuit

Table 3: United Nations Convention on the Law of the Sea, 1982, entry into force and Contracting States

Title	Date of adoption	Date of entry into force	Contracting Parties
United Nations Convention on the Law of the Sea (UNCLOS), 1982	10 December 1982	16 November 1994	166

1. Universal jurisdiction

17. Article 105 of UNCLOS provides universal jurisdiction over those who commit acts that fall within the definition of piracy provided in article 101. Article 105 states: “On the high seas, or in any other place outside the jurisdiction of any State, every State may seize a pirate ship or aircraft, or a ship or aircraft taken by piracy and under the control of pirates, and arrest the persons and seize the property on board. The courts of the State which carried out the seizure may decide upon the penalties to be imposed, and may also determine the action to be taken with regard to the ships, aircraft or property, subject to the rights of third parties acting in good faith.”

18. Given the nature of the crime of piracy under international law, no jurisdictional link need exist between the State exercising jurisdiction and the suspected offender(s), private ship(s), victim(s) or victim ship(s). Since piracy provides an independent basis for jurisdiction under international law, no additional basis of jurisdiction, such as that based on territoriality, nationality or passive personality, is required.[16] Accordingly, universal

[16] It should be noted that jurisdiction over suspected pirates may in any event be claimed, based on principles of criminal jurisdiction, by the State of nationality of the suspected pirates, the State of nationality of the victims and the flag State of any of the involved vessels, including that of the pirate ship.

jurisdiction in respect of piracy under UNCLOS is an exception to the principle of exclusive flag-State jurisdiction[17] over ships on the high seas.[18]

2. Legal definition of piracy

19. The definition of the crime of piracy that is provided in UNCLOS is considered to reflect customary international law, and it is therefore binding upon all States. This definition, derived from article 15 of the 1958 Convention on the High Seas, has a number of core components, most importantly, its geographical and substantive scope. The geographical scope of the definition extends universal jurisdiction to acts of piracy on the high seas and in any other place outside the jurisdiction of any State, along with acts that occur in a State's exclusive economic zone (EEZ), save for acts that occur in a State's territorial waters. Accordingly, acts that occur in the territorial or inland waters of a State do not fall within the definition.

20. Additional core components that reflect the substantive scope of the definition include:

(a) The private ends requirement;
(b) The two ships requirement;
(c) The definition of a pirate ship;
(d) The offences of incitement and facilitation;
(e) The distinction between private ships and Government ships.

21. Article 101 of UNCLOS sets out the definition of piracy under international law, as follows:[19]

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

[17] Articles 92 and 94, UNCLOS.

[18] IMO (2011a). Piracy: Elements of National Legislation Pursuant to the United Nations Convention on the Law of the Sea, 1982. Submitted by UN-DOALOS. LEG 98/8/1, paragraphs 7–9. See also Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo v Belgium). Judgement, ICJ Reports 2002. President Guillaume (Separate Opinion), paragraph 5; and Judges Higgins, Kojimans and Buergenthal (Joint Separate Opinion), paragraph 61. Available at http://www.icj-cij.org/docket/index.php?p1=3&p2=3&k=36&case=121&code=cobe&p3=4.

[19] This definition should, however, be read in conjunction with other provisions of UNCLOS, in particular, articles 58(2), 102 and 103.

22. This definition of piracy has been incorporated into a number of international instruments, such as the 2004 Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP)[20] and the 2009 Djibouti Code of Conduct.[21] It has also been included in a number of IMO documents, such as the code of practice for the investigation of crimes of piracy and armed robbery against ships.[22]

23. Certain key elements of the definition are highlighted below.[23]

Geographical scope

24. The definition refers to acts of piracy that occur "on the high seas" or "in a place outside the jurisdiction of any State".[24] Accordingly, acts of piracy that occur in the territorial or internal waters of a State do not fall within the definition provided by article 101.[25]

25. That being said, article 101 should be read in conjunction with article 58(2), which provides that rules of international law that apply on the high seas also apply to the exclusive economic zone (EEZ) in so far as they are not incompatible with the provisions of UNCLOS that relate to the EEZ.[26] The geographical scope of article 101(a) should therefore be read to include the EEZ of any State.[27] As a result, acts of piracy that are committed in a State's EEZ will be treated as though they had been committed on the high seas, and any State may assert jurisdiction over the crime as long as it occurs outside the territorial waters of any State.

[20] Article 3(1)(b), ReCAAP. See further below.

[21] Article 1, Djibouti Code of Conduct. See further below.

[22] The code was adopted by IMO Assembly resolution A.1025(26) during the twenty-sixth session of the IMO Assembly on 2 December 2009.

[23] For more information see IMO (2011a). Piracy: Elements of National Legislation Pursuant to the United Nations Convention on the Law of the Sea, 1982. Submitted by UN-DOALOS. LEG 98/8/1, paragraphs 10–17.

[24] With regard to the meaning of the phrase "in a place outside the jurisdiction of any State", the International Law Commission (ILC), in its Commentary to article 39, which was the basis for article 101 of UNCLOS, states: "[I]n considering as 'piracy' acts committed in a place outside the jurisdiction of any State, the Commission had chiefly in mind acts committed by a ship or aircraft on an island constituting terra nullius or on the shores of an unoccupied territory. But the Commission did not wish to exclude acts committed by aircraft within a larger unoccupied territory, since it wished to prevent such acts committed on ownerless territories from escaping all penal jurisdiction." See United Nations (1956). Report of the International Law Commission Covering the Work of Its Eighth Session, 23 April to 4 July 1956. Commentary to the Articles Concerning the Law of the Sea. A/3159, page 27.

[25] Acts that occur in the territorial waters of a State would instead fall within the definition of "armed robbery against ships". See further below.

[26] Article 58(2) provides: "Articles 88 to 115 and other pertinent rules of international law apply to the exclusive economic zone in so far as they are not incompatible with this part."

[27] Subparagraphs (b) and (c) of article 101, respectively, on voluntary participation in the operation of a pirate ship or aircraft and incitement and intentionally facilitating an act of piracy, do not explicitly set forth any particular geographical scope.

Private-ends requirement

26. To fall within the definition of piracy, the acts referred to in article 101(a) must be committed for private ends. The ILC's Commentary states that "[t]he intention to rob (*animus furandi*) is not required. Acts of piracy may be prompted by feelings of hatred or revenge and not merely by the desire for gain".[28] Politically-motivated acts, however, do not fall within the international law definition of piracy. In Castle John v NV Mabeco (1986), it was held that a Greenpeace vessel, which had attacked an allegedly polluting vessel of the Netherlands, had committed piracy, as the act of violence was in support of a personal point of view and therefore not political.[29]

Two-ship requirement

27. The definition of piracy in article 101 requires that an attack on a ship must originate from another private ship. In other words, more than one vessel must be involved in the incident, the typical example being one ship attacking another. The ILC's Commentary confirms that "acts committed on board a ship by the crew or passengers and directed against the ship itself, or against persons or property on the ship, cannot be regarded as acts of piracy".[30] Consequently, "internal hijackings" or the violent taking of control of a ship by members of its crew or passengers, even when it results in holding for ransom of the ship and its crew and passengers do not fall within the definition.[31]

28. In 1985, the Italian cruise ship Achille Lauro was seized on the high seas by a group of Palestinians posing as passengers. They took the passengers and crew hostage, demanding the release of 50 Palestinians that were being held in jails in Israel. They were eventually captured and brought to trial in Italy where they were convicted of terrorism offences. The event was considered to fall outside the international law definition of piracy and it led to the adoption, on 10 March 1988, of the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (SUA Convention).[32]

Definition of a pirate ship

29. Article 101(b) refers to "any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft". In order to establish whether a particular vessel is a pirate ship, article 101(b) should be read in conjunction with article 103 of UNCLOS, which states: "A ship or aircraft is considered a pirate ship or aircraft if it is intended by the persons in dominant control to be used for the

[28] ILC's Commentary on article 39, United Nations (1956). Report of the International Law Commission Covering the Work of Its Eighth Session, 23 April to 4 July 1956. Commentary to the Articles Concerning the Law of the Sea. A/3159, page 28.

[29] Castle John v NV Mabeco (1986), page 540.

[30] ILC's Commentary on article 39, United Nations (1956). Report of the International Law Commission Covering the Work of Its Eighth Session, 23 April to 4 July 1956. Commentary to the Articles Concerning the Law of the Sea. A/3159, page28.

[31] For more information see Treves T (2009). Piracy, Law of the Sea, and Use of Force: Developments off the Coast of Somalia . The European Journal of International Law. 20 (2): 399–414.

[32] The SUA Convention is dealt with in further detail below.

purpose of committing one of the acts referred to in article 101. The same applies if the ship or aircraft has been used to commit any such act, so long as it remains under the control of the persons guilty of that act."

30. As article 103 requires that the intentions of the persons in dominant control of the vessel be established, it appears that article 101(b) should be interpreted to include attempted acts of piracy.

31. These provisions are particularly relevant to situations where commercial vessels have been hijacked by pirates. Such vessels may be considered pirate ships for the duration of the hijacking, even though it is unlikely that the ship would be considered a pirate ship before or even after the event. A crew member that is forced to staff a hijacked vessel is unlikely to fall within this provision, as the crew member's actions cannot be considered voluntary.

32. According to article 104, where a ship has become a pirate ship, the retention or loss of its nationality will be determined by the law of its flag State. A pirate ship does not automatically lose its nationality.[33]

Incitement and facilitation

33. Article 101(c) includes in the definition of piracy "any act of inciting or of intentionally facilitating an act described in subparagraph (a) or (b)". Thus, the inchoate offence of inciting any of the acts covered in subparagraph (a) or (b) or intentionally facilitating any of the acts covered in these paragraphs would also constitute piracy.[34]

Piracy by a warship or Government ship whose crew has mutinied

34. The definition in article 101(a) requires that the attacking ship must be a private ship, although the victim ship need not be. Accordingly, a Government ship cannot, per se, be deemed to commit an act of piracy. The definition in article 101 must, however, be read in conjunction with article 102, which provides that acts committed by a Government ship whose crew has mutinied and taken control of the ship are "assimilated" to acts of piracy, i.e. are also covered.[35]

[33] Articles 91 and 92 of UNCLOS.

[34] IMO (2011a). Piracy: Elements of National Legislation Pursuant to the United Nations Convention on the Law of the Sea, 1982. Submitted by UN-DOALOS. LEG 98/8/1, paragraph 16.

[35] Article 102 of UNCLOS states: "The acts of piracy, as defined in article 101, committed by a warship, Government ship or Government aircraft whose crew has mutinied and taken control of the ship or aircraft are assimilated to acts committed by a private ship or aircraft."

3. Criminalization of piracy

35. Article 105 of UNCLOS provides States with universal jurisdiction on the high seas to seize pirate ships and to arrest the persons and seize the property on board. It also accords universal jurisdiction to the courts of the State which carried out the seizure of the vessel, and for those courts to decide upon the penalties to be imposed.[36] States may, therefore, criminalize piracy in their national legislation and set out the relevant sentences to be given to those who are convicted for acts of piracy.[37] The ILC's Commentary provides that the ILC "did not think it necessary to go into details concerning the penalties to be imposed and the other measures to be taken by the courts".[38] However, in exercising their discretion with respect to article 105 of UNCLOS, States shall bear in mind their duty "to cooperate to the fullest possible extent in the repression of piracy".

4. Enforcement measures

36. As already noted, article 105 of UNCLOS provides States with universal jurisdiction to seize pirate ships and to arrest persons and to seize property on board. The geographical scope of this jurisdiction extends to piratical acts on the high seas and in any other place outside the jurisdiction of any State pursuant to article 101, along with acts that occur in a State's EEZ pursuant to article 58(2), save for acts that occur in a State's territorial waters. The universal jurisdiction provided in article 105 is not subject to an additional basis for jurisdiction being present, and it acts as an exception to the principle of exclusive flag-State jurisdiction over ships on the high seas. As such, every State has jurisdiction to carry out the enforcement measures stipulated in article 105 in order to repress the international crime of piracy.[39]

37. It should be noted that, when carrying out enforcement measures, States remain subject to other relevant rules of international law, including applicable international human rights law.[40] Certain safeguards and obligations for States apply with respect to the treatment of captured pirates; in addition to the right to humane treatment, this includes the absence of arbitrary detention, the right to be brought promptly before a judge, the

[36] Article 105 of UNCLOS provides: "On the high seas, or in any other place outside the jurisdiction of any State, every State may seize a pirate ship or aircraft, or a ship or aircraft taken by piracy and under the control of pirates, and arrest the persons and seize the property on board. The courts of the State which carried out the seizure may decide upon the penalties to be imposed, and may also determine the action to be taken in regard to the ships, aircraft or property, subject to the rights of third parties acting in good faith."

[37] IMO (2011a). Piracy: Elements of National Legislation Pursuant to the United Nations Convention on the Law of the Sea, 1982. Submitted by UN-DOALOS. LEG 98/8/1, paragraph 18.

[38] ILC's Commentary on Article 43, United Nations (1956). Report of the International Law Commission Covering the Work of Its Eighth Session, 23 April to 4 July 1956. Commentary to the Articles Concerning the Law of the Sea. A/3159, page 29.

[39] See also IMO (2011c). Piracy: Elements of National Legislation Pursuant to the United Nations Convention on the Law of the Sea, 1982. Submitted by UN-DOALOS. LEG 98/8/3, paragraphs 2–5.

[40] Ibid., paragraph 3.

right to a fair trial and the avoidance of transfer to a country that applies the death penalty.[41]

Ships entitled to carry out enforcement measures

38. According to article 107 of UNCLOS, a seizure on account of piracy may only be carried out by warships[42] or military aircraft or other ships or aircraft clearly marked and identifiable as being on Government service and authorized to that effect. The ILC's Commentary states: "[This article] does not apply in the case of a merchant ship which has repulsed an attack by a pirate ship and, in exercising its right of self-defence, overpowers the pirate ship and subsequently hands it over to a warship or to the authorities of a coastal State. This is not a 'seizure' within the meaning of this article."[43]

The right of visit

39. While articles 92 and 94 of UNCLOS establish the principle of exclusive flag-State jurisdiction over ships on the high seas, measures taken with the objective of combating piracy constitute an exception to this principle. As such, if there are reasonable grounds for suspecting that a foreign ship on the high seas is engaged in piracy,[44] a Government ship may board the ship in order to:

(a) Verify the ship's right to fly its flag;
(b) If suspicion remains after the documents have been checked, proceed to a further examination on board the ship, which must be carried out with all possible consideration.[45]

40. This is known as the "right of visit"[46] and it is a right that is only extended to warships or military aircraft or other ships or aircraft clearly marked and identifiable as being on Government service.[47]

[41] Such obligations apply to States Parties to relevant treaties including the International Covenant on Civil and Political Rights (ICCPR), the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the European Convention on Human Rights (ECHR).

[42] Article 29 of UNCLOS defines a warship as a "ship belonging to the armed forces of a State bearing the external marks distinguishing such ships of its nationality, under the command of an officer duly commissioned by the Government of the State and whose name appears in the appropriate service list or its equivalent, and manned by a crew which is under regular armed forces discipline".

[43] ILC's Commentary on Article 45, United Nations (1956). Report of the International Law Commission Covering the Work of Its Eighth Session, 23 April to 4 July 1956. Commentary to the Articles Concerning the Law of the Sea. A/3159. page 29. This interpretation should also be provided to articles 110, 111 and 224.

[44] Article 110(1)(a), UNCLOS. Additional circumstances that trigger a right of visit are enumerated in article 110(1)(b)–(e).

[45] Article 110(2), UNCLOS.

[46] Articles 92(1) and 110, UNCLOS. According to articles 95 and 96 of UNCLOS there is no right to visit in respect of warships and ships owned or operated by a State and used only on Government non-commercial service.

[47] Article 110(5), UNCLOS.

The right of hot pursuit

41. Article 111 of UNCLOS provides a legal basis for hot pursuit on the high seas. It allows a competent authority of a coastal State to pursue a foreign vessel that it believes has violated its domestic laws within its territorial waters onto the high seas.

42. The right of hot pursuit ceases, however, as soon as the ship pursued enters the territorial sea of its own State or of a third State.[48] Neither UNCLOS nor customary international law provides States with a right of reverse hot pursuit. In the exceptional case of Somalia, United Nations Security Council resolutions starting with resolution 1816(2008), allow reverse hot pursuit in Somalia territorial waters, but they also provide that this practice shall not be considered as establishing customary international law.

5. Liability and compensation provisions

43. Where the seizure of a ship or aircraft on suspicion of piracy has been effected without adequate grounds, article 106 of UNCLOS provides that the State making the seizure shall be liable to "the State nationality of which is possessed by the ship or aircraft" for any loss or damage caused by the seizure. This article penalizes the unjustified seizure of ships on grounds of piracy.[49]

44. As regards the right of visit, article 110(3) of UNCLOS provides that "if the suspicions prove to be unfounded, and provided that the ship boarded has not committed any act justifying them," the owner of the ship shall be compensated by the boarding State for any loss or damage that may have been sustained. The ILC's Commentary states: "The State to which the warship belongs must compensate the merchant ship for any delay caused by the warship's action, not only where the ship was stopped without reasonable grounds but in all cases where suspicion proves unfounded and the ship committed no act calculated to give rise to suspicion. This severe penalty seems justified in order to prevent the right of visit being abused."[50]

45. In addition, articles 106 and 110 should be read in conjunction with article 300[51] on good faith and abuse of rights, as well as with article 304[52] which contains general provisions on responsibility and liability for damage.

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[48] Article 111(3), UNCLOS.

[49] ILC's Commentary on Article 44, United Nations (1956). Report of the International Law Commission Covering the Work of Its Eighth Session, 23 April to 4 July 1956. Commentary to the Articles Concerning the Law of the Sea. A/3159, page 29.

[50] ILC's Commentary on Article 46, United Nations (1956). Report of the International Law Commission Covering the Work of Its Eighth Session, 23 April to 4 July 1956. Commentary to the Articles Concerning the Law of the Sea. A/3159, page 29.

[51] Article 300 states: "States Parties shall fulfil in good faith the obligations assumed under this Convention and shall exercise the rights, jurisdiction and freedoms recognized in this Convention in a manner which would not constitute an abuse of right."

[52] Article 304 states: "The provisions of this Convention regarding responsibility and liability for damage are without prejudice to the application of existing rules and the development of further rules regarding responsibility and liability under international law."

6. International cooperation

46. Under article 100 of UNCLOS, all States are under a general obligation to "cooperate to the fullest possible extent in the repression of piracy on the high seas or in any other place outside the jurisdiction of any State".[53] However, no additional detail is provided. The provision is explained further in the ILC's Commentary, which notes: "Any State having an opportunity of taking measures against piracy, and neglecting to do so, would be failing in a duty laid upon it by international law. Obviously, the State must be allowed a certain latitude as to the measures it should take to this end in any individual case."[54]

47. Article 100 does not necessarily imply that States have an obligation to criminalize piracy in their national legislation, nor does it imply that States are obliged to prosecute acts of piracy.[55] In addition, there is no express provision in UNCLOS governing the transfer of suspected pirates from a seizing State to another State.

48. That being said, the UN-DOALOS secretariat has noted that the adoption of national legislation relating to piracy pursuant to the provisions in UNCLOS is an "important step" that States can take in order to enable them to cooperate effectively in the repression of piracy, pursuant to article 100.[56] In this context, it is suggested that States may adopt national legislation that includes provisions on mutual assistance in criminal matters, extradition and transfer of suspected, detained and convicted pirates, and that States may conclude bilateral and multilateral agreements to facilitate international cooperation.[57] Reference is also made to the good faith requirement in article 300 of UNCLOS, which applies in relation to the implementation of article 100.

C. Other potentially relevant international conventions

49. As already noted, a number of other international conventions may potentially assist in the repression and effective prosecution of piracy. These include in particular the 1988 Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (SUA Convention), but also two conventions that are not specific to maritime affairs, namely the International Convention Against the Taking of Hostages, 1979 and the United Nations Convention on Transnational Organized Crime, 2000.

[53] Article 100, UNCLOS.

[54] ILC's Commentary on Article 38, United Nations (1956). Report of the International Law Commission Covering the Work of Its Eighth Session, 23 April to 4 July 1956. Commentary to the Articles Concerning the Law of the Sea. A/3159, page 27.

[55] The prosecution of pirates has started only recently in some States. See Yomiuri Shimbun (2011). Japan to Try Suspects in Pirate Attack. March 9. Available at www.yomiuri.co.jp/dy/national/T110308006340.htm.

[56] IMO (2011a). Piracy: Elements of National Legislation Pursuant to the United Nations Convention on the Law of the Sea, 1982. Submitted by UN-DOALOS. LEG 98/8/1, paragraph 2.

[57] IMO (2011c). Piracy: Elements of National Legislation Pursuant to the United Nations Convention on the Law of the Sea, 1982. Submitted by UN-DOALOS. LEG 98/8/3, paragraphs 13–17.

1. Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (SUA Convention), 1988, as amended

50. It is important to distinguish piracy, as defined in UNCLOS, from "armed robbery against ships"; this is not addressed in UNCLOS, but is defined by the IMO Code of Practice for the Investigation of Crimes of Piracy and Armed Robbery Against Ships.[58] Article 2.2 of the Code provides:

> Armed robbery against ships means any of the following acts:
>
> > 1. Any illegal act of violence or 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 on board such ship, within a State's internal waters, archipelagic waters and territorial sea;
> >
> > 2. Any act of inciting or of intentionally facilitating an act described above.

51. In cases of armed robbery against ships, primary responsibility for enforcement measures would, in accordance with part II of UNCLOS, normally fall on the coastal State. Armed robbery against ships also constitutes an offence under the 1988 Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (SUA Convention).

Table 4: Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (SUA), 1988, entry into force and Contracting States

Title	Date of adoption	Date of entry into force	Contracting Parties	Percentage of World Tonnage
Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (SUA), 1988	10 March 1988	1 March 1992	161	94.51
Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf (SUA PROT), 1988	10 March 1988	1 March 1992	149	88.51
Protocol of 2005 to the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (SUA 2005)	14 October 2005	28 July 2010	28	36.05
Protocol of 2005 to the Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf (SUA PROT 2005)	14 October 2005	28 July 2010	24	35.29

[58] IMO (2010). Code of practice for the investigation of crimes of piracy and armed robbery against ships. A 26/Res.1025. Annex, paragraph 2.2.

52. The SUA Convention was adopted following the incident on board the Achille Lauro in 1985, where the vessel was seized by a group of Palestinians posing as passengers. The incident served as an illustration of the inadequacy of the international legal regime governing piracy under UNCLOS, in so far as it concerned the exclusion from the definition of piracy of acts of terrorism that are politically motivated, such as hijackings and internal seizures of a ship.

53. The SUA Convention complements the provisions on piracy that are found in UNCLOS, as it provides further definitions of offences that threaten the safety of maritime navigation. It also obliges Contracting States to either extradite or prosecute alleged offenders of unlawful acts.

54. Thus the SUA Convention may provide an additional basis for jurisdiction in cases where the act falls outside the geographic or substantive scope of UNCLOS, i.e. does not fall within the traditional definition of piracy as reflected in UNCLOS. Moreover, the specific obligations imposed on Contracting States to the SUA Convention may play an important part in the context of maritime piracy.

1.1. Offences

55. The offences dealt with by the SUA Convention are set out in article 3 of the Convention, which provides:

> 1. Any person commits an offence if that person unlawfully and intentionally:
>
> (a) seizes or exercises control over a ship by force or threat thereof or any other form of intimidation; or
> (b) performs an act of violence against a person on board a ship if that act is likely to endanger the safe navigation of that ship; or
> (c) destroys a ship or causes damage to a ship or to its cargo which is likely to endanger the safe navigation of that ship; or
> (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 1, subparagraphs (b), (c) and (e), if that threat is likely to endanger the safe navigation of the ship in question.

56. While article 3 of the SUA Convention does not explicitly refer to piratical acts or armed robbery against ships, many of the offences listed (e.g. article 3(1)(a) and (b)) contain the basic elements of the crime of piracy, and therefore such acts may be covered by the SUA Convention. That being said, the SUA Convention creates separate offences from those provided in article 101 of UNCLOS. This allows a prosecuting State to choose whether to prosecute under the SUA Convention or UNCLOS, provided that the relevant offences are explicitly included in that State's criminal legislation.[59]

57. Article 3(2) of the SUA Convention requires the acts of attempting, abetting and threatening to carry out the offences in article 3(1) to also be considered as crimes under the Convention. The IMO secretariat has noted that the terminology employed in article 101(c) of UNCLOS, namely "inciting" and "intentionally facilitating" acts of piracy, is somewhat different, although some of the concepts may overlap, for example, "facilitating" and "abetting".[60]

58. It is also worth noting that the offences listed in article 3 are not limited to those that involve more than one ship. As such, the internal seizure of a ship may fall within one of the listed offences.

1.2. Unlawfully and intentionally

59. It is noted above that one of the key elements in the international definition of the crime of piracy is that it is committed for private gain. By comparison, the main requirement for an offence under the SUA Convention is that the person acts "unlawfully and intentionally". As such, the scope of article 3 of the SUA Convention is much wider than article 101 of UNCLOS, with piratical acts that are committed for private ends and piratical acts that are politically motivated both falling within the list of offences in article 3. This extended scope may facilitate prosecution in a broader range of offences.

1.3. Endanger the safe navigation of the ship

60. The offences listed in article 3(1)(b)–(f) of the SUA Convention refer to acts that "endanger the safe navigation of that ship", making the safety or otherwise of the ship a key element in the definition of those offences. Accordingly, if the offence does not, or is not likely to, endanger the ship, the SUA Convention will not be applicable to the offence. By contrast, there is no requirement in article 3(1)(a) to prove that the safety of navigation of the ship was endangered.

[59] IMO (2011d). Uniform and consistent application of the provisions of international conventions relating to piracy. Note by the secretariat. LEG 98/8, paragraph 11.

[60] IMO (2011d). Uniform and consistent application of the provisions of international conventions relating to piracy. Note by the secretariat. LEG 98/8, paragraph 13.

61. Given that in general acts of piracy will, or are likely to, endanger the safety of navigation of the ship, such acts should fall within the list of offences provided by article 3(1) of the SUA Convention.

1.4. Geographical scope

62. In comparison to the geographical scope of the definition of piracy provided in UNCLOS,[61] the scope of the SUA Convention is much wider. Article 4 of the SUA Convention provides:

> 1. This Convention applies if the ship is navigating or is scheduled to 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.
>
> 2. In cases where the Convention does not apply pursuant to paragraph 1, it nevertheless applies when the offender or the alleged offender is found in the territory of a State Party other than the State referred to in paragraph 1.

63. Offences that take place in the EEZ of any State or on the high seas fall within the scope of the Convention by virtue of article 4(1). In addition, article 4(2) confirms that the Convention also applies where the offender or alleged offender is found in the territorial waters of another State. Accordingly, the only case in which the SUA Convention would not apply is where the offence is committed solely within a single State's territorial sea and the suspected offender was subsequently found within that coastal State's territory.

64. The territorial scope of the SUA Convention therefore is wider than UNCLOS in so far as it covers piracy-related acts in the EEZ and the high seas, as well as in territorial waters in the circumstances provided in article 4(1).[62]

1.5. Penalties

65. Article 5 of the SUA Convention requires States to make the offences listed in article 3 punishable by appropriate penalties which take into account the grave nature of those offences. The Convention itself does not, however, prescribe specific penalties for any of the offences, which may result in a lack of uniformity among the national laws of State Parties as regards the sanctions imposed.[63]

66. It has been noted that article 105 of UNCLOS is less prescriptive than article 5 of the SUA Convention, as "it empowers, but does not oblige, States to provide for piracy to constitute a criminal offence under the national legislation and to establish appropriate penalties".[64]

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[61] Articles 101, 105 and 58(2) of UNCLOS.

[62] IMO (2011d). Uniform and consistent application of the provisions of international conventions relating to piracy. Note by the secretariat. LEG 98/8, paragraph 20.

[63] Mukherjee Proshanto K (2004). Piracy, Unlawful Acts and Maritime Violence. Journal of International Maritime Law. (10), 301–302.

[64] IMO (2011d). Uniform and consistent application of the provisions of international conventions relating to piracy. Note by the secretariat. LEG 98/8, paragraph 21.

1.6. Jurisdiction

67. In respect of jurisdiction, there is an important distinction between the provisions of UNCLOS and of the SUA Convention. Article 105 of UNCLOS provides all States with universal jurisdiction in respect of the international crime of piracy as defined in article 101. There is no additional requirement for a jurisdictional link between the State exercising jurisdiction and the suspected offender, pirate ship or victim. By contrast, article 6 of the SUA Convention requires certain jurisdictional links pursuant to which a State must or may establish its jurisdiction over the offences listed in article 3 of the Convention. Article 6 provides:

> 1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 3 when the offence is committed:
>
> (a) against or on board a ship flying the flag of the State at the time the offence is committed; or
> (b) in the territory of that State, including its territorial sea; or
> (c) by a national of that State.
>
> 2. A State Party may also establish its jurisdiction over any such offence when:
>
> (a) it is committed by a Stateless person whose habitual residence is in that State; or
> (b) during its commission a national of that State is seized, threatened, injured or killed; or
> (c) it is committed in an attempt to compel that State to do or abstain from doing any act.
>
> 3. Any State Party which has established jurisdiction mentioned in paragraph 2 shall notify the Secretary-General of the International Maritime Organization (hereinafter referred to as the Secretary-General). If such State Party subsequently rescinds that jurisdiction, it shall notify the Secretary-General.
>
> 4. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 3 in cases where the alleged offender is present in its territory and it does not extradite him to any of the States Parties which have established their jurisdiction in accordance with paragraphs 1 and 2 of this article.
>
> 5. This Convention does not exclude any criminal jurisdiction exercised in accordance with national law.

68. Accordingly, under the SUA Convention, a State may establish jurisdiction over an offence that is listed in article 3, where the offence is committed against or on board a ship flying its flag, in its territory or by one of its nationals.[65] A State may also establish jurisdiction over an offence when it is committed by a Stateless person who is habitually resident in that State, the victim was a national of the State or it is committed in an attempt to compel that State to do or abstain from doing any act.[66] In respect of jurisdiction, the SUA Convention, therefore, has a more restricted application than UNCLOS.

[65] Article 6(1)(a)–(c), SUA Convention.

[66] Article 6(2)(a)–(c), SUA Convention.

1.7. Custody and delivery of alleged offenders

69. Articles 7 and 8 of the SUA Convention offer important procedural rules that complement and reinforce the piracy provisions provided in UNCLOS. First, upon being satisfied that the circumstances so warrant, "any State Party in the territory of which the offender or the alleged offender is present shall, in accordance with its law, take him into custody".[67] That State must then make a preliminary inquiry into the facts, in accordance with its own legislation.[68]

70. Once the alleged offender is in custody, he is entitled to communicate, without delay, with the nearest appropriate representative of the State of which he is a national.[69] In addition, the arresting State is required to immediately notify any other States that have established jurisdiction under article 6(1) of the Convention. It is also required to report on any of its findings as regards its preliminary investigation and to notify the States if it intends to exercise jurisdiction.[70]

71. By virtue of article 8 of the SUA Convention, the master of a ship of a State party may deliver to the authorities of any other State party any person whom he has reasonable grounds to believe has committed one of the offences listed in article 3.[71] The receiving State is obliged to accept delivery of the person, except where it has grounds to consider that the Convention is not applicable to the acts giving rise to the delivery.[72]

72. The 2005 amendments to the SUA Convention (SUA 2005)[73] introduced provisions covering cooperation and procedures to be followed if a State party desires to board on the high seas a ship flying the flag of another State party, when the requesting party has reasonable grounds to suspect that the ship or a person on board the ship has been or is about to be involved in the commission of an offence under the 1988 SUA Convention.[74] The authorization of the flag State is required before such boarding. While SUA 2005, which entered into force in July 2010, strengthens the legal basis for effective international cooperation, it should be noted that it has not yet been widely adopted and is in force in only 24 Contracting States.

1.8. Prosecution or extradition

73. Where a State party has established jurisdiction in accordance with article 6 of the SUA Convention, article 10(1) provides that the State must either extradite or prosecute the

[67] Article 7(1), SUA Convention.

[68] Article 7(2), SUA Convention.

[69] Article 7(3)(a), SUA Convention. See also article 7(4), SUA Convention.

[70] Article 7(5), SUA Convention.

[71] Article 8(1), SUA Convention. The master of the ship is obliged to give notification to the authorities of the receiving State of the master's intention to deliver such a person and the reasons therefor (article 8(2)).

[72] Article 8(3), SUA Convention.

[73] For a brief description of amendments adopted in 2005 to the 1988 SUA and its 1988 Protocol see UNCTAD (2006). Review of Maritime Transport 2006. United Nations publication. UNCTAD/RMT/2006. New York and Geneva. Available at http://unctad.org/en/pages/PublicationArchive.aspx?publicationid=1666.

[74] Article 8bis.

offender or alleged offender. Such persons must be guaranteed fair treatment at all stages of the proceedings, including enjoyment of all of the rights and guarantees provided for such proceedings by the national law of the State.[75]

74. Article 11(1) of the SUA Convention provides that the offences listed in article 3 shall be deemed to be included as extraditable offences in any extradition treaty between any of the State Parties.

75. In spite of the additional list of offences provided by the SUA Convention, it seems that States have been reluctant to use the Convention directly as a basis for prosecution of maritime pirates, and this reluctance has been partially attributed to a lack of guidance as regards the Convention's application in the Convention itself.[76] For instance, one commentator refers to the fact that the Aviation and Maritime Security Act of 1990 of the United Kingdom of Great Britain and Northern Ireland incorporated the SUA Convention into United Kingdom law, but in United Kingdom case-law no reliance has yet been placed on the SUA Convention.[77] Other States may have ratified the SUA Convention, but have not implemented it in their national legislation, thus being unable to charge offenders with a SUA offense.[78]

1.9. Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf (SUA PROT), 1988

76. While the SUA Convention covers offences directed against ships, the SUA Protocol 1988, as its title suggests, covers similar offences directed against fixed platforms. According to the Protocol,

> "fixed platform" means "an artificial island, installation or structure permanently attached to the sea-bed for the purpose of exploration or exploitation of resources or for other economic purposes".

1.10. 2005 Protocol to the SUA Convention 1988 and 2005 Protocol to the SUA Protocol 1988

77. A number of amendments to the 1988 SUA Convention and its 1988 SUA Protocol were introduced by two Protocols adopted in 2005. While these two Protocols have so far not attracted a large number of Contracting States, some of the relevant amendments are briefly noted below.[79]

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[75] Article 10(2), SUA Convention.

[76] Kontorovich, E (2010). A Guantanamo on the Sea: The Difficulty of Prosecuting Pirates and Terrorists. California Law Review. (98): 243.

[77] Bento L (2011). Toward an International Law on Piracy Sui Generis: How the Dual Nature of Maritime Piracy Law Enables Piracy to Flourish. Berkeley Journal of International Law. 29 (2).

[78] Problems resulting from failure to ratify or implement this Convention are illustrated for instance by the hijacking of the tugboat ASTA on 5 February 2010. For more information see for instance, Beckman R (2013). Piracy and Armed Robbery Against Ships in Southeast Asia. In Guilfoyle D, ed. Modern Piracy, Legal Challenges and Responses. Edward Elgar. Cheltenham, 13–34.

[79] The texts of the 2005 SUA Protocols can be found in IMO documents LEG/CONF.15/21 and LEG/CONF.15/22.

78. Amendments introduced by the 2005 SUA Protocol to the 1988 SUA Convention include the following:

(a) A broadening of the list of offences, to include, inter alia, the offence of using the ship itself in a manner that causes death or serious injury or damage and the transport of weapons or equipment that could be used for weapons of mass destruction and inclusion of new procedures related to the transportation of WMD (article 3bis);
(b) Introduction of provisions for the boarding of ships where there are reasonable grounds to suspect that the ship or a person on board the ship has been or is about to be involved in the commission of an offence under the 1988 SUA Convention. This is subject to a number of safeguards.[80] Moreover, authorization of the flag State is required before such boarding (article 8bis).

79. The 2005 amendments to the 1988 Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf reflect those in the 2005 Protocol to the SUA Convention.[81]

2. International Convention Against the Taking of Hostages, 1979

80. The International Convention Against the Taking of Hostages, 1979[82] aims to develop international cooperation between States in devising and adopting effective measures for the prevention, prosecution and punishment of all acts of taking hostages as manifestations of international terrorism.[83]

Table 5: International Convention Against the Taking of Hostages, 1979, entry into force and Contracting States

Title	Date of adoption	Date of entry into force	Contracting Parties
International Convention Against the Taking of Hostages, 1979	17 December 1979	3 June 1983	172

[80] Safeguards apply when a State party takes measures against a ship, including boarding. These safeguards include not endangering the safety of life at sea, ensuring that all persons on board are treated in a manner which preserves human dignity and in keeping with human rights law, taking due account of safety and security of the ship and its cargo, ensuring that measures taken are environmentally sound and taking reasonable efforts to avoid a ship being unduly detained or delayed (article 8bis (10)(a)).

[81] Articles 1(1), article 2, 1(d), (2); article 2bis; article 2ter; article 3 (1), (3), (4).

[82] For the text of the Convention see https://www.unodc.org/tldb/en/1979_Convention_Hostage%20Taking.html For more information on the interpretation of the provisions of the Convention see www.unodc.org/pdf/crime/terrorism/Commonwealth_Chapter_7.pdf. See also IMO (2011b). Establishment of a Legislative Framework to Allow for Effective and Efficient Piracy Prosecutions. Submitted by UNODC. LEG 98/8/2.

[83] See the preamble of the Convention, paragraph 5.

2.1. Offences

81. The Convention requires States to criminalize the taking of hostages. The offence of taking hostages is defined in article 1 of the Convention as follows:

> 1. Any person who seizes or detains and threatens to kill, to injure or to continue to detain another person (hereinafter referred to as the 'hostage') in order to compel a third party, namely, a State, an international intergovernmental organization, a natural or juridical person or a group of persons, to do or abstain from doing any act as an explicit or implicit condition for the release of the hostage commits the offence of taking of hostages ('hostage-taking') within the meaning of this Convention.
>
> 2. Any person who:
> (a) Attempts to commit an act of hostage-taking; or
> (b) Participates as an accomplice of anyone who commits or attempts to commit an act of hostage-taking likewise commits an offence for the purposes of this Convention.

82. As is apparent, the definition is apt to cover detention under threat of personal injury and/or continued detention in order to compel an act, such as the payment of ransom, as a condition for the release of the hostage. Thus, piracy-related hostage-taking that involves holding crews for ransom would normally fall within the above definition.

2.2. Geographical Scope

83. Article 13 provides that the Convention shall not apply where all the following elements are satisfied "…the offence is committed within a single State, the hostage and the alleged offender are nationals of that State and the alleged offender is found in the territory of that State".

84. Thus, hostage-taking in the territorial waters of a State is not covered by the Convention, if victim and alleged offender are nationals of that State and the alleged offender is also found in that State. As concerns maritime piracy involving hostage-taking, this will only rarely be the case; in most instances an international element tends to be present, such as the nationality of the victim.

2.3. Jurisdiction

85. Article 5 of the Convention states:

> 1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over any of the offences set forth in article 1 which are committed:
>
> (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; or
> (d) With respect to a hostage who is a national of that State, if that State considers it appropriate.

86. Thus, the Convention provides a basis of jurisdiction for acts of piracy, armed robbery or other related acts occurring at sea and requires each State party to take necessary measures to establish its jurisdiction. In respect of jurisdiction based on the nationality of the victim or on the habitual residence of an offender who is Stateless, under article 5(1)(b) and (d), this is, however, optional, depending on whether or not a State "considers it appropriate".

87. In addition, article 5(2) requires each party to establish its jurisdiction "where the alleged offender is present in its territory and it does not extradite him to any of the States mentioned in paragraph 1 of this article (article 5)". This provision is complemented by article 8(1) of the Convention, which represents the principle that alleged offenders cannot escape justice, and provides:

> The State Party in the territory of which the alleged offender is found shall, if it does not extradite him, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case to its competent authorities for the purpose of prosecution, through proceedings in accordance with the laws of that State. Those authorities shall take their decision in the same manner as in the case of any ordinary offence of a grave nature under the law of that State.

2.4. Extradition or prosecution

88. Article 10 of the Convention contains a standard extradition provision regarding the offences set forth in article 1. However unlike the SUA Convention, article 9 of the Hostages Convention entitles a State party to refuse an extradition request if it has "substantial grounds for believing":

> (a) That the request for extradition for an offence set forth in article 1 has been made for the purpose of prosecuting or punishing a person on account of his race, religion, nationality, ethnic origin or political opinion; or
>
> (b) That the person's position may be prejudiced:
> i. For any of the reasons mentioned in subparagraph (a) of this paragraph, or
> ii. For the reason that communication with him by the appropriate authorities of the State entitled to exercise rights of protection cannot be effected…

89. These extradition provisions are different from those in the SUA Convention, but their practical relevancy may be limited in the context of hostage-taking by maritime pirates.

3. United Nations Convention Against Transnational Organized Crime, 2000

90. The main purpose of the United Nations Convention Against Transnational Organized Crime, 2000 (UNTOC) is to promote cooperation to prevent and combat transnational organized crime more effectively.[84] While piracy is not specifically addressed in the

[84] Article 1 of the Convention. The full text of the Convention can be found at http://www.uncjin.org/Documents/Conventions/dcatoc/final_documents_2/convention_eng.pdf.

Convention, several of the Convention's provisions may be relevant in the context of international efforts to repress and effectively prosecute acts of piracy.[85]

91. The Convention requires States to establish specific offences as crimes and to introduce specific control measures, such as protection of victims and witnesses; it also encourages preventive policies and measures. The Convention promotes international cooperation, for example through extradition, legal assistance and joint investigations, and provides for training, research and information-sharing measures.[86]

Table 6: United Nations Convention Against Transnational Organized Crime, 2000, entry into force and Contracting States

Title	Date of adoption	Date of entry into force	Contracting Parties
United Nations Convention Against Transnational Organized Crime, 2000	15 November 2000	29 September 2003	179

3.1. Offences

92. According to its article 3(1), the Convention applies to the prevention, investigation and prosecution of a number of specific listed offences, as well as to "serious crimes", defined as crimes "punishable by a maximum deprivation of liberty of at least four years or more or a more serious penalty".[87]

93. Specific offences are those established in accordance with articles 5 (participation in an organized criminal group), article 6 (laundering of proceeds of crime), article 8 (corruption) and article 23 (obstruction of justice). In respect of these specific offences, the Convention also contains a detailed provision on "prosecution, adjudication and sanctions" (article 11), which, inter alia, requires States to make the commission of a relevant offence "liable to sanctions that take into account the gravity of that offence".[88]

94. To fall within article 3(1) the offence must also be "transnational in nature" and committed by an "organized criminal group".[89]

[85] For more information in this respect see also IMO (2011b). Establishment of a Legislative Framework to Allow for Effective and Efficient Piracy Prosecutions. Submitted by UNODC. LEG 98/8/2.

[86] For further information see also UNODC (2004). Legislative Guide for the Implementation of the United Nations Convention Against Transnational Organized Crime. United Nations publication. Available at http://www.unodc.org/pdf/crime/legislative_guides/Legislative%20guides_Full%20version.pdf.

[87] Articles 2(b) and 3(1)(b) of the Convention.

[88] Article 11(1). Also relevant in this context is article 34(2) dealing with the implementation of the Convention, which states that the offences under the Convention "…shall be established in the domestic law of each State Party independently of the transnational nature or the involvement of an organized criminal group as described in article 3, paragraph 1 of this Convention…"

[89] Article 3(1)(b).

95. According to article 3(2), an offence is "transnational in nature" if :

> (a) It is committed in more than one State;
> (b) It is committed in one State but a substantial part of its preparation, planning, direction or ontrol takes place in another State;
> (c) It is committed in one State but involves an organized criminal group that engages in criminal activities in more than one State; or
> (d) It is committed in one State but has substantial effects in another State.

96. Under article 2(a) of the Convention, "organized criminal group" shall mean:

> ...a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offence established in accordance with this Convention, in order to obtain, directly or indirectly, a financial or other material benefit.

97. Piracy committed on the high seas may be an offence of a "transnational nature" within the meaning of article 3(2) of the Convention, if committed on board a vessel flying that State's flag, as well as in cases where the offence is planned and prepared in one State and committed on board a vessel flying the flag of another State.[90]

3.2. Jurisdiction

98. Similar to the SUA Convention and the International Convention Against the Taking of Hostages, the Convention requires a territorial link to the jurisdiction in question. Thus, article 15(1) of the Convention provides:

> Each State Party shall adopt such measures as may be necessary to establish its jurisdiction over the offences established in accordance with articles 5, 6, 8 and 23 of this Convention when:
>
> > (a) The offence is committed in the territory of that State Party; or
> > (b) The offence is committed 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 that the offence is committed.

99. While the above requires Contracting States to establish jurisdiction, article 15(2) provides additional bases for the exercise of jurisdiction, which are optional. These include jurisdiction based on the nationality of the offender or the victim, jurisdiction when acts are committed by a Stateless person habitually resident in a State party or when acts are committed outside the territory of a State party with a view to committing a crime within its territory. States remain entitled to also exercise any criminal jurisdiction established in accordance with their domestic laws.

[90] In accordance with article 92(1) of UNCLOS, a vessel flying the flag of a State is subject to that State's exclusive jurisdiction on the high seas. See also UNODC (2004). Legislative Guide for the Implementation of the United Nations Convention Against Transnational Organized Crime. United Nations publication, paragraphs 212–222. Available at http://www.unodc.org/pdf/crime/legislative_guides/Legislative%20guides_Full%20version.pdf.

3.3. Mutual legal assistance

100. Under article 18(1) of the Convention, States parties are required to:

> ...afford one another the widest measure of mutual legal assistance in investigations, prosecutions and judicial proceedings in relation to the offences covered by this Convention".

101. For the purpose of requesting mutual legal assistance, according to article 18(1), the requesting State party needs only have:

> reasonable grounds to suspect that the offence referred to in article 3, paragraph 1(a) or (b), is transnational in nature, including that victims, witnesses, proceeds, instrumentalities or evidence of such offences are located in the requested State Party and that the offence involves an organized criminal group".

102. According to article 18(3) of the Convention, mutual legal assistance may be requested for any of the following purposes:

> (a) Taking evidence or statements from persons;
> (b) Effecting service of judicial documents;
> (c) Executing searches and seizures, and freezing;
> (d) Examining objects and sites;
> (e) Providing information, evidentiary items and expert evaluations;
> (f) Providing originals or certified copies of relevant documents and records, including Government, bank, financial, corporate or business records;
> (g) Identifying or tracing proceeds of crime, property, instrumentalities or other things for evidentiary purposes;
> (h) Facilitating the voluntary appearance of persons in the requesting State Party;
> (i) Any other type of assistance that is not contrary to the domestic law of the requested State Party.

103. Thus, inter alia, the Convention may serve as a common framework for facilitating mutual legal assistance for the prosecution of pirates among States Parties. This is usually done through specific bilateral or multilateral agreements.

104. Other provisions in this Convention that may be relevant to international efforts at combating piracy include:
(a) Measures to combat money-laundering (article 7) and corruption (article 9);
(b) Confiscation and seizure of money, property and other benefits deriving from a crime covered by the Convention, and international cooperation to that end (articles 12–14);
(c) Extradition (article 16);
(d) Assistance to and protection of witnesses and victims (articles 24 and 25);
(e) Measures to enhance cooperation with law enforcement authorities (article 26);
(f) Law enforcement cooperation (article 27).[91]

[91] For more information on the interpretation of the provisions of the Convention see also IMO (2011b). Establishment of a Legislative Framework to Allow for Effective and Efficient Piracy Prosecutions. Submitted by UNODC. LEG 98/8/2. For more information on UNODC response and activities related to witnesses and victims protection see http://www.unodc.org/unodc/en/organized-crime/witness-protection.html. The UNODC has also published model laws on mutual assistance in criminal matters, witness protection, extradition, money-laundering and proceeds of crime and terrorist financing, which focus on obligations arising from international

D. Resolutions of the United Nations Security Council and General Assembly[92]

105. As regards piracy off the coast of Somalia, a number of United Nations Security Council resolutions[93] have been adopted over the years to facilitate international cooperation in dealing with acts of piracy in that area. The reason for the adoption of these resolutions was initially the need to protect and provide escort for ships carrying World Food Programme (WFP) aid. According to the resolutions, with the consent of the Transitional Federal Government (TFG) of Somalia, military personnel from patrolling forces would be allowed to enter into the territorial waters of Somalia,[94] and in the case of resolution 1851 on Somali soil, for the purpose of suppressing acts of piracy and armed robbery at sea, and to use "all necessary means" to suppress such acts. This would be subject to the proviso, however, that any such measures are undertaken "in a manner consistent with such action permitted on the high seas with respect to piracy under relevant international law" and "consistent with applicable international humanitarian and human rights law".

106. It appears that no powers other than those already existing in international law, namely under UNCLOS which codifies international law in this area, are granted under these United Nations Security Council resolutions. However, the resolutions attempt to address certain existing gaps in the international legal framework. For instance, resolution 1846 (2008) noted that the SUA Convention "provides for parties to create criminal offences, establish jurisdiction, and accept delivery of persons responsible for or suspected of seizing or exercising control over a ship by force or threat thereof or any other form of intimidation". The resolution also urged States parties to the SUA Convention "to fully implement their obligations under said Convention and cooperate with the Secretary-General and the IMO to build judicial capacity for the successful prosecution of persons suspected of piracy and armed robbery at sea off the coast of Somalia".

107. Subsequent resolutions included similar provisions, urging States parties to the SUA Convention to fully implement their relevant obligations under the Convention and under customary international law and to "cooperate with the UNODC, IMO and other States and other international organizations to build judicial capacity for the successful prosecution of persons suspected of piracy and armed robbery at sea off the coast of Somalia".[95]

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conventions and can be used by States as a basis for drafting their own laws on the subject. Texts of model laws can be accessed at http://www.unodc.org/unodc/en/legal-tools/model-treaties-and-laws.html. In addition, for the link between money-laundering and piracy, see for instance the Hindu Business Line (2013). All at Sea on Piracy. 3 January. Available at http://www.thehindubusinessline.com/opinion/all-at-sea-on-piracy/article4269509.ece. See also Public Intelligence (2010). Money-laundering for Somali Pirates is Good Business. 13 November. Available at http://publicintelligence.net/money-laundering-for-somali-pirates-is-good-business/.

[92] See also Annex 2.

[93] Resolutions 1816 (2008), 1838 (2008), 1846 (2008), 1851 (2008), 1897 (2009), 1918 (2010), 1950 (2010), 1976 (2011), 2015 (2011), 2020 (2011), 2077 (2012) and 2125 (2013).

[94] Resolution 1816, paragraph 7.

[95] See for instance resolution 1950 (2010).

108. Resolution 1851 (2008)[96] in particular encouraged international cooperation in law enforcement, such as for instance through the use of on-board law enforcement officers ("ship-riders") from regional countries. It also encouraged the establishment of the Contact Group on Piracy off the Coast of Somalia, as an important cooperating mechanism in the fight against piracy.

109. As regards the situation of piracy in the Gulf of Guinea, two resolutions[97] were adopted in 2011 and 2012. These resolutions express concern over the threat that piracy and armed robbery in the area pose to international navigation, to the security and the economic development of States in the region, as well as to the safety of seafarers and other persons, including through their being taken as hostages.

110. The most recent resolution[98] stresses the primary responsibility of the States in the Gulf of Guinea to counter piracy and armed robbery at sea in that area, and in this context, urges them through the regional organizations,[99] to develop a regional piracy strategy, in cooperation with the African Union. It urges States in the region "to take prompt action, at national and regional levels with the support of the international community where able, and by mutual agreement, to develop and implement national maritime security strategies, including for the establishment of a legal framework for the prevention and repression of piracy and armed robbery at sea as well as prosecution of persons engaging in those crimes, and punishment of those convicted of those crimes and encourages regional cooperation in this regard".

111. It must be noted however that although aimed at complementing the provisions of the main international Conventions related to piracy already described in this report, these resolutions, as stated in the resolutions themselves, are only applicable to the situation in the respective areas (Somalia and Gulf of Guinea). They do not affect the rights, obligations or responsibilities of United Nations Member States under international law, including their rights or obligations under UNCLOS, with respect to any other geographical region where piracy may occur.

112. In addition to the United Nations Security Council resolutions mentioned above, a number of United Nations General Assembly resolutions on oceans and the law of the sea have been adopted over the years. These resolutions are not restricted to addressing the situation in any specific region affected by piracy. A special section in these resolutions, entitled "Maritime safety and security and flag-State implementation", regularly includes a comprehensive summary of the common views of United Nations Member States on various issues related to the fight against piracy.[100] These resolutions, among others:

[96] Resolutions adopted by the Security Council can be accessed at http://www.un.org/en/sc/documents/resolutions/index.shtml.

[97] Resolutions 2018 (2011) and 2039 (2012).

[98] Resolution 2039 (2012).

[99] Including the Economic Community of Central African States (ECCAS), the Economic Community of West African States (ECOWAS) and the Gulf of Guinea Commission (GGC)

[100] For a list and the texts of the United Nations General Assembly and Security Council resolutions, as well as Reports of the Secretary-General on Piracy, see the United Nations DOALOS website at http://www.un.org/Depts/los/piracy/piracy_documents.htm.

(a) Recognize the crucial role of international cooperation at the global, regional, subregional and bilateral levels in combating, in accordance with international law, threats to maritime security, including piracy and armed robbery at sea;
(b) Emphasize the importance of promptly reporting incidents to enable accurate information on the scope of the problem of piracy and armed robbery against ships, as well as the importance of information sharing;
(c) Urge States, in cooperation with the IMO, to actively combat piracy and armed robbery at sea by adopting measures, including those relating to assistance with capacity-building;
(d) Call upon States to bring the alleged perpetrators to justice, in accordance with international law, and by adopting national legislation, as well as providing enforcement vessels and equipment and guarding against fraudulent ship registration;
(e) Encourage States to ensure effective implementation of international law applicable to combating piracy, as reflected in UNCLOS, and take appropriate steps under their national law to facilitate, in accordance with international law, the apprehension and prosecution of those who are alleged to have committed acts of piracy, including the financing or facilitation of such acts;
(f) Note and encourage cooperation among international organizations, regional organizations and States at all levels, to address piracy.

E. The role of domestic legislation

113. Domestic law plays a critical role in the establishment of a legislative framework that allows for effective and efficient prosecutions of pirates. Both UNCLOS and the SUA Convention require implementation of relevant provisions into the domestic legislation of States Parties. To facilitate this process, IMO Assembly resolutions have been adopted, which contain precise guidelines and recommendations on how to implement provisions of these conventions on the prevention and effective prosecution of piracy.[101]

114. Moreover, in 2011, the IMO Legal Committee considered a number of documents[102] "which identify the key elements that may be included in national law to facilitate full implementation of international conventions applicable to piracy, in order to assist States in the uniform and consistent application of the provisions of these conventions". One of these documents, submitted by the United Nations Office on Drugs and Crime (UNODC), notes requisite elements that are both substantive and procedural in nature, namely the following:

(a) Criminalization of piracy;
(b) Jurisdiction over acts of piracy;
(c) Participation, conspiracy and attempts;
(d) Detention and arrest at sea;

[101] See for instance, IMO (2009). Recommendations to Governments for Preventing and Suppressing Piracy and Armed Robbery Against Ships. MSC.1/Circ.1333. Available at http://docs.imo.org/Category.aspx?cid=106.

[102] LEG 98/8/8, submitted by the IMO secretariat; LEG/98/8/1 and LEG/98/8/3, submitted by UN-DOALOS; LEG/98/8/2, submitted by UNODC; LEG/98/8/4 submitted by the Government of Ukraine. The documents were later issued under cover of IMO (2011e). Circular letter Concerning Information and Guidance on Elements of International Law Relating to Piracy. Circular letter No.3180.

(e) Trials;
(f) Identifying, tracing, freezing, seizing and confiscating criminal assets;
(g) International cooperation.[103]

Criminalization of piracy

115. For States to prosecute piracy, it must be clearly defined, established as a criminal offence and subject to an appropriate penalty that takes account of the severity of the offence. Yet, in spite of the existing international framework providing a basis for prosecuting pirates, many States have not yet adopted national laws that criminalize piracy. The United Nations Security Council noted in resolution 1918 (2010) that the domestic laws of a number of States lack provisions criminalizing piracy or are deficient in criminal procedural rules needed to effectively prosecute pirates. As a consequence, a number of patrolling navies that have caught pirates have been forced to release them again.[104] It has also been argued by academic commentators that the adoption of national legislation relating to piracy is a manifest precondition for States to fulfil their general obligation to cooperate to the fullest possible extent in the repression of piracy in accordance with article 100 of UNCLOS.[105]

116. The fundamental elements that define the crime of piracy under international law should be implemented by way of national legislation in a manner that is most appropriate to the legal system of the State concerned. Accordingly, national legislation may provide for a definition of piracy that reflects or extends the international definition provided in article 101 of UNCLOS,[106] including, in particular, the core components of that definition, namely the following:

(a) The geographic scope;
(b) The private-ends requirement;
(c) The two-ships requirement;
(d) The definition of a pirate ship;
(e) The distinction between private ships and Government ships.[107]

117. In addition to the criminalization of acts of piracy, national legislation may establish appropriate penalties that reflect the severity of the offences.[108]

[103] IMO (2011b). Establishment of a Legislative Framework to Allow for Effective and Efficient Piracy Prosecutions. Submitted by the United Nations Office on Drugs and Crime (UNODC). LEG 98/8/2, paragraph 2.

[104] This is known as the "catch and release" method. See United Nations (2011a). Report of the Special Adviser to the Secretary-General on Legal Issues Related to Piracy off the Coast of Somalia . S/2011/30. Annex, page 12, stating that according to data communicated by EU-NAVFOR, 90 per cent of pirates apprehended by patrolling navies will be released without being prosecuted. See also Kontorovich E and Art S (2010). An Empirical Examination of Universal Jurisdiction for Piracy. American Journal of International Law. 104, 436–453.

[105] Kraska J (2011). Contemporary Maritime Piracy: International Law, Strategy and Diplomacy at Sea. Praeger. Santa Barbara: 128.

[106] As read in conjunction with other provisions of UNCLOS, in particular articles 58(2), 102 and 103.

[107] IMO (2011a). Piracy: Elements of National Legislation Pursuant to the United Nations Convention on the Law of the Sea, 1982. Submitted by UN-DOALOS. LEG 98/8/1, paragraphs 10–17.

[108] Ibid., paragraph 18.

118. States may also wish to include provisions that determine whether a ship flying its flag loses its nationality if it becomes a pirate ship.[109]

Jurisdiction over acts of piracy

119. As noted above, piracy provides an independent basis for jurisdiction under international law as reflected in UNCLOS. States may therefore adopt national legislation that implements the relevant provisions of UNCLOS concerning the repression of piracy on the basis of universal jurisdiction. National legislation on piracy may provide for the exercise of universal jurisdiction pursuant to article 105 of UNCLOS, as read with other relevant provisions of UNCLOS concerning the repression of piracy.[110] As the definition of piracy provided in UNCLOS reflects customary international law, States may adopt domestic laws authorizing the exercise of universal jurisdiction over relevant acts of piracy, irrespective of whether they are Contracting Parties to UNCLOS.

120. That being said, States are also free to criminalize acts that occur within their territorial or inland waters as acts of piracy under national law. As a consequence, certain States have included attacks that occur in their territorial seas within their legal definition of piracy. While national legal definitions of piracy may be wider or narrower than the definition of piracy under international law, only piracy as defined by international law allows for the assumption of jurisdiction on the basis of universality.[111]

Participation, conspiracy and attempts

121. States may also consider whether to include the offences of incitement and facilitation within their national legislation. As regards incitement and facilitation, States may wish to "consider including in their penal codes other offences related to piracy, such as attempt to commit piracy, conspiracy to commit piracy and aiding and abetting piracy in their national legislation. However, to the extent that such crimes do not fall within the scope of the definition of piracy set forth in UNCLOS, they would have to be based on other traditional bases of jurisdiction under international law."[112]

Detention and arrest at sea

122. The ability of States to enforce both national and international laws on piracy is essential to repress acts of piracy at sea. Accordingly, it is important for national legislation to include the necessary provisions to authorize the enforcement measures set forth in article 105 of UNCLOS. In addition, where there are reasonable grounds for suspecting that a foreign ship is engaged in piracy, it is important that national law authorizes Government

[109] IMO (2011c). Piracy: Elements of National Legislation Pursuant to the United Nations Convention on the Law of the Sea, 1982. Submitted by UN-DOALOS. LEG 98/8/3, paragraph 12.

[110] IMO (2011a). Piracy: Elements of National Legislation Pursuant to the United Nations Convention on the Law of the Sea, 1982. Submitted by UN-DOALOS. LEG 98/8/1, paragraphs 7–9.

[111] Shearer I (2010). Piracy. Max Planck Encyclopedia of Public International Law, paragraph 4.

[112] IMO (2011a). Piracy: Elements of National Legislation Pursuant to the United Nations Convention on the Law of the Sea, 1982. Submitted by UN-DOALOS. LEG 98/8/1, footnote 19.

ships to exercise the right of visit in accordance with article 110 of UNCLOS and the right of hot pursuit in accordance with article 111 of UNCLOS.[113]

123. Laws relating to liability and compensation for cases of seizure without adequate grounds and unfounded exercise of the right of visit, pursuant to articles 106 and 110 of UNCLOS, are important in order to limit abuse of these enforcement provisions.[114]

Trials

124. In December 2010, the United Nations General Assembly adopted a resolution calling upon States to "take appropriate steps under their national law to facilitate the apprehension and prosecution of those who are alleged to have committed acts of piracy".[115] States may also agree through bilateral or multilateral agreements[116] to accept the transfer of pirates and subsequently assert jurisdiction over them. In the absence of an agreement, several potential jurisdictions may compete as regards prosecuting a suspected pirate including the pirate's State of nationality, the seizing State, a nearby port State or the State with the strongest links to the offence. However, since there is no rule of priority in international law between these competing jurisdictions, cooperation between States in these matters is particularly important.

Identifying, tracing, freezing, seizing and confiscating criminal assets

125. In addition to the criminalization of piracy, States may wish to determine the procedures to be taken in respect of seized ships and property, in order to ensure the effective implementation of article 105 of UNCLOS.[117] Procedures to be taken in respect of seized ships and property should be subject to the rights of third parties acting in good faith.

International cooperation

126. To fulfil the general obligation laid down by article 100 of UNCLOS, national legislation may include provisions relating to international cooperation in the repression of piracy.[118]

[113] IMO (2011c). Piracy: Elements of National Legislation Pursuant to the United Nations Convention on the Law of the Sea, 1982. Submitted by UN-DOALOS. LEG 98/8/3, paragraphs 2–8.

[114] Ibid., paragraphs 9–11.

[115] United Nations General Assembly resolution 65/37, 7 December 2010, paragraph 86.

[116] Examples of bilateral agreements are those that were concluded between Kenya and Canada, China, Denmark, the United Kingdom, the United States and the European Union, according to which they would turn suspected pirates over to Kenya.

[117] IMO (2011a). Piracy: Elements of National Legislation Pursuant to the United Nations Convention on the Law of the Sea, 1982. Submitted by UN-DOALOS. LEG 98/8/1, paragraph 18.

[118] IMO (2011c). Piracy: Elements of National Legislation Pursuant to the United Nations Convention on the Law of the Sea, 1982. Submitted by UN-DOALOS. LEG 98/8/3, paragraphs 33–17.

F. Compilation of national legislation and court judgements on piracy

127. In an effort to promote effective and uniform implementation of international laws relating to piracy, UN-DOALOS,[119] together with IMO and UNODC, has been compiling national legislation on piracy. Copies of national legislation that are submitted by United Nations Member States are included in the DOALOS database of national legislation that can be accessed on the DOALOS website.[120] The database is intended to serve as a resource for States, providing direct links to domestic legislation and related information. To further this resource, the United Nations Security Council, by way of a letter dated 23 March 2012, circulated a compilation of information received from 42 Member States on measures they have taken to criminalize piracy under their domestic law, and to support the prosecution of individuals suspected of piracy off the coast of Somalia and the imprisonment of convicted pirates.[121] The compilation was prepared pursuant to Security Council resolution 2015 (2011) of 24 October 2011.

128. In addition, IMO Secretary-General Koji Sekimizu, in his address at the opening of the ninety-ninth session of the IMO Legal Committee, held from 16 to 20 April 2012, strongly encouraged all IMO Members who have not already done so to review pertinent domestic legislation with the aim of aligning it as much as possible with the provisions on piracy in relevant international instruments, including UNCLOS and the SUA Convention. It was also noted that, although the 2005 SUA Protocols are already in force, every effort to secure their widest possible ratification should be made, in support of the ongoing campaign to eradicate piracy.[122]

129. In addition to the importance of consistent interpretation and application of the provisions of relevant international conventions, the importance of due process during the apprehension and prosecution of suspected pirates should also be reiterated. In this regard, the collection and accessibility of information on the procedural difficulties experienced is critical, to ensure that those guilty of committing acts of piracy are not acquitted because they were subjected to unacceptable conditions, such as torture or an unfair trial.[123] Thus, it has been suggested that IMO approach agencies in the region directly involved in combating piracy and armed robbery, namely EU-NAVFOR, NATO and UNODC, and request information on the number of pirates captured, handled on shore for further investigation and apprehension or left without charges and released because of difficulties associated

[119] It should be noted that UN-DOALOS serves as the secretariat to UNCLOS. According to United Nations General Assembly resolution 52/56 of 26 November 1997, UN-DOALOS has a mandate to undertake efforts to promote better understanding of UNCLOS in order to ensure its effective implementation and uniform and consistent application. For further information see www.un.org/Depts/los/index.htm.

[120] Available at http://www.un.org/Depts/los/piracy/piracy_national_legislation.htm.

[121] The compilation of information can be accessed at http://www.un.org/ga/search/view_doc.asp?symbol=S/2012/177.

[122] The importance of consistent interpretation and application of the provisions of relevant international conventions has also been highlighted by the IMO Legal Committee. See IMO (2011e). Circular letter Concerning Information and Guidance on Elements of International Law Relating to Piracy. Circular letter No. 3180. Also see footnote 102 above.

[123] IMO (2012a). Request for Information on Apprehension of Pirates Which Operate in the Gulf of Aden, the Arabian Sea and the Northern Indian Ocean. Submitted by Ukraine. LEG 99/7/1.

with apprehending them, as well as identifying such difficulties.[124] Some of the information requested is already available via the Global Integrated Shipping Information System (GISIS)[125] database on the IMO website, which includes information on the number of pirates captured, dates of release of hijacked ships and brief descriptions of the attacks.

130. The United Nations Interregional Crime and Justice Research Institute (UNICRI) also maintains a database of court decisions mainly related to piracy off the coast of Somalia. The UNICRI piracy portal includes scanned copies of court decisions, intended to make the database more comprehensive, as well as links to other databases in different jurisdictions and regions. It also includes information on post-trial transfers, even though this occurred only after conviction.[126]

131. General support for the database has been expressed at the IMO, along with requests for the database to include not only judgements regarding piracy off the coast of Somalia but also those related to acts of piracy elsewhere, along with judgements on piracy-related crimes and information on post-trial transfers.[127] In addition, the report of the United Nations Secretary General on specialized anti-piracy courts in Somalia and other States in the region provides a breakdown of global piracy prosecutions.[128]

132. At the 100th session of the IMO Legal Committee, held from 15 to 19 April 2013, UNICRI provided statistics drawn from its piracy analysis, including the average age of pirates, the region and clans they come from, their occupations, when attacks are most likely to occur, the number of pirates participating in individual attacks, the use of mother ships, the number of casualties occurring in pirate ranks and the number and type of ships boarded. In addition, the International Chamber of Shipping (ICS), along with the European Community Shipowners Associations (ECSA), has compiled a comparison of flag-State laws on armed guards and arms on board ships.[129]

133. It should also be noted that the United Nations Office on Drugs and Crime (UNODC) has published model laws on extradition and mutual assistance in criminal matters, witness protection, money-laundering and the financing of terrorism that focus on the substantive obligations arising from international conventions. States may use these model laws as a starting point when drafting their own laws on the subject.

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[124] IMO (2012b). Report of the Legal Committee on the Work of Its Ninety-ninth Session. LEG 99/14, page 15. In response to this request, information was provided by UNODC during the 100th session of the IMO Legal Committee and is contained in document IMO (2013a). Piracy. Note by the secretariat. LEG 100/6/1. Written comments to this document were provided in document IMO (2013a). Piracy. Submitted by Ukraine. LEG 100/6/2. However, the Committee noted with regret that NATO had informed the secretariat that it had no relevant records or information, and that no response had been received from EU-NAVFOR.

[125] The database can be accessed at http://gisis.imo.org.

[126] The database can be accessed at http://www.unicri.it/topics/piracy/database/.

[127] See further IMO (2012b). Report of the Legal Committee on the Work of Its Ninety-ninth Session. LEG 99/14, page 15.

[128] United Nations (2012c). Report of the Secretary-General on Specialized Anti-piracy Courts in Somalia and Other States in the Region. S/2012/50.

[129] The comparative table can be found at http://www.ics-shipping.org/ICS-ECSA%20Private%20Armed%20Guards%20Flag%20State%20Laws%20June%202012.pdf.

III. International cooperation and multilateral action to combat piracy

134. Following the proliferation of acts of piracy off the coast of Somalia, various initiatives have been developed with the objective of countering piracy and armed robbery at sea. Considerable awareness about the need for action has also been raised by initiatives under the auspices of the IMO. In this context, worth noting is, inter alia, the adoption by the IMO Council of "Piracy: Orchestrating the response" as the theme for the Thirty-fourth World Maritime Day, held on 29 December 2011.[130] The related action plan[131] for 2011 and beyond included the following main objectives:

(a) to increase pressure at the political level to secure the release of all hostages being held by pirates;
(b) to review and improve the IMO guidelines to administrations and seafarers and promote compliance with industry best management practices and the recommended preventive, evasive and defensive measures ships should follow;
(c) to promote greater levels of support from, and coordination with, navies;
(d) to promote anti-piracy coordination and cooperation procedures between and among States, regions, organizations and industry;
(e) to assist States to build capacity in piracy-infested regions of the world, and elsewhere, to deter, interdict and bring to justice those who commit acts of piracy and armed robbery against ships;
(f) to provide care, during the post-traumatic period, for those attacked or hijacked by pirates and for their families.[132]

135. A briefing note detailing activities and achievements in response to the six objectives noted above was published at the end of 2011 on the IMO website.[133]

136. Recent statistics indicate a drop in successful acts of piracy, and a combination of counter-piracy measures has played an important role in this respect.[134] Information on some of the key initiatives and their achievements to date is provided in this part of the report. However, relevant initiatives are many and varied, and comprehensive coverage of all potentially relevant initiatives is, therefore, beyond the scope of this report.[135]

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[130] The theme was officially launched in a speech by the IMO Secretary-General on 3 February 2011. The text of the speech is available at http://www.imo.org/mediacentre/secretarygeneral/speechesbythesecretarygeneral/pages/piracyactionplanlaunch.aspx.

[131] IMO (2011f). Responding to the scourge of piracy. Circular letter No. 3164.

[132] A background paper by the IMO secretariat provides an overview of the situation at the time and highlights some of the counter-piracy initiatives in place. The background paper is available at http://www.imo.org/About/Events/WorldMaritimeDay/2011/background/Pages/default.aspx.

[133] Available at http://www.imo.org/MediaCentre/PressBriefings/Pages/65-piracy-year-end.aspx.

[134] See statistics in part I of this report.

[135] Further information can be obtained from the Oceans Beyond Piracy website, which maintains a counter-piracy activities matrix that details the majority of counter-piracy measures taken all over the world. The counter-piracy activities matrix can be accessed at http://oceansbeyondpiracy.org/matrix/counter-piracy-activities-dynamic.

A. Best management practices

137. One of the fundamental responses to the rise in acts of piracy was the development by industry organizations of specific advice in relation to the situation in waters off the coast of Somalia and, in particular, the development and publication of Best Management Practices to Deter Piracy off the Coast of Somalia and in the Arabian Sea Area (BMP).[136] The BMP include preventive, evasive and defensive measures that shipowners are recommended to implement and follow.

138. The BMP include three fundamental requirements which urge shipowners to register at the Maritime Security Centre – Horn of Africa (MSCHOA) prior to entering the High Risk Area, [137] to report to the United Kingdom Maritime Trade Operations office in Dubai, United Arab Emirates when entering the UKMTO Voluntary Reporting Area[138] and to implement ship protection measures (SPMs). While the SPMs included in BMP may not be suitable for all ship types, they are basic in nature and further alterations beyond the scope of BMP are suggested. Selected SPMs include additional lookouts and enhanced vigilance during watchkeeping, increased bridge protection including controlled access to the bridge, accommodation and machinery spaces, the construction of physical barriers at vulnerable access points on the vessel, the use of water spray and/or foam monitors, the use of alarms and closed-circuit television (CCTV) and the installation of safe muster points or citadels.

139. The BMP also refer to the use of unarmed and armed private maritime security contractors, though such use should remain in accordance with the national laws of the flag State, which may differ considerably from one State to another. In addition, the respective national laws on the use of unarmed and armed guards must be followed when sailing in the territorial waters of a State.[139]

140. In an attempt to further the application of BMP, the Maritime Safety Committee of IMO adopted resolution MSC.324(89) on 20 May 2011, which:

> 1. *Strongly urges* all those concerned to take action to ensure that as a minimum and as recommended in the best management practices:
>
> > (a) ships' masters receive updated information before and during sailing through the defined High Risk Area;

[136] The latest version of the best management practices, BMP4, is set out in Annex 2 of document IMO (2011g). Best Management Practices for Protection Against Somalia-based Piracy. MSC.1/Circ.1339.

[137] The BMP defines the High Risk Area, unless it is otherwise defined by a flag State. The most recent edition of the guidance, BMP4, states that "the High Risk Area for piracy attacks defines itself by where the piracy attacks have taken place. For the purposes of the BMP, this is an area bounded by Suez and the Strait of Hormuz to the North, 10°S and 78°E".

[138] The United Kingdom Royal Navy runs a 24-hour reporting centre to enable fast communication between merchant shipping and naval forces in the event of an attack or suspicious activity.

[139] For a comparison of flag-State laws on armed guards and arms on board ships see http://www.ics-shipping.org/ICS-ECSA%20Private%20Armed%20Guards%20Flag%20State%20Laws%20June%202012.pdf.

(b) ships register with the Maritime Security Centre – Horn of Africa (MSCHOA) and report to the United Kingdom Maritime Trade Operations (UKMTO) in Dubai, United Arab Emirates; and
(c) ships effectively implement all recommended preventive, evasive and defensive measures;

2. *Invites* member States to encourage ships flying their flag to implement the best management practices while sailing in the defined High Risk Area;

3. *Urges* member States and non-governmental organizations in consultative status to bring this resolution to the attention of all parties concerned.[140]

141. Also worth noting in this context are discussions that have been held at IMO on a related matter, namely that of permitting privately contracted armed security personnel (PCASP) on board ships. It was generally agreed that this was a matter for the flag State to decide. In 2011, IMO developed interim guidance on the use of PCASP on board ships in the High Risk Area[141] for shipowners, ship operators and shipmasters,[142] as well as interim recommendations for flag,[143] port and coastal States[144]. In 2012, IMO also adopted interim guidance to private maritime security companies providing PCASP on board ships in the High Risk Area,[145] which included guidance on rules on the use of force. This served as a basis for the development by the International Organization for Standardization (ISO) of the ISO/publicly available specification (PAS) 28007 on guidelines for private maritime security companies providing PCASP on board ships, published in December 2012.[146] In addition, UNICRI is conducting a project related to the use of PCASP on board vessels, with the objective of preparing a set of guidelines and agreed standards.[147]

[140] For the full text of the resolution see Annex 29 of IMO (2011h). Report of the Maritime Safety Committee on its Eighty-ninth Session. MSC 89/25/Add.4.

[141] High Risk Area is an area as defined in IMO (2011g). Best Management Practices for Protection Against Somalia-based Piracy. MSC.1/Circ.1339, unless otherwise defined by the flag State. See also footnote 137 above.

[142] IMO (2011i). Revised interim guidance to shipowners, ship operators and shipmasters on the use of privately contracted armed security personnel on board ships in the High Risk Area. MSC.1/Circ.1405/Rev.1.

[143] IMO (201j). Revised interim recommendations for flag States regarding the use of privately contracted armed security personnel on board ships in the High Risk Area. MSC.1/Circ.1406/Rev.1.

[144] IMO (2011k). Interim recommendations for port and coastal States regarding the use of privately contracted armed security personnel on board ships in the High Risk Area. MSC.1/Circ.1408.

[145] IMO (2012c). MSC.1/Circ.1443.

[146] For more information on the ISO/PAS 28007:2012 and related ISO 28000 series of standards see UNCTAD (2013). Review of Maritime Transport 2013. United Nations Publication. UNCTAD/RMT/2013. New York and Geneva. Available at http://unctad.org/en/pages/PublicationWebflyer.aspx?publicationid=753.

[147] Available at http://www.unicri.it/topics/piracy/security_contractors/.

B. International and regional cooperation in the repression of piracy

1. Djibouti Code of Conduct

142. The Code of Conduct concerning the Repression of Piracy and Armed Robbery Against Ships in the Western Indian Ocean and the Gulf of Aden (Djibouti Code of Conduct) [148] was adopted on 29 January 2009 at a subregional meeting on maritime security, piracy and armed robbery against ships for Western Indian Ocean, Gulf of Aden and Red Sea States that was held in Djibouti from 26 to 29 January 2009.[149] During the meeting, four resolutions were adopted. Resolution 1 concerns the adoption of the Code of Conduct and resolutions 2, 3 and 4 deal with technical cooperation and assistance, enhancing training in the region and expressions of appreciation, respectively. So far, the Code of Conduct has been signed by 20 of the 21 States that are eligible to sign it.[150]

143. The Code defines piracy in the same terms as UNCLOS, article 101. It also defines "armed robbery against ships" in very similar terms to those in article 1(2)(a) of the Regional Cooperation Agreement on Combating Piracy and Armed Robbery Against Ships in Asia 2005 (ReCAAP).[151] In its article 4(2), the Code defines a pirate ship as "a ship intended by the persons in dominant control to be used for the purpose of committing piracy, if the ship has been used to commit any such act, so long as it remains under the control of those persons". This definition is very similar to that in article 103 of UNCLOS.

144. The signatories to the Code have agreed, inter alia, to cooperate, in a manner consistent with international law, in: (a) the investigation, arrest and prosecution of persons reasonably suspected of having committed acts of piracy or armed robbery against ships; (b) the interdiction and seizure of pirate ships and of property on board; (c) the rescue of ships, persons and property subject to piracy and armed robbery and the facilitation of proper care, treatment and repatriation of seafarers, fishermen, other shipboard personnel and passengers; [152] (d) the conduct of shared operations, both among signatory States and

[148] The Djibouti Code of Conduct should not to be confused with the Djibouti Agreement on Peace and Reconciliation between the Transitional Federal Government (TFG) and the Alliance for the Reliberation of Somalia (ARS) (Djibouti Agreement). See further http://www.un.org/News/Press/docs/2008/sc9440.doc.htm.

[149] For further information on the Code of Conduct and the full text of the four resolutions can be found in the report of the meeting, IMO (2009). Subregional meeting to conclude agreements on maritime security, piracy and armed robbery against ships for States from the Western Indian Ocean, Gulf of Aden and Red Sea areas. Note by the Secretary-General. C 102/14. See also UNCTAD (2009). Review of Maritime Transport 2009. UNCTAD/RMT/2009, page 135. Available at http://unctad.org/en/pages/PublicationArchive.aspx?publicationid=1696.

[150] The Code of Conduct has been signed by Comoros, Djibouti, Egypt, Eritrea, Ethiopia, Jordan, Kenya, Madagascar, Maldives, Mauritius, Mozambique, Oman, Saudi Arabia, Seychelles, Somalia, South Africa, the Sudan, the United Arab Emirates, the United Republic of Tanzania and Yemen. France remains the only country that is eligible to sign the Code. Available at http://www.imo.org/OurWork/Security/PIU/Pages/Signatory-States.aspx.

[151] Article 1 of the Code. Also see footnote 177 below.

[152] According to article 2(1) of the Code, its signatories intend "to cooperate to the fullest possible extent in the repression of piracy and armed robbery against ships with a view towards: (a) sharing and reporting relevant information; (b) interdicting ships and/or aircraft suspected of engaging in piracy or armed robbery against ships; (c) ensuring that persons committing or attempting to commit piracy or armed robbery against ships are apprehended and prosecuted; (d) facilitating proper care, treatment and repatriation for seafarers,

with navies from countries outside the region.[153] The Code of Conduct takes into account and promotes the implementation of those aspects of United Nations Security Council resolutions 1816 (2008), 1838 (2008), 1846 (2008) and 1851 (2008),[154] and of United Nations General Assembly resolution 63/111,[155] which fall within the competence of IMO.

145. The Code also provides for the sharing of related information through a number of centres and national focal points, the importance of which is stressed further below. Moreover, the signatories of the Code also undertook to review their national legislation with a view to ensuring that national legislation criminalizes piracy and armed robbery against ships, and makes adequate provision for the exercise of jurisdiction, conduct of investigations and prosecution of alleged offenders.[156]

146. In order to ensure the effective and timely implementation of the Djibouti Code of Conduct, a multinational Project Implementation Unit (PIU) was formed in April 2010 and a detailed implementation plan was developed. The implementation plan is funded primarily through the IMO Djibouti Code of Conduct Trust Fund (DCCTF), which was established in September 2009 in response to an offer of funding from Japan. A number of other States have also contributed to the Fund, including Denmark, France, the Marshall Islands, the Netherlands, Norway, the Republic of Korea and Saudi Arabia.

147. The Djibouti Code of Conduct continues to deliver results in all its thematic areas, namely information sharing, training, national legislation and capacity-building. Three information-sharing centres have been established in Sana'a, Yemen, Mombasa, Kenya, and Dar es Salaam, United Republic of Tanzania to manage a network of national focal points throughout the region, including in Puntland and Somaliland. The network assists international naval forces in identifying pirate mother vessels by providing information on the activity and movements of pirates.[157]

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fishermen, other shipboard personnel and passengers subject to piracy or armed robbery against ships, particularly those who have been subjected to violence".

[153] This includes nominating law enforcement or other authorized officials to embark patrol ships or aircraft of another signatory. See IMO (2009). Sub-regional meeting to conclude agreements on maritime security, piracy and armed robbery against ships for States from the Western Indian Ocean, Gulf of Aden and Red Sea areas. Note by the Secretary-General. C 102/14, page 3.

[154] For instance, resolution 1851 (2008) encourages ship-rider agreements. The Code of Conduct in its article 7 contains a corresponding provision on embarked officers whereby, subject to authorization, law enforcement or other officials may embark patrol ships of the "host participant" and assist, as well as conduct operations, if expressly requested and in the manner requested by the host participant. Resolutions adopted by the Security Council can be accessed at http://www.un.org/en/sc/documents/resolutions/index.shtml.

[155] Resolutions adopted by the General Assembly can be accessed at http://www.un.org/documents/resga.htm.

[156] IMO (2009). Subregional meeting to conclude agreements on maritime security, piracy and armed robbery against ships for States from the Western Indian Ocean, Gulf of Aden and Red Sea areas. Note by the Secretary-General. C 102/14, page 3.

[157] United Nations (2013). Report of the Secretary-General on the situation with respect to piracy and armed robbery at sea off the coast of Somalia. S/2013/623, paragraph 31. See further http://www.imo.org/OurWork/Security/PIU/Pages/Project-Implementation-Unit.aspx.

2. Contact Group on Piracy off the Coast of Somalia

148. As called for by United Nations Security Council resolution 1851 of 16 December 2008, the Contact Group on Piracy off the Coast of Somalia (CGPCS) was established in New York on 14 January 2009 to facilitate the discussion and coordination of actions among States and organizations to suppress piracy off the coast of Somalia. This international forum has brought together more than 60 countries and international organizations, all working towards the prevention of piracy off the coast of Somalia.[158] Any State or international organization contributing to fighting piracy, or any country significantly affected by piracy off the coast of Somalia may become a member of CGPCS. Other relevant stakeholders may participate in the meetings of CGPCS and its five working groups as observers.[159] The focus of each working group[160] is as follows:

(a) Working Group 1 is responsible for facilitating effective naval operational coordination and coordinating international efforts to support the building of the judicial, penal and maritime capacity of regional States to ensure they are better equipped to tackle piracy and maritime security challenges. The continued engagement and support of the Transitional Federal Government (TFG) of Somalia and the regional administrations of Somalia has been identified as crucial to the working group's long term success;[161]

(b) Working Group 2 provides specific, practical and legally sound guidance to CGPCS, States and organizations on all legal aspects of counter-piracy. Participants exchange information on ongoing judicial activities, including specific court cases, as well as on relevant capacity-building activities in the region. The group has also undertaken a thorough analysis and discussion on how to ensure the effective prosecution of suspected pirates;[162]

(c) Working Group 3 discusses concerns of the participant States, maritime industry and labour groups regarding the actions that should be used to provide self-defensive actions to protect vessels from hijacking by pirates in the high-risk waters off Somalia. It has worked closely with the industry for the completion and distribution of BMP4;[163]

(d) Working Group 4 aims to raise awareness of the dangers of piracy and highlight best practices to eradicate this criminal activity. It utilizes various means of communication and

[158] For further information on CGPCS and its activities see http://thecgpcs.org.

[159] At the seventh plenary session in November 2010, it was decided that all participants of CGPCS would meet three times a year, in March, July and November, to discuss piracy issues and the outcomes of each working group. The venue of the plenary would be at the United Nations Headquarters in New York, for practical reasons pertaining to the representation of countries, unless any country, on an exceptional basis, requests to host the meeting.

[160] The first four working groups were established at the first plenary session of CGPCS on 14 January 2009. The fifth was established at the ninth plenary session of CGPCS on 14 July 2011.

[161] Working Group 1 is chaired by the United Kingdom.

[162] Working Group 2 is chaired by Denmark and consists of representatives from nearly 60 States, including from the region and international organizations, including the European Union, various United Nations agencies, the Intergovernmental Authority on Development, the International Maritime Organization, INTERPOL, NATO and the League of Arab States.

[163] Working Group 3 is chaired by the Republic of Korea.

education to inform the public in Somalia, the region and across the globe of the dangers posed by piracy;[164]

(e) Working Group 5 focuses on how to advance information sharing internationally and between industry and Government authorities to disrupt the pirate enterprise on shore, and works with other key partners such as INTERPOL, national law enforcement/prosecution agencies currently pursuing piracy investigations and prosecutions and the World Bank to better understand how illicit financial flows associated with maritime piracy are moving in the area.[165]

3. Trust Fund to Support the Initiatives of States to Counter Piracy off the Coast of Somalia

149. In January 2010, a Trust Fund to Support the Initiatives of States to Counter Piracy off the Coast of Somalia (Trust Fund) was established. The objective of the Trust Fund is to "help defray the expenses associated with prosecution of suspected pirates, as well as other activities related to implementing the CGPCS objectives regarding combating piracy in all its aspects".[166] The Trust Fund enables the payment or reimbursement of specific expenses associated with investigating or prosecuting suspected pirates, or imprisoning those convicted, enables other relevant financial support to national jurisdictions, in particular for national legal capacity-building and enables other activities related to implementing the objectives of CGPCS regarding combating piracy in all its aspects. It has financed the initiatives of various United Nations entities, including FAO, IMO, UNDP, UNODC and UNPOS.

150. Since its inception in 2010, the Trust Fund has received around US$19.21 million in contributions from member States and the maritime industry. It has approved a total of thirty-one projects at a total value of US$16.9 million supporting prosecution and detention-related activities in Kenya, Mauritius, Seychelles, Somalia and the United Republic of Tanzania.[167] The establishment of the Trust Fund was commended by the United Nations Security Council in its resolution 1918 of 27 April 2010. The Security Council has also welcomed the contributions of participating States and encouraged other potential donors to contribute to the Fund. In its latest resolution 2125 of 18 November 2013, the Security Council welcomed the financing provided by the Trust Fund to strengthen regional ability to prosecute suspected pirates and imprison those convicted in accordance with applicable international human rights law.

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[164] Working Group 4 is chaired by Egypt.

[165] Working Group 5 is chaired by Italy.

[166] The United Nations Department of Political Affairs (UNDPA) serves as the secretariat of the Trust Fund, while the United Nations Development Programme's (UNDP) Multi-Partner Trust Fund Office administers the Trust Fund. For further information see http://www.thecgpcs.org/trustfund.do?action=trustFund.

[167] United Nations (2013). Report of the Secretary-General on the situation with respect to piracy and armed robbery at sea off the coast of Somalia. S/2013/623, paragraphs 28–30. See also the Communique of the fifteenth session of the CGPCS, 11 and 14 November 2013. Available at http://www.thecgpcs.org/plenary.do?action=plenarySub&seq=25.

4. United Nations Political Office on Somalia

151. The United Nations Political Office on Somalia (UNPOS) was established by the United Nations Secretary-General on 15 April 1995, to help the Secretary-General in establishing peace and reconciliation in Somalia.[168] The Special Representative of the Secretary-General (SRSG) provides periodic briefings to the United Nations Secretary-General and written reports to the Security Council. UNPOS also provides political guidance, as needed, to the United Nations Resident and Humanitarian Coordinator of the United Nations agencies and organizations of the United Nations Country Team for Somalia. Its piracy-related, mainly capacity-building tasks under Security Council resolution 1976 of 11 April 2011 are as follows:

(a) Assist the TFG and regional authorities to establish a system of governance, rule of law, and police control where land-based activity related to piracy is taking place;
(b) Support the creation of national fisheries and port activities, including the earliest possible delineation of Somalia's maritime spaces in line with the Convention;
(c) Assist with the implementation of the Djibouti Code of Conduct, the Regional Plan of Action, and the CGPCS regional needs assessment;
(d) Report on Protection of Somali Natural Resources and Waters (London Convention);
(e) More effective coordination of anti-piracy efforts;
(f) Assist with the creation of specialized Somali courts.[169]

152. In this context, it is worth noting that UNPOS, in collaboration with other partners, provides secretariat functions, based in Hargeisa, to the Kampala Process[170] also known as the Somali Contact Group on Counter-piracy. The Kampala Process was established on the basis of a request by Working Group 1 of the CGPCS at a technical meeting between the Transitional Federal Government (TFG), Puntland and Somaliland in January 2010, with a view to promoting internal coordination, information generation and sharing and to coordinate their respective counter-piracy offices. It also serves as Somalia's focal point in the Djibouti Code of Conduct.

153. A hostage support programme is being implemented by UNPOS and UNODC. The programme was approved on an exceptional basis by the Board of the Trust Fund to Support the Initiatives of States to Counter Piracy Off the Coast of Somalia (Trust Fund) in November 2012. Its aim is to address the humanitarian challenges faced by the hostages held by pirates, to provide medical care, accommodation, food, clothes and welfare items to them during the release phase and to support them in returning home swiftly. In order to preserve the hostage data and the accounts of their experiences or testimonies, the programme has initiated a project to collect these in order to possibly develop best practices for assisting seafarers in the future. In this context, INTERPOL has developed a

[168] The present mandate of UNPOS is set in United Nations Security Council resolution 1863 (2009).

[169] For more information on UNPOS and its activities see http://unpos.unmissions.org/Default.aspx?tabid=9705&language=en-US.

[170] For more information on the Kampala Process see http://oceansbeyondpiracy.org/matrix/activity/kampala-process.

project to debrief released hostages in support of investigations that will lead to the prosecution of the suspected pirates.[171]

5. Code of Conduct Concerning the Repression of Piracy, Armed Robbery Against Ships and Illicit Maritime Activity in West and Central Africa

154. Although piracy off the coast of West and Central Africa is not a new phenomenon, incidents have recently been increasing.

155. Pursuant to United Nations Security Council resolutions 2018 (2011) and 2039 (2012), a Code of Conduct on the repression of piracy, armed robbery against ships and other illicit activities at sea was developed by the Economic Community of Central African States (ECCAS), Economic Community of West African States (ECOWAS) and the Gulf of Guinea Commission, with the assistance of IMO. This Code of Conduct, which complemented the integrated coastguard function network project, launched by IMO and MOWCA in 2006, and the African Union's Integrated Maritime Strategy 2050, was initially endorsed at a ministerial meeting in Cotonou, Benin in March 2013. The Code, which is also known as the Yaoundé Declaration, was formally adopted by Heads of State from West and Central African countries, meeting in Yaoundé, Cameroon, and was opened for signature on 25 June 2013.[172]

156. This new Code is modelled after the Djibouti Code of Conduct, and incorporates many of its elements. Its signatories commit to cooperate to the fullest possible extent in the prevention and repression of piracy and armed robbery against ships, transnational organized crime in the maritime domain, maritime terrorism, illegal, unreported and unregulated (IUU) fishing and other illegal activities at sea with a view towards:

(a) Sharing and reporting relevant information;
(b) Interdicting ships and/or aircraft suspected of engaging in such illegal activities at sea;
(c) Ensuring that persons committing or attempting to commit illegal activities at sea are apprehended and prosecuted;
(d) Facilitating proper care, treatment and repatriation for seafarers, fishermen, other shipboard personnel and passengers subject to illegal activities at sea, particularly those who have been subjected to violence.[173]

157. The establishment of a new multi-donor trust fund to support an expanded programme of capacity-building activities in West and Central Africa was announced. This is expected to better enable the IMO to work with member States, United Nations agencies

[171] United Nations (2013). Report of the Secretary-General on the situation with respect to piracy and armed robbery at sea off the coast of Somalia. S/2013/623, paragraph 11.

[172] The document was signed, bringing it into effect for 22 signatory States: Angola, Benin, Cameroon, Cape Verde, Chad, Côte d'Ivoire, the Democratic Republic of the Congo, Gabon, the Gambia, Ghana, Guinea, Guinea-Bissau, Equatorial Guinea, Liberia, Mali, the Niger, Nigeria, Republic of the Congo, Senegal, Sierra Leone, Sao Tome and Principe and Togo.

[173] MarineLink.com (2013). Maritime Law and Piracy Code Adopted by African Nations. June. Available at http://www.marinelink.com/news/maritime-adopted-african356075.aspx (accessed 7 October 2013). For the full text of the Code see https://195.24.195.238/en/multimedia/documents/437-sommet-sur-la-piraterie-code-de-conduite-english.

and other international and regional development partners for the benefit of safe, secure and sustainable development of the African maritime sector.[174]

6. Regional Cooperation Agreement on Combating Piracy and Armed Robbery Against Ships in Asia

158. Prior to the substantial rise in acts of piracy off the coast of Somalia, the region of Southeast Asia, in particular, was known as a piracy hotspot. As a consequence, the first intergovernmental regional agreement to combat piracy in Asia, namely the Regional Cooperation Agreement on Combating Piracy and Armed Robbery Against Ships in Asia (ReCAAP) was adopted on 11 November 2004.[175] The Agreement entered into force on 4 September 2006 and currently has 19 Contracting States.[176]

159. Under ReCAAP, Contracting States are required to prevent and suppress piracy and armed robbery against ships to the fullest extent possible,[177] to arrest pirates or persons who have committed armed robbery against ships, to seize ships or aircraft used for committing piracy or armed robbery against ships, to seize ships taken by and under the control of pirates or persons who have committed armed robbery against ships and to seize the property on board such ships and to rescue victim ships and victims of piracy or armed robbery against ships.[178]

160. The agreement also established the ReCAAP Information-sharing Centre (ReCAAP ISC), which was officially launched in Singapore on 29 November 2006 and formally recognized as an international organization on 30 January 2007.[179] Functions of ISC include, among others, the expeditious facilitation of information relating to incidents of piracy and armed robbery against ships among the Contracting States, the collection and analysis of information on

[174] IMO (2013). Report of the Maritime Safety Committee on its Ninety-second Session. MSC 92/26, pages 62–63.

[175] The full text of ReCAAP is available at http://www.recaap.org/Portals/0/docs/About%20ReCAAP%20ISC/ReCAAP%20Agreement.pdf.

[176] ReCAAP member States are Australia, Bangladesh, Brunei Darussalam, Cambodia, China, Denmark, India, Japan, the Republic of Korea, Lao People's Democratic Republic, Myanmar, the Netherlands, Norway, the Philippines, Singapore, Sri Lanka, Thailand, United Kingdom and Viet Nam. See further http://www.recaap.org/AboutReCAAPISC.aspx.

[177] The definitions of piracy and armed robbery against ships are wider than the respective definitions found in article 101, UNCLOS and article 2.2 of document IMO (2010). Code of practice for the investigation of crimes of piracy and armed robbery against ships. A 26/Res.1025. Annex. Article 1(1) of ReCAAP defines piracy as "(a) any illegal act of violence or detention, or any act of depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft, and directed: (i) on the high seas, against another ship, or against persons or property on board such ship; (ii) against a ship, persons or property in a place outside the jurisdiction of any State; (b) any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft; (c) any act of inciting or of intentionally facilitating an act described in subparagraph (a) or (b)". Armed robbery against ships is subsequently defined in article 1(2), of ReCAAP as "(a) any illegal act of violence or detention, or any act of depredation, committed for private ends and directed against a ship, or against persons or property on board such ship, in a place within a Contracting Party's jurisdiction over such offences; (b) any act of voluntary participation in the operation of a ship with knowledge of facts making it a ship for armed robbery against ships; (c) any act of inciting or of intentionally facilitating an act described in subparagraph (a) or (b)".

[178] Articles 2 and 3 of ReCAAP.

[179] Part II of ReCAAP (articles 4–8) provides further details in respect of ISC, including its functions (article 7).

piracy and armed robbery against ships and the preparation and dissemination of statistics to foster better understanding of the situation in Asia. The ISC must also provide appropriate alerts to Contracting States if there is a reasonable ground to believe that there is an imminent threat of incidents of piracy or armed robbery against ships.[180]

161. Further to the obligations noted above, ReCAAP requires cooperation between Contracting States through ISC, which is set up to facilitate the exchange of information among focal points designated by each State via a secure web-based information network system (INS). Additional cooperation requirements include the extradition of pirates to another Contracting State that has jurisdiction, mutual legal assistance in criminal matters, capacity-building to prevent and suppress piracy and to encourage shipowners to take protective measures against piracy and armed robbery against ships.[181]

C. International military and naval response to piracy

162. Military and naval forces play an invaluable role in the deterrence and interdiction of piracy and armed robbery at sea. By escorting commercial vessels through high-risk areas, they offer safe passage that protects the vessel, its cargo and its crew against the scourge of piracy, allowing international trade to continue without disruption. The United Nations Security Council in its resolution 2020 (2011) commended the efforts of Operation Atalanta of the European Union, Operations Ocean Shield and Allied Protector of NATO, the Combined Task Force 151 of the Combined Maritime Forces and other States acting in a national capacity in cooperation with TFG and each other to suppress piracy and to protect vulnerable ships transiting through the waters off the coast of Somalia. [182]

163. Individual forces have also been deployed by States including China, India, the Islamic Republic of Iran, Japan, Malaysia, the Republic of Korea, the Russian Federation, Saudi Arabia and Yemen.[183]

164. In September 2011, the global shipping industry (represented by the round table of international shipping associations) wrote to United Nations Secretary-General Ban Ki-moon requesting the establishment of a United Nations force of armed military guards to be deployed in small numbers on board ships passing through the Suez Canal.[184]

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[180] Part III of ReCAAP.

[181] Part IV of ReCAAP. For more information on ReCAAP and ISC see http://www.recaap.org. See also Hribernik M (2013). European Insitute for Asian Studies. Countering Maritime Piracy and Robbery in Southeast Asia: The Role of the ReCAAP Agreement. Briefing Paper 2013/2.

[182] It has been noted that "the current solution for piracy involves the maintenance of between 20 and 30 vessels off the coast of Somalia, which is hugely expensive to [those] international navies". See Global Observatory (2012). Interview with Jon Huggins, Director of Oceans Beyond Piracy. 18 December. Available at http://theglobalobservatory.org/interviews/401-interview-with-jon-huggins-director-of-oceans-beyond-piracy.html.

[183] United Nations (2011b). Report of the Secretary-General pursuant to Security Council resolution 1950 (2010). S/2011/662.

[184] Ship Management International (2011). Global Shipping Industry Calls for United Nations Armed Force Against Somali Pirates. 9 September. Available at http://shipmanagementinternational.com/global-shipping-industry-calls-for-un-armed-force-against-somali-pirates/.

1. European Union: Operation Atalanta

165. An agency directly involved in deterring, preventing and repressing acts of piracy and armed robbery off the coast of Somalia is the European Naval Force Somalia – Operation Atalanta (EU-NAVFOR Atalanta). Operation Atalanta was launched in December 2008 under the European Union's Common Security and Defence Policy. It is part of the European Union's comprehensive approach for a peaceful, stable and democratic Somalia. The operation also protects vessels of the World Food Programme delivering food aid to displaced persons in Somalia, and shipping of the African Union mission in Somalia (AMISOM). On 23 March 2012, the European Council extended the mandate of the counter-piracy operation Atalanta until December 2014.[185]

166. Another initiative, also established by EU-NAVFOR with close cooperation from the industry, is the Maritime Security Centre – Horn of Africa (MSCHOA), which provides 24-hour monitoring of vessels transiting through the Gulf of Aden and maintains an interactive website that enables it to communicate the latest anti-piracy guidance to industry and shipping companies and operators to register their movements through the region. Therefore, each merchant vessel wishing to transit through the Gulf of Aden or off the coast of Somalia is strongly advised to register in advance on the website of the MSCHOA.[186]

2. NATO: Operation Ocean Shield

167. Since 2008,[187] the North Atlantic Treaty Organization (NATO) has contributed to international efforts to combat piracy in the Gulf of Aden and off the Horn of Africa through its Operation Ocean Shield (OOS), which builds on the experience gained during the previous counter-piracy mission of NATO, Operation Allied Protector.[188] Ships transiting the area are provided with naval escorts that offer protection and act as a deterrent against acts of piracy. Also, the permanently staffed NATO Shipping Centre (NSC) provides a point of contact for the exchange of merchant shipping information between military authorities of NATO and the international shipping community, relaying potential risks and possible interference with maritime operations.[189] All counter-piracy efforts of NATO are closely coordinated with other operations in the area in order to optimize efforts and to effectively supress piracy.

168. In March 2012, it was announced that OOS will be extended until the end of 2014. In addition, an agreement was concluded between NATO and INTERPOL whereby piracy-related information collected by NATO naval forces operating as part of OOS will be shared

[185] For more information on the mandate and activities of EU-NAVFOR see http://www.eunavfor.eu/.

[186] Available at http://www.mschoa.org/.

[187] At the December 2008 meeting of the North Atlantic Council held at NATO headquarters, Brussels, NATO committed to assist in the fight against piracy off the Horn of Africa in full respect of relevant United Nations Security Council resolutions. See the final communiqué of the meeting, in particular paragraph 10. See http://www.nato.int/cps/en/SID-F1F70DFF-ACE6E1B2/natolive/official_texts_46247.htm.

[188] Detailed information on current and past counter-piracy operations of NATO can be found at http://www.nato.int/cps/en/natolive/topics_48815.htm.

[189] For further information on the activities of NSC see http://www.shipping.nato.int/.

with INTERPOL national central bureaux to the fullest extent possible, taking into account national restrictions that may apply.[190]

3. Multinational Task Force-151

169. The Multinational Task Force-151 (CTF-151)[191] is another multinational naval task force, set up in response to piracy attacks in shipping lanes off the coast of Somalia. It was created by the United States navy in 2009 with the mission to "deter, disrupt and suppress piracy". Countries that have participated in CTF-151 include Canada, Denmark, France, Germany, the Netherlands, New Zealand, Pakistan, Portugal, the Republic of Korea, Singapore, Spain, Thailand, Turkey, the United Kingdom and the United States. It has been suggested that while the NATO and European Union missions offered a "Western approach" to piracy suppression, CTF-151 would offer an "Eastern approach".[192]

170. To deter attacks in the Gulf of Aden and protect shipping in this area, CTF-151, in cooperation with the United States navy and IMO established the International Recommended Transit Corridor (IRTC), which stretches from the Babu i-Mandeb strait separating the Red Sea from the Gulf of Aden, 464 nautical miles, to just north of the Archipelago of Socotra. The transit corridor is divided into several areas, and commercial and private ships passing through them are monitored and escorted by the various naval detachments.[193]

171. In addition, the Shared Awareness and Deconfliction (SHADE) initiative was established in order to improve information sharing and increase the efficiency of cooperation between the various military missions operating in the Gulf of Aden and the western Indian Ocean, i.e. NATO, EU-NAVFOR and CTF-151. Meetings are held every six weeks, co-chaired by each of these bodies.[194]

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[190] INTERPOL (2012). INTERPOL and NATO Cooperation Set to Boost Global Efforts Against Maritime Piracy. October 6. Available at http://www.interpol.int/News-and-media/News-media-releases/2012/N20121006.

[191] CTF-151 (counter-piracy), along with CTF-150 (maritime security and counter-terrorism) and CTF-152 (Arabian Gulf security and cooperation), are part of the Combined Maritime Forces (CMF), a multinational naval partnership which aims to promote security, stability and prosperity across some of the world's most important shipping lanes. CMF is comprised of the following 29 member nations: Australia, Bahrain, Belgium, Canada, Denmark, France, Germany, Greece, Italy, Japan, Jordan, the Republic of Korea, Kuwait, Malaysia, the Netherlands, New Zealand, Norway, Pakistan, the Philippines, Portugal, Saudi Arabia, Seychelles, Singapore, Spain, Thailand, Turkey, United Arab Emirates, the United Kingdom and the United States. It is commanded by a United States Navy Vice-Admiral. All three commands are co-located at the United States Naval Support Activity, Bahrain. Participation is voluntary, and the contribution from each country varies depending on its ability to contribute assets and the availability of those assets at any given time. For more information see http://combinedmaritimeforces.com/.

[192] Haywood R and Spivak R (2012). Maritime Piracy. One Earth Future. London and New York: Routledge, page 51. See also United States Naval Institute (2009). Observing the Establishment of CTF-151. Available at http://blog.usni.org/2009/01/09/observing-the-establishment-of-ctf-151/. The mission has been commanded by Turkey (twice), Pakistan and Singapore (twice).

[193] Ibid.

[194] Ibid. See also http://oceansbeyondpiracy.org/matrix/activity/shared-awareness-and-deconfliction-shade.

4. INTERPOL: Maritime Piracy Task Force

172. The United Nations Security Council has recognized the importance of INTERPOL in the fight against piracy in three of its resolutions. The first resolution,[195] adopted in November 2010, urged States, in cooperation with INTERPOL and Europol, to "further investigate international criminal networks involved in piracy off the coast of Somalia, including those responsible for illicit financing and facilitation". The second one,[196] adopted in April 2011, highlighted the need for countries to criminalize piracy under domestic law,[197] to investigate and prosecute individuals who illegally finance, plan, organize or profit from pirate attacks off the coast of Somalia[198] and the importance of collecting, preserving and transmitting evidence of acts of piracy and armed robbery with guidance from INTERPOL.[199] The third resolution,[200] adopted in November 2011, commended INTERPOL for the creation of a global piracy database designed to coordinate information about piracy off the coast of Somalia and facilitate the development of actionable analysis for law enforcement and urged member States to share such information with INTERPOL for use in the database, through appropriate channels.[201]

173. In order to prevent, investigate and prosecute acts of piracy, INTERPOL works in partnership with a number of international organizations, including the African Union, BIMCO, Eurojust, European Union, Europol, IMO and the United Nations, along with various military organizations and companies in the private sector. In January 2010, INTERPOL established its own Maritime Piracy Task Force to counter maritime piracy. The Task Force focuses on three main areas, namely improving evidence collection, facilitating data exchange and capacity-building on a regional level.[202]

174. Accordingly, in an effort to gather intelligence to identify and apprehend pirates, and to prevent future attacks, INTERPOL has developed a global maritime piracy database. The database includes more than 4,000 records of personal details, telephone numbers and telephone records, hijacking incidents, vessels and currency and bank accounts used in ransom payments.[203] It allows INTERPOL to analyse piracy networks and to help its member countries identify and arrest high-value individuals involved in Somali maritime piracy – such as piracy leaders and financiers – and to identify their assets. The task force has also created a digital album containing photos of more than 300 suspected pirates, which are

[195] Resolution 1950 (2010), paragraph 16.

[196] Resolution 1976 (2011).

[197] Ibid., paragraph 13.

[198] Ibid., paragraph 15.

[199] Ibid., paragraph 16.

[200] Resolution 2020 (2011).

[201] Ibid., paragraph 19.

[202] INTERPOL is the largest international police organization, with 190 member countries. Further information on INTERPOL counter-piracy activities is available at http://www.interpol.int/Crime-areas/Maritime-piracy/Maritime-piracy.

[203] See further http://www.interpol.int/Crime-areas/Maritime-piracy/Intelligence and Gottlieb Y (2011). Combating Maritime Piracy: Interdisciplinary Cooperation and Information Sharing. Available at http://www.interpol.int/Media/Files/Crime-areas/Maritime-piracy/Related-documents/Combating-Maritime-Piracy-Inter-Disciplinary-Cooperation-and-Information-Sharing.

shared with authorized international partners and are often used when debriefing released hostages, to help identify their captors. For example, police were able to identify four of the pirates involved in the hijacking of the *Irene SL* when debriefing its crew.

175. Another European Union-financed project is implemented by INTERPOL and supports national law enforcement capacities (€1.6 million) to combat maritime piracy by providing necessary training and equipment to perform effective and proactive investigations including on piracy financiers and organizers. INTERPOL has worked to train investigators in Seychelles, including on aspects of piracy financing, as well as to develop the capacity of the shipping industry to support evidence collection and preservation. In addition, INTERPOL has been running Project Evexi (Evidence Exploitation Initiative), which assists member countries in investigating cases of maritime piracy. Oman was one of the countries that recently benefited from Project Evexi, where its authorities received specialized training covering legal aspects in the fight against maritime piracy, basic interviewing skills, crime scene management and general investigative techniques. Other countries that have received support through Project Evexi are Kenya, Madagascar, Maldives, Seychelles and the United Republic of Tanzania.[204]

176. A decision[205] adopted by the European Union Council in December 2010 provided that the European Union's ongoing military operation against maritime piracy off the coast of Somalia, Operation Atalanta,[206] should use the INTERPOL global network and tools to fight the criminal networks behind piracy in the Gulf of Aden.

177. Information is regularly shared among INTERPOL, the European Union and NATO. More recently, an agreement was concluded between NATO and INTERPOL[207] whereby piracy-related information collected by NATO naval forces operating as part of Operation Ocean Shield will be shared with INTERPOL national central bureaux to the fullest extent possible, taking into account national restrictions that may apply.

5. Malacca Strait Patrols

178. The Malacca Strait is a strategic waterway in the global trading system which is vulnerable to piracy attacks. As more than one-fourth of the world's commerce and half the world's oil is carried through this strait, its security is particularly important, not only for the countries in the region, but also for the broader international community.

179. The Malacca Strait Patrols (MSP) is a set of practical cooperative measures undertaken by the States[208] bordering the straits of Malacca and Singapore. It comprises the Malacca

[204] For further information see INTERPOL (2012). Annual Report 2012. Available at www.interpol.int.

[205] European Union (2010). Council Decision 2010/766/CFSP of 7 December 2010 amending Joint Action 2008/851/CFSP on a European Union Military Operation to Contribute to the Deterrence, Prevention and Repression of Acts of Piracy and Armed Robbery Off the Somali Coast. Official Journal of the European Union. L 327 (2010), pages 49–50.

[206] To be discussed under the part on Regional Initiatives below.

[207] INTERPOL (2012). Maritime Piracy Investigations Boosted by INTERPOL and NATO Framework on Information Sharing. 9 May. Available at http://newsintelligencecounterterrorism.blogspot.ch/2012/05/maritime-piracy-investigations-boosted.html.

[208] Including Indonesia, Malaysia, Singapore and Thailand.

Strait Sea Patrol (MSSP), the Eyes-in-the-Sky (EiS) air patrols and the Intelligence Exchange Group (IEG), as follows:

(a) MSSP was launched by Indonesia, Malaysia and Singapore in July 2004 to enhance security in the Straits of Malacca and Singapore and bolster existing bilateral arrangements. Under this arrangement, these States conduct coordinated patrols while facilitating the sharing of information between ships and the Monitoring and Action Agency (MAA).
(b) EiS was launched in September 2005 to reinforce the efforts of the sea patrols with air surveillance over the straits using maritime patrol aircraft of Indonesia, Malaysia and Singapore.
(c) IEG was established among the three participating States in 2006 to support the sea and air patrols, leading to the development of an information-sharing platform called the Malacca Strait Patrols Information System or MSP-IS.

180. During the operation of the MSP, the number of piracy incidents fell from a high of 38 in 2004, to just 7 in 2007.[209]

D. Prosecution of suspected pirates and capacity-building

181. The United Nations Security Council in its resolution 1976 (2011) has stressed the need to build Somalia's potential for sustainable economic growth as a means to tackle the underlying causes of piracy, including poverty, thus contributing to a durable eradication of piracy and armed robbery at sea off the coast of Somalia. It is in this regard that many initiatives focus on governance and the rule of law in Somalia, such as the ability of the justice system to effectively prosecute and imprison persons who have committed acts of piracy. Moreover, certain programmes have the objective of dissuading Somalis from criminal activity in the first place by creating jobs and giving support to the local community.

1. UNODC Counter-piracy Programme

182. The UNODC Counter-piracy Programme (CPP) began in 2009 with a mandate to help Kenya deal with an increase of attacks by Somali pirates.[210] Today, CPP assists Kenya, Maldives, Mauritius, Seychelles and the United Republic of Tanzania with judicial, prosecutorial and police capacity-building programmes, as well as office equipment, law books and specialist coastguard equipment. The Programme is also assisting Somalia to upgrade its prisons and courts with the aim of ensuring that Somali pirates convicted in other countries can serve their sentences in their home country. The UNODC has already completed work on a new prison in Hargeisa, the capital of Somaliland, and is currently constructing and refurbishing prisons in Puntland. With over 1,200 suspected or convicted pirates detained in 21 countries around the world, the UNODC work on counter-piracy remains highly relevant. The three main objectives of CPP are to ensure the following:

[209] For more information on the Malacca Strait Patrols and its activities see Factsheet: Milestones of Malacca Strait Patrols, available at http://www.mindef.gov.sg/imindef/press_room/official_releases/nr/2008/mar/28mar08_nr/28mar08_fs.html.

[210] For further information on UNODC and piracy see http://www.unodc.org/easternafrica/en/piracy/index.html.

(a) Fair and efficient trials and humane and secure imprisonment in regional centres;
(b) Humane and secure imprisonment for pirates in Somalia;
(c) Fair and efficient piracy trials in Somalia.[211]

183. With the support of CPP, relevant authorities in Kenya have worked to deliver 18 trials involving 147 suspects; those in Seychelles have 14 cases in progress, involving 118 suspects. In addition, in March 2013, the first transfer of prisoners from a regional prosecuting State took place when 17 convicted pirates, arrested by the Seychelles coastguard and tried in the courts of Seychelles, volunteered to be transferred to a prison in Hargeisa, Somaliland.

184. As affirmed by the United Nations Security Council in its resolution 1918 of 27 April 2010, and in subsequent ones, including the latest resolution 2125 of 18 November 2013, the failure to prosecute persons responsible for acts of piracy and armed robbery at sea off the coast of Somalia undermines anti-piracy efforts of the international community. In this regard, the Security Council commended the efforts of the Republic of Kenya to prosecute suspected pirates in its national courts and imprison convicted persons. It encouraged Kenya to continue in these efforts, while acknowledging the difficulties that Kenya encounters in doing so. In addition, it noted with appreciation the assistance provided by UNODC and other international organizations and donors, in coordination with CGPCS, to enhance the capacity of the judicial and the corrections systems in Somalia, Kenya, Seychelles and other States in the region to prosecute suspected, and imprison convicted, pirates consistent with applicable international human rights law. Further, the Security Council acknowledged the ongoing efforts within CGPCS to explore possible mechanisms to more effectively prosecute persons suspected of piracy and armed robbery at sea off the coast of Somalia.[212]

185. In addition, in 2012, through its Global Programme Against Money-laundering, Proceeds of Crime and the Financing of Terrorism, UNODC has provided technical assistance on money flows linked to piracy and other forms of organized crime to police, financial intelligence units, customs authorities and other law enforcement agencies in Ethiopia, Kenya and the United Republic of Tanzania.[213]

2. United Nations Development Programme

186. While UNODC and other organizations concentrate on judicial aspects of combating piracy, the United Nations Development Programme (UNDP) has been working with local partners towards a peaceful and secure Somalia by focusing on poverty reduction and environmental protection, governance and the rule of law and security. This includes increased security and legal protection for all Somali, along with the establishment of good

[211] For more information on CPP see UNODC (2013). UNODC Counter-piracy Programme Brochure. Support to the Trial and Related Treatment of Piracy Suspects. Issue Eleven. March 2013. Available at http://www.unodc.org/documents/easternafrica//piracy/UNODC_Brochure_Issue_11_wv.pdf.

[212] For the work of CGPCS regarding prosecution of pirates, see above.

[213] Further information on the Global Programme Against Money-laundering, Proceeds of Crime and the Financing of Terrorism is available at http://www.unodc.org/unodc/en/money-laundering/technical-assistance.html?ref=menuside.

governance and public accountability in an environment where Government functions are emerging or non-existent. In particular, UNDP is helping the justice sector in Somaliland and Puntland to improve its ability to deal with serious crime, including piracy, according to due process.[214] For example, support is given in the form of legal aid for suspected pirates, training of police and custodial staff and completion of new prisons.[215]

3. European Union

187. The European Union is providing its contribution in many areas, including judicial international cooperation, particularly in the areas of prosecution, trial, detention and coordinated criminal investigation against suspected pirates, as well as in building regional maritime capacities to combat piracy.

188. As regards cooperation in the areas of prosecution, trial and detention, it should be noted that many suspected pirates are currently being prosecuted in European Union member States as well. Many others are being transferred for trial from EU-NAVFOR ships to countries suffering from piracy, which have shown their readiness to prosecute suspected pirates. In addition, the European Union is also assisting the UNDP and UNODC in their work to establish sufficient conditions to allow fair and efficient piracy trials in Somalia.

189. In addition, the European Union has signed transfer agreements with countries in the region, namely with Seychelles (2009) and Mauritius (2011), and is currently in the process of negotiating an agreement with the United Republic of Tanzania. At the moment, transfers to Kenya are being done on a case-by-case basis. A joint European Union–UNODC programme of support for the justice system in Kenya was launched in May 2009 to provide Kenya with practical assistance to cope with the extra demands associated with the prosecution and detention of piracy suspects (€1.75 million). Similar support programmes are available to Mauritius (€1.08 million) and Seychelles (€0.78 million). The European Union and its member States are thus the largest contributor to the UNODC counter-piracy programme.

190. With respect to coordinated criminal investigation against suspected pirates, the European Union is actively supporting the establishment of a cooperation mechanism among the prosecutors of the countries concerned, in order to bring together admissible evidence for legal action against major piracy financiers, negotiators and organizers. Hosted by Europol in The Hague, the Netherlands, a Netherlands–Germany joint investigation team started its work in January 2012 under the legal framework of Eurojust, providing a unique model for transnational police cooperation. Europol and INTERPOL are closely cooperating

[214] In conjunction with the United Nations Somali Assistance Strategy (UNSAS), UNDP has developed a five-year plan that outlines the nation's recovery and development. See document UNDP (2011). Country Programme Document 2011–2015. Available at http://www.so.undp.org/docs/UNDP_CPD%20Booklet%20A4_AB_PM.pdf.

[215] For more information see the website of UNDP in Somalia www.so.undp.org.

in collecting and analysing data on piracy cases and modalities are in place to allow them to receive relevant information from EU-NAVFOR Operation Atalanta.[216]

191. As regards European Union activity in building regional maritime capacities[217] to combat piracy, the following are worth noting:

(a) *EUCAP Nestor*. In July 2012, the European Union Council approved the launch of a new civilian Common Security and Defence Policy (CSDP) mission, EUCAP Nestor, with the objective of enhancing the maritime capacities of initially three to five countries in the Horn of Africa and the Western Indian Ocean. With its operational headquarters in Djibouti, the mission aims to strengthen maritime capacities in the wider Horn of Africa region, including Djibouti, Kenya, Seychelles and the United Republic of Tanzania, and support the development of a coastal police force in Somalia. EUCAP Nestor aims to complement the European Union's existing anti-piracy programmes such as EU-NAVFOR Atalanta, European Union Training Mission Somalia and European Union Regional Maritime Capacity-building.

(b) *European Union Regional Maritime Security Programme*. This programme, worth €37.5 million, was launched by the European Union in May 2013 with the aim of supporting the Eastern and Southern Africa–Indian Ocean Regional Strategy and Action Plan, which was adopted in October 2010 in Mauritius to fight piracy and promote maritime security. It is being implemented by four regional organizations, namely the Indian Ocean Commission, the Intergovernmental Authority on Development, the Common Market for Eastern and Southern Africa and the East African Community. The programme is expected to contribute to addressing Somalia-based piracy, strengthening regional and local capacities for the arrest and bringing to justice of suspected pirates, addressing the economic impact and financial flows related to piracy and improving maritime security in general.

(c) *Critical Maritime Routes Programme*. Since 2009, this programme, funded under the European Union's Instrument for Stability, focuses on the security and safety of essential maritime routes in areas affected by piracy. Its aim is to help secure shipping and trading lines of communication and improve maritime governance. In this context, an ongoing €6 million project, MARSIC, has been devoted to supporting maritime security and safety in the Western Indian Ocean region by enhancing information-sharing and training capacities. The project contributes to the implementation of the regional Djibouti Code of Conduct. It focuses on capacity-building and training of maritime administration staff, officials and coastguards from the region, including assistance to setting up the Djibouti Regional Training Centre for maritime affairs. It also reinforces the capacity of States' coastguards and administrations, starting with Yemen and Djibouti, to ensure the surveillance and security of territorial waters by supporting the operations of the Regional Maritime Information-sharing Centre (ReMISC) in Sana'a, Yemen. ReMISC was officially inaugurated in March 2011 and is now producing regular reports on piracy incidents.

[216] Further information on European Union activities in the area of judicial international cooperation is available at http://www.eeas.europa.eu/piracy/judicial_cooperation_en.htm.

[217] Further information on the work of the European Union for building local and regional maritime capacities to ensure maritime security is available at http://www.eeas.europa.eu/piracy/regional_maritime_capacities_en.htm.

(d) *Pilot Project on Piracy, Maritime Awareness and Risks.* This project, scientific in nature and worth €1 million, is being implemented by the European Commission's Joint Research Centre. Stemming from a 2008 resolution of the European Parliament on piracy at sea,[218] it explores the potential use of civilian technical and affordable tools, including satellite technologies, to develop an approach to obtain real-time maritime situational awareness. This could potentially help countries to improve their capabilities to recognize threats in the Western Indian Ocean basin.

(e*) Fight against illegal, unreported and unregulated (IUU) fishing in the Indian Ocean.* Although not directly related to counter-piracy, actions to suppress illegal fishing have positive effects in improving regional maritime security capacities. The European Commission funded a €10 million regional surveillance plan for fisheries in the south-west of the Indian Ocean from 2007 to 2011. The aim was to reduce the number of vessels fishing illegally in the area and to contribute to the conservation and sustainable management of tuna resources. Currently another initiative, the SmartFish Programme, is ongoing, aiming to increase the level of social, economic and environmental development and deeper regional integration in the Indian Ocean region through improved capacities for the sustainable exploitation of fisheries resources. The programme is worth €21 million for the first of two implementation phases and includes specific action in support of the fishing industry of Somalia. [219]

4. Critical Maritime Routes in the Gulf of Guinea Programme

192. On 10 January 2013, the European Union announced a new initiative to combat piracy in the Gulf of Guinea.[220] The Critical Maritime Routes in the Gulf of Guinea Programme (CRIMGO) will boost security and the safety of maritime routes across seven African coastal States, including Benin, Cameroon, Equatorial Guinea, Gabon, Nigeria, Sao Tome and Principe and Togo. The European Union is expected to provide €4.5 million for the project, which will offer training for coastguards and establish an information-sharing network between stakeholders in the region. The programme will assist the respective countries in four areas, namely:

(a) establishing a regional information-sharing network;
(b) training related to coastguard functions;
(c) developing a framework for inter-agency cooperation;
(d) promoting operational inter-agency cooperation.

193. The African countries have agreed to enhance regional cooperation and coordinate their maritime security regulations in order to respond to threats of a transboundary nature. The programme is an extension of the Critical Maritime Routes Programme, which focuses on the Western Indian Ocean and Southeast Asia.[221]

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[218] European Parliament resolution of 23 October 2008 on piracy at sea. P6_TA(2008)0519. Available at http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P6-TA-2008-0519&language=EN.
[219] Ibid.
[220] European Commission (2013). Press release. New European Union initiative to combat piracy in the Gulf of Guinea. 10 January. Available at http://europa.eu/rapid/press-release_IP-13-14_en.htm.
[221] See further http://eeas.europa.eu/piracy/regional_maritime_capacities_en.htm.

5. Oceans Beyond Piracy: A non-governmental initiative

194. Oceans Beyond Piracy (OBP) is a non-governmental organization, which aims to reduce piracy through better governance of the seas.[222] It was launched in 2010 with the intent to develop a multi-stakeholder response to maritime piracy through:

(a) Mobilization of all affected sectors of the maritime community;
(b) Developing public–private partnerships to promote long-term solutions at sea and on shore;
(c) Global and sustainable deterrence based on the rule of law.[223]

195. The work of OBP is founded upon the principles of transparency, inclusiveness, shared commitment and independence. It believes that the answers to the piracy problem should come from within the community of stakeholders, together with whom they work to find a solution to piracy. The project hosts meetings and workshops, conducts research and analysis, develops cross-sector partnerships and supports the international community in its efforts to eradicate contemporary maritime piracy.[224]

196. In terms of research and analysis, OBP has produced studies on the economic cost of Somalia piracy[225] and, with IMB, the human cost of Somali piracy,[226] to aid understanding of and to emphasize the various direct and indirect costs of piracy. In addition, it has conducted an independent assessment of the current counter-piracy framework to describe and evaluate the extensive international and regional efforts to address piracy in the Gulf of Aden and the Indian Ocean. The assessment recommends that planning efforts should shift from mitigation and containment towards deterrence and suppression, and that resources shift from individual protection towards investment in collective solutions.[227] As mentioned above, OBP has also mapped the extensive range of counter-piracy initiatives in its counter-piracy activities matrix.[228]

197. As a direct result of the OBP human cost of piracy project in 2010, the Declaration Condemning Acts of Violence Against Seafarers was signed in Washington, D.C. in August 2011. Under the declaration, flag States commit to provide reports to IMB on acts of violence committed by pirates against seafarers. The IMB will subsequently collate and disseminate aggregated and anonymized data. Such information will be used to see how

[222] OBP is a project of the One Earth Future Foundation, www.oneearthfuture.org, a privately funded and independent non-profit organization. For more information on OBP see www.oceansbeyondpiracy.org.
[223] For more information see http://oceansbeyondpiracy.org/pages/about-obp.
[224] Ibid.
[225] The economic assessment has been carried out annually since 2010. The full report for each year can be downloaded from http://oceansbeyondpiracy.org/cost-of-piracy/economic.
[226] The latest version of the joint study by OBP and IMB was launched on 18 June 2013 and details the plight of seafarers at the hands of Somali pirates. The study (and its previous versions) can be downloaded at http://oceansbeyondpiracy.org/cost-of-piracy/human-cost-somali-piracy.
[227] Further information and an interactive version of the assessment are available at http://oceansbeyondpiracy.org/independent_assessment.
[228] Available at http://oceansbeyondpiracy.org/matrix/counter-piracy-activities-dynamic.

hostages are treated by pirates, including the level and type of violence that pirates use against seafarers, and to determine trends in violence used by pirates.[229]

IV. Summary and concluding remarks

198. While no international convention solely dedicated to the eradication of maritime piracy has been developed, piracy was the first crime to be recognized as a crime against international law and subject to universal jurisdiction. Today, provisions in the United Nations Convention on the Law of the Sea (UNCLOS), 1982 reflect the contemporary international legal framework for countering piracy; the provisions are binding for Contracting States to UNCLOS, but are considered to also reflect customary international law.

199. Under the Convention, States enjoy broad universal jurisdiction over those who commit acts that fall within the definition of piracy. States are also under a general obligation to "cooperate to the fullest possible extent in the repression of piracy on the high seas or in any other place outside the jurisdiction of any State". Relevant provisions in UNCLOS are, however, not in all respects comprehensive. Thus, piracy committed in the territorial waters of any State does not fall within the ambit of UNCLOS, nor do criminal acts which are not covered by the definition of piracy. Moreover, UNCLOS does not provide procedures for the investigation or prosecution of pirates or regulate liability issues arising in the context of modern anti-piracy measures.

200. Other international conventions that may be of relevance in the repression and effective prosecution of piracy include:

(a) The Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, (SUA), 1988 and its Protocols;
(b) The International Convention Against the Taking of Hostages, 1979;
(c) The United Nations Convention on Transnational Organized Crime, 2000.

201. Domestic law plays a critical role in the establishment of a legislative framework that allows for effective and efficient prosecutions of pirates. Both UNCLOS and the SUA Convention require the implementation of relevant provisions into the domestic legislation of States Parties. To facilitate this process, IMO Assembly resolutions have been adopted that provide guidelines and recommendations on how to implement provisions of these conventions on the prevention and effective prosecution of piracy. Inter alia, the United Nations Office on Drugs and Crime (UNODC) has also identified some key substantive and procedural elements that may be included in national law to facilitate full implementation of international conventions applicable to piracy. These elements include: criminalization of piracy; jurisdiction over acts of piracy; participation, conspiracy and attempts; detention and arrest at sea; trials; identifying, tracing, freezing, seizing and confiscating criminal assets; international cooperation.

[229] The declaration has been signed by the Bahamas, Liberia, Marshall Islands, Panama and Saint Kitts and Nevis. See further http://oceansbeyondpiracy.org/matrix/activity/declaration-condemning-acts-violence-against-seafarers-washington-declaration-0.

202. Reflecting an increase in cooperation at the international and regional levels, a broad range of multilateral initiatives have been developed over recent years with the objective of countering piracy and armed robbery at sea. Many of these were initiated following the proliferation of acts of piracy off the coast of Somalia, but now serve as a model and/or as a basis for relevant cooperation in other regions, such as in West African waters, where piracy levels are rising at an alarming rate.

203. Relevant initiatives have focused on establishing and enhancing international and regional cooperation mechanisms, military and naval response mechanisms and on capacity-building programmes to facilitate the effective prosecution of pirates. Also worth noting are initiatives by the shipping industry, including the development of Best Management Practices to Deter Piracy off the Coast of Somalia and in the Arabian Sea Area (BMP) which set out preventive, evasive and defensive measures, as well as the increasing use of armed guards and security personnel on board ships.

204. While current initiatives at the international and regional levels are encouraging, they may, nevertheless, not be sufficient to adequately address the piracy challenge. Thus, although a relative decrease in piracy activity off the coast of East Africa has been observed since 2011, following joint counter-piracy efforts of the international community and the private sector, this positive trend is still fragile and could be undermined and reversed unexpectedly.[230] Moreover, piracy levels in the Gulf of Guinea region have been growing and new piracy hotspots may emerge.

205. The International Maritime Organization (IMO) and the United Nations Security Council, in particular, have been at the forefront of international efforts to counter piracy. While so far much of the attention has focused on piracy off the coast of Somalia, awareness is also growing with respect to piracy in the Gulf of Guinea and elsewhere. Sustained coordinated efforts are required to design tailored action and sustainable response measures that eradicate not only the manifestations of piracy, but also the root problems that are driving up activity levels and the scale of attacks.

206. While progress will ultimately also depend on the economic situation and on political stability in affected regions, the success of policies and strategies to combat and repress piracy rests on strengthened cooperation at all levels. This includes cooperation not only in respect of maritime security measures, but also in terms of information sharing and in terms of the effective prosecution of pirates and of those who benefit from the proceeds of piracy. Ongoing efforts to strengthen the legal and regulatory framework, particularly at the national level, play an important role in this context and are to be commended, but much more remains to be done.

207. It is important to note that, although reported incidents of piracy off the coast of Somalia are now at the lowest level since 2006, the issue remains firmly on the international policy agenda. Thus, in its latest resolution 2125 (2013) on the situation in Somalia, adopted on 18 November 2013, the United Nations Security Council reiterated the continued importance of a comprehensive response by the international community to repress piracy and to tackle its underlying causes.

[230] See only S/RES/2125 (2013).

208. Reflecting an increasing recognition of the need for effective measures to improve law enforcement and investigations as well as the prosecution of pirates and of “anyone who incites or intentionally facilitates piracy operations, including key figures of criminal networks involved in piracy who plan, organize, facilitate or illicitly finance or profit from such attacks”, the resolution highlights a number of relevant issues. These include, inter alia, “the continued limited capacity and domestic legislation to facilitate the custody and prosecution of suspected pirates after their capture”, the “importance of continuing to enhance the collection, preservation and transmission to competent authorities of evidence of acts of piracy and armed robbery at sea”, “the importance of cooperation of member States on the issue of hostage-taking and the prosecution of suspected pirates for taking hostages”. Thus, in its operative part, the resolution, inter alia:

"...Urges States working in conjunction with relevant international organizations, to adopt legislation to facilitate prosecution of suspected pirates off the coast of Somalia”;

“Calls upon States to cooperate also, as appropriate, on the issue of hostage-taking and the prosecution of suspected pirates for taking hostages”;

“Recognizes the need for States, international and regional organizations, and other appropriate partners to exchange evidence and information for anti-piracy law enforcement purposes with a view to ensuring effective prosecution of suspected, and imprisonment of convicted, pirates and with a view to the arrest and prosecution of key figures of criminal networks involved in piracy who plan, organize, facilitate or illicitly finance and profit from piracy operations…”;

“Calls upon all States, and in particular flag, port and coastal States, States of the nationality of victims, and perpetrators of piracy and armed robbery, and other States with relevant jurisdiction under international law and national legislation, to cooperate in determining jurisdiction, and in the investigation and prosecution of all persons responsible for acts of piracy and armed robbery off the coast of Somalia, including anyone who incites or facilitates an act of piracy consistent with applicable international law including international human rights law to ensure that all pirates handed over to judicial authorities are subject to a judicial process”;

“Calls upon all States to criminalize piracy under their domestic law and to favourably consider the prosecution of suspected, and imprisonment of those convicted, pirates apprehended off the coast of Somalia, and their facilitators and financiers ashore, consistent with applicable international law, including international human rights law”;

“Reiterates its decision to continue its consideration of the establishment of specialized anti-piracy courts in Somalia and other States in the region with substantial international participation and/or support, as set forth in resolution 2015 (2011), and the importance of such courts having jurisdiction over not only suspects captured at sea, but also anyone who incites or intentionally facilitates piracy operations, including key figures of criminal networks involved in piracy who plan, organize, facilitate or illicitly finance or profit from such attack…”;

"Urges all States to take appropriate actions under their existing domestic law to prevent the illicit financing of acts of piracy and the laundering of its proceeds";

"Urges States parties to [UNCLOS] and the SUA Convention to implement fully their relevant obligations under these conventions and customary international law and to cooperate with the UNODC, IMO and other States and other international organizations to build judicial capacity for the successful prosecution of persons suspected of piracy and armed robbery at sea off the coast of Somalia";

"Encourages flag States and port States to further consider the development of safety and security measures on board vessels, including, where applicable, developing regulations for the use of PCASP on board ships, aimed at preventing and suppressing piracy off the coast of Somalia, through a consultative process, including through the IMO and ISO."

209. While the main focus of the international community's response has been and continues to be on piracy off the coast of Somalia, it is hoped that the ambit of relevant initiatives and efforts will, in due course, be extended to all areas where maritime piracy is prevalent, so as to minimize the incidence of piracy, as well as its human and economic costs and its wide-ranging implications for international transport, trade and security.

ANNEX I
RESOLUTIONS AND DOCUMENTS OF THE INTERNATIONAL MARITIME ORGANIZATION

Resolution or document	**Date**	**Status (where applicable)**
Resolutions of the IMO Assembly		
Resolution A.1044(27), piracy and armed robbery against ships in waters off the coast of Somalia	30 November 2011	
Resolution A.1026(26), piracy and armed robbery against ships in waters off the coast of Somalia	2 December 2009	Revoked by resolution A.1044(27)
Resolution A.1025(26), code of practice for the investigation of crimes of piracy and armed robbery against ships	2 December 2009	
Resolution A.1002(25), piracy and armed robbery against ships in waters off the coast of Somalia	29 November 2007	Revoked by resolution A.1026(26)
Resolution A.979(24), piracy and armed robbery against ships in waters off the coast of Somalia	23 November 2005	Revoked by resolution A.1002(25)
Resolution A.923(22), measures to prevent the registration of “phantom” ships	29 November 2001	
Resolution A.922(22), code of practice for the investigation of the crimes of piracy and armed robbery against ships	29 November 2001	Revoked by resolution A.1025(26)
Resolution A.738(18), measures to prevent and suppress acts of piracy and armed robbery against ships	4 November 1993	
Resolution A.683(17), prevention and suppression of acts of piracy and armed robbery against ships	6 November 1991	
Resolution A.545(13), measures to prevent acts of piracy and armed robbery against ships	17 November 1983	
Documents of the IMO Legal Committee		
LEG 100/14, report of the Legal Committee on the work of its 100th session (secretariat)	30 April 2013	
LEG 99/14, report of the Legal Committee on the work of its ninety-ninth session (secretariat)	24 April 2012	
LEG 99/WP.5, report of the tenth meeting of Working Group 2 on Legal Issues of Piracy off the Coast of Somalia. Copenhagen, 15 March 2012 (secretariat)	16 April 2012	
LEG 100/WP.6, report of the twelfth meeting of Working Group 2 on Legal Issues of Piracy off the Coast of Somalia (secretariat)	15 April 2013	
LEG 100/6/2, piracy (Ukraine)	8 March 2013	
LEG 100/6/1, piracy (secretariat)	1 March 2013	
LEG 100/6, piracy (secretariat)	1 March 2013	
LEG 100/6/3, update on the establishment of a database on court decisions related to piracy off the coast of Somalia and related activities: work in progress (UNICRI)	1 March 2013	

LEG 99/7, piracy (secretariat)	6 February 2012	
LEG 99/7/1, request for information on apprehension of pirates which operate in the Gulf of Aden, the Arabian Sea and the Northern Indian Ocean (Ukraine)	21 February 2012	
LEG 99/7/2, piracy (secretariat)	2 March 2012	
Circular letter No. 3180, circular letter concerning information and guidance on elements of international law relating to piracy	17 May 2011	
LEG 98/14, report of the Legal Committee on the work of its ninety-eighth session (secretariat)	18 April 2011	
LEG 98/8/4, establishment of a legislative framework to allow for effective and efficient piracy prosecutions (Ukraine)	25 February 2011	
LEG 98/8, uniform and consistent application of the provisions of international conventions relating to piracy (secretariat)	18 February 2011	
LEG 98/8/1, piracy: elements of national legislation pursuant to the United Nations Convention on the Law of the Sea, 1982 (UN-DOALOS)	18 February 2011	
LEG 98/8/2, establishment of a legislative framework to allow for effective and efficient piracy prosecutions (UNODC)	18 February 2011	
LEG 98/8/3, piracy: elements of national legislation pursuant to the United Nations Convention on the Law of the Sea, 1982 (UN-DOALOS)	18 February 2011	
Resolutions of the IMO Maritime Safety Committee		
MSC.324 (89), implementation of Best Management Practice guidance	20 May 2011	
MSC.298(87), establishment of a distribution facility for the provision of LRIT information to security forces operating in waters of the Gulf of Aden and the Western Indian Ocean to aid their work in the repression of piracy and armed robbery against ships (the distribution facility)	21 May 2010	Amended by MSC.331(90)
MSC.305(87), guidelines on operational procedures for the promulgation of maritime safety information concerning acts of piracy and piracy countermeasure operations	17 May 2010	
Circulars of the IMO Maritime Safety Committee		
MSC.4/Circ.193, reports on acts of piracy and armed robbery against ships. Annual report 2012 (secretariat)	2 April 2013	
MSC.1/Circ.1444, interim guidance for flag States on measures to prevent and mitigate Somalia-based piracy (secretariat)	25 May 2012	
MSC.1/Circ.1443, interim guidance to private maritime security companies providing privately contracted armed security personnel on board ships in the High Risk Area (secretariat)	25 May 2012	
MSC.4/Circ.180, reports on acts of piracy and armed robbery against ships. Annual report 2011 (secretariat)	1 March 2012	

MSC.1/Circ.1408, interim recommendations for port and coastal States regarding the use of privately contracted armed security personnel on board ships in the High Risk Area (secretariat)	16 September 2011	
MSC.1/Circ.1406/Rev.1, revised interim recommendations for flag States regarding the use of privately contracted armed security personnel on board ships in the High Risk Area (secretariat)	16 September 2011	
MSC.1/Circ.1405/Rev.1, revised interim guidance to shipowners, ship operators and shipmasters on the use of privately contracted armed security personnel on board ships in the High Risk Area (secretariat)	16 September 2011	
MSC.1/Circ.1339, best management practices for protection against Somalia-based piracy (secretariat) (BMP4)	14 September 2011	
MSC.1/Circ.1406, interim recommendations for flag States regarding the use of privately contracted armed security personnel on board ships in the High Risk Area (secretariat)	23 May 2011	Revoked
MSC.1/Circ.1405, interim guidance to shipowners, ship operators and shipmasters on the use of privately contracted armed security personnel on board ships in the High Risk Area (secretariat)	23 May 2011	Revoked
MSC.1/Circ.1404, guidelines to assist in the investigation of the crimes of piracy and armed robbery against ships (secretariat)	23 May 2011	
MSC.4/Circ.169, reports on acts of piracy and armed robbery against ships. Annual report 2010 (secretariat)	1 April 2011	
MSC.1/Circ.1390, guidance for company security officers – preparation of a company and crew for the contingency of hijack by pirates in the Western Indian Ocean and the Gulf of Aden (secretariat)	9 December 2010	
MSC.1/Circ.1337, best management practices to deter piracy off the coast of Somalia and in the Arabian Sea area developed by the industry (secretariat)	4 August 2010	Revoked
MSC.4/Circ.152, reports on acts of piracy and armed robbery against ships. Annual report 2009 (secretariat)	29 March 2010	
MSC.1/Circ.1335, best management practices to deter piracy in the Gulf of Aden and off the coast of Somalia developed by the industry (secretariat)	29 September 2009	
MSC.1/Circ.1333, recommendations to Governments for preventing and suppressing piracy and armed robbery against ships (secretariat)	26 June 2009	
MSC.1/Circ.1334, guidance to shipowners and ship operators, shipmasters and crews on preventing and suppressing acts of piracy and armed robbery against ships (secretariat)	23 June 2009	
MSC.1/Circ.1332, piracy and armed robbery against ships in waters off the coast of Somalia (secretariat)	16 June 2009	
MSC.1/Circ.1302, piracy and armed robbery against ships in waters off the coast of Somalia (secretariat)	16 April 2009	

Documents of the IMO Maritime Safety Committee		
Circular letter No. 3394, interim guidelines for owners, operators and masters for protection against piracy in the Gulf of Guinea region (secretariat)	15 August 2013	
Circular letter No. 3366 – MSC-FAL.1/Circ.2 on questionnaire on information on port and coastal State requirements related to privately contracted armed security personnel (PCASP) on board ships (secretariat)	14 May 2013	
Circular letter No. 3309, information in relation to a meeting of Working Group 1 of the Contact Group on Piracy off the Coast of Somalia (CGPCS), 14 November 2012	2 October 2012	
Circular letter No. 3307, information in relation to a meeting of Working Group 3 of the Contact Group on Piracy off the Coast of Somalia (CGPCS), 25 September 2012	4 September 2012	
Circular letter No. 3306 – LRIT – Addition of polling functionalities to the distribution facility to allow security forces to identify the current position of ships approaching areas of high risk of piracy attack	3 September 2012	
Circular letter No. 3287, information in relation to a meeting of Working Group 5 of the Contact Group on Piracy off the Coast of Somalia (CGPCS), 9 July 2012 (secretariat)	15 June 2012	
Circular letter No. 3277, information in relation to a meeting of Working Group 1 of the Contact Group on Piracy off the Coast of Somalia (CGPCS), 12 July 2012 (secretariat)	14 June 2012	
Circular letter No. 3256, information in relation to a meeting of Working Group 5 of the Contact Group on Piracy off the Coast of Somalia (CGPCS), 22 March 2012 (secretariat)	12 March 2012	
Circular letter No. 3255, information in relation to a meeting of Working Group 1 of the Contact Group on Piracy off the Coast of Somalia (CGPCS) (secretariat)	6 March 2012	
Circular letter No. 3252, IMO Conference on Capacity-building to Counter Piracy off the Coast of Somalia (IMO headquarters, 15 May 2012) (Secretary-General)	29 February 2012	
Circular letter No. 3215, information in relation to a meeting of Working Group 3 of the Contact Group on Piracy off the Coast of Somalia (secretariat)	2 August 2011	
Circular letter No. 3180, circular letter concerning information and guidance on elements of international law relating to piracy (secretariat)	17 May 2011	
Circular letter No. 3164, responding to the scourge of piracy (IMO action plan) (Secretary-General)	14 February 2011	
Documents of other IMO committees		
MSC-FAL.1/Circ.2, questionnaire on information on port and coastal State requirements related to privately contracted armed security personnel on board ships (secretariat)	22 September 2011	
SN.1/Circ.281, information on internationally recommended transit corridor (IRTC) for ships transiting the Gulf of Aden	3 August 2009	

ANNEX II
RESOLUTIONS OF THE UNITED NATIONS SECURITY COUNCIL AND GENERAL ASSEMBLY

Resolutions of the United Nations Security Council[231]	
East Africa	
2125 (2013) [on acts of piracy and armed robbery against vessels in the waters off the coast of Somalia]	18 November 2013
2077 (2012) [on acts of piracy and armed robbery against vessels in the waters off the coast of Somalia]	21 November 2012
2020 (2011) [on acts of piracy and armed robbery against vessels in the waters off the coast of Somalia]	22 November 2011
2015 (2011) [on acts of piracy and armed robbery at sea off the coast of Somalia]	24 October 2011
1976 (2011) [on acts of piracy and armed robbery at sea off the coast of Somalia]	11 April 2011
1950 (2010) [on acts of piracy and armed robbery against vessels in the waters off the coast of Somalia]	23 November 2010
1918 (2010) [on acts of piracy and armed robbery against vessels in the waters off the coast of Somalia]	27 April 2010
1897 (2009) [on acts of piracy and armed robbery against vessels in the waters off the coast of Somalia]	30 November 2009
1851 (2008) [on the fight against piracy and armed robbery at sea off the coast of Somalia]	16 December 2008
1846 (2008) [on acts of piracy and armed robbery against vessels in territorial waters and the high seas off the coast of Somalia]	2 December 2008
1844 (2008) [on acts of piracy and armed robbery against vessels in territorial waters and the high seas off the coast of Somalia]	20 November 2008
1838 (2008) [on acts of piracy and armed robbery against vessels in territorial waters and the high seas off the coast of Somalia]	7 October 2008
1816 (2008) [on acts of piracy and armed robbery against vessels in territorial waters and the high seas off the coast of Somalia]	2 June 2008
West Africa	
2039 (2012) [on acts of piracy and armed robbery at sea off the coast of the States of the Gulf of Guinea]	29 February 2012
2018 (2011) [on acts of piracy and armed robbery at sea off the coast of the States of the Gulf of Guinea]	31 October 2011
Resolutions of the United Nations General Assembly	
Resolution 67/78, oceans and the law of the sea	18 April 2013
Resolution 66/231, oceans and the law of the sea	24 December 2011
Resolution 65/37B, oceans and the law of the sea	5 May 2011
Resolution 65/37A, oceans and the law of the sea	7 December 2010
Resolution 64/71, oceans and the law of the sea	4 December 2009
Resolution 63/111, oceans and the law of the sea	5 December 2008

[231] There are many additional Security Council resolutions concerning peace and security in Africa and the situation in Somalia that do not relate directly to piracy; www.un.org.

ANNEX III
REPORTS OF THE UNITED NATIONS SECRETARY-GENERAL ON PIRACY

Year	Document title	Symbol	Relevant paragraph	Pages
2013	Report of the Secretary-General on the situation with respect to piracy and armed robbery at sea off the coast of Somalia	S/2013/623	Full report	Full report
2012	Report of the Secretary-General on oceans and the law of the sea	A/67/79/Add.1	35–41	9–10
2012	Letter dated 23 March 2012 from the Secretary-General to the President of the Security Council (compilation of information received from Member States on measures they have taken 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)	S/2012/177	Full report	Full report
2012	Report of the Secretary-General on specialized anti-piracy courts in Somalia and other States in the region	S/2012/50	Full report	Full report
2012	Letter dated 18 January 2012 from the Secretary-General addressed to the President of the Security Council	S/2012/45	Full report	Full report
2011	Report of the Secretary-General pursuant to Security Council resolution 1950 (2010)	S/2011/662	Full report	Full report
2011	Report of the Secretary-General on the protection of Somali natural resources and waters	S/2011/661	Full report	Full report
2011	Report of the Secretary-General on oceans and the law of the sea	A/66/70/Add.2	69–83	19–23
2011	Report of the Secretary-General on the modalities for the establishment of specialized Somali anti-piracy courts	S/ 2011/360	Full report	Full report
2011	Letter dated 24 January 2011 from the Secretary-General addressed to the President of the Security Council (Somalia – Report of the Special Adviser to the Secretary-General on Legal Issues Related to Piracy off the Coast of Somalia)	S/2011/30	Full report	Full report
2010	Report of the Secretary-General pursuant to Security Council resolution 1897 (2009)	S/2010/556	Full report	Full report
2010	Report of the Secretary-General on oceans and the law of the sea	A/65/69/Add.2	97–122	24–29

2010	Report of the Secretary-General on possible options to further the aim of prosecuting and imprisoning persons responsible for acts of piracy and armed robbery at sea off the coast of Somalia, including, in particular, options for creating special domestic chambers possibly with international components, a regional tribunal or an international tribunal and corresponding imprisonment arrangements, taking into account the work of the Contact Group on Piracy off the Coast of Somalia, the existing practice in establishing international and mixed tribunals, and the time and resources necessary to achieve and sustain substantive results	S/2010/394	Full report	Full report
2010	Report of the Secretary-General on oceans and the law of the sea	A/65/69	128–134	38–40
2009	Report of the Secretary-General pursuant to Security Council resolution 1846 (2008)	S/2009/590	Full report	Full report
2009	Report of the Secretary-General pursuant to Security Council resolution 1846 (2008)	S/2009/146	Full report	Full report
2009	Report of the Secretary-General on oceans and the law of the sea (addendum)	A/64/66/Add.1	119–129	31–36
2009	Report of the Secretary-General on oceans and the law of the sea	A/64/66	128–134	38–40
2008	Report of the Secretary-General on oceans and the law of the sea (addendum)	A/63/63/Add.1	95–101	28–29
2008	Report of the Secretary-General on oceans and the law of the sea	A/63/63	54–62, 114–160	18–20, 33–44
2007	Report of the Secretary-General on oceans and the law of the sea (addendum)	A/62/66/Add.1	103–105	27–28
2007	Report of the Secretary-General on oceans and the law of the sea	A/62/66	86–89	29–30
2006	Report of the Secretary-General on oceans and the law of the sea (addendum)	A/61/63/Add.1	71–76	24–25
2006	Report of the Secretary-General on oceans and the law of the sea	A/61/63	102–105	30–31
2005	Report of the Secretary-General on oceans and the law of the sea (addendum)	A/60/63/Add.2	52–53	17–18
2005	Report of the Secretary-General on Oceans and the law of the sea	A/60/63	94–98	27–28
2004	Report of the Secretary-General on oceans and the law of the sea (addendum)	A/59/62/Add.1	88–91	26–27
2004	Report of the Secretary-General on oceans and the law of the sea	A/59/62	163–166	41–42

2003	Report of the Secretary-General on oceans and the law of the sea (addendum)	A/58/65/Add.1	53–56	17–18
2003	Report of the Secretary-General on oceans and the law of the sea	A/58/65	108	35
2002	Report of the Secretary-General on oceans and the law of the sea	A/57/57	142–155	27–30
2001	Report of the Secretary-General on oceans and the law of the sea (addendum)	A/56/58/Add.1	63–66	11
2001	Report of the Secretary-General on oceans and the law of the sea	A/56/58	174–223	35–43
2000	Report of the Secretary-General on oceans and the law of the sea	A/55/61	96–102	20–21

ANNEX IV

REPORTS OF THE UNITED NATIONS OPEN-ENDED INFORMAL CONSULTATIVE PROCESS ON OCEANS AND THE LAW OF THE SEA FOCUSING, INTER ALIA, ON PIRACY

Year	Document title	Symbol	Topic(s) of Focus of the meeting
2008	Report on the work of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea at its ninth meeting	A/63/174 and Corr.1.	Maritime security and safety
2001	Report on the work of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea at its second meeting	A/56/121	(a) Marine science and the development and transfer of marine technology as mutually agreed, including capacity-building in this regard; (b) Coordination and cooperation in combating piracy and armed robbery at sea