Marine Piracy

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1 INTRODUCTION AND SCOPE

1.1 The purpose of this paper is three fold. Firstly it is to give an introduction to the subject of Marine Piracy, and how it has developed. The second is to consider rating and risk management issues and thirdly to establish a framework as to how actuaries might manage new emerging risks.

1.2 Piracy is not a new risk; it has been around ever since there has been maritime trade. It has been undertaken by bands of outlaws at one extreme and sponsored by governments and private investors at the other. There are significant volumes of data, some reliable, others not so. Of the reliable data some are relevant to the issue at hand, others not. Thus we have incomplete sets of data which may or not be relevant to the task at hand. It is the role of the actuary to make sense of the data and recognise how it may be used. It is also the actuary's role to recognise weaknesses and bias (government sponsored databases may be used to justify a particular political point).

1.3 The working party also considered briefly other forms of Piracy. Aviation Piracy appeared to us to have limited (if any) data, and was not considered as important by Aviation Insurers (Most events such as hijacking are territorial and hence do not form part of the legal framework for piracy). Downloading of Films and Music is a quite different type of issue, has little in common with marine piracy and has less immediate relevance to insurance. We therefore considered this outside the scope of this paper.

1.4 Piracy takes a number of forms from theft to kidnap and ransom and murder. Over time the forms it takes will vary in response to changing conditions. We also consider the potential for marine terrorism and how this may impact on the world economy. Marine terrorism certainly is a major focus of concern in the United States.

1.5 The major steps in any analysis of any risk may be considered as follows
    1.5.1 Understand the risk and how it impacts on any potential insurance claim
    1.5.2 Understand the quality and shortfall in any data
    1.5.3 Consider how to mitigate the risk
    1.5.4 Estimate a cost benefit analysis of this mitigation process

1.6 For emerging risks the first element is the most important, yet often ignored by actuaries who are mainly interested in the data. By understanding the risk we can better assess the quality and use of any data.

1.7 The third element is also important. As actuaries we often only consider insurance products as the way to mitigate risk. If there is a cost effective alternative then the market will use it, and creation and rating of an insurance product is a complete waste of time. Insurance should be complementary to other risk mitigation measures and cover the residual risk that cannot be cost-effectively mitigated.

1.8 Although we have collected data, (the sources are given in Section 6), and have undertaken some analysis, we would point out that this analysis is based on data which may be unreliable (for instance we have not been able to discuss it with those responsible for collecting it), makes assumptions that may not hold and so on. The usual caveats and warranties that apply to any actuarial report apply to the technical analysis. This paper is not intended to give technical results and rates that can be used in practice by readers.

1.9 We pose one further consideration. Piracy is a moving feast, and anything might have happened between finalising this paper and its publication at the 2010 GIRO conference.

2 BACKGROUND

DEFINITION OF PIRACY

2.1   We first need to closely define what we mean by piracy. This is not easy.

2.2   Consider the following four examples.
   2.2.1   As part of warfare, ships belonging to or trading with the enemy are liable to be seized or attacked.
   2.2.2   It is common to attempt to blockade the enemy's ports.
   2.2.3   A ship is likely to be considered to belong to the enemy if it is registered in the enemy state or is owned by a national of the enemy state.
   2.2.4   Neutral shipping is liable to be attacked if it strays into an prohibited area, and in any case may be attacked if it is thought that it may be an enemy ship or trading with the enemy.

2.3   None of these acts are considered as piracy, if carried on in good faith. Both the International Maritime Bureau ("IMB") & UN Convention on Piracy (UN Convention, see Appendix F) definitions exclude acts of war. The IMB restricts itself to crimes and duly authorised acts of war are not crimes. The UN Convention not only restricts itself to illegal acts but also to acts committed for private ends. The IMB defines piracy as "the act of boarding any vessel with an intent to commit theft or any other crime, and with an intent or capacity to use force in furtherance of that act."

2.4   The IMB & UN Convention should not be regarded as definitions of piracy. Instead they are used for particular purposes. However, the fact that they exclude acts of war is illustrative of some of the issues

2.5   Privateering can be distinguished from piracy in that it is authorised by a national government. Originally letters of Marque (a licence granted by a state to a private citizen to arm a ship and seize merchant vessels of another nation) were issued to shipowners or merchants whose property had been seized abroad to enable them to recover their losses by seizing the property of a fellow-national of the original wrongdoer. However later they were issued to authorise seizure of ships of an hostile state. Of course the state against which privateering was directed might not recognise the legitimacy of the letters of Marque. Spain, for instance, hanged English privateers as pirates. As well as legalised piracy, privateers were used as naval forces. Privateering was abolished in Europe by the Declaration of Paris in 1856 following the Crimean war. The US refused to sign. There is further discussion of this issue in section 3.

2.6   Piracy on the other hand is committed purely for personal motives, usually gain. Political acts are, strictly speaking, not piracy, though if the legitimacy of the action is not recognised, the perpetrator may be found guilty of piracy. Piracy not only includes action by one vessel against another. It may also include mutiny by the crew or passengers of a vessel. Unlawful seizure of the vessel or of property on the vessel may constitute piracy. The exclusion of same ship piracy from the IMB and UN Convention definitions is a matter of convenience and does not necessarily reflect the legal definition. There is no single universally accepted legal definition of piracy. Different states may have different definitions.

HISTORIC CONSIDERATIONS

2.7   Although piracy has existed with maritime trade since pre-history, the incidence varies over time. For example South Wales was once a hotbed for pirate activity (see Appendix C). Indeed the Welsh Pirate model for the 14th and 15th centuries, where baron lords ruled and there was no effective central government, bears much similarity with the modern Somalia. The "War Lord" for the Welsh pirates was Warwick. We can use this similarity to help identify factors which encourage piracy while others discourage it. However the Somalia pirates have now move to a sophisticated "business model" which is very similar to that of privateers (see Appendix E)

2.8   It is therefore important to understand these factors in determining any risk management or risk mitigation (including insurance) process in managing the issue

2.9   From the brief history of piracy set out in Appendices A and B the main original purpose of piracy was gain, in that most pirates took ships for their own use. They also hoped to sell the cargoes and get ransom for or (where slavery is permitted) sell any captives that they took. This required access to places where the stolen goods could be sold or captives held pending ransom.

CURRENT CONSIDERATIONS

2.10   Much recent modern piracy (and specifically the activity of Somali pirates) differs from this in that the whole ship and cargo are being subjected to ransom, and in certain cases the pirates have only been interested in the ransom. They often have no use for the ship, or no ready market in which to sell the vessel. However certain vessels have been noted as "missing" after being taken by pirates and much piracy does not involve any attempt to seize the ship or the crew but is merely directed at the cargo or valuables on board.

2.11   The main factors which enable piracy can be summarised as
- easy availability of vessels to capture,
- ready markets for captives and stolen goods and
- secure places for rest and resupply.

2.12   However these alone are not enough. One of the key risk drivers in global economics is 1 billion people in the world who are below the poverty line and with little or no real prospects. The main source of pirates is from this population. Furthermore, they appear, in certain respects, in many cases, not to have the "democratic" arrangements seen in 18th century piracy with which we are "familiar" via cinematic interpretation. We cover this is section 4.

2.12   Government action and insurance sit hand in hand in most areas. However in marine piracy there is a significant interlinking. Insurance spreads the risk, but if the risk becomes too great, then insurance becomes no longer available or unduly expensive, and governments need to act. For instance, hijacking of lorries was a major problem in the UK a few years ago. The driver is isolated, the hijackers can quickly unload valuable cargoes and then abandon or reregister the vehicle. Remedies included tracking devices, provision of safe lorry parks, restricting access to information on movement of high value cargoes and generally improved security measures Such measures have significantly reduced the incidence of lorry hijacking. In the case of motor insurance, government regulates who can drive, the manner in which we drive and the standard of the car. Offenders are brought to a national civil court. In the case of marine piracy, the ability to set standards and regulate them is significantly more difficult.

3 PIRACY AND THE LAW

UN CONVENTION ON THE HIGH SEAS (1958)

UN CONVENTION ON THE LAW OF THE SEA (1982).

3.1   The starting point of modern law is the UN Convention on the High Seas. The section dealing with piracy on the high seas (or in any other place outside the jurisdiction of any State) was restated in the UN Convention on the Law of the Sea as articles 100-107. These articles are set out in Appendix F.

3.2   Whatever else the UN Convention may be, it is a political document and represents something of a lowest common denominator agreed between the signing parties. It represents what everyone could agree on. Accordingly it lacks many of the features of a legal document and as a call to action it is somewhat lacking.

3,3   Article 100 requires all States to cooperate to repress piracy on the high seas. It does not impose any specific duties on States. It does not require them to do anything to restrict piracy in their territorial waters.

3.4   The term "high seas" gives rise to certain difficulties. It certainly excludes areas within the 12 mile territorial limit: this includes not just areas within 12 nautical miles of land but the device of straight baselines allows states to increase territorial waters by including bays and offshore islands. However, states can create a "contiguous" zone of an additional 12 nautical miles, which is no longer unambiguously part of the high seas. The fact that coastal states have the power to enforce customs and sanitary regulations etc within this area gives rise to political and operational ambiguities which may deter other states from operating against pirates since the coastal state might object to their intervention. The 200 mile exclusive economic zone gives rise to further ambiguities.

3.5   Article 101 restricts piracy to illegal acts without making it clear how illegality is to be defined. Could a Somali pirate argue that piracy is legal under Somali law, or that there is no law in Somalia?

3.6   Interestingly, piracy by and against aircraft is included in the Convention. Piracy against aircraft has been largely controlled by airport security checks (the controls have been somewhat less successful against terrorism). As far as we are aware no aircraft have been used in maritime piracy.

3.7   Article 101 also restricts piracy to actions for private ends. This is in line with traditional definitions of piracy, though political ends, in themselves, are not defined. Individual member states and their courts will make their own decisions, having regard to their political circumstances. One man's terrorist is another man's freedom fighter, so this is inevitable.

3.8   Actions by government vessels are excluded. Clearly third parties meddle in inter-government disputes at their peril, and this is a simple recognition of that fact. However this gives rise to difficulties where pirates masquerade as government officials or where rogue officials act as pirates. Article 102 clarifies that if a government vessel mutinies, this exclusion no longer applies.

3.9   Article 105 allows, but does not require, third party states to intervene to prevent piracy and arrest pirates. While article 107 restricts this right to clearly marked government vessels, presumably it is not intended to prevent self-defence or rendering assistance to those under attack.

3.10   Where piracy occurs has great significance. Piracy in territorial waters is a matter for that country. Piracy in international waters is a matter for everyone and no-one.

3.11   Foreign navies may not intervene in the territorial waters of a country except with permission of that country and it is the responsibility of that country to deal with and prosecute pirates. The ships attacked have the right of self-defence but they must conform to local law. There is no right of pursuit: pirates who attack in international waters and escape into territorial waters are relatively safe unless the local navy happens to be patrolling in the area or the country allows the pursuit.

3.12   In international waters, the only states directly interested are those of the attacked ship and that (if any) to which the pirates belong (or, we believe, where their ship is registered). Third parties had no standing to intervene and it would be difficult for them to prosecute pirates of a different nationality who attacked a third party ship (the UN Convention gives them the right to do so, but they would first have to pass the requisite legislation). The country whose ship is attacked could prosecute (it has the right to defend its citizens); as could the country whence the pirates come. The following examples illustrate the difficulties these definitions cause in dealing with piracy

3.13   An interesting and well documented hijack is that of the Maersk Alabama, where pirates found they had hijacked a US vessel with a US crewsome 280 miles off the coast of Somalia.   (http://news.bbc.co.uk/1/hi/world/africa/10126248.stm   and   Discovery Channel).All but one of the pirates were eventually killed. Interestingly, a Somali official has criticised the US Government's prosecution of a man alleged to be the ringleader of a group of pirates that attacked the Maersk Alabama (a US ship). Although the Somali government is clearly wrong to deny US jurisdiction, (the Maersk Alabama was a US vessel on the high seas) this does illustrate the sensitive nature of any decision to prosecute.

3.14   Such considerations explain the difficulty in controlling the Thai pirates who attacked Vietnamese boat people. The Thai authorities had no interest since the activities occurred outside their territory and did not affect their national interests. The Vietnamese had no interest in protecting the boat people who might be regarded as disloyal.

3.15   This contrasts with the robust action by the Thai authorities in tracing and prosecuting the men who attacked a British yacht in their waters in March 2009 and killed the owner, but allowed his wife to live after forcing her to help sail the boat to shore. They were quickly arrested; two were sentenced to 25 years and the third (a minor) to a lesser term. (http://news.bbc.co.uk/1/hi/england/sussex/8384949.stm). This illustrates the many interpretations in marine law of jurisdiction issues

3.16   The Dutch navy released a pirate crew for the same reason in April 2009. According to the BBC (http://news.bbc.co.uk/1/hi/world/africa/8005730.stm) a Dutch spokesman said the pirates were set free because NATO did not have a maritime detainment policy, meaning Dutch national law would apply. "They can only arrest them if the pirates are from the Netherlands, the victims are from the Netherlands, or if they are in Netherlands waters," he said. Since then the Dutch attitude has hardened: in June, 10 alleged pirates who attacked a German ship were extradited to Germany although the judge accepted   that   the   Netherlands   had   the   power   to   try   the   men. (http://news.bbc.co.uk/1/hi/world/europe/10295396.stm)

3.17   Kenya has been prosecuting captured pirates under an agreement with the EU. A new court opened in June, funded by international donors (including the UN, EU, Canada and Australia), putting to an end a period of uncertainty following a Kenyan Government statement at the end of March that it would not accept any more seized Somali pirates because it had not received the promised assistance to cope with this "burden". Prosecuting pirates gives rise to considerable costs to the courts, the prosecution authorities and potential witnesses or their employer and, once convicted, they are a

burden to the prison system. There are also difficulties in assembling evidence. (http://news.bbc.co.uk/1/hi/world/africa/8599347.stm & http://news.bbc.co.uk/1/hi/world/africa/10401413.stm)

3.18   The Seychelles also tries pirates seized by EU naval units. It recently amended its criminal code to enable it to prosecute pirates under universal jurisdiction. (http://news.bbc.co.uk/1/hi/world/africa/8664623.stm & http://www.bbc.co.uk/news/world-africa-10763605)

3.19   The UK has not, to date, been prepared to try pirates, mainly due to fears that on expiry of their sentence, or if they are not convicted, that human rights considerations may prevent them being returned to their home countries. Instead it has handed suspected pirates over to the Kenyan or Seychelles authorities.

HUASCAR

3.20   In 1877 the crew of the Peruvian warship Huascar mutinied. Two British ships were temporarily detained by the Huascar but the boarding parties left peaceably when demands for mail and dispatches were refused. The Huascar did however take that part of a cargo of coal allegedly belonging to Peruvian owners. Arguably this would have been a legitimate seizure of contraband, if Huascar were given belligerent rights. Two British men joined the Huascar's crew, apparently voluntarily.

3.21   Later the Huascar was attacked by British warships in Peruvian waters but escaped and surrendered to a Peruvian government squadron. The Peruvian government made a diplomatic protest about the attack on a Peruvian vessel in Peruvian waters. While the UK Government justified its actions on the grounds that the Huascar was a pirate ship, the matter was raised in Parliament. Whatever the rights and wrongs of the case, it does illustrate the dangers of meddling in another nation's affairs.

REBELLION & TERRORISM

3.22   In the event of a rebellion, foreign states need to act carefully. If they recognise the rebellious forces as legitimate combatants, they risk antagonising the existing government. If they simply treat them as criminals (which they may do), they risk antagonising the new government if the rebellion succeeds. The examples below illustrate some of the issues when dealing with dealing with revolutionaries.

3.23   During the American Civil War many foreign states, including Britain and France, recognised the Confederacy as a legitimate belligerent, and did not arrest Confederate privateers as pirates. A Canadian court refused to extradite Confederates who had seized a Union merchant ship, the Chesapeake, in New York harbour, killing one man and wounding another.

3.24   However they did not allow Confederate prizes in their ports and reclaimed prizes captured in their waters.

3.25   Although the Union government condemned Confederate privateers as pirates, the legal position was somewhat ambiguous. A prize crew aboard the Jeff Davis, which was recaptured, were convicted of piracy and sentenced to hang. However, when the crew of the privateer Savannah was charged, the Court allowed evidence to support the defence case that the United States had to acknowledge combatant status and treat the crew as prisoners of war and not pirates. Probably as a result the jury could not agree and the crew was not convicted.

3.26   In the event, because of threats of threats to execute Union prisoners in retaliation, the convicted men in the Jeff Davis case were not hung. Eventually all the Confederate privateers in Union custody were exchanged for other prisoners of war.

SANTA MARIA (OPERATION DULCINEA)

3.27   In 1961 the Portuguese cruise ship, Santa Maria, was seized by a group led by Dr Henrique Galvão, aiming to inspire a revolt against the Salazar dictatorship. The Portuguese government appealed for foreign naval help to suppress the "pirates", but other states refused to intervene when they learned that the hijacking was political. The journey of the hijacked Santa Maria was eventually cut short due to a troubled engine and problems with the 900 captives on the ship.

3.28   Dr Galvão was at pains to assure the world that the passengers were safe and not under threat, but were being treated courteously. He maintained that the seizure was not an act of piracy but part of an insurrection. He desired the good will of the whole world especially Brazil and her new president, Janio Quadros. General Delgado, the leader of those opposed to the Salazar regime, in whose name Galvão was acting, supported this and asked foreign governments not to interfere. The US was concerned for the welfare of the US citizens on board and the US navy shadowed the ship once it had been located.

3.29   There were negotiations over a period of days with the US and Brazilian governments. Galvão was happy to allow the passengers to disembark but wanted assurances that he could resupply the ship and head out to sea again. While President Quadros was sympathetic to the political aims of Galvão, he was not prepared to permit this. However problems with the steerage class passengers and a troubled engine meant that Galvão had to yield. After almost a fortnight the hijacked ship finally docked in Recife. Brazil granted political asylum to those involved to end the incident which had resulted in one death. No prosecutions followed.

ACHILLE LAURO

3.30   In 1985, the Abu Abbas faction of the Palestine Liberation Front seized the cruise ship, Achille Lauro, off Egypt and took the passengers and crew hostage. They demanded the release of 50 Palestinian prisoners held by Israel, threatening to kill their hostages if Israel did not meet their demands. They killed a wheel-chair bound American Jew but Israel refused to negotiate. Eventually they were persuaded to surrender the ship in return for safe passage to Tunis. The US forced the plane to land at a NATO base in Italy, where the perpetrators were tried and convicted. Abu Abbas, who was on the plane, was permitted to continue his journey.

1988 CONVENTION FOR THE SUPPRESSION OF UNLAWFUL ACTS AGAINST THE SAFETY OF MARITIME NAVIGATION

3.31   Following the Achille Lauro, the UN introduced the 1988 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation. This can be found in Appendix G. It covers terrorism as well as piracy, but only covers the more serious pirate attacks (roughly major criminal hijack – see section 4).

MASEFIELD V AMLIN (2010)

3.32   The following is from *Insurance Day on Friday 26 March 2010*

"In a recent judgment arising out of Gulf of Aden piracy, the Commercial Court rejected the pr*oposition that capture by pirates automatically gives rise to a total loss of the insured property.*

In Masefield v Amlin (2010), the Commercial Court has confirmed in the context of cargo insurance that capture by pirates is not sufficient to found a total loss claim.

*The "BUNGA MELATI DUA' and her cargo of bio-diesel were captured by pirates in the Gulf of Aden in August 2008. One month after capture, while ransom negotiations were progressing well, cargo owners tendered Notice of Abandonment indicating their intention to claim a constructive total loss ("CTL')". [*CTL refers to insured property that has been abandoned because its actual total loss appears to be unavoidable, or because it could not be preserved or repaired without expenditure in excess of its value]*. "Notice was rejected by underwriters. Ransom was subsequently paid and the vessel and cargo were released. The assured nevertheless proceeded with a total loss claim.*

The assured's primary argument, based on old authority, was that the cargo had become an actual total loss ("ATL') from the moment it was seized by the pirates. The assured argued that, at that moment, they had been "irretrievably deprived' of the cargo in accordance with sect. 57(1) MIA 1906. The Court rejected this argument.

Steel J found that, to be "irretrievably deprived' of the insured property, the assured must show that recovery of possession is legally and physically impossible. The pattern of Somali piracy incidents was that vessels and their cargoes were released on payment of a ransom within around six to eight weeks of capture. The shipowners and cargo owners in this case both intended and expected their property to be released in such a way, as it eventually was. Therefore, upon capture, the assured had not been "irretrievably deprived' of the insured cargo. The old authority was held not to apply on the basis that the assured had lost possession of their property but not dominion over it or title to it. The piratical seizure alone was not enough to found an ATL claim.

The assured argued in the alternative that the seizure gave rise to a CTL as the cargo had been abandoned because an ATL appeared unavoidable. Steel J held that "abandonment' for the purposes of this provision means the abandonment of any hope of recovery. There had not been any such abandonment in this case as the shipowner and cargo owner expected to recover their property.

The Court also considered an argument raised by the assured that the payment of a ransom was contrary to public policy, and therefore the fact that a ransom would secure release of the vessel and cargo could not be taken into account when considering whether the vessel was irretrievable for the purposes of the ATL claim. Steel J held that, while the payment of ransom may perpetuate and encourage piracy, it was not contrary to public policy because ransom payments are not illegal in England and are often the only option if crew members are to be taken out of harm's way.

*The court also cited with apparent approval the principle laid down in Royal Boskalis Westminster NV v Mountain (1999) that ransom payments are recoverable as a sue and labour expense." [*This is a standard clause in a maritime insurance policy which allows the insured to recover from the insurer any reasonable expenses incurred by the insured in attempting to minimize or avert a loss to the insured property, for which loss the insured would have been liable under the policy]

"All in all, the decision is a welcome one for insurers. If the Court had held that Gulf of Aden piracy incidents automatically gave rise to total loss claims for vessel and cargo, then the risk of piracy could quickly become uninsurable with dramatic consequences for world trade. The reassurance that ransom payments are not contrary to public policy should assist owners in the recovery of contribution to ransom payments in general average from other interests at risk, principally cargo."

3.33   There is possibly more going on than revealed in this summary. The seizure was for a period of only 41 days and the cargo in question did not deteriorate. It was insured for $13.3m and the claim was for $7m, allowing for the proceeds of sale. Any general average contribution to the ransom would have been relatively small, so that whether or not the claim allowed for a contribution, it is clear that the cargo was sold for less than half its insured value. [General average is a principle of maritime law where, in the event of emergency, if a cargo is jettisoned or expenses incurred, the loss is shared proportionately by all parties with a financial interest in the voyage.]

3.34   At the time oil prices were falling sharply. So part of the loss claimed would have arisen anyway, though the delay caused by the seizure of the ship would have increased this loss.

3.35   In the absence of a finding of a constructive total loss, there may have been no recovery against the insurance: that is that the economic loss caused by a combination of falling oil prices and delay might not have been covered.

COSCO BULK CARRIER CO LTD V TEAM-UP OWNING CO LTD (2010)

3.36   This case was reported in *Insurance Day* on Friday 25 June 2010. It concerned the interpretation of a common clause in the agreement relating to the charter of the *Saldanha* to Cosco. The *Saldanha* was hijacked in the Gulf of Aden in 2008. It was held that the vessel remained on hire during the period it was held by pirates. The judgement has implications for the liabilities of charterers and owners of hijacked ships and their insurers. It may lead to changes in charterparty agreements.

PAYMENT OF RANSOM

3.37   The judgment in Masefield v Amlin also found that ransom payments were legal, something which other countries, and in particular the US, find difficult. The UK Government has a policy of not paying ransom to kidnappers or hijackers and does not encourage such payments, though it has no power of veto. Her Majesty's Government has refused to assist in paying or negotiating ransom.

3.38   President Obama signed on 13 April 2010 an executive order that is likely to restrict or make more difficult the payment of ransom to Somali pirates. In conjunction with the issue of the executive order, the U.S. Treasury's Office of Foreign Asset Controls (OFAC) issued a list of Somali individuals and organizations that have been added to its SDN list. [SDNs are specially designated nationals – organisations or individuals – who are restricted from doing business with the US, its businesses and its citizens] U.S. persons are prohibited from having any dealings with persons on the SDN list. These include two known pirate leaders. This may have consequence on any insurer assisting in paying a ransom. (See Appendix H)

3.39   For instance: payments involving an US bank would be caught by the order and insurers would need to be careful that payments were not routed through New York; an US person might be prohibited from contributing to a ransom to a gang with which one of the named individuals was likely to be associated. This would create difficulty, for instance, in collecting any general average contribution in respect of a ransom. The US government has advised that if an US vessel, US crew, or US cargo is captured by Somali pirates, the owner, employer, or cargo interests should notify the US government immediately and liaise with it.

4 MODERN PIRACY

4.1   Piracy has never gone away and remains a global issue. There were, for instance, two incidents in 2002 when robbers escaped with goods from ships berthed in Goole (Yorkshire). (Ref House of Commons Library)

4.2   Modern piracy is generally undertaken by small groups usually (but not always) in coastal waters operating in high-speed boats or by stealth. On the high seas they generally operate from motherships. They use surprise and deception, often coming aboard disguised as coast guards or harbour police.

FORMS OF MODERN PIRACY

4.3   The International Chamber of Shipping (ICS) classifies pirate attacks into three basic categories:

4.3.1. **Low-Level Armed Robbery (LLAR)**
An attack with the intention of stealing, usually under cover of darkness. The culprits take whatever they can carry from the deck and the hold. Violence only occurs when the crew tries to stop them.

4.3.2   **Medium-Level Armed Assault and Robbery (MLAAR)**
Armed assault with violence or threats of violence. The pirates usually come on board unnoticed and force the crew to hand over their cash and valuables. Cargo is also stolen if possible. Each raid is over in less than an hour. The financial loss is usually in the order of between US$ 10,000 and 20,000.

4.3.3   **Major Criminal Hijack (MCHJ)**
Carefully planned theft of the entire cargo. The pirates know every detail of the cargo and the ship's stowage plan. Often, while some of the attackers hold the crew captive below deck, others transfer the cargo to another ship. When the raid is over, the ship drifts in the ocean with the bridge unmanned. This type of attack usually results in a double digit million dollar loss.

4.3.4   In the worst case, the entire ship is hijacked along with its cargo, with organised gangs operating "to order" in some cases. The crew is marooned at sea or killed and the cargo transferred to another vessel or discharged illegally in a port other than the original destination. The ship is reregistered in a foreign port, given a new name, a new flag, and a new coat of paint. It is then supplied with false papers and loaded with goods which will never reach their original port of destination. These so-called phantom ships have been a familiar phenomenon since the 1980s, especially in Southeast Asia. Organised crime operates hand-in- hand with corrupt officials in local authorities: without bribery, it would be almost impossible to obtain false papers and sell the cargo. The ISPS Code (see later) should reduce the ability of pirates to reregister ships.

4.3.5   MCHJ includes the seizure of ships and crew for ransom, primarily by Somali pirates (see below).

ISPS CODE (INTERNATIONAL SHIPS AND PORT FACILITY SECURITY CODE)

4.4   The ISPS code was originally used in the fight against terrorism. It is now being used to combat both piracy and organised crime. It was relatively easy to operate a phantom ship with false papers and certificates and to sail into ports unrecognised. However, the regulations and requirements of the ISPS Code make it extremely difficult for a phantom

ship to remain unnoticed. It is not enough simply to have false ISPS papers and certificates on board, as the ISPS certification is additionally registered in databases like Seasearcher or Equasis. This entry is based on information provided by the issuing authority and theoretically cannot be changed. The ISPS Code also requires the vessel to have its IMO number visibly marked on the hull, making it more difficult for the vessel to assume a false name. The ISPS Code should prove to be an almost insurmountable hurdle even for well-organised criminal gangs.

SOMALI (PUNTLAND) PIRATES

4.5   Although this paper deals with piracy throughout the world, the major region for recent modern piracy has been from Somali. This has attracted much publicity due to the high profile reporting of certain incidents, in particular the unsuccessful hijacking of the Maersk Alabama which was highlighted on US television

4.6   The incentives for the pirate have always been about the potential riches. These incentives must be higher than the risk of being caught. Historically, in part, piracy was about an alternative lifestyle, with greater individual freedom compared to work as a regular sailor on a commercial ship or in a national navy. This was balanced with an efficient form of organisation that prevents internal predation, minimising conflicts (see Appendix E).

4.7   In the first instance Somali piracy did not contain any such system. Piracy provided a way to earn a living in a country deprived of employment opportunities (including fishing as a result of the depletion of fish stocks off the Somali coast through international fishing). There was an opportunity for earnings incomparable to the alternative choices and this is the major reason for the existence of the Somali piracy.

4.8   Similar considerations apply elsewhere. There are 1 billion people below the poverty line where the rewards of such ventures outweigh any risk. What is interesting is to see how the economic wealth of individuals has changed over time and how this impacts on piracy. During the 1980's and 1990's the area with low economic wealth were concentrated in Asia, During the last 20-30 years the economic wealth of the Asian area has increased significantly whilst that in the African continent has declined. The trend in piracy has followed the shift in economic wealth.

4.9   The Somali pirates' methods are varied, and they have been known to change tactics. On one hand there are several groups under an overlord, with no defined structure. In many ways this is similar to the medieval Welsh Pirates (See Appendix C). On the other hand there are other groups with a clearly defined pay and structure similar to that seen in 18th century Caribbean pirates (see Appendices A and B).

4.10   Early success encouraged the Somali pirates to escalate their attacks, the increase coming from both an increase in the number of locals participating, but also from other communities along the Somali coast turning to piracy. Each group will have a differing structure and organisation – there is no one model to describe piracy in Somalia
.
4.11   In 2007 the estimated turnover from piracy was around US$ 30 million Puntland's general economy is estimated to something around US$ 20 million. Readers may draw their own conclusion

4.12   The level of piracy also appears to depend on the stability of government. When the UIC [Union of Islamic Courts] took power in June 2006 there was a clear decline in piracy activity which reversed when the UIC fell. Many people are dependent on piracy as their main source of income.

4.13   The Centre for Piracy is Puntland which is relatively calm compared to South and Central Somalia. This enables a secure environment for negotiations with a safe harbour,

accommodation for the hostages, reliable communication and a minimum level of movement.

4.14   Bargaining is important. Payments may be made directly to the pirates, or the handover may be made in a third country, such as Yemen or Kenya. A part of the ransom often goes to the Somali diaspora, if this is a "share", for safekeeping. There are also examples where Somali expatriates have been instrumental in getting telephone numbers to civil-servants to accommodate the bargaining procedure concerning a hijacked merchant vessel. Payments are also made to higher officials

4.15   However, for any state that "sponsors" or condones piracy, there is a clear risk of losing control. History tells us that although pirates and privateers may be valuable in times of war and useful in tapping competing states' trade in peacetime; they may eventually become a liability. For example when England, during the reign of the Stuarts in 1604, sought a more stable peace with Spain, the privateers became an acute problem. Sir Walter Raleigh's sacking of San Thomé, in 1616, prompted the Spanish ambassador to demand compensation and the imminent execution of Raleigh. England acceded, and Sir Walter Raleigh lost his head. Captain Kidd was a similar, but less political, example,

4.16   In respect of Somalia, the historical case which has been considered the most relevant is the Barbary Corsairs. In the 18th and 19th centuries, many of the European states (England, France, Spain, Holland and Sweden) negotiated protection treaties with the Barbary Corsairs to have their ships spared. The treaties were, however, notoriously unreliable as they were often simply ignored when another nation cut a better deal. The constant menace by the pirates caused many states to resort to violence. England, France, Holland and the USA all carried out punitive expeditions, at one point, to stop the piracy activity. But, it was not until France invaded Algeria in 1830 that the pirate activity was finally stamped out.

MALACCA STRAITS

4.17   The Malacca Straits are 500 nautical miles long, just nine nautical miles wide at their narrowest point, and only 30 metres deep in some places. It is one of the most highly frequented waterways in the world. A vessel transits the Straits every ten minutes. It has been a hot-bed of piracy since pre-history and the need to combat piracy was used to justify British colonial expansion into South East Asia (currently known as Malaysia)

4.18   In the latter part of the twentieth century there was a resurgence of piracy. This has included MCHJ with ships either being reregistered in a foreign port or abandoned to drift at sea. A fear has been that a large ship or one with a hazardous cargo might be left to drift and collide with another ship, blocking a key channel.

4.19   The situation has improved following the Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP), initiated by Japan in 2001. Since then the three coastal states (Singapore, Malaysia and Indonesia) have cooperated to suppress piracy in the straits, assisted by funding by other countries, notably Japan. These efforts have resulted in a reduction in piracy in the straits (no major incidents reported to the IMB in Q1 2010),(http://www.icc-ccs.org/index.php?option=com_content&view=article&id=406:worldwide-hijackings-rise-as-pirates-expand-area-of-operation&catid=60:news&Itemid=51)

NIGERIA

4.20   This is another piracy hotspot. Pirates are violent and have attacked and robbed vessels or kidnapped crews. Delays at Lagos have provided opportunities for pirates. An insurrectionary movement in the coastal areas, partly directed at oil companies, has led to a general increase in lawlessness and the availability of weapons. Loss of fishing grounds, through a combination of pollution, exploitation by foreign fishing fleets and

intimidation by militants have reduced opportunities for local fishermen, encouraging them to turn to piracy.

OTHER HOTSPOTS

4.21   These include: Bangladesh (particularly ships waiting to enter Chittagong), South China Seas, Conakry (Guinea), Santos (Brazil), Callao (Peru) and many more.

4.22   A dramatic incident in April in the South China Seas serves as an example that piracy in these and other areas can be as much a threat as in Somalia. A tug towing a barge was seized. The shipowner reported that the ship had deviated from its planned course. The Malaysian authorities located the barge and tug the next day. The barge had been detached, apparently to allow the tug to travel more quickly. The barge was recovered by the Malaysian authorities, while the tug headed towards Indonesian waters. Subsequently the tug was located (less than 3 days after the hijack), with the crew safe on board. It had been abandoned by the pirates who had painted over its name. It was escorted into Singapore by the Singapore navy. It is believed that the prompt response and presence of the law enforcement agencies from Malaysia and Indonesia was a key factor causing the pirates to abandon the tug. (From report by RECAAP ISC)

4.23   Piracy has been cited by the Cameroon authorities as a factor leading to a reduction in investment in their offshore oil industry, leading to a fall in production. (http://af.reuters.com/article/topNews/idAFJOE6370PW20100408)

ATTACKS ON YACHTS

4.24   Pirates have also been known to attack private yachts in certain coastal regions far from the usual commercial shipping routes. Traditionally high-risk regions include the Caribbean, Philippines, the China Sea, the Somali coast and the Gulf of Aden. Elsewhere too, as poverty increases in some coastal regions, there is a growing readiness to assure survival by illegal means, with the result that attacks have also been reported off the coasts of South America, Morocco, Mauretania, and Albania in recent years.

4.25   It is difficult to estimate the precise number of attacks every year. The International Maritime Bureau (IMB) includes sailing yachts and motor yachts in its statistics, their numbers are far from complete and other sources suggest significantly higher numbers. There is a suggestion that the actual number is three times that reported.

5 TERRORISM AT SEA

INTRODUCTION

5.1 Since the Achille Lauro incident, which led to the 1988 Convention (see section 3) this has been a major concern.

5.2 Piracy has increasingly been linked with the risk terrorist attacks at sea. The international shipping industry is responsible for the carriage of around 90% of world trade.. In most cases, it has to pass through a narrow body of water such as the Straits of Malacca or the Suez Canal, at least once during its journey. Even a partial blockage of these passages would have a serious impact on world trade and give rise to additional costs in the order of billions of pounds

5.3 In addition the US has been concerned about the possibility of a terrorist attack from a vessel entering a US port with explosives.

5.4 Terrorists could adopt the same methods as pirates to seize a ship. The distinction between acts of terrorism and piracy may be relevant from a legal point of view, particularly with regard to rights of pursuit and the possibility of penal sanctions

5.5 From the insurer's point of view the distinction would be important if the insurance contract contained a terrorism exclusion.

5.6 The US is also concerned that terrorists might fund their terrorist activities through piracy and has blocked the payment of ransom by US persons that might benefit two known pirates (see section 3 above).

PHILIPPINES

5.7 There are several armed insurrectionary movements in the Philippines, mainly seeking autonomy or independence for Moslem areas. These insurrectionists have been responsible for terrorist bomb attacks on ferries. The most notorious was by the Abu Sayyaf group in 2004 on the Superferry 14 in Manila bay which killed 116 people. We believe this to be largest marine terrorism incident to date. The US suspected the Abu Sayyaf group was connected with Al Qaida.(http://news.bbc.co.uk/1/hi/world/asia-pacific/3732356.stm. There a reference on the BBC website to at least one other bomb attack on a ferry)

MALACCA STRAITS

5.8 As noted in section 4, the Malacca Straits between Malaysia, Singapore and Indonesia, are long, narrow, shallow and very busy. Its traffic includes oil tankers carrying 40% of the worldwide output. Almost the entire Far East's oil supply depends on whether or not this waterway can be transited. Any blockage due to terrorist attack would have a devastating effect on the world economy.

5.9 If the Straits of Malacca were to be blocked by a terrorist attack, ships would have to make a detour of roughly 1,000 miles, leading to higher freight rates and consequently also to higher commodity prices. Considering that 80% of Japan's oil is imported from the Middle East, for example, such an attack would clearly have a significant impact on the world economy

SUEZ CANAL

5.10   The following is an extract from the Jerusalem Post of 9th July 2009

"Egyptian authorities have arrested 25 al-Qaida-linked terrorists on suspicion of plotting attacks on oil pipelines and ships crossing the Suez Cana.

The Egyptian Interior Ministry said the new cell was led by a Palestinian and included 24 Egyptians, mostly engineers and technicians.

They planned to use mobile phones to detonate explosives against ships crossing the Canal, the statement said. The group learned how to make car bombs through communicating with al-Qaida terrorists on jihadi Web sites, according to an Interior Ministry statement. The detainees confessed to funding their activities through contributions from Islamic charities abroad and in one case robbed a jewelry store and murdered its Coptic Christian owner"

5.11   According to the U.S. Energy Information Administration, an estimated 3.9 million barrels of oil per day are transported from the Middle East to the west via the Suez. Nearby is the Sumed pipeline, a major transportation route that pumps another 2.3 million barrels per day. 4.7 percent of the world's daily output of oil travels through the area. If the Suez were ever closed, ships trying to make it from the Middle East to Europe would have to travel around Africa to complete their journey. On top of delays in supply, the cost of shipping would also increase. As a result, the price of crude would increase significantly

PANAMA CANAL

5.12   The Panama Canal accounts for about 5% of world shipping. The Panama Canal crosses the Isthmus of Panama at the narrowest point of the Americas. Fifty miles long, including the approaches, the Panama Canal raises ships by sets of locks at each end so that they can pass across manmade Lake Gatun in Central Panama.

5.13   Roughly forty ships make the eight hour passage through the Panama Canal each day. Because of increasing traffic and a need to accommodate larger ships the Panama Canal Authority has started the Panama Canal Expansion. This ten year long project will widen the central channels and build a second set of large locks on each end of the Panama Canal. The Panama Canal Expansion will more than double Panama Canal capacity.

5.14   Exercises involving simulated terrorist attacks are held involving many American (North, Central and South) countries

US PORTS

5.15   Another major concern is the United States There are 361 deep water ports. Each year, nearly 8 million shipping containers pass through U.S. ports. This stream of cargo is the lifeline of the American economy. The US Government sees it as a potential magnet for a possible nuclear attack. They have also identified potential targets. Terrorists could be expected to target a port that handled a large volume of oil and other goods and that had a densely-populated area that tankers passed on their way through a harbour to an unloading terminal. Various cities worldwide meet these criteria. If terrorists sought major economic damage while minimizing loss of life, they might try to target the Louisiana Offshore Oil Port, or LOOP, the only U.S.deepwater oil port that can handle fully loaded supertankers. LOOP, 18 miles off the Louisiana coast, currently handles about 10% of U.S. crude oil imports.

6 INSURANCE AND PIRACY

INTRODUCTION

6.1   There are many different interests impacted by piracy including ship owners, cargo owners, ship crew, charters etc. There is therefore a wide range of different insurance products which come into play. This section details the types of insurance policies impacted by piracy along with some of the coverage issues arising.

6.2   For clarity this section of the paper will focus on Marine policy wordings used in the London Market. Although the overall coverages are similar throughout the world the terms and conditions do vary. For instance the coverage issues between Hull and War described below were not an issue for the Japanese and Norwegian hull markets where piracy has been consistently covered by the War policies.

HULL INSURANCE

6.3   Hull Insurance provides insurance to cover the physical damage of the ship. It is often split into a Hull & Machinery (H&M) policy which covers both partial and total losses up to a specified percentage of the ship's value and an Increased Values (IV) policy which insures the remainder of the ship for total loss only.

6.4   Piracy claims may contribute to both H&M and IV policies: total losses arise from theft of the vessel or from scuttling due to pirate attack; partial losses can come from damage incurred to the ship even if the pirates were unsuccessful.

WAR

6.5   Marine War cover provides insurance against the danger of loss to a war peril. As well as hull cover it provides cover for P&I and Crew up to the hull value. The insured has to notify the insurer if there are plans to enter a war risk area and the insurer has the option to charge an additional premium or even cancel the policy when this happens. The war risks areas are suggested by the London-based Joint War Committee. In May 2008 The Joint War Committee added the Gulf of Aden as a war risks area due to piracy.

6.6   Under the Marine clauses used in the London Market piracy has moved several times between the Hull and War polices. Until 1937, piracy was one of the named insured perils in the combined Lloyd's hull and cargo policy. At that point, driven by events in the Spanish civil war, piracy was classified as a war risk. However, in the 1982 Institute Time Clauses (ITC) Hull policy wording it was again moved back to being a hull risk to try to avoid problems differentiating between piracy and theft. In 2005 the Joint Hull Committee introduced optional exclusions for piracy in the hull policy and a corresponding war clause incorporating piracy. Initially there was little take up for this option. However the piracy threat in the Gulf of Aden has led to a significant increase in its use.

6.7   There are significant advantages for the insurer of having piracy covered under War as it allows them to better manage and understand their piracy exposure and also to charge premiums which better reflect the risk taken. War policies also have a cancellation provision which allows the insurer to react quickly to the changing conditions of modern piracy.

6.8 There are also advantages to the insured particularly in providing clarity of coverage. Given the possible links between piracy and global terrorist networks the distinction between piracy and terrorism risks can be blurred. While a Hull policy may cover piracy, terrorism is excluded. Therefore the insured cannot be certain that they will be covered for all piracy claims. A war policy will also cover terrorism and therefore may be preferable.

6.9 Obviously there are also some disadvantages to the insured as it will reduce the flexibility to navigate certain waters without first advising the insurer.

CARGO

6.10 Piracy impacts on cargo from robbery, damage or delay of the insured goods. Damage could be during pirate attack or once captured; delay particularly comes into effect for perishable goods.

6.11 Cargo carried by a ship is not insured by the ship owner but by the owner of the cargo – which may well be a large number of different parties for a large ocean-going cargo ship (who in turn are likely to have different insurers). This variety of different interests on a ship has lead to the development of a particular legal principle of marine insurance – General Average. This states that when two or more parties are engaged in the same sea risk, all the parties proportionally share any losses resulting from a voluntary sacrifice of part of the ship or cargo to save the whole in an emergency

6.12 Historically ransom payments for the release of hijacked vessels, cargo and crew have been paid by the owner of the vessel (and their insurer). However during 2008 as the size and frequency of ransom claims increased owners have started to make General Average declarations. At the time of writing, despite a lack of case law, General Average has generally been accepted by Hull and Cargo insurers as the fairest way of dealing with ransom claims.

PROTECTION AND INDEMNITY (P&I)

6.13 P&I insurance provides cover against third party liabilities and expenses arising from owning ships or operating ships as principals. More than 90% of ocean-going ships are insured by the mutual P&I Clubs that are members of the International Group of P&I Clubs.

6.14 Ransom payments are neither included nor specifically excluded under standard P&I wordings. Hull and Cargo insurers have started to suggest that P&I cover should contribute if General Average is declared given that part of the ransom will be for the crew. At the time of writing this has been resisted by the P&I Club Managers.

6.15 One area that is covered under P&I is crew liability. An example of where this would be impacted by piracy is where a member of the crew is injured or killed in the pirates' attack.

K&R

6.16 Standard Kidnap and Ransom (K&R) insurance would provide cover for ransom requests in respect of the crew of a vessel but would not cover the vessel and cargo. However marine specific coverages have been developed with wordings that reflect both the crew and property exposures. K&R coverage includes the cost of delivering the ransom and its attendant insurance cost. The policy also covers the cost of negotiators and their disbursement expenses.

6.17   Purchasing a K&R policy as well as the standard Hull and War policies obviously raises the potential for duplication of piracy cover. The resolution to this is for the insured to disclose to the Hull/War insurer that they are also purchasing K&R cover (given the confidential nature of K&R policies they may need permission from the K&R underwriters before doing this). As long as the K&R cover is purchased with a waiver of rights of subrogation the piracy exposure of the Hull/War underwriter is reduced (but does not disappear as they will still pick up claims for damage in unsuccessful piracy attempts). This should then be reflected in a reduction in the Hull/War premium.

6.18   There are significant advantages to the insured parties of purchasing K&R cover for piracy. It provides clarity of coverage as there is no longer the potential for disputes between the Hull, Cargo and P&I interests on General Average apportionment. K&R insurance also provides certainty of coverage: Hull and Cargo will only provide ransom payments up to the value of the insured vessel and cargo. Finally K&R cover also provides an expert support service beyond pure insurance.

LOSS OF HIRE (LOH)

6.19   LOH insurance can be thought of being comparable to Business Interruption insurance. It covers a shipowner's (or charterer's) loss of freight (or charter hire) income in the case of defined risks being triggered. Traditional LoH covers would only respond to physical damage to the insured ship. Specific "non damage" loss of hire cover would need to be purchased to cover the vessel's loss of earnings if captured by pirates. During 2008 a number of piracy specific LoH policies were launched.

6.20   Cover is for a defined maximum number of days and the daily indemnity is fixed and agreed at inception.

SMALL CRAFT

6.21   Small craft operators normally purchase H&M, War and P&I from the same provider so there are less coverage issues

6.22   There is a potential concern that, given the smaller size of ship, the ransom demand (which may include an amount for captured crew) will exceed the value of the ship. As the value of the ship is the limit of the H&M cover it may result in the insurer not being prepared to pay the ransom in full.

RISK MANAGEMENT

6.23   Before looking at specific measures it is worth noting that the threat of piracy is continually evolving. Techniques that provide successful risk management currently are likely to become obsolete as pirates adapt to them (a recent example would be the capture of the Asian Glory on 1st January 2010 in the Gulf of Aden – as it had a 23 m high freeboard it was expected to be immune to pirate attack). The reader should keep this in mind when considering the approaches described below. There are various sources of guidance for shipowners and masters, aimed at minimising the risk of pirate attack and the consequences and anyone interested should review this guidance.

6.24   Turning first to measures available to a ship's owner, an obvious starting point would be avoiding the pirates all together. Steps to achieve this while transiting high risk areas would include:

- 24 Hour standing watch
- Constant monitoring of radars
- Crossing areas during the night
- Maintaining high speed throughout

- Minimising external communication to essential safety and security related matters
- Minimising deck lighting to only what is required for safety
- Avoiding known pirate areas altogether

6.25 Specifically in the Gulf of Aden ships should register with the MSC HOA (Maritime Security Centre – Horn of Africa), use the Coalition patrolled channels and consider joining a convoy.

6.26 If these measures fail and a vessel is attacked by pirates there are various approaches that can be considered to repel the pirates:
- Use of Long Range Acoustic Devices
- Use of Electric Fences / Barbed Wire
- Less high tech fencing e.g. drums tied around ship which float in the water with the aim of capsizing the pirate skiffs
- Use of Water Jets to repel the pirates
- Again the lower tech option would be the use of Fire hoses for the same purpose

6.27 Another potential approach for repelling pirates is the use of armed escorts. These could either be on board the ship or on a separate guard ship. While this may well be very effective there are some serious concerns with this approach:
- There is considerable uncertainty of the legal impact if an armed guard killed a pirate. There is potential they could be tried for murder. It is not at all clear what jurisdiction this would fall under.
- If the crew are armed and then kill people the ship owner could be vicariously liable – especially if any innocent bystanders were harmed. There is a potential for this to feed through into a P&I claim.
- There is also the danger of escalation of violence. Using armed guards may repel the pirates the first time but is likely to mean the pirates will return with heavier weaponry. Additionally if you were a crew member on a chemical tanker you are unlikely to want to encourage the pirate in the picture below to make use of his rocket-propelled grenade launcher!
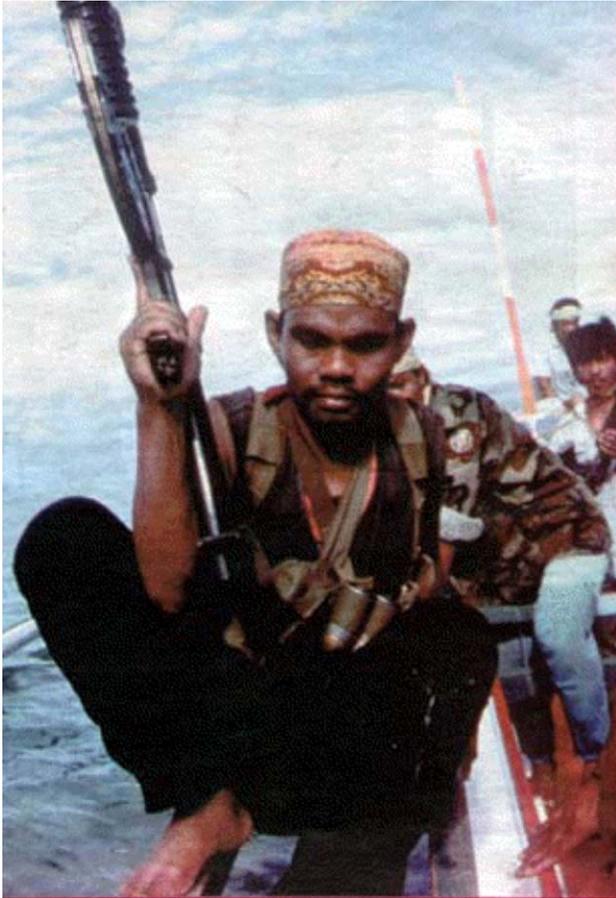
6.28   If there is a secure facility on board to which the crew can retire during an attack, this can buy time. If the authorities can be alerted they may be able to recapture the ship, knowing that the crew are safe. This enabled the Russian navy to recover a Russian ship that had been captured by Somali pirates (http://news.bbc.co.uk/1/hi/world/africa/8667640.stm).

6.29   While the risk management techniques described above may well reduce the impact of piracy the most important aspect should always be advanced planning combined with appropriate training of the crew.

6.30   A full Contingency Plan should be drawn up detailing the risk management approaches that should be implemented. This would cover what should be done to avoid pirates, what to do if attacked and also what should be done if captured by pirates. Appropriate insurance should play a key part of this planning. In particular Kidnap and Ransom insurance can play a vital part in the Risk Management process. Purchase of the cover should also include individual risk advice with specific loss prevention measures tailored to the insured vessels. If a ship is captured the K&R insurance may provide a crisis management team to give advice and potentially negotiate with and arrange ransom delivery to the pirates.

6.31   A contingency plan on its own without suitable training will not suffice. All relevant crew and support staff should be fully briefed on the Contingency Plan and will need regular training on all aspects of the threat of piracy. This will need to be ongoing and should include emergency drills and regular refresher courses.

6.32   For the insurer part of their risk management is likely to be ensuring that the insured themselves implements a sensible risk management approach as described above. However there are also risk management issues that the insurer themselves will need to tackle.

6.33   A key part of this could be managing their aggregated exposure to piracy. As discussed above a significant part of this for the London Market is ensuring that piracy is covered under the War rather than the Hull policy. Since the War policy requires the insured to report when it plans to enter a war risk area, the insurer can monitor their piracy exposure in any area at a given point in time. This allows the insurer to define a risk tolerance for piracy exposure and to ensure that they do not exceed it.

6.34   Another issue, which is pertinent to all insurance and not just piracy, is that of the cargo aggregation issue – i.e. by chance the entire cargo of a container ship could be covered by one insurer.

6.35   Finally shipowners and insurers should continually monitor key piracy developments. As discussed above the piracy landscape is continually evolving with the threat areas and pirate techniques never remaining set. All interested parties therefore need to be aware of the developments and react accordingly.

7 STATISTICS AND COSTS OF PIRACY

FACTS AND FIGURES

7.1   The number of worldwide maritime pirate attacks declared to the International Maritime Bureau since 1981 is shown on the graph below. (NB: figures prior to 1994 are rounded estimates)

Number of attacks per year - Global
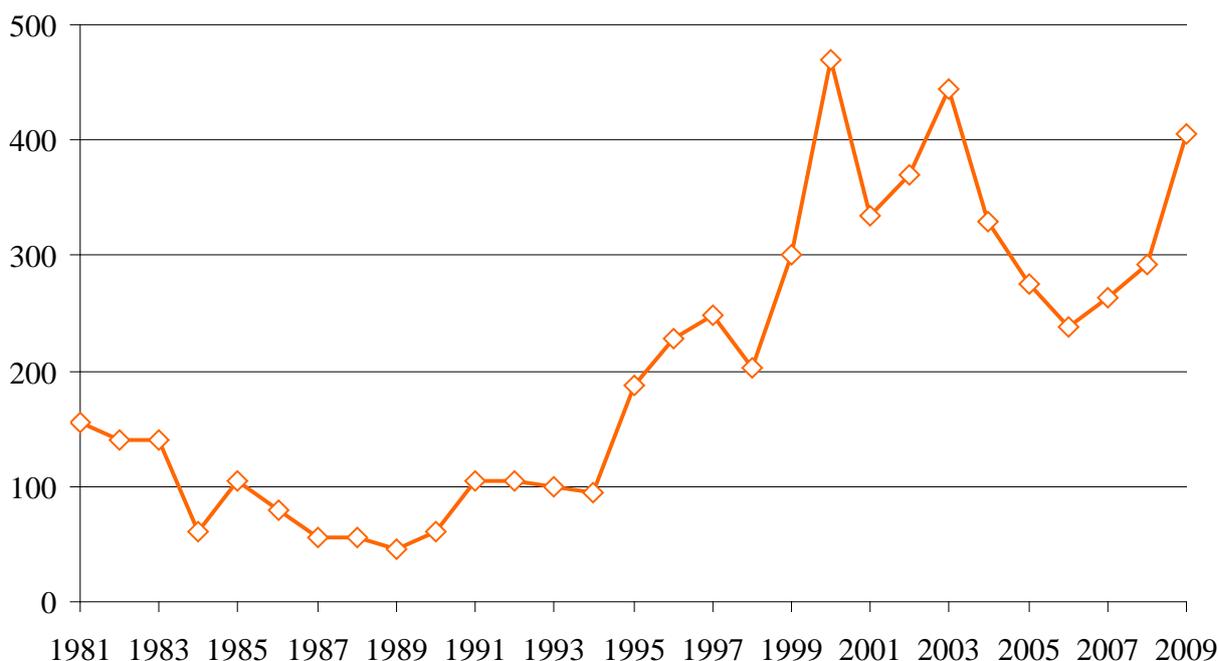
7.2   There has been a clear increasing trend over the past 15 years, with the number of reported attacks quadrupling between 1994 and 2009. The number of piracy acts has been rising at a faster pace since 2006: while 239 acts were reported over 2006, by 2009 the number tallied to 406, averaging an annual increase of 20%.

7.3   This is due, in particular, to an increased number of attacks in the Gulf of Aden. The next graph shows changes in attack by area which highlights that the recent region of concern is in and around this part of the world. However piracy continues to be an issue in other parts of the world despite the media and inter-governmental focus on Somalian piracy, though has been in decline in South East Asia and the Malacca Straits in particular.

Number of attacks per year - by Area
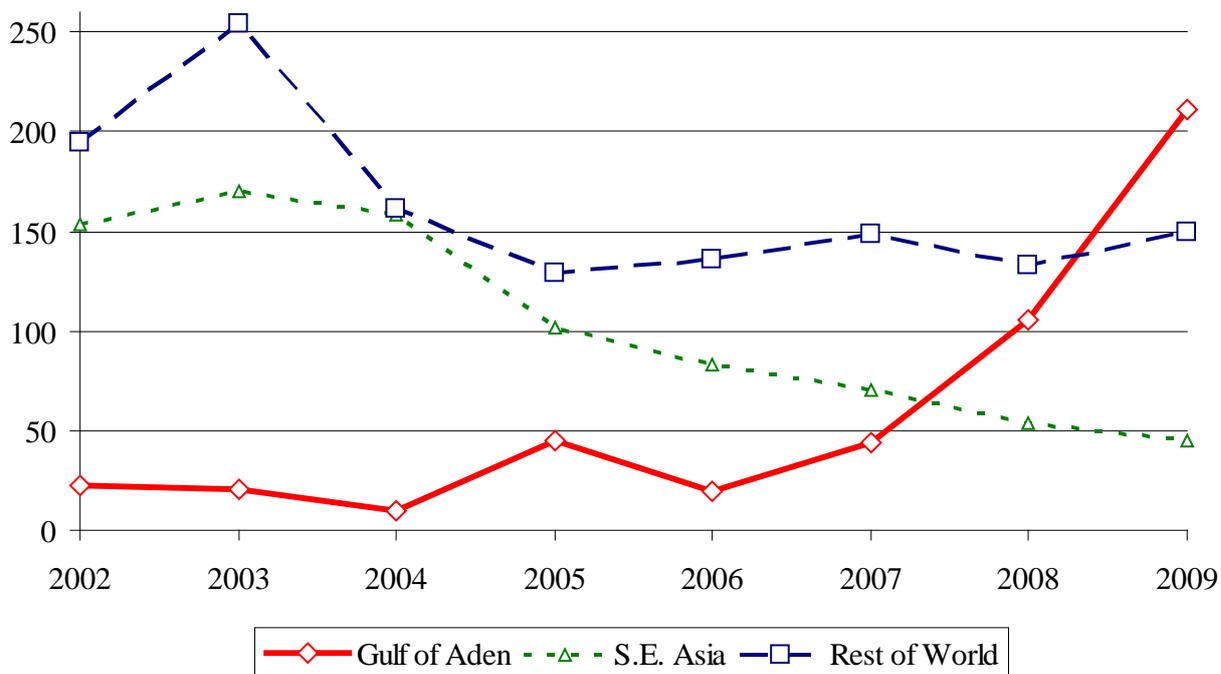
7.4 The graph below shows attacks split by vessel categories since 2006 and suggests that pirates are increasingly capable of targeting larger vessels as their modus operandi become more sophisticated.
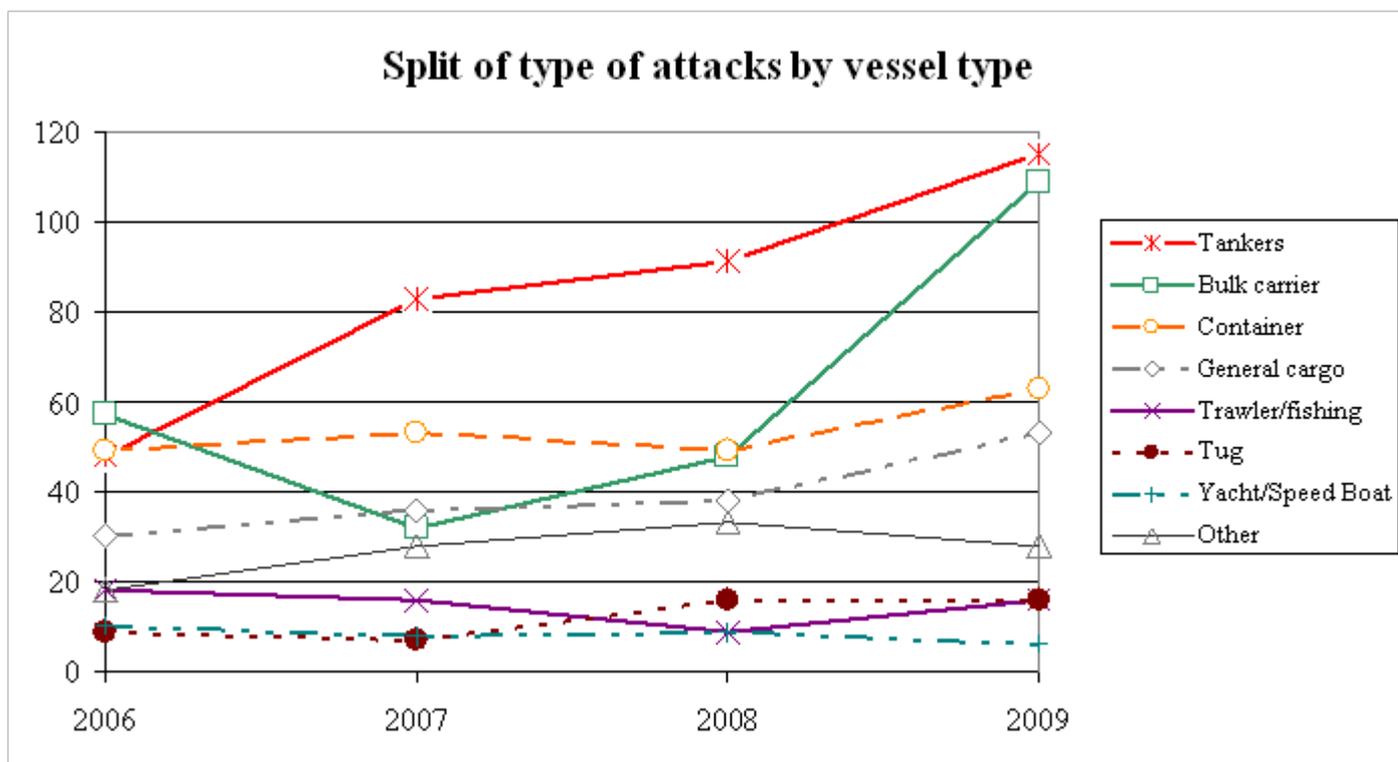
7.5 Compared to traditional piracy, a number of new features are specific to modern piracy and are becoming more acute in the last couple of years. One of these widely reported in the general press is kidnap, where pirates board a vessel and hold the boat, the crew and the transported goods (if any) captive until a ransom is paid. The number of crew members held hostages by pirates since 1995 is shown in the graph below, based on IMB data. This graph shows that while the number of hostages held globally was relatively steady before 2007, there has been a significant increase in the number of hostages since then. Whilst 292 people were reported as being taken hostage during 2007, in 2009 this figure increased to 1,052 hostages, averaging a 90% per annum increase between those two dates.

Number of crewmembers held hostage by year
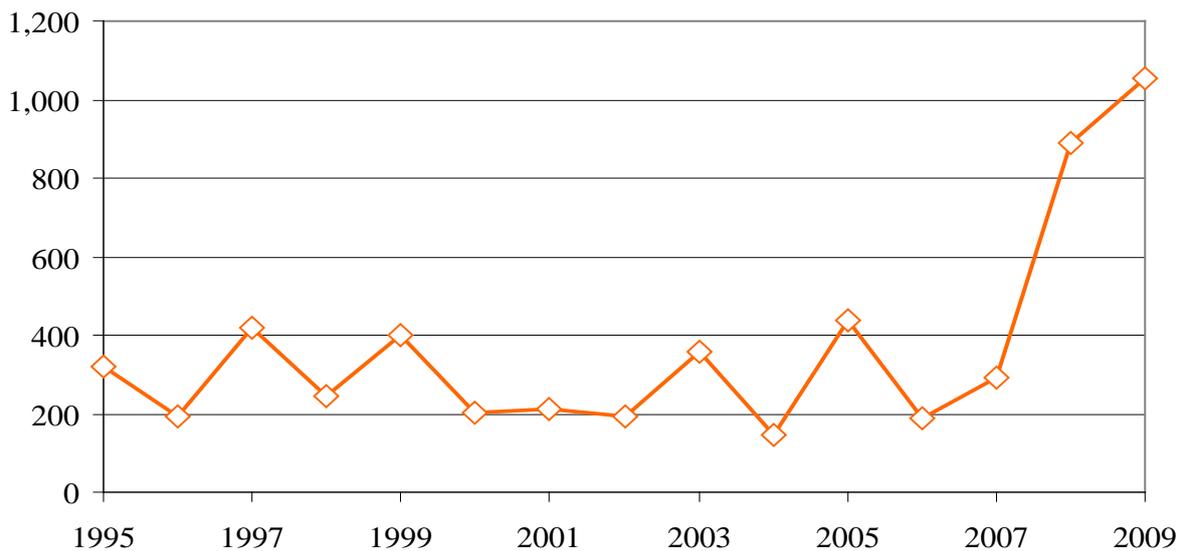
7.6 The split of attacks by types is also available in the IMB annual reports and is shown in the next graph. From this data source it is evident that although the overall number of hijacks has increased, they do not represent an increasing share of globally reported attacks. The perception that hijacks are becoming a more prevalent method of piracy is most likely a consequence of the increase in media attention.

Split of type of attacks by year
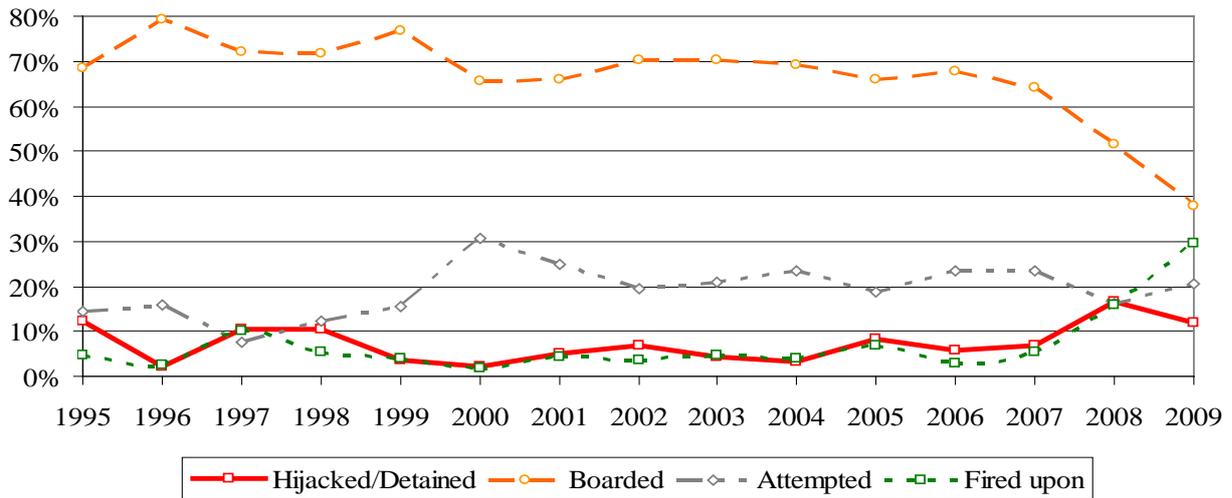
7.7 A recent trend is an increasing use of weapons by pirates, and in particular arming themselves with guns. The reasons for this are twofold. Firstly, the pirates are able to purchase more weapons using previously received ransom payments. Secondly, as shipowners continue to increasingly employ armed security guards an "arms race" is developing. This situation sees no signs of abating and the trend is expected to continue, with potential consequences to the safety of the ships' crew. The following graph shows the percentage of all attacks where pirates have been reported as being armed with either knives or guns

	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Knives %	5%	10%	13%	20%	28%	28%	31%	37%	32%	29%	29%	32%	25%	23%	17%
Guns %	21%	14%	29%	24%	18%	11%	22%	18%	22%	27%	29%	22%	27%	47%	59%
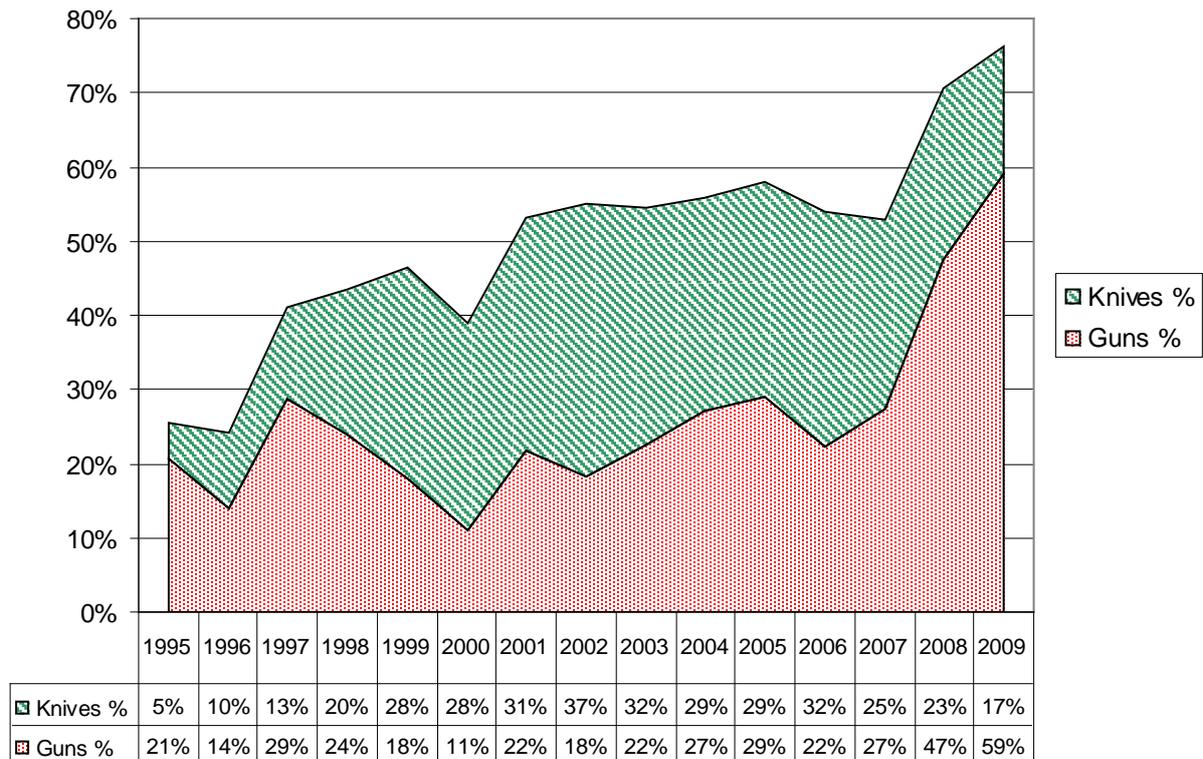
ADDITIONAL COSTS

7.8   Increased piracy activity creates a number of additional costs, which arise when stakeholders seek protection against the risk of piracy acts, risk-mitigation, or incur losses caused by piracy events. These costs should be used in any cost-benefit analysis carried out when considering a number alternative measures to mitigate the effects of piracy.

ALTERNATIVE TRANSPORT ROUTES

7.9   Avoiding risky options is the easiest solution to reducing risk exposure. When other transportation means such as planes or roads cannot be used to move the cargo, cargo owners may want to consider taking alternative sea routes. This can incur a number of additional costs to:-

- Port authorities, terminal operators: operating earning losses due to reduced transit activity.

- Local or regional economies: loss of foreign currency earnings, increased unemployment and reduced GDP.

- Charterers: increased total expenditures, possibly passed on to cargo owners.

- Industries: price increases passed on to them, disruption of supply chain, longer in-transit and delivery time.

- Consumers: price increases depending on cargo value and market conditions.

- Local legalities and 'customs'.

- Other political issues at other locations (e.g. Nigeria, Sierra Leone, Venezuela).

7.10   Some of these costs are net costs, whereas others will result in benefits to other stakeholders, e.g. port and terminal authorities located on the new shipping route.

7.11   A number of shipping routes have very strong geographical positions compared to alternative transport routes (e.g. Suez Canal vs re-route via Cape, Panama Canal, etc.). This increases the likelihood that they remain preferred routes even in the presence of the piracy threat. However the range of pirate activities is increasing – particularly by using captured vessels as "mother ships" from which to launch attacks, such as the capture of Asian Glory on 1 January 2010. So routes currently felt to be safe may not be so in future.   V. Ships Ship Management estimate that avoiding Somalian pirates in the Indian Ocean is currently adding on average 3 days to a voyage[1]. Paragraphs 7.41-7.44 contain an analysis of the financial consequences of rerouting around the Cape of Good Hope rather than taking the short-cut through the Suez Canal.

SECURITY AND PROTECTION

7.12   In order to secure their ship against piracy acts, shipowners can hire the services of security companies, which usually employ ex-soldiers. Guards were not necessarily armed, though are becomingly increasingly so.

7.13   Hiring a team of guards can be quite costly. For instance, the cost is deemed to vary between $25,000 and $100,000 for crossing the Gulf of Aden[2]. The US Congressional Research Service put this figure at $60,000. Guards usually board ships at port in Djibouti, Oman or Yemen and hire local fishermen to take them out to the vessel which needs protection. Once the Suez Canal has been reached, the men are usually flown back to their base or board a ship heading back to the Gulf of Aden.

7.14   Hiring such protection may also have hidden costs in the event of casualties caused by a fire fight. Due to the implication of multiple jurisdictions, legal issues are an uncertain business in the shipping industry. In the event of litigation in a foreign country, it is possible that shipowners may not have their rights respected or could potentially be barred from doing business in the future.

SECURITY AT THE INTERNATIONAL LEVEL

7.15   Piracy can disturb sea transit and thus impair regional and global trade. About 90% of goods are transported by sea. In that respect, security on the seas can be a matter of national or international dimension.

7.16   In the wake of the global fight against terrorism, a number of measures have been taken in the last decade to fight piracy, mostly of political or military nature. The following are a few examples[3]

- NATO mission "Active Endeavour" has been protecting the Mediterranean since October 2001. NATO warships additionally escort ships through the Straits of Gibraltar.

- Project Atlanta (see Appendix) EUNAVFOR Somalia, aka Operation Atalanta[4] is a EU-led military operation launched in 2008 to deter and prevent acts of piracy off Somalia

- In July 2003, the UN International Labour Organization (ILO) introduced biometric ID cards for the roughly 1.2 million seamen employed in merchant shipping at the time.

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[1] Letter to Daily Telegraph 19 May 2010

[2] Wall Street Journal, 6 Jan 2010, "Freighters ready to shoot across pirate bow"

[3] Source: Munich Re, "Piracy – Threat at Sea, a risk analysis"

[4] Source: Wikipedia

- On 28 April 2005, Japan, Laos, Singapore, and Cambodia agreed to join forces in the fight against piracy and armed attacks against vessels in Asia.

- Combined Task Force 151[5] is an international US-led naval task force formed on January 2009 to combat piracy off Somalia

7.17 Political bodies also spend resources such as research services or congressional committees to monitor piracy and consider options to mitigate its effects.

7.18 The costs incurred from these measures mostly bear upon governmental or international bodies and armed forces. To some extent, these costs come in substitution to costs incurred by private stakeholders. These costs are also eventually supported by taxpayers.

7.19 On April 13 2010, US President Obama signed an Executive Order on Somalia which makes certain ransom payments illegal. Although this only directly impacts on US citizens and organisations, it will clearly have consequences for the global shipping and insurance industries. For the purposes of this section, it is presumed that ransom payments will continue to be made pending clarification of the effect of this Executive Order (please refer to the LMA's Bulletin "US Executive Order on Somalian Piracy" dated May 7 2010 for more information).(See also para 3.38 above)

INSURANCE

7.20 A number of insurance contracts are available to protect stakeholders against the consequences of piracy acts (see section 5 on Insurance and Piracy for more detail). The Congressional Research Service noted that the cost of insuring a container passing through the region rose from $900 in 2007 to $9,000 by the end of 2008. Munich Re assessed that Kidnap and Ransom premiums rose tenfold between 2008 and the first quarter of 2009. On exception is insurer Hiscox, which announced it would reduce premiums by 50% for ships having armed protection[6].

HUMAN COSTS

7.21 Facing the risk of piracy can come at a cost for individuals as well, including:

- fear of blacklisting for crew members refusing to work in dangerous waters, or associated pressure from peers, employers or unions;

- distress and trauma caused by hijacking/kidnapping experience (which may incur subsequent counselling costs);

- wounds and deaths.

DATA

7.22 The amount of publicly available information on piracy acts is reduced or subject to a certain degree of uncertainty. A number of reasons are behind this, which we set out below.

7.23 A large majority of the material we could gather on piracy acts only seems to use figures published by the International Maritime Bureau. We found no alternative information source to validate IMB data and some sources indicate that the IMB data may also have some political bias.

7.24 Victims of attempted or realized acts of piracy do not always report this to their insurer or to non-profit organizations like the International Maritime Bureau. Such reasons as the fear of seeing their premium increase or the presence of deductibles dampens reporting

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[5] Source: Wikipedia

[6] Source: Wall Street Journal, 6 Jan 2010, "Freighters ready to shoot across pirate bow"

to insurers, in particular for small claims. Reporting to the IMB is not mandatory and is made on a best-effort basis, which limits the incentive for shipowners to report incidents. Consequently, the data available on actual acts of piracy only represents a share of total actual acts.

7.25 Whenever a vessel is seized and a ransom payment is demanded, confidentiality becomes a key issue. It is not in the best interests of the shipping and insurance industry to publicly divulge a pirate's demands, whether a ransom has been paid or actual ransom amounts. This is because any revealed information could further encourage potential pirates to either act or for existing pirates to increase their own ransom demands.

7.26 Some ransom payments can be found rather easily in the press, like the US$4 million[7] paid in December 2009 for the release of the Chinese coal ship De Xin Hai and its 25 crew, and which were rather dramatically delivered by helicopter. This is the exception rather than the rule however. It is difficult to assess the accuracy of press reports, since it is usually unclear whether different sources are used to confirm the figures given. Also, press articles seldom specify whether the amounts are ransoms or total costs incurred, which include delivery costs (e.g. private plane hire, helicopter delivery), negotiation management costs (e.g. satellite calls or trauma consultants), repair costs and any other earning losses. These add-ons costs are thought to double the actual amount paid to the pirates[8].

7.27 When piracy is prevalent in a region, it can become a politically sensitive issue. Gathering information on piracy could potentially be exposed to political bias. In particular, governments may wish to downplay the incidence because of potential economic consequences or to avoid "loss of face". This risk can be reduced when a number of competing sources gather information.

7.28 Exposure to piracy risk can also be challenging to assess. Transit volume through piracy-prone areas appears to be a natural exposure measure, but it is relatively hard to define what transit is. Specific geographic situations can sometimes make things easier, for instance when all ships are forced to take the same passage.

7.29 Due to the considerations above, we have chosen to focus our attention to the Gulf of Aden / Somalia. Not only is this area a piracy hotbed, but it is relatively easy to assess exposure by using Suez Canal transit[9] as a proxy. There are three underlying assumptions here:

- All vessels potentially exposed to pirate attacks in the Gulf of Aden or at large of Somali coasts go through the Gulf of Aden. This is not quite true, since a number of ships follow the West African coast without entering the Gulf. This was the case of the De Xin Hai, which was hijacked when travelling from South Africa to the Indian port of Mundra.

- All vessels going through the Gulf of Aden eastward go through the Suez Canal from the Mediterranean beforehand. This is not quite true, since ships could start their journey anywhere between the Suez Canal and the Gulf of Aden, in particular in the sizeable port of Djibouti.

- All vessels going through the Gulf of Aden westward continue their journey through the Suez Canal into the Mediterranean. This is not quite true, since vessels can stop anywhere between the Gulf of Aden and the Suez Canal, in Djibouti in particular.

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[7] Source: ABC news, 27 December 2009

[8] Source: Insurance Times 19 March 2010

[9] Available online at www.suezcanal.gov.eg

7.30 Nevertheless, we think it is not unreasonable to assume that the two last points could cancel each other out and we feel that Suez Canal transit is a reasonable risk exposure measure.

COST MODEL

FREQUENCY-SEVERITY APPROACH

7.31 Given the limited data publicly available, we have decided to use a simple frequency-severity approach to model the cost of piracy related kidnap and ransom insurance. The underlying assumption is that the frequency and severity are independent random variables.

7.32 This may not be entirely true. For instance, larger ships as tankers tend to be more prone to pirate attacks because of their lower speed. They also attract higher ransom demands because they are expensive vessels, they carry larger cargo volumes, and can have a higher media profile (e.g. oil tankers).

7.33 Note that no allowance for potential – and probable – under-reporting has been allowed for in this analysis. Also the impact of pirates confiscating or sinking vessels has not been allowed for.

ASSESSING SEVERITY

7.34 Based on a publicly available sample of alleged ransom payments from an array of sources, we have compiled the following average ransom costs as at 30 April 2010:

Year	Observed average ransom (US$)
2007	1.5
2008	2.1

2009	3.4
2010	5.4

7.35   We have then regressed linearly against individual ransom amounts and come up with an average ransom of US$6.8 million as at 30 June 2010. Note that it is rumoured that the pirates who seized Asian Glory were seeking a ransom of $15m before releasing it on 14 June 2010[10]. While what was actually paid remains unknown, it is thought to have been $7m plus costs.

7.36   We have then assumed additional costs (e.g. negotiation, delivery) to represent 50% of ransom amounts. This results in a total cost of US$10.2 million as at the middle of 2010.

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[10] The Sofia Echo http://www.sofiaecho.com/2010/06/14/916628_asian-glory-arrives-safely-in-oman 14 June 2010

ASSESSING FREQUENCY

7.37 Based on Suez Canal transit data and IMB reports, we have come up with the summary in the table beneath

Year	Exposure (vessels)	Number of pirate attacks	Number of hijacks / boarded vessels	Attack rate	Hijack success rate	Claims frequency
2002	13,447	22	n/a	0.16%	n/a	n/a
2003	15,667	21	n/a	0.13%	n/a	n/a
2004	16,850	10	n/a	0.06%	n/a	n/a
2005	18,224	45	n/a	0.25%	n/a	n/a
2006	18,664	20	6	0.11%	30%	0.03%
2007	20,384	44	12	0.22%	27%	0.06%
2008	21,415	106	44	0.49%	42%	0.21%
2009	17,228	211	47	1.22%	22%	0.27%

7.38 A number of observations can be drawn from this table.

- Transit volumes have significantly reduced in 2009 in the wake of the trade slump caused by the global financial crisis.

- The attack rate has more than doubled every year between 2006 and 2009, averaging an annual increase of 125%.

- The reduction in the hijack success rate in 2009 could be a sign that risk management measures are already working and enabling ships to better defend themselves.

  Despite this last point, the net combined effect is a dramatic and continuing increase in claims frequency.

7.39 Based on these observations, we have made a number of assumptions for 2010, which are set out as follows:

- Given the general feeling that economies have now stabilised globally and the uncertainty around when global growth will start again, we have assumed that global trade will be similar in 2010 to the year before.

- Given the success of pirate operations so far, we think that the number of tentative attacks will continue to increase at least at a similar rate. We have thus assumed another 125% increase in the attack rate, up from 1.22% in 2009 to 2.76% in 2010.

- No clear pattern emerge from the hijack success rate series, and it is hard to predict whether the 2010 value will increase or decrease from the 2009 value of 22%. It could increase if pirates adapt to the risk-mitigating techniques adopted by shipowners and develop new ways of improving their success rate, even in Monsoon periods. It could also decrease as a consequence of the continuously strengthening military presence in the area. We have thus resorted to selecting a subjective value. Given the large swings observed in the recent years, we have chosen to calculate the average hijack rate over the last three years (30%) and slightly decrease it to give more weight to the most recent year. Our final selection is 28%, and it is evidently subject to a large degree of subjectivity and uncertainty.

  The result is a claim frequency of 0.77% in 2010, up from 0.27% in 2009.

7.40 An average cost of $10.2m and a frequency of 0.77% produces a resultant expected cost for 2010 amounts of around US$79,000 per vessel, which is equivalent to US$1.9 per tonne, and totals to around US$1.4bn dollars (RAND estimated that global piracy would cost the maritime industry between US$1bn and US$19bn in 2009).

COST OF REROUTING VESSELS AROUND THE CAPE

7.41   By considering the costs of sailing around the Cape of Good Hope and then offsetting the additional insurance and security costs of passing through the Suez Canal – though taking into account the savings in toll fees – it is possible to estimate the increased cost of transit due to selecting the long way around Africa.

7.42   The additional costs of sailing through the Suez Canal are estimated to be:

Increased insurance costs

- War / Kidnap and Ransom – using the expected cost of $79,000 from the analysis above and assuming underwriters write to a 50% loss ratio gross of brokerage, the cost of insurance is $158,000.

- Cargo – The Journal of Commerce recently announced that CMA GM would be charging an additional US$41 per TEU (i.e. Twenty-Foot Equivalent Units, the intermodal shipping container unit standard) from 15 December 2009 for transporting containers through the Gulf of Aden. Based on 17,228 vessels carrying nearly 40 million TEUs passing through the Suez Canal in 2009 – i.e. an average of 2,300 TEUs per vessel – the additional cost is US$94,000.

- Increased security costs – the Congressional Research's estimate of $60,000 per trip has been selected.

Therefore total additional costs are US$312,000.

7.43 The impact of sailing around the Cape is assessed as follows:

The DeMoine Policy Research Corporation in 2009 estimated that re-routing 33% of Cargoes around the Cape would have cost an additional US$7.5bn in 2007 terms. So this evaluates to $1.3m per vessel currently going through the Suez Canal.

However, vessels would not have to pay the Canal toll fee. In 2009 – and assumed to be the same for 2010 – the total amount of tolls was US$4.3bn which equals US$250,000 per transit.

Therefore total costs of going around the Cape are US$1,050,000.

7.44 From the above analysis, the additional cost of sailing around the Cape rather than via the Canal is in the order of US$750,000.

8 CONCLUSION

8.1 The paper has concentrated on maritime piracy, leaving other forms of such theft to future working parties.While many definitions of maritime piracy exist, the paper concentrated on the actions of small bands, possibly operating from the hub of a mothership, in international waters, without the direct sanction of any national state. Its objectives were monetary rather than political or ideological: the attack and capture of vessels, with a view to seizure (and resale) of vessel and cargo, and possibly kidnap and ransom of crew. Historically piracy has been controllable (with great effort and considerable manpower) but virtually impossible to eradicate

8.2 Piracy is nothing new, despite the media and insurance industry's recent interest. However the structure and methodology of the Somali pirates in particular is rapidly evolving

8.3 Its protagonists do not play by accepted maritime rules either amongst themselves or when in conflict with authority.

8.4 It has forever been driven by the anxiety of the poor to improve their lot – but the pirates themselves have not always retired from the game once their own financial position has been resolved.

8.5 The location where piracy will thrive needs a number of features:
- Bases on a mainland where the government is not aggressive in suppressing piracy (for reasons of inability or possible acquiescence)
- Support services on land (from among the impoverished whom they are trying to help)
- A ready supply of attackable vessels – they come in all shapes, sizes and purposes of voyage
- Access to weaponry
- A market for the onward sale of vessels or cargo
- A population in poverty with no alternative source of income

Currently these features are most noteworthy in Somalia, the Persian Gulf and Red Sea states, particularly Aden.

8.6 Matters have escalated in the last 20 years. Despite the best efforts of united western powers, pirates thrive. During that time the UN objective to erase poverty in the worlds has been remarkably successful in many parts of the world (Caribbean and Asia) but unsuccessful in Africa.

8.6a The possibility that terrorists may use pirates or techniques learned from pirates to carry out terrorist attacks should not be discounted. Terrorists may also use profits from piracy to finance terrorism.

8.7 We have made no secret of the difficulty there was in obtaining base statistics in trying to assess the cost of the piracy coverages within today's maritime insurance policies.. Perhaps more than in any other insurance, underwriters have very good reasons for not releasing frequency and severity statistics for the world's prying eyes. Equally the "near misses" will not be logged. What is available requires judicious extrapolation.

8.8 By way of illustration, the paper attempted to estimate the cost of a kidnap and ransom section to shipping insurance, based on the exposure of vessels navigating the Suez Canal. Using judgement rather than strict financial modelling, the paper estimated that in 2010, the team estimated an average claim cost (ransom and ancillary expenses) of over $10m, with a hit rate of about 2.75% and a "success" rate of some 0.77%. The estimate is thus a K&R cost per vessel of some $79,000 – this is line with other analyses of the same insurance cost.

8.9 We further note that Piracy is an extremely nasty business, especially for the sailors on attacked boats. It has the potential to severely damage world trade and has caused material damage to the economy of some countries.

8.10 Co-ordinated action is necessary to suppress or control it (coastal states, other states, shipowners etc). Economic & political measures are needed as well as "policing". Although there are many common features, local conditions give rise to differences in the nature of piracy. (So the response, both in relation to control and risk mitigation, could differ.) However history has taught us that piracy in general can only be solved by a land-based solution, in particular finding work opportunities

8.11 Risk mitigation is Important, both to avoid incidents and to minimise their impact when they do occur. There is clear evidence for taking prompt action when an incident occurs. There have been a number of cases where this has frustrated pirates (see para 4.22).

8.12 As an emerging issue, we have tried to understand the risk and the factors that drive it, sought risk management solutions and from statistics derived some initial costs. The lack of data and other issues places considerable uncertainty around the cost of mitigation. We are now well placed to comment on this uncertainty.

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APPENDIX A PIRACY – A VERY BRIEF HISTORY

EXTRACT FROM WIKIPEDIA

ANCIENT ORIGINS

A.1   Pirates have been around as long as people have used the oceans as trade routes. The earliest documented instances of piracy are the exploits of the Sea Peoples who threatened the Aegean and Mediterranean in the 13th century BC. In Classical Antiquity, the Illyrians and Tyrrhenians were known as pirates, as well as Greeks and Romans. The island of Lemnos long resisted Greek influence and remained a haven for Thracian pirates. During their voyages the Phoenicians seem to have sometimes resorted to piracy, and specialized in kidnapping boys and girls to be sold as slaves.

A.2   In the 3rd century BC, pirate attacks on Olympos (city in Anatolia) brought impoverishment. Among some of the most famous ancient pirateering peoples were the Illyrians, populating the western Balkan peninsula. Constantly raiding the Adriatic Sea, the Illyrians caused many conflicts with the Roman Republic. It was not until 68 BC when the Romans finally conquered Illyria, making it a province that ended their threat.

A.3   During the 1st century BC, there were pirate states along the Anatolian coast, threaten the commerce of the Roman Empire in the eastern Mediterranean. On one voyage across the Aegean Sea in 75 BC, Julius Caesar was kidnapped by Cilician pirates and held prisoner in the Dodecanese islet of Pharmacusa,He maintained an attitude of superiority and good cheer throughout his captivity. When the pirates decided to demand a ransom of twenty talents of gold, Caesar is said to have insisted that he was worth at least fifty, and the pirates indeed raised the ransom to fifty talents. After the ransom was paid and Caesar was released, he raised a fleet, pursued and captured the pirates, and had them put to death.

A.4   The Senate finally invested Pompey with powers to deal with piracy in 67 BC (the Lex Gabinia), and Pompey after three months of naval warfare managed to suppress the threat.

A.5   As early as 258 AD, the Gothic-Herulic fleet ravaged towns on the coasts of the Black Sea and Sea of Marmara. The Aegean coast suffered similar attacks a few years later. In 264, the Goths reached Galatia and Cappadocia, and Gothic pirates landed on Cyprus and Crete. In the process, the Goths seized enormous booty and took thousands into captivity.

A.6   In 286 AD, Carausius, a Roman military commander of Gaulish origins, was appointed to command the Classis Britannica, and given the responsibility of eliminating Frankish and Saxon pirates who had been raiding the coasts of Armorica and Belgic Gaul.

A.7   In the Roman province of Britannia, Saint Patrick was captured and enslaved by Irish pirates.

A.8   Early Polynesian warriors attacked seaside and riverside villages. They used the sea for their hit-and-run tactics - a safe place to retreat to if the battle turned against them.

MIDDLE AGES TO 19TH CENTURY

A.9   The most widely known and far reaching pirates in medieval Europe were the Vikings, warriors and looters from Scandinavia who raided from about 783 to 1066, during the Viking Age in the Early Middle Ages. They raided the coasts, rivers and inland cities of all Western Europe as far as Seville, attacked by the Norse in 844. Vikings even attacked coasts of North Africa and Italy. They also plundered all the coasts of the Baltic Sea, ascending the rivers of Eastern Europe as far as the Black Sea and Persia. The lack of centralized powers all over Europe during the Middle Ages favoured pirates all over the continent.

A.10   Meanwhile, Muslim pirates terrorized the Mediterranean Sea. Toward the end of the 9th century, Muslim pirate havens were established along the coast of southern France and northern Italy.[9] In

846 Muslim raiders sacked Rome and damaged the Vatican. In 911, the bishop of Narbonne was unable to return to France from Rome because the Muslims from Fraxinet controlled all the passes in the Alps. Muslim pirates operated out of the Balearic Islands in the 10th century. From 824 to 961 Arab pirates in Crete raided the entire Mediterranean. In the 14th century, raids by Muslim pirates forced the Venetian Duke of Crete to ask Venice to keep its fleet on constant guard

A.11   After the Slavic invasions of the Balkan peninsula in the 5th and 6th centuries, a Slavic tribe settled the land of Pagania between Dalmatia and Zachlumia in the first half of the 7th century. These Slavs revived the old Illyrian piratical habits and often raided the Adriatic Sea. By 642 they invaded southern Italy and assaulted Siponte in Benevento. Their raids in the Adriatic increased rapidly, until the whole Sea was no longer safe for travel.

A.12   The "Narentines", as they were called, took more liberties in their raiding quests while the Venetian Navy was abroad, as when it was campaigning in Sicilian waters in 827-82. As soon as the Venetian fleet would return to the Adriatic, the Narentines temporarily abandoned their habits again, even signing a Treaty in Venice and baptising their Slavic pagan leader into Christianity. In 834 or 835 they broke the treaty and again the Neretva pirates raided Venetian traders returning from Benevento, and all of Venice's military attempts to punish the Marians in 839 and 840 utterly failed. Later, they raided the Venetians more often, together with the Arabs. In 846 the Narentines broke through to Venice itself and raided its lagoon city of Kaorle. In the middle of March of 870 they kidnapped the Roman Bishop's emissaries that were returning from the Ecclesiastical Council in Constantinople. This caused a Byzantine military action against them that finally brought Christianity to them.

A.13   After the Arab raids on the Adriatic coast c. 872 and the retreat of the Imperial Navy, the Narentines restored their raids of Venetian waters, causing new conflicts with the Italians in 887-888. The Narentine piracy traditions were cherished even while they were in Serbia, serving as the finest Serb warriors. The Venetians futilely continued to fight them throughout the 10th-11th centuries.

A.14   In 937, Irish pirates sided with the Scots, Vikings, Picts, and Welsh in their invasion of England. Athelstan drove them back.

A.15   The Slavic piracy in the Baltic Sea ended with the Danish conquest of the Rani stronghold of Arkona in 1168. In the 12th century the coasts of western Scandinavia were plundered by Curonians and Oeselians from the eastern coast of the Baltic Sea. In the 13th and 14th century pirates threatened the Hanseatic routes and nearly brought sea trade to the brink of extinction. The Victual Brothers of Gotland were a companionship of privateers who later turned to piracy. Until about 1440, maritime trade in both the North Sea and the Baltic Sea was seriously in danger of attack by the pirates.

A.16   H. Thomas Milhorn mentions a certain Englishman named William Maurice, convicted of piracy in 1241, as the first person known to have been hanged, drawn and quartered, which would indicate that the then-ruling King Henry III took an especially severe view of this crime. (Nnote, hanged drawn and quartering was considered a punishment for treason. Henry III also legitimised piracy by granting licence " Know that we have granted and given license…to [person's name]…to annoy our enemies at sea or by land…so that they shall share with us half of all their gain")

A.17   The ushkuiniks were Novgorodian pirates who looted the cities on the Volga and Kama Rivers in the 14th century.

A.18   As early as Byzantine times, the Maniots - one of Greece's toughest populations - were known as pirates. The Maniots considered piracy as a legitimate response to the fact that their land was poor and it became their main source of income. The main victims of Maniot pirates were the Ottomans but the Maniots also targeted ships of European countries.

A.19   The Haida and Tlingit tribes, who lived along the coast of southern Alaska and on islands in northwest British Columbia, were traditionally known as fierce warriors, pirates and slave-traders, raiding as far as California.

ON THE INDIAN COAST

A.20 Since the 14th century the Deccan (Southern Peninsular region of India) was divided into two entities: on the one side stood the Muslim-ruled Bahmani Sultanate, and on the other stood the Hindu kings rallied around the Vijayanagara Empire. Continuous wars demanded frequent resupplies of fresh horses, which were imported through sea routes from Persia and Africa. This trade was subjected to frequent raids by thriving bands of pirates based in the coastal cities of Western India.

A.21 During the 16th and 17th centuries there was frequent European piracy against Mughal Indian vessels, especially those en route to Mecca for Hajj. The situation came to a head, when Portuguese attacked and captured the vessel Rahimi which belonged to Mariam Zamani the Mughal queen, which led to the Mughal seizure of the Portuguese town Daman. In the 18th century, the famous Maratha privateer Kanhoji Angre ruled the seas between Mumbai and Goa. The Marathas attacked British shipping and insisted that East India Company ships pay taxes if sailing through their waters.

A.22 The most famous pirate utopia is that of Captain Misson and his pirate crew, who allegedly founded the free colony of Libertatia in northern Madagascar in the late 17th century. In 1694, it was destroyed in a surprise attack by the island natives.

A.23 The southern coast of the Persian Gulf became known as the Pirate Coast as raiders based there harassed foreign shipping. Early British expeditions to protect the Indian Ocean trade from raiders at Ras al-Khaimah led to campaigns against that headquarters and other harbors along the coast in 1819.

IN EAST ASIA

A.24 From the 13th century, Wokou based in Japan made their debut in East Asia, initiating invasions that would persist for 300 years.

A.25 Piracy in South East Asia began with the retreating Mongol Yuan fleet after the betrayal by their Javanese allies (who, incidentally, would found the empire of Majapahit after the Mongols left). They preferred the junk, a ship using a more robust sail layout. Marooned navy officers, consisting mostly of Cantonese and Hokkien tribesmen, set up their small gangs near river estuaries, mainly to protect themselves. They recruited locals as common foot-soldiers known as 'lang' (lanun) to set up their fortresses. They survived by utilizing their well trained pugilists, as well as marine and navigation skills, mostly along Sumatran and Javanese estuaries. Their strength and ferocity coincided with the impending trade growth of the maritime silk and spice routes.

A.26 However, the most powerful pirate fleets of East Asia were those of Chinese pirates during the mid-Qing dynasty. Pirate fleets grew increasingly powerful throughout the early 19th century. The effects large-scale piracy had on the Chinese economy were immense. They preyed voraciously on China's junk trade, which flourished in Fujian and Guangdong and was a vital artery of Chinese commerce. Pirate fleets exercised hegemony over villages on the coast, collecting revenue by exacting tribute and running extortion rackets. In 1802, the menacing Zheng Yi inherited the fleet of his cousin, captain Zheng Qi, whose death provided Zheng Yi with considerably more influence in the world of piracy. Zheng Yi and his wife, Zheng Yi Sao (who would eventually inherit the leadership of his pirate confederacy) then formed a pirate coalition that, by 1804, consisted of over ten thousand men. Their military might alone was sufficient to combat the Qing navy. However, a combination of famine, Qing naval opposition, and internal rifts crippled piracy in China around the 1820s, and it has never again reached the same status.

A.28 The Buginese sailors of South Sulawesi were infamous as pirates who used to range as far west as Singapore and as far north as the Philippines in search of targets for piracy. The Orang laut pirates controlled shipping in the Straits of Malacca and the waters around Singapore,[19] and the

Malay and Sea Dayak pirates preyed on maritime shipping in the waters between Singapore and Hong Kong from their haven in Borneo.

IN EASTERN EUROPE

A.29   One example of a pirate republic in Europe from the 16th through the 18th century was Zaporizhian Sich. Situated in the remote Steppe, it was populated with Ukrainian peasants that had run away from their feudal masters, outlaws of every sort, destitute gentry, run-away slaves from Turkish galleys, etc. The remoteness of the place and the rapids at the Dnepr river effectively guarded the place from invasions of vengeful powers. The main target of the inhabitants of Zaporizhian Sich who called themselves "Cossacks" were rich settlements at the Black Sea shores of Ottoman Empire and Crimean Khanate.By 1615 and 1625, Zaporozhian Cossacks had even managed to raze townships on the outskirts of Istanbul, forcing the Ottoman Sultan to flee his palace. Don Cossacks under Stenka Razin even ravaged the Persian coasts

IN NORTH AFRICA

A.30   The Barbary pirates were pirates and privateers that operated from North African (the "Barbary coast") ports of Tunis, Tripoli, Algiers, Salé and ports in Morocco, preying on shipping in the western Mediterranean Sea from the time of the Crusades as well as on ships on their way to Asia around Africa until the early 19th century. The coastal villages and towns of Italy, Spain and Mediterranean islands were frequently attacked by them and long stretches of the Italian and Spanish coasts were almost completely abandoned by their inhabitants; after 1600 Barbary pirates occasionally entered the Atlantic and struck as far north as Iceland. According to Robert Davis[24][25] between 1 million and 1.25 million Europeans were captured by Barbary pirates and sold as slaves in North Africa and Ottoman Empire between the 16th and 19th centuries. The most famous corsairs were the Ottoman Hayreddin and his older brother Barbarossa (Redbeard), Turgut Reis (known as Dragut in the West), Kurtoğlu (known as Curtogoli in the West), Kemal Reis, Salih Reis and Koca Murat Reis. A few Barbary pirates, such as Jan Janszoon and John Ward, were renegade Christians who had converted to Islam.

A.32   According to recent legal analysis[citation needed] by the U.S. Supreme Court, the United States treated captured Barbary corsairs as prisoners of war, indicating that they were considered as legitimate privateers by at least some of their opponents, as well as by their home countries.

IN THE CARIBBEAN

A.33   In 1523, Jean Fleury seized two Spanish treasure ships carrying Aztec treasures from Mexico to Spain. The great or classic era of piracy in the Caribbean extends from around 1560 up until the mid 1720s. The period during which pirates were most successful was from 1700 until the 1730s. Many pirates came to the Caribbean after the end of the War of the Spanish Succession. Many people stayed in the Caribbean and became pirates shortly after that. Others, the buccaneers, arrived in the mid-to-late 17th century and made attempts at earning a living by farming and hunting on Hispaniola and nearby islands; pressed by Spanish raids and possibly failure of their means of making a living, they turned to a more lucrative occupation (not to mention more active and conducive to revenge). Caribbean piracy arose out of, and mirrored on a smaller scale, the conflicts over trade and colonization among the rival European powers of the time, including the empires of Britain, Spain, the Netherlands, Portugal and France. Most of these pirates were of English, Dutch and French origin. Because Spain controlled most of the Caribbean, many of the attacked cities and ships belonged to the Spanish Empire and along the East coast of America and the West coast of Africa. Dutch ships captured about 500 Spanish and Portuguese ships between 1623 and 1638.Some of the best-known pirate bases were New Providence, in the Bahamas from 1715 to 1725, Tortuga established in the 1640s and Port Royal after 1655. Among the most famous Caribbean pirates are Edward Teach or "Blackbeard" and Henry Morgan.

PIRATE DEMOCRACY

A.34   Unlike traditional Western societies of the time, many pirate crews operated as limited democracies. Pirate communities were some of the first to instate a system of checks and balances similar to the one used by the present-day United States and many other countries. The first record of such a government aboard a pirate sloop dates to the 1600s, a full century before the United States' and France's adoption of democracy in 1789, or Spain's move to democracy in 1812.

A.35   Both the captain and the quartermaster were elected by the crew; they, in turn, appointed the other ship's officers. The captain of a pirate ship was often a fierce fighter in whom the men could place their trust, rather than a more traditional authority figure sanctioned by an elite. However, when not in battle, the quartermaster usually had the real authority. Many groups of pirates shared in whatever they seized; pirates injured in battle might be afforded special compensation similar to medical or disability insurance.

A.36   There are contemporary records that many pirates placed a portion of any captured money into a central fund that was used to compensate the injuries sustained by the crew. Lists show standardised payments of 600 pieces of eight ($156,000 in modern currency) for the loss of a leg down to 100 pieces ($26,800) for loss of an eye. Often all of these terms were agreed upon and written down by the pirates, but these articles could also be used as incriminating proof that they were outlaws.

A.37   Pirates readily accepted outcasts from traditional societies, perhaps easily recognizing kindred spirits, and they were known to welcome them into the pirate fold. For example as many as 40% of the pirate vessels' crews were slaves liberated from captured slavers. Such practices within a pirate crew were tenuous, however, and did little to mitigate the brutality of the pirate's way of life.

TREASURE

A.38   Even though pirates raided many ships, few, if any, buried their treasure. Often, the "treasure" that was stolen was food, water, alcohol, weapons, or clothing. Other things they stole were household items like bits of soap and gear like rope and anchors, or sometimes they would keep the ship they captured (either to sell off or because it was better than their ship). Such items were likely to be needed immediately, rather than saved for future trade. For this reason, there was no reason for the pirates to bury these goods. Pirates tended to kill few people aboard the ships they captured; oftentimes they would kill no one if the ship surrendered, because if it became known that pirates took no prisoners, their victims would fight to the last and make victory very difficult. Contrariwise, ships would quickly surrender if they knew they would be spared. In one well-documented case 300 heavily armed soldiers on a ship attacked by Thomas Tew surrendered after a brief battle with none of Tew's 40-man crew being injured.

REWARDS OF PIRACY

A.39   Pirates had a system of hierarchy on board their ships determining how captured money was distributed. However, pirates were more "egalitarian" than any other area of employment at the time. In fact pirate quartermasters were a counterbalance to the captain and had the power to veto his orders. The majority of plunder was in the form of cargo and ship's equipment with medicines the most highly prized. A vessel's doctor's chest would be worth anywhere from £300 to £400, or around $470,000 in today's values. Jewels were common plunder but not popular as they were hard to sell, and pirates, unlike the public of today, had little concept of their value. There is one case recorded where a pirate was given a large diamond worth a great deal more than the value of the handful of small diamonds given his crewmates as a share. He felt cheated and had it broken up to match what they received

A.40   Spanish pieces of eight minted in Mexico or Seville were the standard trade currency in the American colonies. However, every colony still used the monetary units of pounds, shillings and pence for bookkeeping while Spanish, German, French and Portuguese money were all standard

mediums of exchange as British law prohibited the export of British silver coinage. Until the exchange rates were standardised in the late 1700s each colony legislated its own different exchange rates. In England, 1 piece of eight was worth 4s 3d while it was worth 8s in New York, 7s 6d in Pennsylvania and 6s 8d in Virginia. One 18th century English shilling was worth around $58 in modern currency so a piece of eight could be worth anywhere from $246 to $465. As such, the value of pirate plunder could vary considerably depending on who recorded it and where

A.41   Ordinary seamen received a part of the plunder at the captain's discretion but usually a single share. On average, a pirate could expect the equivalent of a year's wages as his share from each ship captured while the crew of the most successful pirates would often each receive a share valued at around £1,000 ($1.17 million) at least once in their career.[30] One of the larger amounts taken from a single ship was that by captain Thomas Tew from an Indian merchantman in 1692. Each ordinary seaman on his ship received a share worth £3,000 ($3.5 million) with officers receiving proportionally larger amounts as per the agreed shares with Tew himself receiving 2½ shares. It is known there were actions with multiple ships captured where a single share was worth almost double this.

A.42   By contrast, an ordinary seamen in the Royal Navy received 19s per month to be paid in a lump sum at the end of a tour of duty which was around half the rate paid in the Merchant Navy. However, corrupt officers would often "tax" their crews' wage to supplement their own and the Royal Navy of the day was infamous for its reluctance to pay. From this wage, 6d per month was deducted for the maintenance of Greenwich Hospital with similar amounts deducted for the Chatham Chest, the chaplain and surgeon. Six months' pay was withheld to discourage desertion. That this was insufficient incentive is revealed in a report on proposed changes to the RN Admiral Nelson wrote in 1803; he noted that since 1793 more than 42,000 sailors had deserted. Roughly half of all RN crews were pressganged and these not only received lower wages than volunteers but were shackled while the vessel was docked and were never permitted to go ashore until released from service

A.43   Although the Royal Navy suffered from many morale issues, it answered the question of prize money via the 'Cruizers and Convoys' Act of 1708 which handed over the share previously gained by the Crown to the captors of the ship. Technically it was still possible for the Crown to get the money or a portion of it but this rarely happened. The process of condemnation of a captured vessel and its cargo and men was given to the High Court of the Admiralty and this was the process which remained in force with minor changes throughout the Revolutionary and Napoleonic Wars.

A.44   There was a great deal of money to be made in this way. The record breaker, admittedly before our wars, was the capture of the Spanish frigate the HERMIONE, which was carrying treasure in 1762. The value of this was so great that each individual seaman netted £485! The two captains responsible, Evans and Pownall, got just on £65,000 each. In January 1807 the frigate CAROLINE took the Spanish SAN RAFAEL which brought in £52,000 for her captain, Peter Rainier (who had been only a Midshipman some thirteen months before). All through the wars there are examples of this kind of luck falling on captains. Another famous 'capture' was that of the Spanish frigates THETIS and SANTA BRIGADA which were loaded with specie. They were taken by four British frigates who shared the money, each captain receiving £40,730. Each lieutenant got £5,091, the Warrant Officer group, £2,468, the midshipmen £791 and the individual seamen £182.

A.45   It should also be noted that it was usually only the frigates which took prizes; the ships of the line were far too ponderous to be able to chase and capture the smaller ships which generally carried treasure. Nelson always bemoaned that he had done badly out of prize money and even as a flag officer received little. This was not that he had a bad command of captains but rather that British mastery of the seas was so complete that few enemy ships dared to sail.

PUNISHMENT

A.46   During the seventeenth and eighteenth centuries, once pirates were caught, justice was meted out in a summary fashion, and many ended their lives by "dancing the hempen jig", or hanging at the end of a rope. Public execution was a form of entertainment at the time, and people came out to watch them as they would to a sporting event today. Newspapers were glad to report every detail,

such as recording the condemned men's last words, the prayers said by the priests for their immortal souls, and their final agonising moments on the gallows. In England most of these executions took place at Execution Dock on the River Thames in London.

A.47 In the cases of more famous prisoners, usually captains, their punishments extended beyond death. Their bodies were enclosed in iron cages (for which they were measured before their execution) and left to swing in the air until the flesh rotted off them- a process that could take as long as two years. The bodies of captains such as William Kidd, Charles Vane, William Fly, and Jack Rackham were all treated this way.

APPENDIX B PIRACY – EXTRACT FROM ROYAL NAVAL MUSEUM

B.1   Pirates are sea robbers who prey on other ships and rob them of their goods and sometimes capture the ship itself for their own purposes. Piracy began over 2000 years ago in Ancient Greece, when sea robbers threatened the trading routes of Ancient Greece. Since then, this threat has continued amongst seafaring nations ever since, until the birth of regular navies. Roman ships were attacked by pirates who seized their cargoes of grain, and olive oil. The Vikings (which means sea-raider) were renowned for attacking shipping and coastal settlements. However, piracy really flourished between 1620 and 1720, and this period is known as the golden age of piracy. Between the sixteenth and nineteenth centuries, there have been different types of pirates, these being, privateers, buccaneers, and corsairs.

B.2   Privateers were lawful pirates who were authorised by their government to attack and pillage ships of enemy nations. They shared their profits with the government. Between the sixteenth and eighteenth centuries governments issued 'letters of marque' which were licenced these sailors to plunder alien ships. This was to prevent privateers from being charged with piracy, which was an offence punishable by death. Francis Drake was England's most famous privateer. In the sixteenth century he attacked Spanish treasure ships returning from the new world, sharing his profits with Elizabeth I, who knighted him for his services. Buccaneers were pirates and privateers who operated from bases in the West Indies, and attacked Spanish shipping in the Caribbean. Corsairs were Muslim or Christian pirates who were active in the Mediterranean from the sixteenth to the nineteenth centuries. The Barbary Corsairs were Muslim, and operated solely from the North African states of Algiers, Tunis, Tripoli and Morocco, and were authorised by their government to attack the ships of Christian countries. In contrast the Maltese Corsairs were Christian and were granted a licence by the Christian Knights of St John to attack the 'barbarian' Turks.

B.3   Many pirates had served in merchant or naval ships prior to turning to piracy. Life on a pirate ship appeared more attractive as they were independent of national laws, the crew were treated much better than normal sailors and prize money was shared out equally. Most seamen became pirates as they hoped to become rich on plunders of treasure and cargo ships. When pirate ships captured merchant ships, the pirate captain would ask for volunteers to serve under him. Many of the crew would volunteer as life on a merchant ship was harsh and conditions awful

B.4   There were not many women pirates, as seamen believed that it was unlucky to have women onboard ships. Women therefore had to disguise themselves as men. However there were some extremely powerful women pirates, such as Ching Shih who commanded a pirate community of 80,000. The two most famous women pirates were Anne Bonney and Mary Reed, who were captured in 1720 and put on trial in Jamaica. They were both sentenced to death, but escaped execution as they were both pregnant. Mary Reed died of fever a few months after the trial, but Anne Bonney was released.

B.5   Becoming a pirate was called 'going on the account' and they had to agree to live by the rules of the ship. These rules were often strict and breaking them could mean flogging or even death. If a pirate was found stealing from their comrades or deserting during battle, they were marooned on a desert island with meagre supplies. Most would die a slow death from starvation if they could not hunt or fish.

B.6   Pirates used flags to frighten passing ships into surrendering without a fight. The original pirate flags were blood red, and this signalled that no mercy would be shown once the pirates boarded and battle ensued. As piracy developed, more flags were used, and pirates often had their own flags. The Jolly Roger, (a skull and crossbone) is the most famous pirate flag. The symbol had been appropriated from the symbol used in ships' logs, where it represented death on board. It

was first used as pirate flag around 1700 and quickly became popular with pirates, who designed their own version of the flag, e.g. a skull and crossed swords.

B.7 Pirates required ships that were fast, powerful, and had as shallow a depth below the water as possible. This was because surprise was vital to a pirate attack, and they needed to be able to navigate in shallow coastal waters and hide in secluded coves and inlets. Schooners were used by pirates in North American waters. They were fast, easily manoeuvred, with a shallow draught but were large enough to carry many guns and a large crew. In the seventeenth and eighteenth centuries, the Barbary Corsairs used galleys, which were long and narrow with a sail. During action, these vessels were rowed to allow travel at speed. Each oar was manned by up to six slaves who were chained to benches. The aim of the corsairs was to ram the enemy ship, board and defeat the crew in hand-to-hand battle. The galleys were only suited to the Mediterranean where conditions were calm. Junks which were flat bottomed boats, with three masts and sails held together with bamboo rods, were used in Chinese waters. The largest junks held twelve guns and carried rowing boats to raid coastal villages or board enemy ships. Pirates often took over captured merchant ships and altered them to suit their purpose, such as to increase speed, cut more gunports, and also to hide the true identity of the ship. They also utilised weapons, clothes, medicines, and food found on board.

B.8 Pirates boarded ships by jamming the rudder with wooden wedges so that the ship could not be steered. They would then use grappling hooks to board the ship, heavily armed with pistols, daggers and cutlasses, which were suited to hand-to-hand fighting. Pirates also used homemade weapons, such as hand grenades made by filling wine bottles with gunpowder and created smoke screens by setting fire to yellow sulphur. Merchant seamen under attack tried to prevent pirates boarding by greasing decks or scattering dried peas or broken glass on the decks. However, they knew if they put up a strong resistance and lost, the pirates would show no mercy and they would be seriously maimed or murdered. The pirates would take all the treasure or cargo that the ship carried. These might include silks, jewels, spices, wine, brandy, linen, money or slaves. Sometimes the pirates added the captured ship to their fleet or sank it to get rid of any evidence that would convict them. The seamen would be killed, ransomed, taken as slaves or joined the pirate crew.

B.9 Pirates also became involved in the lucrative slave trade. The Barbary Corsairs found that by selling ships' crews slaves or demanding a ransom for them was more profitable than the ship's cargo. During the seventeenth and eighteenth centuries, when the slave trade was a lucrative business, the profits from slavery attracted many pirates. Some became slavers, whilst others sold cargoes of slaves captured from the merchant ships bound for the American colonies, or from raids on the West African slave ports. Thus many pirates became a combination of slaver, privateer and pirate, and by the 1830's the term picaroon had come to mean both pirate and slaver. John Hawkins (1532-95) was the first English privateer to realise that the slave trade was a profitable trade. In 1562 he made the first of three voyages as a slaver, sailing from England to West Africa to load up 3000 slaves and took them to the Caribbean to be sold on the island of Hispaniola. Pirate captains in the Caribbean welcomed runaway slaves, who made up as much as one-third of some pirate crews. For slaves joining a pirate ship was more appealing than living the harsh life on the plantations as a slave.

B.10 The punishment for piracy was death by public hanging. The bodies of executed pirates were often tarred to preserve them to be hung from a gibbet. The corpse would be chained into an iron cage to prevent relatives from burying the body. The notable pirate, William Kidd, received this fate and his body hung for three years at Tilbury Point in the Thames estuary as a warning to seamen and pirates. A condemned man was measured for his iron cage before his execution, and many pirates feared this more than the hanging. After Blackbeard was killed in battle, his head was cut off and tied as a trophy to the yardarm of *HMS Pearl*.

B.11 Organised piracy and privateering was finally ended in the nineteenth century. In 1816, the bombardment of Algiers marked the end of the Barbary pirates power in the Mediterranean. Dutch warships patrolled Southeast Asia, and the British navy attacked pirates in the South China seas. However, at the beginning of the nineteenth century, lawful privateers were still flourishing until 1856 when the majority of maritime nations signed the Declaration of Paris. This banned letters of marque, and therefore outlawed privateering. Navies of each country were used to enforce this law. The age of steam also helped to end piracy as anti-slavery operations were now undertaken

by steam ships. These could sail without wind and at great speed, while pirates still relied upon more cumbersome sailing ships. By 1850 there were only a small number of pirates remaining.

B.12   Although piracy has never returned to the level it was in previous centuries, it has not completely disappeared and the world's navies continue to try to prevent piracy. Attacks occur worldwide, mainly in developing countries. In the 1990s, political groups hijacked ships, threatening crews and passengers with death if their demands were not met. Pirates in South East Asia have attacked merchant shipping and in the Caribbean, ships have been attacked and robbed. Modern day pirates still rely on speed and surprise in their attacks. They use fast dinghies and arm themselves with assault rifles to overpower ships. Many ships today have smaller crews, relying on technology and so can be easily overpowered.

APPENDIX C NEWPORT AND PIRACY

C.1   Welsh Pirates were amongst the most notorious in the world - Henry Morgan who made his fortune in Jamaica, Black Bart from Newport who devised the skull and crossbones flag and Hywel Davis, the 'Cavalier Prince of the Pyrates'.

C.2   Henry Morgan was thought to have been born in Llanrumney, then a village between Cardiff and Newport. Tredegar House in Newport was the ancestral home of the Morgan Family, later lords Tredegar, for over 500 years. To give you an idea of their importance, at the end of the 18th century the Morgans owned over 40,000 acres in Monmouthshire, Breconshire and Glamorgan.

C.3   The connection between Henry Morgan and Tredegar House is tenuous, but other members of the family were also pirates

MYSTERY OF NEWPORT'S MEDIAEVAL SHIP

Aug 5 2003 By Gemma Collins, PA News

A medieval ship older than the Mary Rose may have been a Portuguese vessel captured by pirates, an expert said today.The 15th century ship was discovered in June last year during the construction of a theatre and arts centre on the banks of the River Usk in Newport, South Wales.
Now the mystery of who the ship belonged to and why it was in Newport may be close to being solved.
Bob Trett, chairman of the trustees of Glamorgan Gwent Archaeological Trust, believes it may have been part of a fleet belonging to the Earl of Warwick.
"The ship has been enigmatic from the very beginning," he said.
Tree ring dating identified some timbers of the ship as having been cut down in about 1465 or 1466.
But later excavation led experts to think that that timber had been used in repairs and that the ship itself actually dated from much earlier.
"There were all sorts of questions we really didn't have the answers to," said Mr Trett.
"What was the ship doing in Newport, who owned it, why were the repairs started and not completed, who paid for them, what was it called?"
Mr Trett then set about researching whether the ship could have belonged to the Earl of Warwick, who, he said, was notorious for being involved in piracy.
He had gained custody of Newport from the Earl of Pembroke, who was killed in battle.
"It is unlikely many people could afford to build, repair or run a ship of this size," said Mr Trett.
"But the Earl of Warwick had his own fleet of ships." Mr Trett then discovered a document which showed that the Earl had authorised payment for "making a ship at Newport", dated a few months after he had taken control of the town. Mr Trett believes it could refer to the repairing of a vessel.
"It fits very nicely," he said. "We cannot prove it at the moment but the facts are so close it really could fit."
Among artefacts found on the 65ft vessel were shoes, woollen cloth and Portuguese pottery.
"We thought, 'Why has it been abandoned?'" said Mr Trett.
"One must assume they found it was much too big a job. There was a lot of damage it had been in a fight. It may well have been brought in after being captured by the Earl of Warwick, who was fairly notorious for piracy.
"He captured ships, and there were lots of fights going on at sea."
The ship is due to be housed beneath a glass floor in the new arts centre for visitors to see.
Mr Trett said: "This ship is the most complete 15th century ship to survive in Europe. From a ship archaeologist's point of view it is a tremendous find, but also now we are putting it centre-stage into the European politics of the time."

(see also BBC Timewatch programme)

APPENDIX D LLOYDS MARINE INSURANCE CONTRACT (1779)

Lloyd's ship and goods policy: Settled in the from below in 1779, but most of its provisions are of much older date.

𝕭e it known that ["John Brown"] as well in his own name and names of all and every other person or persons to whom the same doth, may, or shall appertain, in part or in all doth make assurance and cause himself and them, and every of them, to be insured lost or not lost, at and from ["Madras to London"].

Upon any kind of goods and merchandises, and also upon the body, tackle, apparel, ordnance, munition, artillery, boat, and other furniture, of and in the good ship or vessel called the ["Calliope"] whereof is master under God, for this present voyage, ["William Smith" but usually left blank] or whosoever else shall go for master in the said ship, or by whatsoever other name or names the said ship, or the master thereof, is or shall be named or called; beginning the adventure upon the said goods and merchandises from the loading thereof aboard the said ship, [as above] upon the said ship, etc. [as above] and so shall continue and endure, during her abode there, upon the said ship, etc.

And further, until the said ship, with all her ordnance, tackle, apparel, etc., and goods and merchandises whatsoever shall be arrived at [as above] upon the said ship, etc., until she hath moored at anchor twenty – four hours in good safety; and upon the goods and merchandises, until the same be there discharged and safely landed.

And it shall be lawful for the said ship, etc.. in this voyage, to proceed and sail to and touch and stay at any ports or places whatsoever [usually left blank] without prejudice to this insurance. The said ship, etc., goods and merchandises, etc,. for so much as concerns the assured by agreement between the assured and assurers in this policy, are and shall be valued at ["A.B. 100 bales of cotton valued at £1,000."]

Touching the adventures and perils which we, the assurers, are contented to bear and do take upon us in this voyage: they are of the seas, men of war, fire, enemies, **PIRATES**, rovers, thieves, jettisons, letters of mart and countermart, surprisals, takings at sea, arrests, restraints, and detainments of all kings, princes, and people, of what nation, condition, or quality soever, barratry of the master and mariners, and of all other perils, losses, and misfortunes, that have or shall come to the hurt, detriment, or damage of the said goods, and merchandises, and ship etc,. or any part thereof.

And in case of any loss or misfortune it shall be lawful to the assured, their factors. Servants and assigns, to sue, labour, and travel for, in and about the defence, safeguards, and recovery of the said goods and merchandises, and shop, etc., or any part thereof, without prejudice to this insurance; to the charges whereof we, the assurers, will contribute each one according to the rate and quantity pf his sum herein assured.

And it is especially declared and agreed that no acts of the insurer or insured in recovering, saving, or preserving the property insured shall be considered as a waiver, or acceptance of abandonment. And it is agreed by us, the insurers, that this writing or policy of assurance shall be of as much force and effect as the surest writing or policy of assurance heretofore made in Lombard Street, or in the Royal Exchange, or elsewhere in London.

And so we, the assurers, are contented, and do hereby promise and bind ourselves, each one for his own part, our heirs, executors, and goods to the assured, their executors, administrators, and assigns, for the true performance of the premises, confessing ourselves paid the consideration due unto us for this assurance by the assured, at and after the rate of ….

In Witness whereof we, the assurers, have subscribed our names and sums assured in London.

APPENDIX E PIRACY BUSINESS MODELS

Found on page 100 of a UN Security Council Report by a group of investigators sent to Somalia to monitor conditions there:- Compare with paragraphs A.34 to A.41 in Appendix A above

Piracy business model

The typical piracy 'business model' has evolved since the Monitoring Group's Piracy business model. The typical piracy 'business model' has evolved since the Monitoring Group's December 2008 report (S/2008/769). The success and expansion of pirate militias has necessitated new organizational arrangements and practices.
 Although leadership of pirate networks remains anchored in Puntland and central Somalia,participation in maritime militias and investment in pirate operations is open to a broad cross-section of Somali society.The refined business model guarantees every participant in the operation, if successful, a well-defined percentage or shareof the ransom money.A basic piracy operation requires a minimum eight to twelve militia prepared to stay at sea for extended periods of time,

in the hopes of hijacking a passing vessel. Each team requiresa minimum of two attack skiffs, weapons, equipment, provisions,fuel and preferably a supply boat. The costs of the operation are usually borne by investors, some of whom may also be pirates.To be eligible for employment as a pirate, a volunteer should already possess a firearm for use in the operation. For this 'contribution', he receives a 'class A' share of any profit. Pirates who provide a skiff or a heavier firearm, like an RPG or a general purpose machine gun, may be entitled to an additional A-share. The first pirate to board a vessel may also be entitled to an extra A-share.

At least 12 other volunteers are recruited as militiamen to provide protection on land if a ship is hijacked, In addition, each member of the pirate team may bring a partner or relative to be part of this land-based force. Militiamen must possess their own weapon, and receive a 'class B' share--usually a fixed amount equivalent to approximately US$15,000.

If a ship is successfully hijacked and brought to anchor, the pirates and the militiamen require food, drink, qaad, fresh clothes, cell phones, air time, etc. The captured crew must also be cared for. In most cases, these services are provided by one or more suppliers, who advance the costs in anticipation of reimbursement, with a significant margin of profit, when ransom is eventually paid.

When ransom is received, fixed costs are the first to be paid out. These are typically:- Reimbursement of supplier(s)
     - Financier(s) and/or investor(s): 30% of the ransom
     - Local elders: 5 to 10 %of the ransom (anchoring rights)-
     Class B shares (approx. $15,000 each): militiamen, interpreters etc.
The remaining sum -- the profit -- is divided between class-A shareholders.

. The success and expansion of pirate militias has necessitated new organizational arrangements and practices. Although leadership of pirate networks remains anchored in Puntland and central Somalia, participation in maritime militias and investment in pirate operations is open to a broad cross-section of Somali society. The refined business model guarantees every participant in the operation, if successful, a well-defined percentage or share of the ransom money.

SOMALI PIRACY BUSINESS MODEL

There are four major pirate clans operating in Somalia, with distinct skill sets separating the northern groups from those in the south. Somali pirate operations use an organized business model consisting of specific roles and responsibilities. The roles include the Attack Team, Committee, Community, Guard Force, Negotiator, and Investors.

PIRATE CLANS. There are four discrete pirate groups operating in Somalia; the Darots, Black Tigers, White Boys, and Thunders. The Darots are the largest and most prominent operation, lead by an individual known as "Guru" who is a former Somali army general. The Thunders are predominantly based north of the Eyl area, with many currently serving on active duty in the Somali Navy or Coast Guard. Based on information dating back to the 2000 timeframe, many of these maritime personnel from the Thunder clan were charging a weekly commission from the other piracy groups that amounted to approximately five percent of the final ransom price.

NORTH VS. SOUTH. Somali pirate camps can be divided into two distinct regions, one based in the north and a second operating out of the south. Pirates in the northern regions of Somalia are considered the "seafarers", with many having been officially trained in the Somali navy or Coast Guard. They have camps in Eyl, Kalub, and Garacad. Groups in the southern regions typically have militia training and have camps in Haradheere and Hobyo. Collaboration between these to separate populations has been rapidly increasing, particularly in 2010. Pirate teams that go out to sea aboard skiffs to actively engage with merchant vessels now have at least on competent seafarer and one strong military individual.

DIVISION OF LABOR. Somali piracy operations have evolved to take on a pseudo business model, with distinct responsibilities for all the players involved in the hijacking and hostage process. The various roles include Attack Team, Committee, Community, Guard Force, Negotiator, and Investor.

ATTACK TEAM. Also known as Shareholders, the Attack Team consists of four to ten personnel that go out to sea in six to eight meter skiffs. Once they capture a merchant vessel, they automatically get an equity stake of two thirds of the final ransom price, less all associated logistical costs. Upon capture, a member of the Attack Team will make a satellite phone call that triggers the formation of a Committee. Additionally, once a merchant vessel is brought into anchorage of the coast of Somalia and secured, Attack Team members frequently choose to sell their "share" to Guard Force members at a reduced premium. This action allows them to go back out to sea for another hijacking attempt and increased wealth. Both Attack Team and Guard Force personnel are known to loot the merchant vessel, taking western style clothing, personal effects and jewelry, pocket money, etc. from the crew members.

COMMITTEE. The Committee consists of approximately five businessmen who receive one third of the overall ransom (ultimately the largest individual portions). The Committee members, who are not necessarily located in Somalia, coordinate subsequent activities behind the scenes by bringing together all the elements necessary in order to find a Community capable of supporting the merchant vessel while it is at anchor. They actively seek to remain "hidden" and are known to frequently change out their mobile phone SIM cards. Additionally, Committee members can often be involved with overseeing multiple vessel hijackings, which results in a significant influence on the pace of individual vessel negotiations as they become preoccupied with specific events in one case vice another.

COMMUNITY. Once a Committee is formed, a Community is sought that is willing and capable of handling the merchant vessel for the prolonged negotiation phase. The Community hires out its anchorage and agrees to supplying the ship with necessary provisions (food, water, khat, etc.).

GUARD FORCE. Once a merchant vessel is brought to anchorage, the Guard Force takes over control of and responsibility for the ship. They generally serve in two week shifts and receive 10,000-15,000 USD per hijacking event.

NEGOTIATOR. Once a merchant vessel is secured and a Committee formed, a Negotiator who speaks English is appointed to become the sole conduit for the lengthy ransom process. The Negotiators regularly utilize false names even when handling multiple negotiations simultaneously, but their identities are somewhat known to the wider commercial maritime industry. The Negotiator receives 10,000-15,000 USD per hijacking event.

INVESTORS. The final category of the Somali business model is that of the Investors, who rely on the Hawala monetary system. They have been known to originate from Dubai, Kenya, Yemen, Germany, the United Kingdom, and the United States.

APPENDIX F UN CONVENTION ON THE LAW OF THE SEA (EXTRACT)

Article100

Duty to cooperate in the repression of piracy

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

Article101

Definition of piracy

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).

Article102

Piracy by a warship, government ship or government aircraft whose crew has mutinied

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

Article103

Definition of a pirate ship or aircraft

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

Article104

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

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

Article105

Seizure of a pirate ship or aircraft

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

Article106

Liability for seizure without adequate grounds

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

Article107

Ships and aircraft which are entitled to seize on account of piracy

A seizure on account of piracy may be carried out only by warships or military aircraft, or other ships or aircraft clearly marked and identifiable as being on government service and authorized to that effect.

APPENDIX G ROME CONVENTION 1988

Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation

(Rome, 10 March 1988)

THE STATES PARTIES TO THIS CONVENTION,

HAVING IN MIND the purposes and principles of the Charter of the United Nations concerning the maintenance of international peace and security and the promotion of friendly relations and co-operation among States,

RECOGNIZING in particular that everyone has the right to life, liberty and security of person, as set out in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights,

DEEPLY CONCERNED about the world-wide escalation of acts of terrorism in all its forms, which endanger or take innocent human lives, jeopardize fundamental freedoms and seriously impair the dignity of human beings,

CONSIDERING that unlawful acts against the safety of maritime navigation jeopardize the safety of persons and property, seriously affect the operation of maritime services, and undermine the confidence of the peoples of the world in the safety of maritime navigation,

CONSIDERING that the occurrence of such acts is a matter of grave concern to the international community as a whole,

BEING CONVINCED of the urgent need to develop international co-operation between States in devising and adopting effective and practical measures for the prevention of all unlawful acts against the safety of maritime navigation, and the prosecution and punishment of their perpetrators,

RECALLING resolution 40/61 of the General Assembly of the United Nations of 9 December 1985 which, *inter alia*, "urges all States unilaterally and in co-operation with other States, as well as relevant United Nations organs, to contribute to the progressive elimination of causes underlying international terrorism and to pay special attention to all situations, including colonialism, racism and situations involving mass

and flagrant violations of human rights and fundamental freedoms and those involving alien occupation, that may give rise to international terrorism and may endanger international peace and security",

RECALLING FURTHER that resolution 40/61 "unequivocally condemns, as criminal, all acts, methods and practices of terrorism wherever and by whomever committed, including those which jeopardize friendly relations among States and their security",

RECALLING ALSO that by resolution 40/61, the International Maritime Organization was invited to "study the problem of terrorism aboard or against ships with a view to making recommendations on appropriate measures",

HAVING IN MIND resolution A.584(14) of 20 November 1985, of the Assembly of the International Maritime Organization, which called for development of measures to prevent unlawful acts which threaten the safety of ships and the security of their passengers and crews,

NOTING that acts of the crew which are subject to normal shipboard discipline are outside the purview of this Convention,

AFFIRMING the desirability of monitoring rules and standards relating to the prevention and control of unlawful acts against ships and persons on board ships, with a view to updating them as necessary, and, to this effect, taking note with satisfaction of the Measures to Prevent Unlawful Acts against Passengers and Crews on Board Ships, recommended by the Maritime Safety Committee of the International Maritime Organization,

AFFIRMING FURTHER that matters not regulated by this Convention continue to be governed by the rules and principles of general international law,

RECOGNIZING the need for all States, in combating unlawful acts against the safety of maritime navigation, strictly to comply with rules and principles of general international law,

HAVE AGREED as follows:

Article 1

For the purposes of this Convention, "ship" means a vessel of any type whatsoever not permanently attached to the sea-bed, including dynamically supported craft, submersibles, or any other floating craft.

Article 2

1. This Convention does not apply to:

(a) a warship; or

(b) a ship owned or operated by a State when being used as a naval auxiliary or for customs or police purposes; or

(c) a ship which has been withdrawn from navigation or laid up.

2. Nothing in this Convention affects the immunities of warships and other government ships operated for non-commercial purposes.

Article 3

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.

Article 4

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.

Article 5

Each State Party shall mkae the offences set forth in article 3 punishable by appropriate penalties which take into account the grave nature of those offences.

Article 6

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.

Article 7

1. 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 or take other measures to ensure his presence for such time as is necessary to enable any criminal or extradition proceedings to be instituted.

2. Such State shall immediately make a preliminary inquiry into the facts, in accordance with its own legislation.

3. Any person regarding whom the measures referred to in paragraph 1 are being taken shall be entitled to:

(a) communicate without delay with the nearest appropriate representative of the State of which he is a national or which is otherwise entitled to establish such communication or, if he is a stateless person, the State in the territory of which he has his habitual residence;

(b) be visited by a representative of that State.

4. The rights referred to in paragraph 3 shall be exercised in conformity with the laws and regulations of the State in the territory of which the offender or the alleged offender is present, subject to the proviso that the said laws and regulations must enable full effect to be given to the purposes for which the rights accorded under paragraph 3 are intended.

5. When a State Party, pursuant to this article, has taken a person into custody, it shall immediately notify the States which have established jurisdiction in accordance with article 6, paragraph 1 and, if it considers it advisable, any other interested States, of the fact that such person is in custody and of the circumstances which warrant his detention. The State which makes the preliminary inquiry contemplated in paragraph 2 of this article shall promptly report its findings to the said States and shall indicate whether it intends to exercise jurisdiction.

Article 8

1. The master of a ship of a State Party (the "flag State") may deliver to the authorities of any other State Party (the "receiving State") any person who he has reasonable grounds to believe has committed one of the offences set forth in article 3.

2. The flag State shall ensure that the master of its ship is obliged, whenever practicable, and if possible before entering the territorial sea of the receiving State carrying on board any person whom the master intends to deliver in accordance with paragraph 1, to give notification to the authorities of the receiving State of his intention to deliver such person and the reasons therefor.

3. The receiving State shall accept the delivery, except where it has grounds to consider that the Convention is not applicable to the acts giving rise to the delivery, and shall proceed in accordance with the provisions of article 7. Any refusal to accept a delivery shall be accompanied by a statement of the reasons for refusal.

4. The flag State shall ensure that the master of its ship is obliged to furnish the authorities of the receiving State with the evidence in the master's possession which pertains to the alleged offence.

5. A receiving State which has accepted the delivery of a person in accordance with paragraph 3 may, in turn, request the flag State to accept delivery of that person. The flag State shall consider any such request, and if it accedes to the request it shall proceed in accordance with article 7. If the flag State declines a request, it shall furnish the receiving State with a statement of the reasons therefor.

Article 9

Nothing in this Convention shall affect in any way the rules of international law pertaining to the competence of States to exercise investigative or enforcement jurisdiction on board ships not flying their flag.

Article 10

1. The State Party in the territory of which the offender or the alleged offender is found shall, in cases to which article 6 applies, 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 without delay 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 other offence of a grave nature under the law of that State.

2. Any person regarding whom proceedings are being carried out in connection with any of the offences set forth in article 3 shall be guaranteed fair treatment at all stages of the proceedings, including enjoyment of all the rights and guarantees provided for such proceedings by the law of the State in the territory of which he is present.

Article 11

1. The offences set forth in article 3 shall be deemed to be included as extraditable offences in any extradition treaty existing between any of the States Parties. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be concluded between them.

2. If a State Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, the requested State Party may, at its option, consider this Convention as a legal basis for extradition in respect of the offences set forth in article 3. Extradition shall be subject to the other conditions provided by the law of the requested State Party.

3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize the offences set forth in article 3 as extraditable offences between themselves, subject to the conditions provided by the law of the requested State.

4. If necessary, the offences set forth in article 3 shall be treated, for the purposes of extradition between States Parties, as if they had been committed not only in the place in which they occurred but also in a place within the jurisdiction of the State Party requesting extradition.

5. A State Party which receives more than one request for extradition from States which have established jurisdiction in accordance with article 6[1] and which decides not to prosecute shall, in selecting the State to which the offender or alleged offender is to be extradited, pay due regard to the interests and responsibilities of the State Party whose flag the ship was flying at the time of the commission of the offence.

6. In considering a request for the extradition of an alleged offender pursuant to this Convention, the requested State shall pay due regard to whether his rights as set forth in article 7, paragraph 3, can be effected in the requesting State.

7. With respect to the offences as defined in this Convention, the provisions of all extradition treaties and arrangements applicable between States Parties are modified as between States Parties to the extent that they are incompatible with this Convention.

Article 12

1. State Parties shall afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of the offences set forth in article 3, including assistance in obtaining evidence at their disposal necessary for the proceedings.

2. States Parties shall carry out their obligations under paragraph 1 in conformity with any treaties on mutual assistance that may exist between them. In the absence of such treaties, States Parties shall afford each other assistance in accordance with their national law.

Article 13

1. States Parties shall co-operate in the prevention of the offences set forth in article 3, particularly by:

(a) taking all practicable measures to prevent preparations in their respective territories for the commission of those offences within or outside their territories;

(b) exchanging information in accordance with their national law, and co-ordinating administrative and other measures taken as appropriate to prevent the commission of offences set forth in article 3.

2. When, due to the commission of an offence set forth in article 3, the passage of a ship has been delayed or interrupted, any State Party in whose territory the ship or passengers or crew are present shall be bound to exercise all possible efforts to avoid a ship, its passengers, crew or cargo being unduly detained or delayed.

Article 14

Any State Party having reason to believe that an offence set forth in article 3 will be committed shall, in accordance with its national law, furnish as promptly as possible any relevant information in its possession to those States which it believes would be the States having established jurisdiction in accordance with article 6.

Article 15

1. Each State Party shall, in accordance with its national law, provide to the Secretary-General, as promptly as possible, any relevant information in its possession concerning:

(a) the circumstances of the offence;

(b) the action taken pursuant to article 13, paragraph 2;

(c) the measures taken in relation to the offender or the alleged offender and, in particular, the results of any extradition proceedings or other legal proceedings.

2. The State Party where the alleged offender is prosecuted shall, in accordance with its national law, communicate the final outcome of the proceedings to the Secretary-General.

3. The information transmitted in accordance with paragraphs 1 and 2 shall be communicated by the Secretary-General to all States Parties, to Members of the International Maritime Organization (hereinafter referred to as "the Organization"), to the other States concerned, and to the appropriate international intergovernmental organizations.

Article 16

1. Any dispute between two or more States Parties concerning the interpretation or application of this Convention which cannot be settled through negotiation within a reasonable time shall, at the request of one of them, be submitted to arbitration. If, within six months from the date of the request for arbitration, the parties are unable to agree on the organization of the arbitration any one of those parties may refer the dispute to the International Court of Justice by request in conformity with the Statute of the Court.

2. Each State may at the time of signature or ratification, acceptance or approval of this Convention or accession thereto, declare that it does not consider itself bound by any or all of the provisions of paragraph 1. The other States Parties shall not be bound by those provisions with respect to any State Party which has made such a reservation.

3. Any State which has made a reservation in accordance with paragraph 2 may, at any time, withdraw that reservation by notification to the Secretary-General.

Article 17

1. This Convention shall be open for signature at Rome on 10 March 1988 by States participating in the International Conference on the Suppression of Unlawful Acts against the Safety of Maritime Navigation and at the Headquarters of the Organization by all States from 14 March 1988 to 9 March 1989. It shall thereafter remain open for accession.

2. States may express their consent to be bound by this Convention by:

(a) signature without reservation as to ratification, acceptance or approval; or

(b) signature subject to ratification, acceptance or approval, followed by ratification, acceptance or approval; or

(c) accession.

3. Ratification, acceptance, approval or accession shall be effected by the deposit of an instrument to that effect with the Secretary-General.

Article 18

1. This Convention shall enter into force ninety days following the date on which fifteen States have either signed it without reservation as to ratification, acceptance or approval, or have deposited an instrument of ratification, acceptance, approval or accession in respect thereof.

2. For a State which deposits an instrument of ratification, acceptance, approval or accession in respect of this Convention after the conditions for entry into force thereof have been met, the ratification, acceptance, approval or accession shall take effect ninety days after the date of such deposit.

Article 19

1. This Convention may be denounced by any State Party at any time after the expiry of one year from the date on which this Convention enters into force for that State.

2. Denunciation shall be effected by the deposit of an instrument of denunciation with the Secretary-General.

3. A denunciation shall take effect one year, or such longer period as may be specified in the instrument of denunciation, after the receipt of the instrument of denunciation by the Secretary-General.

Article 20

1. A conference for the purpose of revising or amending this Convention may be convened by the Organization.

2. The Secretary-General shall convene a conference of the States Parties to this Convention for revising or amending the Convention, at the request of one third of the States Parties, or ten States Parties, whichever is the higher figure.

3. Any instrument of ratification, acceptance, approval or accession deposited after the date of entry into force of an amendment to this Convention shall be deemed to apply to the Convention as amended.

Article 21

1. This Convention shall be deposited with the Secretary-General.

2. The Secretary-General shall:

(a) inform all States which have signed this Convention or acceded thereto, and all Members of the Organization, of:

(i) each new signature or deposit of an instrument of ratification, acceptance, approval or accession together with the date thereof;

(ii) the date of the entry into force of this Convention;

(iii) the deposit of any instrument of denunciation of this Convention together with the date on which it is received and the date on which the denunciation takes effect;

(iv) the receipt of any declaration or notification made under this Convention;

(b) transmit certified true copies of this Convention to all States which have signed this Convention or acceded thereto.

3. As soon as this Convention enters into force, a certified true copy thereof shall be transmitted by the Depositary to the Secretary-General of the United Nations for registration and publication in accordance with Article 102 of the Charter of the United Nations.

Article 22

This Convention is established in a single original in the Arabic, Chinese, English, French, Russian and Spanish languages, each text being equally authentic.

IN WITNESS WHEREOF the undersigned being duly authorized by their respective Governments for that purpose have signed this Convention.

DONE AT ROME this tenth day of March one thousand nine hundred and eighty-eight.

[1][1] Reads as "Article 7" in authentic text. Rectified 20 December 1989

APPENDIX H PRESIDENTIAL DECREE 12TH APRIL 2010

Presidential Documents

Federal Register /Vol. 75, No. 72 /Thursday, April 15, 2010 / Presidential Documents **19869**

Executive Order 13536 of April 12, 2010

Blocking Property of Certain Persons Contributing to the Conflict in Somalia

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) (IEEPA), the National Emergencies Act (50 U.S.C. 1601 *et seq.*) (NEA), section 5 of the United Nations Participation Act, as amended (22 U.S.C. 287c) (UNPA), and section 301 of title 3, United States Code,

I, BARACK OBAMA, President of the United States of America, find that the deterioration of the security situation and the persistence of violence in Somalia, and acts of piracy and armed robbery at sea off the coast of Somalia, which have repeatedly been the subject of United Nations Security Council resolutions (including Resolution 1844 of November 20, 2008; Resolution 1846 of December 2, 2008; Resolution 1851 of December 16, 2008; and Resolution 1897 of November 30, 2009), and violations of the arms embargo imposed by the United Nations Security Council in Resolution 733 of January 23, 1992, and elaborated upon and amended by subsequent resolutions (including Resolution 1356 of June 19, 2001; Resolution 1725 of December 6, 2006; Resolution 1744 of February 20, 2007; Resolution 1772 of August 20, 2007; Resolution 1816 of June 2, 2008; and Resolution 1872 of May 26, 2009), constitute an unusual and extraordinary threat to the national security and foreign policy of the United States, and I hereby declare a national emergency to deal with that threat.

I hereby order:

Section 1. (a) All property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person, including any overseas branch, of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in:
(i) the persons listed in the Annex to this order; and
(ii) any person determined by the Secretary of the Treasury, in consultation with the Secretary of State:
(A) to have engaged in acts that directly or indirectly threaten the peace, security, or stability of Somalia, including but not limited to:
(1) acts that threaten the Djibouti Agreement of August 18, 2008, or the political process; or
(2) acts that threaten the Transitional Federal Institutions, the African

Union Mission in Somalia (AMISOM), or other international peacekeeping operations related to Somalia;

(B) to have obstructed the delivery of humanitarian assistance to Somalia, or access to, or distribution of, humanitarian assistance in Somalia;

(C) to have directly or indirectly supplied, sold, or transferred to Somalia, or to have been the recipient in the territory of Somalia of, arms or any related materiel, or any technical advice, training, or assistance, including financing and financial assistance, related to military activities;

(D) to have materially assisted, sponsored, or provided financial, material, logistical, or technical support for, or goods or services in support of, the activities described in subsections (a)(ii)(A), (a)(ii)(B), or (a)(ii)(C) of this section or any person whose property and interests in property are blocked pursuant to this order; or (E) to be owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to this order.

(b) I hereby determine that, among other threats to the peace, security, or stability of Somalia, acts of piracy or armed robbery at sea off the coast of Somalia threaten the peace, security, or stability of Somalia.

(c) I hereby determine that, to the extent section 203(b)(2) of IEEPA (50 U.S.C. 1702(b)(2)) may apply, the making of donations of the type of articles specified in such section by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to subsection (a) of this section would seriously impair my ability to deal with the national emergency declared in this order, and I hereby prohibit such donations as provided by subsection (a) of this section.

(d) The prohibitions in subsection (a) of this section include but are not limited to:

(i) the making of any contribution or provision of funds, goods, or services by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to this order; and

(ii) the receipt of any contribution or provision of funds, goods, or services from any such person.

(e) The prohibitions in subsection (a) of this section apply except to the extent provided by statutes, or in regulations, orders, directives, or licenses that may be issued pursuant to this order, and notwithstanding any contract entered into or any license or permit granted prior to the effective date of this order.

Sec. 2. (a) Any transaction by a United States person or within the United States that evades or avoids, has the purpose of evading or avoiding, causes a violation of, or attempts to violate any of the prohibitions set forth in this order is prohibited.

(b) Any conspiracy formed to violate any of the prohibitions set forth in this order is prohibited.

Sec. 3. For the purposes of this order:

(a) the term ''person'' means an individual or entity;

(b) the term ''entity'' means a partnership, association, trust, joint venture, corporation, group, subgroup, or other organization;

(c) the term ''United States person'' means any United States citizen, permanent resident alien, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States;

(d) the term ''Transitional Federal Institutions'' means the Transitional Federal Charter of the Somali Republic adopted in February 2004 and the Somali federal institutions established pursuant to such charter, and includes their agencies, instrumentalities, and controlled entities; and

(e) the term ''African Union Mission in Somalia'' means the mission authorized by the United Nations Security Council in Resolution 1744 of February 20, 2007, and reauthorized in subsequent resolutions, and includes its agencies, instrumentalities, and controlled entities.

Sec. 4. For those persons whose property and interests in property are blocked pursuant to this order who might have a constitutional presence

3. Hassan Dahir AWEYS [born 1935]

4. Ahmed Abdi AW-MOHAMED [born 10 July 1977]

5. Yasin Ali BAYNAH [born circa 1966]

6. Mohamed Abdi GARAAD [born circa 1973]

7. Yemane GHEBREAB [born 21 July 1951]

8. Fuad Mohamed KHALAF [born circa 1965]

9. Bashir Mohamed MAHAMOUD [born circa 1979-1982]

10. Fares Mohammed MANA'A [born 8 February 1965]

11. Mohamed SA'ID [born circa 1966]

Entity

1. al-Shabaab

APPENDIX I OPERATION ATALANTA – HOUSE OF LORDS REPORT

COMBATING SOMALI PIRACY: THE EU'S NAVAL OPERATION ATALANTA

Introduction

1. During 2008, the EU and the UN Security Council became increasingly concerned about piracy off the east coast of Africa and in the Gulf of Aden. A large part of the world's maritime traffic passes through this trade route and piracy was posing an increasing threat. In particular, the World Food Programme (WFP) suffered several attacks on its ships taking vital humanitarian aid to Somalia, and it called upon the international community to provide protection. Shipping companies were also concerned about the protection and safety of their vessels, cargo and crew. Concurrently the humanitarian situation in Somalia worsened considerably. UN Security Council resolution 1838 noted reports that as many as 3.5 million Somalis would be in need of food aid by the end of 2008.

2. In a series of Security Council Resolutions, the UN called on the international community to act (see Box 2) and in December 2008 the EU established Operation Atalanta (see Box 1), its first-ever naval Common Security and Defence Policy (CSDP) operation. This was also the first military CSDP operation in which the UK had taken a leading role.

3. This report examines the mandate and effectiveness of EU Operation Atalanta as well as the key challenges facing it and how to address them.

4. This report was prepared by Sub-Committee C (Foreign Affairs, Defence and Development) whose members are listed in Appendix 1. Those from whom we took evidence are listed in Appendix 2. We are grateful to them all.

5. **We make this report to the House for debate.**

BOX 1
EU Operation Atalanta

The EU agreed to set up an Operation to combat piracy at the 10 November 2008 Council[1]. This Operation, named EUNAVFOR Somalia—Operation Atalanta, has been in operation since December 2008. It was originally set up for one year and the common costs were specified as 8.3 million euros for the initial year. On 8 December 2009, the Council of the EU decided to extend its mandate for another year (until 12 December 2010).

The EU's Council conclusions of 26 May 2008 had earlier expressed the Council's concern at the upsurge of pirate attacks off the Somali coast, which affected humanitarian efforts and international maritime traffic in the region and contributed to continued violations of the UN arms embargo.

Operation Atalanta operates in a zone comprising the south of the Red Sea, the Gulf of Aden, the Somali basin and part of the Indian Ocean, including the Seychelles. This is a vast area, comparable to that of the Mediterranean Sea.

The Political and Security Committee (PSC) exercises political control and strategic direction of the EU military operation, under the responsibility of the Council of the European Union. The EU Military Committee (EUMC) monitors the correct execution of the operation. The Operation Commander, Rear Admiral Peter Hudson RN (UK), currently commands the operation from the Operational Headquarters (OHQ) at Northwood, United Kingdom.

More than twenty vessels and aircraft take part in Atalanta. On 7 April 2010[2], the following EU Member

States were making a permanent operational contribution to the operation: the Netherlands, Spain, Germany, France, Greece, Italy, Sweden, Belgium, Luxembourg and Portugal. A number of other EU military personnel supplement the team at the Northwood Operational Headquarters. Non-EU Member States Norway, Croatia, Montenegro and Ukraine also participate in the Operation.

BOX 2
The UN Framework

Operation Atalanta was launched in support of a series of United Nations Security Council Resolutions (UNSCR) on Somalia:

- Resolution 1814 (2008) called on the international community to take action to protect shipping involved in the transport and delivery of humanitarian aid to Somalia.

- In resolution 1816 (2008), the Security Council expressed its concern at the threat that acts of piracy and armed robbery against vessels posed to the delivery of humanitarian aid to Somalia, the safety of commercial maritime routes and international navigation. The Security Council authorised the states cooperating with the Somali Transitional Federal Government (TFG) to enter the territorial waters of Somalia and to use, in a manner consistent with relevant international law, all necessary means to repress acts of piracy and armed robbery at sea.

- Resolution 1838 (2008), commended the ongoing planning process towards a possible EU naval operation.

- Resolution 1897 (2009) renewed the Security Council's call upon states and regional organisations to take part in the fight against piracy off the coast of Somalia, in particular by "deploying naval vessels, arms and military aircraft and through seizures and disposition of boats, vessels, arms and other related equipment ..."

The mandate and effectiveness of Operation Atalanta

6. EU Operation Commander Rear Admiral Peter Hudson RN told us that one of the strengths of Operation Atalanta was the clarity of its mandate:

- to support the World Food Programme (WFP) in its efforts to transport humanitarian aid into Somalia—a top priority;
- to support the African Union (AU) mission, AMISOM[3], by protecting its ships supplying the Transitional Federal Government (TFG) of Somalia in Mogadishu;
- to protect vulnerable shipping and work with industry groups on how they should go through the high risk areas;
- to deter, disrupt and break up pirate groups (Q 94).

Recently the mandate has been extended to include the monitoring of fishing activities.

7. We heard universal praise for the way in which Operation Atalanta was run. Dr Lee Willett (Royal United Services Institute for Defence and Security Studies—RUSI) noted that the Operation had been launched in the space of only 10 weeks, which for "something of this size and significance is quite an achievement". The UK had been welcomed as the framework nation for the Operation due to the experience and credibility of the Royal Navy. Siting the headquarters at Northwood made sense; it already housed Navy and NATO operations, as well as being close to London, home of the International Maritime Organization (IMO) and a hub for the global shipping community (Q 164) (see also Kopernicki QQ 214, 216, Simmonds Q 216).

8. Witnesses expressed concern about the dangers of the possible spread of piracy, with copy-cat operations, if nothing was done. Jan Kopernicki (Shell Shipping and Oil Companies International Forum) said this had already happened on the West African coast (Q 217).

9. Our witnesses agreed that Operation Atalanta had been effective in the two main aspects of its mandate: protecting WFP and AU ships and deterring and disrupting piracy. Rear Admiral Hudson said that the EU Operation had a 100% successful record in protecting WFP vessels. In 2009 Atalanta had escorted 49 WFP ships carrying over 300,000 tonnes of food, as well as 14 African Union ships with supplies for AMISOM troops in Mogadishu. According to EU figures, the number of successful pirate attacks on larger merchant vessels had remained steady, with 46 in 2008 and 43 in 2009. He stressed that it was "quite a challenge" to identify reports of genuine but unsuccessful pirate assaults: a ship's master might see a fishing vessel or an illegal activity, such as human smuggling, and report it as an attack (QQ 95, 101-4).

10. Jason Alderwick (International Institute for Strategic Studies—IISS) said that much progress had been made in international efforts to combat piracy in the region, which had previously been unchecked. Although the number of ships taken by pirates was broadly the same over the previous 12 months, the number of attempted attacks that had been thwarted had increased by at least 70%. This was a result both of the presence of military forces in the region and of ship owners, operators and other commercial parties taking the issue seriously. Dr Willett agreed that Atalanta was addressing the piracy problem, as well as providing a presence in the region and giving greater confidence to the shipping industry (QQ 160-1, 171).

11. **Piracy in the Gulf of Aden and the Indian Ocean is a serious and continuing threat to UK and EU interests. The EU acted rapidly and decisively in response to this threat by launching Operation Atalanta. This is a good example of the EU successfully conducting foreign and security policy. We welcome the lead role which the UK is playing in the Operation.**

12. **Operation Atalanta has proved itself a credible force in combating piracy in the Gulf of Aden and the Indian Ocean. It has been highly effective in protecting World Food Programme and AMISOM logistics vessels, none of which has so far been taken by pirates. It has also successfully deterred and disrupted pirate threats to commercial shipping.**

13. **Piracy is deeply rooted in Somalia and could spread to other countries in the region unless determined steps are taken to address the problem of fragile states. There is piracy elsewhere in the world and it could spread further if the EU and its international partners do not show a determination to eliminate it.**

14. **We believe that Atalanta's mandate should be renewed in December 2010 and that the Government should continue to make the Operational Headquarters in Northwood available for this mission.**

A complex environment

15. Mr Alderwick commented that Atalanta was operating in a "very complex environment". It was the second or third busiest channel for maritime transport in the world, in addition to the "myriad" local fishing boats in the Gulf of Aden (Q 162).

16. Rear Admiral Hudson told us that about 25,000 ships transited the area every year, principally through the Gulf of Aden, representing around 25 per cent of global trade. It was a "vital strategic artery". An important energy supply route led from the Gulf of Aden into Europe and across to America. Container ships bound for the far east also regularly used that route. On average between 75 and 100 ships transited every day, depending on the season and economic cycles. In the Somali Basin, the southern part of the area of operations, the traffic density was much lower, around 600 to 1,000 ships annually (Q 96).

Pirate organisation and tactics

17. Pirates identify vulnerable ships which can more easily be attacked. Rear Admiral Hudson told us that a set of criteria had been established which were used to identify what constituted a vulnerable ship: its speed, manoeuvrability, freeboard[4] and cargo and the number of people on board. The maritime security centre then calculated whether the ship was high, medium or low risk (Q 94).

18. Rear Admiral Hudson commented that the pirates ran "adaptive organisations. They look at the conditions, they look at where the military forces are and that is how they are able to exploit the weaknesses in our armour". Following the success of the international forces and those of Puntland[5] authorities in the Gulf of Aden, the pirates had sought alternative criminal activity, including human smuggling. They were also moving out into the Somali Basin using long-range skiffs or "mother ships" towing attack skiffs behind them (Q 107) (see Appendix 4). Mr Alderwick said that while the pirate organisations were sophisticated, the conduct of pirate attacks was basic and the state of the pirates' weaponry was poor. However, they were becoming better at operating offshore, in particular by equipping their boats with additional or more powerful engines (Q 172). Atalanta sought to identify pirates based on the equipment they carried: in particular the quantity of fuel and presence of more powerful engines than were needed for fishing. Pirate equipment, including ladders and weaponry, was easy to detect (Rear Admiral Jones Q 8).

19. Mr Alderwick thought that one indication of the success of the operation had been the displacement "arguably" of activity by the pirates. Once the maritime forces in the Gulf of Aden "were galvanised", activity was displaced further into the Somali Basin, causing a separate tactical and operational issue (Q 160).

20. The pirates were largely based around three clans, which tended to have their own "pirate companies". They left from numerous pirate ports, including coves and harbours along the 3,000 km-long coast. They brought seized ships back to a central location, where they maintained the security of the ships and conducted ransom negotiations (Hudson Q 111). Some pirates were subject to the influence of Islamic tribes, including Al-Shabab and Al-Islamiya (Jones Q 10).

21. **A significant number of Somali pirates are organised in clan-based sophisticated criminal networks. However the method of attack has remained basic. Ironically, it is a measure of the success of Atalanta and other international forces in the Gulf of Aden that pirates have been forced to operate further offshore in the Indian Ocean. This increases the risk-to-reward ratio for the pirates as they have to use mother ships which are more easily identified by surveillance. The EU's efforts to combat piracy must continue to be robust so as to increase this risk-to-reward ratio. Given the displacement of piracy further into the Indian Ocean, it is all the more important that Atalanta has the right capabilities, especially airborne surveillance.**

Capability shortfalls

22. Despite praise for the Operation, our witnesses identified a number of specific shortfalls—in maritime surveillance, tankers and medical support. Rear Admiral Philip Jones, EU Operation Commander from December 2008 to June 2009, distinguished between strategic intelligence, to which Atalanta had sufficient access, and tactical "day-to-day" intelligence, which was "a constant challenge". Identifying a pirate boat presented difficulties from a legal point of view. "A pirate is only a pirate when he is committing an act of piracy ... he may be a people smuggler overnight taking [Somalis] to Yemen, ... a fisherman the next morning and then, in the afternoon, go out to do some piracy, and it is only when he commits the act of piracy that he becomes liable to arrest and prosecution by the maritime forces" (QQ 7-10).

23. Given the difficulty of identifying pirate skiffs, Rear Admiral Jones stressed the importance of airborne surveillance platforms, including maritime patrol aircraft. These aircraft were "absolutely pivotal" because they could detect the movement of pirate vessels at greater range and more effectively than was possible using surface-borne radar and visual imagery. Ship-based helicopters were also able to cover a wide area and use a range of sensors to detect the movement of pirate vessels. However, there was a gap in the Operation's knowledge of pirate activity on land in Somalia (QQ 7-10). Rear Admiral Hudson observed that maritime patrol aircraft were the asset that Atalanta, NATO and the coalition forces needed most. Those running Operation Atalanta had set a minimum threshold of three maritime patrol aircraft to enable a full daily sortie in the Gulf of Aden, but this requirement had not been met. Tankers—to allow mid-ocean refuelling—and role two[6] medical facilities were also in short supply (QQ 135-136).

24. Mr Alderwick agreed that aviation assets were a "great force multiplier", but that some states contributing to the EU Operation had at times been unable to supply a helicopter, although not in the UK's case (Q 164). Dr Willett pointed out that capability shortfalls were best addressed on an international basis. The UK had limited military assets, and other nations should be encouraged to contribute. Luxembourg had offered a maritime patrol aircraft, which was operating in the Seychelles area. Saudi Arabia and Japan had each provided a tanker to support international naval operations in the region (Q 193).

25. Mr Kopernicki (Shell Shipping and Oil Companies International Forum) suggested that commercial tankers could be chartered for refuelling purposes. Many tankers were already fitted out with NATO-compatible connections. These tankers could augment the international naval forces' fleet (Q 218). However, FCO Minister Baroness Kinnock of Holyhead stated that the use of commercial tankers was not currently assessed to be the best means of meeting requirements "either operationally or in particular most cost-effectively". Charter costs for a medium ocean tanker were in the region of £11,000 per day and the tanker could itself become a potential target for pirates (p 83).

26. Admiral Hudson commented that the EU mission had no unmanned aerial vehicles (UAVs) of the type deployed in Afghanistan, but the US operated them from the Seychelles. Asked whether Atalanta should have UAVs, he commented that they were in scarce supply and other operational theatres had a higher demand for them (QQ 137-140). Atalanta had a good relationship with the EU Satellite Centre and used "a variety of sources to keep an eye on activity" (Q 116).

27. **We are concerned that Atalanta's capability shortfalls are preventing it from being even more effective in tackling piracy. Airborne surveillance capabilities—including maritime patrol aircraft and helicopters—are crucial force multipliers for Operation Atalanta, as they facilitate the identification of suspected pirates. We welcome the support currently provided by Luxembourg operating out of the Seychelles, but regret that Atalanta still does not have access to sufficient surveillance assets. Unmanned aerial vehicles directly serving Atalanta would, in particular, be useful, but we recognise that they are needed as a higher priority in combat zones.**

28. **Tanker support is needed to enable ships participating in Atalanta and the NATO and coalition forces to refuel in mid-ocean in order to maximise the time they spend at sea combating piracy, rather than refuelling in port. Cover is currently insufficient. The Government and the EU should continue actively to encourage international partners to provide tankers so that continuous cover can be provided.**

29. **The EU should also explore with Member States how to increase access to medical facilities for surgical and non-surgical interventions where there is also a shortage.**

The World Food Programme

30. Mr Kopernicki told us that the WFP chartered small, old, very slow ships, requiring Atalanta to deploy large numbers of personnel and ships for long periods to steward them. If the WFP could be persuaded or financially assisted to use larger, more modern and faster ships, they would require far fewer troops and ships to patrol, releasing resources to carry out anti-piracy activity (Q 217). Chris Holtby (Deputy Head of Security Policy, FCO) told us that, where possible, armed vessel protection detachments (VPDs) were placed on WFP and other ships[7]. However, some flag states had not agreed to this, increasing their vulnerability to attack. Baroness Kinnock of Holyhead said that discussions were taking place between the WFP and the military on ways to improve the situation and the Government had raised the problem with the shipping industry (QQ 330-4).

31. **Protecting World Food Programme vessels delivering vital supplies to Somalia is an essential part of Atalanta's mandate, which we fully support. However, the WFP's use of small, slow ships requires greater military protection resources. The Government and the EU should strongly encourage the WFP to charter faster, larger and more modern vessels.**

32. **In addition shipping companies have a vested interest in such measures as they would free up Atalanta's ships to protect their vessels transiting the area. The Government should consider establishing a partnership in which interested companies would make a voluntary financial or in-kind contribution to the WFP for chartering or purchasing satisfactory vessels. A "friend of the WFP label" could be established under the auspices of the EU or the IMO to recognise the contribution of shipping companies. This would serve as an indication of their commitment to corporate citizenship.**

33. **The WFP should also make it a condition of tender that, when requested, the flag state allow military personnel on board all WFP vessels used to supply Somalia. The Government should pursue this objective with the WFP and other donors, including the US as the primary donor.**

Rules of engagement: detention and prosecution of suspected pirates

34. Atalanta military personnel can arrest, detain and transfer persons who are suspected of having committed or who have committed acts of piracy or armed robbery in the areas where they are present. They can seize the vessels of the pirates or vessels captured following an act of piracy or an armed robbery and which are in the hands of the pirates, as well as the goods on board. The suspects can be prosecuted by an EU Member State or by Kenya under an agreement signed with the EU on 6 March 2009 giving the Kenyan authorities the right to prosecute. An exchange of letters concluded on 30 October 2009 between the EU and the Republic of Seychelles allows the transfer of suspected pirates and armed robbers apprehended by Atalanta in the operation area. This arrangement constitutes an important new contribution to the counter-piracy efforts[8]. On 22 March 2010 the Council of the EU authorised High Representative Baroness Ashton of Upholland to open negotiations with Mauritius, Mozambique, South Africa, Tanzania and Uganda with a view to concluding further transfer agreements[9].

35. Commander Clive Dow RN told us that Atalanta was a law enforcement operation rather than a war against pirates or an armed conflict. It abided by the law of the sea, under customary international law, the United Nations Convention on the Law of the Sea (UNCLOS) and the Suppression of Unlawful Acts Convention. The principle of "reasonable force" applied[10]. Lethal force could only be employed where there was a threat to life (QQ 112-3). On the rules of engagement, Rear Admiral Hudson assured us that Atalanta had the necessary flexibility to disrupt, deter and arrest pirates (Q 112).

36. Commander Dow said that Atalanta restricted its prosecutions of suspects to pirates who were caught in the act rather than those who looked suspicious on the basis of their equipment. This was due to the arrangements for prosecution, generally in Kenya and the Seychelles. Cases were selected to maximise the chances of conviction, based on witness evidence of an act of piracy. There was a comprehensive approach when it came to prosecutions across the military operations as well as in the political arena. The EU mission worked closely with the UN Office on Drugs and Crime, which was charged with assisting capacity building, not only in Kenya and the Seychelles, but in any other regional area where prosecutions might take place. However it focused its efforts on building capacity in Somalia, Somaliland[11] and Puntland. This ensured that prosecutions were efficiently managed and that human rights standards were met. However, this could not be done "in isolation" for pirates. Capacity building in regional jurisdictions had to apply to the whole system (QQ 113, 148).

37. We asked our witnesses whether human rights standards were being met for the transfer, prosecution and detention of suspected and convicted pirates. Lord Malloch-Brown (then FCO Minister) assured us that Government policy was not to allow transfer to third states of suspected pirates for prosecution unless the Government were satisfied that they would not be subject to cruel treatment, the death penalty or face a trial which was grossly unfair. The UK had signed a Memorandum of Understanding (MoU) with Kenya in December 2008, and the Government's legal advisers were completely satisfied that suitable guarantees were in place on the sentencing of pirates and their conditions of detention. The EU had since then agreed a similar MoU with Kenya as well as an exchange of letters with the Seychelles authorities for the transfer of suspected pirates (Q 62, p87).

38. Baroness Kinnock of Holyhead said that there were 117 pirates in Kenyan prisons, 75 of whom were transferred by Atalanta for prosecution. A further 11 pirate suspects would be transferred to the Seychelles by Atalanta for prosecution (Q 283; p 83).

39. Speaking of the different organisations operating to counter piracy in the area, Mr Alderwick said that the advantage of the EU was that it had a variety of political instruments; it could enter into political agreements with states in the region, both as a collective entity and through its Member States. By contrast, NATO was seen as a military organisation. The EU has put in place status of forces agreements with states in the region. These acted as a "force multiplier", as Atalanta could operate out of Djibouti and Oman. The EU had also negotiated legal frameworks for the prosecution of pirates, such as that with Kenya. Atalanta had adopted a comprehensive and inter-agency approach, by engaging ship-owners, operators, the British Chamber of Shipping and the International Maritime Organisation (IMO). This approach was key to addressing the piracy issue (QQ 160-1).

40. **We welcome the fact that the rules of engagement of Operation Atalanta are sufficiently robust to allow it to carry out its mandate.**

41. **We welcome the agreements that the EU has signed with Kenya and the Seychelles for the transfer and prosecution of suspected pirates, and the Government's assurance that these agreements safeguard the human rights of those detained. We commend Kenya and the Seychelles for showing leadership in addressing a regional problem, although we are concerned by recent reports that Kenya is considering no longer accepting suspected pirates from international naval forces. The Government and the EU should continue to assist both states in building the capacity of their judicial and penal systems to cope with the increased demand.**

42. **We also welcome the Council of the EU's agreement to open negotiations on similar arrangements with other countries in the region.**

Coordination with NATO and other maritime forces

43. The EU Operation is part of a wider international effort to combat piracy in the Gulf of Aden, off the coast of Somalia and in the Indian Ocean. Two multinational forces operate in this zone in close coordination with the EU: US-led coalition CTF-151 and NATO. Russian, Indian, Japanese, Malaysian, South Korean and Chinese vessels are also present in varying degrees. Atalanta is in permanent liaison with all these forces. Mr Alderwick pointed out that the effectiveness of international cooperation had to be assessed bearing in mind that it had only been active for just over a year (Q 160).

44. Rear Admiral Hudson said that coordination in the region between the EU, NATO and coalition forces was working well (Q 127). Jan Kopernicki agreed that cooperation with other nations worked well, reflecting the broader engagement of Atalanta with the US Fifth Fleet base in Bahrain (where the combined task forces are based) and NATO deployments (Q 216).

45. **The EU's in-theatre coordination with NATO, the US-led coalition and other navies is working well. We welcome the important role that other countries are playing in combating piracy. Coordination with the Chinese navy in particular is encouraging.**

The shipping industry

46. Dr Willett emphasised the role that navies played in advising the shipping industry on best practice prior to and during transit in the region in order to mitigate the risk of pirate attacks. Mr Kopernicki told us that best practice guidance had been produced by the Oil Companies International Marine Forum (OCIMF)[12]. It includes guidance on how the ship is sailed and manoeuvred, including its speed, the use of defensive measures such as water hoses and razor wire and means of preventing grappling hooks gripping the vessel, and the use of low radars to detect the approach of small boats. Dr Willett emphasised how well the Internationally Recommended Transit Corridor (IRTC) through the Gulf of Aden is considered to be operating, with only two ships attacked since it was established. He highlighted that the owners of 25 per cent of ships still chose not to use the IRTC and that these ships included a high proportion of the vessels which were ultimately attacked (QQ 174-7, 226). Mr Kopernicki added that the owners of this substantial minority of ships tended to be small independent, often family-owned firms with one or two ships who decided not to use the IRTC but to take a chance (Q 228).

47. **We welcome the best practice guidance which has been produced and circulated by the Oil Companies International Marine Forum and other organisations. We believe that the benefits of adopting recommended best practice in mitigating the risk of piracy attacks need to be more actively promoted among the shipping industry. The Government, the EU and the shipping industry should work on this collaboratively.**

Armed guards on commercial shipping

48. Some ships carry personnel from private security companies. Our witnesses agreed that these individuals should not be armed, in line with industry best practice, as this would increase the risks to which individuals and ships would be subjected (Q 60). In contrast to their position regarding the use of VPDs on WFP chartered ships (see paragraph 30 above), Mr Holtby stated that the Government's clear position regarding the other ships transiting the region was that private guards should not take arms on board vessels. He considered that vulnerable ships could be supported by other means such as through military co-operation (Q 299).

49. Mr Alderwick said that Atalanta had adopted a comprehensive and inter-agency approach, by engaging ship owners, operators, Chambers of Shipping and the IMO, unlike other international forces in the region. This approach was key to addressing the piracy issue (see paragraph 39 above) (QQ 160-1). Mr Kopernicki thought that military-civilian cooperation had been significant as the problem went beyond normal military boundaries (Q 216).

50. **We endorse the view of the shipping industry, the IMO and the Government that private security guards should not be placed on commercial shipping as this would increase the risks to which the ships and crew were subject. However, military personnel from national armed forces are occasionally placed on commercial shipping on a case-by-case basis, and we believe this should continue. The Government and the EU should ensure that any such personnel receive prior specialised training to a high standard for this role.**

The insurance industry

51. Rear Admiral Hudson expressed regret that little progress had been made in persuading insurance companies to offer a discount in respect of ships that adhered to best practice and self-protective measures (Q 105). Mr Alderwick suggested that, in order to encourage the shipping industry to conform to best practice, compliance with International Ship and Port Facility Security Code (ISPS) guidelines, IMO Best Management Practices or IRTC recommendations should be made a condition of being underwritten by the insurance industry (Q 202). David Croom-Johnson (Aegis Managing Agency) and Andrew Voke (LMA Marine Committee and Chaucer Underwriting) made clear their support for the promotion of best practice among the shipping industry in order to reduce risk but stated that the insurance industry was reluctant to mandate such an approach, and instead could only give advice, due to their obligations under competition law (QQ 258-261, 268). Mr Kopernicki agreed that the insurance industry would face difficulties in adopting such an approach but also suggested that the Protection and Indemnity (P&I) arm of the insurance industry could potentially be more amenable in this respect[13] (QQ 233-234).

52. **The insurance industry must accept a greater degree of responsibility for promoting adherence to best practice on deterring piracy by shipping companies. We strongly urge that the terms and conditions of insurance effectively reflect the need to discourage shipping companies from failing to follow recognised best practice.**

Hostage taking and ransoms

53. Rear Admiral Hudson said that the piracy of ships for ransom had generated around $80 million in 2009. Generally, hostages had been well treated notwithstanding the psychological impact. Tracing where the money went was a key part of the overall assault on piracy but he did not believe there were any direct links between terrorist organisations such as Al-Qaeda and piracy (Q 108). We understand that it is very difficult to ascertain the ultimate destination of proceeds of piracy. Although the Government have so far found no evidence of any operational or organisational link between piracy and terrorism,[14] there must be a danger of such links.

54. Lord Malloch-Brown (then FCO Minister) acknowledged the reality that ransom payments were made by ship owners to save the life of their crews, and confirmed that such payments were not illegal under international law. However, the Government would not endorse, condone or participate in such a transaction, in line with the common EU position (QQ 79-80).

55. Baroness Kinnock of Holyhead confirmed that the payment of ransoms was not a criminal offence under UK law; the Government's position was that such payments should be discouraged as they would only exacerbate the piracy problem[15]. Mr Holtby stated that once a ransom was received by pirates it became criminal proceeds which could then technically be recovered (Q 340).

56. The insurance industry confirmed that the payment of a ransom was insurable and it was not illegal to insure such a payment[16] (Croom-Johnson Q 278). The FCO told us that the US had recently suggested that pirate individuals should be designated under the UN anti-terror sanctions regime, which could require States to freeze funds and financial assets associated with an individual. They noted the reported concerns of the shipping industry that such a move might render the payment of ransoms more complicated and thus potentially endanger the lives of crews (Q 340).

57. We support the status quo whereby the payment of ransom to pirates is not a criminal offence under United Kingdom law. We recommend that the Government continue to monitor the potential risks of monies reaching terrorists.

58. We understand that skilled ransom negotiators can help to keep risk to life and vessels, as well as ransom payments, to a minimum. Where ship owners intend to pay a ransom to recover their vessel and crew, we recommend that they use experienced and effective ransom negotiators. Where insurance policies do not already insist on experienced negotiators, they should do so.

Addressing the root causes: the EU's comprehensive approach

59. Baroness Kinnock of Holyhead confirmed that the EU was pursuing a "very comprehensive strategy" to tackle Somali piracy and its root causes, which were instability and lack of rule of law. The EU, the UK and other international partners were members of the Contact Group on Somalia which supported the efforts of the fledgling Transitional Federal Government, the UN Political Office on Somalia and the African Union military mission, AMISOM, towards the establishment of a peaceful environment. The EU was considering how it could increase its commitment to Somalia, including support for a general reinforcement of Somali capacity to meet security challenges. In the north of Somalia, in Somaliland and in Puntland, the UK, EU and UN were supporting programmes to deliver rule of law projects, and DfID was providing funding for alternative livelihoods. The EU had proposed a military training mission that would contribute to strengthening the Somali security forces (Q 295). The EU Foreign Affairs Council in Brussels adopted a Council Decision on 25 January 2010 to launch this mission. We were also told that the European Commission was funding the salaries of a 5,000-strong police service in Mogadishu (p 83).

60. Rear Admiral Hudson said that capacity building was a "big issue" in the Horn of Africa. Somali institutions and regional coastguard capabilities needed improvement. Initiatives included the IMO's Djibouti Code of Conduct, information sharing centres, and a coastguard training centre in Djibouti. The EU's major initiative was to build security assurance in Somalia and help the TFG in the transition to a proper federal government in Somalia. In the 2009 revision to the EU mandate Atalanta had taken on some modest capacity building in Kenya and Djibouti. It was working with the Yemeni coastguard to build the capacity of coastguards in Puntland and Somaliland, without detriment to Atalanta's main operations (Q 106)[17].

61. It is clear that without addressing the root causes of the conflict in Somalia, piracy will continue to flourish. The EU is rightly taking a comprehensive approach, seeking to address political, economic and security aspects of the crisis in a holistic way. However, the causes of fighting and insecurity in Somalia are deep-rooted and complex. Progress on peace and security will largely depend on the Somalis themselves, including the actions of the fledgling Transitional Federal Government (TFG).

62. We fully support the EU's efforts to build up the security sector in Somalia, in particular the training of Somali police, in line with democratic norms, while providing funding for vital humanitarian assistance. The EU's actions are part of a joint effort by the UN and international partners. It will be important that the international community makes a long-term commitment to stabilising the country.

63. The UK and EU should also work with the autonomous authorities in Somaliland and Puntland to build up their coastguards and provide sources of legitimate employment for their people.

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1 Council Joint Action 2008/851/CFSP. Back

2 Information from the EU Council website, www.consilium.europa.eu Back

3 AMISOM is the African Union's Mission in Somalia, created in 2007 to implement a national security plan for Somalia, train Somali forces and assist in creating a secure environment for the delivery of humanitarian aid. Back

4 The distance from the waterline to the deck of a fully loaded ship. Back

5 Puntland is a semi-autonomous region in the north east of Somalia. Back

6   Role two medical facilities offer a range of clinical capabilities. For most NATO nations, surgical capability is their defining feature, whereas for the UK (and the US), their defining feature is "consultant-led resuscitation", both surgical and non-surgical (MOD information). Back

7   The Ukraine has recently offered special forces units to be deployed on WFP ships. The EU has warmly welcomed this offer and is urgently considering ways of responding positively. Back

8   EU   Factsheet   on   Operation   Atalanta,   February   2010.   Available   at: http://www.consilium.europa.eu/uedocs/cms_data/docs/missionPress/files/100201%20Factsheet%20EU%2 0NAVFOR%20Somalia%20-%20version%2014_EN04.pdf Back

9   Foreign Affairs Council conclusions 22 March 2010 Back

10   The minimum force necessary to impose one's rights under the relevant provisions: whether to board, search, seize, arrest, or detain (Commander Dow Q 113). Back

11   Somaliland is an autonomous region in the north of Somalia. Back

12   Piracy-The East Africa/Somalia Situation: Practical Measures to Avoid, Deter or Delay Piracy Attacks (OCIMF, 2009); see also Best Management Practices to Deter Piracy in the Gulf of Aden and off the Coast of Somalia (Version 2-August 2009) produced by a number of organisations. Back

13   Protection and indemnity insurance (P&I) is a form of marine insurance against third party liabilities and expenses arising from owning ships or operating ships as principals. It is distinct from other forms of marine insurance such as hull and war risk insurance. Cover is provided by an insurance mutual, called a P&I Club, which is owned by its members who are the insured ship-owners. Back

14   House of Lords Hansard 12 December 2009 cols 977-978 Back

15   See also: *Money laundering and the financing of terrorism* (19th Report of Session 2008-09, HL Paper 132), paragraph 170. Back

16   Masefield AG v Amlin Corporate Member Ltd [2010] EWHC 280 (Comm), 18 February 2010. Back

17   The FCO has recently allocated £400,000 to improve the Somaliland Coast Guard's ability to provide for the safety of the coastal population of Somaliland. Information provided by the FCO. Back

APPENDIX 4: MAPS

FIGURE 1
Incidents in the Somali Basin (2 Oct 2009-2 Mar 2010)
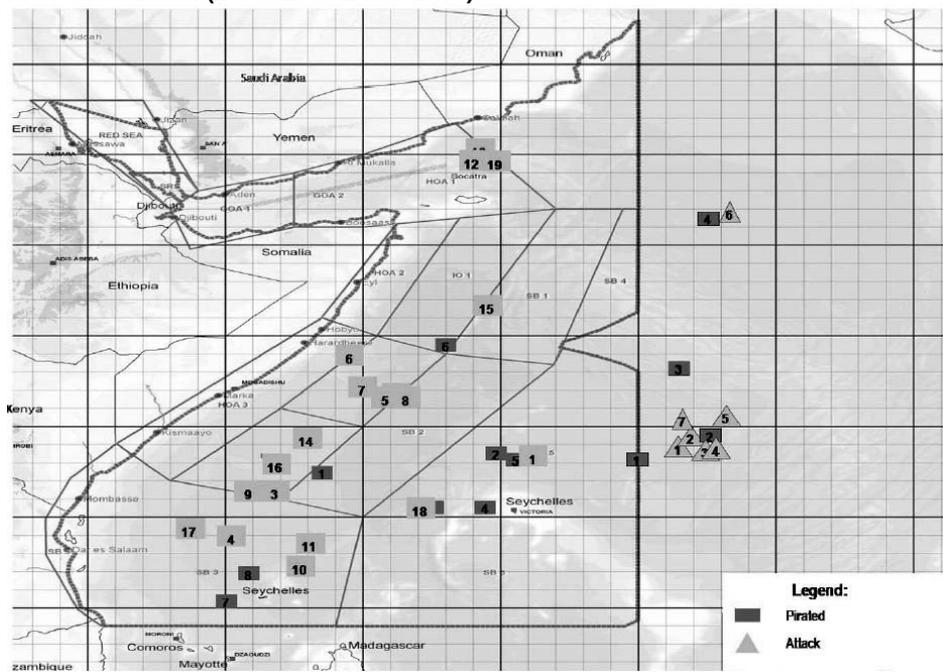
Source: Map provided by EUNAVFOR (European Union Naval Force)