MARITIME PIRACY: GLOBAL EFFORTS TO ADDRESS IT AND THE IMPACT TO THE WORLD TRADE

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ABSTRACT

Maritime transport plays an important role in the world trade and this lucrative busier which transporting six billion tons of cargo has attracted one of the world oldest crimes against the trade — piracy — to re-emerge and flourish. Along the history of mankind piracy has been recorded as a threat to maritime trade in the East Mediterranean and in the Southeast Asia. Today piracy is also occurring in other parts of the world, which has caused tremendous impact to the world trade. This paper looks into the international efforts made through the United Nations and its maritime agency to address the piracy issue and the dispatched of naval forces in the piracy zone as has been mandated by the UN Convention on the Law of the Sea., Moreover there is also an information on the calculation/estimation of costs of piracy to the world trade, which is taken from a study conducted by One Earth Future (OEF) Foundation.

Keywords: Maritime, Piracy, Maritime Piracy, Maritime Trade

INTRODUCTION

Maritime transport plays an important role in the world trade, as it is estimated approximately 80-90 percent (in volume) of the world commodities are carried by sea and there are 1.25 million seafarers serving on board around 93,000 ships of various flags. The six billion tons of cargo that are transported by sea is one of the factors that has attracted one of the world oldest crimes against the trade — piracy — to re-emerge and flourish (Bowden, et al. 2010). History recorded that piracy has threaten maritime trade in the East Mediterranean as early as 40 centuries ago (Fu et al. 2010). In the Southeast Asia piracy has been present as a constant feature of the maritime domain since the fifth century, until now act of piracy still occurs in the region, although there are significant decrease in the number of incidents (Raymond, 2010). However, piracy is also occurring in other parts of the world, which has caused tremendous impact to the world trade. This paper will look into a number of facts and information on the issue of piracy.

Maritime Security Situations in some areas of the world

Loannis Michaletos (Michaletos, 2007) writes that notably there are a number of areas in the world that prone to the attack of pirates, due to their strategic locations used for international navigations and most of them are located in the developing world, which justify the synthesis a link between poverty and piracy. Those areas are Delta area and Bonny River in the state of Nigeria, Bangladesh, Strait of Malacca and the Gulf of Aden (Michaletos, 2007) In Nigeria most of the ships which attacked by pirates are smaller size used for transporting employees and materials belonging to the oil companies doing exploration in Nigeria (Wikipedia, Piracy in Nigeria, 2011). In Bangladesh most of the activities are stealing fuels and goods to be resold in the black market (Michaletos, 2007). According to Chittagong Port Authority (CPA)

in 2009, currently Bangladesh had achieved tremendous improvement in terms of crimes against vessels in Bangladesh waters, so that the numbers have declined substantially. However, the country is still listed as one of the very risk area according to the International Maritime Bureau:7)

The Strait of Malacca has a busy traffic, with one-third of the world's trade and half of the world's oil passes through it. Catherine Zara Raymond (2010) wrote in Maritime Security in Southeast Asia: Piracy in the waters of Southeast Asia; there are 4 modus operandi in Southeast Asia piracy hot-spots. They are harbor and anchorage attacks, sea robberies, hijackings and kidnap for ransoms, which are carried out by small-scale criminals, criminal syndicates and terrorist groups. The impact of piracy has caused economic disturbance and financial damage to the coastal States as well as to the world shipping industry. The negative impacts come from fraud, stolen cargoes, delayed trips and increased insurance premiums; in addition to potential environmental disaster which is hard to quantify (Raymond, 2010).

Judge Tullio Treves, from the International Tribunal of the Law of the Sea (ITLOS) writes In the European Journal of International Law Vol. 20 no. 2 (Treves, 2010) that Piracy in Somalia is commonly carried out by armed groups, which since 1990s have been capturing and holding ships for ransom. The attacks mostly occur in the Territorial Sea, which they claim to protect Somalia's fishing resources, in the absence of government able to enforce the law. Due to the lack of economic development, pirate activity absorbed a growing number of people. It is a serious threat to navigation from Suez Canal going through the Gulf of Aden to the area between the Horn of Africa and the Arabian Peninsula.

International Law on Piracy

United Nations Conventions on the Law of the Sea, 1992 (UNCLOS 1992) has several provision which addressing the issue of maritime piracy. Definition of piracy is in Article 101: "any illegal acts of violence or detention, committed for private ends by the crew or the passengers of a private ship or aircraft and directed on the high seas against another ship or aircraft, or against persons or property on board such ship or aircraft". States parties to the Convention are obliged to cooperate in the suppression of piracy in Article 105: "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".

The United Nations agency dealing with maritime matters, IMO makes distinction between piracy and armed robbery. The IMO Secretary General in 2000 states: "It is clear that many acts of violence against ships, particularly those which occurs within ports or the territorial seas of states, are not acts of 'piracy' under international law. They are classified, therefore, as `armed robbery'." According to the IMO Maritime Safety Committee, armed robbery is "any unlawful act of violence or detention or any act of depredation, threat thereof, other than an act of 'piracy, directed against a ship or against persons or property on board such ships, within a state's jurisdiction over such offences"..This definition is made to distinct the acts of violence that occur in the territorial waters of a State, which do not fit the definition of the UNCLOS 1982. This term is commonly used in IMO's products.

Judge Tullio Treves of the International Tribunal for the Law of the Sea (ITLOS) argues that the definition of piracy is rather narrow (Treves, 2010), as it includes only action on the high

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seas and only action undertaken by one ship against another ship and it is inadequate to cope with the violent activities off the Somali coast. With reference to the situation in Somalia, which is an alarming situation to the world as the pirates also attack the ships carry humanitarian supplies, the United Nations has taken measures within the framework of Chapter VII of the United Nation Convention, which aim at remedying the limitations of the abovementioned rules of international law, as far as their application to the situation at hand is concerned. The United Nations Security Council (UNSC) has linked these pirate activities with the notion of a threat to international peace and security, which regulated in Chapter VII.

A number of UN Security Council's resolutions have been adopted, which the key element is giving an authorization for cooperating with the Somali Transitional Federal Government in the fight against piracy and armed robbery at sea off the coast of Somalia (Treves, 2010), for which advance notification to enter the territorial waters of Somalia for the purpose of repressing acts of piracy and armed robbery at sea, in a manner consistent with such action permitted on the high seas with respect to piracy under relevant international law; and to use, within the territorial waters of Somalia, in a manner consistent with action permitted on the high seas with respect to piracy under relevant international law, all necessary means to repress acts of piracy and armed robbery.

Under the international law, over 30 countries currently contribute naval forces to deter piracy in the Horn of Africa; where three groups of anti-piracy missions are focused (Raymond, 2010). Operation Atalanta, Operation Ocean Shield, and Combined Task Force (CTF) 151. Operation Atalanta is a EU mission with he principal task the protection of World Food Programme shipping delivering humanitarian aid to Somalia, but also tasked with the protection of merchant shipping transiting these areas (paper Suppression of Piracy and Criminal Acts off Somalia, 2010).

Measures against Acts of Piracy by IMO

All these years the International Maritime Organization (IMO) has made some significant efforts to cope with the maritime security issues through a number of international programs. IMO cooperation with the piracy-adjacent coastal States with supports from the shipping industry has significantly reduced the number of piracy and armed robbery in the areas which are prone to piracy and armed robbery attacks in the 1990s and early 2000 in the South China Sea and the Malacca and Singapore Straits (IMO's website, 2010).

The United Nations Secretary General has welcomed the IMO decision to pay special attention to piracy during the year ahead as according to Mr. Ban this is a timely and important initiative. The shipping industry has joined the UN Secretary General's with the opinion that the piracy problem in Somalia is not only attacking the merchant ships but also attacks to the global supply chain, which threatens the interests of people in the world (IMO's website, 2010).

With regard to efforts to increase the security measures on board a ship, the IMO Maritime Safety Committee has adopted Circular No. MSC.1/Circ. 1334 (2010), which has replaced MSC/Circ.623/Rev.3 (2002) on Guidance to shipowners and ship operators, shipmasters and crews for preventing and suppressing acts of piracy and armed robbery against ships. Flag States are required to take such measures as are necessary to ensure that owners and masters accept their responsibility, ultimately it is the responsibility of shipowners, companies, ship operators, masters and ship operators to take seamanlike precautions when their ships navigate in areas where the threat of piracy and armed robbery exists. It is important to note that shipowners, companies, ship operators, masters and crews can and should take measures to protect themselves and their ships from pirates and armed robbers (IMO's wrbsite, 2011).

The maritime industry has come up with the Best Management Practices (BMP) which is aimed to assist ships to avoid, deter or delay piracy attacks off the coast of Somalia, including the Gulf of Aden (GoA) and the Arabian Sea area. The latest BMP is the BMP3, which is contained in MSC.1/Circ. 1337 (2010). Information contained in BMP3 includes the Internationally Recommended Transit Corridor (IRTC), where the naval forces are concentrated. According to the NATO Shipping website, the corridor is 492 miles long and has an East bound and a West bound lane, each lane is 5 miles wide with a 2 mile separation between the lanes. Group transits have been designed to put ships into different speed grouis in order to exploit additional protection and assurance of being in a group. Calculation is made for the time so that ships in different groups to enter the vulnerable area at night and ensures all ships are together at first light. This allows the military forces to give protection to the ships against piracy and to give assistance in case of attack. Attacks during darkness are rare with zero success (Shipping. Nato. Int, 2010).

Economic Costs of Maritime Piracy around the Horn of Africa

Maritime piracy has impacted the world maritime trade in some ways; One Earth Future (OEF) Foundation has conducted a large-scale study to quantify the cost of piracy around the Horn of Africa as part of its Oceans Beyond Piracy project, which is led by Anna Bowden (2010). Analyze has been made to the cost of piracy in the African regional countries (Horn of Africa, Nigeria and the Gulf of Guinea) and the Malacca Straits; however the focus in the piracy in the Horn of Africa where the piracy incidents are concentrated currently.

Here are some data taken from the study, which divides the cost into Direct Economic Costs of Piracy and Secondary (macroeconomic) Costs.

Table 1. Estimation of direct economic costs of piracy

Cost Factor	*Cost in US Dollar*
Ransom: excess costs	$176
Cost of Insurance	$460 million and $3.2 billion
Re-routing Ships (selected ships)	$2.4 million to $3 billion
Deterrent Equipment and Personnel Cost	$363 million to $2.5 billion
Naval Forces	$2 billion
Prosecutions	$31 million
Piracy Deterrent Organizations	$19.5 million
Cost to Regional Economies	$1.25 billion

OEF also calculates/estimates the secondary (macroeconomic) costs which affect regional countries surrounding the piracy zones.

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Table 2.Estimation of the Secondary Costs which Affect Regional Countries Surrounding the Piracy Zones

Cost Factor	Cost in US Dollar
Ransom: excess costs	$176
Cost of Insurance	$460 million and $3.2 billion
Re-routing Ships (selected ships)	$2.4 million to $3 billion
Deterrent Equipment and Personnel Cost	$363 million to $2.5 billion
Naval Forces	$2 billion
Prosecutions	$31 million
Piracy Deterrent Organizations	$19.5 million
Cost to Regional Economies	$1.25 billion

OEF concludes that the global cost of piracy is at least US$7 to US$12 billion per year. This is not a definitive figure, but to be continually developed, adapted and improved.

REFERANCE

[1]. Bowden, A. (2010). *The Economic Cost of Maritime Piracy, One Earth Future Working Paper*, Retrieved from http://oneearthfuture.org/images/imagefiles/Cost of Piracy Final Report.pdf on July 11, 2011.

[2]. Xiaowen, F. (2011). *The Impacts of Maritime Piracy on Global Economic Development*, Retrieved from http://www.tandfonline.com/doi/abs/10.1080/03088839.2010.524736 on July 11, 2011.

[3]. Gulf of Aden Internationally Recommended Transit Corridor & Group Transit Explanation Retrieved from http://www.shipping.nato.int/GroupTrans1/file/_WFS/Group%2012aug% 202010.pdf on July 18, 2011.

[4]. IMO Media Center. *Piracy situation "unacceptable" says UN Secretary-General Ban Kimoon.* Briefing: 04, February 4, 2011 Retrieved from http://www.imo.org/mediacentre/pressbriefings/pages/04-2011-wmd-launch.aspx on July 16, 2011.

[5]. IMO. *Piracy and armed robbery against ships*, Retrieved from http://www.imo.org/OurVVork/Security/Pages/MaritimeSecurity.aspx on July 18, 2011.

[6]. IMO Maritime Security Committee Circular on Guidance to shipowners and ship operators, *shipmasters and crews for preventing and suppressing acts of piracy and armed robbery against ships.* Retrieved from http://www.marad.dot.gov/documents/MSC1_Circ1334.pdf on May 27, 2011.

[7]. Michaletos, l. (2007). *Security in the High Seas; Piracy.* Retrieved from http://www.analyst-network.com/article.php?art_id=1195 on November 20, 2010.

[8]. Piracy in Nigeria. Retrieved from http://en.wikipedia.org/wiki/Piracy_in_Nigeria on July 16, 2011.

[9]. Raymond, C. Z. (2010). *Maritime Security in Southeast Asia: Piracy in the waters of Southeast Asia.* Routledge Security In Asia Series.

[10]. The Financial Express (2011). *Incidence of sea piracy in Bangladesh waters drops.* Retrieved from http://www.thefinancialexpress-bd.com/2009/04/11/63678.html July 18, 2011.

[11]. Treves,T. (2010). Judge at ITLOS. *European Journal of International Law 20 (2).* Retrieved from http://www.ejil.org/pdfs/20/2/1800.pdf on November 10, 2010.

[12]. UN Security Council Resolutions on Somalia. Retrieved from http://daccessddsny.un.org/doc/UNDOC/GEN/N08/361/77/PDF/N0836177Pdf?Open Element on October 17, 2010

[13]. United Nations Convention on the Law of the Sea (1982). Retrieved from http://vvww.un.org/Depts/los/convention_agreements/texts/unclos/closindx.htm on January 14, 2001

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