The Role of the International Maritime Organization In Combating Piracy

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Marine Affairs PROGRAM

DALHOUSIE UNIVERSITY *Inspiring Minds*

Dalhousie Marine Piracy Project

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Section 1: Introduction

1.1 Positioning the Paper

The objective of this paper is to explore the role of IMO as the leading multilateral agency tasked with addressing the issue of piracy, and to assess the effectiveness of that role in the light of the serious issues and challenges presented by the current scale of piracy off the East Coast of Africa, and elsewhere in the world. More particularly its goal is to examine the degree to which the mandate and authority assigned to the Organization for dealing with security issues such as piracy is adequate and appropriate. Also for consideration is whether the treaty and governance parameters within which it is constrained to operate enable the Organization to meet its responsibilities. A particular focus is the effectiveness of the decision-making challenges associated with IMO's policy development process, involving as it does a multilateral body that must not only work with national administrations, interest groups and industry, but must also interface with numerous other multilateral bodies.

This paper is proposed as a first step in a two (or more) step process. The intent is that it provides a basis for discussion with those members of the staff of IMO who are engaged in policy development, and program design and implementation, and with leading maritime industry associations and NGOs, with a view to confirming, modifying and/or amplifying observations made in the paper. It is therefore structured to generate 'Discussion Points', which can then form the basis for such discussions. These Discussion Points are therefore included in the text of the paper and assembled at the end.

It should be stressed that the focus of this short paper is upon the effectiveness of IMO and its governance processes in addressing the issue of piracy. To undertake this assessment it is necessary to provide brief outlines of the nature and extent of the piracy related work in which IMO is engaged. It is, however, beyond the scope of the paper to provide a comprehensive description and analysis of this work, and the reader must look elsewhere for such material.

It should also be stressed that this is an early and quite preliminary first step in what is expected to be a multi-step process. While every effort has been made to ensure the accuracy of facts

presented and observations made, the principal objective here is to launch a process that will only be completed, and accuracy confirmed, when all steps have been taken.

1.2 A Brief Summary of IMO's Background

IMO first came into being in 1958 as the International Maritime Consultative Organization, following some ten years of diplomatic negotiation. It may reasonably be assumed that the word 'Consultative' was inserted to respond to the preference among its member States at that time to place limits on the power that the Organization could exercise. It is to the credit of the Organization that its record of achievement, as well as the importance of its role and enhanced authority, led, in 1982 to the removal of the word 'Consultative'.

The principal role of the International Maritime Organization is set out in Article 1(a) of the Convention that establishes it[1]. It is tasked:

> *"to provide machinery for cooperation among Governments in the field of governmental regulation and practices relating to technical matters of all kinds affecting shipping engaged in international trade; to encourage and facilitate the general adoption of the highest practicable standards in matters concerning maritime safety, efficiency of navigation and prevention and control of marine pollution from ships".*

It is to be noted that Article 1(a) of the Convention makes no mention of 'security'. Indeed, IMO's principal preoccupation in the early going was with marine safety.

Discussion Point 1: Does the absence of any specific mention of security in the treaty terms that established the International Maritime Organization present any impediments to its effectiveness in addressing the issue of piracy?

IMO's first substantive challenge was to orchestrate the adoption of an updated version of the *International Convention for the Safety of Life at Sea* (SOLAS), the most important of all treaties dealing with maritime safety. Other notable challenges in its early years included the facilitation of international maritime traffic, the regulation of load lines, the carriage of dangerous goods, and improvements in the calculation of the tonnage of ships.

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[1] *Convention on the International Maritime Organization*, as corrected by Resolution 371(x) of November 9, 1977

Working in the Organization's favour, as it addressed these safety issues was the fact that the rationale driving the enhancement of marine safety was, and remains, quite straightforward and non-controversial. The objective of securing the safety, not only of ships, but also those seafarers and ships' passengers who sailed in them, is accepted by all, and the debate is therefore focused not on whether, but on how, safety might best be achieved. Again, while developing the standards needed to ensure adequate hull strength, stability, freeboard and navigational safety of shipping undoubtedly involved some complexity, the need for such standards, and the need for them to be global in scope, was rarely open to challenge.

This situation contrasts quite strongly with the challenges next faced by IMO in the late sixties related to protection of the marine environment, where the a wide range of scientific, technological, legal, social and economic considerations tended to complicate identification of the appropriate solutions. Not only was the debate more complicated, but, the comparatively contained forum for discussion and clarity of objectives associated with safety deliberations became much broader, more controversial and more complex with the inclusion of numerous and diverse environmental government agencies and interest groups.

The first major environmental incident that acted as the stimulus for IMO involvement in environmental protection was the Torrey Canyon disaster off the SW coast of England in 1967. This incident was followed, over a quite short span of time, by a number of other major tanker disasters. So there came to the fore the various challenges presented by the need to address the environmental impact of shipping, leading to the development of the most important international convention addressing pollution prevention in shipping, the *International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978* (MARPOL 73/78). In a series of Annexes, this convention lays down regulatory requirements for the prevention of accidental and operational oil pollution as well as pollution by chemicals, goods in packaged form, sewage, garbage and air pollution.

IMO's role was subsequently extended to the development of a regime providing compensation to those who had suffered financially as a result of pollution.[2] A number of other legal

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[2] *International Convention on Civil Liability for Oil Pollution Damage* (CLC), 1969

conventions have since been developed, that address various aspects of liability and compensation, associated with pollution in one form or another.[3]

It is also important to recognize that IMO's role extends beyond the development and applications of regulations, to the provision of assistance and support. A prime example is The Global Maritime Distress and Safety System (GMDSS)[4] which became fully operational in February 1999. Other examples include the provision of an international framework for response to oil spills through the OPRC, (*International Convention on Oil Pollution, Preparation, Response and Cooperation, 1990*)

Another major preoccupation of the Organization has been the issue of the competence and associated certification of seafarers. On 1 February 1997, the 1995 amendments to the *International Convention on Standards of Training, Certification and Watchkeeping for Seafarers,* 1978 entered into force. This enhanced framework for management of the quality of seafarer competence greatly improved the safety of ship *operations*. It is also to be noted that, for the first time, IMO was assigned powers to check the effectiveness of implementation measures taken by States, with Parties required to submit information to IMO regarding their compliance with the Convention. A major revision of the STCW Convention and the *International Safety Management Code* was completed in 2010.

Over the past decade, other new conventions relating to the marine environment have been worked on intensively and eventually adopted. These include conventions governing hull anti-fouling systems[5], ballast *water* management to prevent the invasion of alien species[6] and management of ship recycling[7].

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[3] *Convention on Limitation of Liability for Maritime Claims* (LLMC), 1976, 1992 Protocol to *the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage* (FUND 1992), *International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea* (HNS), 1996 (and its 2010 Protocol), etc.
[4] As a subsequent extension of the *International Convention on Maritime Search and Rescue* (SAR), 1979
[5] *International Convention on the Control of Harmful Anti-fouling Systems on Ships* (AFS), 2001
[6] International Convention for the Control and Management of Ships' Ballast Water and Sediments, 2004
[7] The Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships, 2009

Finally, this last decade has seen the significant escalation of interest and involvement in maritime security as a key issue demanding international deliberation and decision-making. Maritime security challenges involve control of criminal practices on the high seas and elsewhere, introducing complex legal, judicial and political ramifications. Following the 9/11 incident, intensive negotiation at IMO resulted in the entry into force in July 2004 of a new, comprehensive security regime for international shipping, including *the International Ship and Port Facility Security* (ISPS) Code, which was made mandatory under amendments to SOLAS adopted in 2002.

As a complementary initiative, the Organization adopted in 2005 amendments to the *Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation,* 1988 and its related Protocol (the 2005 SUA Protocol). As will be seen later, this convention provides some important amplifications and qualifications regarding the provisions addressing piracy that are contained in the UN Convention on the Law of the Sea (UNCLOS).

 Piracy was an important element in this emerging concern for security. Since that time IMO's involvement with piracy has continued to expand to a point where it is now among the Organization's key priorities. Section 2 will now explore in more detail this dimension of IMO's preoccupations.

Section 2: IMO's Piracy Policy Framework and Strategic Direction

It is important to stress at the outset that the clear position of the Organization is that the fundamental solution to the piracy problems depends upon resolution of the landside political issues in Somalia and elsewhere in the region. Thus the Organization, with its mandate focused on shipping and related activities, has little or no role to play in advancing the final resolution of this issue. Instead the IMO has seen its role in relation to piracy as principally one of containment and deterrence. [8]

IMO has gone to some lengths to articulate this role and how it should be performed. As a starting point, IMO's mission statement, as stated in the most recent Strategic plan for the Organization (for the six year period 2010 to 2015)[9] is as follows:

> *"The mission of the International Maritime Organization (IMO) as a United Nations specialized agency is to promote safe, secure, environmentally sound, efficient and sustainable shipping through cooperation. This will be accomplished by adopting the highest practicable standards of maritime safety and security, efficiency of navigation and prevention and control of pollution from ships, as well as through consideration of the related legal matters and effective implementation of IMO's instruments with a view to their universal and uniform application."*

It is to be noted that, unlike the earlier statement of role of the Organization as contained in the Convention[10] establishing it, this statement of its mission does make a clear reference to its role in security, thus cementing its interest and involvement in piracy.

Discussion Point 2: To what degree is there consensus among the membership of the Organization with respect to the reference to security contained **in this Mission Statement?**

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[8] See: Launch of World Maritime Day theme for 2011 *"Piracy: Orchestrating the Response"* 3 February 2011, Speech by the Secretary-General, International Maritime Organization

[9] Resolution A.1011(26), Adopted on 26 November 2009 *Strategic Plan for The Organization (for the Six-Year Period 2010 To 2015)*

[10] Convention on The International Maritime Organization (as corrected by resolution A.371 (X) of 9 November 1977)

In defining piracy, IMO has been guided by the definition contained in Article 101 of the 1982 United Nations Convention on the Law of the Sea (UNCLOS):

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

Although observations have been made regarding certain shortcomings with this definition[11], IMO has attached considerable importance to ensuring that a single definition of piracy be utilized across the range of bodies and institutions involved in seeking solutions to piracy, and have endeavoured to work with the definition as provided in UNCLOS.

Discussion Point 3: To what degree does the UNCLOS definition of piracy present issues for IMO in its counter-piracy activities?

As mentioned, IMO's involvement in piracy has been gradually expanding since 1998 when the problem, principally focused at that time in the Malacca Straits, first came to its attention as a substantive issue. Early initiatives included regional seminars and workshops attended principally by government representatives from countries in piracy-infested areas of the world. This was followed by a number of evaluation and assessment missions to different regions. IMO's principal objective, both at that time and since, has been to encourage the development of regional agreements directed at implementing counter-piracy measures. In this way a goal has been to place principal responsibility for responding to piracy with States geographically positioned close to the location of the piracy problem.

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[11] For example any illegal acts of violence and detention which are committed within State's territorial waters are therefore not defined as piracy, despite the fact that many incidents occur in territorial waters

Discussion Point 4: To what degree is IMO's early objective to place principal responsibility for responding to piracy with States located close to the location of the piracy problem currently viewed as appropriate?

The events of 9/11 and the urgent campaign that followed to prevent and suppress acts of terrorism led to measures, set out in the *International Ship and Port Security Code* (ISPS Code), adopted in December 2002, directed at strengthening security on ships and in port facilities. This initiative, while terrorism driven, also provided an additional stimulus to IMO's focus on piracy, and over the course of the past decade, has resulted in a steady expansion in IMO's involvement in counter-piracy policy and programs to a point where it has now emerged as one of its three major strategic priorities[12].

Early steps taken by IMO clearly had some success in curbing acts of piracy, as may be seen from progress made in the effectiveness of counter-piracy operations in the Straits of Malacca and Singapore. More particularly the Regional Cooperation Agreement on Combating Piracy and Armed Robbery against ships in Asia (RECAAP), which was concluded in November 2004 by 16 States, and which includes the RECAAP Information Sharing Centre (ISC) is a good example of successful regional cooperation, which IMO is now seeking to replicate elsewhere. Today, IMO's priorities are focused much more substantively on the serious security situation off Somalia, the Gulf of Aden, and the Gulf of Guinea.

In its current Strategic Plan, adopted on November 26 2009[13] the IMO sets out its priorities in relation to "heightened maritime security concerns", stating in particular that "……. the advent, and ever increasing incidence of, piracy have further reinforced the need for such (security) measures."

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[12] The other two are:
- addressing the reduction of greenhouse gas emissions from ships and thereby ensuring IMO's contribution to the climate change issue
- keeping the safety of life at sea and the human element, especially the seafarer, at the heart of IMO's work.

[13] Resolution A.1011(26), Adopted on 26 November 2009 *Strategic Plan for The Organization (for the Six-Year Period 2010 To 2015)*

The document further defines the security challenge for IMO as:

> *To promote the effective implementation of the security measures, and to instill a security consciousness in ship and port facility operations, at the same time ensuring that the right balance is struck in trade facilitation and that the flow of seaborne trade continues to be smooth and efficient.*

In relation to seafarer wellbeing the document defines a further challenge for IMO to ensure:

> *The implementation of effective measures to address issues of ….. piracy and armed robbery against ships.*

Furthermore, Strategic Direction 6 states as follows

> *IMO will seek to enhance the security of the maritime transport network, including vital shipping lanes, and to reduce piracy and armed robbery against ships, ... by:*
>
> - *Promoting a comprehensive and cooperative approach, both among Member States within the Organization and between IMO and other intergovernmental and non-governmental organizations;*
> - *Raising awareness of IMO security measures and promoting their effective implementation; and*
> - *Increasing the emphasis on the role of the human element and safeguarding the human rights of seafarers in secure shipping.*

Discussion Point 5: To what degree are the strategic directions relating to piracy, as set out in IMO's 2010-15 Strategic Plan proving to be adequate and appropriate as strategic guidance to IMO in its policy development activities?

In support of its Strategic Plan, IMO sets out, in its 2010-2011 High Level Action Plan,[14] a number of specific actions it has proposed to take in support of its security related strategic direction. These include:

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[14] Resolution A.1012(26), Adopted on 2 December 2009, High-Level Action Plan of The Organization and Priorities for the 2010-2011 Biennium

- *Keep under review measures (e.g., ISPS Code) to enhance security for ship and port facilities including the ship/port interface and shipping lanes of strategic importance.*

- *Keep under review the adequacy of the legal framework to suppress unlawful acts against ships and fixed platforms through the SUA Convention and its Protocol.*

- *Promulgate information on prevention and suppression of acts of piracy and armed robbery against ships.*

- *Assist developing regions in their introduction and implementation of effective security measures and measures against piracy and armed robbery against ships.*

- *Actively participate in work of the Joint IMO/ILO ad hoc expert working groups on issues related to safeguarding the human rights of seafarers.*

- *Develop a strategy for the work related to the role of the human element including the chain of responsibility in maritime security.*

Discussion Point 6: To what degree are the planning provisions, as set out in IMO's High Level Action Plan proving to be adequate and appropriate as guidance in its program planning activities?

IMO has further refined its counter-piracy objectives for 2011 and beyond, by adopting a six point action plan in its 2011 World Maritime Day promotion[15]:

- *increase pressure at the political level to secure the release of all hostages being held by pirates;*

- *review and improve the IMO guidelines to Administrations and seafarers and promote compliance with industry best management practices and the recommended preventive, evasive and defensive measures ships should follow;*

- *promote greater levels of support from, and coordination with, navies;*

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[15] World Maritime Day Theme Paper *"Piracy-Orchestrating the Response"*

- *promote anti-piracy coordination and co-operation procedures between and among States, regions, organizations and industry;*

- *assist States to build capacity in piracy-infested regions of the world, and elsewhere, to deter, interdict and bring to justice those who commit acts of piracy and armed robbery against ships; and*

- *provide care for those attacked or hijacked by pirates and for their families.*

Discussion Point 7: To what degree are the six objectives, as set out in IMO's World Maritime Day promotion proving to be adequate and appropriate **as guidance in its planning and promotion activities?**

The various initiatives being taken by IMO to achieve its mission, pursue the strategic directions it has set for itself, develop its planning framework and implement the actions it has set for itself will now be discussed more fully in the following sections.

Section 3: IMO's Legal Initiatives

The starting point for the Organization's legal initiatives in relation to piracy are the Conventions that address, in one way or another, the various dimensions of piracy. As we have seen earlier, the principal treaty is the *United Nations Convention on the Law of the Sea* (UNCLOS), which provides a broad legal framework for addressing piracy in Articles 100-107. Another important convention is *The Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation* (SUA), which serves to amplify and qualify the UNCLOS provisions. Other conventions containing provisions that bear upon piracy include the SOLAS and SAR conventions and the ISPS Code

IMO has taken a number of initiatives to strengthen the prevailing legal environment in relation to piracy. A key element has been the call for States to review their national legislation to ensure that it contains provisions sufficient to exercise jurisdiction over acts of piracy, conduct investigations into piracy incidents and prosecute those suspected of committing piracy offences.

In response to this call, some 44 States have submitted information on their national piracy legislation[16]. Common shortcomings identified in this legislation have included:

- Less than full incorporation of the UNCLOS definition of piracy;
- No mention of the concept of universal jurisdiction;
- Failure to make piracy a separate criminal offence.

Drawing on this exercise IMO has circulated advice reiterating that it is the responsibility of governments to enact the necessary legislation, and setting out the key elements required to successfully prosecute acts of piracy.

A key legal priority that has been receiving attention in IMO over the past two years, principally in relation to the Djibouti Code of Conduct initiative, (see also Section 4), has been to address the question as to which court should be authorized to exercise jurisdiction over piracy. Early steps in the exercise were the identification of a range of options for the creation of special courts. These options were narrowed down through a report conducted by the UN Special

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[16]See the DOALOS website at http://www.un.org/Depts/los/piracy/piracy_national_legislation.htm

Advisor on Legal Matters, (the Lang Report), which clearly favoured local prosecution. As a result, a UN report was released in June 2011 that recommended that, to be successful in prosecuting acts of piracy, it would be best to establish specialized anti-piracy courts in the region where acts of piracy are occurring. Training for regional Ministries of Justice, as well as sea-going law enforcers is ongoing, in collaboration with the UN Office on Drugs and Crime (UNODC). IMO has been active in this debate.

An important player in the advancement of an effective legal regime has been the Contact Group on Piracy Coast of Somalia (CGPCS). Working Group 2 (WG2)of the CGPCS, with its responsibilities for providing practical guidance on legal issues, has been quite active in addressing legal issues associated with piracy since its formation in 2009. Particular legal issues that it has considered include the need for adequate national procedures in the conduct of a prosecution, the legal aspects of post-trial transfers, the criminalization of possession of piracy-linked equipment, legal issues associated with human rights, legal issues associated with the use of armed guards, and mechanisms for the collection and sharing of legal data arising from piracy incidents. WG2 continues to be active and anticipates further progress on these and other matters. Again IMO, while not leading this initiative, has been an active player in these deliberations.

Discussion Point 8: To what degree have IMO's initiatives been effective in improving the global legal framework governing piracy activities? What are the impediments to further success?

Section 4: IMO's Initiatives in support of Piracy Operations and Enforcement

It is very apparent that over the past several years the piracy situation has worsened. Not only have pirates become bolder, more aggressive and more violent in their attacks, but these attacks have been increasingly better organized and on a larger scale. As these piracy problems have escalated, so IMO has become increasingly engaged in establishing the most effective operational strategies for detecting and suppressing piracy incidents. This has translated into a quite significant preoccupation for IMO in supporting the conduct of counter-piracy operations and enforcement.

In this connection, IMO has seen its role as one of strengthening the capabilities of regional States to contain and deter piracy through four principal priorities: strengthening information sharing, arranging the provision of regional training, implementing effective national legislation, and supporting operational capacity building.

An important initiative, led by IMO, and directed at supporting these four priorities in the Western Indian Ocean is the Djibouti Code of Conduct, signed on January 29, 2009 in Aden. This regional agreement now has 18 signatories. The Code endeavours to strengthen capacity to deal with piracy by enhancing the capabilities of signatory States to:

- Investigate, arrest and prosecute those engaged in acts of piracy,
- Interdict and seize suspect ships and property,
- Rescue ships, crews and property subjected to piracy,
- Conduct shared naval operations.

Other important elements of IMO's initiatives with respect to operations and enforcement comprise the following:

- Issuance of advice on best practices, both in the form of recommendations to government administrations, and as guidance to shipowners, operators, shipmasters and crews.[17]

- Issuance of quite specific advice in relation to the benefits and risks associated with the use of privately contracted armed security personnel (PCASP). In this connection, IMO has made clear that it does not endorse either the carriage of firearms by crew or the use of contracted security personnel. However, it has provided guidance on this matter to member States.[18] In so doing it has made clear that the use of PCASP is a decision that must be taken by the shipowner, only after a comprehensive risk assessment, and only when the Flag State has authorized such use.

- Encouragement and support for the work of the International Maritime Bureau (IMB) through its Piracy Reporting Centre (PRC) in Kuala Lumpur, Malaysia, and through this mechanism, enhance the means by which advice regarding piracy incidents is quickly and efficiently disseminated to industry, governments, and Flag States.

- Advancing technological collaboration on locating and tracking piracy activities, thus strengthening maritime domain awareness. Important initiatives have included progress towards the 'fusing' of all Automatic Identification System (AIS) data and information gleaned from coastal radars into a single cohesive picture available to all parties.

- Encouraging all SOLAS Contracting Governments to participate in the establishment of an information distribution facility (IDF) whose purpose is to distribute Long Range Identification and Tracking (LRIT) data to security personnel, as a further enhancement of maritime domain awareness.

- Development of an Integrated Coast Guard Network for West and Central African States. More particularly IMO is working with numerous other agencies and industry to

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[17] See MSC.1/Circ.1337 dated 4 August 2010, *Best Management Practices to Deter Piracy off the Coast of Somalia and in the Arabian Sea Area developed by the industry*
[18] See MSC 1/ Circulars 1333 and 1334 and more recently MSC.1/Circs 1405 and 1406

strengthen the capacity of West and Central African States to perform Coast Guard functions including maritime law enforcement and suppression of act of piracy[19]

- Implementation of a system of 'protected corridors' and 'Group Transits' so as to enable ships to be tracked, and if possible grouped together, as they transit high risk areas such as the Gulf of Aden or make a passage to and from major regional ports.

- Support for improved internal coordination, information-generation and sharing, between the counter-piracy offices of the Transitional Federal Government, Puntland and Somaliland, respectively through the Kampala Process.

As a result of these efforts there has been an important reduction in the number of successful piracy attacks. On the 20th July 2011, 22 ships and 464 seafarers were being held, a significant reduction from January 2011 when 28 ships and 656 seafarers were being held. Clearly however, there is significant scope for further improvement.

Discussion Point 9: To what degree does IMO consider that its efforts to strengthen anti-piracy measures through education of shipowners/operators, improving anti-piracy technology, strengthening operational coordination and support, management and oversight of shipping operations, etc. are effective?

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[19] IMO Background paper World Maritime Day *2011 Piracy – Orchestrating the response* retrieved from:
http://www.imo.org/About/Events/WorldMaritimeDay/2011papers/background/Documents/paperEnglish10401.pdf

Section 5: IMO's Initiatives in support of Information Dissemination

In its Action Plan, IMO clearly sets out its objectives in relation to the three stages associated with information assembly and dissemination, namely information gathering, followed by sharing and communication of this information and finally using it to take appropriate action.[20]

IMO has already gained significant knowledge and experience in information management through the work of the Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia Information Sharing Centre (ReCAAP ISC) in Kuala Lumpur. This experience is being applied to the situation off the East Coat of Africa

A key mechanism in this endeavour is the Djibouti Code of Conduct, mentioned in the previous section. This Code makes clear that it will "pursue the establishment of regional information sharing arrangements through a network of National Focal Points (NFPs) in each Djibouti Code signatory State." These NFPs would ensure that agreed information is provided to three Regional Maritime Information Sharing Centre recently commissioned in Sana'a, Yemen; the Regional Maritime Rescue Coordination Centre in Mombasa, Kenya; and the Rescue Coordination Sub-Centre in Dar Es Salaam, Tanzania.[21]

The concept anticipates that the centres will issue piracy warnings around the network and in this way ensure that all National Focal Points have the same relevant and up-to-date information, and are then in a position to warn international and coastal shipping.

Working Group 4 of the Djibouti Code is assigned specific responsibilities for information sharing and communications

A second information-related initiative by IMO is the improvement of its Global Integrated Shipping Information System (GISIS)[22] in order to ensure that the IMO website provides a comprehensive range of piracy related information, including initiatives currently being pursued by the Organization.

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[20] See presentation by P Holihead, Head of IMO Project Implementation Unit on the Djibouti Code of Conduct, retrieved from http://www.imo.org/OurWork/Security/PiracyArmedRobbery/Presentations_Piracy/IMO-PIU.pdf
[21] See Paragraph 8 of the IMO Action Plan
[22] See http://gisis.imo.org

Another group with information dissemination responsibilities is the Contact Group on Piracy off the Coast of Somalia (CGPCS), which was established by UN Security Council Resolution 1851 on January 14, 2009. Its role is to facilitate discussion and coordination of actions among States and organizations in the suppression of piracy off the coast of Somalia. The CGPCS aspires to act as a point of contact between and among States and regional and international organizations on aspects of combating piracy and armed robbery at sea off Somalia's coast. It reports progress periodically to the UN Security Council.

At its first meeting, four Working Groups were established and tasked with various responsibilities. The role of Working Group 1 is to promote military and operational coordination between navies, information sharing, and regional capacity building. Working Group 2 is assigned responsibilities for addressing legal issues. Working Group 3 is assigned responsibilities for strengthening shipping self-awareness and other capabilities, while the role of Working Group 4 is directed at public information campaigns. In July 2011, a fifth working group was established tasked with exploring ways to disrupt piracy activities ashore, with a particular focus current mechanisms for funding of pirate activities and the various financial flows related to piracy.

Any nation or international organization making a tangible contribution to the counter-piracy effort, or any country significantly affected by piracy off the coast of Somalia may become a member of CGPCS. Other relevant stakeholders may participate in the meetings of the CGPCS and its five Working Groups as observers. CGPCS now meets on a regular basis three times per year, in March, July and November. As is the norm for multilateral institutions, decisions are taken by consensus by the members of CGPCS.[23]

Finally, as a product of the efforts of Working Group 1, the Kampala Process was established with the aim of promoting internal coordination and information-generation/sharing, among the counter-piracy offices of the Transitional Federal Government, Puntland and Somaliland.

It should be noted that while IMO has strongly endorsed the CGPCS and Kampala Process initiatives, it is only a participant in the work of these bodies.

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[23] More information on CGPCS may be found at its website at http://www.thecgpcs.org

Discussion Point 10: To what degree does IMO see itself as playing an effective role in the management and dissemination of piracy-related information?

Section 6: IMO Initiatives in Relation to Training

IMO's principal objectives with regard to training are clearly set out in its Action Plan. In Paragraph 5 IMO commits to working in co-operation with the EU and the Government of Djibouti in order to pursue the development of the Djibouti Regional Training Centre (DRTC). In Paragraph 9, IMO commits to continuing to help build capacity, including through the delivery of conferences, seminars, workshops and training courses, to enable States and seafarers to participate energetically and effectively in the counter-piracy effort;.

With regard to the DRTC, the Djibouti Code States met in May 2011 and adopted a framework resolution covering its mission and terms of reference, the regional training coordination process, and the program of training for DRTC for the next 12 months.

IMO is funding the construction of the DRTC building, and plans are progressing. Its purpose is to establish a single point of contact for the delivery of maritime counter-piracy training in the region. This includes personnel from maritime administrations and maritime law enforcement agencies. Presently IMO is delivering the training for all 21 Djibouti COC States across all aspects of the capacity building effort.

Training also continues to be provided for maritime law enforcement, situational awareness and communications for experts in the signatory Governments to the Djibouti Code through other existing centres including instruction on maritime law enforcement rules of engagement, which are being conducted jointly by IMO/UNODC at the Arab Academy in Alexandria as well as in Mombasa, and ISC operator training, which is also being provided at Sana'a, Mombasa and Dar-es-Salaam. Counter-piracy training for seafarers is also being explored.

IMO is also currently working with UNODC and UNDP to establish a legal framework for, and to commence training of, a Somaliland Coastal Monitoring Force.

Discussion Point 11: To what degree does IMO see itself as playing an effective role in the provision of piracy-related training and development?

Section 7: IMO's Economic Initiatives

Government intervention with respect to the economic performance of shipping services has certain characteristics that set it apart from intervention in relation to other policy drivers. More particularly, while there is often some degree of collective dialogue between States[24], the motivations that argue for international economic uniformity in the marine transportation sector are not nearly as clear or persuasive as those that argue for social, safety, security and environmental uniformity. This may perhaps be attributed to the fact that the economic sector is characterized by competition between participants while no such divisive dimension exists in considerations relating to social, safety, security and environmental uniformity.

As mentioned earlier, the convention establishing the IMO sets out in Article 1 the purposes of the Organization. It is to be noted that these purposes do contain some references to the economic performance of shipping. Articles 1(b) and 1(c) read as follows:

> b) *To encourage the removal of discriminatory action and unnecessary restrictions by Governments affecting shipping engaged in international trade so as to promote the availability of shipping services to the commerce of the world without discrimination; assistance and encouragement given by a Government for the development of its national shipping and for purposes of security does not in itself constitute discrimination, provided that such assistance and encouragement is not based on measures designed to restrict the freedom of shipping of all flags to take part in international trade;*

> (c) *To provide for the consideration by the Organization of matters concerning unfair restrictive practices by shipping concerns in accordance with Part II*;

Despite these provisions, IMO has devoted little time and effort to the oversight of the economic performance of shipping, which, to the degree that it happens at all at the multilateral level, has

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[24] For example in the case of many developed States through the Organization for Economic Cooperation and Development (OECD)

usually been addressed by either the United nations conference on Trade and Development (UNCTAD), or the World Trade organization (WTO).

This is important in the piracy context since IMO has not been particularly active in examining and evaluating the economic implications of piracy for shipping. To the degree that the Organization has been active, it has been more to point out the economic repercussions and the inefficiencies associated with alternative routes that ships may be forced to take.

For example in relation to diversion of shipping around the Cape of Good Hope, IMO has assembled some appreciation of the inefficiencies involved. More specifically, it estimates that the distance travelled would be almost double that of the majority of voyages through the Suez Canal. The extra distance would involve on average some 12.5 days at a speed of 15 knots. There would also be an additional need for some 750 tonnes of fuel per ship (and an additional volume of some 2,335 tonnes of CO_2 would be emitted from the additional fuel burnt).

In the same way it may be said that, while ship owners and operators and the international shipping associations to which they belong (e.g. BIMCO, ICS, INTERTANKO, INTERCARGO, etc.) are undoubtedly highly exercised regarding the economic impact of piracy on shipping operations, they do not look to IMO as an agency responsible for resolving this dimension of the problem.

Discussion Point 12: To what degree does IMO see itself as having a role to play in addressing the economic consequences of piracy for shipping?

Section 8: IMO's Humanitarian Initiatives

This section is directed at examining IMO's role in relation both to the plight of seafarers and to their families, who also become the victims of piracy incidents. All IMO's other initiatives are directed at preventing, deterring, or disrupting attacks by pirates. Humanitarian initiatives are those that are directed at protecting the best interests of seafarers, in circumstances where they have been taken hostage by pirates, while also providing assistance and support to families negatively impacted by situations where a family member has been taken hostage.

Unlike economic considerations, the humanitarian dimensions of piracy are at the forefront of IMO's interest and concern. Indeed IMO has stressed both in the theme for 2011 World Maritime Day*, "Piracy: Orchestrating the Response"* and in its associated action plan, that the safety and well-being of seafarers must be a key objective of paramount importance. Similarly, industry has looked to IMO to take decisive action on this issue. However, despite its strong concern for seafarers' interests, IMO is not well positioned to orchestrate a solution to the mistreatment of seafarers caught up in piracy. Most of its efforts are therefore directed at publicizing the scale of the problem and generating international attention and concern. As part of this plan IMO has made June 25 the "Day of the Seafarer" and views it as an opportunity to educate the public regarding the problems faced by seafarers in relation to piracy.

In this respect IMO has strongly supported the recent setting up of The Maritime Piracy Humanitarian Response Program (MPHRP). This agency is funded by the ITF Seafarers' Trust and The TK Foundation. The program is intended to pursue protection of the interests of the many seafarers currently being held hostage and their families on behalf of an alliance of shipowners, trade unions, managers, manning agents, insurers and welfare associations representing the entire shipping industry, from crews to owners.[25]

Discussion Point 13: To what degree does IMO see itself as playing an effective role in protecting the best interests of seafarers who become involved in piracy incidents and their families?

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[25]For more information on this initiative see www.saveourseafarers.com.

Section 9: IMO's involvement in Prevention initiatives

For purposes of this section 'Prevention' refers to those political and societal initiatives needed to remove the attraction of piracy from those who currently engage in it. As made clear earlier, IMO has no direct role in orchestrating the actions required to achieve this goal, but has nonetheless invested some time and effort in raising awareness of the issues and spurring on those entities that do have a role to play in finding long-term solutions

Of course providing disincentives to pirates through more effective suppression lessens the appeal, and IMO has organized several workshops and events directed at deterring or suppressing piracy, A recent meeting at IMO HQ in February, 2011, involving the Secretary-General and representatives of the Round Table of international shipping associations (BIMCO, ICS/ISF, INTERCARGO and INTERTANKO), the Oil Companies International Marine Forum (OCIMF) and the International Transport Workers Federation (ITF), stressed the need for urgent and coordinated action by Governments, the shipping industry and the maritime community to address the escalating crisis. Particular emphasis was placed on the need for compliance with the guidance provided by IMO on industry best management practices; the need for improved co-operation, communication with, and deployment of, naval forces; and the need for more emphasis on the steps that ships needed to take to avoid becoming victim to pirate attacks.

Other meetings have been held with the objective of promoting greater levels of support from, and coordination with, navies. A key message has been that while naval vessels have generally been effective in reducing the number of ships being hijacked, the pirates' increased theatre of operations had not been matched by an increase in naval ships, aircraft or other surveillance assets provided by Governments. IMO has encouraged Member States to provide additional assistance.

IMO has also issued Circular letter No.3164[26], advising that an 'unacceptably high proportion of the ships transiting the Gulf of Aden and the western Indian Ocean were not registered with the Maritime Security Centre Horn of Africa (MSCHOA); were not reporting to United Kingdom Maritime Trade Operations (UKMTO) Dubai; were showing no visible deterrent measures; and

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[26] Circular Letter No. 3164, to *Responding to the Scourge of Piracy,* dated February 14, 2011

were not responding to navigational warnings to shipping promulgating details of pirate attacks and suspect vessels'. In its Circular IMO urged "all those concerned, particularly Administrations, industry representative bodies, seafarer associations, shipowners and companies to take action to ensure that ships' masters receive updated information unfailingly and that all the recommended preventive, evasive and defensive measures are fully and effectively implemented".

To respond to this concern, the Secretary General of IMO recently wrote to Ministers of Transport and other Ministers with shipping responsibilities, stressing the need for implementation of the IMO guidelines, including advice regarding Best Management Practices. He brought to their attention the reported low level of compliance among merchant ships sailing in western Indian Ocean waters, and emphasized the importance of pursuing a high degree of compliance with IMO's Best Management Practices in achieving the long-term objective of eliminating piracy.

Discussion Point 14: To what degree does IMO consider that it is playing an effective role in educating governments and industry to the need to take counter-piracy measures so as to deter or suppress piracy incidents?

Section 10: Assessing IMO's effectiveness in combating piracy

As made clear earlier, IMO has assumed important responsibilities at the multilateral level in the search for solutions to the problems of piracy, at least as they impact international shipping   In this section the intent is to identify considerations that might possibly influence the Organization's effectiveness in fulfilling these responsibilities, and in so doing to set in train a process for assessing the degree to which it is well-positioned to achieve a successful resolution of the piracy problem.

10.1 Horizontal Interaction with Other International Entities

While the IMO is clearly playing a lead role in many of the dimensions of the piracy problem, it is only one of many entities with responsibilities for addressing this issue, including: the United Nations itself (UNHQ); the African Union (AU); the UN Office on Drugs and Crime (UNODC); the UN Division of Ocean Affairs and Law of the Sea (UNDOALOS/OLA); the UN Department of Political Affairs/Policy Office for Somalia (UNDPA/POS), the Chief of European Navies, (CHENS); the Regional Cooperative Agreement on combating Armed Rob/Piracy (RECAAP); The UN Food and Agriculture Organization (UNFAO); The World Food Program (WFP); The Contact Group on Piracy Coast of Somalia (CGCPS); The North Atlantic Coast Guard Forum (NACGF), to name but a few.

Collaboration between multilateral agencies has not been viewed as generally very effective in resolving issues of mutual interest[27], and therefore at issue is whether this interactive process may be regarded as effective and efficient.

Discussion Point 15: To what degree is IMO interfacing effectively and efficiently with other international agencies with responsibilities for addressing the piracy problem?

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[27] See Bradford C.I., Linn J.F. *Reform of Global Governance: Priorities for Action* Policy Brief #163 The Brooking Institution, October 2007.

10.2 Interaction with other Supranational, National and Iindustry Bodies

There are further key interfaces. At the supranational level an important but comparatively independent player in the piracy debate is the European Union, (since it only has observer status at IMO). Again the international stature of the US coupled with the considerable complexities of its decision-making processes; introduce important influences on the multilateral process. Other key players in this debate include Flag, (particularly open-registry) States, Coastal States and Port States, particularly those situated in the proximity of piracy-infested waters.. Various sectors of industry also feed into the consideration of piracy strategy, including owners or operators of ships, and industry interests that provide services to ships including classification societies, charterers, financiers, brokers, insurance agencies, port authorities, pilots, equipment providers, seafarers, educators, trainers, shipbuilders, designers, etc. IMO must in particular work with the major international shipping associations including: BIMCO, ISF, ICS, INTERTANKO and INTERCARGO. Clearly, to be effective, IMO must find a way to interact efficiently and collaboratively with all these various institutions.

The aim here is to shed light on this interactive process, and the nature of the prevailing issues that have the potential to impact IMO's effectiveness, and the prospects for success in the initiatives currently being taken to resolve the piracy issue. We have seen in Section 1 how the role and modus operandi of IMO has evolved over time. Recognizing that there is a strong international desire to see the problems of piracy fixed, at issue is how well IMO is seen to be doing in contributing to this desired outcome.   More particularly at issue is whether, despite the broad conceptual appeal of a single, global, cohesive regime, there are forces at play that clearly have the potential to undermine IMO's efforts at multilateral policy-making and program development in relation to piracy.

Discussion Point 16: To what degree is IMO interfacing effectively and efficiently with the European Union, multilateral bodies such as NATO, various national governments, agencies and navies, and with industry and NGOs to ensure appropriate fulfilment of respective roles and responsibilities for addressing the piracy problem?

10.3 Effectiveness of IMO's Internal Organizational Structure and Procedures

In examining IMO's internal structures and procedures, a key issue is the effectiveness of the functioning of the IMO's organizational hierarchy (Assembly, Council, Committees, Sub-Committees and the Secretariat).   More particularly at issue is the degree to which the structure, numbers, make-up, and authorities of each organizational entity in the IMO hierarchy, which have evolved in response to the need to address marine safety and environmental issues are in all respects appropriate for the role that each must play in relation to maritime security in general and piracy in particular.

Discussion Point 17: To what degree are there any weaknesses in IMO's internal structures and procedures, or confusion or overlap in the mandates and authorities of the various organizational entities, that are negatively impacting IMO's efforts to resolve the piracy issue?

10.4 Issues Surrounding the Knowledge and Experience of the Secretariat in piracy matters

A particular area of concern could be possible weaknesses in IMO's performance arising from issues related to the assembly of the necessary knowledge, competence or expertise in piracy matters among the staff of the IMO Secretariat. More specifically, in view of the tenure provisions of employment, it is conceivable that staff, who may have been hired because of knowledge and expertise in other fields of endeavour (e.g. safety or the marine environment), are now being called upon to function in subject matter related to piracy which may well be outside their principal field of expertise. For consideration is the degree to which skills hired for one purpose are easily and seamlessly transferred to other purposes

Discussion Point 18: To what degree are members of the Secretariat, who may have been originally hired to address safety issues such as ship design, construction, operation, etc., or to respond to complex environmental issues such as ballast water or greenhouse gas emissions, ideally equipped to address different but equally complex challenges associated with piracy issues?

10.5 Degree of commitment to effective rectification action among Member States

Possible issues could perhaps arise in relation to the degree of commitment to the cause by IMO Member States, and in particular the degree of commitment among certain member States to the success of the multilateral endeavour, or the ability of an impacted Coastal State to provide the necessary capacity and expertise to mount the agreed response. Recent piracy statistics suggest that the majority of incidents are now associated with ships that are failing to follow the recommended best practices. In such circumstances it would seem clear that associated Flag States are also, to varying degrees, delinquent in fulfilling their respective oversight and enforcement roles.

Again shortcomings in the anti-piracy framework implemented by IMO could arise from a lack of clarity as to where accountability resides for ensuring the application and implementation of anti-piracy measures, and in particular where blame should lie for any shortcomings in the steps taken to implement such measures. Problems in this respect could lead to convention implementation issues, including possible weaknesses in the process of ensuring that decisions arrived at in the development of multilateral instruments are quickly and comprehensively transferred to the law-books of Member States. Weaknesses could also be attributed to enforcement and compliance issues and the effectiveness of operational arrangements, or issues associated with the implementation of agreed measures by Flag States.

Discussion Point 19: To what degree are there indications that certain Member States are not currently meeting all their agreed commitments and obligations in relation to counter-piracy measures?

10.6 Possible challenges associated with reaching a consensus on counter-piracy policy, programs and activities

The principal argument supporting a uniform, cohesive, multilaterally developed regime to deal with piracy is that governments and the shipping community need a predictable, consistent regime in order to maximize the effectiveness of the steps taken. The multilateral process endeavours to respond to this need, principally through the treaty generation procedure, which respects the autonomous authority of States to decide ultimately on the regime they choose to

apply through national legislation and regulations. The principal negotiating mechanism that this multilateral process relies on for its success is consensus.

The problem with the consensus process is that it can be both complex and slow. In addition, the more complex or sensitive the problem to be solved, the more extreme the challenge encountered by international institutions in achieving consensus. There is also a significant risk that the exigencies associated with reaching consensus result in weak provisions where strong action is really needed. This situation becomes particularly difficult in relation to issues such as the problem of piracy where there are highly complex and serious circumstances extending across a broad range of political, social, economic and other considerations.

Discussion Point 20: To what degree is the consensus process proving problematic in relation to piracy, either because steps needed are seriously weakened in order to achieve the consensus, or differences in the degree of full support result in significant delays in the implementation process?

10.7 IMO's Technical Cooperation Program in relation to piracy

Clearly the performance of an institution is only as good as the competence of those who make up its membership. In the case of the International Maritime Organization the membership comprises some 168 member States supported by a Secretariat. At issue therefore is the degree to which IMO, through its Technical Cooperation Program, is effective in educating Member States, particularly those from developing countries, to the complexities of the piracy challenge.

Discussion Point 21: To what degree is the IMO's Technical Cooperation Program achieving success in providing to those Member States with only limited competencies in addressing piracy, the necessary educational assistance to allow them to develop the knowledge and competence to participate effectively in counter-piracy measures?

10.8 IMO's leverage to effect compliance with conventions, protocols, etc.

Again at issue is whether IMO can be effective in monitoring compliance with its piracy conventions and other instruments, and in taking, or at least influencing, rectification action in the event of non-compliance. Since its original establishment, the Organization has been steadily

assuming more authority and leverage in ensuring that States Party to various conventions fully meet their obligations. Examples include IMO's involvement in the black/white lists associated with implementation of the STCW Convention, and the Organization's recent decision to move the Member State Model Audit Scheme from voluntary to mandatory by 2015. At issue is the degree to which IMO's effectiveness in relation to piracy might be improved by the provision of additional authority and enforcement powers.

Discussion Point 22: To what degree might IMO's effectiveness in addressing piracy be strengthened by additional authorities or powers of enforcement?

10.9 IMO's Financial Situation

The funding of IMO activities and programs is another consideration. The principal issue is the degree to which the effectiveness of the Organization in addressing piracy could be negatively impacted or otherwise compromised by the absence of sufficient funds and resources. Also at issue is the revenue generation process and in particular the fairness and reasonableness of the present formula for establishing membership fees. Again this dimension of IMO's operations has implications for its effectiveness, and therefore introduces some degree of uncertainty regarding its prospects for success in addressing piracy.

Discussion Point 23: To what degree is IMO's effectiveness in addressing piracy impacted by funding constraints?

10.10 Possible impacts on the degree of confidence in IMO's ability to orchestrate multilateral solutions to piracy resulting from global disenchantment with the performance of other multilateral bodies.

In this analysis of IMO's effectiveness, the focus so far has been on internal challenges, most notably the nature and degree of complexity of the type of issue, the challenges associated with bringing a widely diverse group of members and other interests to a consensus, the competence of the IMO Secretariat in facilitating the attainment of that consensus, and the challenges associated with persuading member States to implement agreed initiatives.   In addition to these

internal challenges there are certain external challenges for the IMO that also need to be recognized.

A feature of the origins of the more important global governance institutions, (e.g. the WTO, IMF, UNEP, FAO, ILO, UNCTAD, etc.) , is that they were originally constructed to operate largely independently. Such a modus operandi obviously has the potential to lead to the management of issues in 'silos'. However, as the management of global issues has evolved so has the need for a high degree of lateral collaboration across global governance institutions. Thus, while the track record of IMO to date may be regarded as quite successful in effecting collaboration with other bodies, the increasing complexity and diversity of piracy issues could present challenges in ensuring the effectiveness of lateral interaction between multilateral bodies.[28]

Another possible issue is the accountability of those participating in the development of policy. The membership of global governance bodies is predominantly made up of member States, usually represented by officials of national governments. While generally speaking these officials are experts in their field, they are not normally elected officials. In this respect, the public of those member States may feel less well-equipped to exert influence on the decision-making process, compared with the normal democratic process, where representatives may be held directly accountable for their respective positions on issues through democratic elections. This may lead to some mistrust of multilateral governance bodies, particularly if the emerging product of that debate may be contentious. More particularly, where the emerging consensus may rely on some compromise and pragmatism on behalf of the negotiators, the result may be challenged by external interests that are not constrained by such needs for compromise.

Discussion Point 24: To what degree is IMO negatively impacted by public perceptions of shortcomings with the conduct and frequent ineffectiveness of decision-making in other multilateral bodies?

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[28] For further insights into this consideration see Bradford C.I., Linn J.F. *Reform of Global Governance: Priorities for Action* Policy Brief #163 The Brooking Institution, October 2007.

These quite diverse and incomplete observations serve to illustrate the complexities of the conduct of IMO's business, and therefore the potential for some uncertainty regarding its effectiveness in relation to its responsibilities for addressing piracy.

Section 11 - Summary and Conclusions

It would seem very clear from the scope and intensity of IMO's initiatives in relation to piracy that the Organization is making very significant efforts to find solutions to this serious and seemingly intractable problem. It is also clear that it is aided in this endeavour by the virtually unanimous international view that piracy is unacceptable and must be eliminated. In this respect, it is reasonable to argue that it is much better positioned to advance its piracy objectives, than has been the case in relation to several very complex and often controversial environmental issues that the Organization has been obliged to address over the last two or three decades.

The Organization would also appear entitled to claim that important progress has been made in relation to many of the complex dimensions of piracy, including: clarifying policy and legal issues, operations and enforcement, information dissemination, education and training, and, albeit to a lesser degree, progress in the relief of seafarers impacted by piracy.

Furthermore, the very fact that Member States have, generally speaking, collaborated effectively both between each other and with industry and NGO observers to find solutions, may probably be taken as indicating a reasonable degree of confidence in the multilateral endeavour

That said, and as outlined in Section 10, there are important circumstances associated with the conduct of business at the multilateral level which give rise to questions as to whether, despite the best efforts of all parties involved, the process is proving effective in distilling and implementing solutions to the problem.

Firstly, as made clear earlier, the piracy issue has dimensions that fall within the ambit of authority of a wide range of international bodies. In this respect IMO's responsibilities can only address those dimensions that fall within its mandate. Obviously this partial accountability for finding effective solutions complicates the course of action that the Organization may choose to take.

The large membership of the Organization, coupled with the need for this membership to reach consensus raises concerns regarding the slowness of the process, and the potential for possible ineffectiveness in the final product due to the need for compromises. The legal complexity of the issues coupled with the fact that the multilateral process must look to each Member State to

pass legislation containing the agreed legal provisions, can result, (indeed clearly has resulted) in shortcomings and anomalies in the cohesion and effectiveness of the international legal framework governing piracy. Again, recognizing that security in general and piracy in particular have only come to the fore quite recently, for consideration is whether the staff of the Secretariat are ideally qualified and positioned to support the Organization as it addresses these comparatively novel and complex issues.

In summary therefore, the purpose here is not to find fault with the efforts being made by IMO to address piracy, but to try to quantify the difficulties that it faces as a multilateral body in identifying and implementing actions needed to effect solutions. Hopefully this paper can provide a basis for further examination of the issues raised, including discussions with IMO staff, industry associations and leading NGOs. In so doing, hopefully it will be possible to gain a more accurate and comprehensive appreciation of the strengths and weaknesses of current multilateral efforts to address the maritime dimensions of piracy.

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List of Discussion Points

Discussion Point 1: Does the absence of any specific mention of security in the treaty terms that established the International Maritime Organization present any impediments to its effectiveness in addressing the issue of piracy?

Discussion Point 2: To what degree is there consensus among the membership of the Organization with respect to the reference to security contained in this Mission Statement?

Discussion Point 3: To what degree does the UNCLOS definition of piracy present issues for IMO in its counter-piracy activities?

Discussion Point 4: To what degree is IMO's early objective to place principal responsibility for responding to piracy with States located close to the location of the piracy problem currently viewed as appropriate?

Discussion Point 5: To what degree are the strategic directions relating to piracy, as set out in IMO's 2010-15 Strategic Plan proving to be adequate and appropriate as strategic guidance to IMO in its policy development activities?

Discussion Point 6: To what degree are the planning provisions, as set out in IMO's High Level Action Plan proving to be adequate and appropriate as guidance in its program planning activities?

Discussion Point 7: To what degree are the six objectives, as set out in IMO's World Maritime Day promotion proving to be adequate and appropriate as guidance in its planning and promotion activities?

Discussion Point 8: To what degree have IMO's initiatives been effective in improving the global legal framework governing piracy activities? What are the impediments to further success?

Discussion Point 9: To what degree does IMO consider that its efforts to strengthen anti-piracy measures through education of shipowners/operators, improving anti-piracy technology, strengthening operational coordination and support, management and oversight of shipping operations, etc. are effective?

Discussion Point 10: To what degree does IMO see itself as playing an effective role in the management and dissemination of piracy-related information?

Discussion Point 11: To what degree does IMO see itself as playing an effective role in the provision of piracy-related training and development?

Discussion Point 12: To what degree does IMO see itself as having a role to play in addressing the economic consequences of piracy for shipping?

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Discussion Point 22: To what degree might IMO's effectiveness in addressing piracy be strengthened by additional authorities or powers of enforcement?

Discussion Point 23: To what degree is IMO's effectiveness in addressing piracy impacted by funding constraints?

Discussion Point 24: To what degree is IMO negatively impacted by public perceptions of shortcomings with the conduct and frequent ineffectiveness of decision-making in other multilateral bodies?