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An Introduction to the Phenomenon of Piracy

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Abstract: *The law of the sea is ever-changing and complex. An aspect that has been constant throughout the evolution of law is one of its contenders: piracy. In today's context it takes various forms and States have taken different national and international stances against it. However, current affairs show that piracy remains a constant risk to commerce itself. With modern warfare means becoming accessible to private persons has come a need to internationally and uniformly regulate this phenomenon. This article aims to offer an overview of the international instruments governing piracy, address the current state of areas that have been affected, propose how risks in this matter should be viewed and present some solutions that have been beneficial in the practice of sea farers.*

Keywords: *piracy, risk assessment, proposals.*

1. Introduction

The piracy phenomenon threatens maritime security by endangering, in particular, the security of the freedom of navigation and commerce. These acts of piracy can result in the loss of life, physical harm or even hostage-taking, significant disruptions to commerce and navigation, financial losses to shipmasters and lastly great damages to the marine environment.² Taking account the huge implications that this issue brings to the table, there have been attempts to tackle piracy through international law, but they are being hampered by the lack of a consistent or clear definitions. Thus the spectacle of the international community wringing its hands, trying to look for a legal solution to the piracy problem, can be regarded as a necessity for the international legal tools due to the costs involved. In addition, in order to have the bigger picture of this phenomenon, we will first address the legal background of it.

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² <http://www.un.org/depts/los/piracy/piracy.htm>

2. The legal background of piracy

Ever since the beginning of mankind, the furtherance and development of the human species has relied heavily on commerce. The growth and diversification of needs were the catalysts of opportunity for those wishing to exploit them in the pursuit of profit. However, alongside commercial relations carried out in good faith came factors trying to deter commerce from its original purpose. Seeing as the maritime route is still one of the most preferred means of carriage of commercial goods, it is natural for it to be a bountiful field for unlawful acts. In the field of maritime law, one of the forms of unlawful acts is piracy. According to the results indicated by the Lloyd's List Security Survey and Lloyd's Risk Index¹, piracy is considered still one of the main threats to the conduct of commerce.

Piracy is a notion that has evolved around the course of time. As most aspects related to the law of the sea, the definition of piracy has been established through custom. The reason behind this practical approach to law relating to the sea is caused by a series of factors. One of the most important is the fact that at the early stages of law development, it was difficult to outline a conventional body of law that would regulate a domain which is essentially international, meaning that involves a wide number of participants from the international community, both private and public. A written body of regulation implies the consent of a vast majority of participants, which would hinder the process of commerce through its lengthy unravelling. Another factor involved is the rapid development of technology, the practices between parties, the needs and offers that can meet them. These fluctuate constantly and with the perpetual modification of the processes comes a need to know how to adjust conduct for the relations between merchants to go about undisrupted.

Piracy was initially addressed by the British jurist C.S. Kenny as being any type of armed violence at sea, which is not a lawful act of war². Other definitions carried the same characteristics, thus placing piracy outside of regular war activities. In this aspect, J.L. Anderson was the one who stated

¹ Lloyd's Risk Index, <https://ehtrust.org/wp-content/uploads/Lloyds-Risk-Index-2013report100713.pdf>, last visited on 29.01.2019.

² Malvina Halberstam, "Terrorism on the High Seas: The Anchille Lauro, Piracy and the IMO Convention on Maritime Safety" *American Journal of International Law*, Vol. 82, nr.2, 1988, p. 273.

that piracy is a subset of violent maritime predation in that it is not part of a declared or widely recognised war.¹

Attempting to unify all the existent customary law at that moment in time, the International Law Committee was requested by the United Nations General Assembly to conceive a draft of a convention that would govern the high seas and other parts of the ocean. Following the report rendered by the ILC, the United Nations adopted the Resolution 1105 (XI) of 21 February 1957, through which it convened the first conference on the law of the sea. This conference took place in Geneva and it rendered the entry into force of four conventions and an optional protocol: the Convention on Fishing and Conservation of the Living Resources of the High Seas, the Convention of the Continental Shelf, the Convention on the High Seas, the Convention on the Territorial Sea and the Contiguous Zone and the Optional Protocol of Signature concerning the Compulsory Settlement of Disputes.

A written definition said to highlight custom in the matter of piracy can be derived from the Convention on the High Seas of 1958. The article reads:

“Piracy consists of any of the following acts:

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

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

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

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

(3) Any act of inciting or of intentionally facilitating an act described in sub-paragraph 1 or subparagraph 2 of this article.”²

This definition was later amended through the text of the United Nations Convention on the Law of the Sea, which states in article 101 that:

“Piracy consists of any of the following acts:

¹ John L. Anderson, “Piracy and World History: An Economic Perspective on Maritime Predation”, *Journal of World History*, Vol. 6, No. 2, 1995, pp. 175-199.

² United Nations, 1958 Convention on The High Seas, Adopted at Geneva, Switzerland on 29 April 1958 http://untreaty.un.org/ilc/texts/instruments/english/conventions/8_1_1958_high_seas.pdf, last visited on 30.12.2018.

(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).”¹

It is important to note that the text carries an intentional lack of precision in order to be able to cover all the acts of piracy that might occur, bearing in mind that the means of committing piracy acts evolve rapidly.

Other definitions of the phenomenon can be found in a myriad of national or international instruments. There are also organizations that have produced similar definitions, such as the International Maritime Bureau, which defines piracy as

“An act of boarding or attempting to board any ship with the intent to commit theft or any other crime and with the intent or capability to use force in the furtherance of that act”²

In what concerns application *ratione loci* the norm requires that the acts of piracy be attempted in either in *the high seas* or *outside de jurisdiction of any State*. If we examine different national laws, we can observe that generally, acts carried out in the territorial or internal waters of states are subject to the corresponding state jurisdiction. For example, art. 8 paragraphs 1 and 2 of the Romanian Criminal Code establishes that the Romanian law is applicable to criminal offences committed on Romanian territory and outlines that its lands include the territorial sea and internal waters that are within borders. Correspondingly, the German Criminal Code

¹ United Nations Convention on the Law of the Sea, 1982, http://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf, last visited on 30.12.2018

² ICC International Maritime Bureau, “Piracy and Armed Robbery Against Ships: Annual Report”, *Barking: ICC Publishing*, 2006, p. 3.

states in Section 3 that German criminal law shall apply to acts committed on German territory.¹ In other national laws, different terminology is used.

For example, in the Swedish Criminal Code in Section 1 of Chapter 2, regarding the applicability of Swedish Law it is stated that “*Crimes committed in this Realm shall be adjudged in accordance with Swedish law and by a Swedish court. The same applies when it is uncertain where the crime was committed but grounds exist for assuming that it was committed within the Realm*”.² The term of realm refers to all of the territories belonging to the State, being a specific term that is used throughout Nordic history³.

Regarding these spatial criteria, we must mention the fact that the regime applicable to the high seas is also applicable for the exclusive economic zone (art. 58 UNCLOS). In consequence, should an act of piracy be committed in the waters that constitute the exclusive economic zone of a State, the acts shall be available for prosecution by any state (as it would be if it had been committed in the high seas).

Another element provided by the definitions previously mentioned regards the fact that the illegal acts of piracy must be committed with the intent of satisfying a private interest. Private interest can take different forms, whether it be the intent to commit a robbery, a murder, acts of violence in general. However, it is not necessary that the acts of piracy be accompanied by illegal acts concerning the assets of a person, or their life, if the *mens rea* pursues a private interest⁴. However, if the private interest is a political one as well, then this condition shall not be met, political aspects falling outside of the purpose of the incrimination of piracy.

As what concerns the source of the attack, the UNCLOS definition provides that the attack which constitutes an act of piracy must come from another private ship. Therefore, when analysing the act of piracy, one must establish that there are at least two vessels in conflict. If the acts relating to piracy are ones of internal origin, meaning that they come from the crew on board a vessel, the passengers or any other actors acting from within, then the acts

¹ German Criminal Code, https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/criminal_code_germany_en_1.pdf, last visited on 23.10.2018

²Swedish Criminal Code, <https://www.government.se/49cd60/contentassets/5315d27076c942019828d6c36521696e/swedish-penal-code.pdf>, last visited on 01.11.2018

³ Helle Krunke, Björg Thorarensen, *The Nordic Constitutions: A Comparative and Contextual Study*, First Edition, Hart Publishing, 2018.

⁴ United Nations, International Law Commission, “Articles concerning the Law of the Sea with commentaries”, (1956), *Yearbook of the International Law Commission*, 1956, pg. 282.

shall not fall in the definition of piracy. This remains true even if the perpetrators are posing as passengers or crew members.

Another essential element of the definition on piracy is the concept of “pirate ship or pirate aircraft”. These terms are defined by art. 103 from UNCLOS which states as follows:

“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.”

Therefore, in order to establish the pirate character of a vessel, one must evaluate the subjective attitude by those in dominant command of the ship. The latter is evaluated based on acts that embody the criminal intent of the author. In this sense, the second thesis of the article above attributes a piracy character to the vessel, if the persons committing the acts of piracy still have control over it. Therefore, the illicit character of the means used to commit the act is in direct relation to the author and his purpose, it being essential for the vessel to be used to perform the will of the author and to be under his or her control. Furthermore, the material object of piracy can be in the form of any vessel, whether private or public and of any nationality as long as the conditions of control and subjective attitude are met. However, if a ship is hijacked by a group of pirates, that does not imply the automatic loss of the ship’s nationality. The loss or retention of nationality is directly dependent on maintaining control over the vessel by the perpetrators.

In this sense, art. 104 of the UNCLOS:

“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.”

The last letter of art. 101 of the UNCLOS incriminates any act of inciting or of intentionally facilitating the acts described at the previous letters. This text covers the situation when the acts of piracy are committed with the participation of more authors. At a national level the text would refer to the act of complicity to a crime or the instigation of the author to commit a crime. In the international scheme, the participants to the crime are responsible for their acts.

Finally, art. 105 of the UNCLOS gives the right of any State to seize the pirate ship or vessel that was hijacked. Once seized, the jurisdiction regarding the acts shall belong to the courts of that State.

Despite the codification of piracy in the UNCLOS, the form of the text has some deficiency. One of the disadvantages of the fact that the UNCLOS incriminates acts of piracy which take place in the high seas is the fact that outside this territorial boundary, the judicial possibility to apprehend of any State ceases. Therefore, many pirates have resorted to performing attacks in the high seas situated in the immediate vicinity of territorial seas of jurisdictions that are not equipped to handle crimes on the seas, the aim being to escape the reach of international and domestic law. Moreover, a practice that has grown in intensity is the passage through several territorial waters until the pirates escape their pursuers.

Another aspect is that restricting the definition of piracy to include just private acts has the effect of excluding terrorists and insurgents, due to their primarily political focus. Already mentioned, the definition has the effect of limiting the area of action just to the high seas and has no infrastructure developed for pursuing the perpetrators in the territorial or internal waters of States, where pirates might seek refuge. Even more, because under this convention piracy requires two vessels, it places under a questionable regime the situations where the acts of piracy come from internal sources, such as an internal seizure of the ship.

In most cases of documented piracy¹ the source often cited for the illegal acts is poverty, or other forms of economic necessity. However, it appears that although economic necessity could be an underlining cause, it is not the primary reason for committing piracy. In actuality, there are a few key factors that enable piracy²: Legal and jurisdictional weakness; Favourable geography; Pre-existing state of conflict and disorder; Poor law enforcement/inadequate security; Favourable political environments; Cultural acceptability; Potential reward.

There are some jurisdictions in the world where piracy is not considered a crime, for example in India or Japan. This lack of uniformity among the incrimination of such illegal acts creates a barrier behind which some can hide and eventually escape prosecution.

De lege ferenda future propositions for codification in the domain of piracy should aim to institute the requirement for all states to enact national piracy laws concerning crimes at sea. Moreover, giving the current rapid evolution of technology and with cooperation between criminal organizations extending beyond borders, it is crucial for the combating of these tendencies

¹ Douglas Stewart, "Terror at Sea", MP Publishing Ltd, 2017, pg. 50-200.

² Martin N. Murphy, "Contemporary Piracy and Maritime Terrorism", 1st Edition, Routledge, 2007, pg.13.

that a mechanism of cooperation be instituted among States. A model of this could be the international cooperation in criminal matters mechanisms instituted in the European Union. By simplifying procedures and setting aside unnecessary bureaucracy, measures taken to prevent, and fight piracy would be more effective.

Furthermore, despite providing for universal jurisdiction in article 105, the UNCLOS does not oblige the States to criminalize piracy in their national legislation and to outline corresponding penalties for those convicted for acts of piracy. However, these measures can only be taken, keeping in mind the obligations on behalf of all States to cooperate to the fullest extent possible, in the repression of piracy. In this context, the rule encapsulated in art. 105 acts as an exception to the principle of exclusive flag-State jurisdiction over ships on the high seas.

Even more, while enforcing the said penalties, States must bear in mind to not violate the applicable humanitarian law, which include, but are not limited to: the interdiction of arbitrary detention, the right to a fair trial, the right to an independent and impartial court, the right to a speedy trial and avoidance of transfer to a country that still applies the death penalty. These aspects, which are left unregulated by the UNCLOS, result in a general unpredictability and uncertainty in situation where action is needed. These types of dissensions among regulation only favours the authors of illicit acts.

As mentioned before, the law of the sea is a vastly regulated and yet unregulated domain, at a fast-moving pace. In this sense, a number of other international conventions may be incident when attempting the repression and efficient prosecution of piracy. For example, the International Convention Against the Taking of Hostages is applicable to the matter of piracy, despite the convention not being specifically designed for this illicit act. There is also the Convention for the Suppression of Unlawful Acts Against the Safety of Marine Navigation and the UN Convention on Transnational Organized Crime. This excessive fragmentation throughout the law of the sea tends to create confusion regarding which instrument is applicable, due to their constant overlapping. For the future, a better uniformity is required in order to more efficiently combat the phenomenon.

3. Evolution of piracy-affected areas

Piracy in Somalia was initially construed as a response to the illegal fishing of tuna in its waters, done by several other States.¹ This phenomenon took the form of locals arming themselves and confronting those illegally fishing and requesting them to pay a sum of money for the right to fish in those waters. However, the effect of this practice was encouraging the locals to become more demanding, eventually leading to highly organised crime. Probably the greatest conquest of these pirates is the capturing of the *Sirius Star*, a Saudi Arabian owned tanker, that was transporting two million barrels of petrol², approximately 330 m long and run by a mixed crew.

The modus operandi of these perpetrators is to capture the ships and then lead them into isolated coves or isolated fishing villages (frequently used as hide-outs), in order to avoid detection. They get onto the ship by means of grapples, which enable them to access the hull of the ship.³

Afterwards, they begin transporting the cargo and crew to the shore, through whatever means they have at their disposal, where they make arrangements for ransom to be delivered. In the case where a Ukrainian vessel was captured and later taken to Xarardheere and Hobyo⁴, where a request for a 3.2 million dollars ransom was made, through the application of their method, the authorities were prohibited by the pirates to create a confrontation, seeing as they were keeping 147 crew-members captive.

Several methods have been deployed to combat the phenomenon in this region. Despite all the trials, the hunting grounds of these pirates extend to more than a million square miles. Also, deploying heavy security on the vessels is near to impossible due to the size of the ships, the lack of human resources and the increase in the overall costs, which would eventually impact the product value on the market. An example would be how more

¹ Malkhadir M. Muhumed, "Somali pirates make off with \$3.2 million ransom", https://www.heraldbanner.com/news/somali-pirates-make-off-with-million-ransom/article_a3f77e33-6c49-5e73-89c6-207b2d246624.html, last visited on 3.11.2018.

² Robert F. Worth, "Pirates Seize Saudi Tanker off Kenya; Ship Called the Largest Ever Hyacked", <https://www.nytimes.com/2008/11/18/world/africa/18pirates.html>, last visited on 30.10.2018.

³ Barbara Surk & Tarek el-Tablawy, "Daring pirates pull off coup: Seizing giant oil tanker", <https://www.tribpub.com/gdpr/orlandosentinel.com/>, last visited on 12.12.2018.

⁴ Jeffrey Gettleman, "Pirates Seek \$35 Million For Ship with Costly Cargo", <https://www.nytimes.com/2008/09/28/world/africa/28pirates.html>, last visited on 23.10.2018, and Jeffrey Gettleman, "Tensions Rise Over Ship Hyacked Off Somalia", <https://www.nytimes.com/2008/09/29/world/africa/29pirates.html>, last visited on 23.10.2018

than half of the imported oil in China comes from the Middle East and all the vessels transporting the oil require to pass through the Gulf of Aden.¹

Many shipping companies have chosen to avoid the course through the Suez Canal and go around the Cape of Good Hope, in attempt to be safe from pirates. However, this route presents clear deficiency, in the sense that it can delay shipment up to 20 days and as an effect, requires a costly amount of extra fuel. Therefore, the Somali pirates are still a source of danger even in the present.

Throughout time, Nigeria has also been a consistent zone where piracy is a great risk.² There are a few differences that make the Nigeria area stand out from other piracy targets. Firstly, if the attacks carried out in Somalia mainly pursue profit, the attacks in Nigeria are often politically driven. Moreover, the attacks in this case take place in territorial waters, rather than the high-seas, as it happens in Somalia. The forms of piracy that take place in this territory are usually related to the oil industry and how it affects the political environment of the country. The situation in Nigeria is even more alarming, given the fact that because of the political context, many acts of piracy go unreported in order to prevent insurers or brokers from increasing the price of insurance policies.

Other areas have seen progress in the last years, with the number of piracy-related incidents having decreased.³ For example, piracy in Indonesia has lessened, as well as incidents in the Malacca Strait. The reason takes the form of regional ship controls, increasing security measures, increased vigilance and patrol of the coastal States, doubled by the extra safety means taken on board the passing vessels.⁴

A general conclusion for the tendency of piracy can be contoured. In this sense, we are witnessing areas that are a rising threat for the security of maritime transport. At the same time, the efficiency of the security measures proposed by the leading authorities in the domain have proved fruitful,

¹ Leticia M. Diaz and Barry Hart Dubner "On the Evolution of the Law of International Sea Piracy: How Property Trumped Human Rights, the Environment and the Sovereign Rights of States in the Areas of the Creation and Enforcement of Jurisdiction," https://lawpublications.barry.edu/barrylrev/vol13/iss1/6/?utm_source=lawpublications.barry.edu%2Fbarrylrev%2Fvol13%2Fiss1%2F6&utm_medium=PDF&utm_campaign=PDFCoverPages, last visited on 29.01.2019

² International Maritime Bureau, Annual Report 2008, https://www.icc-ccs.org/reports/2018_Q3_IMB_Piracy_Report.pdf, last visited on 29.01.2019

³ International Maritime Bureau, Annual Report 2018, https://www.icc-ccs.org/reports/2018_Q3_IMB_Piracy_Report.pdf and <https://www.icc-ccs.org/reports/2017-Annual-IMB-Piracy-Report.pdf>

⁴ *Idem.*

aspects which are confirmed by the statistics carried out.¹ As a proposal, practitioners, those enacting legislation, commercial actors should collaborate in order to better coordinate their efforts. Since it appears that some measures are providing for a much more secure maritime commerce, a steady increase in the funds allocated to security could ensure a higher profitability in the longer run. Allowing piracy to continue in the manner that it has will inevitably result in higher costs with insurance and other damage control related costs, which will undoubtedly impact the market stronger as time progresses.

4. Risk assessment and proposals for practices aimed at reducing piracy

Piracy is an organised criminal activity that exists in many parts of the world. Those conducting the attacks are aggressive and use acts of physical violence to aid them in their purpose. Violence can be manifested at the time of boarding the ship or can take the form of prolonged ill treatment of crew members or persons on board lasting for years. The hijacking of ships or capturing of seafarers have also been used in order to obtain different sums as ransom.

The component elements of a threat are the capacity, the subjective element, the existence of a prerequisite permitting the party to act and finally a material act.

Capacity refers to the capability of the perpetrator of conducting the illicit act. In other words, it refers to the physical capability of him or her being able to initiate and carry out an attack. The subjective element refers to the type of culpability that lies behind the attack. In continental law systems, the distinction between direct and indirect intentions often appears.² The first describes the situation in which the person committing the act of piracy foresees the consequences of his actions, while the later merely accepts the possibility of them unravelling.

The prerequisite permitting the party to act refers to an existence of a breach in the security of the vessel targeted. In the sense, perpetrators will often observe the target of their attacks searching for the opportune moment to conduct their offensive.

¹ *Idem.*

² Greg Taylor, "Concepts of Intention in German Criminal Law", *Oxford Journal of Legal Studies*, 2004, pp. 99-127.

The material act refers to the conduct of the perpetrators, aimed to secure their objectives. This element varies and can take form in very dangerous acts. A factor that must be taken into consideration is the technological advancements made in the field of war. In this sense, a constant risk in some parts of the world is represented by anti-ship missiles, sea mines or water-borne improvised explosive devices. Anti-ship missiles are long-range, accurate and powerful weapons, whose usage has also been associated with regional conflict. Sea mines have been used to deter and deny access to key ports and are usually tethered or anchored. However, due to normal sea currents or abnormal activities these mines can be dislocated and break free from moorings and drift into shipping lanes. Although the placement of the mines can be intended to harm military vessels, transiting merchant ships that are not a target can be hit. To prevent this situation it is advised that ships deploy the use of the Maritime Security Transit Corridor.¹

Attacks with Water-Borne Improvised Explosive Devices can involve a large or reduced number of smaller vessels, capable of traversing large areas of water in limited amounts of time. The reasoning behind this can be explained through the purpose of such an attack. The perpetrator in this case is pursuing to cause damage to the ship (usually the hull), which can be accompanied by the boarding of the ship, although the latter is not a requirement. In order to prevent any injury, it is necessary to limit the contact of the speed boats with the hull of the ships.²

When attempting to combat the phenomenon of piracy, one can rely on the aid of empirical evidence. In this sense, it is noticeable how some geographical areas are more susceptible to attack than others. Places like the Bab el Mandeb Straits and the Strait of Hromuz to the Somali basin are deemed in practice as being high risk areas. A High-Risk Area (HRA) is a defined area within the VRA where it is considered that a higher risk of attack exists, and additional security requirements might be necessary.³

Measures to actively protect the ship mostly involve the tightening of security, especially while passing high risk areas. In this sense, it is preferred that the watches on the ship are increased and special attention be paid to the blind spots of the vessel.⁴ These areas are the most vulnerable

¹ BMP 5, <https://eunavfor.eu/wp-content/uploads/2018/06/BMP5-PP.pdf>, last visited on 27.10.2018.

² *Ibid.*

³ *Ibid.*

⁴ Global Counter Piracy Guidance for Companies, Masters and Seafarers, <https://www.ocimf.org/media/91171/Global-Counter-Piracy-Guidance-For-Companies-Masters-and-Seafarers.pdf>, last visited on 23.12.2018.

and often the most targeted. Although preventive measures are preferred, sometimes they are not possible and the implicated are advised to report to the corresponding reporting centre and cooperate with the counter piracy services available.

As a general note the BMP offers a set of factors that could influence risk assessment for seafarers, which can include: Requirements of the Flag State, company, charterers and insurers; the threat assessment and geographical areas of increased risk; Background factors shaping the situation, e.g. traffic patterns and local patterns of life, including fishing vessel activity; Cooperation with military. An understanding of presence should be obtained from UKMTO; the embarkation of Privately Contracted Armed Security Personnel (PCASP); the ship's characteristics, vulnerabilities and inherent capabilities, including citadel and/or safe muster points to withstand the threat (freeboard, speed, general arrangement, etc.); the ship's and company's procedures (drills, watch rosters, chain of command, decision making processes, etc.).¹

As mentioned before, the geographical component can serve as an aid in determining the level of measures needed to protect the vessel. The most frequent, but not exclusive areas in which ships are faced with the threat of piracy are: The Western Indian Ocean, South-East Asia and The Gulf of Guinea². Therefore, when passing these zones, special care must be taken in order not to fall under the siege of those aiming to commit acts of piracy.

Another aid lies in the form of collaboration. Frequently, guidance is provided through the means of sharing and voluntary reporting of other seafarers. For example, one system of such sharing takes the forms of charts, mapping out the different seas of the globe, which are regularly updated, to include the risks, authorities that a vessel in distress can contact and further means of handling and reporting issues regarding safety at sea.³

One more source for information is represented by the International Maritime Bureau Piracy Reporting Centre (IBM PRC). This NGO specializes in providing all types of aid for vessels confronted with piracy and robbery at sea.

¹ BMP 5, <https://eunavfor.eu/wp-content/uploads/2018/06/BMP5-PP.pdf>, last visited on 27.10.2018.

² www.maritimelobalsecurity.org, last visited on 29.01.2019.

³ Regional Guide, [http://www.recaap.org/resources/ck/files/guide/Regional%20Guide%20to%20Counter%20Piracy%20and%20Armed%20Robbery%20Against%20Ships%20in%20Asia%20\(high-res\).pdf](http://www.recaap.org/resources/ck/files/guide/Regional%20Guide%20to%20Counter%20Piracy%20and%20Armed%20Robbery%20Against%20Ships%20in%20Asia%20(high-res).pdf), last visited on 4.11.2018.

Even more, insurers of ships, cargo and generally all aspects of maritime transport are also working closely to diminish the risk associated with the industry. Thus, areas with perceived enhanced risk are factored in when calculating the amount that is due to cover the policies which would be emitted. The Joint War Committee brings together underwriting representatives from two major actors on the insurer's market: Lloyd's and the International Underwriting Association. They often update the geographical regions which will affect potential insurance claims and these present relevance in combating piracy from the perspective of costs required to handle the phenomenon.¹

5. Conclusions

Although the phenomenon of piracy is not frequently addressed in discussions about current world affairs, it remains one of the most pressing issues in what regards the law of the sea.

The abject failure of the international community response to piracy acts, represent a cautionary tale about the limits of international law and the common lack of interest states have in enforcing international law norms when proceeding so proves to be costly for them, even though most nations have commercial and security interests that could be adversely affected by this phenomenon.

The issues highlighted above could be remedied through a more uniform approach to the codifying of the law in this regard and through practical measures taken by all those involved. The losses incurred so far are evident testimony that change is needed for safer seas.

¹ Joint War Committee Listed Areas, <http://www.lmalloyds.com/lma/jointwar>, last visited on 25.11.2018.