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MARITIME TERRORISM, PIRACY AND ACTS  
OF ARMED ROBBERY OF SHIPS: SOUTHEAST  
ASIA AND AFRICA,  
2000 – 2008

by

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## DEDICATION

**I dedicate this study to Deon Terblanche.**

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## Acronyms

5e RIAOM	Fifth Regiment Interarmes d’Outre-Mer
9/11	11 September 2001
AAIA	Aden-Abyan Islamic Army
AFRICOM	United States African Command
AIS	Automatic Identification Systems
AMISON	African Union Mission in Somalia
ARF	ASEAN Regional Forum
ASEAN	Association of Southeast Asian Nations
ASG	Abu Sayyaf Group
AU	African Union
BCN	Biological, Chemical, Nuclear
CBRN	Chemical, Biological, Radiological And Nuclear
CGPCS	Contact Group on Piracy off the Coast of Somalia
CIA	Central Intelligence Agency
CJTF-HOA	Combined Joint Task Force 150- Horn of Africa
CSI	Container Security Initiative
CTED	Counter-Terrorism Committee Executive Directorate
CTF-151	Combined Task Force 151
CSCAP	Council for Security and Co-operation in the Asia-Pacific
DMCs	Dangerous Maritime Cargoes
DNA	Deoxyribonucleic Acid
DRC	Democratic Republic of the Congo
EC	European Commission
EEZ	Exclusive Economic Zones
EiS	Eyes in the Sky
EU	European Union
Fatah	Movement for the National Liberation of Palestine
FBI	Federal Bureau of Investigation
FOC	Flag of Convenience
FV	Fishing Vessel
GAM	Gerakan Aceh Merdeka
GAO	United States Government Accountability Office
GDP	Gross Domestic Product
HEU	Highly Enriched Uranium
ICC	International Chamber of Commerce
IGAD	Inter-Governmental Authority for Development
IMB	International Maritime Bureau
IMO	International Maritime Organization
Inmarsat	International Maritime Satellite Organization
Interpol	International Criminal Police Organization
IRA	Provisional Irish Republican Army
ISEAS	Institute of Southeast Asian Studies
ISPS	International Ship and Port Facility Security
JI	Jemaah Islamiyah

KMM	Kumpulan Majahidin Malaysia
LNG	Liquefied Natural Gas
LPG	Liquefied Petroleum Gas
LTTE	Liberation Tigers of Tamil Eelam
MAAs	Monitoring and Action Agencies
MALSINDO	Malaysia-Singapore-Indonesia
MDA	Maritime Domain Awareness
MEND	Movement for the Emancipation of the Niger Delta
MILF	Moro Islamic Liberation Front
MIPT	Memorial Institute for the Prevention of Terrorism
MNLF	Moro National Liberation Front
MOSOP	Movement for the Survival of the Ogoni People
MOU	Memorandum of Understanding
MSC	Maritime Safety Committee
MSCHOA	Maritime Security Centre – Horn of Africa
MT	Motor Tanker
MV	Motor Vessel
NATO	North Atlantic Treaty Organization
NAVFOR	Naval Force
nm	Nautical Miles
PAZ	Pirate Attack Zone
PFLP	Popular Front for the Liberation of Palestine
PLF	Palestine Liberation Front
PLO	Palestine Liberation Organization
PPP	People’s Power Party
PRC	Piracy Reporting Centre
PSI	Proliferation Security Initiative
RA	Ransom Area
ReCAAP	Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia
SLOC	Sea Lines of Communication
SOLAS	International Convention for the Safety of Life at Sea
SSDF	Somali Salvation Democratic Front
SUA Convention	Convention for the Suppression of Unlawful Acts against the Safety of Marine Navigation
TEU	Twenty-Foot Equivalent Units
TNG	Transitional National Government
TNT	Trinitrotoluene
UAE	United Arab Emirates
UN	United Nations
UNCTAD	United Nations Conference on Trade and Development
UNCLOS	United Nations Convention on the Law of the Sea
UNODC	UN Office on Drugs and Crime
UNOSOM	UN Operation in Somalia
UNSC	UN Security Council
US	United States of America



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USC  
USS  
USSR  
WFP  
WMD

United Somalia Congress  
United States Ship  
Union of Soviet Socialist Republics  
World Food Programme  
Weapons of Mass Destruction

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# CHAPTER 1: INTRODUCTION

## 1. IDENTIFICATION OF THE RESEARCH THEME

The purpose of this study is to investigate maritime terrorism, maritime piracy and acts of armed robbery of ships and the influence of specific role-players on these issues both internationally and regionally. The study investigated structures, conventions and procedures in place to regulate and combat these threats and the reasons for some areas being more affected than others.

Piracy was almost eliminated by the end of the 19<sup>th</sup> century. In the 1970s and 1980s acts of piracy began to increase. Although still small in scale and level of violence, the problem could no longer be ignored. By 1983 the problem became alarming. A total number of 3 992 cases of piracy and armed robbery of ships were reported between 1984 and 2005, which amounted to an increase of 300 percent in the last decade (IMO, 2000; IMO, 2005; Keyuan, 2005).

As a result of the terrorist attacks on the United States of America (US) on 11 September 2001 (9/11), maritime piracy and terrorism were increasingly linked and have become highly controversial subjects. Countries fear that a captured ship could be used as a delivery platform for weapons of mass destruction (WMD) or that a ship with dangerous cargo could in itself be used as a weapon. The possibility of using a boat as a weapon was demonstrated on 12 October 2000 when the *USS Cole* was attacked by suicide bombers in a small boat in the Port of Aden, Yemen (Diaz & Dubner, 2004; Lackey, 2005).

The United Nations Convention on the Law of the Sea (UNCLOS, 1982: 61) defines piracy as:

- (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).

According to this definition piracy is limited to acts outside the jurisdiction of the coastal waters of a State. Acts committed in coastal waters are considered armed robbery. This means that many cases of violence against ships occurring in the territorial waters of States are excluded from this definition. This also excludes acts of maritime terrorism, as political objectives are not included in this definition. Various other definitions also exist however, as will be noted in subsequent chapters. (Johnson, et al, 2005: xi)

This definition also implies a clear description of State jurisdiction, which leads to the description of the zones that the ocean is divided into and the implications this has for the combating and elimination of piracy and acts of terrorism. These zones are the following (UNCLOS, 1982):

**Territorial sea:** The breadth of a States territorial sea up to a limit not exceeding 12 nautical miles (nm), measured from baselines determined in accordance with this Convention.

**Internal waters:** Waters on the landward side of the baseline of the territorial sea form part of the internal waters of a State.

**Contiguous zone:** This is the zone contiguous to a States territorial sea, not extending beyond 24nm from the baselines from which the breadth of the territorial sea is measured.

**Exclusive economic zone (EEZ):** The exclusive economic zone is an area of 200nm beyond and adjacent to the territorial sea.

**High Seas:** All of the world's oceans, seas, connecting arms, bays, and gulfs that lie outside the national territorial waters of coastal States. The high sea is in general an area 200nm from any land mass. (Ziring,et al, 1995; Friedman, et al, 2004).

Therefore international regulation only has bearing on the high seas and the individual State is sovereign and therefore responsible for policing its own coastal waters to counter piracy and terrorism. The combating of piracy, acts of armed robbery of ships and terrorism depends on the internal laws of individual States and the will and means to implement these laws if they exist (Diaz & Dubner, 2004). The political climate in individual countries and structures in place in a given region also have an influence. This is clearly reflected in the manifestation of different acts of piracy and armed robbery of ships, in different parts of the world. Acts of piracy and armed robbery of ships are more unlikely in waters adjacent to States with strong governments, efficient law enforcement, and where the will to police exists.

According to Ranstorp and Wilkinson (2005: 3) terrorism is defined as:

the systematic use of coercive intimidation usually, though not exclusively, to service political ends. It is used to create and exploit a climate of fear among a wider group than the immediate victims of the violence, often to publicise a cause, as well as to coerce a target into acceding to terrorist aims.

Motive is more or less what determines if an incident will be classified as an act of piracy or an act of terrorism, being primarily financial or material gain in the case of piracy and political gain in the case of terrorism.

The international community launched several initiatives to combat acts of terrorism, piracy and armed robbery at sea in the last years. The International Ship and Port Facility Security (ISPS) Code (IMO, 2003); Automatic Identification Systems (AIS) for ships of less than 50 000 gross tonnage (Diaz & Dubner (2004) and the United Nations (UN) General Assembly (Resolution 58/240) Convention for the Suppression of Unlawful Acts against the Safety of Marine Navigation (SUA Convention) and its Protocol, are only a few examples of these initiatives.

## **2. RESEARCH OBJECTIVES**

The study investigated maritime terrorism, piracy and armed robbery of ships by focusing on selected case studies of areas most affected by maritime terrorism, piracy and armed robbery of ships. Seven locations in the world shared more than two thirds of the reported 293 incidents of armed robbery of ships and pirate attacks, reported to the International Maritime Bureau (IMB) in 2008. They are the Gulf of Aden/Red Sea (92 attacks), Nigeria (40 attacks), Indonesia (28

attacks), Somalia (19 attacks), Tanzania (14 attacks), Bangladesh (12 attacks) and Vietnam (11 attacks) (ICC, 2008: 6).

Two specific geographical areas were chosen from these affected areas as case studies, although certain other areas are also discussed. These are Southeast Asia and Africa including the Gulf of Aden. Southeast Asia was chosen because the area includes Indonesia with the highest number of incidents of piracy and armed robbery of ships taken over the 2000 to 2008 period; and the Malacca Straits, which is an example of an international maritime chokepoint, which makes it especially vulnerable to acts of maritime terrorism.

Africa was chosen as a case study because it contains examples of countries, for instance Nigeria and Somalia, where the internal political situation has a direct influence on maritime piracy and armed robbery of ships. The Gulf of Aden was included in the study because of its proximity to Somalia and because incidents of maritime terrorism make it very relevant to the study.

The reasons why some areas are more affected than others were investigated. Measures in place to eliminate maritime terrorism, piracy and acts of armed robbery of ships and the efficiency and effectiveness of these measures, both regionally and globally, were also evaluated. Additional measures that could be effective were considered.

The study primarily focused on maritime terrorism, piracy and acts of armed robbery of ships in the 21<sup>st</sup> century (1 January 2000 to 31 December 2008), but also compared the current situation with past incidents. This period was chosen because the perception and international reaction to maritime terrorism, piracy and acts of armed robbery of ships changed as a direct result of the 9/11 terror attacks in the US.

### 3. LITERATURE SURVEY

The work of Diaz and Dubner (2004) in the field of International Law is probably the most extensive and current study available on maritime terrorism, piracy and acts of armed robbery of ships. The problem of unilateral international action against maritime terrorism, piracy and acts of armed robbery of ships is investigated at length.

Nincic (2005) focuses on the threat of WMD in a maritime environment and international responses to the problem. She indicates that maritime terrorism is still an evolving concept and agrees that the concept of State sovereignty will have to be defined in this regard.

In his work Richardson (2004) focuses on the threat of maritime terrorism to maritime trade, ports and coastal cities. His recommendations on disaster prevention and recovery are also noteworthy.

Korin and Luft provide an overview of piracy and maritime terrorism and study the impact and potential risk of piracy and maritime terrorism on the world's energy markets (Korin & Luft, 2004). The Heritage Foundation (Stubbs, 2005) similarly conducted studies on the influence of piracy and maritime terrorism on US security, as well as the cost to, and the ability of Third World Countries to implement the measures imposed on them by the international community.

The International Chamber of Commerce (ICC) created the IMB Piracy Reporting Centre (PRC) in 1992 in Kuala Lumpur, Malaysia. The IMB is mainly sponsored by international insurance companies. The IMB compiles annual, quarterly and weekly reports on piracy and armed robbery incidents. This is the source of information on which the majority of current articles and research are based. These reports are mainly statistical in nature. The International Maritime

Organization (IMO) is an alternative source of information on incidents of maritime terrorism, piracy and acts of armed robbery of ships.

Although all of these works contribute extensively to the study of maritime terrorism, piracy and acts of armed robbery of ships, in-depth studies of the contributing socio-economic and political factors to the existence of maritime piracy and terrorism receive less attention. This is especially true in the case of Africa, where acts of piracy traditionally receive less coverage than those in Asia. The perception exists that the problem is addressed in the international arena and filters down to individual countries, without addressing the core problem of maritime terrorism, piracy and acts of armed robbery of ships in individual countries.

#### **4. IDENTIFICATION AND DEMARCATION OF THE RESEARCH PROBLEM**

This research project investigated the extent of the threat of maritime terrorism, piracy and acts of armed robbery of ships as international issues and evaluated the effectiveness of current procedures to combat the problem, but with specific attention to localised causes in the form of case studies.

It was proposed that the root causes of piracy and terrorism are socio-economic and political in nature and that the social and political situation in individual countries have a direct effect on the problem of maritime terrorism, piracy and acts of armed robbery of ships and the international community as a whole. The primary research problem was therefore to link the conditions in specific countries to acts of maritime terrorism, piracy and armed robbery of ships.

It was further proposed that countries most affected by piracy could not afford to implement the security measures imposed on them by the international community. Capacity building is problematic in cases where it affects the sovereignty of the State and only has temporary results if the root causes are not addressed and the pirates and terrorists find ways to counter the security measures.

The assumption was made that current measures only have a limited effectiveness in underdeveloped nations because the will and means to eliminate the root political and socio-economic causes of maritime piracy, do not exist. International measures to counter acts of maritime piracy and terrorism fail to cover all aspects of armed robbery of ships on local level.

The study aimed to answer the following questions:

- 1 Which socio-economic, and political factors in individual States influence the occurrence of maritime terrorism, piracy and acts of armed robbery of ships and could piracy and acts of armed robbery of ships be eradicated if the socio-economic and political issues in affected countries receive more attention?
- 2 Is the eradication of maritime piracy and terrorism at all possible considering the social problems facing underdeveloped countries, the effectiveness of current international measures in combating piracy and acts of armed robbery of ships, as well as current trends in global terrorism and organised crime?
- 3 Why are all underdeveloped countries not affected by the problem of maritime piracy?
- 4 Is there any proof that the use of force against pirates leads to an escalation in violence?
- 5 What forms of interaction exist between maritime pirates and terrorist groups in these areas, and will the elimination of piracy and acts of armed

robbery of ships have a major effect on the continued existence of maritime terrorism?

The research was based on the following assumptions:

- 1 Socio-economic and political factors in a given country have an important effect on maritime piracy and armed robbery of ships.
- 2 International measures to combat maritime piracy and acts of armed robbery of ships (such as the ISPS Code and the SUA Convention) will only be successful in eliminating maritime piracy and acts of armed robbery of ships if socio-economic and political problems are addressed; capacity building in law enforcing takes place; and if the will to enforce these measures exists in underdeveloped countries.
- 3 The eradication of piracy will not eliminate maritime terrorism, as terror groups will adapt to the situation, but it will prove to be more difficult for these organizations to operate in the maritime environment. Not all acts of maritime terrorism can be connected to incidents of maritime piracy and armed robbery of ships.

## **5. METHODOLOGICAL ASPECTS**

The study is descriptive and analytic and both primary and secondary sources were used. Primary sources included:

- 1 Data from international organizations such as statistics and reports from the IMO and the IMB; international conventions of the UN and conference papers on international level.
- 2 Regional agreements, conferences papers and treaties such as treaties and conference papers by the Association of Southeast Asian Nations (ASEAN) and the African Union (AU).

### 3 Official government publications.

Secondary sources included books, journals, international and local newspapers articles and research papers from institutes.

The political and socio-economic factors contributing to maritime terrorism, piracy and acts of armed robbery of ships in the countries chosen for the case studies were evaluated against existing literature and studies on maritime piracy and terrorism. The case studies also investigated countries unaffected by maritime terrorism, piracy and acts of armed robbery of ships to establish which factors seemingly make it unattractive for pirates and terrorists to operate in some areas. Statistics supplied by the IMO and IMB were used concurrently with information available in the individual countries to establish to which extent countries are affected by maritime terrorism, piracy and acts of armed robbery of ships.

The problem of maritime terrorism, piracy and acts of armed robbery of ships can be seen as a global security problem. As theoretical framework, a wider perspective of security, including the paradigms of pluralism and social constructivism, was used. Pluralism argues that a plurality of actors such as Inter-governmental Organizations, pressure groups and Multi-National Corporations as well as States, influence world politics. Social constructivism moves away from abstract theories of international relations to a more social and cultural approach to international relations.

Both paradigms move away from the realist view of global security that primarily focuses on military threats from States, to a wider perspective of human security. This perspective also focuses on non-traditional threats to security such as economic threats, health threats, accidental threats and crime of which maritime piracy and armed robbery of ships are examples (Hough, 2004).

## 6. THE STRUCTURE OF THE RESEARCH

The study is divided in the following chapters:

### **Chapter 1: Introduction**

The research theme is introduced. Key definitions and concepts are explained. Assumptions, research questions and methodological aspects are formulated.

### **Chapter 2: Conceptual Framework: Piracy, Acts of Armed Robbery of Ships and Maritime Terrorism**

In this chapter piracy, acts of armed robbery of ships and maritime terrorism are discussed as a global legal and security issue. Type of attacks, proximity to the coast and the use of violence in attacks are highlighted.

### **Chapter 3: Historical Overview of Acts of Armed Robbery of Ships, Piracy and Maritime Terrorism**

In this section the focus is on the historical background of maritime terrorism, piracy and acts of armed robbery of ships. Statistics of the IMB and the IMO are used to present an overview of incidents of maritime terrorism, piracy and acts of armed robbery of ships, specifically in the 20<sup>th</sup> century.

### **Chapter 4: Global Overview of Acts of Armed Robbery of Ships, Piracy and Maritime Terrorism in the 21<sup>st</sup> Century, and Selected Case Studies from East and West Africa and Yemen, and Contributing Factors**

In this chapter a brief global overview of acts of armed robbery of ships, piracy and maritime terrorism in the 21<sup>st</sup> century, will be discussed. Statistics of the IMB,

the IMO and the Memorial Institute for the Prevention of Terrorism (MIPT) are used to indicate which geographical areas are affected by piracy, acts of armed robbery of ships and maritime terrorism. Ports prone to armed robbery of ships and the type of ships that are more likely to fall target to piracy and armed robbery of ships, will be discussed.

An overview of armed robbery of ships, piracy and maritime terrorism in Africa for the period 2000 to 2008, will be provided. The three areas most affected by maritime terrorism, piracy and acts of armed robbery of ships in Africa are West Africa with Nigeria at the center; and East Africa and the Red Sea area with Somalia and the Gulf of Aden at the center.

In the case of Nigeria, incidents of piracy and acts of armed robbery of ships have a direct link to the political situation and the para-military movements operating in the Niger Delta. Piracy here has both a political and financial dimension and the question could be asked when does piracy becomes maritime terrorism. According to the definition of Ranstorp and Wilkinson (2005: 3) attacks by para-military groups in Nigeria could be classified as acts of terrorism, but from a different perspective they could be viewed as legitimate reformist elements with legitimate grievances (Hough, 2005: 10).

In Somalia the absence of effective government and law enforcement has led to an upsurge in maritime piracy and acts of armed robbery of ships. The Gulf of Aden (Yemen) is the best current example as far as maritime terrorism is concerned.

In this chapter motives, as well as socio-economic and political factors that contribute to maritime terrorism, piracy and acts of armed robbery of ships in Africa are investigated. The way in which the individual countries and the international community deal with the problem of maritime terrorism, piracy and acts of armed robbery of ships in Africa are investigated.

## **Chapter 5: Selected Case Studies of Acts of Armed Robbery of Ships, Piracy and Maritime Terrorism in Southeast Asia**

In this chapter socio-economic and political factors contributing to piracy, acts of armed robbery of ships and maritime terrorism in Southeast Asia are investigated. Objectives and motives of maritime terrorist and pirates also receive attention.

## **Chapter 6: International and Regional Measures To Prevent Acts of Armed robbery of Ships, Piracy and Maritime Terrorism**

International and regional measures to combat, eliminate and minimize the effect of maritime terrorism, piracy and acts of armed robbery of ships, are evaluated in this chapter, specifically measures adopted by the UN and the IMO. Codes of conduct instituted as a result of the work of organizations such as the ISPS code; embossing of an IMO number on the hulls of ships; and keeping an onboard record of the history of the ship are discussed. Measures by the International Criminal Police Organization (Interpol) are also described. Attention is given to regional cooperation, including joint operations and shared intelligence.

## **Chapter 7: Evaluation**

A brief summary of the text is provided; the formulated assumptions are tested; and conclusions on the findings of the study are drawn.

# **CHAPTER 2: CONCEPTUAL FRAMEWORK: PIRACY, ACTS OF ARMED ROBBERY OF SHIPS AND MARITIME TERRORISM**

In this chapter a brief overview of the maritime environment will be discussed as it forms the setting in which maritime criminals, pirates and maritime terrorists operate. Maritime terrorism, piracy and acts of armed robbery of ships will be discussed as a global legal and security issue. Type of attacks, possible targets and threats will be highlighted. The differences as well as similarities between acts of maritime terrorism and acts of maritime piracy and armed robbery of ships will also be investigated.

## **1. THE MARITIME ENVIRONMENT**

Earth is a planet dominated by water. As 80 percent of the world's cargo is carried by sea, the sea forms the backbone of all international trade. Shipping drives the world global trade. In 2008 world merchandise exports were estimated at US\$ 15 717 billion. Today more than 112 000 ships manned by more than 1.5 million seafarers form the crux of all maritime trade. Over 6 500 ports and harbour facilities are serviced by hundreds of thousands of port staff. (WTO, 2009:10; IMO, 2010: 6; Greenberg, et al, 2006: 111)

### **1.1 Sea Lines of Communication**

Sea Lines of Communication (SLOC) form a web connecting ports and countries. When integrated with various distribution systems it forms an essential part of the world economy. Outside port areas these lanes become wider converging at

bottlenecks such as straits and widening again there after. These straits are a threat to sea lanes and are called chokepoints. (Akimoto, 2001)

## 1.2 International Straits

International straits can be defined as:

Natural waterways used for international navigation between two bodies of land which may be continental land mass and an island, or even two islands, irrespective of its size, width and length of the waterway. (Diaz & Dubner, 2004: 41)

Straits may be located in internal waters, territorial seas, exclusive economic zones or on the high seas. Straits are regulated by treaties, such as the 1936 Montreux Convention regulating the Bosphorus Strait. (Diaz & Dubner, 2004: 41-42) Straits narrow enough to be blocked are considered as “chokepoints”. This could for instance be as result of an accident, as an act of piracy (when a ship under steam is abandoned by pirates) or terrorism. Seventy-five percent of global marine trade passes through six such chokepoints.

## 1.3 Ports

Ports evolved into providers of complete logistic networks from their traditional role as a link between sea and land. Today ports are being labeled by their capacity to handle the latest generation of container ships. Since the 1990s the container capacity of ships rose from 4 000 Twenty-Foot Equivalent Units (TEU) to 14 000 TEU. This means that high-volume mainline trade will focus on a few ‘mega ports’ with the capability to handle such containers in future. It is estimated for example, that the global economic impact from a closure of the port of Singapore could exceed US\$ 200 billion per year. (Rodrigue, 2009: 8; Ho, 2005:15) This maritime environment forms the backdrop and arena in which

maritime piracy, acts of armed robbery of ships and maritime terrorism occur, and influence the tactics of these groups.

## **2. THE CONCEPTS OF PIRACY, ARMED ROBBERY OF SHIPS AND MARITIME TERRORISM**

In order to distinguish between piracy, acts of armed robbery of ships and maritime terrorism it is necessary to define these concepts and identify the origins of these definitions.

### **2.1 Defining Piracy**

There are basically two international recognized definitions of piracy. The first is the UN/ IMO definition as described in UNCLOS, and the second the IMB definition. As the UN/IMO definition, as stated in Chapter 1, limits piracy to attacks outside the jurisdiction of the coastal waters of a State, attacks within the coastal water of States are defined as acts of armed robbery against ships.

Armed robbery of ships is defined by the IMO as: "Any unlawful act of violence or detention or any act of depredation, or threat thereof, other than an act of "piracy," directed against a ship or against persons or property on board such ship, within a State's jurisdiction over such offenses". (ICC, 2006: 3)

The IMB (ICC, 2006) 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".

The latter definition includes actual and attempted attacks, as well as petty theft where the perpetrators are armed. All attacks are included whether the ship is berthed, at anchor or at sea. All attacks are included (territorial waters or international waters) as a practical measure as the IMB was born out of an

insurance necessity (ICC, 2006). The IMB definition also implies acts of terrorism, as it does not exclude acts committed for political gain. The IMB also does not distinguish between maritime piracy, acts of armed robbery of ships and maritime terrorism in their annual statistics.

The two definitions are compared in the following table:

**Table 1: Comparison of Definitions of Maritime Piracy: IMO and IMB**

<b>IMO</b>	<b>IMB</b>
Piracy must be committed on the high seas or in a place outside the jurisdiction of any State. A criminal attack with weapons on ships within territorial waters is an act of armed robbery and not piracy.	Distinctions do not exist between attacks on the high seas and in territorial waters.
Piracy necessitates a “two-ship” requirement. Pirates need to use a ship/boat to attack another ship. This excludes mutiny and privateering from acts of piracy.	A “two ship” requirement is abolished. Attacks from a raft or even from the quay are acts of piracy.
Piracy is committed for private ends. This excludes acts of terrorism and environmental activism.	Piracy may not only be committed for private ends. Attacks on a ship for political or environmental reasons qualify as piracy.
Because pirate attacks have to be committed by the crew or passengers of privately owned vessels, attacks by naval craft fall outside the bounds of piracy.	The acts of government naval craft can be deemed as piracy in certain circumstances.

Source Ong-Webb: Institute of Southeast Asian Studies (ISEAS), 2006: xiii

The differences in definitions by the IMO and IMB are largely a result of the differences in the origins of the two organizations. The IMO evolved as a UN body in an environment where State sovereignty is jealously guarded and where piracy was initially even State initialized and legalized in the form of privateering. The IMB on the other hand was founded by insurance companies which bore the cost of all acts of maritime terrorism, piracy and acts of armed robbery of ships for centuries in the form of insurance pay outs to victims. Both definitions are relevant for their specific viewpoint. As predominately IMB statistics will be used in this study, the IMB definition will be used. A definition for maritime terrorism is still evolving.

## **2.2 Defining Maritime Terrorism**

Maritime terrorism has no internationally agreed upon definition at this point. Legal scholars have agreed on an operational definition for maritime terrorism based on Articles 3 and 4 of the 1988 SUA Convention, even though the SUA Convention does not refer to terrorism specifically. Maritime terrorism is defined as:

- (a) any attempt of or threat to seize control of a ship by force;
- (b) to damage or destroy a ship or its cargo;
- (c) to injure or kill a person on board a ship;
- (d) or to endanger in any way the safe navigation of a ship that moves from the territorial waters of one State into those of another State or into international waters. (Ong, 2005: 61)

The ASEAN Regional Forum's (ARF) think tank, the Maritime Co-operation Working Group of the Council for Security and Co-operation in the Asia-Pacific (CSCAP) unofficially uses the SUA Convention as a basis for defining maritime terrorism. CSCAP has chosen to use the US State Department's definition of

terrorism for what constitutes terrorism in general. The US State Department defines terrorism as: "Premeditated, political motivated violence perpetrated against non-combatant targets by sub national groups or clandestine agents, usually intended to influence an audience." (US Department of State, 2001: xvi)

The CSCAP focuses their definition of maritime terrorism on terrorism:

- (a) within the marine environment;
- (b) used against vessels or fixed platforms at sea or in port, or against any one of their passengers or personnel;
- (c) against coastal facilities or settlements, including tourist resorts. (Ong, 2005: 61-62)

Incidents of terrorism in both the territorial waters of countries as well as incidents of terrorism in international waters are included in these definitions. The basic difference between the definition of maritime piracy and acts of armed robbery of ships and maritime terrorism is, that terrorism is politically motivated while piracy and acts of armed robbery of ships are financially motivated. Taking into account the new forms of "spectacular" terrorism with the emphasis on causing maximum destruction, maritime terrorism became an important global security and legal issue. Maritime piracy and acts of armed robbery of ships are also receiving attention in a bid to make the world's oceans a safer place for global trade and passengers.

### **3. ACTS OF ARMED ROBBERY OF SHIPS, PIRACY AND MARITIME TERRORISM AS A GLOBAL SECURITY AND LEGAL ISSUE**

Maritime terrorism, piracy and acts of armed robbery of ships have a security impact on both a local and international level. Even local incidents have an

impact on international trade. Criminal and admiralty law on an individual State level as well as international law have an impact on the combating of maritime terrorism, piracy and acts of armed robbery of ships.

### **3.1 Armed Robbery of Ships, Piracy and Maritime Terrorism Acts of as a Global Security Issue**

Maritime terrorism, piracy and acts of armed robbery of ships affect a plurality of actors such as international organizations (for instance the UN and specifically the IMO and the IMB); States; companies; and individual ships. Non-state actors such as terrorist and criminal groups have a direct impact on the issue. Acts of armed robbery of ships are more prevalent in countries with weak governments and law enforcement agencies but affect the ships of all countries entering the territorial sea and harbours of such countries. The question arises if the international community should act in cases where the State is unable to prevent these acts in order to save lives, keep sea lines open and guard against environmental disasters.

Investigations of such incidents are time consuming which makes it difficult to prosecute defenders, as individual ships cannot afford the luxury to stay for extended periods of time in harbour. There is also no uniform system of prosecution as these forms of crime are dealt with by the legal systems of individual States. In cases where these crimes go unpunished it also lead to an escalation of incidents. Collective action in the form of conventions and protective measures such as the ISPS Code has done a lot to curb the threat. The fact is that piracy might only be eradicated as a result of the increased measures to combat maritime terrorism. (McDaniel, 2000)

Maritime terrorism in particular is very difficult to contain as an attack on any ship of any country could occur at any time and place on the world's oceans.

Traditional military responses, such as covert operations and war (as in the 2001/2 Afghan war), to this type of threat are only possible if a terrorist group is directly linked to a government (such as Al-Qaeda in Afghanistan and the subsequent invasion of the US in Afghanistan in 2002) or if a clear target can be identified.

Although non-state violence will never be totally eradicated, non-traditional responses to violence such as international and regional cooperation and counter measures will have an impact on this threat. So will addressing localized grievances. Measures such as implementing effective travel bans, although more problematic in the case of maritime terrorism than other forms of terrorism, and freezing bank accounts could be more effective ways to counter terrorism. As the interconnectivity of the global world favour terrorist organizations it could also be used against these organizations. (Hough, 2004: 78-81).

### **3.2 Armed Robbery of Ships, Piracy and Maritime Terrorism as an International Legal Issue**

International law concerning maritime terrorism, piracy and armed robbery of ships underwent an evolution in the last decades. SOLAS, UNCLOS, the SUA Convention and the ISPS Code were a natural progression from the Geneva Convention. International law intended to find a balance between unilateral action and State sovereignty and progressed from international law regulating international passage such as UNCLOS to specific measures to safeguard international shipping.

#### **3.2.1 State Sovereignty**

The coastal State has exclusive jurisdiction over its ports and harbours. The State exercises almost total jurisdiction over its territorial sea, except for ships passing through its waters according to the right of innocent passage. State

jurisdiction is limited to functions such as navigation, sanitation, customs and fiscal functions in the contiguous zone. The high seas are open to all nations with limited jurisdiction to the State with regard to the exclusive economic zone. (UNCLOS, 1982; Diaz & Dubner, 2004: 13-14)

### **3.2.2 The Right of Innocent Passage**

In the center of all maritime conventions is the free flow of international commerce. The right of innocent passage forms the basis for undisturbed international trade.

Articles 17 and 18 of UNCLOS (1982:26) are concerned with the right of innocent passage and stipulate that all ships enjoy the right of innocent passage through the territorial sea. Innocent passage is stipulated as:

- (a) traversing the sea without entering internal waters or calling at a roadstead or port facility outside internal waters; or
- (b) proceeding to or from internal waters or a call at such roadstead or port facility.

According to UNCLOS (1982:26) passage shall be continuous and expeditious. Passage includes stopping and anchoring when circumstances necessitate it, as in the cases of rendering assistance to persons, ships or aircraft in danger or distress.

According to Article 19 of UNCLOS (1982:27) passage is innocent as long as it does not affect the peace and security of the coastal State. Passage of a foreign ship will no longer be innocent with the existence of:

- (a) any threat or use of force against the sovereignty, territorial integrity or political independence of the coastal State, or in

- any other manner in violation of the principles of international law embodied in the Charter of the United Nations;
- (b) any exercise or practice with weapons of any kind;
  - (c) any act aimed at collecting information to the prejudice of the defence or security of the coastal State;
  - (d) any act of propaganda aimed at affecting the defence or security of the coastal State;
  - (e) the launching, landing or taking on board of any aircraft;
  - (f) the launching, landing or taking on board of any military device;
  - (g) the loading or unloading of any commodity, currency or person contrary to the customs, fiscal, immigration or sanitary laws and regulations of the coastal State;
  - (k) any act aimed at interfering with any systems of communication or any other facilities or installations of the coastal State;
  - (l) any other activity not having a direct bearing on passage.

A State has the right to prevent passage if a ship commits any of the above actions. The coastal State has no criminal jurisdiction on board a foreign ship passing through the territorial sea except:

- (a) if the consequences of the crime extend to the coastal State;
- (b) if the crime is of a kind to disturb the peace of the country or the good order of the territorial sea;
- (c) if the assistance of the local authorities has been requested by the master of the ship or by a diplomatic agent or consular officer of the flag State; or
- (d) if such measures are necessary for the suppression of illicit traffic in narcotic drugs or psychotropic substances.

(UNCLOS, 1982: 33)

The coastal State has to inform the diplomatic agents of the flagship of its intentions to prevent passage. When the laws of the coastal State have been violated the State has the right of hot pursuit. Hot pursuit has to commence when the foreign ship is within the internal waters, the archipelagic waters, the territorial sea or the contiguous zone of the pursuing State, and may only be continued outside the territorial sea or the contiguous zone if the pursuit has not been interrupted. The right of hot pursuit ceases as soon as the ship pursued enters the territorial sea of its own State or that of a third State. This results in difficulties in the effective prosecution of maritime piracy and acts of armed robbery of ships. (UNCLOS, 1982: 63-64)

### **3.2.3 Unilateral Action versus State Sovereignty**

A current problem facing the international community is to find a balance between safeguarding the marine environment against acts of armed robbery of ships, piracy and maritime terrorism, and ensuring the sovereignty of States. Diaz and Dubner (2004: 47–48) argue that if a State is unable to act against security breaches in its coastal waters due to political or economic reasons, infringement of the State's sovereignty might be acceptable if the infringement is reasonable, temporary, for a specific reason and with the consent of the specific State.

In many cases, as in the case of ASEAN countries, regional action is lacking because States fear that allowing support from countries like the US will result in an infringement of their sovereignty.

The UN urged States in its 58th General Assembly session (3 March 2003) to find a balance between acknowledging international law and maintaining the efficient flow of international trade on the one hand and maintaining maritime security on the other hand.

In UN General Assembly resolution 57/141 (21 February 2003: 6) all States are urged to cooperate to combat piracy and armed robbery at sea by adopting preventative measures, such as the reporting and the investigation of incidents, the criminal prosecution of offenders and the training of seafarers and port staff. The task is multilateral in the sense that many role-players are involved in the combating of piracy and acts of armed robbery of ships, such as international organizations, individual governments, military forces, law enforcement organizations, insurance carriers, shipping companies, ship operators and individual ships at sea. (White & Wydajewski, 2002: 1234)

### **3.2.4 Source of Law**

The flag country determines the source of law applicable to a ship. A ship flying the American flag anywhere in the world would be liable in terms of American admiralty law for example in the same way the ship's crew can be held accountable in terms of the criminal law of America. Although admiralty law seeks uniformity between States, countries may refuse jurisdiction if another country's law applies which also has an effect on the successful prosecution of crimes of piracy, armed robbery of ships and maritime terrorism. The ship must be flying the flag legitimately and there must be a link between the vessel and its flag. With the possibility of switching flags, a ship and in this case a pirate ship, could seek the protection of another country, in order to obtain a more advantageous outcome of a court case. (Friedman, et al, 2004)

Pirates and criminals involved in armed robbery of ships take advantages of loopholes and shortcomings in international law and criminal law in individual States to plan and execute attacks. Pirates and maritime terrorists also adapt their operations to changes in international and criminal law.

## 4. THE NATURE OF MARITIME PIRACY AND ACTS OF ARMED ROBBERY OF SHIPS

In studying IMO and IMB statistics, certain patterns emerge identifying types of attack, modus operandi and factors contributing to maritime piracy and acts of armed robbery of ships.

### 4.1 Types of Attacks on Ships

The following types of acts of armed robbery of ships and piracy attacks can be identified:

- (a) **Opportunity theft** occurs when a ship is at berth. Almost two thirds of actual acts of maritime piracy or armed robbery of ships take place when ships are at berth. Attacks are more likely to fail when ships are steaming. The level of violence is usually low during opportunity theft. (ICC, 2009: 10; Abhyankar, 2006:2)
  
- (b) **Hit-and-run attacks** occur when pirates board and plunder a ship or rob the safe and the crew. This type of attack mostly takes place at night in territorial waters and is usually carefully planned. The pirates frequently have detailed knowledge of the cargo and the ship's stowage plan. In cases the crew are held captive below deck and the ship is set adrift with the bridge unmanned after the attack. This is usually an armed assault (knives or pistols) with the threat of, or actual use of violence, although violence is usually low in these instances. Attacks usually last less than an hour and financial losses are in the order of US\$ 10 000 to double-digit million-dollar losses. (Johnson, et al, 2005: xiv; Abhyankar, 2006:2; Munich Re Group, 2006: 16)

- (c) **Attacks with the intent to take the crew hostage/kidnap crew and demanding ransom for crew and ship.** These attacks take place in territorial and international waters. During the period 2004 to 2008, 281 crew members were kidnapped for ransom. During the period 2003 to 2008 a further 2 316 crew members were taken hostage in some cases during the hijacking of the ship. No statistics for the preceding years are available. (ICC, 2006:10 – 18; ICC, 2008: 13; ICC, 2009: 12)
- (d) **Hijackings** could be temporary, when the ship is released after a ransom is paid or permanent, when a ship is registered under a new name with a new flag-state in a “port of refuge” which turns a blind eye to illegal activities. The ship is issued with falsified papers. This ship can be used or sold for illegal or quasi-legal activities. In some cases organized gangs will hijack a ship on order. (Johnson, et al, 2005: xv)

#### **4.2 Factors Contributing to Maritime Piracy and Acts of Armed Robbery of Ships**

The following factors contribute to the occurrence of acts of maritime piracy and armed robbery of ships:

- (a) **Socio-economic and political factors** such as low levels of investment and high population growth in underdeveloped countries, as well as political instability and local conflicts contribute to maritime terrorism, piracy and acts of armed robbery of ships. (IMO, 2000)
- (b) **High levels of criminality.** Maritime piracy and acts of armed robbery of ships are more likely to occur when high levels of criminality exist within a State. (IMO, 2000)
- (c) **Ineffective government and law enforcement agencies.** In some cases

there is a lack of communication and co-operation between government agencies involved. Response times after or during an incident of maritime piracy or acts of armed robbery of ships may be slow. In other cases port control or local authorities do not even respond to calls of ships in danger. Incidents that are investigated are not always conducted timely or effectively. The time delay could result in a loss of income by the ship's owner. The high level of skill and knowledge during attacks lead to speculation that pirates may in many cases be members or ex-members of the military. (ICC, 2006:34; IMO, 2000; Glass, 2003)

- (d) **Reduced naval presence.** The trend towards smaller navies and decreased international ocean patrols has left ships unprotected to a great extent. (McDaniel, 2000)
  
- (e) **Lenient sentences.** As pirates are sentenced under the criminal law of individual States, a significant percentage of perpetrators receive lenient sentences. (Munich Re Group, 2006: 29)
  
- (f) **Corruption.** Recruitment regulations are relatively lax and a large number of seafarers' certificates are fraudulent. Measures to prevent these practices exist in most countries, but are frequently ineffective. Although a large number of shipowners do background checks, a percentage make use of manning agents and not all of these agents do vetting. In 2001 the International Transport Workers' Federation acquired a Panama First Officer's certificate and seaman's book for its General Secretary, who had no shipboard training. The certificate allowed him to navigate a vessel and deputize for the captain. It is evident that terrorists could pose as crew and take over a ship. In June 2003 the International Labour Organization adopted a convention for a new seafarers identification card with a biometric imprint to counter this problem. (Richardson, 2004: 34-35)

- (g) **Globalization.** Pirates and terrorists have knowledge of the mechanics of international trade. High-speed information networks and growing international interdependence are likely to influence the occurrences of piracy. (Young, 2005: 2)
  
- (h) **Lucrative trade.** Pirating of container ships is especially lucrative due to the high value of the content and the small number of crew on cargo ships. (IMO, 2000)
  
- (i) **The ease with which ships names can be changed.** Among the 30 'Flag of Convenience' (FOC) registries, the Bahamas, Liberia and Panama merchant fleets account for almost half of global merchant shipping tonnage. These are mostly developing and small island States. An FOC ship is a ship flying the flag of a country other than the country of ownership. High registration fees and taxes can be avoided in this way. In certain instances the registration of a ship can even be done on-line. Registries are in some cases administered by companies and not by the flag countries. A US private company for example administers Liberia's registry. (Sakhuja, 2004)
  
- (j) **The cost of defense mechanisms** especially to smaller ships also contributes to maritime terrorism, piracy and acts of armed robbery of ships. Law enforcement agencies are also affected by resource constraints. (Johnson, et al, 2005: xiv; IMO, 2000)
  
- (k) **Insurance money.** In many cases pirates know that insurance companies could cover the cost demanded for releasing kidnapped crew members.
  
- (l) **Availability of targets.** The volume of unprotected marine vessels results in a high availability of targets. (Johnson, et al, 2005:xiv)

- (m) **Geography.** Attacks on the high seas are difficult, because of distances involved and demand the use of expensive speedboats. Areas dotted with islands provide hiding places for pirates and result in the slowdown of vessels. The area around harbours makes vessels vulnerable to attacks while they are at anchor waiting to enter port. (Johnson, et al, 2005: xiv)
- (n) **Problems in reporting incidents.** Some shipmasters are reluctant to report incidents or alert the coastal State or other ships in the area of a ship under attack. (IMO, 2000)
- (o) **Lack of regional co-operation** in the apprehension of pirates. (IMO, 2000)

#### **4.3 Strategies used by Pirates and Criminals Involved in Armed Robbery of Ships**

Pirates and individuals involved in armed robbery of ships make use of specific strategies to aid them in their operations. The following can be noted:

- (a) **The procurement of modern equipment.** Pirates acquire speedboats and weapons to attack larger vessels further from the coast and on the open sea. In Somalia pirates attack ships more than 1 000 nm from the coast using speedboats launched from “mother vessels”. (ICC, 2009: 21)
- (b) **Knowledge to operate sophisticated equipment.** Satellite phones and global positioning systems are accessible to pirates.
- (c) **Links to organized crime.** Pirates often involve the help of criminal organizations and/or syndicates, to access information on feasible targets and markets. Umbrella criminal organizations, warlords, political movements and terrorist organizations may be linked to pirates. Some piracy and armed robbery attacks in South America are drug related.

Hijacked ships could be used in criminal activities such as the smuggling of arms, drugs and humans. Terrorists could also smuggle drugs or hijack a ship to finance terrorist activities. (Johnson, et al, 2005: xiv; Korin & Luft, 2004: 3; MSC/Circ.623/Rev.3, 29 May 2002: 2)

- (d) **Assistance from local authorities.** Bribery is used to get information from local authorities on ships and the cargoes they carry. (Johnson, et al, 2005: xiv)
  
- (e) **Easy access to ships.** In some cases crew members are conned to gain access to ships. Pirates and maritime criminals claim to be in distress or request water with the aim to board the vessel. Attackers may initially gain access when the ship is berthed in port, steal whatever they can and then go over the side. These attacks are motivated by the belief that large sums of cash are carried in the master's safe to meet operational needs and to overcome exchange control restrictions in some States. Attackers will also monitor ship-to-shore communications and use this information to select their targets. Attackers gain information on the intended voyage and cargo from crew members going ashore in ports. (MSC/Circ.623/Rev.3 29 May 2002:2-3)

#### **4.4 Insurance Companies and the Cost of Piracy**

A container vessel has a hull value of around US\$ 150 million and the cargo could be worth between US\$ 800 million and US\$ 1billion. Claims by ship owners in addition to claims by crew members may result in heavy losses to insurance companies from acts of piracy and armed robbery of ships. Ransom payments contribute to a further loss for insurance companies. There are also indirect losses, such as loss of hire, contractual penalties due to delayed delivery, additional pay for sailors, higher insurance premiums and the costs of preventative measures. (Munich Re Group, 2006: 9 -36)

Environmental disasters also pose a risk, as in the case when an oil tanker is left with an unmanned bridge after a pirate attack and then collides with another vessel or runs aground.

High-risk regions are excluded by insurers from the standard hull war cover and they are only willing to insure these transits for inflated premiums. In these cases shipping companies could pressure the coastal States for an improvement in the risk situation, in the form of more frequent patrols and closer cooperation between neighbouring countries. (Munich Re Group, 2006: 9 -36)

Weak political, social and economic systems contribute to the occurrence of piracy and acts of armed robbery of ships. The same is true for maritime terrorism concerning the political, social and economic systems in the terrorist organization's host State. The same is however not always applicable to the political, social and economic systems of the target State.

## **5. THE NATURE OF MARITIME TERRORISM**

Only a few actual proven cases of maritime terrorism exist, as in the cases of the attacks on the *USS Cole* and *Limburg*. According to the RAND Terrorism Database, 2 percent of all global incidents in the last 30 years are seaborne terrorist strikes. (Greenberg, et al , 2006: 9) As terrorists work through international networks, the fear exists that ships and shipping containers could be used in the next major terrorist attack.

No pure maritime terrorist organizations exist today, as maritime terrorism is only one of the areas of operations used by terrorist organizations. Acts of maritime terrorism have been low compared to acts on land, with the exception of Sri Lanka.

Concealment during surveillance at sea offers more problems than on land. There are more variables to take into account when planning an attack at sea such as tides, currents, wind, storms, visibility, and proximity to land. Expert skills in boat handling and navigation are required. Preparing and practicing for an attack as well as testing weapons are more problematic on sea than on land. (US Congressional Research Service, 2007: 24)

Land and air provide greater publicity for terrorist actions than the sea. The comparatively slow progress of a ship provides reaction time to a victim country to react to potential terrorist attacks and time for the crew to warn shore-based authorities. Getting away after an act of terrorism on the sea is more difficult than on land, except in the case of a suicide attack. For acts of economic terrorism, with the purpose of disrupting the world economy or the economy of a nation, the sea provides greater scope since more merchandise moves by sea than by air. (Raman, 2004; Nadkarni, 2001)

## **5.1 Possible Maritime Terrorist Targets**

Some maritime terrorist incidents could potentially be very damaging to human life and the environment, especially in certain critical areas such as international straits and hub-ports

### **5.1.1 International Straits and Chokepoints**

Straits that are narrow enough to be blocked are considered “chokepoints”. Seventy-five percent of global marine trade passes through six chokepoints. These chokepoints could be blocked as result of an accident when a ship is left with the bridge unmanned after an accident and then collides with another ship or by deliberate terrorist action using a ship as a weapon or using a suicide boat laden with explosives to ram another vessel. These chokepoints are:

- (a) **The Hormuz Strait**, is 1.5 miles wide at its narrowest point, is less than 40nm from Iran across to Oman and connects the Persian Gulf and the Arabian Sea. Close to half of the world's oil, roughly 15 million barrels daily, is transported through this strait. Between 1984 and 1987 tankers were frequently attacked in the strait in the tanker war between Iraq and Iran, causing shipping in the Gulf to drop by 25 percent. Since then incidents dropped dramatically due to US military intervention. (Richardson, 2004: 36-41; Reuters, 2009)
- (b) **The Malacca and Singapore Straits** between the islands of Indonesia to the south, and Malaysia and Singapore to the north, are some of the busiest waterways in the world. The Malacca Straits are 500 nm long and nine nm wide at the narrowest point, the Phillips channel near Singapore. Singapore is the world's busiest port and has a population of four million. Every ten minutes a vessel passes through the Malacca Straits, representing a quarter of the world's trade, half of its oil and a fair quantity of liquefied natural gas (LNG). The Sunda, Lombok or Makassar Straits could be used as an alternative, but the journey would be much longer and navigational aids for these straits are inadequate. (Richardson, 2004:38-39)
- (c) **The Bosphorus and Turkish Straits** are only half a mile wide at the narrowest point and link the Black Sea with the Mediterranean Sea. Two and a half million barrels of oil and 140 ships pass through this passage each day. Istanbul on the Bosphorus has a population of 10 million. (Richardson, 2004: 41)
- (d) **The Panama Canal**, which is a 50 mile long canal linking the Pacific Ocean with the Caribbean Sea and Atlantic Ocean. The blocking of this canal would be inconvenient, but the Trans-Panama pipeline could be reopened to transfer oil, and containers could be transported overland. (Richardson,

2004:39-40)

- (e) **The Suez Canal** connecting the Red Sea and Gulf of Suez with the Mediterranean Sea carries approximately two million barrels of oil and petroleum products a day. In November 2004, the MV Tropical Brilliance ran aground in the Suez Canal. The ship was re-floated in a day but the losses amounting to the closing of the canal was estimated at more than US\$ 4 billion. This can serve as an example of what the impact will be if this canal is rendered inoperative by maritime terrorists. (Krauss, 2011; Bonofer, 2005)
  
- (f) **The Bab el-Mandab passage** between Djibouti and Eritrea on the Horn of Africa and Yemen on the Arabian Peninsula carries 3.3 million barrels of oil per day. The alternative is around the Cape of Good Hope resulting in an increase in transportation cost or the East-West oil pipeline across Saudi Arabia assuming that the pipeline can carry the additional load. (Richardson, 2004: 40)

Many of the vessels that move through the above mentioned straits are supertankers or carriers of LNG, liquefied petroleum gas (LPG), chemicals and explosive material. The consequences of an oil tanker blocking a chokepoint could result in an increase in oil prices and the cost of shipping due to the need to use alternate routes; congestion in sea lanes and ports; more expensive maritime insurance; and even environmental disaster. (Korin & Luft, 2004: 6)

### 5.1.2 Hub-ports

Cities with global container trans-shipment hubs like Singapore, Hong Kong and Rotterdam are especially at risk of terrorist attacks. These ports act as trans-shipment points in a type of hub-and-spoke system to make transportation more cost effective especially on longer voyages. Potential terrorist attacks in hub-

ports are a bigger threat to industrialized nations with extensive seaborne trade such as the US, Canada, members of the European Union (EU), Australia, New Zealand, Japan, China, Malaysia, Taiwan, Thailand and South Korea. (Richardson, 2004)

The impact of the closing of ports was illustrated in October 2002 when industrial action led to the shutdown of the ports on the western coast of the US, which led to an estimated loss of close to a billion dollars a day. (Ho, 2005:15)

### **5.1.3 Oil Supply Lines**

The world oil consumption is at an estimated 89.1 million barrels per day. Sixty percent of this oil is shipped by nearly 4 000 unprotected tankers. Western economies are dependent on this constant oil supply, which make the disruption of world oil supplies one of the most effective ways for terrorists to target the global economy. This could be done by using suicide bombers in small boats or planes colliding with oil tankers; hijacking tankers; or using underwater demolition teams to plant bombs on tankers. In recent years terrorist organizations have targeted pipelines, refineries, pumping stations, and tankers. (Gulf News, 2011; Korin & Luft, 2004: 4 -6)

### **5.1.4 Cruise ships and Passenger Ferries**

By 1 January 2004, 339 passenger liners capable of carrying up to 3,900 passengers and crew members were operating around the world. More than nine million passengers in North America contribute US\$ 14.7 billion to the U.S. economy alone. The 340m long *Independence of the Sea* which started operating in April 2008 is able to carry 4 375 passengers and 1 000 crew. This makes cruise ships an attractive target for terrorists. Such an attack took place on 7 October 1985 when four members of the Palestine Liberation Front (PLF)

hijacked the cruise ship, *Achille Lauro*. (Greenberg, et al , 2006: 19, 73; IMO, 2009: 16)

As cruise ships and passenger ferries can accommodate large numbers of people they have the potential of high loss of human life and high levels of media exposure. This could be a high-prestige and symbolic target for terrorists. Security checks on passenger ships are not as stringent as commercial aviation checks. Passenger liners publish schedules on the Internet and anchor off shore for extended periods, resulting in security risks. (Greenberg, et al , 2006: 73)

Sinking a cruise liner is extremely difficult as they are built with watertight compartments and double-lined hulls with safety as priority. The biggest threat from an attack on a passenger liner still remains the loss of human life. An attack would also have a significant economic impact on the passenger liner tourist industry. (Greenberg, et al , 2006: 17, 77)

Tens of millions of people make use of passenger ferries around the world each year. On 27 February 2004 a bomb containing five kilograms of TNT resulted in the death of 116 and injury to 300 people on *SuperFerry 14* in the Philippines. In direct contrast to passenger liners, ferries with open car decks for easy embarkation and disembarkation of vehicles, are built with no safety margins. They are also sensitive to shifts in their center of gravity that can cause a ferry to capsize. The accidental sinking of the *Estonia* in the Baltic Sea in 1994, which resulted in 852 deaths, could be used as an example of the potential severity of loss of life resulting from such an accident. (Greenberg, et al , 2006: 95-99)

## **5.2 Terrorist Tactics**

Terrorist organizations make use of the following tactics in the achievement of their aims:

### **5.2.1 Container Shipping**

The threat of a cargo container loaded with a nuclear or radiological device (“dirty bomb”) could be small, but could have a catastrophic effect on life and economies if executed. Container shipping forms an essential part of the global freight system and approximately half of world trade and about 90 percent of general cargo are transported in containers. As containers form part of a larger transportation network, both ports and inland destinations could be the target destination for a dirty bomb. (Richardson, 2004: 3)

Once containers are sealed, inspection is difficult. Items could easily be concealed in containers. Containers and seals are not standardized which make containers susceptible to unnoticed tampering. Even after sealing it is possible to open containers by removing door hinges and hiding items or terrorists to be smuggled into a country. Most physical inspections of containers are based on intelligence received on the contents of containers, as it is considered to be too expensive to do regular physical inspections. (Richardson, 2004: 6)

Worldwide less than one percent of containers are screened for dangerous materials by x-ray or gamma ray devices. Although organic substances are fairly easy to identify in a container scan, there are ways to conceal these substances inside cans and using lead linings within a container. Customs officials also need sufficient training to interpret X-ray images. It is feared that a WMD could be taken apart and transported in parts in a container, making it difficult for customs officials to identify it as such. (Richardson, 2004: 3-9; Van de Voort & O'Brien, 2003)

### **5.2.2 Using a ship/boat as a weapon**

A ship or smaller boat loaded with explosives could be remotely detonated or used as a suicide weapon by ramming another vessel. In October 2000 two

terrorists used a modified dinghy packed with approximately 500 pounds of C-4 explosives to blow a hole in the destroyer, *USS Cole*. Seventeen sailors were killed and 40 wounded, with an estimated damage of US\$ 250 million to the ship. (Raman, 2004; Richardson, 2004: 18-23)

Navy ships are also vulnerable to attacks by terrorist groups while moving through the archipelagic sea lanes and SLOCs. The environmental impact of a terrorist attack on an oil tanker could have devastating effects. Heavy oils tend to stick to the seabed and result in the long-term contamination of shellfish. It does not emulsify easily when treated. (Jau, 2004; Blanche, 2004)

### **5.2.3 Ships as weapons of mass destruction**

According to Nincic (2005: 619 -620) the new forms of 'iconic' and 'spectacular' terrorism encountered in recent years, resulted in a new perception of terrorism in terms of threats and scenarios. The fear exists that terrorists could launch attacks using chemical, biological or nuclear weapons or material. It is feared that dangerous maritime cargoes (DMCs) such as LNG, LPG and chemicals like ammonium nitrate and explosive material, could turn a single vessel into a 'floating bomb'. Ships cannot only be viewed as means of transportation but also as weapons and delivery systems.

#### **(a) Nuclear Threat.**

Conventional means are more likely to remain the weaponry of choice for most terrorists, but the risk of nuclear terrorism should however not be ignored. Analysts concluded that technical difficulties stand in the way of practicing nuclear terrorism in any form. To develop a nuclear device a design is first needed, and the fissile material for the core of the device must be produced or obtained from an external source. The fissile material must be machined to be used as the nuclear parts of the weapon, (access

to highly enriched uranium (HEU) or plutonium in sufficient quantities and qualities is the main obstacle in producing a nuclear weapon) The non-nuclear parts of the device, including the high-explosive elements and triggering components that will detonate the nuclear core must be fabricated, or obtained from outside sources. The reliability of these various elements must be verified individually and as a system, and all of these elements must be weaponized. (Norwegian Institute of International Affairs, 2002:18)

Terrorists do not have the constraints imposed on States. Safety is potentially less of a problem for terrorist organizations especially if they have a high regard for martyrdom. The reliability concerns may be equivalently low amongst terrorists as any explosion may represent an unprecedented yield. Crude terrorist nuclear weapons will easily fit into anything from a container ship to a truck and they therefore do not have the delivery constraints of the conventional military. (Norwegian Institute of International Affairs, 2002:18)

The shipping of nuclear material is also a cause of concern. In order to demonstrate with what ease such deadly cargo could be hijacked, the environmental group Greenpeace boarded a freighter carrying highly radioactive nuclear waste as it approached the Panama Canal in 1998. (Jau, 2004)

## **(b) Chemical Threats.**

More than 40 000 tanker cargos of LNG have been shipped since 1959 as power source for cooking, heating and generating electricity. Natural gas is cooled to a liquid state for transportation in this process, reducing its volume by more than 600 times. It is returned to a gaseous state at a LNG facility after transportation. Natural gas cannot burn or explode in its liquefied state.

(United States Government Accountability Office (GAO), 2007:1; Nincic, 2005: 627 -628)

When LNG is spilled it forms a pool of liquid on the water. As the liquid warms and changes into natural gas, it forms a vapor cloud on the water. Eventually the gas will disperse into the atmosphere. If the LNG vapor cloud ignites, the resulting fire will burn back toward the initial spill and a pool fire will form as it continues to burn above the LNG pooling on the surface. These resulting fires burn hotter than oil fires of the same size. The temperatures of spilled LNG could damage a tanker, causing a cascading failure of tanks on the ship. The fear exists that this spill could result in an explosion, although unlikely in an unconfined space. (GAO, 2007: 5)

Ammonium nitrate is a common agricultural fertilizer. It could be used to create powerful explosives when mixed with fuel oil. It is also used in terrorist bombs as in the cases of the Bali nightclub bombing and the attack on the US embassy in Pakistan in 2002. In 1947 two ships containing 3 300 tons of ammonium nitrate caught fire and exploded in the port of Texas City. A total of 568 people were killed and 3 500 were wounded. (Nincic, 2005: 628)

#### **5.2.4 Using Aircraft as Weapons**

It was reported that Al-Qaeda's former chief of naval operations, Abdul Al-Nasheri, captured in Yemen in November 2002 by the US Central Intelligence Agency (CIA), planned to steal small planes and use them, loaded with explosives, as suicide planes against ships and off-shore oil platforms. (Richardson, 2004: 19-20; Raman, 2004)

### **5.2.5 Underwater Demolition Teams**

In 2002, Dutch counter-terrorism agents investigated a possible interest by Al-Qaeda to use underwater demolition teams. Al-Qaeda terrorists were reportedly undergoing scuba-training for this purpose. (Richardson, 2004: 21-23)

### **5.2.6 Smuggling and Gunrunning**

The sea is used by terrorist organizations for gunrunning; the clandestine movement of terrorists from one country to another; and for the smuggling of narcotics, which is an important source of revenue for a number of organizations. (Raman, 2004)

Although both maritime terrorists and pirates operate on the sea no clear proof of actual links between them, exists to date.

## **6. LINKS BETWEEN PIRATES AND TERRORISM**

International efforts to freeze the finances of international terrorist organizations in recent years have also resulted in the possibility that piracy could be used as a way of funding these organizations. (Korin & Luft, 2004: 3)

The following commonalities exist between pirates and maritime terrorists:

- (a) Their actions are planned rather than impulsive;
- (b) actions are mostly aimed at civilians;
- (c) action is carried out at sea, using maritime vessels with light or heavy weapons;
- (d) the actions of pirates and maritime terrorists are transnational in nature;

- (e) both affect economic and political security; and
- (f) there are elements of definition overlapping. (Ong, 2005: 59)

Despite the above, there are also important differences between pirates and maritime terrorists. The motives for pirates are mostly financial and for terrorists political gain. Another distinction is that piracy does not always involve the use of violence. Normally pirates would try to avoid attention while terrorists seek attention to promote their cause.

## **7. CONCLUSION**

The international community must find a balance between safeguarding the marine environment against acts of maritime terrorism, piracy and armed attacks on ships and ensuring the sovereignty of States. Many Third World and smaller countries see the involvement of countries such as the US in measures against maritime piracy, acts of armed robbery of ships and terrorism in their coastal waters, as a threat to their sovereignty. These countries might see international cooperation as an advantage if the threat from maritime piracy, acts of armed robbery of ships and terrorism becomes unacceptable or if the gain from trade as a result of international cooperation with foreign navies such as the US becomes apparent.

International law and conventions such as SOLAS, UNCLOS and the SUA Convention instituted international measures to manage the problem of maritime terrorism, piracy and acts of armed robbery of ships. The ISPS Code provides practical guidelines to counter this problem. These measures will receive more attention in following chapters.

Political and socio-economic issues in individual countries have an impact on the occurrence of maritime piracy and acts of armed robbery of ships. Pirates use

these conditions to identify possible targets and to plan and execute attacks. Low prosecution rates in many countries lead to an increase in attacks.

Maritime terrorism is only one of the areas of operations for terrorist organizations and the percentage of seaborne terrorist attacks remains low. The possibility of a maritime terrorist attack should however not be underestimated. Attacks using boats as suicide vehicles; attacks on passenger ferries; and using containers for the transportation of weapons and terrorists are very likely. Attacks on passenger ships are also a possibility, while attacks using ships as WMD are less likely, but not impossible.

Piracy as an ancient threat was already mentioned in 1200 when the Sea People were active in piracy in the Eastern Mediterranean. By the end of the 19<sup>th</sup> century piracy was almost eliminated. In the 1970s and 1980s incidents of piracy and acts of armed robbery of ships began to increase again. An historical overview of maritime piracy and acts of armed robbery of ships and maritime terrorism up to 2000 will be provided in the following chapter, with more detail regarding selected areas in two separate case study chapters.

# CHAPTER 3: HISTORICAL OVERVIEW OF ACTS OF ARMED ROBBERY OF SHIPS, PIRACY AND MARITIME TERRORISM

In this chapter the focus will be on the historical background of piracy, acts of armed robbery of ships and maritime terrorism. Statistics of the IBM and the IMO will be used to present an overview of incidents of piracy, armed robbery of ships and maritime terrorism in the 20<sup>th</sup> century. Some of the historical reasons for men turning to maritime crimes, piracy and terrorism remained the same over the centuries, as in the case of economic hardship, while others were due to the political and legal climate of that period such as in the case of privateering. Some of the areas currently affected by piracy and acts of armed robbery of ships also have an historical heritage of socio-economic and political problems.

## 1. THE HISTORY OF PIRACY PRIOR TO 1900

Piracy is an ancient practice, perceived as an illegal practice by some, while others saw it as a legal activity supported by States for political and financial gain.

### 1.1 The Origin and Early History of Piracy

The word pirate originated from the Greek word “peirates”, which means an adventurer who attacks ships. (Johnson, et al, 2005: x)

The British Court defined piracy in 1696 as follows:

Piracy is the only sea term for robbery within the jurisdiction of the Admiralty... If the mariner of any ship shall violently dispossess the master

and afterwards carry away the ship itself or any of the goods with a felonious intention in any place where the Lord Admiral hath jurisdiction this is robbery and piracy. (Cordingly, 1996: 15)

The origin of piracy is the result of historical causes found in the social and economic circumstances of the time. When options to create a living were limited, men turned to piracy. The causes of piracy were therefore varied, some of which are still present today, while others were symptoms of the social and political climate of the time. They included the following:

- **Marooning.** Crew members who were marooned on deserted islands after pirate attacks and left to fend for themselves reverted to piracy to survive. (Cordingly, 1996: 8)
- **Economic Reasons.** In some cases fishermen who were unable to make a living from the sea turned to piracy to survive. For centuries piracy was the only way for fishermen in Southeast China to survive in the summer months when fishing was not feasible. (Cordingly, 1996: 8)
- **Peace after War.** During time of prolonged war whole generations of young people left their professions to join the navy. At the end of war these sailors found themselves unemployed and piracy was often seen as an alternative to make a living. At the end of Elizabeth 's reign and the end of England's war with Spain, as many as 50 000 sailors were out of work and many turned to robbing ships and pirating. (Cordingly, 1996: 8)
- **Forced Men.** Victims of pirate attacks were often forced into piracy, especially if they had specific skills for instance as surgeons and carpenters. (Cordingly, 1996: 8)
- **Privateering.** The use of privateers to supplement the income of navies during war

was a standard practice among Western countries between the 13<sup>th</sup> and 19<sup>th</sup> centuries. A privateer was defined in International Law as “a vessel belonging to private owners, and sailing under commission of war empowering the person to whom it is granted to carry on all forms of hostility which are permissible at sea by the usages of war.” This included the seizures of property. After periods of war privateers usually had no income and reverted back to piracy. In this cycle pirates were pardoned to fight a war, reverted back to piracy and were pardoned again when the next war broke out. (Young, 2005: 5-6; Ritchie, 1997: 10-18)

- **Treasure.** When the Spanish discovered large quantities of Aztec and Inca gold in Central and South America and transported the treasure back to Spain, convoys became the target for pirates and privateers. (Cordingly, 1996: 11-12)
- **Revolt.** Many ship captains were cruel towards their crew, especially on slave ships. In some of these cases crew revolted against the captain or slaves took over slave ships and became pirates. (Cordingly, 1996: 11-12)
- **Adventure.** Many young men saw piracy as an adventurous life. Most pirates, operating in the Caribbean and in American waters in the 17<sup>th</sup> and 18<sup>th</sup> centuries, were in their twenties. (Cordingly, 1996: 11-12)

The earliest known pirates were the tribes collectively known as the Sea Peoples who were active in the Aegean in the 13<sup>th</sup> century BC. The Shardana, one of the first groups of Sea People, first appeared in the Armana letters in the 14<sup>th</sup>c BC when they served in an Egyptian garrison in Byblos. They served both with and fought against the Egyptians at times. (Lorenz, 2004; Zangger, 1995: 20-23) On a rhetorical *stela* erected by Ramesses II in the mid-13th century BC at Tanis the following inscription appeared:

(As for) the Sherden of rebellious mind, whom none could ever fight against, who came bold-[hearted, they sailed in], in warships from the midst of the Sea, those whom none could withstand; [(but) he plundered them by the

victories of his valiant arm, they being carried off to Egypt] - (even by) King of S & N Egypt, Usimare Setepenre, Son of Re, Ramesses II, given life like Re. (Lorenz, 2004; Zangger, 1995: 20-23)

Pirates operated in the Aegean in ancient and Classical Greek times. Alexander the Great tried to bring an end to piracy around 330 BC. In 78 BC Cilician pirates kidnapped Julius Caesar and demanded 20 gold talents for his release. After his release Caesar raised a fleet to capture and crucify the pirates. By 69 BC Rome was in danger of starvation as a result of threats to trade by Cilician pirates in the Mediterranean. Pompey assembled a fleet of 270 ships with the sole purpose to defeat piracy. Attacks were also launched on pirate bases off the coast of Cilicia. Military outposts were set up and docks were built from where galleys could patrol the coast. Around 1 BC, one of the greatest threats to Roman commerce came from pirates amongst the many inlets and islands on the Anatolian coast that is now Turkey. They reportedly had more than a 1 000 ships. (Cordingly, 1996: 13)

Between 670 and 710 AD Islam warriors were in control of North Africa. They created a weak collection of States that resulted in periods of anarchy. Normadic tribesmen had freedom of action on land and Corsairs had freedom on the sea. Between the 9<sup>th</sup> and 11<sup>th</sup> centuries the Corsairs waged a war against Christian cities, attacking Rome in 846 and Genoa in 933 and 936 with a fleet of 200 ships. In 1087-1088 a fleet furnished by Genoa, Pisa, Amalfi, Salerno and Gaeta seized the Corsair stronghold of Mahdia in the first large scale maritime crusade with the aim to reduce Islamic power in Africa and Spain. (Heers, 2003: 21) As the Corsairs launched attacks from North Africa in the Mediterranean, the Vikings threatened Western Europe from the north.

For the Vikings the North Sea and the Baltic were easy to navigate and were on the route to Russia and Baghdad. The Scandinavians combined sails and oars in the development of their longboats to gain speed and maneuverability. Eventually around 850 AD pirate activity expanded from the Baltic to Ireland, England, France, the Netherlands and Belgium. (Muhlberger, 1999)

In August 1521 the Spanish conquistadors conquered the Aztec capital of Tenochtitlan. Three caravels were dispatched to Spain with looted gold and silver treasure. Most of these riches did not reach King Charles V as the ships were intercepted near the Azores by half a dozen French Corsair vessels. As the governments of France and Spain were involved in war during this period, these acts of piracy or privateering were seen as a legitimate act of war by the French government. (Cordingly, 1996: 7-15)

In the mid-17<sup>th</sup> century the Mediterranean remained dangerous as a result of the activities of the Barbary Corsairs. The term Barbary had its origins in Italy in around 1500 and referred to “barbarian” peoples. Although the word was used to describe the pirates of North Africa, not all Barbary Corsairs were African Moors. The Barbarossa brothers for example, were Turks. In the early 19<sup>th</sup> century European powers launched occasional expeditions and finally overwhelmed the Corsairs in 1830. The French occupied the whole territory and put an end to piracy. (Heers, 2003: 21; Ritchie, 1997: 11 -15)

In the mid-17<sup>th</sup> century the Caribbean also became a major arena for conflict with the transport of treasure from South and Central America, and sugar from the Caribbean islands. This led to the rise of the Buccaneers, an indigenous body of freebooters whom acquired privateering commissions from the imperial powers. By the 1680s Buccaneers expanded their activities to the Pacific, West Africa and the Indian Ocean. (Ritchie, 1997: 11 -15)

By 1700 the imperial powers were in a process of consolidating their empires, which resulted in the revision of the laws concerning piracy. The British established Vice Admiralty courts in the colonies. Between 1688 and 1713 the Royal Navy also had more ships available for the protection of commerce. Hunted by both the French and the English the pirates were driven to the high seas. By 1730 the reign of the Buccaneers were over. Navies hunted pirates in the Caribbean, North America and the Indian Ocean.

Permanent stations by the colonial powers covered most of the shipping zones of the world. (Ritchie, 1997: 11 –15; Freçon, 2008: 20)

In Asia the causes of piracy were also economic in nature in some instances, while other reasons such as weak political control led to the rise of vast pirate empires. Even today piracy and acts of armed robbery of ships are still seen as a way to supplement the incomes of fishermen in times of financial hardship.

## 1.2 Piracy in Asia

The first incident of piracy in the Malacca Straits was recorded in the fifth century. Piracy in Southeast Asia was seen by rulers as a legitimate activity to supplement income. This perception of piracy was changed in the early 16<sup>th</sup> century with the arrival of Europeans. (Young, 2005: 2, 9, 10)

Piracy was at a high in the 17<sup>th</sup> and 18<sup>th</sup> centuries. The Dutch East India Company monopolized trade to the East Indies, which led to a decline in employment opportunities for seaman and a consequent rise in piracy. Poor small States in the Malay Peninsula and Indonesian Archipelago levied taxes on cargo or turned to piracy as an alternative source of income. Other unprotected States were themselves vulnerable to attacks. The topography and maritime nature of the area made the sea a point of easy access. By the late 18<sup>th</sup> century European trade in the East, particular in tea, led to an increase in demand for labour. Two networks controlled trade to and from Southeast Asia. The first was centered on the Island of Lingga, in the Malacca Straits. The second network had the Mindanao and the Sulu sultanate (now Southern Philippines) as core, which became a centre for piracy and slave raids, financially gaining from raids on the coasts of Borneo, Celebes (now Sulawesi), the Moluccas and the Malay peninsula. (Freçon, E, 2008: 22; Loyre, 1997: 69-86; Anderson, 1997, 87-89)

European shipping was seldom targeted in this area. Although native crafts carried less cargo, they were more readily available as targets and attacks were less risky than

attacking well armed European ships. Chinese merchants estimated losses to piracy in the early 1830s between US\$ 15 000 to US\$ 20 000 per year (less than 2 percent of total trade). European traders did not petition the government of Britain, the governor of Singapore or the East India Company to act against piracy for fear that the cost of protective measures would mean an increase in taxes. (Anderson, 1997: 88-96)

As a result of the lack of protection from the British government and the East India Company, Singapore merchants armed their own vessels to reduce losses. In 1832 the Chinese merchants sent four sampan-pukats armed with 30 swivel guns to drive the pirates away from Singapore. In 1833 an armed brig was used as escort for boats that were blockaded by the pirates in the port of Pahang. Finally the Chinese merchants petitioned the British government, which sent warships to drive out the pirates. Piracy incidents were greatly reduced with the help of the British warships. (Anderson, 1997: 96; Freçon, 2008: 23)

In 1836 a pirate base on the island of Galang near Singapore was destroyed and expeditions led against the coastal sultans of Borneo finally broke the pirates' power. Political domination led to a significant decrease in piracy in Southeast Asia over this time, but after the British East India Company established a base on Penang Island, the increase in trade led to a rise in piracy in the area and left the State of Kedah impoverished. The company created a concentration of rich targets and impoverished Malay seaman and traders were left with no other alternative income than piracy. In 1874 the British changed their policy of non-interference in local politics in order to protect their tin interests and as a result the pirate problem in Malaysian waters was brought under control. (Anderson, 1997: 96-97)

Between 1750 and 1850 piracy along the Chinese coast was rampant as a result of the decline of the vast Chinese empire. Pirates were powerful and acted as auxiliaries of the Vietnamese Tay-son emperor. A rise in piracy is often experienced where weak political control exists. After the Tay-son Empire collapsed in 1801 the pirates were highly organized, skilled in warfare and dominated the South China Sea. Thousands of pirates in

hundreds of junks formed a confederacy based on family and clan structures. They defeated Chinese naval forces and undermined European vessels, selling safe passage and kidnapping sailors for ransom. The Chinese government was busy repressing internal rebellion with the result that the piracy problem received no attention. Chinese naval forces were also poorly equipped with inefficient command structures. The pre-existing poverty and poor social conditions the local population experienced, also acted as a breeding ground for piracy in this area. (Young, 2005: 21; Murray, 1997: 62; Anderson, 1997, 98-100)

The beginning of the 20<sup>th</sup> century saw a decline in piracy incidents not only in Asia but worldwide. This period of relatively few incidents was short-lived as the problem was steadily on the increase again by the 1970s.

## **2. PIRACY AND ARMED ROBBERY OF SHIPS IN THE 20<sup>TH</sup> CENTURY**

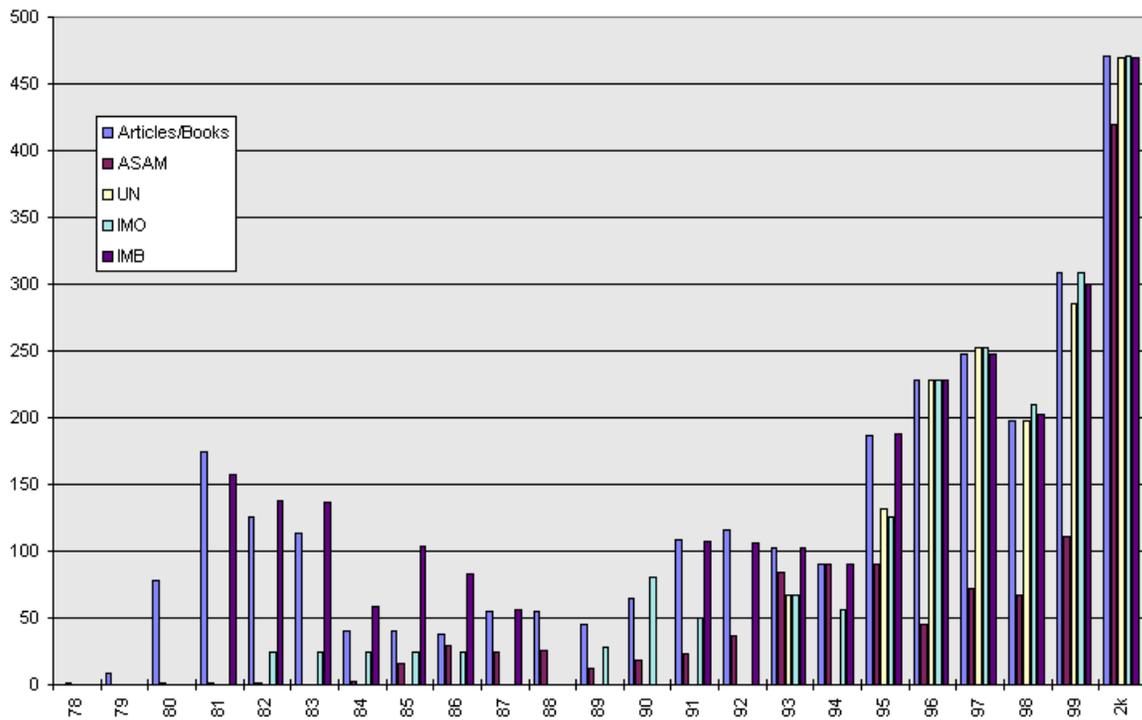
Maritime piracy and armed robbery of ships became increasingly problematic by 1983. Piracy and armed robbery of ships in the 20<sup>th</sup> century were influenced by the conflict in South Vietnam and Kampuchea from 1979 to 1985, resulting in the fleeing of thousands of refugees by sea to Southeast Asian countries, which became the target of pirates. In the 1970s an increase in pirate activity in South and Central America was also observed.

### **2.1 Statistical Analysis of Piracy and Acts of Armed Robbery of Ships in the 20<sup>th</sup> Century**

Although the IMB recorded incidents of piracy and acts of armed robbery of ships since the 1970s, the systematic recording of incidents was only undertaken since 1984. Incidents peaked in 2000 as illustrated in Figure 1. Incidents before 2000 were underreported for fear of increased insurance costs or high-risk payments;

masters feared that it would reflect poorly on their command in terms of ship discipline; ship owners feared that it would reflect on their company’s commercial capability; and in certain cases individual countries did not report for security reasons. As the PRC was established in Southeast Asia, incidents in other areas also received less attention. (Murphy, 2007: 21-23; Hyslop, 1989: 5) Even some incidents in Asia such as the plight of the boat people were not reflected in statistics.

**Figure 1: Maritime Piracy and Acts of Armed Robbery of Ships by Year: 1978-2000**



(Source: Bruyneel, 2001)

Incidents of piracy and armed robbery of ships were lower in 1998 as indicated in Figure 1, but an all time high was experienced in 2000.

## 2.2 Areas affected by Piracy and Acts of Armed Robbery of Ships

During the 20<sup>th</sup> century incidents of piracy and acts of armed robbery of ships were the highest in Southeast Asia and Malacca, the Far East, the west and east coasts of Africa,

the Caribbean, and the US. As indicated in Table 2, a total of 1256 incidents of armed robbery of ships and piracy incidents were reported to the IMB PRC between 1994 and 1999.

**Table 2: Maritime Piracy and Acts of Armed Robbery of Ships by Region and Year: 1994-1999**

Locations	94	95	96	97	98	99	Tot
<b>SE Asia</b>							
Cambodia	1	1	1	1	0	0	4
Indonesia	22	33	57	47	60	115	334
Malacca Straits	3	2	3	0	1	2	11
Malaysia	4	5	5	4	10	18	46
Myanmar	0	0	1	2	0	1	4
Philippines	5	24	39	16	15	6	105
Singapore Straits	3	2	2	5	1	14	27
Thailand	0	4	16	17	2	5	44
<b>Far East</b>							
China/Hong Kong/Macau	6	31	9	5	2	0	53
East China Sea	6	0	1	1	0	0	8
HKong/Luzon/ Hainan Area	12	7	4	1	0	0	24
Papua New Guinea	0	0	1	1	3	0	5
Solomon Islands	0	0	0	1	0	1	2
South China Sea	6	3	2	6	5	3	25
Taiwan	0	2	0	0	0	0	2
Vietnam	2	4	0	4	0	2	12
<b>Indian Sub Continent</b>							
Bangladesh	2	2	4	9	9	25	51
India	0	8	11	15	12	14	60
Sri Lanka	1	6	9	13	1	6	36
<b>Americas</b>							
Brazil	7	17	16	15	10	8	73
Caribbean	1	0	0	0	0	0	1
Colombia	0	1	3	0	4	4	12
Dominican Republic	0	0	1	3	4	2	10
Ecuador	3	0	3	10	10	2	28
Guyana	0	0	2	0	2	0	4
Haiti	0	0	0	0	0	1	1
Jamaica	0	0	1	3	2	2	8
Mexico	0	0	0	0	0	1	1
Nicaragua	0	1	1	0	0	0	2
Panama	0	1	0	0	0	0	1
Peru	0	1	2	1	1	2	7
Salvador	0	0	1	1	0	0	2
Uruguay	0	0	1	0	0	0	1
USA	0	0	0	1	1	0	2
Venezuela	0	0	1	3	1	6	11
<b>Africa</b>							
Algeria	1	0	0	0	0	0	1
Angola	0	0	0	1	1	1	3
Cameroon	0	0	0	3	5	3	11

DRC/Zaire	0	0	0	0	0	2	2
Egypt	1	0	0	0	2	1	4
Gabon	0	1	0	0	2	3	6
Ghana	0	1	2	2	4	2	11
Guinea	1	1	2	3	2	6	15
Guinea Bissau	0	0	0	0	0	1	1
Ivory Coast	1	0	4	4	1	5	15
Kenya	0	0	0	0	7	0	7
Madagascar	0	0	0	1	0	0	1
Morocco	0	0	0	0	0	1	1
Nigeria	0	1	4	9	3	12	29
Senegal	0	0	2	6	2	1	11
Sierra Leone	0	0	3	3	0	0	6
Somalia	1	14	4	5	9	14	47
Tanzania	1	2	3	4	3	3	16
Yemen	0	0	1	5	0	0	6
<b>Rest of World</b>							
Albania	0	0	0	5	1	0	6
Denmark	0	1	0	1	0	0	2
France	0	0	0	0	1	0	1
Greece	0	0	1	2	0	0	3
Iran	0	8	2	3	1	3	17
Italy	0	1	2	0	1	2	6
Malta	0	0	0	1	0	0	1
Netherlands	0	0	0	1	0	0	1
Portugal	0	0	0	1	0	0	1
Russia	0	1	0	1	0	0	2
Turkey	0	1	1	2	0	0	4
Location Not Available	0	1	0	0	1	0	2
<b>Total</b>	<b>90</b>	<b>188</b>	<b>228</b>	<b>248</b>	<b>202</b>	<b>300</b>	<b>1256</b>

(Source: ICC International Maritime Bureau, 2005: 5)

An increase in incidents in specific regions could usually be explained by conflict in the region, an absence of crime fighting institutions or strong navies to counter piracy and acts of armed robbery of ships, or a change in socio-economic conditions in the country or region affected. Regions such as Southeast Asia, West Africa and the Red Sea experienced such increases in acts of armed robbery and pirate related incidents in the 20<sup>th</sup> century.

### 2.2.1 Southeast Asia and the South China Seas

During 1979 more than 200 000 refugees fled Indo-China through the South China Sea to reach Southeast Asian countries. They became known as the boat people. These figures were down to 13 500 in 1985. A total of more than 600 000 people fled Indo-China over

this time and an estimated 60 000 to 250 000 people died as a result of natural causes, bad weather and piracy. Many Thai fishermen turned to piracy, attacking refugees from South Vietnam and Kampuchea. An estimated 3 percent of refugees suffered attacks. In 1984 an estimated 360 violent crimes were reported against these boat people in this area, including murder, abduction and rape. (Ellen, 1987a: 227; Hyslop, 1989: 34)

According to Refugee Reports for the period 1981 to 1988 as indicated in Table 3, a total of 884 piracy incidents and acts of armed robbery of ships occurred over this period.

**Table 3: Thailand Piracy and Acts of Armed Robbery of Ships Statistics Based on Refugee Reports: 1981-1988**

	1981	1982	1983	1984	1985	1986	1987	1988	Total
<b>Total Arrivals</b>	15479	5813	3384	3077	3343	4392	12842	4740	53070
<b>Abductions</b>	228	157	93	72	72	33	4	26	685
<b>Recovered</b>	85	92	39	35	39	11	1	10	312
<b>Deaths due to Piracy</b>	454	155	42	59	45	18	0	20	793
<b>Boats Arrived</b>	452	220	155	186	269	448	1112	307	3149
<b>Boats Attacked</b>	349	141	82	66	63	58	91	34	884
<b>No of People Attacked</b>	1122	373	181	117	101	87	117	51	2149

(Source: Hyslop, 1989: 282)

Not all attacks in the South China Seas were refugee related. In 1993 piracy and acts of armed robbery of ships in the South China Seas rose to 42 incidents out of 67 incidents worldwide. Most of the attacks took place in international waters, and occurred in the Hong Kong, Luzon (Phillipines) and Hainan (China) triangle. This resulted in the IMO sending a fact-finding mission to China, the Philippines and Hong Kong in March 1994. (Ellen, 1997: 30)

About seven cases of piracy and acts of armed robbery of ships occurred in the Malacca Straits annually before 1989. In 1989, 28 incidents were reported which increased to 50 by 1991. Most attacks occurred east of Singapore around the Horsburgh Lighthouse and in the Phillip Channel. In a typical attack, two to five pirates would approach by fast boat and board a ship at night. The pirates would overpower the officer of the watch and demand money and valuables, and the attack would be over in a short time. Most pirates were armed with knives and very few with firearms, and no fatalities occurred. (IMO, 2000; ICC, Hyslop, 1989: 12-13)

## 2.2.2 The Indian Sub-Continent

Several incidents of acts of robbery of ships took place between 1989 and 1999 in India and Bangladesh. Bangladesh was vulnerable to piracy and acts of armed robbery of ships, as no waterborne law enforcement agency existed. (Maritime Security Council, 1989-1999)

## 2.2.3 Africa

During the 1970s Nigeria experienced a huge increase in the volume of imports due to the oil boom. West Africa had the highest reported number of incidents (approximately 25 reports annually) of piracy and armed robbery worldwide for the period 1982 to 1986. Nigeria had the highest number of incidents in the region, and by 1980 Lagos was the world's worst affected area. During the period roll-on roll-off and container ships, waiting for weeks and months to enter inadequate harbours in order to offload goods (known as the "cement armada"), were attacked. (Agbakoba, 2004; ICC, Hyslop, 1989: 8; Office of the Defence Attaché, Nigeria, 1989: 220)

Between 1984 and 1985 Nigerian authorities acted against piracy bases and outlets of the stolen goods by increasing patrols and surveillance, resulting in a dramatic reduction in acts of armed robbery of ships in 1986 in Lagos and Bonny ports. Attacks on ships rose dramatically again since 1999, due to attacks by the Movement for the Emancipation of the Niger Delta (MEND) on predominately workers in the oil industry. (Agbakoba, 2004; Office of the Defence Attaché, Nigeria, 1989: 220; Maritime Security Council, 1992-1999)

Attacks in 1996 and 1997 in Sierra Leone, reflected in Table 2, could be linked to circumstances created during the civil war in Sierra Leone that temporarily ousted President Ahmad Tejan Kabbah. (Maritime Security Council, 1997)

#### **2.2.4 Gulf of Aden, the Red Sea and Lebanon.**

By 1998 two thirds of worldwide maritime abductions took place in the Gulf of Aden. Yacht hijackings occurred in the Gulf of Aden and the Red Sea. Incidents in 1995 and 1996 were related to the dispute between Yemen and Eritrea over the Hanish Islands in the Southern Red Sea. During Lebanon's civil war (1975-1990) unofficial ports were set up along the coast where hijacked ships were refitted and pirated goods were sold. (Murphy, 2007: 15, 29; Maritime Security Council, 1995-1996)

#### **2.2.5 The Americas**

After 1971 a sharp increase in yacht hijackings used in drug smuggling was experienced in the Southeastern Atlantic, the Gulf of Mexico, along the Pacific Coast and Hawaii. None of the yacht owners were ever found. The yachts were destroyed after the drugs were transported to the intended destination. This was as a direct result of the dismantling of professional drug rings by drug enforcement agencies in the late 1970s. The vacuum was filled by amateur operators from South and Central America and it is estimated that 44 yachts were hijacked in this manner between 1971 and 1974. In some cases the hijacker/s came onboard as crew members. The average profile of a hijacker was a person between the ages of 21 to 32 years with a narcotics record, of which many were US citizens. (Menefee, 1989: 63-71)

Between 1981 and 1985 there were 30 reported acts of armed robbery of ships around Santos, Brazil. In the early 1990s acts of armed robbery of ships and piracy occurred in the West Indies, Costa Rica, Ecuador, Colombia and Brazil, with the Rio de Janeiro and Santos ports being the most dangerous in this area. (Ellen, 1997: 31; Hyslop, 1989: 18; Maritime Security Council, 1989-1999)

Between 1970 and 1990 the US was affected by acts of piracy and armed robbery of ships in several ways:

**(a) Cruise ship Extortion.** Both passive and active forms of cruise ship extortion took place in the 1970s and 1980s. Passive forms of extortion took place when groups or individuals, forced companies to pay a ransom by threatening an explosion onboard one of their ships. Active extortion was the result of the seizure of control of a ship. In many cases it is difficult to determine if the aim of extortion is political or economic in nature. In 1973 an American attempted to extort US\$ 250 000 from Princess Cruise Lines by threatening to explode a device on the liner *Island Princess*. A search for explosives on the lines resulted in the finding of two cigarette-sized packages. The Federal Bureau of Investigation (FBI) arrested the extortionist at the money drop site. (Menefee, 1989: 61-62)

**(b) Government Marine Scams.** An example of this type of scam was the attempted hijacking of the *USS Trepang*, a nuclear powered submarine armed with nuclear tipped ballistic missiles in 1978. One of the hijackers involved was a former crew member of the submarine. The plan was to blow up the submarine's tender or service boat, take over the submarine, kill the crew, sail to New London, Connecticut, fire a nuclear missile at an east coast city and make certain demands. The submarine was also to be sold to an unidentified buyer. An undercover FBI agent uncovered the plot. It was not clear if the aim was in fact to steal the submarine or to steal the front money. (Menefee, 1989: 62-63; Jenkins et al, 1987: 77-78)

**(c) Labour problems.** In the 1980s crew mutinies on ships occurred over labour disputes in the US. The US Coast Guard brought all incidents under control. An example of piracy as a result of a labour dispute was the incident of mutiny over wages of the crew on the *MV Ypapanti*, a Liberian tanker. The ship was stranded in international waters after the ship was denied access to the port of Philadelphia because it posed a pollution and safety hazard. Initially the Liberian government handled the negotiations. When the mutineers threatened to set the ship alight, the Liberian government officially requested the US government to intervene. An assault was successfully launched by a Coast Guard-FBI team. (Menefee, 1989:

71-72)

Just as certain areas experience higher incidents of piracy and armed robbery of ships, certain ships have characteristics that attract more frequent attacks by pirates and criminals involved in armed robbery of ships.

### 2.3 Types of Ships Attacked

Table 4 indicates the type of ship attacked by pirates and criminals involved in acts of armed robbery of ships. Only incidents regarding the type of ships which experienced high numbers of attacks or type of ships with low incidents but which have a specific relevance to this study, such as attacks on ferries or passenger liners, are reflected.

**Table 4: Types of Ships Attacked per Year: 1991-1999**

Type	1991	1992	1993	1994	1995	1996	1997	1998	1999	Total
<b>Bulk Carrier</b>	0	17	15	18	34	39	38	44	78	283
<b>Container</b>	7	21	13	21	19	27	33	19	45	205
<b>Ferry</b>	0	0	0	0	0	3	6	0	2	11
<b>Fishing/Trawlers</b>	0	3	5	1	23	29	7	10	3	81
<b>General Cargo</b>	8	13	35	24	35	34	47	39	55	290
<b>Passenger</b>	0	0	0	1	4	0	2	1	1	9
<b>Tanker Crude Oil</b>	34	19	13	11	25	25	37	31	52	247
<b>Tanker Chemical/Product</b>	0	3	0	2	2	16	6	9	18	56
<b>Tanker LNG</b>	0	0	0	1	1	1	4	3	2	12
<b>Tanker LPG</b>	0	0	1	4	7	10	7	8	5	42
<b>Tug</b>	0	0	0	1	8	4	3	2	5	23
<b>Warship</b>	0	1	0	0	0	0	0	0	0	1
<b>Yacht/Speed Boat</b>	0	2	1	0	2	3	11	2	7	28

(Source: Ellen, 1997:32; ICC, 2005:12)

Easy accessibility to a ship and value of cargo, in the case of piracy and armed robbery of ships, and publicity value, in cases of terrorist attacks, determine if a ship is likely to be attacked. Proximity to conflict areas is also a determining factor for a pirate or terrorist attack of a ship. Most maritime terrorist attacks in the 20<sup>th</sup> century took place in the territorial waters of the targeted country. This is discussed in the next section.

### 3. MARITIME TERRORISM IN THE 20<sup>TH</sup> CENTURY

Incidents of maritime terrorism were frequent in the second half of the 20<sup>th</sup> century. As many insurgent movements fought on land for independence against former colonial governments, terrorist actions spilled over to the maritime terrain. Between 1979 and 1989, 47 terrorist attacks on ships were reported. During these incidents eight vessels were hijacked and 11 ships were destroyed. (Birnie, 1989: 143) Passenger liners were specifically targeted for maritime terrorism attacks due to the publicity value of such attacks. Although the hijacking of the *Santa Maria* was the first such case in the 20<sup>th</sup> century, the *Achille Lauro* incident created far-reaching publicity and influenced international relations.

#### 3.1 The Santa Maria Incident

Passenger liners are difficult to hijack because of more crew and the fact that passengers are stretched out among several decks, which makes the situation difficult to control. Therefore it is a rare occurrence. (Simon, 1987: 19; Wilkinson, 1987: 33-34)

The hijacking of the Portuguese passenger liner, the *Santa Maria* in 1961 is regarded as the first modern incident of maritime terrorism. The ship was hijacked by Colonel Galvao and 24 Portuguese insurgents. Galvao's motives were not clear, but he claimed to represent the 'Portuguese National Independence Movement', which aimed to overthrow the government of President Salazar. The terrorists came on board as passengers, killing an officer in the process and wounding another crew member. British, US, Danish and Portuguese warships were involved in the search for the ship on the high seas. US and Portuguese naval forces attempted to intercept the ship and cut off its escape to Angola. As the motives were political in nature, the incident could not be regarded as an act of piracy and the US forces were unable to board the ship on legal grounds. Negotiations followed and the passengers, as well as Galvao and the insurgents embarked in Brazil after having been granted asylum. Difficulty aroused in the handling of the case in International Law as the incident could not be defined as an act of piracy because of the

political nature of the incident; the two ship requirement for an incident to be labeled as an act of piracy; as well as the fact that the terrorists came aboard while the ship was moored and did not board in international waters. (Birnie, 1989: 144-145; Brittin, 1989: 160)

### **3.2 Palestinian Groups and The Achille Lauro Hijacking**

Palestinians were involved in maritime terrorism in the role of attackers (six cases between 1971 and 1985) as well as victims, usually involving Israeli or rival forces. Palestinian groups were well trained and financed, and had access to weapons. One such group, the Popular Front for the Liberation of Palestine (PFLP) reportedly received training in East Bloc countries in underwater demolitions. (Jenkins et al, 1987: 65; Schiller, 1987: 90)

It is reported that the Movement for the National Liberation of Palestine (Fatah) operated out of Cyprus and Tripoli, Lebanon with a small 'navy' of markabs (500-ton vessels) between 1982 and 1985. They used the markabs as mother ships to launch faster boats to land commandos on the Israeli coast. The 1975 seizure of hostages in the Savoy Hotel in Tel Aviv could be seen as example. It was also reported that Fatah was in possession of four Yugoslavian one-man submarines. Naval operations by the Israel Navy since then, gave Israel almost complete control of the Lebanese and Israeli coast. (Murphy, 2007: 48; Jenkins et al, 1987: 66)

One of these incidents of maritime terrorism in which Palestinians were involved was the hijacking of the *Achille Lauro*. The *Achille Lauro* incident was not the first terrorist incident in the 20<sup>th</sup> century, but it was the incident that created the most publicity of any maritime terrorism incident to date. On 7 October 1985 the cruise liner *Achille Lauro*, with more than 750 passengers and 331 crew members onboard, made a stop at Alexandria, where most of the passengers disembarked. The remaining passengers sailed on to Port Said. Soon after leaving Alexandria four PLF members hijacked the ship. The hijackers demanded that the ship should sail to Syria, but Syrian authorities did not grant the ship

permission to enter port. The terrorists killed Leon Klinghoffer, an elderly wheelchair bound Jewish American passenger and threw his body overboard. Yasser Arafat the head of the Palestine Liberation Organization (PLO) declared that his organization was not involved in the incident and offered to help broker the release of the hostages. One of the men sent to Egypt as part of the negotiating team, Abul Abbas, turned out to be the master brain behind the hijacking. (Simon, 1987: 18-19; Bohn, 2004)

The ship sailed on to Port Said where the Egyptian government granted them safe passage out of Egypt in return for the hostages and ship. US Navy F-14 fighter planes forced the EgyptAir Boeing 737 aircraft transporting the hijackers to Tunis, Tunisia to land at the US-Italian base in Sicily where the hijackers were arrested by the Italian authorities. Abbas was however allowed to leave the country despite a US request to arrest him, which strained US-Italian relations. This led to the temporary collapse of the Italian government on 17 October 1985 when the Craxi government split over the handling of Abbas and the hijacking. Relations between the US and Egypt were also strained due to the hijacking of the EgyptAir plane which Egyptians saw as an insult to their national honor and an act of piracy. Demonstrators in the streets of Cairo burned US flags and threatened to assassinate President Mubarak. The US government tried to capture or arrest Abbas for many years since the incident, but US forces in Baghdad only arrested him in 2003. (Simon, 1987: 18-19; Bohn, 2004)

### **3.3 The Polisario Front and the Somali National Movement**

Two organizations were involved in maritime terrorism incidents in Africa, namely the Polisario Front in Morocco and Mauritania and the Somali National Movement in Somalia. Between 1978 and 1987 about 17 attacks on mostly fishing boats off the coast of Morocco and Mauritania, were attributed to the Polisario Front. The Polisario Front was fighting for the independence of the Saharan Arab Democratic Republic or Spanish Sahara. Attacks were launched from Zodiac-type motorized boats with machine guns or light armour-piercing missiles. In some cases, crew of the stricken vessels were held for ransom. (Schiller, 1987: 89)

In 1989 the Somali National Movement seized ships trading with the Siad Barre dictatorship in Somalia in the name of the “Somali National Movement Coast Guard”. The collapse of the Siad Barre government in January 1991 also seemed to act as trigger for the country’s current piracy problem. (Maritime Security Council, 1989-1999; Murphy, 2007:15)

### **3.4 The Irish Republican Army**

The Provisional Irish Republican Army (IRA) carried out several terrorist attacks against maritime targets in the 1970s. The first incident of this nature occurred in February 1972 when a bomb was found on the passenger ferry, *Duke of Argyle*. Another incident, the assassination of Lord Mountbatten and his family onboard the family pleasure boat, *Shadow V*, in Mullaghmore harbour, County Donegal, was the only incident that received lasting publicity. The IRA also used ships to smuggle weapons. On 28 March 1973 the Cypriot coaster *Claudia*, with Joe Cahill a former commander of the Provisional IRA on board, was intercepted when an attempt was made to off-load weapons on the Irish coast. Five tons of weapons supplied by Colonel Gadaffi were confiscated. (Schiller, 1987: 89; Ellen, 1987a: 240; Wilkinson, 1987: 38-39)

### **3.5 The Americas**

In the Americas maritime terrorism occurred as a result of the US-Cuban conflict, as well as efforts to damage the Nicaraguan economy. Between 1960 and 1977 anti-Castro Cuban exile groups were responsible for more than 25 maritime terrorist attacks. After the Bay of Pigs incident in 1961, terrorist groups were unable to operate from Cuban territory and therefore turned to maritime terrorism, which was financially supported by the US and the Cuban exile community. These groups were armed and trained by the CIA in navigation and underwater demolitions. The US government supported these groups who were responsible for attacks against Cuban ports and Soviet ships in the Caribbean, until 1968. These groups were also equipped with fast boats armed with 57mm recoilless rifles

and machineguns. In 1960 a French freighter unloading explosives in Havana was blown up, and the attack was attributed to sabotage by anti-Castro groups. (Jenkins et al, 1987: 65, 69-70, 80-81)

Attacks were also carried out on Cuban ships and ships trading with Cuba in US harbours and territorial waters. In 1968 the US Coast Guard foiled an attempted attack on a Cuban merchant ship. In the same year British, Japanese and Polish ships allegedly trading with Cuba were damaged by explosive devices in US harbours. One of these was the British freighter *Caribbean Venture* that was damaged by an underwater explosion while at anchor in Biscayne Bay, Miami, Florida. The Cuban exile-group El Poder Cubano claimed responsibility. (Jenkins et al, 1987: 66-77)

Anti-Sandinista forces in countries bordering Nicaragua aiming to damage the Nicaraguan economy were responsible for 13 maritime terrorist attacks between 1983 and 1985. During most of the incidents ships detonated mines outside Nicaraguan ports. The Nicaraguan government blamed the CIA for involvement in the mining campaign, and took the issue to the International Court of Justice in The Hague. (Boulanger: 1989: 90)

### **3.6 The Philippines**

Between 1975 and 1982 three maritime terrorist attacks were connected to the Moro National Liberation Front (MNLF) in the Philippines. In 1981 the left wing New People's Army attacked one maritime target. (Menefee, 1989: 73)

### **3.7 Al-Qaeda**

In April 1994, Wahid El-Hage, an American recruited to assist Al Qaeda, bought a tramp freighter, the *Jennifer*. This ship was used to transport the explosives used to bomb the two US embassies in East Africa in August 1998, killing 224 people. The *Jennifer* was reportedly linked to Al-Qaeda. El-Hage was sentenced to life imprisonment in 2001 for his role in the bombings. The *Jennifer* was renamed to *Sky 1* and appeared to be

transporting legitimate cargo around the Red Sea area. It reportedly sank in 2000 off the coast of Oman, but the wreck was never found. (Richardson, 2004: 11- 18; Weiser, 1998)

### **3.8 Eco-terrorism**

Cases of eco-terrorism occurred in the 1970s and 1980s around the “Save the whales” campaign. In one such case the whaler *Sierra* was rammed by the Sea Shepherd organization on 16 July 1979. (Menefee, 1989: 73)

### **3.9 State use of Maritime Terrorism**

By 1987 approximately 25 percent of international terrorism incidents were attributed to State sponsors in the form of funding, weapon supply, training and the use of diplomatic facilities. Several cases of State use of maritime terrorism occurred between 1960 and 1990. In January 1968 the *Pueblo*, a US intelligence ship was captured by a North Korean patrol boat. The US government insisted that the ship was in international waters and not in North Korean waters (Birnie, 1989: 145; Wilkinson, 1987: 28, 30)

It was believed that Libya was responsible for laying mines in the Red Sea in July 1984 resulting in damage to 18 ships. This could be seen as a form of international State terror against Western targets. (Wilkinson, 1987: 35)

### **3.10 The Iran/Iraq Tanker War 1984-1988**

Some scholars define attacks by both Iraq and Iran on international shipping during the tanker war as acts of ‘maritime terrorism’. It could be best described as a form of commercial warfare. Between 1980 and 1988 Iraq started attacking ships exporting petroleum from Iran in order to sabotage Iran’s war effort and to force Iran to negotiate a peace deal. More than 400 mostly neutral ships from over 30 nations were attacked. Thirty-one ships were sunk and over 200 seamen killed. (Lorenz, 2003: 22)

At the beginning of the 21st century, changes in both maritime terrorism and piracy began to emerge. The 9/11 incident created the fear that terrorists could launch catastrophic attacks in the maritime domain using weapons of mass destruction and the focus with regard to maritime piracy and acts of armed robbery of ships was extended from attacks in Southeast Asia to rising attacks on the East and West African coasts.

## **4. CONCLUSION**

The economic forces that drove people to piracy and acts of armed robbery of ships in previous centuries are still present and changed little over centuries. Other forms of piracy such as privateering and forced piracy, do not exist anymore due to changing circumstances. Pirates do alter their strategies when new measures to combat piracy, acts of armed robbery of ships and maritime terrorism are instituted by governments and the international community.

The end of the Cold War, brought an end to worldwide patrols by the then superpowers, the US and the Union of Soviet Socialist Republics (USSR) which contributed to the rise in piracy after the 1990s. Statistics by the IMO and the IMB do not reflect all incidents of piracy and armed robbery of ships. Attacks on the boat people between 1981 and 1984 were for instance not reflected in IMO statistics.

Incidents of maritime terrorism were higher before 2000 compared to maritime terrorist incidents between 2000 and 2008. Attacks in the 1970s and 1980s were more localized while it became internationalized since 2000.

In the next chapter an overview of acts of armed robbery of ships, piracy and maritime terrorism between 2000 and 2008 will be addressed. Acts of piracy and armed robbery of ships in East and West Africa will receive specific attention, as well as the two cases of maritime terrorism that took place in Yemen after 2000. Nigeria in West Africa and Somalia in East Africa are studied in depth with regard to the political and socio-economic

factors that influenced the existence and nature of acts of armed robbery of ships and piracy in each region. Yemen, although not an African country, is included in this chapter as it borders on the Gulf of Aden and it represents some of the best examples of maritime terrorism since 2000.

# **CHAPTER 4: GLOBAL OVERVIEW OF ACTS OF ARMED ROBBERY OF SHIPS, PIRACY AND MARITIME TERRORISM IN THE 21<sup>ST</sup> CENTURY, AND SELECTED CASE STUDIES FROM EAST AND WEST AFRICA AND YEMEN, AND CONTRIBUTING FACTORS**

In Africa, the Somalia coast and the waters of Nigeria remain the most dangerous waters for pirate attacks and acts of armed robbery of ships. In this section a statistical overview will indicate which areas are more affected by acts of armed robbery of ships and piracy and will reflect the increase in incidents. Geographical areas affected by piracy and acts of armed robbery of ships, ports prone to armed robbery of ships and the type of ships that are more likely to fall target to piracy and armed robbery of ships, will be discussed. The levels and nature of violence used during such attacks will also receive attention. Although incidents of maritime terrorism were higher before 2000 compared to maritime terrorist incidents between 2000 and 2008, the fear exists that the level of violence in future maritime terrorist attacks may exceed the violence in past attacks.

Somalia and the bordering Gulf of Aden is the area most affected by piracy and acts of armed robbery of ships worldwide. In Somalia the absence of effective government and law enforcement agencies have led to an upsurge in maritime piracy and acts of armed robbery of ships. Yemen on the opposite side of the Gulf of Aden is the best current example of where actual maritime terrorism attacks took place. In Nigeria incidents of piracy and acts of armed robbery of ships have a direct link to the political situation and the para-military movements operating in the Niger Delta. Political as well as socio-economic factors contributed to a lawless environment where acts of armed robbery of

ships are rampant to such an extent that Nigerian waters are currently the area with the second highest incidents of piracy and acts of armed robbery of ships worldwide.

In this chapter a global overview of maritime piracy, armed robbery of ships and maritime terrorism for the period 2000 to 2008 will be provided. The socio-economic and political factors that contribute to maritime terrorism, piracy and acts of armed robbery of ships in Africa over the 2000 to 2008 period are also investigated. Although incidents of maritime piracy, armed robbery of ships and maritime terrorism in Northern, Southern and Central Africa are briefly discussed, the emphasis will be on maritime piracy, armed robbery of ships and maritime terrorism in Somalia, Nigeria and Yemen. Motives of maritime terrorists and pirates are also evaluated.

## **1. A GLOBAL OVERVIEW OF MARITIME PIRACY AND ARMED ROBBERY OF SHIPS: 2000-2008**

According to the IMB as much as 50 percent of maritime piracy incidents and acts of armed robbery of ships go unreported. Fear of complex reporting procedures, expensive delays and mistrust of local authorities are some of the reasons why attacks go unreported. Ship owners may decide not to report for fear of harming their commercial reputations, however they may be forced to do so in order to claim from insurance companies. Ship owners could also benefit from reporting as it allows the IMO and IMB to issue warnings of dangerous areas. Reporting incidents could also lead to the retrieval of vessels or cargo. Local authorities refrain from reporting incidents in the fear that their coastal waters would be declared a high-risk zone, resulting in financial losses. (ICC, 2006:17; Johnson, et al, 2005: xii - xiii)

## 1.1 Geographical Areas Affected

In Table 5 a total of 3 022 incidents of piracy and acts of armed robbery of ships for the period 2000 to 2008 are reflected. Incidents reached a peak in 2000. Indonesia, the Malacca and Singapore Straits, Bangladesh, as well as Santos in Brazil and Callao in Peru could all be considered high-risk areas for piracy attacks and acts of armed robbery of ships for the period 2000 to 2008. Patrols in Southeast Asia led to a decrease in incidents of piracy and armed robbery of ships in Indonesia and the Malacca Straits after 2006. (ICC, 2006:16 –17; 2008: 5-6)

**Table 5: Maritime Piracy and Acts of Armed Robbery of Ships by Region and Year: 2000-2008**

Locations	2000	2001	2002	2003	2004	2005	2006	2007	2008	Total
<b>SE Asia</b>										
Indonesia	119	91	103	121	94	79	50	43	28	728
Malacca Straits	75	17	16	28	38	12	11	7	2	206
Malaysia	21	19	14	5	9	3	10	9	10	100
Myanmar	5	3	0	0	1	0	0	0	1	10
Philippines	9	8	10	12	4	0	6	6	7	62
Singapore Straits	5	7	5	2	8	7	5	3	6	48
Thailand	8	8	5	2	4	1	1	2	0	31
<b>Far East</b>										
China/Hong Kong/Macau	2	0	0	1	3	4	1	0	0	11
East China Sea	1	2	1	0	0	0	0	0	0	4
Papua New Guinea	0	1	1	0	0	0	0	1	0	3
Solomon Islands	2	0	2	0	0	0	0	1	0	5
South China Sea	9	4	0	2	8	6	1	3	0	33
Taiwan	0	2	1	1	0	0	0	0	0	4
Vietnam	6	8	12	15	4	10	3	5	11	74
<b>Indian Sub Continent</b>										
Bangladesh	55	25	32	58	17	21	47	15	12	282
India	35	27	18	27	15	15	5	11	10	163
Sri Lanka	3	1	2	2	0	0	1	4	1	14
<b>Americas</b>										
Argentina	0	0	0	0	0	0	1	0	0	1
Brazil	8	3	6	7	7	2	7	4	1	45
Caribbean	0	0	0	4	0	0	0	0	0	4
Colombia	1	1	7	10	5	2	2	0	1	29
Costa Rica	0	0	1	0	0	0	0	0	0	1
Cuba	0	0	0	4	0	0	0	0	0	4
Dominican Republic	4	5	7	6	2	1	0	0	0	25
Ecuador	13	8	12	2	1	0	1	0	2	39
Guatemala	1	0	0	0	0	0	0	0	0	1
Guyana	1	0	12	6	2	1	1	5	0	28
Haiti	1	0	1	1	6	2	0	2	2	15
Honduras	1	0	0	1	1	0	0	0	0	3

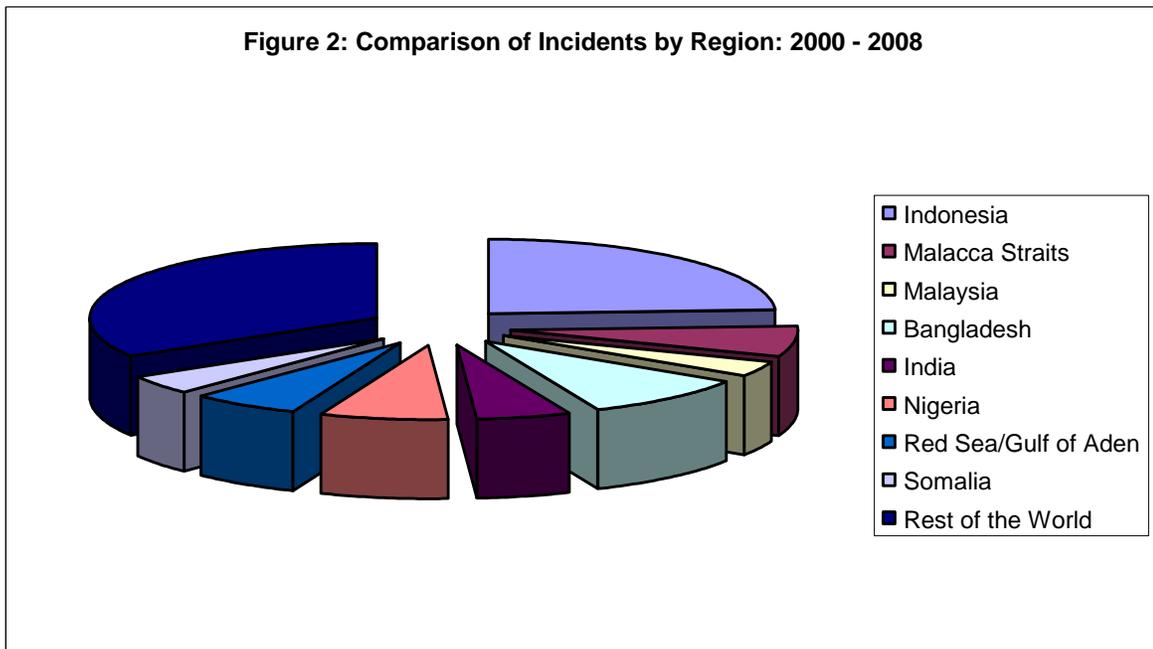


Jamaica	0	0	2	5	7	8	3	1	0	26
Martinique	0	0	0	1	0	0	0	0	0	1
Mexico	0	1	0	0	0	0	0	0	0	1
Panama	1	0	2	2	0	0	0	0	0	5
Peru	4	1	6	7	5	6	9	6	5	49
Salvador	0	0	0	0	0	1	0	0	0	1
Suriname	0	0	0	0	0	0	0	2	0	2
Trinidad & Tobago	0	1	0	2	1	0	1	0	0	5
USA	1	0	1	1	1	0	0	0	0	4
Venezuela	3	1	8	13	7	2	4	1	3	42
<b>Africa</b>										
Algeria	0	1	0	0	0	0	0	0	0	1
Angola	3	1	0	3	0	0	4	1	2	14
Benin	0	0	0	1	0	0	0	0	0	1
Cameroon	2	7	5	2	4	2	1	0	2	25
Congo	1	1	0	0	0	0	3	0	1	6
DRC							3	4	1	8
Egypt	1	2	0	0	0	0	0	2	0	5
Eritrea	0	0	0	0	1	0	0	1	0	2
Equatorial Guinea	1	0	0	0	0	0	0	0	1	2
Gabon	2	3	7	0	0	0	0	0	0	12
Gambia	0	0	1	0	0	0	0	0	0	1
Ghana	2	5	5	3	5	3	3	1	7	34
Guinea	6	3	2	4	5	1	4	2	0	27
Guinea Bissau	0	1	2	0	0	0	0	0	0	3
Ivory Coast	5	9	5	2	4	3	1	0	3	32
Kenya	5	0	2	1	1	0	0	4	2	15
Liberia	0	0	0	1	2	0	0	1	1	5
Mauritania	1	0	0	0	2	1	1	0	0	5
Madagascar	0	1	3	0	1	1	0	1	0	7
Morocco	1	1	0	0	0	1	0	1	1	5
Mozambique	2	0	1	1	0	0	0	3	2	9
Nigeria	9	19	14	39	28	16	12	42	40	219
Oman	0	0	1	0	0	0	0	3	0	4
Red Sea/ Gulf of Aden	13	11	11	18	8	10	10	13	92	186
Senegal	0	1	3	8	5	0	0	0	0	17
Sierra Leone	0	3	1	0	3	0	2	2	0	11
Somalia	9	8	6	3	2	35	10	31	19	123
South Africa	1	1	0	1	0	0	0	0	0	3
Tanzania	2	7	3	5	2	7	9	11	14	60
Togo	1	0	1	1	0	0	1	0	1	5
Yemen	1	1	5	0	0	0	0	0	0	7
<b>Rest of World</b>										
Arabian Sea	2	0	0	0	2	2	2	4	0	12
Arabian Gulf	0	0	0	1	0	0	0	0	0	1
Australia	1	0	0	0	0	0	0	0	0	1
Belgium	0	0	0	0	0	0	1	0	0	1
Bulgaria	0	0	1	1	0	0	0	0	0	2
France	0	0	0	0	0	0	0	0	1	1
Georgia	0	0	1	0	0	0	0	0	0	1
Greece	1	0	0	0	0	0	0	0	0	1
Indian Ocean	1	1	0	0	0	1	0	0	0	3

Iran	1	1	0	2	0	0	2	2	0	8
Iraq	0	2	0	0	1	10	2	2	0	17
Italy	0	0	1	0	0	0	0	0	0	1
Pacific Ocean	0	0	0	0	1	0	0	0	0	1
Saudi Arabia	0	0	0	0	0	0	1	0	0	1
Seychelles	0	0	0	0	0	0	0	0	1	1
UAE	1	0	0	0	2	0	0	0	0	3
United Kingdom	0	0	2	0	0	0	0	1	0	3
Location Not Available	0	1	0	0	0	0	0	0	0	1
<b>Total</b>	469	335	370	445	329	276	242	263	293	3022

(Source: ICC, 2005; ICC, 2006; ICC, 2008)

Figure 2 clearly shows that Indonesia is the country most affected by piracy and acts of armed robbery of ships for the period 2000 to 2008. Incidents in Indonesia coupled with those in Malacca and Malaysia indicated that Southeast Asia was the most dangerous region in the world regarding acts of armed robbery of ships and piracy during this period.



(Source: ICC, 2005; 2006; 2008)

Just as the territorial waters of some countries proved to be more dangerous than those of other countries, some ports could also be considered as more dangerous than others. Balikpapan , Jakarta-Tg. Priok and Belawan (Indonesia); Vung Tau (Vietnam); Chittagong (Bangladesh).; Callao (Peru).; Dar es Salaam (Tanzania) ; Lagos and Bonny

River (Nigeria); and Tema (Ghana) could all be considered high-risk ports. (ICC, 2005; ICC, 2006; ICC, 2007: 10; ICC, 2008: 10):

## 1.2 Types of Ships Attacked

Table 6 indicates the type of vessels attacked between 2000 and 2008.

**Table 6: Types of Ships Attacked per Year: 2000-2008**

Type	2000	2001	2002	2003	2004	2005	2006	2007	2008	Total
Bulk Carrier	113	73	91	114	73	81	57	32	48	682
Container	75	59	34	56	48	30	49	53	49	453
Ferry	2	0	0	2	0	0	0	0	0	4
Fishing/ Trawlers	10	16	20	28	18	7	18	16	9	142
General Cargo	80	59	84	73	38	46	30	36	38	484
Passenger	2	0	1	1	0	1	2	1	3	11
Tanker Chemical/ Product	22	25	25	49	56	43	35	52	55	362
Tanker Crude Oil	91	55	44	42	17	22	9	25	30	335
Tanker LNG	0	0	0	0	1	0	0	1	0	2
Tanker LPG	12	8	13	14	13	5	4	5	6	80
Tug	4	5	11	19	24	13	9	7	16	108
Warship	3	0	0	0	0	0	0	0	0	3
Yacht/Speed Boat	7	12	7	15	11	7	10	8	9	86

(Source: ICC, 2006: 13; ICC, 2008: 16)

Bulk carriers, general cargo ships and container ships were the most vulnerable to pirate attacks over this period. (ICC, 2006: 17; ICC, 2008:16)

## 1.3 The Use of Violence

During the 2000 – 2008 period 3 200 hostages were taken or kidnapped from ships, with the highest number (931) in 2008. During this period 187 passengers and crew members were killed, 130 were assaulted, 190 went missing and 429 were injured. (ICC, 2006: 10 – 11; ICC, 2008:13)

Fourteen ships were hijacked in 2006, 18 in 2007, and 49 in 2008. Most of these hijackings occurred in Somalian waters. Since 2000 nine ships went missing. Sometimes the crew were killed or marooned at sea. In some cases the cargo was transferred to other vessels and discharged illegally. (Munich Re Group, 2006: 17; ICC, 2008:13)

Although incidents of piracy and acts of armed robbery of ships were at their highest level in 2000, incidents of maritime terrorism were lower in the period 2000 to 2008, especially when compared to the 1970-1990 period. Since 2006 incidents of piracy and acts of armed robbery of ships increased again.

## 2. GLOBAL OVERVIEW OF MARITIME TERRORISM: 2000-2008

Analysts fear the potential of terrorists to create an incident on sea that matches the level of violence experienced during the 9/11 attacks, using biological, chemical or nuclear weapons. The perception exists that terrorist organizations have no regard for the environment or human life. More incidents of actual maritime terrorist attacks took place in the period 1980 to 1989 than any other period, as indicated in Table 7. Although incidents were higher at that time than incidents experienced in the 2000 to 2008 period, there is evidence to prove that terrorist organizations developed new maritime capabilities since 2000. Many of the incidents of maritime terrorism since 2007, as reflected in the MIPT database, are attributed to MEND in the Niger Delta.

**Table 7: Maritime Terrorist Attacks: 1968-2008**

	1968-1969	1970-1979	1980-1989	1990-1999	2000-2008	Total
<b>Number of Incidents</b>	7	34	69	11	22	143

(Source: MIPT Terrorism Knowledge Base, 2008; MIPT, 2010)

## **2.1 Oil Supply Lines**

In April 2004, suicide bombers in three boats launched attacks in and around the Basra terminal zone in Iraq, which is one of the most secure oil facilities in the world. In recent years MEND in Nigeria, also launched several attacks on oil facilities and ships, kidnapping Western personnel. (Korin & Luft, 2004: 4 -6)

## **2.2 Al-Qaeda Navy**

There have been speculations of ships belonging to an Al-Qaeda Navy, but to date inspections of suspicious ships provided no proof of their existence. The US-maintained list of suspected Al-Qaeda ships varies from about 12 to 50 ships. (Richardson, 2004: 11-18)

## **2.3 Underwater Demolition Teams**

In 2002, Dutch counter-terrorism agents investigated a possible interest by Al-Qaeda to use underwater demolition teams. Kasim Ali, an Iraqi under suspicion of recruiting for Al-Qaeda, underwent scuba training and became a scuba instructor at a diving school in Eindhoven, Holland. Between 50 and 150 Muslim men, some of whom were suspected Islamic extremists, underwent training with a Tunisian instructor. (Richardson, 2004: 21-23)

In 2002 Omar al Faruq, Al-Qaeda's head of operations in Southeast Asia, was captured in Indonesia and handed over to the US. He reportedly told interrogators that he planned scuba attacks on US warships in the port of Surabaya, Indonesia's second largest port with a naval base. In 2000 the Abu Syyaf Group in the Philippines kidnapped a maintenance engineer from a resort in Malaysia. With his release in 2003 he said that the kidnappers knew he was a diving instructor and wanted instruction. (Richardson, 2004: 21-23)

## **2.4 Smuggling and Gunrunning**

The ocean is used by terrorist organizations for gunrunning, smuggling and the clandestine movement of terrorists between countries. The Liberation Tigers of Tamil Eelam (LTTE) and Palestinian terrorist organizations have the capability to transport contraband and persons. A transnational mafia group based in Pakistan led by Dawood Ibrahim also has this capability. In October 2001 Italian authorities found a stowaway, Rizik Amid Farid, in a container in the port of Gioia Tauro. The container was loaded in Port Said, Egypt with final destination Canada. Farid was equipped with two mobile phones, a satellite phone, laptop computer, cameras, airport security passes, an airline mechanic's certificate valid for four major US airports and a return airline ticket from Montreal, Canada to Egypt. (Raman, 2005; Richardson, 2004: 11-12)

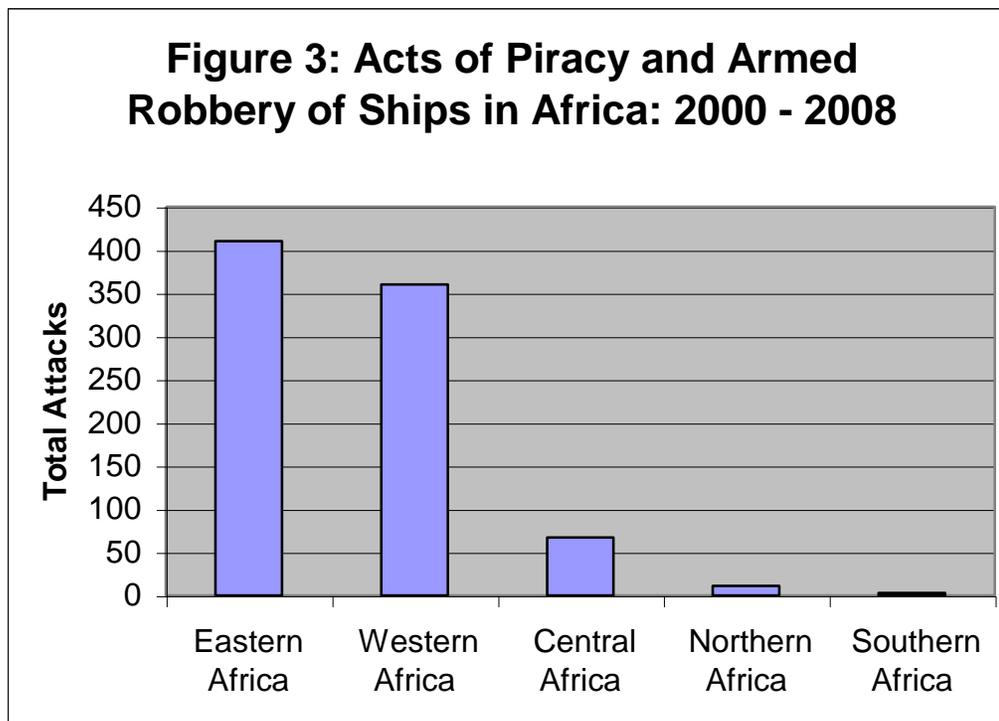
## **3. OVERVIEW OF MARITIME PIRACY AND ACTS OF ARMED ROBBERY IN AFRICA**

Most African navies acquired limited naval capabilities from the colonial power after independence. Some navies developed a reasonable naval capability from this point on, while others remained stagnant. Civil conflict and low budgets of navies led to the inability of navies to secure coastal waters and to prevent maritime crimes such as piracy and illegal fishing. (Jonah, 2006: 1; Mudimu, 2006:1-2)

Many African countries EEZs are rich in offshore resources and fish which are left unprotected by weak navies. In 2001 the Surveillance Operations Coordinating Unit of the Sub-Regional Fisheries Commission based in Gambia, undertook a study that detected a high level of illegal fishing in a 220 hours of surveillance period in Guinea (60 percent of 2 313 vessels were involved in illegal fishing), Sierra Leone (29 percent) and Guinea Bissau (23 percent) EEZs. It is estimated that US\$ one billion in resources are lost in the form of illegal fishing in sub-Saharan Africa alone, leading to environmental degradation

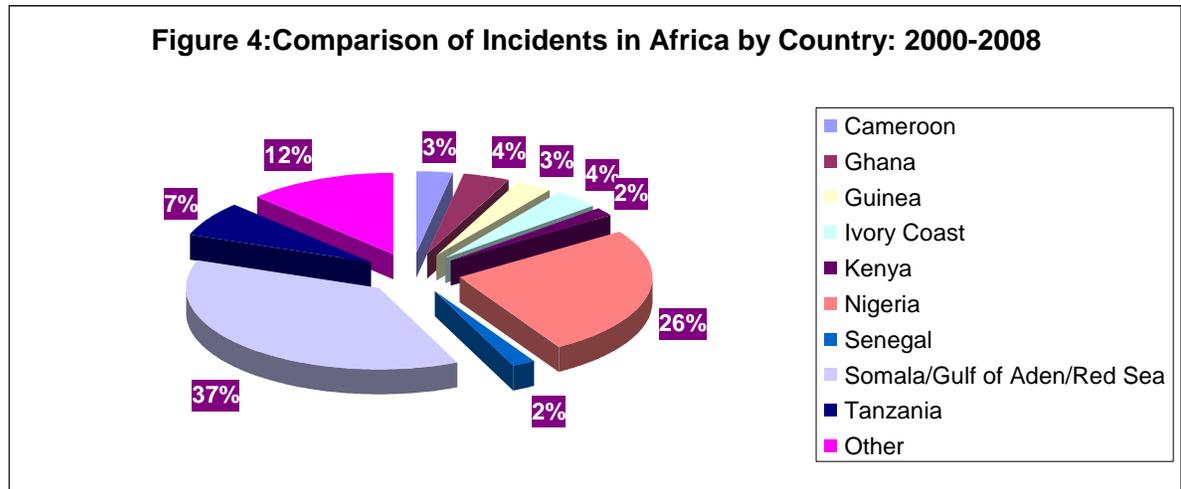
that could have an impact on the rise of piracy and acts of armed robbery of ships as fisherman turn to piracy as an alternative form of income. (Jonah, 2006: 1; Ulrich, 2006: 2-4)

Apart from Somalia and the Gulf of Aden, most incidents of armed robbery of ships in Africa occur while ships are anchored in ports or anchorages off port. Securing African ports against acts of armed robbery of ships are difficult because the ports are part of the city and are multi-functional and congestive - catering for fisheries, pleasure, the military and often include ore terminals. In Somalia very few of the more than 400 reported cases of piracy and acts of armed robbery of ships as indicated in Figure 3 took place while at anchor in ports or anchorages. Almost all attacks between 2000 and 2008 in Somalia, the Red Sea and the Gulf of Aden took place while vessels were steaming and hijacking was the motive in almost all the cases. (ISPS Code in Africa, 2006: 3; ICC, 2005:5; ICC, 2008: 5-6)



(Source: ICC, 2005:5; ICC, 2008: 5-6)

Figure 3 indicates that acts of piracy and armed robbery of ships were extremely high over the period 2000 to 2008 in Eastern and Western Africa due to attacks off the coasts of Nigeria and Somalia, the Red Sea and the Gulf of Aden, where 90 percent of incidents occurred as indicated in Figure 4.



(Source: ICC, 2008)

In total 851 actual or attempted acts of piracy and armed robbery of ships took place in Africa between 2000 and 2008, of which 770 occurred in West and East Africa as indicated in Figure 4. Tendencies in piracy and acts of armed robberies of ships differ from one region to the next across Africa. Most incidents of armed robbery of ships in Northern, Southern and Central Africa are linked to opportunity theft in harbours and anchorages.

#### **4. ARMED ROBBERY OF SHIPS, PIRACY AND MARITIME TERRORISM IN NORTHERN, SOUTHERN AND CENTRAL AFRICA**

Incidents of piracy and armed robbery of ships in Northern, Southern and Central Africa are relatively low. Although Northern Africa has few incidents of maritime piracy or acts of

armed robbery of ships, there were incidents where maritime terrorism was planned and where terrorists were transported in containers. Moroccan intelligence discovered a plot by Al-Nasheri in early 2002 to bomb US and British warships with explosive laden speedboats in the Strait of Gibraltar. Three Saudis were captured and sentenced to ten years imprisonment in Morocco in February 2003. They apparently attempted to purchase Zodiac-type speedboats to use in these attacks. (Jau, 2003; Richardson, 2004: 11- 18)

There have been 11 incidents of attempted or actual acts of armed robbery of ships in Northern Africa since 2000. Robbery of ships takes place in this region while ships are at anchor in ports or anchorages. Incidents were reported at the ports of Agadirt, Safi and Casablanca in Morocco and Port Said, Egypt. Only three incidents of attempted or actual acts of armed robbery of ships in Southern Africa were reported in the 2000 to 2003 period and none before 2000 and after 2003. (ICC, 2005: 5; ICC, 2006: 5; ICC, 2007: 66-71; ICC, 2008: 5-6, 85)

Incidents of piracy and armed robbery of ships in Central Africa are usually in the form of theft of crew's possessions or theft from containers. During the period 2000 to 2008, 67 incidents of piracy and armed robbery of ships took place in Central Africa with almost half of the incidents taking place in Cameroon as indicated in Table 5. This pattern was similar in the pre-2000 period.

Doula Port and Anchorages (Cameroon) had the most reported incidents. Robbery of ships across the region takes place while ships are at anchor in ports or anchorages. Some other ports in this area are especially at risk, such as Luanda Anchorage (Angola), Pointe Noire Anchorage (Congo), Boma Anchorage (Democratic Republic of the Congo (DRC)) and Matadi Port and Anchorage (DRC). In 2008 an attack on an offshore supply vessel was also reported at the Kole Oil Terminal at Bakasi Peninsula in Cameroon. During this incident crew were kidnapped for ransom. (ICC, 2005: 55-57; ICC, 2006: 45-49; ICC, 2007: 64-69; 2008:69, 72-70) Incidents of piracy, armed robbery of ships and maritime terrorism in Central Africa are much lower than in West and East Africa.

## **5. ACTS OF ARMED ROBBERY OF SHIPS, PIRACY AND MARITIME TERRORISM IN EAST AFRICA**

East African countries are poor countries and conditions are often made worse by spells of drought and conflict. East African countries also face foreign fishing vessels depleting their marine resources. This is especially true for Somalia, one of the poorest countries in the region. Countries such as Eritrea, Ethiopia, Sudan and Somalia are in a constant cycle of conflict that spills over to the region as a whole.

### **5.1 An Overview of Armed Robbery of Ships, Piracy and Maritime Terrorism in East Africa**

East Africa is an important transit point for international shipping, which explains the international attention the current piracy crisis receives. Somalia, Djibouti and Yemen form strategic maritime points for ships passing through the Suez Channel. This channel forms a chokepoint, with Yemen on the one side connecting the Arabian Sea to the Red Sea and Djibouti and Somalia on the other side. A dangerous situation is created when ships laden with valuable cargo transit close to very poor countries with high unemployment rates. Somalia is one of the poorest countries in East Africa, but by no means the poorest. Both the economies of Djibouti and Eritrea are weaker than the Somali economy, but it is offset by other factors. Eritrea is also, like Somalia, in a constant cycle of violence. (Lackey, 2005: 28; CIA, 2009)

Somalia has always been the flashpoint in the region, but incidents of piracy and armed robbery of ships have not been nearly as high in the pre-2000 period as the post-2000 period. Incidents increased during 2005 as indicated in Table 5. Incidents were lower again in 2006 as a result of the more stable government of the Union of Islamic Courts. The Union of Islamic Courts was defeated in December 2006 and incidents of piracy increased again.

East Africa currently has the most incidents of piracy and armed robbery of ships worldwide with 130 incidents in 2008. Table 5 indicates that most of the incidents took place in Somalia and the Red Sea/ Gulf of Aden. No incidents took place in the Red Sea in 2008 as pirates adapted to international measures and moved further away from the coast to the Gulf of Aden. Attacks in Yemeni coastal waters have been logged with Gulf of Aden statistics for 2007 and 2008. The East African coast is also known for maritime terrorism activity such as the attacks on the *USS Cole* and the *Limburg*. In April 1994, Wahid El-Hage, a known terrorist with links to Al-Qaeda, bought a tramp freighter, the *Jennifer*, which was used to transport the explosives used to bomb the two US embassies in East Africa in August 1998, killing 224 people. (Richardson, 2004: 11- 18)

Eritrean politics are marked by distrust and conflict with its neighbours and international organizations since its independence from Ethiopia in May 1993. Independence left Ethiopia landlocked which strained relations with Eritrea, contributing to instability in the region and affecting both countries on the socio-economic level. As a result of the constant conflict with its neighbours and the military build-up on its borders Eritrea's expenditure on its military is excessive. Eritrea has one of the largest militaries per capita in the world, with 201 750 active personnel (of which 1 100 are navy) and more than one million reserves. As Eritrea, unlike Somalia, has a large defence force, piracy and acts of armed robbery of ships are rarely a problem in its coastal waters. Only one incident of piracy was reported off Eritrean waters on 7 June 2007 during which pirates hijacked an Egyptian vessel. The vessel was taken to Eritrean waters and 23 crew members were held hostage. (Deen, 2005; International Institute for Strategic Studies (IISS), 2007:273, 410; ICC, 2007:68)

Djibouti has little natural resources and is economically dependent on its role as a port country for landlocked countries and as a strategic military base location for foreign powers. The port has been privatized and modernized, is one of the busiest ports on the continent, and has one of the largest oil storage and handling facilities in Africa. The fact that Djibouti accommodates Western powers by supplying base facilities also means that they need a smaller navy for coastal defence and that piracy and acts of armed robbery of

ships represent no problem here. After independence the French Foreign Legion stationed 4 500 troops at Camp le Monier which proved vital to the country's economy. This base was transferred to the US in 2001. The French 13<sup>th</sup> Foreign Legion Demi-Brigade and the Fifth Regiment Interarmes d'Outre-Mer (5e RIAOM) are also currently stationed there. (Mutonya, 2008; US Naval Forces Central Command, 2006; Saunders, 2008:191)

Incidents of piracy in Somalia had a spill over effect into Kenyan waters with few foreign navy patrols on this coastline. Kenya has a 1 620 member strong navy that operates nine Masura coastal radar stations and several fast patrol boats and patrol craft. US Marine Corps training in counterinsurgency and reconnaissance is also planned. Illegal fishing and the dumping of toxic waste may affect fishing communities in Kenya in the long run, which may have an effect on piracy and acts of armed robbery of ships. On 23 October 2008 an incident was reported during which shots were fired by two speedboats on a container ship 180nm off Mombasa. It is suspected that the attackers were Somalian pirates. Most incidents in Kenya are however linked to robbers stealing ship supplies at the Mombasa Inner Anchorage. They gain access to vessels by small boats and anchor chains. Kenya was the first country to prosecute Somalian pirates. In 2008 the UK and Kenya also signed a Memorandum of Understanding (MOU) on the arrest, transfer and prosecution of pirates. (Wertheim, 2007: 422-423; Kelley, 2 March 2006; ICC, 2007: 68,94; ICC, 2008: 42, 86)

Although the relatively large Tanzanian Defence Force is a contributing factor to the stability of the country, the navy has been ineffective against acts of armed robbery of ships around anchorages at Dar es Salaam. In 2007 and 2008 almost all attacks were on container ships. Containers are broken into and contents stolen. In 2006 attacks occurred on chemical tankers and a LPG vessel. Perpetrators act individually or in groups of up to 20 using boats. Injuries to crew are rare in these incidents. (ICC, 2006; ICC, 2007:64-87; ICC, 2008: 62-69)

Although the Mozambique Navy only has 200 members and is inadequately equipped, incidents of armed robbery of ships are low in the country. In 2007 a container ship was boarded at Nacala Anchorage and ship stores were stolen. In 2008 robberies took place onboard a chemical tanker in Beira Port and a product tanker at Nacala Bay Anchorage. (Wertheim, 2007: 484; ICC, 2007: ICC, 2008:62-63)

Incidents of piracy and armed robbery of ships in Somalia are currently affecting the security of the whole region and could have a potential impact on the economies of the region. There is also a spill over effect of incidents into the coastal waters of neighbouring countries. These attacks are mainly the result of the current political and socio-economic situation in Somalia. The security situation created by the piracy problem in Somalia, coupled with the maritime terrorism incidents that occurred in Yemen creates a dangerous situation for international shipping in this region.

## **5.2 The Effect of Political and Socio-Economic Factors in Somalia on the Occurrence of Piracy and Acts of Armed Robbery of Ships on the Somalian Coast, the Red Sea and Gulf of Aden**

Somalia has been in a cycle of failure for the last four decades, with foreign powers hosting peace conferences during which a transitional national government monopolized by clan interests is formed, after which new alliances emerge that launch political and military campaigns against the new government. Foreign governments provide financial and military support to conflicting parties that lead to renewed violence after which the whole process repeats itself. The current piracy problem in Somalia has its roots in the unstable political and socio-economic environment since independence created by this cycle of violence. (Bryden, 2006) Incidents of piracy off the coast of Somalia differ from incidents elsewhere in Africa because of these unique circumstances created by the socio-economic and political situation in Somalia, and incidents change in reaction to measures instituted by the international community. Incidents of piracy and armed robbery of ships also influence world shipping as the higher risks to shipping result in

higher insurance premiums, which are transferred to prices of goods transported. The cost of providing security by deploying foreign navies is also rising.

### **5.2.1 Historical Overview of the Political and Socio-Economic Situation in Somalia**

The Republic of Somalia became independent in 1960 under leadership of Aden Abdulle Osman and consisted of the former Italian colonies of South-Central Somalia and Puntland and the British Protectorate of Somaliland. Somali society is divided into clans, sub-clans and sub-sub-clans. Most clans are Muslim and speak Somali. During civil war stronger clans take over land of weaker clans by force. This leads to changes in clan settlement areas as weaker clans are displaced and in cases are enslaved by stronger clans. Economic interests and the clan system are major sources of conflict and are exploited by leaders to serve their own political interests. In areas, war economies have developed that feed off violence and lawlessness, but in other cases business interests are the basis for peace and stability. (Elaigwu & Mazrui, 1999: 460; World Bank, 2005: 6-9)

The period 1960 to 1977 was relatively peaceful, although corruption was rampant. A military coup d'état in 1969 brought Mohammed Siad Barre, whom initially enjoyed popular support, to power. He built a large army from international funds and entered into three major conflicts. Between 1977 and 1978 Somalia entered into the Ogaden War with Ethiopia in support of Somali rebels over the Ogaden region and was defeated. The Barre government was held responsible for this, which fueled the rise of several Somali liberation movements intended to remove Barre from power. (World Bank, 2005: 9)

In 1969 Army Colonel Abdullahi Yusuf Ahmed was jailed for opposing the Barre coup d'état. He was released in 1975, but was forced to flee the country to Kenya in 1978 after an attempted coup d'état against the Barre government failed. From Kenya he led an insurgent movement, the Somali Salvation Democratic Front (SSDF), with Ethiopian support (which was at war with Somalia during this time) against Barre. (Ejime, 2004)

The Somali National Movement was formed in 1981 after the Ogaden War when the Somali military brought the Isaaq clan of Northwest Somali under military rule. Between 50 000 to 60 000 Somalis died, air strikes on Hargeysa destroyed the city and 400 000 people fled to Ethiopia. In 1991 the Isaaq clan declared Somaliland to be an autonomous State. Between 1989 and 1990 clan based resistant movements such as the United Somalia Congress (USC), the Somali Patriotic Movement and the SSDF were involved in conflict with government forces. As the Cold War lost momentum during the 1980s, Western aid organizations started to impose humanitarian conditions on aid to Somalia. This contributed to the final demise of the Barre government as the State lost its main source of revenue. (World Bank, 2005: 9-10)

In 1991 the USC, a coalition of opposing clans supported by Somali warlords under leadership of Genl Haideed, overthrew Barre. This coalition split into two groups led by Ali Mahdi and Mohammed Farah Aidid. During this time inter-clan warfare led to the destruction of Somali agriculture and widespread famine. In 1993 the US led the UN Operation in Somalia (UNOSOM) to secure food relief and launched "Operation Restore Hope" against the Mohammed Farah Aidid-led militia by deploying 28 000 US Marines. This turned into the Mogadishu battle during which 18 American Rangers were killed. It contributed to an unwillingness by the US to partake in peace missions in Africa. (Ejime, 2004; World Bank, 2005: 11)

In the meantime Yusuf Ahmed became involved in Ethiopian politics and was jailed there. On his release in 1991 he returned to his native Puntland. In 1998 he broke away from the Somali Union, declared the region autonomous of Mogadishu and became President. (Ejime, 2004)

In 1991 after Barre was ousted, a period of anarchy followed during which clan heads and warlords ruled the country. Somaliland withdrew from the 1960 union and declared independence. A power sharing coalition between the major clans was formed comprising an Upper and a Lower House. Although a state of emergency was imposed in December 1994 after conflict arose around Hargeisa, Somaliland did not reflect the ongoing conflict

experienced in Somalia and the government is relatively stable. The international community never acknowledged Somaliland's independence, although some countries established informal ties with Somaliland. (Ejime, 2004; African Studies Centre, 1994; Wikipedia, 2010)

### **5.2.2 The Political Situation in Somalia since 2000**

The Transitional National Government (TNG) led by Abdiqasim Salad Hassan, a former Interior and Finance Minister in the Siad Barre government, was formed in 2000. With time the TNG lost popular support as the party started to protect clan interests and supported Islamist groups, including the jihadi organization, Al-Itihaad al-Islaami. Violence once again broke out in 2001. (Bryden, 2006; Wikipedia, 2010)

In October 2002 a ceasefire was signed between the TNG and more than 20 rival groups. The Somali National Reconciliation Conference took place between October 2002 and October 2004 led by the Inter-Governmental Authority for Development (IGAD), a regional organization under Kenyan leadership. IGAD aimed to reconcile the TNG with the Somali Restoration and Reconciliation Council, an alliance of faction leaders supported by Ethiopia. In 2004 a transitional parliament was formed according to clan lines and Col Yusuf Ahmed was elected as interim President of Somalia. (Ejime, 2004, Bryden, 2006; Mulama, 2004)

By 2004 conflict claimed a million lives and two million Somalis found themselves refugees in neighbouring countries. Administrative facilities and airports in the country were in ruins after being passed around between warlords for years. UN peacekeeping missions to this region all led to failure with a feeling amongst the international community that the Somalia situation is unsolvable. The integration of the two independent regions of Puntland and Somaliland were also problematic. Somaliland President Dahir Rayalle Kahin indicated that they would not be integrated with Somalia. Both Puntland and Somaliland also claimed the border regions of Sool and Sanaag and thousands of

weapons in the hands of faction members created a security problem. (Mulama, 2004; Ejime, 2004; The Nation, 2004)

On 13 June 2005 the Somalia Transitional Government temporarily relocated from Kenya to Johar, in Somalia, until security in Mogadishu could be restored and militia that were still controlling the city, were disarmed. Yusuf enjoyed little support in the capital. The Arab League promised to deploy peacekeepers to support the IGAD force protecting the new government. Peacekeeping was however hampered by the inclusion of Ethiopia in the peacekeeping force and UN reluctance to lift the embargo on arms against Somalia, with the result that the peacekeepers could only enter the country unarmed. (Ramani, 2005; Mulama, 2005a; 2005; Wakabi, 2006)

By August 2005 heavily armed youth gangs were still invading properties and collecting illegal road tax around the country. With no police force or detention centres in place, citizens were fearful and housebound. As gang members have no alternative income, it is almost impossible to disband gangs. In some cases gangs also have connections with political leaders. On top of this the new government seemed to be unable to disarm the militia. Warlords in the city council seemed to be unhappy with the council they themselves set up and fought for control of the council. The ministers of Mogadishu were also unable to control the council. (Khalif, 2005; Khalif, 17 January 2006)

From the outset the TFG encountered problems. Power resided with a small group in the cabinet and decision-making was highly centralized which left the transitional institutions powerless. By October 2005 hardliner Islamic groups closed down entertainment centers by force and started manning the roadblocks dismantled by the warlords. By February 2006 the TFG split into two camps, the first led by the Speaker of Parliament, Sharif Hassan stationed in Mogadishu, and the other led by President Yusuf and Prime Minister Ali Mohamed Gedi stationed in Jowhar. (Bryden, 2006; Khalif, 18 April 2006)

During February 2006 renewed fighting broke out between heavily armed religious leaders who formed a network of Islamic Courts, and a new US funded group called the

'anti-terrorist' group. Meanwhile the first parliamentary assembly in 15 years was held on 26 February 2006 in Baidoa, which was chosen as seat of government until Mogadishu could be stabilized. Various militia groups were placed in garrisons and training of a new national army and police force were undertaken. (Khalif, 18 April 2006, Kelley, 11 May 2006; Oluoch, 2006)

In May 2006 thousands of civilians evacuated Mogadishu amidst mortar explosions in the city. Fighting broke out between the Union of Islamic Courts and the forces of three warlords, the Alliance for the Restoration of Peace and Counter-Terrorism. In June 2006 the Union of Islamic Courts took control of Mogadishu. It seemed that civilians in Mogadishu welcomed the Union of Islamic Courts as a factor that might bring stability in the city, others feared retaliation by the US in its 'war on terror'. The TFG invited the Union of Islamic Courts to talks in Khartoum. As the TFG voted in favour of the implementation of the National Security Stabilization Plan, including the deployment of foreign peacekeepers to help restore law and order, the Union of Islamic Courts seized Jowhar Town. Sheikh Sharif of the Union of Islamic Courts rejected the plan to deploy peacekeepers, stating that they would never agree to deploy foreign forces in Somalia. Somalia also saw an influx of weapons from countries in the region. (Haaji, 2006; Lobe, 2006; Khalif, 3 July 2006; Somaliland Times, 2006)

In July 2006 the US assembled a Contact Group led by Norway comprising of the US, Tanzania and the UN, to work towards the stabilization of Somalia. It was a futile exercise, as IGAD countries and the Arab League were not involved. The situation was further complicated by the replacement of Sheikh Shariff by Sheikh Hassan Dahir Aweys, which reportedly appeared on the US terrorist 'watch list'. (Khalif, 3 July 2006)

In July and August 2006 the Islamist militias took over large areas of Somalia and continued to march on to central Somalia. Between January and October 2006 more than 30 000 Somalis fled to Kenya escaping the fighting in Southern Somalia, joining the almost 130 000 mostly Somali refugees fleeing to Kenya since 1991. The Somali situation posed a security, health and environmental threat to the whole Horn of Africa and in

specific arid and drought stricken Northeastern Kenya. By October 2006 it was reported that the Union of Islamic Courts was massing troops near the Somaliland and Ethiopian borders. By that time Ethiopia was giving military support to the TFG. In November 2006 fighting broke out in Bandiradley (90km from Puntland) between the Union of Islamic Courts and a cell of tribal warlords under leadership of Abdi Qeybidid (a former police chief during the Barre government), backed by Puntland forces. (Jamaa, 2006; The Reporter, 21 October 2006; Berhane, 2006; Yusuf, 2006)

In early December 2006 the UN Security Council (UNSC) approved a resolution to deploy an 8 000-peace mission force, the Peace Support Mission to Somalia, and partially lifted the arms embargo to exclude supplies of “weapons and military equipment and technical training and assistance intended solely for the support of, or use by, the force”. By this time the Union of Islamic Courts had taken over most of Southern and Central Somalia and marched on towards Baidoa. (Bekele & Berhane, 2006; Fabricius, 2007; UN Security Council, 2006)

US-backed Ethiopian forces defeated the Union of Islamic Courts in December 2006, securing its strategic interests. In January 2007 the US, on request of the TFG government, launched air strikes on alleged Al-Qaeda members. Violence erupted when the TFG government ordered the public to hand in arms. Mogadishu suffered almost daily rifle, grenade and mortar attacks by hardliner Islamists, mostly aimed at Ethiopian forces. By March the TFG government moved to Mogadishu and members of the Uganda People’s Defence Force, as part of an AU peacekeeping force, took over security in the city. The Uganda People’s Defence Force was met with opposition at the seaport where they were deployed and mortar rounds were also fired on government bases. More than 100 000 civilians fled the city as violence escalated. (Katzenellenbogen, 2007; Khalif, 2007; The Monitor, 2007; South African Press Association (SAPA), 2007)

On 2 March 2008 the US launched another air strike on the border town of Doble. This was followed by a missile strike from a US Navy submarine targeting Saleh Ali Saleh Nabhan, a Kenyan citizen allegedly involved in the bombing of the Paradise Hotel in

Kikambala and the attempt to shoot down an Israeli airliner in Mombasa in 2002. In May the US launched an air strike on the Harakat al-Shabaab al- Mujahideen or the Mujahideen Youth Movement (Al-Shabaab) which is an insurgent group based at Dhusamareb, Central Somalia. (Shabelle Media network, 2008; Kelly, 2008; Garowe Online, 2008)

The TFG and the Alliance for the Re-liberation of Somalia signed a peace agreement on 18 August 2008 and President Yusuf resigned. In January 2009 a TFG- Alliance for the Re-liberation of Somalia government was formed and Sheikh Sharif Ahmed was elected president. (UN News Service, 2008)

Faction fighting is still the order of the day in Somalia, with the government controlling only limited areas around Mogadishu and the rest of the country constantly changing hands between the insurgent forces and government. Benefiting from the lawlessness, warlords fight for the control of power as well as economic resources. Groups often fight for control of the seaports and airstrips, as import taxes levied generate large amounts of income. (Business Daily, 2009, World Bank, 2005: 23-27)

### **5.2.3 The Socio-Economic Situation in Somalia since 2000**

Somalia is one of the poorest countries in the world. In 2002 a UNDP/ World Bank survey estimated the population of Somalia at 6.8 million, which is less than the pre-war figure. The unemployment rate was 47.4 percent (urban unemployment 61.5 percent); the per capita household income US\$ 226; 43.2 percent of the population lived in extreme poverty and only 19.2 percent of the adult population were literate at the time, which is much lower than the rest of the region. Reliable socio-economic data is essential for development planning and decision-making and began to deteriorate in Somalia even before the state collapsed in 1991. (World Bank & UNDP, 2003:xii; World Bank, 2005: 23-27)

Somalis are very resilient people and adapted to the absent or weak government and lack of service delivery by creating new business opportunities in deliverance of basic services such as electricity provision through the use of generators. As there are very few incentives to stay in Somalia, many young people are smuggled into foreign countries or seek asylum in foreign countries. Money transfers from Somalis working in foreign countries through Somali remittance companies are an important source of income for many households. After the 9/11 incident in the US, many remittance companies were restricted for fear that terrorist organizations may be funded through them, resulting in the destruction of many families incomes. Some sectors such as the communication sector have shown high growth mainly because the state monopoly on these sectors ceased to exist. Agriculture, especially in livestock, contributes to 65 percent of the Somalian economy and more than 50 percent of the export earnings. A livestock ban imposed on countries in the Horn of Africa, including Somalia, after the outbreak of Rift Valley fever in Saudi Arabia in 1999, almost destroyed the pastoral dominated economy. Some businessmen adapted by processing and exporting raw meat. The ban was lifted in 2009. (World Bank, 2005: 23-27, 1-2, 54; URIN, 2009)

Qat, a leafy stimulant or mildly addictive drug, is also a big problem in the country. Qat consumption usually increases during wartime as it lessens combat fatigue and fear. Qat is a source of revenue for some, while it lessens productivity of users. Most qat is imported from neighbouring countries. Due to drought, violence, the presence of large amounts of counterfeit money and price increases beyond the reach of the average Somalian, Somalia became one of the world's largest humanitarian disasters with 3.2 million Somalis dependent on food aid and with more than a million displaced people. As NGOs are often the target of attacks, the delivery of aid and medical assistance has been reduced by the end of 2008. Ships delivering WFP aid have also been under constant pirate attack resulting in the establishment of naval escorts in November 2007. Since then not a single ship has been attacked by pirates. (World Bank, 2005: 23-27; International Crisis Group, 2008:18-19; EU NAVFOR, 2011)

Economically, piracy has a dual effect on local coastal communities. On the one hand they inject wealth in the local communities which results in an increase of businesses such as internet cafes and shops, but on the other hand they cause price fluctuation which elevates prices out of reach of ordinary people. (Hafner, 2009) Financial hardship and the destruction of fishing resources as a source of income, are seen as incentive for fishermen to choose piracy as a career, but pirates have a negative impact on the poorest communities as they hinder the transport of food aid to Somalia by the WFP. Years of conflict in Somalia not only damaged infrastructure and affected the economy, but also left the country defenceless as there is currently no operational defence force in place.

#### **5.2.4 The Armed Forces of Somalia and Somaliland**

Current attempts to set up a defence force are hampered by defections, financial constraints and the UN arms embargo. Before 1991 the Somalian Navy consisted of two Osa-11 missile-armed fast attack craft, four Mol PFT torpedo-armed fast attack craft and a Polnocny class landing ship. Somaliland operates its own armed forces, which also receive the biggest part of Somaliland's budget (US\$ 6.8 million in 2004). As Somaliland is not recognized by the international community, it receives no military assistance. (IISS, 2007: 291)

Insecurity in Somalia is heightened by the absence of a national defence force as well as foreign involvement in the conflict in the country.

#### **5.2.5 Foreign Involvement in the Somali Crisis**

According to an US State Department Report, 12 countries were involved in the conflict in Somalia in 2006 ranging from active to less active or secret involvement. These are Kenya, Ethiopia, Eritrea, Uganda, Tanzania, Djibouti, Sudan, Egypt, Yemen, Libya, Saudi Arabia, United Arab Emirates (UAE) and the US. Several States were and are arming parties on both sides, which included surface-to-air missiles and infra red-guided anti-tank weapons, notwithstanding the 1992 UN arms embargo. Countries such as Libya and

Egypt were accused by the TFG of arming the Islamists and terrorists allegedly operating from Somalia. Egypt has a vested interest in protecting its access to water from the Nile and was reportedly supporting the Islamists with arms. Libya's interest was as result of its desire to create a Pan-African State. According to a UN report, Libya contributed US\$ one million to the Islamists. Although Saudi Arabia distanced themselves from the Islamists, charity organizations in the country were reportedly funding the Islamists. Eritrea was supporting the Union of Islamic Courts with weapons in an effort to hurt Ethiopian interests. Yemen which is accommodating 84 000 Somali refugees, gave financial or material support to both sides. The UAE has also shown increased interest in the country. According to a UN Security Council report the militant Lebanese movement Hizbullah also sent military aid to the Islamists. Iran and Syria were supporting the Union of Islamic Courts with arms and the UN reported that 200 Muslims traveled to Syria in July 2006 'to undergo military training in guerrilla warfare'. (Mbaria, 2006; The Reporter, 18 November 2006)

The US funded warlords in Mogadishu to counter the Union of Islamic Courts as part of their counter-terrorism strategy in Somalia, and spent almost US\$ 60 million on the training, equipment and transport of the African Union Mission in Somalia (AMISON) as well as US\$ 362 million in humanitarian and development aid since 2001. (Lobe, 2006; Kelly, 2008)

The funding of parties involved in the Somalia conflict has an impact on the stability of the country, which in turn has an impact on the rise of piracy and acts of armed robbery of ships in the region, which affect world shipping.

#### **5.2.6 Acts of Maritime Piracy and Armed Robbery of Ships in Somalia, the Red Sea and Gulf of Aden**

It is estimated that more than 25 000 ships transit the Gulf of Aden and Somali coast each year, which represents 20 percent of global trade. The sea-lane between Yemen and Somalia links Asia and the Gulf to Europe and is critical for Gulf oil shipments. The fact

that ships have to pass through the narrow Red Sea creates a high volume of sea traffic and potential targets, which are exploited by Somalian pirates. (Maritime Security Centre, 2009; UN Security Council, 2008: 28; ICC, 2005: 15-16, 26)

**(a) Causes of Piracy and Acts of Armed Robbery of Ships in Somalia and Motives of Pirate Groups**

The collapse of the Siad Barre government in 1991 was the foundation of the current piracy problem in Somalia. An ineffective government and criminal prosecution system and the total absence of law enforcing agencies and specifically a navy or coast guard in Somalia, all contribute to the piracy problem. Rescue and retaliation operations are not easily achievable in this situation. (Murphy, 2007: 30)

Illegal fishing, toxic waste disposal, arms and drug smuggling in Somalian waters aggravate the piracy problem. It is reported by the London-based Environmental Justice Foundation that more than 700 vessels from international companies are involved in illegal fishing in Somalian waters at any given time resulting in a loss of US\$ 300 million in resources each year, taking advantage of the absence of policing in this area. It is cheap and easy due to a lack of awareness for international companies to dump waste in East African waters. This affect health and fishing in these areas, resulting in fishermen forming pirate gangs in some cases. Some pirates claim that they are 'taxing' fishing trawlers. (Mayoyo, 5 November 2005; Murphy, 2007: 31; DefenceWeb, 2008)

Another motive for piracy is financial gain. Not everyone turning to piracy used to be fishermen. In an environment with few possibilities to earn a living, people turn to piracy as a criminal activity of choice. There is communality between piracy, arms trafficking and human trafficking across the Gulf of Aden. Refugees and migrants are transported across to Yemen and weapons are transported back. Reports linked Yusuf Mohamed Siyad 'Indha'adde' military chief of the Alliance for the Re-liberation of Somalia/Asmara faction, to the Central Somalia pirate network. He was also

linked to extorting ransom for the safe return of crew members and arms smuggling to Hobyo and Haradheere. (UN Security Council, 2008: 32)

Piracy at sea is an extension of the fight for control of resources and commercial arteries that occurs on land. In Somalia warlords supported by clans and business groups fight over control of commercial arteries like airstrips, roadways and also seaports which earn them high toll fees. Conflict over the control of the Mogadishu El-Maan and Kismayo seaports reoccurred since 1995. (World Bank, 2005: 27-28)

Warlords and criminal leaders get involved in piracy as a way to earn a living or fund military operations. In 2006 an oil company started exploring for oil in Majayahan, west of Bassaso after being granted a concession from the Puntland authorities. Objecting residents turned to armed resistance. They were supported and led by a local businessman and arms dealer Mohamed Sa'id 'Atom'. Atom's group is based in Galgala with a secondary base near Badhan with an armed force of more than 250 men. This group is implicated in kidnapping, piracy, weapon smuggling and terrorism. Prominent business and political figures like Garaad Mohamud Mohamed, Mohamed Adbi Hassan 'Afweyne' and Farah Hirsi Kulan 'Boyah' are key personalities involved in piracy. They provide the front money to finance pirate operations or alternatively provide boats, fuel, arms, equipment and salaries of pirates. (UN Security Council, 2008: 30, 33)

## **(b) Pirate Groups in Somalia**

After the Union of Islamic Courts took control of Mogadishu in June 2006, several pirate bases under control of the warlords were shut down and piracy was effectively suppressed in the area. With the collapse of the Union of Islamic Courts in December 2006 pirate activities resumed and it was reported that pirates calling themselves the 'Somali Marines' were reestablishing themselves at Xarardheere, an east coast town. This gang was previously active between 2004 and 2006. In 2004 they operated 50nm out to sea, but by 2005 they extended their operations to

150nm, probably due to warnings by the IMB that shipping must stay clear of the coast. This gang demanded US\$ one million ransom in April 2006 for the safe return of the *Dongwon-ho*, a South Korean fishing vessel. They finally settled for US\$ 800 000. By the beginning of 2007 attacks resumed in the shipping lanes as far as 200nm off the Somalia coast. (Murphy, 2007: 29-30)

In 2008 it was reported by a Somali mayor of the coastal town of Eyl, Puntland, that soldiers and senior officials joined the local pirates. Puntland President Adde Musa dismissed several officials including the Deputy Chief of Police, Mohamed Haji Aden, for involvement in piracy. (ICC, 2008:33; UN Security Council, 2008: 31)

It is estimated that 1 000 to 1 500 Somalis and around six major gangs, using approximately 60 small boats, are involved in pirate attacks. Pirates in Somalia are grouped in clan based maritime militias and there are currently two main networks: One based in the Majerteen clan from Puntland and the other based in the Habar Gidir clan from Central Somalia. The two networks overlap and cooperate with each other in some cases.

- **The Majerteen clan:** The most important pirate group is from the Isse Mohamud sub-clan, based in Eyl. Other groups are based in Nossaso, Aluula, Haafun, Bayla, Qandala, Bargaal and Gara'ad.
- **Habar Gidir Clan.** The most important group is from the Saleebaan sub-clan operating from Haradheere district. (UN Security Council, 2008: 28, 29,32)

The Eastern and Northeastern coast of Somalia are high-risk areas for attacks. The NATO Shipping Centre divided pirate operations into the following areas:

- **The Gulf of Aden and Mogadishu Pirate Attack Zone (PAZ):** In 2008 more than 60 vessels were attacked in this zone. Pirates use mother ships

from which attacks are launched. Pirates operate from Bossaso and Mogadishu in Somalia and Al Mukkallal and Al Shishr in Yemen.

- **The Eyl and Hoboyo Ransom Area (RA).** Hijacked ships are taken to Eyl and Hoboyo where support groups supply food to pirates and hostages. It was reported that the Eyl group took US\$ 30 million in ransom payments in 2008.
- **The Harardheere Pirate base.** This base is to a large extent under Suleiman/Habar clan control and is also used as a landing site for arms smuggling destined for opposition groups in Somalia and Ethiopia.
- **Aluula Pirate Refuge Port:** Smaller yachts are taken to this port after being hijacked. It is also used as re-supply port for pirates on their way to Eyl, Hoboyo and Harardheere. (Murphy, 2007: 30; ICC, 2005: 15-16, 26; UN Security Council, 2008: 29, 32)

### (c) Strategies of Pirates and Maritime Criminals

Pirate attacks in Somalia range from unplanned attacks to well-organized attacks with the use of automatic weapons (M76 rifles and Kalashnikov assault rifles) and Rocket Propelled Grenade launchers during which ships are hijacked and crews and ships are held for ransom. Mobile phones, GPS sets, small boat radar (to detect targets at night and to keep track of other vessels) and telescopic aluminum ladders are equipment used in attacks. (ICC, 2005: 15-16, 26; UN Security Council, 2008: 30)

Some attacks occur more than 1 000nm from the Somali coast. Pirates use mother ships to launch three or four speedboats (with four to eight pirates on board) that extend their reach from the coast. At least five mother ships with speedboats in tow, operate in this area and hide between the many illegal fishing vessels. An example

of the use of a mother ship in an attack is the use of a hijacked Russian trawler, *FV Burum Ocean*, in an attack on the French luxury yacht *Le Ponant* on 4 April 2008. After the attack the *FV Burum Ocean* was abandoned. In other cases hijacked vessels are turned into mother ships if ransom demands are not met as in the case of the *MT Yenegoa Ocean* hijacked on 4 August 2008. Mother ships are supplied from ports at Al Mukallah, Al Shishr, Nishtun and Al Ghaydah on the Yemeni coast and Bossaso, Aluula and Mogadishu in Somalia. (ICC, 2005: 15-16, 26; UN Security Council, 2008: 30)

The sea is a potential hostile environment. Pirate attacks are affected by weather. Yearly there is a decline in pirate activity during the monsoon. Very few attacks occur at night and in 2008 only five attacks and attempted attacks occurred between 21:00 and 05:00 Somalia time. Attacks peak between 12:00 and 13:00. No attacks were successful when ships were moving faster than 15 knots.

Somalia is currently the country where the most maritime related hostages are taken, with 154 hostages taken in 11 incidents in 2007 alone. Millions of dollars are also paid in ransom money, which resulted in a tenfold increase in insurance payments in 2008 for vessels crossing the Gulf of Aden. This ultimately also influenced the cost of imports. By the end of 2008 the situation became so serious that major shipping companies considered re-routing ships around the Cape of Good Hope and thus avoiding the Gulf of Aden. (UN Security Council, 2008: 28; ICC, 2007:24, 36)

A total of 42 hijackings took place in Somalia and the Gulf of Aden in 2008 of which 32 took place in the Gulf. Attacks in the Gulf of Aden are attributed to Somalian pirates moving further from the Somalian coast. During 2008, 815 hostages were taken in the Gulf of Aden and Somalian waters. Four crew members died and two were injured as a result of attacks. Another 14 remain missing/ feared dead. Pirates are also likely to fire on ships. During 67 incidents pirates fired on ships. (ICC, 2008: 22)

In a typical hijacking a hijacked vessel will be sailed to Somali coastal waters after which the owner will be contacted to demand a usually high ransom. In some cases the cargo is discharged before releasing the ship. As part of the ground team, pirates will have negotiators with foreign language skills, senior and local officials and elders and money launderers who will be responsible to exchange currency and transfer ransom money. It is near impossible to trace this ransom money back to the hijackers, as the economy is cash based and the ransom money therefore disappears into the economy. In all probability pirates also make use of intelligence from surrounding ports. (Murphy, 2007: 30; ICC, 2005: 15-16, 26; UN Security Council, 2008: 30-31; BBC News, 2009)

All types of vessels have been attacked, but vessels with a low freeboard are favoured, as boarding is easier. Attacks on certain types of ships receive more media attention because of the potential impact of such hijackings if successful. In November 2005 the US operated Cruise liner *Seabourn Spirit* was attacked by pirates, armed with automatic rifles and rocket-propelled grenades, 100 miles off the coast of Somalia. The ship escaped by increasing speed. Another liner was attacked in 2009. On 25 September 2008 the *MV Faina*, with a cargo of arms and ammunition, was captured. Amongst the cargo were 33 x T-72M1 tanks, 6 x ZPU-4 14.5 mm air defence cannons, 6 x BM-21 122 mm multiple rocket launch systems on Ural wheelbases and 36 x RPG-7V launchers. None of the weapons had been removed from the ship, but the concern was that the weapons could fall into the hands of the Alliance for the Re-liberation of Somalia/Asmara faction. The ship has since been released after a £2.2 m ransom was paid. (ICC, 2008: 22; Murphy, 2007: 29; UN Security Council, 2008: 32; Jones & McGreal, 2009)

Piracy also severely undermines the work of the UN World Food Programme (WFP). On 27 June 2005 Somalian militia hijacked the *Mv Semlow* and her crew of ten. The ship was in service of the UN WFP with a consignment of relief food for survivors of the December 2004 tsunami flooding in Bossaso. This resulted in more than 2 000

ton of WFP relief food held up in the Mombasa port due to fears of ship hijackings off the Somali coast. In 19 May 2007 pirates also attacked a WFP ship, killing a Somali guard. Ship owners demanded armed escorts while traveling through Somali waters. The lack of UN access to airstrips in Southern Somalia also hampered the efforts. As alternative the food had to be moved by road to the more than half a million Somalis needing assistance. (Mayoyo, 28 Augustus 2005; Mayoyo, 5 November 2005; The Star, 2007)

Somalian pirates also attack ships in Yemeni waters, but radical Islamic sympathies exist in Yemen, with affiliations to terrorist organizations such as Al Qaeda, resulting in maritime terrorism attacks in the early 21<sup>st</sup> century.

### **5.3 The Effect of Political and Socio-Economic Factors in Yemen on the Occurrence of Maritime Terrorism**

Politics in Yemen is influenced by tribal and Islamic sympathies, a high population growth with a low per capita income and underutilization of resources. The country's security situation is influenced by a porous coastline, high availability of weapons and sympathies for Al Qaeda.

#### **5.3.1 Political and Socio-Economic Background**

North Yemen gained independence from the Ottoman Empire in 1918, while South Yemen became independent in 1967 after the British withdrawal. Hundred of thousands of South Yemenis fled to North Yemen after South Yemen became a Marxist State in 1970. Two decades of conflict between the two countries ended in 1990 when they unified. (CIA, 2009)

Yemeni society consists of powerful tribal structures some with radical Islamic sympathies, running parallel to government which rules through a primordial federal system. The governorates of Marib are known for tribal domination, lawlessness,

harbouring Al Qaeda operatives, tribal kidnappings and damage to pipelines by explosives to extort money from oil companies. In the north frequent clashes between tribes occur, some of which are Saudi financed. This situation is worsened by a high population growth, one of the lowest Gross Domestic Product (GDP) rates in the world, an underdeveloped road network and underutilized oil resources. (Schanzer, 2004: 518-519; Lackey, 2005:29)

Yemen's 1 100nm coastline is one of the most porous borders in this region and the government has limited resources to protect it, which attracted smugglers and terrorists for years. Yemeni ports are of strategic importance to the country and the link to the outside world. In 2005, 25 percent of containers that left the port of Aden were destined for Western Europe. (Lackey, 2005:28-30)

Years of fighting in Yemen led to an influx of an estimated 80 million weapons into the country between 1967 and 1994. This restricts government forces' ability to enter certain areas. The right to keep arms is imbedded in Yemeni culture, which makes it hard to disarm citizens or prohibit weapons within the city limits. Many Yemenis also derive an income from the arms market, supplying weapons to Somalia and other countries in the region. (Schanzer, 2004: 521-522)

Yemenis who fought against the Soviets in Afghanistan returned to Yemen in the early 1990s with radical Islamic ideals. Bin Laden's father, Mohammed bin Laden, is from a Yemeni village in Hadramawt. This tribal connection coupled with financial incentives kept Al Qaeda linked to tribes in Yemen for many years, providing safe houses and business links for money laundering of terrorist funds. By 2004 Yemenis represented the third largest nationality in Al Qaeda and are represented by Al Qaeda's affiliate, the Aden-Abyan Islamic Army (AAIA). Several Al Qaeda operatives are present in the country. In 2009 the Yemeni Government authorized US missions in Yemen. Since then the US launched several air raids on suspected Al Qaeda structures. (Schanzer, 2004: 517, 522-523; Aljazeera, 2011)

### 5.3.2 Armed Forces of Yemen

Yemen has the second largest military force in the Arabian Peninsula next to Saudi Arabia and consisted of 60 000 Army, 1 700 Navy, 500 Naval Port Police and 5 000 Air Force personnel in 2007. Yemen's defence budget amounted to US\$ one billion in 2006. Their equipment is mainly light, poorly maintained and outdated. The navy has bases in Aden, Hodeida, Al Hudayah, Al Mukalla, Perim Island and Socotra. (Wertheim, 2007: 1032-1034; IISS, 2007: 248; Saunders, 2008: 973-975)

Navy vessels include four missile craft, six miscellaneous craft, 18 patrol boats, six mine countermeasures vessels, two ex-Soviet tank landing ships, one Polish medium landing ship, three Deba-class utility landing craft and two support tankers. They are equipped with two truck mounted batteries for SSC-3 styx- series anti-ship missiles that were supplied by the USSR in the 1980s (It is however not clear if they are operational) as well as 100mm fixed guns in tank turrets deployed on Pemba Island for coastal defence. They are in possession of a 4 500 ton ex-Soviet commercial dry dock at Aden and a marine oil-pollution control boat fitted with onboard tanks for 6 200 liters of spillage, a spray system and a 400m floating containment boom. (Wertheim, 2007: 1032-1034; IISS, 2007: 248; Saunders, 2008: 973-975)

### 5.3.3 Acts of Maritime Terrorism in Yemen

In January 2000 the AAIA implemented a new strategy to attack high profile US targets including maritime targets. Boats loaded with explosives would be remotely detonated or used as suicide weapons by ramming other vessels. Such an attack on the *USS Sullivan* failed when the suicide boat, overloaded with explosives sank in the Port of Aden. (Schanzer, 2004: 525; Raman, 2005; Richardson, 2004: 18-23)

In October 2000 two terrorists used a modified dinghy packed with approximately 500 pounds of C-4 explosives to blow a hole in the US destroyer, *USS Cole*. Six men, all of whom fought in Afghanistan against the Soviets, were arrested for the attack. Intelligence

gained from this arrest led to a missile attack by the US on 5 November 2002 from a Predator Unmanned Aerial Vehicle on a vehicle driven by Al Qaeda operatives, killing six operatives. (Richardson, 2004: 18-23; Schanzer, 2004: 525, 527)

In October 2002 the French-registered oil Tanker, *Limburg*, carrying crude oil off the coast of Yemen was bombed using a small boat loaded with explosives. Ninety thousand barrels of oil spilled into the Gulf of Aden leading to huge financial losses for Yemen in the form of tourist cancellations, cost of clean up operations and the use of the port. This incident led to counter-terrorism cooperation with the US government and British Special Forces. Mosques and Islamic organizations were monitored, illegal immigrants and suspected terrorists were deported and a public awareness campaign was launched to inform Yemenis of the cost of terrorism to their economy. This also led to the forming and training of a coast guard with US assistance. (Richardson, 2004: 18-23; Schanzer, 2004: 526-527; Lackey, 2005: 29-30)

In November 2002, Abdul Rahim Mohammed Hussein Abda Al-Nasheri, Al-Qaeda's chief of naval operations was captured in Yemen. According to the CIA he admitted to his involvement in the attacks on the *USS Cole* and the *Limburg* during interrogation. (Richardson, 2004: 18-23)

Tribal sympathies, an uneasy history with colonial powers, a high population growth, a porous coastline, and an availability of weapons, influence politics and security in Yemen and also create sympathy and easy access for terrorist organizations. All of these influencing factors are also present in West African countries and manifested in various coups d'état across West Africa.

## 6. MARITIME PIRACY AND ARMED ROBBERY OF SHIPS IN WEST AFRICA

At the time of independence West African countries were left with weak economies. All were dependent on imports, which led to high prices. Droughts aggravated the problem by forcing countries to import more commodities. By the 1980s countries were left indebted and reliant on aid. West Africa is further known for military coups d'état (by the 1980s 11 successful and 19 attempted coups d'état), resource wars, poverty, droughts, underdevelopment, pollution, bad governance, crime and corruption. Soldiers (which include child soldiers) forced by poverty, move freely from one conflict to another in the region. (Seibureh, 2005; Owusu, 1999: 332; Arnold, 2006: 689 -690)

### 6.1 An Overview of Piracy and Armed Robbery of Ships in West Africa

A total of 360 incidents of piracy and armed robbery of ships was recorded in West Africa between 2000 and 2008 as indicated in Table 5, which represented more than 8 percent of incidents reported worldwide.

Nigeria had the highest incidents of piracy and armed robbery of ships in West Africa between 2000 and 2008 as noted in Table 5, followed by Ghana, Ivory Coast and Guinea. Incidents have been rising and falling throughout this period with the highest number of incidents in the region reported in 2003.

In Togo incidents of armed robbery occurred in 2006 and 2008 at Lome Anchorage during which ship stores were stolen. Seven cases of armed robbery of ships were reported in Ghana in 2008. Incidents occurred at Tema and Takoradi anchorages during which robbers armed with knives boarded vessels to steal ship supplies. Port authorities advised ships not to anchor at night but to drift a minimum of five miles off shore. (Saunders, 2008: 292 – 293; IISS, 2007: 276; ICC, 2006: 49; ICC, 2008:62, 65, 68-70, 86)

In Ivory Coast robbers in boats attempted to board a cargo vessel using hooks and ropes off San Pedro in 2006. No response from authorities was received. Incidents also occurred at Abidjan Anchorage during which ship stores were stolen. The navy is not equipped to prevent these incidents. (Saunders, 2008: 171-172; IISS, 2007: 269; ICC, 2006, 45)

In Liberia the coast guard (which has no more than a few small unserviceable craft) is not capable of preventing piracy and acts of armed robbery of ships. In 2007, 25 pirates armed with machetes hijacked a cargo vessel anchored at Monrovia and took the vessel to the Ivory Coast. The crew were forced to disembark, and some of them sustained serious injuries. (IISS, 2007: 280; ICC, 2007, 67-77; ICC, 2008:65)

In 2006 an unlit boat approached a refrigerated cargo vessel 60nm off the coast at Nouadhibou roads, Mauritania. The master sounded alarm, increased speed and activated fire hoses. Another boat attempted to block the vessel's course. The vessel was followed for three hours before the attempt was aborted. The vessel tried to contact port authorities, but communication proved to be impossible due to language difficulties. (ICC, 2006:58)

The Republic of Sierra Leone Armed Forces has a small naval component that operates several small craft and barges. In January 2006 a Korean fishing trawler was attacked by armed pirates in military fatigues off Yelibuya Island. Two Sierra Leone naval personnel were providing armed escort on board the trawler. Pirates fired on a navy patrol boat and in the following gun battle the captain of the trawler was wounded. One pirate was arrested and a machine gun was recovered. Robbers also attempted to steal a tug's rescue boat's engine near Freetown. In December 2007 a tanker was attacked 40nm off Freetown while underway by eight pirates in fatigues on speedboats armed with AK47s. They stole ship stores and crew's property. In September 2007 members of the navy arrested eight Guinean naval officers for an act of armed robbery against fisherman in Sierra Leone waters. (Saunders, 2008: 707; IISS, 2007: 290-291; ICC, 2006:19, 47; ICC, 2007: 34, 65-66)

The Guinea Armed Forces consist of 12 300 active members of which 400 are naval personnel with bases in Conakry and Kakanda. They operate two patrol and coastal combatants. The lack of boats could be the reason why authorities never answer distress calls from boats under attack. Most incidents occurred around Conakry and its anchorages. In 2006 six pirates armed with automatic weapons and Rocket Propelled Grenade Launchers boarded a product tanker while underway 30nm from Conakry. Cash was stolen. In another incident a tug was robbed of stores in the same vicinity. A third attack failed when robbers called a chemical tanker on VHF radio pretending to be the port authorities claiming that the pilot was underway and asking the vessel to rig the pilot ladder. The robbers, armed with automatic weapons, launched a boat from a mother vessel. As the tanker did not expect to berth until the following day the master refused boarding. (Saunders, 2008: 309; ICC, 2006: 46-47, 58)

As almost two thirds of the total incidents of maritime terrorism, piracy and acts of armed robbery of ships occurred in Nigeria alone, this will be investigated as a separate case study.

## **6.2 Nigeria**

Nigeria is Africa's most populous nation with an estimated 120 million people representing over 250 ethnic groups. The four major ethnic groups are the Ijaws in the Niger Delta, the Hausa- Fulanis in the north, Yorubas in the west and the Ibos in the east. (Onduku, 2003: 2) The socio- economic situation in Nigeria has a direct impact on maritime crimes in Nigeria, but so does the political situation which creates the problem that while some incidents are reported as acts of armed robbery of ships, some are also political motivated which by definition implies acts of maritime terrorism. In the case of Nigeria the historical relationship with Western traders also had an influence on the pattern of incidents.

### 6.2.1 Political and Socio-Economic Background

The current violence in Nigeria is a result of four centuries of conflict over resources control and has its earlier roots in the slave and palm oil trade. Between 1650 and 1800 an estimated 24 percent of slaves to the Americas were exported from Delta ports. Many chiefs and kings grew rich from this trade. Disputes often resulted in gunfights between European traders and African slavers. This market collapsed in 1815 with the abolishment of the slave trade and was replaced with the trade in palm oil. The four main palm oil interests formed a company, the United African Company which became the Royal Niger Company in 1886. They monopolized the industry in order to keep prices down and formed its own secret service, customs, courts, prisons, police and administration. As no competitors were allowed it gave rise to smuggling. Smugglers risked being shot by company officials if caught. (International Crisis Group, 2006: 1-3)

In 1895 warriors from Nembe and Brass raided the headquarters of the Royal Niger Company in Akassa, killed 24 people and took their heads as trophies. The Royal Navy and the company constabulary led an armed expedition, killing the attackers and destroying towns. Punitive expeditions continued into the early 20<sup>th</sup> century and resulted in dissatisfaction among the population. (International Crisis Group, 2006: 3-4)

This situation was further complicated by the arbitrary way in which Britain forced tribes from different religions and political systems to form one country (comprising of 36 States), when they created Nigeria in 1914. Muslim tribes dominated the north of the country while smaller forest tribes segregated by forest populated the south. Furthermore the country was divided in different kingdoms like the Yoruba, Benin and Ibo Kingdoms, which were artificially joined into one country. (Arnold, 2006: 189, 190)

Oil was discovered in commercial viable quantities in 1956 in Bayelsa State (an Ijaw community) just before the country gained independence in 1960. In February 1966, Isaac Boro's rebels dynamited Nigeria's first oil well. The army used Shell pontoon boats

to force the rebels to surrender. (International Crisis Group, 2006: 4-5; Arnold, 2006: xiii - xix)

In 1990 the Movement for the Survival of the Ogoni People (MOSOP) was formed under the leadership of Ken Saro-Wiwa, and demanded political and economic empowerment. The Ogonis with only half a million members, are one of the smallest groups, but the 404 square-miles they inhabit produced 634 million barrels of oil between 1958 and 1995. In November 1992 MOSOP started a campaign to internationalize their demands by worldwide protest action, demanding US\$ six billion as alleged royalties on petroleum produced in Ogoniland and a further US\$ four billion as compensation for damages to the environment from Shell Petroleum Development Company. In 1993 Shell closed production in this region because of the security situation. In May 1994 Saro-Wiwa and other activists were arrested after opposing leaders were killed. They were executed on 10 November 1995 and many MOSOP activists were arrested since then. (International Crisis Group, 2006: 4-5; Osamgbi, 2005)

Currently Nigeria is Africa's largest oil producer and by 2006 the petroleum industry provided 74 percent of Nigerian revenues. The oil fields are situated in the Niger River Delta and although several oil companies are present in the Delta, Shell produced almost half of the country's oil with an average of 850 000 barrels per day in 2008. Shell's operations cover 30 000km<sup>2</sup> of land including 6 000 km of pipelines, 90 oil fields, 1 000 operational wells, 73 flow stations, two oil export terminals and employ 24 500 personnel and contractors. By 2009 Nigeria collected an estimated US\$ 500 billion in oil exports, wealth that is not reflected on the ground. Low growth; poor administration; and a lack of jobs, water, electricity, schools and clinics led to dissatisfaction and the rise of insurgent groups. Poverty, violence, underdevelopment, pollution, a lack of good governance, crime and corruption fuel the conflict in the Delta. Communities feel marginalized by the current oil situation. Farmlands and fishing rivers are polluted while the community feels that they receive no benefit from oil exploration from the Federal Government of Nigeria or the oil multinationals. (This Day, 5 February 2009; Onduku, 2003: 2-4; Chalk, *et al*, 2009a: 9 -10)

Oil companies are regularly accused by opposing tribes of favouring other tribes in the award of jobs and development projects. In Delta State, conflict between the Ijaw and Itsekiri tribes over access to scarce resources resulted in the displacement of inhabitants. Although oil companies spent millions on development since the 1990s in order to obtain social acceptance for their off shore operations, these projects are not always sustainable or accepted by the local population and expectations are rising. (Hourelid, 2004; International Crisis Group, 2006: 12-14)

In 2008 oil companies operating in the Niger Delta spent approximately US\$ 3.7 billion on securing their installations and personnel against attacks by criminals and militants. Some argue this money could be better spend on infrastructure and social projects that in itself could reduce attacks. Militants regularly receive payments from oil companies in the form of ransom money or security money to 'protect' pipelines or flow stations, and some of this money ends up in the hands of the same people that actually threaten the installations. Companies feel that it is cheaper to pay this money than fixing sabotaged pipelines. (This Day, 5 February 2009; International Crisis Group, 2006: 9-10)

Militants in the Delta exist on a spectrum of purely criminal to politically orientated and in some cases a mixture of the two in the same organization. The most prominent of these groups, MEND, portrays itself as a resistance movement fighting for human and social rights, but the Nigerian government sees the activities of this group as purely criminal. MEND includes several rebel groups in the Delta organized in a loose network with an estimated thousand members. It has the ability to launch attacks with hundreds of 'war boats' from 'bases' spread across the Niger Delta against oil flow stations, offshore facilities, gun boats and pipe lines. Illegal oil bunkering, payments for 'security' services from oil companies to militants, as well as ransom money are used to fund more weapons in this conflict. During such an incident in October 2006 an oil vessel was attacked at Cawthorowe Channel, killing five soldiers escorting the vessel and sinking the vessel. In September 2007 two leaders of MEND, Henry Okah and Edward Attatah, were arrested in Angola on gunrunning charges and were consequently extradited to Nigeria. They travelled to Luanda to buy boats to the value of US\$ 670 000 to transport arms to the

Delta. They were charged with selling assault rifles, rocket propelled grenade launchers and ammunition to militant groups. (Amaize & Onyoyume, 2008; Muraina, 2008; Chalk, et al, 2009a: 11-12)

MEND took hundreds of foreigners hostages since it launched its campaign of violence in early 2006, with the objective to receive a bigger share of the oil profits. In 2007, alone more than 200 oil workers were kidnapped. According to Shell representatives the company recorded 150 incidents of sabotage and oil theft in 2006. Criminals have joined this trend in the Delta in a number of copycat abductions of oil workers. There is also an indication that senior members of government are involved in the financial and logistical support of militant groups. (This Day, 12 January 2009; Amzat, 2007; Chalk, et al, 2009a: 12)

In the last 50 years the Nigerian government reacted to trouble in the Delta through military means involving aerial and maritime attacks against villages. The population are in fear of the Nigerian security forces, and the perception exists that their main purpose is to protect oil installations and that they are corrupt. Many towns do not have permanent police stations. (Amaize & Onyoyume, 2008; International Crisis Group, 2006: 5)

### **6.2.2 Armed Forces of Nigeria**

Nigeria has a coastline of 420nm. Seventy percent of the crude oil reserve lies in the EEZ area of 84 000nm<sup>2</sup>, which is a vast area to protect. The Nigerian Armed Forces consist of 85 000 active members of which 8 000 are navy and coast guard personnel. The Lagos Marine was established in 1887 by the colonial government as a semi-military organization with the aim to provide port security, to safeguard the internal waterways and to provide a coast guard function. The Nigerian Naval Force was established in 1956. The Nigerian Navy Command consists of the naval headquarters based in Abuja; two operational commands with headquarters in Lagos (Western Command) and Calabar (Eastern Command); two training commands with headquarters in Lagos; bases at Apapa, Okemini, Port Harcourt and Warri; two dockyards respectively at Wilmot Point,

Victoria Island near Lagos and Port Harcourt; and two fleets based in Lagos and Calabar. Some of the bases lack infrastructure to support fleet operations such as jetties, police reserves accommodation and coastal surveillance facilities. Reaction time and turn around time of vessels on patrol are slow and shipyards also need upgrading. (Wertheim, 2007: 508-511; IISS, 2007: 286-287)

The conditions of almost all naval ships are poor and none are equipped with fully operational combat systems. Operational vessels in the Nigerian Navy consist of one German Lurssen 57-metre coastal patrol craft; 15 Defender patrol boats (can operate in shallow water, 30 mile per hour winds and six feet seas and is of the same class operated by US Coast Guard); two French Combattante fast missile craft; one tank landing ship; five logistic and support ships; one survey vessel; two tug boats; one training ship; and two Agusta A-109 helicopters for shore based patrol. Several additional vessels are potentially not operational. (Wertheim, 2007: 508-511; IISS, 2007: 286-287)

The navy has the following aerial support: Two Lynx Mk 89 helicopters (naval), two light helicopters (naval), 27 x maritime patrol aircraft for coastal surveillance (operated by the Nigerian Air Force) and 14 twin-engine aircraft for coastal patrol and smuggling interdiction. (Wertheim, 2007: 508-511; IISS, 2007: 286-287)

The Nigerian Coast Guard is under operational control of the navy and has 12 patrol vessels (operational status unknown). The Port security police has an additional 1 600 personnel with headquarters in Lagos. They deploy ten launchers on the Niger River and Lake Chad. The Custom Services has several small launchers. (Wertheim, 2007: 508-511; IISS, 2007: 286-287)

Security forces are underpaid, poorly trained and equipped, and morale is low. As oil companies relied on security forces for protection for decades, they provide pay and perks to these forces. Companies also use supernumerary police for protection which officially fall under Nigerian police force jurisdiction but are paid by oil companies. Their uniforms are identical to Nigerian police uniforms. (International Crisis Group, 2006: 7-9)

Although Nigeria has a naval capability, the motivation to police piracy and acts of armed robbery of ships, is often lacking. When the defence force does act it is often with excessive force, which creates political fallout.

### **6.2.3 Acts of Maritime Piracy and Armed Robbery of Ships**

Nigeria had 219 incidents of piracy and armed robbery of ships between 2000 and 2008. By 2008 the second highest number of incidents of piracy and acts of armed robbery of ships worldwide were recorded on the high seas and coast adjacent to Nigeria. Attacks are frequent at Lagos and Bonny River where vessels are robbed and crews are kidnapped from the coast, rivers, ports and anchorages. It is estimated that only a third of incidents are recorded in this area. (ICC, 2008:23)

In Nigeria 49 kidnappings of mostly oil industry workers took place in 2006 and 39 in 2008. An example of such a kidnapping was the attack on the *Liberty Service* on 11 January 2006. The vessel operated as a security vessel and had 14 Nigerian Naval personnel onboard. About 40 armed robbers in three motorized canoes attacked and boarded the vessel underway and kidnapped four personnel (two expatriates). This has been an ongoing trend in the area and is characterized by the apparent inability of the naval forces to bring the situation under control. (ICC, 2006:10 – 18; ICC, 2008:26)

Almost all attacks in Nigeria occur in territorial waters. Forty attacks have been reported during which 27 vessels were boarded and five hijacked. Some vessels were taken to rebel bases. Attacks are violent and crew members are often injured. Seventeen of the attacks were against tankers and seven on support and supply ships. The remaining attacks were against bulk carriers, general cargo ships and container ships. Even ships with armed escort or security guards are attacked. In most cases attackers use speedboats and automatic weapons. (ICC, 2008:26, 34-35)

The fishing industry is also affected by armed robbery of ships. According to the Nigeria Trawlers Owners Association, attacks lead to loss of life, income and equipment. The worst affected regions are Forcados, Burutu, Akwa-Ibom, Badagry Estuary and Bakassi Peninsula. (Okere, 2005)

## 7. CONCLUSION

Southeast Asia, the Somalia coast and the waters of Nigeria remain the most dangerous waters for pirate attacks and acts of armed robbery of ships. Although incidents of maritime terrorism were higher before 2000 compared to maritime terrorist incidents between 2000 and 2008, the fear exists that the level of violence in future maritime terrorist attacks could by far exceed the violence of past attacks. Terrorist attacks also became more internationalized since 2001 after the 9/11 terrorist attacks in the US. The capabilities that terrorist organizations seem to be acquiring as well as the willingness of terrorists to lose their lives during attacks, heightens this fear.

According to the EU Security Strategy, security is a precondition for development because conflict destroys economic and social infrastructure and increases criminality. Maritime piracy also increases when the State is weak or failing. (EU, 2003:2, 4)

Somalia is one of the poorest countries in East Africa, but many other African countries such as Eritrea are in a similar position. However, they do not have the problem of piracy and acts of armed robbery of ships to the extent experienced in Somalia. Both Somalia and Eritrea are in cycles of violence and both are on a coast where high volumes of maritime traffic transit. What sets Eritrea apart is that it has a strong military infrastructure where Somalia's military is almost nonexistent and is overrun by many conflicting militias. Maritime piracy and acts of armed robbery of ships are crimes of opportunity, and in Somalia opportunity is created by the huge volumes of maritime traffic transiting the corridor between the country and Yemen. Opportunity in itself is not enough to create an environment where piracy will flourish, and the absence of a strong government and law

enforcement agencies, as well as lenient sentences when pirates are caught, create the ideal opportunity for piracy as the risk is low and the rewards are rich.

Conflict in Somalia also destroyed a large part of the fishing industry, which left fishermen unemployed. This, as well as illegal fishing and toxic dumping in Somalian waters by vessels of foreign origin, have an impact on fishing resources which contribute to fishermen turning to piracy and acts of armed robbery of ships. Not all pirates however come from a fishing background. In some cases piracy is the crime of choice and an extension of the criminality that exists on land. The same criminals involved in piracy are in many instances involved in human and weapon smuggling to and from Yemen. The never-ending cycle of violence in Somalia is to an extent already ingrained in Somalian culture and will prove difficult to change.

The use of force in solving the Somalia piracy problem is a problematic issue. Currently pirated vessels are not apprehended by EU navies, as they fear that violence against crew members of pirated vessels could escalate. This means that the NAVFOR mission is not a meaningful deterrent to the pirates. If attacks keep rising, a point will be reached where the impact on shipping is too high and alternative options such as specialized military raids on pirate bases could be considered.

In the case of Yemen potential attacks on high profile US targets were eliminated by removing potential targets from Yemeni waters when the US Naval base was relocated from Aden in Yemen to Djibouti. The formation of the Yemen Coast Guard Authority in 2003 also had a counter maritime terrorism effect, although the presence of illegal firearms, radical Islamic sympathies, poverty and a porous coastline, will cause maritime terrorism to remain a threat.

In the case of Nigeria, piracy is once again a crime of opportunity with the presence of oil workers and companies that will pay ransom for the safe return of kidnapped workers. Nigeria is the wealthiest country in West Africa, with an estimated US\$ 45 billion in oil exports in 2005, which is not reflected on local level. Poverty, low growth,

maladministration, a lack of jobs, water, electricity, schools and clinics, pollution, a lack of good governance as well as crime and corruption, fuel the conflict and have led to dissatisfaction and an increase in insurgent groups. The payment of ransom money by oil companies also allows groups to buy more weapons leading to the escalation of incidents and a rise in the effectiveness of their capabilities. Kidnappings of oil workers were preceded by attacks on the "cement armada" in the 1980s after Nigeria experienced a huge increase in the volume of imports due to the oil boom. Nigeria has an uneasy relationship with Westerners from earlier trade in slaves and palm oil, resulting in disputes and conflict between European traders and African slavers. The current problem had its origins in this conflict and the monopolizing of these industries.

Just as socio-economic and political factors have an influence on maritime terrorism, piracy and acts of armed robbery of ships in West and East Africa; these factors also influence maritime terrorism, piracy and acts of armed robbery of ships in Southeast Asia. Where poor communities are found in proximity to potential rich maritime targets, acts of maritime terrorism, piracy and armed robbery of ships will more likely occur.

# **CHAPTER 5: SELECTED CASE STUDIES OF ACTS OF ARMED ROBBERY OF SHIPS, PIRACY AND MARITIME TERRORISM IN SOUTHEAST ASIA**

Southeast Asia consists of more water than land and pirate attacks became endemic over the last centuries. Flash points in this area are the Malacca Straits and Indonesia. Indonesia is globally the area traditionally most affected by piracy and acts of armed robbery of ships, although by 2007 Somalia and the Gulf of Aden/ Red Sea area surpassed Indonesia in incidents and by 2008 more incidents were reported in Nigeria as well. The Malacca Straits have always been a high-risk area for pirate attacks, although there was a dramatic decrease in incidents since 2005 and only two incidents of piracy and armed robbery of ships were reported in 2008. This was mainly due to the upgrade of coast guards in the area, joint naval exercises and greater regional cooperation. The straits are also important as a maritime chokepoint. (ICC, 2008: 9; Harsono, 2006: 13)

In this chapter socio-economic and political factors contributing to maritime terrorism, piracy and acts of armed robbery of ships in Southeast Asia between 2000 and 2008 are investigated, as well as objectives and motives of maritime terrorists and pirates. From ancient times socio-economic factors have influenced the existence of piracy and acts of armed robbery of ships in Southeast Asia and it remains so today.

## **1. OVERVIEW OF PIRACY AND ACTS OF ARMED ROBBERY OF SHIPS IN SOUTHEAST ASIA**

The problem with piracy and acts of armed robbery of ships in Southeast Asia is that it is traditionally defined from a Western perspective, which is in stark contrast to the

traditional Eastern perspective where piracy could be viewed as an honorable occupation. In this context it served various socially constructive purposes and some forms of pirating were also in accordance with the legal systems. The context of piracy was changed with the arrival of Europeans in Southeast Asia in the early sixteenth century. (Young, 2005: 2-14)

Table 8 reflects incidents of maritime piracy and acts of armed robbery of ships from 2000 to 2008 in Southeast Asia. A total of 1185 incidents were reported as indicated. Two thirds of these attacks occurred in Indonesia.

**Table 8: Maritime Piracy and Acts of Armed Robbery of Ships in Southeast Asia from 2000 to 2008**

Locations	2000	2001	2002	2003	2004	2005	2006	2007	2008	Total
<b>Indonesia</b>	119	91	103	121	94	79	50	43	28	728
<b>Malacca Straits</b>	75	17	16	28	38	12	11	7	2	206
<b>Malaysia</b>	21	19	14	5	9	3	10	9	10	100
<b>Myanmar (Burma)</b>	5	3	0	0	1	0	0	0	1	10
<b>Philippines</b>	9	8	10	12	4	0	6	6	7	62
<b>Singapore Straits</b>	5	7	5	2	8	7	5	3	6	48
<b>Thailand/Gulf of Thailand</b>	8	8	5	2	4	1	1	2	0	31
<b>Total</b>	242	153	153	170	158	102	83	70	54	1185

(Source: ICC, 2005: 5; ICC, 2008: 5)

Currently, acts of armed robbery of ships take place in harbours, anchorages and on the open sea and cover a spectrum from opportunistic attacks during which a vessel is boarded and valuables in the safe, crew's possessions, ship's equipment and cargo are

stolen, to highly organized hijackings of ships during which the crew are held for ransom. Since 2001 fewer commercial ships have been hijacked because of an improvement in the recovery of such vessels. The focus changed to softer targets such as tugs and barges, which are lucrative targets due to their cargo of palm oil, timber or other valuables. (Mukundan, 2005: 35, 37, 38) Several factors have an impact on the existence of maritime piracy and acts of armed robbery of ships in Southeast Asia, which range from socio-economic to political, as well as cultural and geographical factors.

## **2. GENERAL FACTORS INFLUENCING ACTS OF ARMED ROBBERY OF SHIPS, PIRACY AND MARITIME TERRORISM IN SOUTHEAST ASIA**

Armed robbery of ships, piracy and maritime terrorism are influenced by the following factors in Southeast Asia:

- The geography of Southeast Asia is a major factor influencing maritime terrorism, piracy and acts of armed robbery of ships. Narrow channels which slow traffic down, thousands of islands that provide shelter and thousands of kilometers of coastline are all to the advantage of pirates and armed robbers during attacks. The proximity of different countries and overlapping jurisdictions also make it easy for boats to move from the coastal waters from one country to those of another, which creates problems for law enforcing agencies. It is therefore difficult for countries to adhere to, and enforce rigid boundaries. Geography also has a big influence on pirate tactics, as “hit and run” attacks are favoured. (Frécon, 2008: 35; Santos, 2006: 37, 42; Johnson, et al, 2005: xiv)
- Internal and external problems in Southeast Asia, such as terrorist organizations, crime, corruption, poverty, illegal fishing, smuggling and illegal immigration all compete for state resources with the result that countering piracy and acts of armed

- robbery are not priorities. (Young, 2005: 22-23)
- Fishermen, unemployed sailors and water taxi captains that are recruited into maritime terrorism and piracy have excellent knowledge of the sea and shipping in the area. (Frécon, 2006: 25)
  
  - The unwillingness of law enforcement agencies to act against pirate activity and the lack of resources to do so, as well as the lack of communication and intelligence sharing between security agencies, create an environment where risk to pirates and robbers are low. The response time for reacting to piracy incidents and acts of armed robbery of ships and the investigation of incidents are often too long. The prosecution of pirates and armed robbers is also often lacking. International efforts to freeze the finances of international terrorist organizations in recent years have also resulted in the possibility that piracy could be used as a way of funding these organizations. Indonesia's State intelligence agency reported that detained senior members of Jemaah Islamiyah (JI) have admitted that the group has considered launching attacks on Malacca shipping as a way to fund the organization. Uniformed Gerakan Aceh Merdeka (Movement for the Liberation of Aceh- GAM) members have been hijacking vessels and taking crews hostage. The average ransom sum is approximately US\$ 100 000 per ship. These funds are used to procure weapons in the fight against the Indonesian government. (Korin & Luft, 2004: 3; Frécon, 2006: 26)
  
  - Availability of targets. High volumes of shipping pass through this area and through ports like Singapore, which create many possible targets for pirates, maritime criminals and maritime terrorists. (Frécon, 2006: 32)
  
  - Socio-economic factors. Unemployment, the current socio-economic crisis, overfishing, pollution and the high volume of traffic, make it difficult to earn a living through fishing and create the need to find an alternative income. Indonesia is relatively close to rich areas such as Singapore. This proximity of the “have’s to the

have not's" creates a willingness to take risks in order to obtain wealth. (Frécon, 2006: 32)

- Pirates use technology such as radar to locate vessels, radio transmissions to gather intelligence and motorized boats and automatic weapons. They also make use of informants, shipping agents and poorly paid port officials to gain information on the content of containers and planned routes. (Frécon, 2008: 36; Frécon, 2006:36; Valencia, 2005: 105)
- Regional cooperation to combat piracy and acts of armed robbery of ships is still not good enough. (Bateman, 2006: 51)
- It is impossible to differentiate between pirate boats and fishing vessels which act in favour of pirates and robbers as these vessels provide cover before and after attacks. (Frécon, 2008: 35; Santos, 2006: 37)

All these factors are present in all the countries of Southeast Asia with certain differences between countries as the socio-economic and political situation in each country influence pirate and criminal behaviour.

### **3. ACTS OF ARMED ROBBERY OF SHIPS, PIRACY AND MARITIME TERRORISM IN SPECIFIC SOUTHEAST ASIAN COUNTRIES: CONTRIBUTING SOCIO-ECONOMIC AND POLITICAL FACTORS**

The 2008 world economic crisis influenced the socio-economic situation in Southeast Asia as most countries in the region experienced a lower growth rate. This however did not reflect an increase in incidents of piracy and acts of armed robbery of ships, which for the

most were in a downward trend since 2005. It however does not mean that the effect will not be felt if economic growth does not resume in the near future.

### **3.1 Indonesia**

Indonesia has the most incidents of piracy and armed robbery of ships in Southeast Asia, which is a direct consequence of the socio-economic situation in the country. Maritime terrorists however have a moderate capability in the country.

#### **3.1.1 Factors Contributing to Piracy, Acts of Armed Robbery of Ships and Maritime Terrorism**

Indonesia is a vast country comprising of three million km<sup>2</sup> of archipelagic waters and territorial sea, three million km<sup>2</sup> of EEZ and continental shelf and 17 508 islands of which 6 000 are inhabited. The country is located on a busy sea-lane connecting the Indian and Pacific Oceans, which is a vast area to protect and maintain law and order. The population (210 million) comprises of 88 percent mostly poor Muslims, speaking more than 500 languages. There is growing tension between Java and other islands as more resources are allocated to Java and the other islands are marginalized. This leads to escalating ethnic violence in the Moluccas, Irian Jaya (West Papua) and Aceh (north of Sumatra) and the rise of separatist movements. A peace agreement was reached with separatists in Aceh in 2005, which led to elections in 2006. (Harsono, 2006: 9, 11-12, 15; Frécon, 2008:104; Djalal, 2005: 145)

Almost 32.5 million Indonesians live below the poverty line and the Indonesian government has several social assistance programmes to help Indonesians to overcome the economic hardships. Unemployment was at 8 percent in 2008 and was not greatly affected by the economic crisis except for employment in export related fields. As commodity prices fell, so did profits and workers lost jobs in the automobile, electronic, textiles and garment production industries. Food, school and fuel subsidies are given to the poorest household

and a free health programme to provide basic health to poor households was implemented in 2005. Community-targeted programmes target poor communities to supply villages with infrastructure or to assist in other socio-economic ventures in the village. (ASEAN, 2009: 2, 7-11)

With the economic crisis Indonesia is experiencing, the Indonesian military budget can only provide 30 percent of its needs and the remaining 70 percent is self-financed by the military through military enterprises, private security services and illegal activities which include involvement in piracy. Corruption, unemployment and inadequate infrastructure are also a problem in the country. There were even reports that authorities demanded money to intercept bandits in the Malacca Straits. Indonesia simply does not have the financial means to protect its waters from maritime terrorism, piracy and acts of armed robbery of ships. (Harsono, 2006: 9, 11-12, 15; Djalal, 2005: 145; CIA, 2009)

### **3.1.2 Incidents of Maritime Piracy and Acts of Armed Robbery of Ships in Indonesia**

After Somalia and the Gulf of Aden, Indonesia had the third most reported cases of piracy and acts of armed robbery in ships in 2008, with 28 reported cases. Incidents of piracy and acts of armed robbery of ships in Indonesia were in a downward trend from 2004 to 2008. (ICC, 2008: 6, 10, 23, 43-49)

Indonesia is often the safe base from which pirates operate into the Malacca Straits, Sumatra and the northeast of the Anambas Islands. Between 1995 and 1999 a third of world piracy incidents occurred in this archipelago, as it is almost impossible to identify pirate boats amongst other fishing boats. (Frécon, 2008: 29, 35)

The ports and anchorages of Belawan and Jakarta frequently experienced acts of armed robbery of ships in 2008. Other ports and anchorages that were at risk were the Pulau Laut Anchorage, Bontang Anchorage, Santan Port and Taboneo Anchorage. Several incidents of armed robbery of ships took place in the region off the Mangkai and Anambas

Islands. The average attack occurs 11.55nm from shore. (Keyuan, 2005; ICC, 2008: 6, 10, 23, 43-49)

Cargo ships and tankers were mostly at risk against acts of piracy and armed robbery of ships in 2008 and in most cases ship stores, equipment and crew's possessions were stolen. These attacks occurred while vessels were anchored in port or at anchorages and while vessels were underway. During these incidents knives are the weapons of choice and injuries were sustained during one such incident. One hijacking took place between Sulawesi and Surabaya on a product tanker and firearms were used during this incident. The Royal Malaysia Marine Police reacted to the incident and located the tanker in Sandakan Port. (ICC, 2008: 6, 10, 23, 43-49)

In the period 2005-2007 a high number of incidents were also reported in the areas at risk in 2008. The port, anchorages and oil and coal terminals of Balikpapan were especially at risk with 22 reported incidents. Most attacks in Southeast Asia occur in a 32-km stretch of the Philip Channel between Singapore Island and Indonesia. As many oil tankers move through this channel the danger exists that an accident could occur when the bridge of one of these vessels is left unmanned after a pirate attack. The navigational problems in transiting this area also mean that no additional crew members are available for pirate lookouts. One such accident occurred just before midnight in 1992 at the northern entrance of the Malacca Straits when the 27 000-tonne container vessel, *Ocean Blessing*, collided with the 100 000-tonne crude carrier, *Nagasaki Spirit*. More than 12 000-tonne of crude spilled into the straits and 45 crew members died. Nobody survived the accident. (ICC, 2007: 42-51, 77-78; Abhyankar, 2006: 8,16; Fort, 2006: 34)

A lack of communication and co-operation between government security agencies exists. Response times after or during an incident of maritime piracy or acts of armed robbery of ships may be slow. In some cases port control or local authorities do not even respond to calls of ships in danger. On 14 October 2006 the bulk carrier, *Murshidabad* was anchored during cargo operations in Indonesia. Four men in an unlit motorized dinghy approached the ship. One man boarded the ship and three were in the process of boarding when the

crew sounded alarm after which the robbers fled. The crew were however unable to get a response from port control. (ICC, 2006:34; IMO, 2000)

Maritime terrorism also occurs in Indonesia and organizations such as JI and GAM both have maritime capabilities.

### **3.1.3 Maritime Terrorism in Indonesia**

The explosives used in the 2002 Bali nightclub bombings were transported by ship to Indonesia. Although the actual attack was not in the maritime environment it had repercussions in the maritime domain as Lloyd's maritime underwriters' association declared all the ports across the Indonesian archipelago unsafe with the implication that they cancelled ships' visiting these ports, insurance. (Nincic, 2005: 623; Richardson, 2004: 71)

The proximity of countries such as Indonesia and Singapore, facilitated the movement of maritime terrorists between countries. JI, operating in Indonesia, has a moderate maritime capability and reportedly planned to carry out attacks on visiting warships in Singapore. More than 200 terrorists linked to JI were in custody in Indonesia, Malaysia, Singapore and the Philippines in 2003. Communication between JI and Al-Qaeda and funding by Al-Qaeda were reported but decisions and operations are undertaken independently. (Agence France Presse, 2005; International Crisis Group, 2003)

GAM founded in 1976, claims to represent the province of Aceh in Indonesia and is fighting for the independence of this province from the Indonesian central government. The group distances itself from affiliations with international terrorist organizations such as Al-Qaeda or JI. In 1999 the movement threatened with attacks on the port at the mouth of the Malacca Straits and ships transiting the straits. Two attacks on landing craft transporting UN relief cargo to tsunami victims were attacked off Aceh, in the Malacca Straits. Robbers in military fatigues claimed to be GAM members. It is also reported that criminal elements

within GAM are committing piracy for personal gain. (Frécon, 2008: 37; Amirell, 2006: 53,56; ICC, 2006: 28)

In 2002 Omar al\_Faruq, Al-Qaeda's head of operations in Southeast Asia, was captured in Indonesia and handed over to the US. He reportedly told interrogators that he planned scuba attacks on US warships in the port of Surabaya, Indonesia's second largest port with a naval base. (Richardson, 2004: 21-23; Ong-Webb, 2006: xxviii)

The socio-economic situation in Indonesia does not only influence incidents of piracy, acts of armed robbery of ships and maritime terrorism in Indonesia, but Indonesian pirates are also responsible for some incidents in bordering countries and areas such as the Malacca Straits.

## **3.2 Malacca Straits**

The Malacca Straits with Malaysia and Singapore to the east and Indonesia to the west is the channel that carries the second most maritime traffic in the world. (Kemp, 2009: 179)

### **3.2.1 Factors Contributing to Piracy and Acts of Armed Robbery of Ships**

The geography of the straits contributes to piracy and acts of armed robbery of ships and is of concern for acts of maritime terrorism, as the straits are only 1 300m wide at the narrowest point, forming a chokepoint, where ships are forced to reduce speed to less than 10 knots. The straits are also the only economically viable transit route with 60 000 ships, including one quarter of the world's oil and 30 percent of world trade, passing through the straits. Sandbanks, heavy rainfall and dense traffic worsen the situation. When moving from the straits to Singapore, currents can reach six knots, which makes navigation difficult and distracts attention from surveillance. Pirates make use of this surprise effect to launch attacks and 85 percent of attacks in the late 1990s could be attributed to these conditions. (Frécon, 2008: 35-36; Harsono, 2006: 13; ICC, 2007: 39)

### **3.2.2 Incidents of Piracy and Acts of Armed Robbery of Ships**

Piracy incidents had a downward trend since 2005 due to increased patrols created by an Indonesian inspired operation, “Gurita 2005”. Only two failed attacks on tankers were reported in 2008. (ICC, 2008: 71; ICC, 2007:22; ICC, 2005:31)

Waters off Northern Sumatra, the Aceh coast, and off Belawan, proved to be particularly dangerous for shipping. Attackers seemed to move closer to the Malaysian coast after 2005. Knives, firearms and rocket propelled grenade launchers are used in attacks using speedboats (unlit during night attacks), ropes and ladders to gain access to vessels. Fishing boats and cargo-carrying vessels are particularly at risk. In some cases ships are fired upon and in a few cases crew members were wounded. Equipment, cash, crew’s possessions and ship documentation are stolen in most cases, but most attacks are unsuccessful when crews take evasive maneuvers. (ICC, 2005: 15, 33,61; ICC, 2006: 28, 51; ICC, 2007: 41,76)

Hostage taking continued in 2005 to 2007 with ransom payments in several cases. It was estimated that the average ransom paid out to pirates in the straits was between US\$ 50 000 and US\$ 100 000 in 2004 with a total amount of US\$ one million being paid out by ship owners. Forty crew members were kidnapped in 20 incidents in 2004, which fell to ten incidents in 2005. In 2004 four crew members were killed while in captivity when negotiations failed. (ICC, 2007: 41; Ong-Webb,2006: xxvii)

The tsunami that occurred in Southeast Asia in December 2004 damaged pirate infrastructure in the area with the result that no pirate attacks occurred in the Malacca Straits for two months thereafter. (ICC, 2005: 15; Munich Re Group, 2006:19)

### **3.3 Malaysia**

Malaysia is a relatively stable country and was not affected by the world economic recession to the same extent as other Southeast Asian countries.

### **3.3.1 Factors Contributing to Piracy and Acts of Armed Robbery of Ships**

Since independence Malaysia moved away from a dependency on the export of raw materials to an economy based on manufacturing and tourism. Exports such as electronics, oil and gas have contributed to a large extent to the economy. Malaysia experienced an average growth rate of 6 percent in recent years, although the same does not apply to areas outside Kuala Lumpur, but several development schemes are in place in these regions. The global economic crisis did not affect Malaysia to the same extent as most countries, due to healthy foreign exchange reserves. (CIA, 2009)

The proximity of poor countries such as Indonesia close to Malaysia creates the situation where pirates and maritime criminals could move across borders from one country to the other, which means that Malaysia will be affected by poverty in bordering countries. Although Malaysia is one of the richest countries in the region, it still has poor communities of which some are found in rural coastal areas. Sabah on Borneo was a piracy hot spot since 1995 and the geographic features of this island favour pirates. The eastern coast of Sabah is 1 400km long and is surrounded by almost 500 islands, which is the ideal hiding spot for pirates. An influx of immigrants from Indonesia and the Philippines to this area resulted in worsening the already hard living conditions, which gave rise to pirate activity. (Frécon, 2006: 3;Frécon, 2008: 37-38)

Since the government and economy are relative stable incidents of piracy and armed robbery of ships remained stable over recent years.

### **3.3.2 Incidents of Piracy and Armed Robbery of Ships**

By 2000 the area between Kota Kinabalu and Sandakan in Sabah, the port of Bintulu in Sarawak and the waters around Penang and Port Dickson recorded the most incidents of piracy and armed robbery of ships in Malaysia. After 2000 the area south of Tanjung Tohor, Palau Pisang and Pulau Undan also became dangerous. Several attacks also

occurred off Tionam Island and in the South China Sea. Robbers and pirates use knives, firearms and speedboats in attacks stealing crew's possessions, equipment and ship's stores. A few hijackings also occurred. In 2005 a rise in piracy incidents in Malaysia were reported with 28 attacks in March 2005 alone. (Keyuan, 2005; ICC, 2005: 35, 37, 40; ICC, 2006: 30-34; ICC, 2007: 43-50; ICC, 2008: 6, 10, 23, 43-49; Frécon, 2008: 28-29)

Even though extensive measures have been instituted, piracy and acts of armed robbery of ships still occur in Malaysia, but remained constant in 2007 and 2008. In Myanmar/Burma, incidents of piracy and armed robbery of ships are down to single incidents in past years.

### **3.4 Myanmar (Burma)**

Myanmar/Burma is the country in Southeast Asia with the lowest number of incidents of maritime piracy and acts of armed robbery of ships in the region, likely due to strict law enforcement by the military government.

#### **3.4.1 Factors Contributing to Maritime Piracy and Acts of Armed Robbery of Ships**

Myanmar/Burma, bordering the Andaman Sea and the Bay of Bengal, was ruled by military juntas since 1962. Protest in 2007 over increased fuel prices, was forcefully suppressed leading to a decline in the tourism industry. A cyclone in May 2008 left 80 000 people dead and 50 000 injured. A constitutional referendum was held shortly after to pave the way for 2010 parliamentary elections. The country is rich in resources such as oil and gas, but strict government controls, inefficient economic policies, rising inflation, corruption, deteriorating health and education systems, human rights abuses and rural poverty led to a socio-economic decline. Due to EU imposed sanctions in 2007 and 2008 foreign investors turned away from the country, except in the cases of mining, oil, natural gas and power. Good economic relations with its neighbours remain however and a considerable black market and unofficial border trade

exist. Myanmar/Burma also remains the world's second largest producer of illicit opium and is a source country for human trafficking into forced labour (also children) and the sex trade with military and government officials directly involved in these trade. (CIA, 2009)

### **3.4.2 Incidents of Maritime Piracy and Acts of Armed Robbery of Ships**

Ten incidents of maritime piracy and acts of armed robbery of ships were reported since 2000 (only one between 2005 and 2008) and four between 1992 and 1999. During the attempted attack in 2008 robbers in a speedboat attempted to board a container ship at Yangon anchorage. The crew were on alert as port authorities warned ships of possible attacks at this anchorage. The attackers fled when the crew sounded alarm and lit the speedboat with their searchlight. (ICC, 2005: 5; ICC, 2008: 5, 72; Abhyankar, 2006:9)

Incidents of piracy in the Philippines are low, but not as low as in Myanmar/Burma. When incidents do occur, they are often violent.

## **3.5 The Philippines**

The marginalizing of certain groups in the Philippines led to ethnic violence and the creation of insurgent groups.

### **3.5.1 Factors Contributing to Piracy, Acts of Armed Robbery of Ships and Maritime Terrorism**

The more than 7 000 islands that form the Philippines are located in the Philippine, Sulu, Celebes and South China Seas and the Luzon Strait. The Philippines consists of 80 provinces and 120 cities. In 2001 Macapagal-Arroyo became president, and averted a fiscal crisis by limiting expenditure, which resulted in an average of 5 percent growth rate. This went down to 3.8 percent due to the international economic crisis. A high population growth and unequal distribution of income still have an effect on poverty. The Southern

Philippines also still experiences conflict and peace talks are held with terrorist groups from time to time. (Frécon, 2008: 106; Santos, 2006: 46; CIA, 2009)

Socio-economic factors force many Philipinos to resort to piracy to survive, as it was the custom from ancient times. Piracy also has a political dimension as insurgent groups such as the Moro Islamic Liberation Front (MILF) attack ships to obtain income. Since 2001, 37 maritime incidents in the Philippines were attributed to rebel groups. (Santos, 2006: 38, 46)

### **3.5.2 Maritime Piracy and Acts of Armed Robbery of Ships**

Areas most affected by piracy are the rich fishing areas in the Southern Philippines where fishing fleets are targeted; the coastal areas of Sulu, Basilan, Tawi-Tawi and Zamboanga provinces; and the major ports and particular Manila port and container terminal, and those in Northern Luzon and Visayas. Three incidents of armed robbery of ships were also reported in the Port of Manila in 2008. (Santos, 2006: 37; ICC, 2008: 6, 10, 23, 43-49)

Small fishing boats, passenger/ferry boats and motorboats are attacked on the high seas, while robbery occurs on commercial vessels in ports. Hijackings occur in Southwestern Mindanao and in the waters bordering Malaysia where vessels are stripped of equipment and valuables and afterwards abandoned. Crew are also held for ransom. (Frécon, 2008: 41; Santos, 2006: 41-42)

The following are characteristic of attacks by organized gangs in the Philippines which are usually heavily armed using one to three speed boats:

- Boarding under disguise as law enforcement personnel or of a vessel in distress;
- use force during attacks, mostly machine-gun fire to intimidate victims;
- tailing vessels before an attack to an area more suitable for an attack;
- using unmarked vessels to avoid identification;
- killing victims at sea and throwing them overboard;

- boarding fishing boats and robbing them of their catch, fishing equipment or engines and in some instances forcing them to jump overboard;
- collecting protection money from fishing passenger boats; and
- engine theft of craft beached on the shoreline. (Santos, 2006: 41-42)

Insurgents are also involved in attacks on ships and extortion to generate income. (Santos, 2006: 42, 46)

### **3.5.3 Maritime Terrorism in the Philippines**

Groups with maritime capabilities active in the Philippines are the Abu Sayyaf Group (ASG), MILF, the MNLF and the New People's Army. Incidents of maritime terrorism such as the Dos Palmas beach resort raid in 2001 had an impact on the lucrative tourism industry in the Philippines. (Frécon, 2008: 106; Santos, 2006: 46 - 47)

The MILF attacked *Our Lady Mediatrix* in February 2000 killing 40 and wounding 50 onboard. The MILF distanced itself from the attack, but it is possible that militant members of the organization were responsible. In 2005, 12 incidents of armed robbery of ships were linked to MILF elements. The MNLF is also involved in seaborne extortion and robbery as a source of income. (Banlaoi, 2005: 71; Amirell, 2006:60; Santos, 2006: 42, 44)

ASG originated in the Philippines as an underground militant Muslim splinter group from the MNLF in the early 1990s, as a result of dissatisfaction with the 1976 Tripoli Agreement between the MNLF and the Philippine government. The ASG aims to form an independent theocratic Islamic State in the Southern Philippines. This cause dated back centuries to the Spanish occupation in 1521 which prevented the spreading of Islam, followed by resistance to American and Japanese occupation by local Islam leaders and to the central government in Manila after independence. The death of the ASG leader Janjalani in 1998, led to a decrease in membership. It was estimated that 380 members belonged to the group by end 2005. ASG has a definite maritime capability as many ASG members belong

to families with knowledge of the sea and many own high-speed boats. (Banlaoi, 2005: 66-67, 69, 71, 73; Amirell, 2006:60)

The ASG also kidnapped tourists for ransom from beach resorts using speed boats as a way of funding. During two separate incidents in 2000 tourists were kidnapped from Sipadan and Sabah. In the Sipadan incident a US\$ 15 million ransom was reportedly paid by the Philippine government in 2001 and in the second incident the tourists were rescued by Philippine troops in Talipao, Sulu. In May 2001 three American citizens and 17 Filipinos were abducted from the Dos Palmas resort on Palawan. Several of the victims, including an American, were murdered and beheaded and two more victims including an American were killed during rescue operations in 2002 by the Filipino government. This led to a joint US/Filipino operation in 2002, Balikatan 02-1, against the ASG. In response, the group threatened attacks on a ferry company, the Sulpicio and William, Gothong and Aboitiz (WG&A) lines, in 2003. In April 2004 two Malaysians and an Indonesian were abducted by the ASG from a sailing boat. These incidents led to a 24 percent decrease in tourism in 2003. (Banlaoi, 2005: 68-73; Santos, 2006: 46)

In February 2004 the ASG bombed *Superferry 14* carrying 899 passengers, killing more than a hundred people. The bomber 'passenger 51' was Redento Cain Dellosa using the alias Arnulfo Alvarado. WG&A received an extortion letter prior to the bombing demanding US\$ one million for the safe use of the waters of Mindanao. (Banlaoi, 2005: 71; Amirell, 2006:62)

Indications are that Philippine military and government personnel are aiding the ASG. Collaboration between the ASG and JI were also reported. It was reported that the ASG and JI collaborated in scuba diving training and that JI contributed more than US\$ 18 500 to ASG explosive training for an underwater operation against targets outside the Philippines. In 2000 the ASG kidnapped a maintenance engineer from a resort in Malaysia. With his release in 2003 he said that the kidnappers knew he was a diving instructor and wanted instruction. (Richardson, 2004: 21-23; Banlaoi, 2005: 74; Nincic, 2005: 629)

## **3.6 Singapore and the Singapore Straits**

Singapore has the world's busiest ports and borders one of the busiest shipping routes. To close down either the port or straits will have worldwide economic repercussions, especially on oil transported from the Middle East . (Agence France Presse, 2005)

### **3.6.1 Factors Contributing to Piracy, Acts of Armed Robbery of Ships and Maritime Terrorism**

Singapore is located in a prime position on the Southeast Asian shipping route and has one of the world's leading economies. The country depends heavily on consumer exports such as electronics and pharmaceuticals, which was one of the reasons why the Gross Domestic Product (GDP) growth rate fell from 7 percent between 2004 and 2007 to 1.1 percent in 2008 when the world economic crisis occurred and exports fell.

Singapore's location with its visible wealth close to very poor countries and the geography of the region are the main factors leading to acts of armed robbery of ships and piracy in this area. Singapore's location on a busy strait and the importance of Singapore as a hub port also make Singapore one of the most likely maritime terrorism targets worldwide.

### **3.6.2 Incidents of Piracy, Acts of Armed Robbery of Ships and Maritime Terrorism**

Piracy and acts of armed robbery of ships occur while vessels are underway or at anchor. The Outer Port Limit anchorage reported three attacks since 2005. Tankers with a low free board, which are easy to board, are favoured during attacks. In most cases maritime criminals and pirates are armed with long knives, but firearms were also used in few cases. Equipment, cash and crew's possessions were stolen. (ICC, 2008: 46-49; ICC, 2007: 44, 78; ICC, 2006: 32, 53; ICC, 2005: 37, 40, 62, 63)

According to the Singapore government the JI network planned attacks on US warships visiting Singapore in 2001. JI had the Singapore's Police Coast Guard route, patrol

schedule and a plan to avoid radar and detection in their possession. They also identified the zone where the channel is at its narrowest which will leave no room for maneuvering to avoid collision with a suicide boat. (Richardson, 2004: 23)

Although acts of piracy and armed robbery of ships in Singapore waters are low, the country must act preventatively against potential attacks by maritime terrorists as the country's location on a busy strait and the importance of the port as a hub-port in the region make the country vulnerable to attacks by maritime terrorists. In Thailand Incidents of piracy and armed robbery of ships are also on a downward trend although hijackings still do occur.

### **3.7 Thailand/Gulf of Thailand**

The 2008 demonstrations in Thailand as well as the closure of the international airport due to occupation by demonstrators, attracted worldwide attention and impacted negatively on confidence in the country.

#### **3.7.1 Factors Contributing to Maritime Piracy and Acts of Armed Robbery of Ships**

Thailand has a well-developed infrastructure, a free enterprise economy and pro-investment policies that led to a 6 percent growth rate between 2002 and 2004. Political and economic crises led to a fall of an average of a 4.9 percent in GDP growth rate from 2005 to 2007 as investor confidence fell. The growth rate showed a further downward trend in 2008 to 2.6 percent as the global economic crisis hit Thailand and exports fell. Thailand's economy is highly dependent on exports with an average annual growth rate of 17.5 percent annually from 2005 to 2008. (CIA, 2009)

A military coup in 2006 ousted Prime Minister Thaksin Chinnawat. Elections in 2007 brought the People's Power Party (PPP) in power heading a coalition government, which led to demonstrations by the People's Alliance for Democracy in 2008. This led to a court ruling that dissolved the PPP coalition government for election violations. Although

stability returned to the country, investor sentiment has not recovered yet. Thousands of people have also been killed in ethnic violence in Thailand's Southern Malay-Muslim provinces since 2004. (CIA, 2009)

The downward trend in the growth of the Thai economy did not however result in an increase in incidents of armed robbery of ships and piracy mainly due to navy and port authority efforts in Thailand and coordinated naval patrols with Malaysia since end of 2004. Piracy in Thailand fell from eight incidents in 2000 to none in 2008.

### **3.7.2 Maritime Piracy and Acts of Armed Robbery of Ships**

Between 2000 and 2008, 31 incidents of piracy and acts of armed robbery of ships were reported in Thailand and the Gulf of Thailand. A downward trend was observed since 2000, with only four attacks reported since 2005. (ICC, 2005: 5; ICC, 2008: 5; Abhyankar, 2006:9)

All the reported attacks in 2006 and 2007 were hijackings. Two hijackings took place in 2007. In the first incident, an oil tanker, *MT Thanodol 4*, was hijacked by a former crew member in the Gulf of Siam while underway. The pirate proposed to the master to steal the oil and when refusing to do so, he was shot and thrown overboard, upon which three crew members also jumped overboard. They were rescued by a passing fishing boat and the police sent out two marine police patrol boats and a navy aircraft which apprehended the pirate. In another incident a Malay fishing boat was hijacked at Chebilang bay. After stealing equipment and stores the boat was abandoned, which the police recovered. In another incident in 2006 a yacht was hijacked off Phuket. It was later found drifting and recovered. (ICC, 2006: 28; ICC, 2007: 9, 10, 29, 44)

## 4. CONCLUSION

The geography of Southeast Asia is a major factor influencing maritime terrorism, piracy and acts of armed robbery of ships. Narrow channels slow vessels down; thousands of islands provide shelter to pirates and maritime criminals; and thousands of kilometers of coastline are to the advantage of pirates and armed robbers during attacks. The proximity of different countries and overlapping jurisdictions also make it easy for boats to move from the coastal waters of one country to those of another. This creates problems for law enforcing agents in prosecuting these offenders.

The downward trend in incidents of piracy and armed robbery of ships in Southeast Asia is due to economic growth and measures, such as increased patrols, to counter piracy and armed robbery of ships but specifically maritime terrorism, as the 9/11 attacks in the US had an effect on tighter security measures internationally.

Economic development and an even distribution of wealth to local level is needed to counter the need for people to find an income from piracy, although this will not eliminate all piracy and armed robbery of ships. The disparity in Indonesia between rich and poor has a negative influence on the whole region as poor people are in close proximity to rich countries such as Singapore, and it is relatively easy to cross into the territorial waters of another country.

Few terrorist attacks in Southeast Asia occur in the maritime domain, even in countries with high terrorism incidents over the 2000 to 2008 period, such as the Philippines. Acts of piracy and armed robbery of ships in most countries of Southeast Asia are in a downward trend since 2005. The global economic crisis in 2008 also affected countries in Southeast Asia negatively and if this continues it could have an effect on trends in piracy and acts of armed robbery of ships.

As a result of the 9/11 attacks in the US, several UN conventions and security initiatives driven by individual countries such as the US, as well as regional and international

organizations, have been adopted in Southeast Asia and worldwide. These measures aim to counter maritime terrorism attacks, piracy and acts of armed robbery of ships by providing guidelines to the international community and regional institutions, countries, ship owners and individual vessels in protecting them against such attacks and providing uniform standards in acting against maritime terrorism, piracy and acts of armed robbery of ships. These measures will be investigated further in Chapter 6.

# **CHAPTER 6: INTERNATIONAL AND REGIONAL MEASURES TO PREVENT ACTS OF ARMED ROBBERY OF SHIPS, PIRACY AND MARITIME TERRORISM**

International and regional measures to combat, eliminate and minimize the effects of acts of armed robbery of ships, piracy and maritime terrorism are discussed and evaluated in this chapter, including those adopted by the UN and the IMO, as well as codes of conduct such as the ISPS code. Measures by Interpol are also addressed.

In essence the combating of piracy, acts of armed robbery of ships and terrorism depends on the internal laws of individual States and the will and means to implement these laws if they exist. However because the existence of piracy and acts of armed robbery of ships are linked to the political and socio-economic circumstances prevalent in a country, the capacity to combat piracy on a country level is often limited. For this reason, and the fact that both piracy and terrorism are transnational crimes, international and regional organizations had to institute measures to combat these crimes.

## **1. LEGAL RESPONSES TO PIRACY BEFORE 1900**

Before 1900 the legal status of the territorial waters of States was still vaguely defined, self interests were more important to governments than international concerns, and no or little premium was placed on human rights. As a result of this it was hard to implement rules and regulations to counter piracy.

## 1.1 The Development of Laws, Treaties and Conventions to Counter Piracy and Acts of Armed Robbery of Ships

Reference to piracy was made in the Justinian's Digest as early as 529 AD. The Digest defined the liability of parties due to loss of property as a result of piracy or ransom money paid to pirates. (Admiralty and Maritime Law Guide, Justinian's Digest, 529 - 565 A.D.) Reference of piracy was made in several European laws and treaties, such as King John's Ordinance of 1201, Pope Alexander VI's Bull of 1493, the Treaty of Tordesillas, the 1889 Montevideo Convention and a succession of British Piracy Acts from 1698. (Birnie, 1989:131, 136)

Towards the end of the 17<sup>th</sup> century, States started to treat piracy as an international problem. As territorial waters were not clearly defined, it was unclear if piracy was confined to the high seas. In the 18<sup>th</sup> and 19<sup>th</sup> centuries the concept of territorial waters became defined and created the problem of defining piracy. By the 20<sup>th</sup> century piracy in territorial waters fell under the jurisdiction of the individual State. (Birnie, 1989:135-136)

## 1.2 Declaration of Paris and the end of Privateering

Between 1750 and 1850 piracy and privateering was seen on a scale from completely illegal to entirely authorized. In the race by European governments to build and expand European empires geographically, piracy and privateering became State sponsored. Commercial raiding was seen as a way to weaken enemies and acquire wealth. There were few measures in International Law to control it. (Ritchie, 1997: 10-11)

Privateering reached its peak in the late 17<sup>th</sup> and early 18<sup>th</sup> centuries. Both Britain and France created institutional frameworks to regulate privateering and created rules for commissions and activities involving privateers. The Nine Years War (1688-1697) and the War of the Spanish Succession (1702-1713) were fought under these rules. In 1708 a Convoy Act was passed in Britain to discipline crews of ships sailing in convoys that were involved in pirate activities. (Ritchie, 1997: 19)

The end of the Napoleonic wars marked a period of peace in Europe. The view that piracy and privateering could be harmful to free trade and the growth of industry started to develop. Queen Victoria stated that: "Privateering is a kind of piracy which disagrees with our Civilization, its abolition throughout the World would be a great step in its advance". (Ritchie, 1997: 23)

During the Crimean War the Swedes and Danes refused to admit privateers in their harbours. The final blow for privateering came with the end of the Crimean War (1853-1856) when the Treaty of Paris was signed on 30 March 1856. Signatories to the treaty abolished privateering and the issuance of letters of marque, which was an official commission from a government giving authorization to seize or destroy merchant ships of an enemy nation. (Starkey, et al, 1997: 23; International Committee of the Red Cross, 1856; Wikipedia, 2008)

### **1.3 Punishment for Acts of Piracy**

Punishment for acts of piracy prior to 1900 extended to imprisonment, execution, beheadings, condemning for life as galley slaves, and hangings. Large numbers of pirates were hung together in a public spectacle. (Cordingly, 1996: 7)

The Treaty of Paris coupled with the expansion of colonies and the growth of Western navies, which established better control over the world's oceans, led to the virtual disappearance of piracy. Piracy was no longer acceptable under any circumstances and a new commitment existed to end piracy. By 1925 the problem of piracy almost ceased to exist worldwide, but the problem flared up again by the 1970s. (Birnie, 1989:132) The 20<sup>th</sup> century saw the establishment of organizations such as the League of Nations and the UN which led to the adoption of several legal regimes to counter piracy, acts of armed robbery of ships and maritime terrorism.

## **2. LEGAL RESPONSES TO PIRACY, ACTS OF ARMED ROBBERY OF SHIPS AND MARITIME TERRORISM IN THE 20<sup>TH</sup> CENTURY**

The 20<sup>th</sup> century saw the defining of State responsibility to counter acts of armed robbery of ships and the development of International Law to counter piracy and acts of maritime terrorism.

### **2.1 International Convention for the Safety of Life at Sea**

The first version of SOLAS was adopted in 1914 as a result of the Titanic disaster. As the aim of SOLAS was to provide safety measures for merchant ships and crew, it had to keep pace with technical developments in the shipping industry and adapt accordingly. Several amendments to SOLAS followed, not all however of relevance as measures to protect ships against piracy, acts of armed robbery of ships and maritime terrorism. SOLAS 1974 and 1980 were of specific interest in this regard. SOLAS 1974 amendments made the installation of voyage data recorders (VDRs) and AIS mandatory for certain ships. Amendments in the 1980s also set regulations for the safe transportation of chemical, biological and nuclear materials. (SOLAS, 2006)

### **2.2 The League of Nations**

The League of Nations commissioned its Committee of Experts for the Progressive Codification of International Law to clarify the definition of piracy. Piracy was restricted to acts on the high seas, but excluded acts of a political nature (which was called piracy by analogy) and acts by State controlled vessels. The Harvard Law School was tasked to research international piracy law and prepared a draft convention for the International Law Commission. The report published in 1932, underlined every State's jurisdiction over

maritime incidents in its territorial seas and granted the right of hot pursuit in some cases. (Birnie, 1989: 137-138)

### **2.3 The Geneva Convention on the High Seas, 1958**

The Geneva Convention was based on the Harvard Draft. The USSR proposed that acts committed for political ends and acts by warships should also constitute piracy. This was directly as result of the interception of vessels bound for the Republic of China by Chinese nationalists. It was later scaled down to include only acts that have the intent to commit theft or financial gain on the high seas. (Birnie, 1989: 138-139)

### **2.4 United Nations Convention on the Law of the Sea 1982**

Piracy was still defined as an act confined to private ends, which excludes serious offences that occurred in the 1970s and 1980s such as the *Achille Lauro* incident. Acts of the crews of warships that mutinied were however viewed as acts of piracy. According to UNCLOS measures to repress piracy were not mandatory for States, but States were requested to cooperate in repressing piracy on the high seas. New jurisdictional zones and concepts were better clarified by the Convention, but cooperation between States in repressing acts of armed robbery of ships in territorial waters were not addressed. (Birnie, 1989: 139-146)

UNCLOS provided a legal framework to define piracy and acts of armed robbery of ships and regulated passage by maritime vessels and codes of conduct applicable when such a vessel transits the waters of another country. It however also instituted measures which States could apply in the case where any party or vessel conducts acts of piracy or armed robbery of ships. In this regard it is stipulated that (UNCLOS, A.105, 1982):

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.

According to UNCLOS (A.107, 110, 1982: 58 - 59) only warships, military aircraft or government ships or aircraft may board or seize a ship under reasonable suspicion that it is engaged in piracy. Military or government vessels must be clearly marked and be identifiable as a military or government authorized vessel.

UNCLOS 1982 left the responsibility to investigate, capture, prosecute and sentence acts of armed robbery in territorial waters in the hands of coastal States and their individual navies and coast guards. UNCLOS only allows the community of States to take police action against pirates, but not to prosecute pirates. Acts of armed robbery of ships are only seen as piracy if so defined by the laws of the individual States and give rise to the diverse handling of these attacks by the individual coastal States. (Johnson *et al*, 2005: xvi; Munich Re Group, 2006: 26)

UNCLOS (A. 25, 111, 1982) grants the coastal State the right to take the necessary steps in its territorial waters to prevent passage which is not innocent and the right of hot pursuit if the vessel refuses to stop. UNCLOS (A. 91, 1982) also aims to prevent ships to fly under FOC status, and thus for pirated ships to be registered under another name in a FOC registry. UNCLOS further stipulates that: "Every State shall fix the conditions for the grant of its nationality to ships, for the registration of ships in its territory, and for the right to fly its flag. Ships have the nationality of the State whose flag they are entitled to fly. There must exist a genuine link between the State and the ship." Furthermore it is provided that (UNCLOS, A. 92, 1982):

- (a) Ships shall sail under the flag of one State only and, save in exceptional cases expressly provided for in international treaties or in this Convention, shall be subject to its exclusive jurisdiction on the

high seas. A ship may not change its flag during a voyage or while in a port of call, save in the case of a real transfer of ownership or change of registry.

- (b) A ship which sails under the flags of two or more States, using them according to convenience, may not claim any of the nationalities in question with respect to any other State, and may be assimilated to a ship without nationality.

UNCLOS (A. 94, 1982) stipulates that countries should keep a register of ships flying its flag, except for boats disqualified on grounds of their small size. Countries have jurisdiction over each ship flying its flag and its master, officers and crew in respect of administrative, technical and social matters concerning the ship.

As UNCLOS aimed to create measures to counter maritime piracy and acts of armed robbery of ships on international level, other UN agencies such as the United Nations High Commission for Refugees (UNHCR) took measures on regional level to prevent attacks on refugees in the South China Seas.

## **2.5 Measures by the United Nations High Commission for Refugees to Counter Attacks against Refugees in the South China Seas**

As a direct result of the refugee crisis in Asia the UNHCR took the lead in initiatives to reduce incidents of piracy in 1982, when international funded anti-piracy patrols were established in the Gulf of Thailand. An appeal was made to merchant vessels to rescue refugees in distress at sea. In 1984 only 9 percent of the boat people were rescued at sea, often being passed by ships. A regional information center was established to monitor piracy incidents in the area. (Ellen, 1987a: 227-228)

## 2.6 International Maritime Organization Resolution 1983

By 1983 acts of piracy and armed robbery of ships became alarming, leading to the adoption of a resolution – Measures to Prevent Acts of Piracy and Armed Robbery against Ships by the IMO. Governments were urged to take preventative measures to suppress acts of piracy and armed robbery of ships in or adjacent to their coastal waters. (Agbakoba, 2004)

The Maritime Safety Committee (MSC) of the IMO listed “Piracy and armed robbery against ships” as a separate and fixed item in its work programme in April 1984. The Committee decided that an in-depth investigation of the scale of the problem was necessary as well as the areas most affected. (Agbakoba, 2004)

## 2.7 The Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation

The hijacking of the *Achille Lauro* in 1985 had far-reaching implications for the international cruise line industry, as well as on domestic law of countries such as the US, and International Law. The hijacking caught the cruise liner industry off guard and security measures were inadequate. One of the terrorists undertook several previous voyages on the ship, collecting intelligence which went unnoticed. Subsequently cruise lines had a significant cancellation in cruise bookings, and as a result the industry took measures to improve security. Most liners installed metal detectors, employed bomb sniffing dogs, developed terrorist profiles and banned bon-voyage parties prior to sailings on ships. The US Congress passed the Omnibus Diplomatic and Anti-Terrorism Act of 1986 which provided Federal jurisdiction over acts of terrorism against US citizens overseas. (Simon, 1987: 22; Mazzone, 1987: 152-154)

In November 1985 the IMO's 14th Assembly adopted a resolution: Measures to Prevent Unlawful Acts which Threaten the Safety of Ships and the Security of Their Passengers and Crew. The MSC was tasked to develop technical measures to ensure the security of

passengers and crews on board ships as well as measures to prevent maritime terrorism. (IMO, Resolution A.584(14), 2005)

In November 1986 a convention on unlawful acts against the safety of maritime navigation was proposed, which was adopted in March 1988 in Rome as the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA). Unlawful acts stipulated by the SUA Convention are the seizure of ships by force; violence against persons on board ships; and placement of devices on board a ship with the intent to destroy or damage it. (IMO, A.3, 2005)

## **2.8 International Maritime Organization Resolution 1993**

In 1992 the IMO initiated a Working Group from the three littoral States of the Malacca Straits (Indonesia, Malaysia and Singapore) as well as seven others, to investigate the problem in the Malacca Straits and to recommend preventative measures in dealing with piracy and armed robbery of ships specifically in the straits but also in other areas affected by the problem. (IMO, 2000)

As a result of the recommendations of the Working Group a resolution (A.738(18)) was adopted in 1993 by the IMO. The new resolution recommended that masters of ships should immediately report attacks or threats of attack to the nearest rescue and co-ordination centre and request such co-ordination centres to immediately warn shipping in the immediate vicinity of the attack. Local security forces must also be notified in order to react to any such incidents. This resolution also requested the MSC to adopt a special signal for use by ships under attack or threat of attack. (IMO, 2000)

Not only did incidents not decrease after 2000, but incidents of piracy and acts of armed robbery of ships increased in locations with previous lower incident rates such as Somalia. Pirates, maritime criminals and terrorists also implemented new tactics and technology to launch attacks, creating the need for new measures against these new threats.

### **3. INTERNATIONAL AND REGIONAL MEASURES TO PREVENT ACTS OF ARMED ROBBERY OF SHIPS, PIRACY AND MARITIME TERRORISM IN THE 21ST CENTURY**

As incidents of piracy and acts of armed robbery of ships kept rising after 2000, and the 9/11 terrorist attack in the US created fear of a catastrophic maritime terrorist attack using biological, chemical or nuclear (BCN) weapons, several measures both on international, regional and State level were implemented to prevent such attacks.

#### **3.1 International Measures to Counter and Prevent Acts of Armed Robbery of Ships, Piracy and Maritime Terrorism**

On international level several institutions such as the UN and IMO adopted conventions and protocols to eliminate attacks by maritime terrorists, pirates and maritime criminals. Many other institutions such as the EU, Interpol and the IMB aim to combat the problem through intelligence collection and information sharing, as well as assisting ships during or after attacks by maritime terrorists, pirates and maritime criminals.

##### **3.1.1 Measures by the United Nations and International Maritime Organization**

The UN created measures to regulate passage and safeguard shipping transiting the oceans in several resolutions and agreements as discussed in previous chapters. Although UNCLOS provided measures against acts of piracy and armed robbery of ships, it did not provide for measures against maritime terrorism. New measures such as SOLAS regulation XI-2/6 and the 2005 Protocol to the SUA Convention provided a legal framework to define acts of maritime terrorism, a legal basis to enable countries to act against such crimes, and practical measures to prevent attacks by maritime terrorists.

**(a) The Anti-Pirating Project**

The IMO launched an anti-pirating project that leads assessment and evaluation missions to countries affected by piracy and armed robbery of ships. These missions have the aim of developing action plans against pirate activities and to give technical assistance to countries requesting assistance. Missions to Singapore, Ecuador and Ghana were undertaken in 2001 and 2002. Assessment and evaluation of security measures led to the identification of shortcomings in security that could be addressed such as financial restraints on the countries as well as law enforcing agencies; slow response time and lack of communication between agencies; lack of reporting of incidents; lack of timely investigations; and poor rate of prosecutions of pirates. This led to the adoption of an IMO code of practice for the investigation of the crime of piracy and armed robbery of ships. The need for capacity building of weaker governments by the international community was also identified as well as the need for regional coordination and agreements to counter piracy. (IMO, 2004:10; IMO, 2001: 11)

**(b) The International Ship and Port Facility Security Code and SOLAS Amendments of 2002**

The IMO Maritime Safety Committee and the Maritime Security Working Group adopted a resolution (A.924(22), 2001) in November 2001 in review of measures and procedures to prevent acts of maritime terrorism. The ISPS Code was adopted in 2002 by the Conference of Contracting Governments to SOLAS. The ISPS Code: “established a framework involving cooperation between contracting governments, government agencies, local administrations and the shipping and port industries to detect and access security threats and take preventative measures against security incidents affecting ships or port facilities in the international trade”. (IMO, 2003: 6)

The ISPS Code contains a mandatory section (Part A) and a non-mandatory set of guidelines (Part B). The Code is in essence an exercise in risk

management where an evaluation of the risks to a ship or port must be undertaken to determine what security measures will be applicable. The Code also establishes the roles of the different contracting parties in creating security for the shipping industry; gives guidelines for early and efficient collection and exchange of security information; and provides the methodology for security assessments which will form the basis for security plans and procedures. (IMO, 2003: iii, 6; IMO 2004: 3)

The ISPS Code also includes practical requirements to achieve its objectives, such as:

- Gathering and assessing information with respect to security threats and exchanging such information with appropriate contracting governments;
- requiring the maintenance of communication protocols for ships and port facilities;
- preventing unauthorized access to ships, port facilities and their restricted areas;
- preventing the introduction of unauthorized weapons, incendiary devices or explosives to ships or port facilities;
- providing means for raising the alarm in reaction to security threats or security incidents;
- requiring ship and port facility security plans based upon security assessments; and
- requiring training, drills and exercises to ensure familiarity with security plans and procedures. (IMO, 2003: 6 - 7)

The Code applies to passenger ships; cargo ships in excess of 500 gross tonnage; mobile offshore drilling units; and port facilities serving international maritime traffic. (IMO, 2003: 8)

- (c) **SOLAS regulation XI-2/6** adopted in December 2002 by the IMO required ships of more than 500 GT to be equipped with a Ship Security Alert System by 1 July 2006 that will send an alert from ship to shore if under pirate or terrorist attack. (Shiploc: 2010)
- (d) **The 2005 Protocol to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation**

The 2005 Protocol to the SUA Convention was added to address the potential of ships being used as weapons of mass destruction or to commit acts of maritime terrorism. According to the Convention a person or organization commits an offence when such party unlawfully and intentionally commits an act to intimidate a population, government or an international organization and (IMO, A. 3b, 2005):

- uses against or on a ship or discharging from a ship any explosive, radioactive material or BCN weapons in a manner that causes or is likely to cause death or serious injury or damage;
- discharges, from a ship, oil, liquefied natural gas, or other hazardous or noxious substance, in such quantity or concentration that causes or is likely to cause death or serious injury or damage;
- uses a ship in a manner that causes death or serious injury or damage;
- transports on board a ship any explosive or radioactive material, knowing that it is intended to be used to cause, or in a threat to cause, death or serious injury or damage for the purpose of intimidating a population, or compelling a Government or an international organization to do or to abstain from doing any act;
- transports on board a ship any BCN weapon, knowing it to be a BCN weapon; any source material, special fissionable material, or equipment or material especially designed or prepared for the

processing, use or production of special fissionable material, knowing that it is intended to be used in a nuclear explosive activity or in any other nuclear activity not under safeguards pursuant to an International Atomic Energy Agency comprehensive safeguards agreement; and

- transports on board a ship any equipment, materials or software or related technology that significantly contributes to the design, manufacture or delivery of a BCN weapon, with the intention that it will be used for such purpose.

The Convention obliges countries to detain suspects involved in piracy or acts of armed robbery of ships in their territorial waters; take measures to prevent them from escaping; investigate the crimes; extradite them when necessary; and prosecute them when found guilty of such crimes. Conventions such as SOLAS and SUA formed the basis for more practical instruments to suppress maritime piracy and terrorism such as the ISPS Code. (Munich Re Group, 2006: 27; UN, 2010: 4)

The 2005 Protocol contains boarding guidelines of a ship if reasonable grounds exist “to suspect that the ship or a person on board the ship is, has been, or is about to be involved” in an offence. Authorization of the flag State is required before boarding a ship. If a response is not received within four hours the IMO Secretary-General may grant permission (IMO, A. 8b, 2005)

The SUA Convention does not address acts of maritime terrorists against fixed platforms in the ocean, such as oil rigs. The 2005 amendments to the 1988 Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf addressed attacks on these platforms and defined such attacks as offences.

**(e) Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf**

The amendment to the 1988 Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf (2005) stipulates that an offence is committed if a person unlawfully and intentionally:

- is to intimidate a population, or to compel a Government or an international organization to do or to abstain from doing any act, uses against or on a fixed platform or discharges from a fixed platform any explosive, radioactive material or BCN weapon in a manner that causes or is likely to cause death or serious injury or damage;
- or discharges from a fixed platform, oil, liquefied natural gas, or other hazardous or noxious substance, in such quantity or concentration, that it causes or is likely to cause death or serious injury or damage;
- or threatens, with or without a condition, as is provided for under national law, to commit an offence.

Although UNCLOS, the SUA Convention and the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf provided a legal framework for countries to act against maritime terrorism, piracy and acts of armed robbery of ships, they did not provide practical measures for countries, shipping companies or individual ships to act against maritime criminals and terrorists or to prevent such attacks. The adoption of the ISPS Code was a practical measure to act against and prevent such crimes.

It was not only the UN and IMO that launched measures to prevent maritime terrorism, piracy and acts of armed robbery of ships, but international organizations such as Interpol also implemented measures to investigate and counter these crimes. Civilian organizations such as the IMB contributed to a large extent to the fight against maritime

terrorism, piracy and acts of armed robbery of ships. Interpol focuses on intelligence sharing; the investigation of money laundering by pirate and terrorist groups; and the prosecution of maritime criminals.

### **3.1.2 Interpol Measures**

In 2005 Interpol established Project BADA (pirate in Korean) to target criminals involved in maritime piracy and acts of armed robbery of ships. The Project was intended to bridge the gap between military interdiction and the prosecution of pirates. Information on hundreds of individuals implicated in acts of maritime piracy was received from 36 countries and was captured in Interpol's global databases, including fingerprints and DNA profiles. (Interpol, 2007; Interpol, 17 September 2009; Interpol, 29 May 2009)

Interpol creates a framework for information sharing between countries, military and police forces, and assists member countries in the investigations of maritime crimes. It also has the capability to assist on an operational level by deploying Interpol Incident Response Teams and capacity building through training. They investigate financial transactions and establish links with other crimes such as money laundering or terrorism. (Interpol, 17 September 2009)

In January 2010 Interpol held a piracy finance conference in Lyon, France, with the objective to enhance international cooperation in information sharing and alerts related to the financial aspects of piracy cases, and more specifically to identify money trails and networks which can also lead to a better understanding of the structure and functioning of pirate networks. With the average current piracy ransom of US\$ 2.2 million, following money trails left by pirates is of utmost importance as ransom money funds more pirate operations. The conference also included topics such as asset recovery; alternative money transaction systems; specialist training; and best practice in financial investigations. (Interpol, 19 January 2010; Interpol, 19-20 January 2010)

### 3.1.3 The International Maritime Bureau

Few other organizations had the same impact as the IMB in acting as a node to gather and interpret information on maritime piracy and acts of armed robbery of ships as well as providing assistance to ships under attack. The establishment of the IMB's PRC in Kuala Lumpur, Malaysia in 1992 created an operational centre from where measures to counter piracy and acts of armed robbery of ships could be directed. The centre also undertook research into piracy, acts of armed robbery of ships and maritime terrorism. The IMB's PRC provides valuable services such as (ICC, 2008:2, 39; Abhyankar, 2006: 17; Munich Re Group: 2006: 43):

- Daily status reports on piracy and armed robbery of ships broadcast by the International Maritime Satellite Organization (Inmarsat) Inmarsat-C safetyNET service.
- Reporting incidents of piracy and armed robbery of ships to law enforcement agencies and the IMO and helping these agencies to apprehend pirates and bring them to justice. The average IMB response time to forward messages onward is 10 minutes.
- A 'crime watch' initiative encouraging vessels to pass any information on suspected mother ships such as colour, numbers of pirates on board, arms and last position to the IMB which will be passed on to the naval forces.
- Provide support in setting up Shiploc and servicing the system.
- Monitor cargo while it is shipped and on arrival at port.
- Examining suspicious documents such as shipping documents.
- Checking the credibility of ship owners and shipping companies.
- Assisting ship owners and crew members whose vessels were attacked.
- Locating pirated ships and recovering stolen cargo on a chargeable basis.

Maritime terrorism, piracy and acts of armed robbery of ships can be seen as a global security problem. As such a threat from a distant location could affect the security of any

given country, security solutions could be more affective if they are viewed from a global perspective.

### **3.1.4 The Promotion of Global Maritime Security**

The paradigms of pluralism and social constructivism offer the view that multiple factors influence global politics and therefore also global security. Military threats from other States are no longer the only threat to the security of a State, but increasingly non-military threats as well.

#### **(a) Global Maritime Partnerships**

The idea behind global maritime partnerships is that navies and shipping companies should combine their resources and capabilities to promote global maritime security in confronting transnational threats such as maritime piracy and terrorism.

Information sharing is encouraged in order to create a clear picture of the extent and nature of maritime crimes in order to use maritime security assets in such a way that it would deter these activities and curb maritime criminal- and terrorist operations.

This also entails that strong navies such as the US Navy should support weaker navies in capacity building of their maritime assets. Richer countries should assist weaker countries in capacity building with regard to funding, equipment and training, especially concerning surveillance and interdiction capabilities. All countries do not support this initiative as some fear that strong countries such as the US will internationalize their territorial waters and affect their sovereignty. (Murphy, 2007: 74 – 75; Young, 2005: 25; Chalk, et al: 2009b: 7)

The concept of Maritime Domain Awareness (MDA) is in essence the intelligence component of maritime security.

## **(b) Maritime Domain Awareness**

Maritime Domain Awareness (MDA) was developed by the US Coast Guard and is a strategy to obtain a better understanding of threats in the maritime domain. MDA consists of two elements, namely surveillance of activities at sea and intelligence gathering. The aim is to collect large quantities of data such as information on ship movements collected by the Lloyds Maritime Intelligence Unit and incorporate it in a user-defined operating picture. (Murphy, 2007: 74)

Intelligence collection in pirate prone areas is problematic. In Somalia a Western intelligence capability is non-existent which means that Western countries have no Somali viewpoint of the problem and little knowledge of the pirate gangs involved. The French started setting up radar networks in Yemen in 2006 as protection against terrorist attacks and to improve surveillance. These networks will connect all Yemeni coast guard checkpoints. The US Navy will mirror this effort on Sao Tome and Principe to enhance maritime security in the Gulf of Guinea. (Chalk, et al: 2009b: 7; ICC, 2006: 27)

The EC launched a joint project with the European Space Agency to investigate the possibility of detecting signals that ships emit to identify themselves from space, to create a global picture of marine traffic. Tests are currently ongoing in the Horn of Africa. (Borg, 2009: 4-5)

The pluralistic nature of global security also means that attention should not only be given to global security as such, but that other factors such as socio-economic issues, law enforcement and good governance, will also have an influence on global security. In applying this perspective to Somalia for example, the socio-economic and political situation in the country will also influence the security of that country.

### **(c) Socio-Economic Development**

Piracy is a land based problem and the focus should be on law enforcing on land. In practice hostages are often killed in crossfire when law enforcement agencies execute rescue operations as in the cases of Somalia and Nigeria. Therefore law enforcement officers should be well trained. Small coastal communities involved in piracy should receive incentives in the form of support of small-scale industries in order to discourage them from involvement in piracy as a form of income. The development of the economies and infrastructure of these countries and good governance would have a positive effect on the problem on the long run. The European Commission's (EC) Somalia Special Support Programme (2008 - 2013) with a EUR 215.4 million budget has poverty alleviation as objective by enhancing good governance, education, economic development and food security. The EC is also funding the African Union Mission in Somalia (AMISOM). (Chalk, et al: 2009b: 7; EC: 2009: 1-2)

Socio-economic development should be a long-term goal to combat maritime terrorism, piracy and acts of armed robbery of ships, but in the short term attention should be given to the physical protection of ships against such attacks. As cargo is transported from one country to another, security could be enhanced by securing the cargo at point of origin and thus minimizing possible threats occurring at the destination port.

### **(d) Container Security Initiative**

The Container Security Initiative (CSI) is an initiative developed by the US in 2002 with the objective to push US borders back, by the inspection and verification of containers at the point of origin in foreign countries, by US Custom officials and their counterparts and vice versa. After inspection containers are fitted with tamperproof seals. High-security containers are also developed to guard against break-ins. The CSI prevents smuggled or dangerous cargo reaching US borders and saves

inspection time once the container arrives at the destination. (Munich Re Group, 2006: 41; Nincic, 2005: 635 –637)

Port and supply-chain security takes this concept one step further by securing the integrity of the supply chain through ports.

### **(e) Port and Supply-Chain Security**

Port and supply-chain security consists of two components: Procedural security and operational security, which is intelligence led. Procedural security has two components: Procedures that aim to reduce the vulnerabilities of ports and vessels operating from the port and procedures to secure cargo moving through port by safeguarding the integrity of the supply chain. Operational security aims to maximize uncertainty in security operations in order to avoid the patterns that terrorists and criminals seek out during reconnaissance. Guards and security personnel deployment should be flexible in order to keep terrorist's level of uncertainty high. (Murphy, 2007: 81-82)

The EC created the Protection of Freight Transport against Terrorism Rules in 2006 to enhance the security of the supply chain by extending measures to inland transportation of goods by truck, train and barges. In turn freight companies that implement these rules will be fast tracked at port facilities. This initiative however has a cost implication. (M2PressWIRE, 2006)

The Proliferation Security Initiative (PSI) is another initiative that aims to push borders back by searching vessels for WMD while still at sea as it could be too late to take preventative measures if inspections are only done while already in port.

#### **(f) The Proliferation Security Initiative**

In 2003 Australia, Britain, Canada, Denmark, France, Germany, Italy, Japan, the Netherlands, Norway, Singapore, Poland, Portugal, Russia and Spain agreed to work together to prevent proliferation of WMD and associated materials by sea, land or air. The PSI was the result of the difficulties navies experienced in searching vessels suspected of carrying WMD and associated weapons on sea. In such a case in December 2002, Spanish commandos acting on intelligence intercepted a Cambodian registered North Korean ship, the *So San*, transporting missiles to Yemen. It was however not possible to confiscate the weapons under International Law. The 15 nations agreed to share information and resources to strengthen existing treaties and agreements on proliferation. The PSI contains interdiction principles that allow countries to conclude bilateral, reciprocal boarding arrangements for their vessels in cases of suspicious activity. States participate in the PSI to various degrees. Panama, Liberia and the Marshall Islands, some of the so called FOC countries, have all signed bilateral agreements allowing US forces to board or/and detain their vessels in case of suspicion of carrying WMD or associated materials. (Nincic, 2005: 635 –636)

The US Pacific Command also proposed a Regional Maritime Security Initiative with Pacific nations to prevent ships carrying DMCs or armed with chemical, biological, radiological and nuclear (CBRN) weapons to attack ports, maritime targets and sea-lanes. Suspected ships will be located with the help of GPS, radar and radio communication and the information will be passed on to participating countries. (Nincic, 2005: 636)

While several measures are in place to prevent maritime terrorism, piracy and acts of armed robbery of ships on international level, measures are also implemented on regional level to prevent these threats.

## 3.2 Regional Measures to Prevent Acts of Armed Robbery of Ships, Piracy and Maritime Terrorism

Regional cooperation to combat maritime terrorism, piracy and acts of armed robbery of ships exists in various instances, but in this section only the cases identified in the case studies in chapters four and five will receive attention.

### 3.2.1 Africa and the Western Indian Ocean, Red Sea and Gulf of Aden

In January 2009 a Code of Conduct was agreed on in Djibouti using the Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP) as example. Representatives of several governments and international organizations attended the meeting. The Code addresses cooperation in the prevention of piracy in the region; the monitoring of pirate activity and information sharing amongst States; and the role of national law in the trial and conviction of maritime criminals. Three piracy information centers in Kenya, Tanzania and Yemen will receive and respond to alerts and provide information as requested. (Chalk, et al: 2009b: 2-3; Greece Ministry of Foreign Affairs, 2009)

On 24 August 2004 the Committee of Intelligence and Security Services of Africa was established by the AU to address Africa's security, stability and development problems. One of their concerns is piracy. Experts in the field of shipping and maritime security met at the AU headquarters in Addis Ababa in April 2010 to discuss proposals to improve maritime security in Africa by developing an African Integrated Maritime Strategy. AMISOM is also providing regional peacekeeping in Somalia in order to create a secure environment for transitional government structures to function; to deliver aid; and to train the Somali armed forces. The AU and African navies however do not have the capability to defend international waters against Somali pirates. (AU, 2005:12; AU, 2010; Mbeki, 2008)

Regional Courts, foreign navies, shipping unions and organizations such as the IMB, all play a role in securing the waters off East Africa as well as prosecuting offenders involved in maritime crimes.

**(a) Legal Actions against Piracy and Acts of Armed Robbery of Ships in Somalia**

The Contact Group on Piracy off the Coast of Somalia (CGPCS), the Working Group on Legal Issues, was tasked in January 2009 to investigate a “judicial track to arrest, detain and prosecute pirates”. States were requested to adopt legislation to criminalize acts of piracy; to establish jurisdiction to this effect according to UNCLOS (A. 101, 1982); and to implement such legislation. It was recommended that States should consider prosecuting pirates when (CGPCS, 2009: 1):

- Their national(s) are victims of the offense.
- Their national(s) are suspected of committing the offense.
- The targeted ship(s) was flying their flag.
- Their ships apprehend pirate ships and that the courts of the State which carried out a seizure may decide upon the penalties to be imposed according to UNCLOS art 105.

States are also encouraged to assist in evidence gathering; ensuring that witnesses are available for cases; and capacity building of regional States and specifically Somalia in the prosecution and incarceration of pirates. This could include the establishment of an international trust to support these efforts financially and the placement of law enforcement officials with African naval forces for skill transfer purposes. (CGPCS, 2009: 1-3)

Many governments are unwilling to prosecute pirates captured in the Gulf of Aden and pirates could not be handed to Somalia, as they do not have a viable criminal justice system. The UK, US and EU formed an agreement with Kenya to act as a

third-party State in the prosecution of maritime criminals off the coast of Somalia, Red Sea and Gulf of Aden. By June 2009 more than 100 pirates had been trialed and convicted by Kenya. This however creates problems for Kenya as they do not have the capacity to cater for the incarceration of Somalian maritime criminals and Kenyan domestic law determines that criminals must be presented before a judge within 24 hours after committing a crime which is problematic in the case of maritime piracy as pirates are captured as far as 1000nm off the coast. (Chalk, et al: 2009b: 1; Interpol, 17 June 2009)

In 2010 Kenya announced that they wanted to cancel agreements to prosecute pirates. In March 2010 the Seychelles government agreed to set up UN-backed courts to prosecute pirates and amended their criminal code accordingly. The Seychelles police and coast guard also received funding for training in the handling of evidence and suspects procedures and equipment. The Seychelles has limited capabilities to incarcerate pirates and insist that they should be imprisoned in Somalia. The EU is also negotiating with five additional governments, including South Africa and Tanzania, to prosecute pirates. (AFP: 2010)

The UN Office on Drugs and Crime (UNODC) made US\$ 1.3million available to a program to enhance the criminal justice and law enforcement systems of Kenya, Djibouti, Yemen and Tanzania in order to assist them in the prosecution and incarceration of pirates. In 2009 pirates were turned over to Kenyan, Yemeni and Somali authorities to be prosecuted. French Forces also transported pirates back to France to be tried. Abdi Wali Abdulqadir Muse is the first pirate that stood trial in the US for taking Captain Richard Phillips hostage. Muse was the only survivor after US snipers ended the hostage incident in April 2009. (DefenceWeb, 2008; CBS News, 2009)

Foreign navies not only have a role in the capturing and prosecution of pirates, but also in protecting vessels transiting the Gulf of Aden and Somalian waters, as well as securing WFP food relief to Somalia. More than 20 navies are currently involved in these efforts.

**(b) The role of Foreign Navies in the Combating of Piracy and Acts of Armed Robbery of Ships in Somalia, the Red Sea and Gulf of Aden**

The US Fifth Fleet Combined Joint Task Force 150- Horn of Africa (CJTF-HOA), the Combined Task Force 151 (CTF-151) as well as the European Union Naval Force (EU NAVFOR) and other countries such as Russia, Iran and China, all have naval deployments in the Gulf of Aden to support counter-piracy efforts. Operation ATALANTA, an EU Military Mission, was launched on 8 December 2008 according to UN Security Council Resolutions 1814, 1816, 1838 and 1846 with the aim to deter and suppress acts of piracy off the Somali coast; to protect WFP shipping delivering humanitarian food aid to Somalia; and to protect merchant vessels transiting through the Gulf of Aden and the Red Sea. The EU NAVFOR comprises of up to six Frigates with an average operating cost of US\$ 50 000 per day per frigate and three to five maritime patrol reconnaissance aircraft and uses Djibouti as its base. (IMB, 2008:24; MSCHOA, 2009; DefenseWeb, 2008; DefenceWeb, 2009)

The Maritime Security Centre – Horn of Africa (MSCHOA) monitors vessels moving through the Gulf of Aden 24 hours a day and provides a register and guidance for vessels transiting the area. Critics argue that the amount spent on this operation could have been better spent on aid to rebuild institutions and create alternative livelihoods for Somalians. Complete surveillance coverage in the Gulf of Aden, Red Sea and Somalia coastal waters, is almost impossible because of the size of the area that has to be covered. (MSCHOA, 2009; DefenceWeb, 2008; Chalk, et al: 2009b: 3)

The EU Combined Maritime Forces only intervene to prevent a piracy attack and not once a ship has been hijacked. As it takes on average only 20 minutes to attack and hijack a vessel and as maritime forces could be miles away, it is an almost impossible task to prevent an attack and eventually other measures should be implemented. Patrol aircraft and helicopters prevented several hijackings in recent years and an increase in air support will be an effective counter measure to piracy.

(Lindvall, C: 2009: 2) Pirates are also often caught and released as no one is prepared to prosecute them. Essentially piracy is a land based problem and a strong government and economy, and effective law enforcement agencies in Somalia, will be needed to effectively counter the problem.

United States African Command (AFRICOM) was established in October 2007 by the US. The CJTF-HOA based in Djibouti, falls under AFRICOM. One of the CJTF's aims is to improve maritime security. Military training of foreign military personnel is also managed by AFRICOM. The US established a base, Camp Le Monier in Djibouti following the 2001 (9/11) attacks in the US as part of the CJTF-HOA effort to minimize the ability of radical groups to use areas with failed governments as operational bases and shelter by improving local social conditions and therefore to limit tribal and ethnic conflict. (AFRICOM, 2008:1-2)

CTF-151 was established to counter piracy in the Indian Ocean and the Gulf of Aden. A Maritime Security Patrol Area was created in the Gulf of Aden in August 2008 to support these efforts. Coalition navies patrol the corridor. (DefenceWeb, 2009; ICC, 2008:23-24)

The UN WFP requested naval escorts for their vessels transporting relief food to Somalia. French, Danish and Dutch frigates have been escorting WFP ships from November 2007 and no attacks on these ships have been registered since then. The escorts were taken over by EU NAVFOR in June 2008 (ICC, 2008: 33; DefenceWeb, 2008)

The UN adopted several resolutions in 2008 to assist the coalition navies in suppressing piracy. On 2 June 2008 the UNSC adopted Resolution 1816 granting States assisting the TFG and with permission of the TFG, the right to enter Somalia's territorial waters and use "all necessary means" to suppress piracy and acts of armed robbery of ships for a period of six months, later extended for another six months. This resolution allowed foreign navies to enter Somalian territorial waters

in hot pursuit of pirates and to prevent piracy and acts of armed robbery of ships, but in a manner consistent with International Law and in a way that will not endanger the life of hostages. It was hoped that this would counter the hesitation of coalition navies to follow hijacked vessels into the territorial waters of Somalia and act as a deterrent to the pirates whom would anchor vessels inside the 12-mile limit of Somali territorial waters knowing that no coalition navy would venture into territorial waters. This however did not have the desired effect. (ICC, 2007: 36; ICC, 2008: 31-32)

UNSC Resolution 1816 was further enhanced by the adoption of UNSC Resolution 1851 which authorized countries to conduct land attacks on pirate bases in Somalia with the hope that it would counter pirates in adapting to the naval presence of coalition naval forces by operating further from the coast. (ICC, 2008: 41-42)

In some cases measures to combat piracy and acts of armed robbery of ships that had positive results in one region are duplicated in another. Such a measure is the cooperation agreement, ReCAAP, that had such positive results in Asia that it was duplicated in Somalia.

### **3.2.2 Southeast Asia and the South China Sea**

China, India and Japan are experiencing the beginning of a growth period which is projected to be more than the combined GDPs of the US and EU by 2015. This will lead to an increase of trade to and within Asia; a rising energy demand to the area; and the growth of merchant fleets and regional navies. As most of the trade involves the maritime arena, this trade will pass through Southeast Asia. These trends will make the securing of Asian waters more likely as countries work together to find solutions for the security problems. Such a solution was the establishment of the Association of Southeast Asian Nations. (ASEAN) (Ho, 2004)

### **(a) The Association of Southeast Asian Nations**

ASEAN was established on 8 August 1967 with the signing of the ASEAN or Bangkok Declaration by Indonesia, Malaysia, the Philippines, Singapore and Thailand. Brunei, Vietnam, Laos, Myanmar and Cambodia were later included while Papua New Guinea remained an observer. ASEAN aims to promote economic, social and cultural development of the region through cooperation; to maintain political and economic stability in the region; and to resolve intra-regional differences. (ASEAN, 2010)

The Task Force on Sea Piracy and The Task Force on Terrorism form part of the ASEAN special projects and play an important role in managing maritime security threats. Regional cooperation in fighting transnational crime also includes piracy and terrorism, although the focus of their efforts is still on drug trafficking. The ASEAN Regional Forum ARF adopted a Statement on Cooperation Against Piracy and Other Threats to Maritime Security in June 2003 and they agreed to implement measures such as information-sharing on piracy; cooperation and training in anti-piracy measures; technical assistance and capacity building amongst members; and creating a legal framework to counter piracy. Multilateral operations and military exercises to combat piracy and maritime terrorism are coordinated and a hotline between the three naval command centers in Batam, Lumut and Changi was also created. Merchant vessels can directly link to naval vessels by radio when under attack. (Ho, 2005: 18-19)

In 2000 a regional anti-piracy conference was held in Japan. The heads of coast guard agencies from the ten ASEAN countries, as well as India, Sri Lanka, Bangladesh, South Korea, China, Japan and Hong Kong attended. A piracy action plan was drafted specifying measures against piracy and acts of armed robbery of ships. (Keyuan, 2005)

In 2002 the Joint Declaration of ASEAN and China on Cooperation in the Field of Non-Traditional Security Issues was adopted with the aim to create cooperation between ASEAN and China on security issues that included sea piracy and terrorism. The 2002 declaration on the Conduct of the Parties in the South China Sea also addressed the suppression of piracy and armed robbery of ships. (Keyuan, 2005)

In May 2002 Indonesia, Malaysia and the Philippines signed the Agreement on Information Exchange and Establishment of Communication Procedures with the aim to counter illegal activities in these areas, which included piracy and terrorism. The work program to Implement the ASEAN Plan of Action to Combat Transnational Crime was also adopted. (Keyuan, 2005)

Agreements such as ReCAAP not only created measures to combat maritime piracy and acts of armed robbery in Southeast Asia, but also created cooperation amongst countries in the greater Asian region in combating maritime piracy and acts of armed robbery of ships.

#### **(b) The Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia**

ReCAAP was adopted in 2005 by 16 Asian countries, which included Bangladesh, Brunei, Cambodia, China, India, Indonesia, Japan, Laos, Malaysia, Myanmar, the Philippines, Sri Lanka, Singapore, South Korea, Thailand and Vietnam. (Keyuan, 2005) Countries agreed to:

- Prevent and suppress piracy and armed robbery of ships;
- Arrest pirates or persons who have committed armed robbery of ships;
- Seize ships or aircraft used for committing piracy or armed robbery of ships;
- Rescue victim ships and victims of piracy or armed robbery of ships;
- Render mutual legal assistance as well as the extradition of piratical agents; and

- Establish an Information Sharing Center in Singapore.

Regional agreements resulted in regional maritime security doctrine to put measures in place to combat maritime piracy and acts of armed robbery of ships in more practical terms.

### **(c) The Shangri-La Dialogue**

The Shangri-La Dialogue in 2005 focused on essential factors for a regional maritime security doctrine to be successful, such as consensus and cooperation between States including joint patrols; surveillance technology; capacity building by the international community; developing capabilities to attack pirate bases on land and denying pirates resources; and honouring the sovereignty of the littoral States (Ong-Webb,2006: xxix-xxx; Bateman, 2006: 60-61).

As a result of this meeting, joint air patrols were launched by Malaysia, Indonesia and Singapore over the Malacca Straits and became known as the “Eyes in the Sky” (EiS) project. Combined Maritime Patrol Teams on board these aircraft broadcast suspicious activities to ground based Monitoring and Action Agencies (MAAs) in each of the participating countries depending on where the activity occurs. The MAAs will take action within their own territorial waters after consultation. The EiS Operation Centres in each of the States will coordinate the flight schedules of the patrolling aircraft. (Bateman, 2006: 60-61; Ong-Webb,2006: xxix-xxxii)

### **(d) Other Regional Measures to Combat Maritime Terrorism, Piracy and Acts of Armed Robbery of Ships in Southeast Asia**

Coordinated naval patrols under Operation MALSINDO (Malaysia-Singapore-Indonesia) were instituted in the Malacca Straits in July 2004. Critics of this operation stated that it was inflexible and did not allow for hot pursuit or the detention

of foreign criminals. This was followed by the Batam Tripartite Meeting in August 2005. (Bateman, 2006: 60-61; Ong-Webb, 2006: xxix-xxx; Kovács, 2004: 88)

In September 2005 the IMO and the Indonesian government held a conference on the security of the Malacca and Singapore Straits in Jakarta, with the aim to find ways to enhance security and environmental protection in the straits. (Bateman, 2006: 63)

Malaysia, New Zealand, Singapore, the UK and Australia form the Five Power Defence Arrangement which provides cooperation on piracy prevention and also participates in joint anti-piracy and maritime terrorism exercises. Australia has been very active in counter-terrorism cooperation with Southeast Asian countries in recent years. (Bateman, 2006: 68)

The Japan Coast Guard provides regular training to Southeast Asian countries to combat piracy and maritime terrorism as well as Port Security Seminars to assist with the implementation of the ISPS Code; holds joint exercises with these countries; provided patrol boats; initiated talks to exchange information on terrorism; enhance immigration controls and maritime patrols; and improve investigation technology. (Bateman, 2006: 67)

As a result of India's strategic location on the southern tip of the Malacca Straits, the country is promoting naval cooperation in the Northeast Indian Ocean with the objective to eventually establish a Malacca Security System covering Northern Malacca and its approaches. This includes the Milan (Hindi for meeting) naval gatherings held since 1995. Sri Lanka, Bangladesh, Myanmar, Malaysia, Thailand, Singapore and Australia attended in 2006. The Indian Navy participated in coordinated naval patrols with Indonesia since 2001. (Bateman, 2006: 69- 70)

The US Pacific Fleet is involved in joint maritime exercises in Southeast Asia on a regular basis including Cooperation Afloat Readiness Training and the naval

exercise Southeast Asian Cooperation for Anti-Terrorism in May 2006. The US facilitated meetings between Indonesia, Malaysia and the Philippines to promote cooperation in the waters between Borneo and the Southern Philippines where the ASG is active. (Bateman, 2006: 70)

Both the ports of Singapore and Kelang in Malaysia have taken part in the CSI since 2002. Regional Shipowners Associations such as the ASEAN Shipowners Association have also been involved in measures to provide security to ships. (Nincic, 2005: 635-637; Bateman, 2006: 71)

In 2000 China promulgated an Extradition Law and since then has concluded extradition agreements with 26 countries in order to extradite pirates and maritime terrorists. In 2002 China and ASEAN signed the Declaration on the Conduct of Parties in the South China Sea, which was followed with the MOU on Cooperation of Non-traditional Security Issues in 2004. In 2006 China and Malaysia signed the Sino-Malaysian Maritime Cooperation MOU. In the same year China and Vietnam instituted joint patrols in the Gulf of Tonkin. (Deng, 2010: 95 - 96)

In Southeast Asia the Indonesian and Philippine patrol capabilities need to be developed urgently. These anti-piracy patrols are however resource intensive, which these countries cannot afford. A limiting factor in securing Southeast Asian waters is the question of which State is financially responsible for the securing of the waterways and if the user-states should financially contribute as well. Limited budgets, problems with extraditions and sovereignty concerns cause difficulties with co-operation (Bateman, 2006: 86-87; Young, 2005: 25; Ong, 2005: 54)

Some of these international and regional measures against maritime piracy, acts of armed robbery of ships and maritime terrorism were effective, while others are not implemented by all States or are simply ineffective.

#### **4. EVALUATION OF MEASURES TO PREVENT ACTS OF ARMED ROBBERY OF SHIPS, PIRACY AND MARITIME TERRORISM**

Organizations such as the UN and particularly the IMO, the IMB, ASEAN and several others all made a valuable contribution to safeguard international shipping against acts of maritime piracy, armed robbery of ships and maritime terrorism.

Although the positive results of implementing the SUA Convention clearly outweigh the negative ones, the implementation did create a few problems. By July 2010 only 12 States had ratified the 2005 Protocol to the SUA Convention. This creates a problem regarding the prosecution of maritime criminals, as States that are not party to these conventions may not always implement it. A shortcoming of the SUA convention is that developing countries find it costly to implement the measures instituted by the convention. (Munich Re Group, 2006: 27; UN, 2010: 4)

By 2010 only nine States ratified the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf. It is a challenge on State level to conform and adapt national legislation to support the conventions in practical terms. UNCLOS (A. 91, 1982) has the aim to prevent ships to fly under FOC status, but by 2009, 55.11 percent of the entire world's fleet still flew under FOC. (UN, 2010: 4; UNCTAD, 2009: 54)

A problem with the implementation of the ISPS Code is that the new measures are costly for developing countries and these countries may not have the necessary expertise and the required technology. The ISPS Code also only applies to ports that handle vessels of 500 tons or more, which leaves smaller ports vulnerable to attacks by maritime criminals and terrorists. If ports do not comply with the ISPS Code, the port may become less attractive, because when vessels do call at these ports they may be denied entry to other ports on their voyage or face greater scrutiny which will cause delays in other ports. In 2005 the US blacklisted Madagascar, Liberia, the Democratic Republic of Congo,

Mauritania, Guinea-Bissau, Albania and Nauru for failing to comply with the ISPS Code which meant that all ships that recently docked in those countries will be boarded and screened by US official before entering US ports. Ships docked in blacklisted countries on one of their last five stops, will be denied entry into the US unless they take security precautions when visiting these countries such as placing guards at all access points. The implementation of measures in the ISPS Code will however contribute to better security against acts of piracy, armed robbery of ships and terrorism and positive results are already noted. (Rubiato, 2003: 8, 10, 11; Saudi Press Agency, 2005; Kovács, 2004: 58)

It is difficult to assess the success of projects such as the Interpol anti-piracy project, because money trailing is nearly impossible in Somalia as it is a cash based economy.

By 2008, 54 ports participated in the CSI initiative which represented most of the US's main trade partners. Only three of these participating ports were in developing countries and none of the participating ports were situated in countries considered to be a terrorist threat to the US. (Dallimore, 2008: 164-165, 319)

It is an operational challenge to inspect sea-going containers and not enough containers are being inspected. CSI is criticized because it is costly to implement in developing countries as ports need to be re-organized in terms of functioning and logistics to create storage space and offices for US customs and additional staff need to be hired and trained to deal with inspections. Budget constraints also mean that many ports will not be able to maintain the CSI permanently. The US Department of Homeland Security postponed their requirement for a 100 percent scanning of containers bound for the US in December 2009 to 2014, as it was not practically achievable and placed an unnecessary economic burden on both developed and developing countries, which in turn was passed on to consumers. The World Customs Organization (WCO) pleaded for a more risk-orientated approach. (UN, 2010: 5; Rubiato, 2003: 3 - 4; Dallimore, 2008: 319; UNCTAD, 2010: 18-20)

States have the right to arrest pirates on the high seas and to prosecute them under their own domestic laws. In practice, few countries will actually do this because of difficulties in the collection of evidence and jurisdiction problems. On 14 January 2006 pirates attacked and hijacked the *MV Safinat Bisarar* 200 nm off the Somali island of Kismayu and abducted its 16-member Indian crew. The crew managed to write the word “help” on the side of the ship that was noticed by a US helicopter. Ten pirates exit the cabin when US Navy officers shot in the air. The pirates were airlifted to Mombasa, Kenya from the *USS Nassau* to stand trial. The US was reluctant to prosecute pirates in the US because of difficulty in gathering evidence and problems with jurisdiction and the transport of prisoners to the US. (The Nation, 2006; Murphy, 2007: 16)

EU Forces apprehended 400 pirates from January to May 2010 of which 40 went to trial. By November 2010, 92 suspected pirates were arrested by NAVFOR of which 43 stood trial and were found guilty at that time. Eleven of these suspected pirates were sentenced at the Seychelles Court in accordance with the new co-operation agreement with the EU. (UN, 2010; EU NAVFOR, 2010)

When pirates do stand trial they often receive lenient sentences, as in the case of the 37 pirates captured by US and French Forces in early 2009. They all received a three-year sentence in Somalia in 2009. Efforts by the combined forces are hampered by the difficulties in the prosecution of pirates. Mechanisms are needed to prosecute pirates captured by coalition navies, fast and effectively in order to make this new arrangement workable. The prosecution and incarceration of these pirates will have a financial implication which the government of Somalia or the prosecuting government must be willing to accept. (BBC World, 2009; ICC, 2007: 36-37)

Although there was a sharp increase in incidents in Somalia in 2009, the number of successful hijackings of ships remained constant and attacks were proportionally less successful, which could be attributed to the foreign navy presence in these waters. From January to September 2010 the number of incidents fell, but 35 hijackings took place which is the same for the corresponding period in 2009, indicating that pirates adapted to the higher EU naval presence by expanding their area of operation more than 1 000 nm

from the Somali coast into the Eastern Red Sea, Oman in the Arabian Sea and the Indian Ocean as far as the Maldives. (ICC, 2010a; ICC, 2010b; ICC, 2010c) This indicates that although the naval presence in the Gulf of Aden and the Red Sea has a deterring effect on pirates, the sea area where shipping is in danger expanded. As it is more time consuming for pirates to operate so far away from the coast, fewer attacks were reported, but with the same success rate, indicating that pirates became more effective.

The root of the piracy problem is usually land based and a direct result of the socio-economic, political and security situation prevalent in a country. The effectiveness of law enforcement agencies and the capability of these agencies, the laws of the country as well as the will to implement these laws, all have an impact on the existence of piracy and acts of armed robbery of ships and measures to counter piracy and acts of armed robbery of ships. International and regional measures against piracy and acts of armed robbery of ships are therefore subjected to such limitations.

Overall positive results were achieved with measures against maritime terrorism, piracy and acts of armed robbery of ships in Southeast Asia in recent years. In Asia, several territorial disputes and other disagreements still exist between ASEAN member States that prevent agreements to translate into policies. Countries also insist on strict adherence to territorial integrity and non-interference in domestic politics that complicates the countering of maritime piracy and terrorism, especially in a geographical region such as Southeast Asia. (Kovács, 2004: 62)

The EIS project launched by Malaysia, Indonesia and Singapore over the Malaccan Straits had a positive role in the formulation of regional security policies and cooperation in the region. Maritime Patrol Aircraft's operational and surveillance limitations as well as the large area that the operations have to cover over the Malacca Straits are however limiting factors in this initiative. (Bateman, 2006: 60-61; Ong-Webb, 2006: xxix-xxxii)

## 5. CONCLUSION

All measures against maritime terrorists and maritime criminals such as UNCLOS, the SUA Convention (and the 2005 Protocol) and the ISPS Code instituted by international organizations such as the UN and IMO, are important in creating a safe environment for shipping. These measures will however only be successful if regional institutions, governments, shipping companies and crew members implement and daily practice these measures.

A balance needs to be found between respecting national sovereignty and regional security, as pirates and armed robbers do not respect national borders, allowing for action such as hot pursuit, investigation of incidents, shared intelligence and the prosecution of pirates and armed robbers. Capabilities in local patrols, intelligence and technology such as fast patrol boats also need to be improved even more.

Measures are often costly for developing countries and small ship owners, and richer countries could assist these governments in capacity building with regard to training, equipment and financial assistance. Seen in a global perspective, security in developing countries could be the weak link affecting the security of a whole supply line if left without the proper support by wealthier countries.

Socio-economic development in poor countries such as Somalia could be an important positive factor in the long term, but would be futile if a weak government and law enforcement agencies are in place. In essence any effort will be worthless if the security situation in Somalia cannot be brought under control. Poorly trained security personnel are however more of a danger to crew members during anti-pirate operations than no law enforcement at all, as crew members are often killed during cross fire.

One of the biggest problems in the elimination of pirate attacks and acts of armed robbery of ships is the prosecution of pirates. As long as the EU forces in Somalia are not willing to prosecute pirates, piracy will be a low risk venture with high gain possibilities. An

international legal standard should be developed in the prosecution of pirates and States should adhere to this standard. The institution of courts in the Seychelles are a positive step towards prosecuting pirates.

## **CHAPTER 7: EVALUATION**

### **1. INTRODUCTION**

In this chapter a brief summary of the text will be provided; the assumptions that the study were based on will be tested; and conclusions on the findings of the study will be drawn.

### **2. SUMMARY OF TEXT**

In chapter one the research theme and the structure of the study were introduced. Maritime terrorism, piracy and acts of armed robbery of ships were defined and concepts such as State jurisdiction were explained. Three geographical areas were chosen as case studies and the choices were explained. An overview of the historical perspective of maritime terrorism, piracy and acts of armed robbery of ships received attention. An in-depth study of acts of armed robbery of ships, piracy and maritime terrorism in the 21<sup>st</sup> century specifically, was undertaken. The assumptions, research questions and methodological aspects that form the basis of this study were also formulated.

Chapter two focused on global legal and security issues related to maritime terrorism, piracy and acts of armed robbery of ships. Statistics, geographical locations affected, types of attacks and possible targets, tactics and contributing factors leading to acts of maritime terrorism, piracy and armed robbery of ships were discussed. The differences, as well as similarities between acts of maritime terrorism and acts of maritime piracy and armed robbery of ships, were also investigated. The problems in defining maritime piracy and acts of armed robbery of ships were discussed.

The historical background of maritime terrorism, piracy and acts of armed robbery of ships in the period before January 2000 were discussed in chapter three. In this regard

statistics by the IMB and IMO were used to underline tendencies in the 1991 to 2000 period. The origins and early history of piracy were discussed and the differences in cultural perception of piracy between the West and East were highlighted. The late 20<sup>th</sup> century was also a period when maritime terrorists became active which led to jurisdiction and definition problems in international law as piracy was still defined as an act confined to private ends which excluded serious offences relating to maritime terrorism in International Law. The SUA convention adopted in November 1985 aimed to bridge this gap.

In chapter four an overview of acts of armed robbery of ships, piracy and maritime terrorism worldwide were given. Currently two of the areas most affected by maritime piracy and acts of armed robbery of ships in the world are located in Africa: Somalia and the Red Sea and Gulf of Aden in East Africa; and Nigeria in West Africa. In chapter four these two areas were also examined as case studies. Yemen (across the Gulf of Aden), which also formed part of the case study, is the best current example of a location where successful maritime terrorism attacks took place with the attacks on the *USS Cole* and the *Limburg*.

In Somalia the absence of effective government and law enforcement agencies have led to an upsurge in maritime piracy and acts of armed robbery of ships over the past years. The unstable situation in Somalia does not only have a socio-economic and political dimension, but also has a cultural dimension as conflict is rooted in a historic cycle of violence where stronger clans took over power from weaker clans. In Nigeria incidents of piracy and acts of armed robbery of ships not only have a financial motive, but also a political dimension and are connected to the para-military movements operating in the Niger Delta.

Socio-economic and political factors that contribute to maritime terrorism, piracy and acts of armed robbery of ships in all these areas were investigated, but also in neighbouring coastal countries with similar circumstances but with fewer incidents such as Eritrea and Djibouti.

Chapter five investigated maritime terrorism, piracy and acts of armed robbery of ships in Southeast Asia, with emphasis on the socio-economic and political factors that contributed to these crimes. Although both Somalia and the Gulf of Aden and Nigeria had more reported cases of maritime piracy and acts of armed robbery of ships for the year 2008 alone, Indonesia had the most reported cases over the period 2000 to 2008. The Malacca Straits had always been a high-risk area for pirate attacks, but a steady decrease in incidents has been reported from 2005 to 2008. The decrease was due to an increase in patrols; the upgrade of coast guards in the area; naval exercises held in the region; and regional measures and cooperation in the fight against transnational crimes by the ASEAN community. The Malacca Straits are also important as an international chokepoint.

The geographical environment in Southeast Asia consisting of thousands of small islands has been a contributing factor to the phenomenon of maritime piracy and acts of armed robbery in this area since ancient times. Other contributing factors were also discussed.

Measures to combat, eliminate and minimize the effect of maritime terrorism, piracy and acts of armed robbery of ships, were evaluated in chapter six. The development of laws, treaties and conventions to deal with maritime terrorism, piracy and acts of armed robbery of ships were explored from the Justinian's Digest in 529 AD to the SOLAS and UNCLOS Conventions in the late 20<sup>th</sup> century. Measures adopted by the UN and IMO initially only focused on the elimination of piracy with the adoption of conventions such as UNCLOS. The SUA Convention and the 2005 Protocol to the UNCLOS Convention aimed to expand these measures to include measures against maritime terrorists and the use of ships in terrorist attacks by turning ships into weapons or using ships to deliver BCN weapons and substances. The ISPS code provided practical measures to combat acts of maritime terrorism, piracy and armed robbery of ships. Measures by other international organizations such as Interpol and the IMB were also discussed.

Regional measures to combat maritime terrorism, piracy and acts of armed robbery of ships were also investigated. Regional cooperation agreements; codes of conduct; joint

exercises; intelligence sharing; training and joint patrols are all measures to counter acts of maritime terrorism, piracy and armed robbery of ships.

### 3. TESTING OF ASSUMPTIONS

The study was based on the following assumptions:

- Socio-economic and political factors in a given country have an important effect on maritime piracy and armed robbery of ships.
- International measures to combat maritime piracy and acts of armed robbery of ships (such as the ISPS Code and the SUA Convention) will only be successful in eliminating maritime piracy and acts of armed robbery of ships if socio-economic and political problems are addressed; capacity building in law enforcing takes place; and if the will to enforce these measures exists in underdeveloped countries.
- The eradication of piracy will not eliminate maritime terrorism, as terror groups will adapt to the situation, but it will prove to be more difficult for these organizations to operate in the maritime environment. Not all acts of maritime terrorism can be connected to incidents of maritime piracy and armed robbery of ships.

**Assumption: “Socio-economic and political factors in a given country have an effect on maritime piracy.”**

Socio-economic and political factors were the causes of piracy for centuries. During difficult times sailors and fishermen turned to piracy to earn an income. Marooned sailors often turned to piracy to survive. For centuries piracy was the only way for fishermen in Southeast Asia to survive in the summer months when fishing was not feasible. Often sailors found themselves unemployed after war and found that piracy was a way to earn a living. Such was the case after the war between Spain In England in the early 17<sup>th</sup> century

when as much as 50 000 sailors turned to piracy and the robbing of ships. (Cordingly, 1996: 8)

Socio-economic and political factors are however not the only causes of piracy. The absence of strong law enforcement agencies, historical trends and the availability of possible targets especially where there is a strong divide and proximity between rich and poor, are all causes of piracy. Much of these are however also to an extent related to socio-economic and political factors. An example of where the creation of targets led to incidents of piracy occurred during 1979 when more than 200 000 refugees fled South Vietnam and Kampuchea to reach Southeast Asian countries. These refugees became easy targets as many Thai fishermen turned to piracy against them. An estimated 884 piracy incidents and acts of armed robbery of ships were reported against these boat people over the 1981 to 1988 period. (Ellen, 1987: 227; Hyslop, 1989: 282)

The Vietnam War brought a stronger US Navy presence in the South China Sea and Southeast Asian waters. With the end of the Cold War the US Navy withdrew in Southeast Asia, which led to an absence in naval patrols and law enforcing in the area, resulting in the resurgence of pirate activity. The rapid economic growth that the area experienced further contributed to an increase in piracy as rich countries were located in close proximity to very poor countries. The opposite was also true and when Southeast Asia experienced harder economic times in 1997, many people also turned to piracy. (Frécon, 2008: 38-40)

A dangerous situation is created when ships laden with valuable cargo transit close to very poor countries with high unemployment rates. This is the case in Indonesia with the rich Singapore in close proximity and ships with valuable cargo passing Indonesia in the Malaccan Straits. The same situation is present in Somalia where heavy maritime traffic passes the coast to and from Europe through the Red Sea. The cycle of violence in Somalia, as well as the unstable socio-economic and political situation are all factors in the occurrence of piracy and acts of armed robbery of ships. Conflict in Somalia led to

weak government institutions, lawlessness, the destruction of Somali agriculture and infrastructure, widespread famine and a refugee problem.

Somalia is one of the poorest countries in East Africa, but by no means the poorest. Eritrea, like Somalia, is in a constant cycle of violence with an economy weaker than the Somalia economy, but the risk of piracy is offset by the fact that Eritrea has one of the largest militaries per capita in the world. Djibouti has a weak economy with little natural resources and is economically dependent on its role as a port country for landlocked countries and as a strategic military base location for foreign powers, which means that it needs a smaller navy for coastal defense because of foreign navy presence, and that piracy and acts of armed robbery of ships represent no major problem here.

West African countries were all left with weak economies at the time of independence. Weak economies aggravated by droughts, forced countries to become dependent on imports, creating debt and reliance on aid. West Africa is further known for military coups, resource wars, poverty, underdevelopment, pollution, bad governance, crime and corruption. Although these symptoms are present in most West African countries, piracy and acts of armed robbery of ships are mostly limited to opportunity theft of ships stores in most of these countries with the exception of Nigeria. (Owusu, 1999: 332; Arnold, 2006: 689 –690; ICC, 2008: 62-70)

The current violence in Nigeria is a result of four centuries of conflict over resource control and has its earlier roots in the slave and palm oil trade from the 17<sup>th</sup> to the 19<sup>th</sup> centuries. (International Crisis Group, 2006: 1-3) During the 1970s, when Nigeria experienced a huge increase in the volume of imports due to the oil boom, ships had to wait for weeks and months to enter harbours in order to offload cargo. These ships became easy targets for pirates and maritime criminals. This resulted in a high increase in piracy incidents in West Africa and especially Nigeria over this period. (Hyslop, 1989: 8)

Nigeria's oil wealth does not benefit local communities, which leaves them feeling marginalized. Low growth, misadministration and a lack of jobs, water, electricity, schools

and clinics led to dissatisfaction and the rise of insurgent groups. Poverty, violence, underdevelopment, pollution, a lack of good governance, crime and corruption all fuel the conflict in the Delta. Farmlands and fishing rivers are also polluted which leads to a loss of income. The current piracy problem has both an economic and political dimension with the trend to kidnap oil workers and exchange them for ransom. In 2007 alone more than 200 oil workers were kidnapped. (Chalk, et al, 2009a: 12)

The assumption that socio-economic and political factors in a given country have an effect on acts of armed robbery of ships and piracy, can be verified.

**Assumption: “International measures to combat maritime piracy and acts of armed robbery of ships (such as the ISPS Code and the SUA Convention) will only be successful in eliminating maritime piracy and acts of armed robbery of ships if socio-economic and political problems are addressed; capacity building in law enforcing takes place; and if the will to enforce these measures exists in underdeveloped countries.”**

Piracy and serious cases of armed robbery of ships seldom involve countries where strong governments with strong economies exist. Neither do they occur where strong law enforcement agencies with the will to implement laws to prosecute maritime criminals, exist. Limited cases of theft on vessels may still occur however. The proximity of a country with a weak economy and a weak government could however have an overflow effect into the territorial waters of governments with strong economies because of the proximity of apparent wealth as in the case of Singapore and Indonesia. Capacity building between countries has a definite influence on the number of incidents of piracy and acts of armed robbery of ships

Incidents of maritime piracy and acts of armed robbery of ships attributed to Somalian pirates and maritime criminals were lower in 2006 due to patrols by coalition forces and counter-measures by individual ships. Incidents in 2006 were also influenced by the take-over of the Union of Islamic Courts in certain key areas. The Union of Islamic Courts, although not a democratic government, brought incidents of piracy under control. Attacks

resumed after Ethiopian Forces supporting the Interim Government successfully drove the Union of Islamic Courts out in December 2006.

The assumption that international measures to combat maritime piracy and acts of armed robbery of ships will only be successful in eliminating maritime piracy and acts of armed robbery of ships if socio-economic and political problems are addressed; capacity building in law enforcement takes place; and if the will to enforce these measures exists in underdeveloped countries, can therefore be verified.

**Assumption: “The eradication of piracy will not eliminate maritime terrorism, as terror groups will adapt to the situation, but it will prove to be more difficult for these organizations to operate in the maritime environment. Not all acts of maritime terrorism can be connected to incidents of maritime piracy and armed robbery of ships.”**

The eradication of piracy will not eliminate maritime terrorism as their operational objectives differ. Measures could however have the result that the maritime domain becomes a less attractive operational environment. Systems such as AIS will make it difficult for ships to be used as weapons of mass destruction as deviations from their route will be detectable. Since 2001 the opposite is also true, namely that measures to combat potential terrorist attacks have contributed to fewer pirate attacks in areas such as the Malaccan Straits. Measures such as CSI and PSI that specifically target the potential of a maritime terrorist attack limit the potential of terrorist attacks. Maritime terrorist organizations will however adapt to these measures to find alternative targets in the maritime domain. A small boat loaded with explosives could cause major damage if it collides with a passenger liner or an oil tanker, especially if it occurs in a maritime chokepoint.

Limited links between maritime terrorism and incidents of maritime piracy and armed robbery of ships could be found. Maritime pirates and criminals have a financial motive and terrorists have a political motive. The attacks on the *USS Cole* in 2000 and the *Limburg* in

2002, in Yemen are probably the best-known cases of maritime terrorism, but several cases also occurred in Southeast Asia. In the 1970s several maritime incidents involving hostage taking and hijacking by the MNLF were reported in the Philippines. Several incidents of armed robbery of ships in the Philippines were also linked to MILF or elements within the organization since 2000. (Santos, 2006: 41-48)

In some cases maritime terrorists get credit for pirate attacks, which does not always have a foundation. Several publications used the hijacking of the *Dewi Madrim* in the Malaccan Straits as an example to establish a link between piracy and maritime terrorism. It was reported that the *Dewi Madrim* was hijacked by terrorists learning to steer a ship and the kidnapping of the crew members as a way to gain expertise to be used in a future maritime terrorist attack. The source of the initial report was a PSC, Aegis Defence Services Ltd. The IMB denied that terrorists were involved in this attack; that there was any attempt to steer the vessel or that anyone was kidnapped during this incident. Aegis claims that they have been misquoted in the press. (Liss, 2006: 120)

Claims by the Indonesian government that GAM are involved in piracy attacks may well be exaggerated to discredit the organization. Some involvement could however be credited to the organization or criminal elements within the organization.

The assumption that the eradication of piracy will not eliminate maritime terrorism, as terror groups will adapt to the situation, but it will prove to be more difficult for these organizations to operate in the maritime environment, is valid. Likewise, not all acts of maritime terrorism can be linked to incidents of maritime piracy and armed robbery of ships.

#### **4. CONCLUSION**

State jurisdiction is a stumbling block in the fight against maritime piracy as existing UN resolutions are only applicable to incidents occurring on the high seas. Uniform systems of prosecution concerning armed robbery of ships vary from one country to another and

are open to the interpretation of each country's own legal system and the legal principles each country applies, creating loopholes in the prosecution of maritime crimes between countries. Investigations are also time consuming. This leads to the perception that piracy and armed robbery of ships are a low risk venture with potential high rewards.

Maritime terrorism, piracy and acts of armed robbery of ships have a security impact on both local and international level. Acts of maritime piracy and armed robbery of ships are more prevalent in countries with weak governments and law enforcement agencies; high population growth with low possibilities for employment; local conflict; and political instability and corruption. Availability of targets and opportunity are also requirements.

Maritime terrorism is only one of the areas of operations for terrorist organizations and one of the least favoured by these organizations as concealment at sea is difficult; terrorists are faced with more variables such as tides, winds and storms; and expert knowledge of the vessel and sea are necessary to plan and execute an attack. The threat of chemical, nuclear or radiological maritime attacks are relatively low due to technical difficulties in delivering such weapons, but could be catastrophic if a terrorist organization would succeed in doing so. Using a boat loaded with explosives as a weapon, by ramming another vessels, is a more viable option. International chokepoints and hub-ports are especially vulnerable to maritime terrorist attacks. Specific target vessels such as passenger liners, ferries, oil tankers and warships pose more dangers if attacked, due to potential loss of live and environmental damage.

Countering threats, such as maritime piracy and terrorism, can be better accomplished if it is promoted on a global scale as resources and capabilities could be combined. Richer countries should assist poor countries with capacity building regarding funding, equipment and training, especially concerning surveillance and interdiction capabilities. All measures against maritime terrorists and maritime criminals created by UNCLOS, SOLAS, the SUA Convention (and the 2005 Protocol) and the ISPS Code, as well as other measures instituted by international organizations such as the UN and IMO, are important to manage the threats of maritime terrorism, piracy and acts of armed robbery of ships.

These measures will however only be successful if regional institutions, governments, shipping companies and crew members implement and practice these measures.

Organizations such as Interpol, the EU and NAVFOR, the IMO and the IMB all play a valuable role in the fight against maritime terrorism, piracy and acts of armed robbery of ships. Measures by crew members on ships are however of extreme importance as they are the ultimate target of maritime terrorists and criminals. Each ship should prepare a ship security plan and implement security measures as the ISPS Code prescribe.

It is recommended that the following measures should be implemented to improve security and to act against maritime terrorists, pirates and maritime criminals:

- a) The international community should act against maritime piracy and acts of armed robbery of ships in cases where the State is unable to prevent these acts, as in the case of Somalia, in order to save lives and ensure the free transit of maritime traffic. The international community should make use of UN resolutions that grant them permission to combat piracy in Somalian coastal waters if the situation keeps on escalating. It may become necessary to launch specialized attacks on pirate bases, as these groups are more vulnerable on land.
- b) International and regional cooperation to combat maritime terrorism, piracy and acts of armed robbery of ships should continue and increase as positive results have already been experienced.
- c) Local grievances should be addressed and social upliftment and development of infrastructure should take place in countries affected by piracy to neutralize the attractiveness to follow a career in piracy and maritime terrorism.
- d) Strong governments and honest, representative, professional and effective law enforcing agencies are required to combat maritime piracy and acts of armed robbery of ships.

- e) The international community should promulgate an international standard for the prosecution of pirates. Wealthier countries should develop a willingness to prosecute these criminals and heavier sentences should be executed.
- f) Interpol should not only investigate money trails that fund terrorist organizations, but also trails left by ransom paid to these groups and maritime pirates and criminals.
- g) The UN should condemn countries that fund militia and political groups in Somalia.
- h) Peacekeeping missions to Somalia should exclude countries that escalate violence in Somalia and the region, such as Eritrea and Ethiopia.
- i) Institutions and governments should continue to gather and share information on maritime terrorists and criminals. Evidence should also be gathered after a piracy incident and captured in a database. Nominal information, fingerprints and DNA should be captured in all cases. Maritime piracy and acts of armed robbery of ships should be treated as a crime and not merely as a security incident. Interpol has an important role to play in this regard. The international community should also develop an intelligence capability in Somalia.

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## ABSTRACT

**TOPIC:** MARITIME TERRORISM, PIRACY AND ACTS OF ARMED ROBBERY OF SHIPS: SOUTHEAST ASIA AND AFRICA, 2000 – 2008

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**STUDY LEADER:** PROFESSOR M. HOUGH

**DEPARTMENT:** POLITICAL SCIENCES

**DEGREE:** MASTER OF INTERNATIONAL RELATIONS

The purpose of this study was to investigate maritime terrorism, maritime piracy and acts of armed robbery of ships and the influence of specific role-players on the issue both internationally and regionally. The study investigated established measures to regulate and combat these threats and the reasons why some areas are more affected than others.

The study focused on maritime terrorism, piracy and armed robbery of ships in East and West Africa and Southeast Asia in the 21<sup>st</sup> century (1 January 2000 to 31 December 2008), specifically as these are the regions most affected by such incidents. The study aimed to establish the following:

- Which socio-economic, and political factors in individual states influence the occurrence of maritime terrorism, piracy and acts of armed robbery of ships and could piracy and acts of armed robbery of ships be eradicated if the socio-economic and political issues in affected countries receive more attention?
- Is the eradication of maritime piracy and terrorism at all possible considering the social problems facing underdeveloped countries, the effectiveness of current international measures in combating piracy and

acts of armed robbery of ships, as well as current trends in global terrorism and organised crime?

- Why are all underdeveloped countries not affected by the problem of maritime piracy?
- Is there any proof that the use of force against pirates leads to an escalation in violence?
- What forms of interaction exist between maritime pirates and terrorist groups in these areas, and will the elimination of piracy and acts of armed robbery of ships have a major effect on the continued existence of maritime terrorism?

Both socio-economic conditions and political factors in a given country or region have an influence on the occurrence of piracy, acts of armed robbery of ships and maritime terrorism, but could be countered by other factors such as the presence of strong law enforcement agencies. The level of violence existing in a country also plays a role. As the objectives of pirates and maritime terrorists differ, very few examples of interaction between these groups exist. Both pirates and terrorists adapt to measures instituted by the international community and change their tactics and areas of operations accordingly.

## **KEY TERMINOLOGY**

- ARMED ROBBERY OF SHIPS
- CONVENTION FOR THE SUPPRESSION OF UNLAWFUL ACTS AGAINST THE SAFETY OF MARINE NAVIGATION (SUA CONVENTION)
- INTERNATIONAL CONVENTION FOR THE SAFETY OF LIFE AT SEA (SOLAS)
- INTERNATIONAL MARITIME BUREAU (IMB)
- INTERNATIONAL MARITIME ORGANIZATION (IMO)

- INTERNATIONAL SHIP AND PORT FACILITY SECURITY CODE (ISPS CODE)
- MARITIME PIRACY
- MARITIME TERRORISM
- UNITED NATIONS CONVENTION ON THE LAW OF THE SEA (UNCLOS)