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PIRACY AND ARMED ROBBERY AGAINST SHIPS

Recommendations to Governments for preventing and suppressing piracy and armed robbery against ships

1   The Maritime Safety Committee, at its seventy-first session (19 to 28 May 1999), reviewed MSC/Circ.622 (Recommendations to Governments for preventing and suppressing piracy and armed robbery against ships) and prepared the revised recommendations given at annex.

2   The review was carried out on the basis of the recommendations of the regional seminars and workshops on Piracy and armed robbery against ships conducted by IMO in Brasilia (20 to 22 October 1998) and Singapore (3 to 5 February 1999).

3   Member Governments, in particular those within areas identified as affected by acts of piracy and armed robbery against ships, are recommended to take any necessary action to implement, as appropriate, the recommendations given at annex.

4   Member Governments are also recommended to bring this circular and MSC/Circ.623/Rev.1 to the attention of all national agencies concerned with anti-piracy and anti-armed robbery activities, shipowners, ship operators, shipping companies, shipmasters and crews.

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ANNEX

**RECOMMENDATIONS TO GOVERNMENTS
FOR PREVENTING AND SUPPRESSING PIRACY*
AND ARMED ROBBERY AGAINST SHIPS**

Piracy and armed robbery against ships

1   Before embarking on any set of measures or recommendations, it is imperative for governmental or other agencies concerned to gather accurate statistics of the incidents of piracy and armed robbery against ships, to collate these statistics under both type and area and to assess the nature of the attacks with special emphasis on types of attack, accurate geographical location and modus operandi of the wrongdoers and to disseminate or publish these statistics to all interested parties in a format that is understandable and usable.   Furthermore Governments should involve representatives of shipowners and seafarers in developing measures to prevent and suppress piracy and armed robbery against ships.

2   In any ongoing campaign against piracy and armed robbery, it is necessary, wherever possible, to neutralize the activities of pirates and armed robbers. As these people are criminals under both international law and most national laws, this task will generally fall to the security forces of the States involved.

3   Ships can and should take measures to protect themselves from pirates and armed robbers. These measures are recommended in MSC/Circ.623/Rev.1. While security forces can often advise on these measures, and 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 owners, masters and ship operators to take seamanlike precautions when their ships navigate in areas where the threat of piracy and armed robbery exists.

4   The Coastal State/Port State should develop Action Plans detailing how to prevent such an attack in the first place and actions to take in case of an attack. Flag States should develop Action Plans detailing the actions to be taken on the receipt of a report of an attack. Because of the possibility of collision or grounding of a ship as a result of an attack, the Coastal/Port States will need to develop plans to counter any subsequent oil spills or leakages of hazardous substances that the ship or ships may be carrying. This is especially important in areas of restricted navigation.

5   All national agencies involved in preventing and suppressing piracy and armed robbery against ships should take appropriate measures for the purpose of maximizing efficiency and effectiveness and, at the same time, minimizing any relevant adversity. The Coastal/Port States should also establish the necessary infrastructure and operational arrangements for the purpose of preventing and suppressing piracy and armed robbery against ships.

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*   The following definition of piracy is 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)."

6   On communication and co-operation between various agencies, and the response time after an incident has been reported to the coastal State:

.1   an incident command system for tactical as well as operational response should be adopted in each country concerned to provide a common terminology; integrated communications; a unified command structure; consolidated action plans; a manageable span of control; designated incident facilities; and comprehensive resource management;

.2   existing mechanisms for dealing with other maritime security matters, e.g. smuggling, drug-trafficking and terrorism, should be incorporated into the incident command system in order to allow for efficient use of limited resources; and

.3   procedures for rapidly relaying alerts received by communication centres to the entity responsible for action should be developed or, if existing, reviewed.

7   It is imperative that all attacks, or threats of attacks, are reported immediately by radio to the nearest RCC or coast radio station to alert the Coastal State/Port State and followed up by a more detailed written report. On receipt of radio reports of an attack or post attack reports, the RCC or other agency involved must take immediate action to:

.1   inform the local security authorities so that contingency plans (counter action) may be implemented; and

.2   alert other ships in the area to the incident utilizing any appropriate communication means available to it, in order to create or increase their awareness.

8   The report received by maritime Administrations may be used in any diplomatic approaches made by the flag State to the Government of the coastal State in which the incident occurred. This will also provide the basis for the report to IMO.

9   Coastal States/Port States should report to IMO any act of piracy or armed robbery in their waters. The format presently used for reports to IMO is attached at appendix 4.

10   The recording and initial examination of reports is best done, wherever possible, by a central agency possessing the necessary skills and resources. In order to maintain the required credibility, both from Government and commercial sectors, such an agency must be accurate, authoritative, efficient and impartial in both its product and its dealings with others. It is judged that the organization best suited to this role is IMO itself, although the use of IMB's Piracy Reporting Centre in Kuala Lumpur, Malaysia, as a satellite for dissemination of information should also be considered.

11   The detailed work of assessment should be carried out by the security forces of the coastal State concerned who will probably have access to further information to complete the picture and background of the attacks and those persons responsible.

12   It is important that, once the collection and collation stages have been completed, the product be distributed to all agencies that need to know. These agencies include the Governments of coastal States for onward passing, the Governments of flag States for passing through maritime Administrations to shipowners and to other interested Government departments.

13   To encourage masters to report all incidents of piracy and armed robbery against ships, coastal States/port States should make every endeavour to ensure that these masters and their ships will not be unduly delayed and that the ship will not be burdened with additional costs related to such reporting.

14   On investigation into reported incidents and prosecution of pirates and armed robbers when caught:

     .1   it should be firmly established which entity in each country has responsibility and legal authority for carrying out post-attack investigations, since confusion during the hours after an incident may result in missed investigative opportunities and loss or deterioration of evidence;

     .2   the appointed investigation agency should have personnel trained in standard investigative techniques and who are familiar with the legal requirements of the courts of their countries, as it is widely assumed that prosecution, conviction and confiscation of assets of offenders are the most effective means of discouraging would-be offenders;

     .3   as offenders may be involved in other kinds of offences, piracy and armed robbery against ships should not be viewed in isolation and useful information should therefore, be sought in existing criminal records; and

     .4   systems should be in place to ensure that potentially useful information is disseminated to all appropriate parties, including investigators.

15   IMO regularly sends to coastal States reports of armed robbery said to have been committed in their territorial waters and requesting for information on the result of any investigations they have conducted. Coastal States are requested to respond to these inquiries even when they are unable to conduct an inquiry either because the incident was not reported or was reported too late for an investigation to be conducted. Any such responses should continue to be circulated to the sessions of the Committee.

Jurisdiction and intervention

Criminal jurisdiction

16   A person apprehended at sea outside the territorial sea of any State for committing acts of piracy or armed robbery against ships, should be prosecuted under the laws of the investigating State by mutual agreement with other substantially interested States.

     Substantially interested State means a State:

     .1   which is the flag State of a ship that is the subject of an investigation; or

     .2   in whose territorial sea an incident has occurred; or

     .3   where an incident caused, or threatened, serious harm to the environment of that State, or within those areas over which the State is entitled to exercise jurisdiction as recognized under international law; or

.4   where the consequences of an incident caused, or threatened, serious harm to that State or to artificial islands, installations or structures over which it is entitled to exercise jurisdiction; or

.5   where, as a result of an incident, nationals of that State lost their lives or received serious injuries; or

.6   that has at its disposal important information that may be of use to the investigation; or

.7   that, for some other reason, establishes an interest that is considered significant by the lead investigating State;

.8   that was requested by another State to assist in the repression of violence against crews, passengers, ships and cargoes or the collection of evidence; or

.9   that intervened under UNCLOS article 100, exercised its right of visit, under UNCLOS article 110, or effected the seizure of a pirate/armed robber, ship or aircraft under UNCLOS article 105 or in port or on land.

17   States are recommended to take such measures as may be necessary to establish their jurisdiction over the offences of piracy and armed robbery at sea, including adjustment of their legislation, if necessary, to enable those States to apprehend and prosecute persons committing such offences.

18   For visits to ports in certain countries, ships need to carry amounts of money in cash to cover disbursements and other requirements. Cash on board a ship acts as a magnet for attackers. Where the carriage of large sums of cash is necessary because of exchange control restrictions in some States, these States are urged to take a more flexible approach.

19   Flag States should encourage all ships operating in waters where attacks occur to have a ship security plan. The ship security plan should be prepared having regard to the risks that may be faced, the crew members available, their capability and training, the ability to establish secure areas on board ship and the surveillance and detection equipment that has been provided.

20   If at all possible, ships should be routed away from areas where attacks are known to have taken place and, in particular, seek to avoid bottle-necks. If ships are approaching ports where attacks have taken place on ships at anchor, rather than on ships underway, and it is known that the ship will have to anchor off port for some time, consideration should be given to delaying anchoring by slow steaming or longer routeing to remain well off shore thereby reducing the period during which the ship will be at risk. Such action should not affect the ship's berthing priority. Charterparty agreements should recognize that ships may need to deviate away from areas where attacks occur and that ships may need to delay arrival at such ports, either when no berth is available for the ship, or offshore loading or unloading will be delayed for a protracted period.

21   **Coastal States situated in areas affected by piracy and armed robbery**

.1   in order to be able to respond, as quickly as possible, to any report from ships on piracy and armed robbery attacks, every piracy or armed robbery threat area should be adequately covered by Coast Earth Stations which are continuously operational, and which preferably are situated in the littoral State responsible for the area or in neighbouring States;

.2   neighbouring countries having common borders in areas which can be characterized as piracy and armed robbery threat areas, should establish co-operation agreements with respect to preventing and suppressing piracy and armed robbery. Such agreements should include the co-ordination of patrol activities in such areas. An example of such an agreement is attached as appendix 5 to this circular;

.3   on further development of regional co-operation, a regional agreement to facilitate co-ordinated response at the tactical as well as the operational level should be concluded between the countries concerned:

.3.1   such an agreement should specify how information would be disseminated; establish joint command and control procedures (a regional incident command system); ensure efficient communications; set policies for joint operations and entry and pursuit; establish the links between entities involved in all maritime security matters; establish joint specialized training of and the exchange of views between investigators; and establish joint exercises between tactical and operational entities; and

.3.2   that existing agreements, bilateral or regional, be reviewed, if necessary, to allow for the extension of entry and pursuit into the territorial sea of the State(s) with which the agreement has been made and practical operational procedures which will ensure the granting of permission to extend pursuit into another jurisdiction being received by the pursuing vessel at very short notice;

.4   every country is recommended to ensure that each national RCC, which may be contacted by RCCs from other countries, is capable at all times of communicating in English. Thus, at least one person with a satisfactory knowledge of the English language - both written and spoken - should always be on duty;

.5   in order to minimize co-ordination problems and possible delays in cases when distress/safety messages related to a specific area are received by Coast Earth Stations and RCCs in other countries, it is recommended to arrange common meetings/seminars for key personnel from both areas for the exchange of views and to establish suitable procedures and actions in different types of situations. Consideration should also be given to arranging common exercises to verify that procedures and actions are effective;

.6   if an attack is reported in an area covered by NAVTEX transmissions, a piracy/armed robbery attack warning with category "Important" or "Vital", as appropriate, should be transmitted whenever such warnings can be transmitted sufficiently early to enable ships to take precautions appropriate to preventing attacks. If an attack is reported in an area which is not covered by NAVTEX transmissions, a piracy/armed robbery attack warning should be transmitted as an EGC SafetyNET message through the INMARSAT system. In this respect, relevant authorities are recommended to make arrangements with one or more Coast Earth Station(s) covering relevant areas, so as to be registered as "information providers" (Ref. to MSC/Circ.805); and

.7 those countries that have established, or which plan to establish, radar surveillance and/or VHF DF (direction finding) systems, are recommended to investigate the potential suitability of such facilities for anti-piracy/armed robbery purposes. If such facilities are judged to be suitable for such purposes, the facilities and procedures necessary for their rapid and efficient use should be established.

22 It is important that any response to an incident is well planned and executed, and that those involved should be as familiar as possible with a ship environment. Therefore those responsible for responding to acts of piracy or armed robbery of ships, whether at sea or in port, should be trained in the general layout and features of the types of ship most likely to be encountered. Shipowners should be encouraged to co-operate with the security forces by providing access to their ships for the necessary familiarization.

23 The coastal States should consider the use of suitably equipped helicopters and other suitable means in countering acts of piracy and armed robbery. Security forces should consider the use of modern night vision equipment and other applicable modern technology.

24 A local rule of the road amendment allowing ships under attack to flash or occult their "not under command" lights should be authorized in areas where pirate/armed robbery attacks are more common.

25 The States with adjacent coastal waters affected by pirates and armed robbers should develop or maintain co-ordinated patrols by both ships and aircraft.

26 Security forces and Governments should maintain close liaison with their counterparts in the neighbouring States to facilitate the apprehension and prosecution of criminals involved in such unlawful acts. Some countries have already a well established co-ordination which is also used for preventing and suppressing piracy and armed robbery.

27 RCC personnel should be instructed on the most efficient means of communicating reports on piracy and armed robbery, which they receive. Depending on the circumstances, this may require forwarding the reports to another RCC or coast radio station, notifying Security forces or patrol craft in the area and taking steps to have a broadcast warning issued or other suitable action taken.

APPENDIX 1

STATISTICS, FLOW DIAGRAMS AND OTHER RELEVANT INFORMATION

Flow diagram for attacks in coastal waters
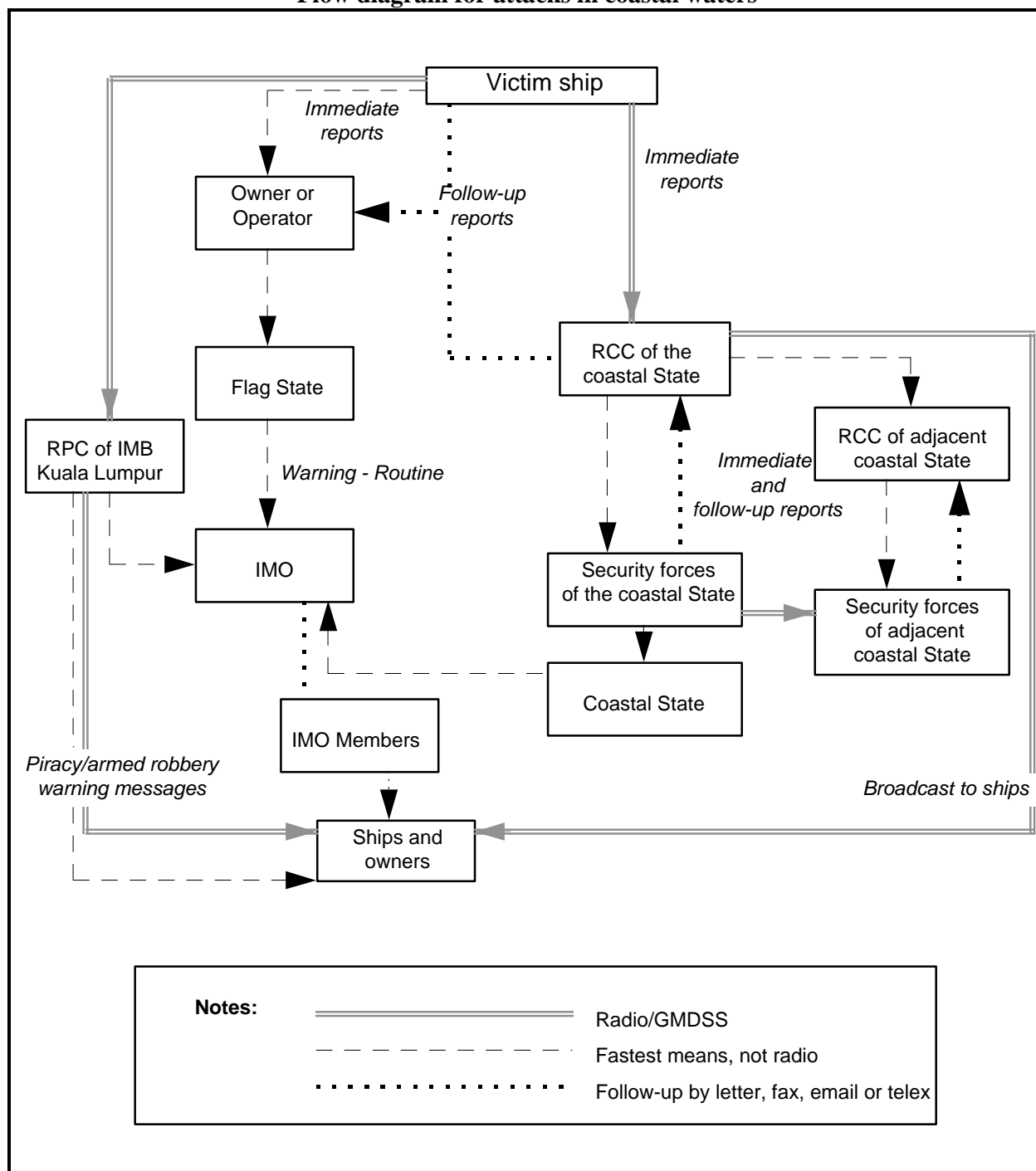
Status of ships during ACTUAL attacks, January to June 2004

LOCATIONS		BERTHED	ANCHORED	STEAMING
S E ASIA	Indonesia	7	18	14
	Malacca Straits		1	7
	Malaysia	1		3
	Myanmar			1
	Philippines			2
	Thailand		2	
	Singapore Straits		2	4
FAR EAST	China /Hong Kong		1	1
	South China Sea			5
	Vietnam		1	2
INDIAN SUB CONTINENT	Bangladesh		3	5
	India		3	3
AMERICAS	Brazil	1	2	
	Colombia		1	
	Dominican Republic	1		
	Ecuador		1	
	Haiti		1	
	Jamaica	1	1	
	Pacific Ocean			1
	Peru		1	
	Trinidad and Tobago			1
	Venezuela	2	2	1
AFRICA	Cameroon	2		
	Gulf of Aden / Red Sea			2
	Ghana		2	
	Guinea	1		
	Ivory Coast	1	1	
	Kenya		1	
	Madagascar		1	
	Mauritania		2	
	Nigeria	2	4	4
	Senegal		2	1
	Sierra Leone		1	
REST OF WORLD	-			
	Sub Total	19	54	57
	Total for six months		130	

Status of ships during ATTEMPTED attacks, January to June 2004

	LOCATIONS	BERTHED	ANCHORED	STEAMING
S E ASIA	Indonesia		1	8
	Malacca Straits			12
	Malaysia	1		1
	Philippines			1
	Thailand			1
	Singapore Straits			1
FAR EAST	South China Sea			2
INDIAN SUB CONTINENT	India		2	
	Bangladesh			1
AMERICAS	Colombia		1	1
	Haiti		1	
	Honduras		1	
	Peru		1	
AFRICA	Ghana		3	
	Ivory Coast	1		
	Liberia	2		
	Nigeria		1	2
	Red Sea / Gulf of Aden			2
	Sierra Leone		1	
	Somalia/Djibouti		1	
REST OF WORLD	Arabian Sea			2
	Sub Total	4	15	33
Total for six months			52	

Ports and anchorages more prone to attacks: No of incidents Jan –Jun, 2002- 04

Location	Country	Jan – June 2002	Jan- June 2003	Jan – June 2004
Jakarta-Tg. Priok	Indonesia	6	3	9
Baliknapan	Indonesia	9	2	6
Lagos	Nigeria	7	9	
Chennai	India	4	5	5
Tema	Ghana			5
Dumai	Indonesia		3	
Chittagong	Bangladesh	8	17	3
Dakar	Senegal	1	5	
Ahidian	Ivory Coast	3	2	3
Belawan	Indonesia	5	1	3
Warri	Nigeria			3
Sandakan	Malaysia	3	1	2
Douala	Cameroon	4		2
Belem	Brazil			2
Freetown	Sierra Leone			2
Gunta	Venezuela			2
Mamonal	Colombia			2
Monrovia	Liberia			2
Nouadhibou	Mauritania			2
Port au Prince	Haiti			2
Samarinda	Indonesia		4	1
Bunaventura	Colombia		3	
Pulau Laut	Indonesia		3	1
Guayaquil	Ecuador	4	1	1
Cochin	India		6	
Rio Haina	Dominican Republic		5	
Manila	Philippines		4	
Dar Es Salaam	Tanzania	2	3	
Haipong	Vietnam		3	
Kingston	Jamaica		3	
Georgetown	Guyana	4	2	
Mongla	Bangladesh	3	2	
Vung Tau	Vietnam	5	2	
Bontang	Indonesia	4		
Kakinada	India	3		
Sub Total		78	89	71
Total attacks all types		171	234	182

ACTUAL and ATTEMPTED attacks by locations, January to June 2004

LOCATIONS		ACTUAL ATTACKS				
		Boarded	Hijacked	Missing	Fired Upon	
S E ASIA	Indonesia	37	2			
	Malaysia		1			
	Malacca straits	5	3		7	5
	Myanmar	1				
	Philippines	2				1
	Singapore Straits	6				1
	Thailand	2				
FARFAST	China/Hong	2				
	South China Sea	5				2
	Vietnam	2	1			
INDIAN SUB	Bangladesh	7	1			1
CONTINENT	India	6				2
AMERICAS	Brazil	3				
	Colombia	1				2
	Dominican Republic	1				
	Ecuador	1				
	Haiti	1				1
	Honduras					1
	Jamaica	2				
	Pacific Ocean	1				
	Peru	1				1
	Trinidad & Tobago	1				
	Venezuela	5				
AFRICA	Cameroon	2				
	Ghana	2				3
	Guinea	1				
	Ivory Coast	2				1
	Kenya	1				
	Liberia					2
	Mauritania	2				1
	Madagascar	1				
	Nigeria	10			1	2
	Red Sea / Gulf of Aden	2				2
	Senegal	3				
	Sierra Leone	1				1
	Somalia/Djibouti				1	
Rest of the World	Arabian Sea					2
	Sub total	122	8	-	9	43
	Total for six months			182		

Locations of ACTUAL and ATTEMPTED attacks, January to June, 1992-2004

Locations	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
S E ASIA Cambodia			1	1	1	1							
Indonesia	46	2	9	20	22	24	21	36	56	44	44	64	50
Malacca Straits	7	4	3		3		1		14	14	0	15	20
Malaysia	1		2	2	4	1	4	7	7	13		5	5
Myanmar (Burma)					1	1		1	1	1			1
Philippines	3		3	16	23	12	13	2	1	4	3	8	3
Singapore Straits			1	1	1			13		2	3		7
Thailand				1	10	3	2	4	4	4	2		3
FAR EAST China/ Hong Kong/Macau		2	2	10	6	2	1	2	2			1	2
East China Sea		8	5		1				1		2	1	
Hong Kong/Luzon/Hainan(HLH) Area		18	7	7	3	1							
Papua New Guinea						1	1			1			
Solomon Islands											1		
South China Sea	2	30	4	2	1		1	2	2	2			7
Taiwan				2							1		
Vietnam			1	3		2		2	2	3	5	6	3
INDIAN SUB CONTINENT Bangladesh			1	1	2	2	6	2	18	15	11	23	9
India				1	3	8	9		14	13	12	18	8
Sri Lanka		1	1		5	4		2	2		1	2	
AMERICAS Brazil		1	3	7	9	10	6	5	5	1	2	3	3
Caribbean Seas			1									1	
Colombia		1			2		4				2	5	3
Cuba												3	
Dominican Republic						2	1		2	3		5	1
Ecuador					2	2	6	2	5	4	6	1	1
Guyana					1						6	2	
Haiti												1	2
Honduras													1
Jamaica					1	2		1			1	4	2
Martinique												1	
Mexico								1					
Panama				1							2		
Pacific Ocean													1
Peru					2	1		2	1		1	5	2
Salvador					1								
Uruguay					1								
Trinidad & Tobago										1			1
USA							1		1		1	1	
Venezuela						1	1	3	1			1	5
AFRICA Algeria				1			1						
Angola		2				1		1	3			2	
Cameroon						2		1	1	2	4	1	2
Congo Republic									1	1			
Egypt			1				2		1	2			
Gabon							2			1	3		
Ghana						1		1		3	2	2	5
Guinea					1	2	1	3		1	2	2	1
Guinea Bissau											2		
Ivory Coast					2	2		3	2	2	3	2	3
Kenya							6		1		1		1
Liberia												1	2
Madagascar						1				1	2		1
Mauritania													2
Mozambique									1			1	
Morocco								1	1	1			
Nigeria		2			1	5	1	7	5	6	8	18	13
Senegal			1			5	1	1		1	1	5	
Sierra Leone											1		2
Somalia/Djibouti			1	13	1	4	6	7	4	4	4	3	1
Tanzania		2	1	1	1	2	2	2	1	3	2	4	
Togo											1	1	
Red Sea / Gulf Of Aden										7	9	14	4
Yemen					1	3					3		
Zaire								1					
REST OF WORLD Albania						2							
Arabian Sea													2
Bulgaria											1	1	
Denmark				1									
France / Netherlands						1	1						
Georgia						1							
Greece/Italy						1		1					
Iran				4						1		2	
Iraq										1			
Portugal						1							
Oman											1		
Russia				1		1							
Turkey				1	1	2							
Locations not available	20	3							1	1			
Sub total for six months	79	76	48	97	113	117	101	115	161	165	171	234	182
Total at year end	106	103	90	188	224	247	202	300	469	335	370	445	

Table 3. Southeast Asia Piracy Attacks for First Half of 2003 and 2004

	2003	2004
Cambodia	0	0
Indonesia	64	50
Malacca Strait	15	20
Malaysia	5	5
Myanmar	0	1
Philippines	9	3
Singapore Strait	0	7
Thailand	0	3
South China Sea	0	7
Vietnam	0	3
Total	93	99

TABLES

Table 1. Southeast Asia Reported Piracy Attacks by Location 1991-2003

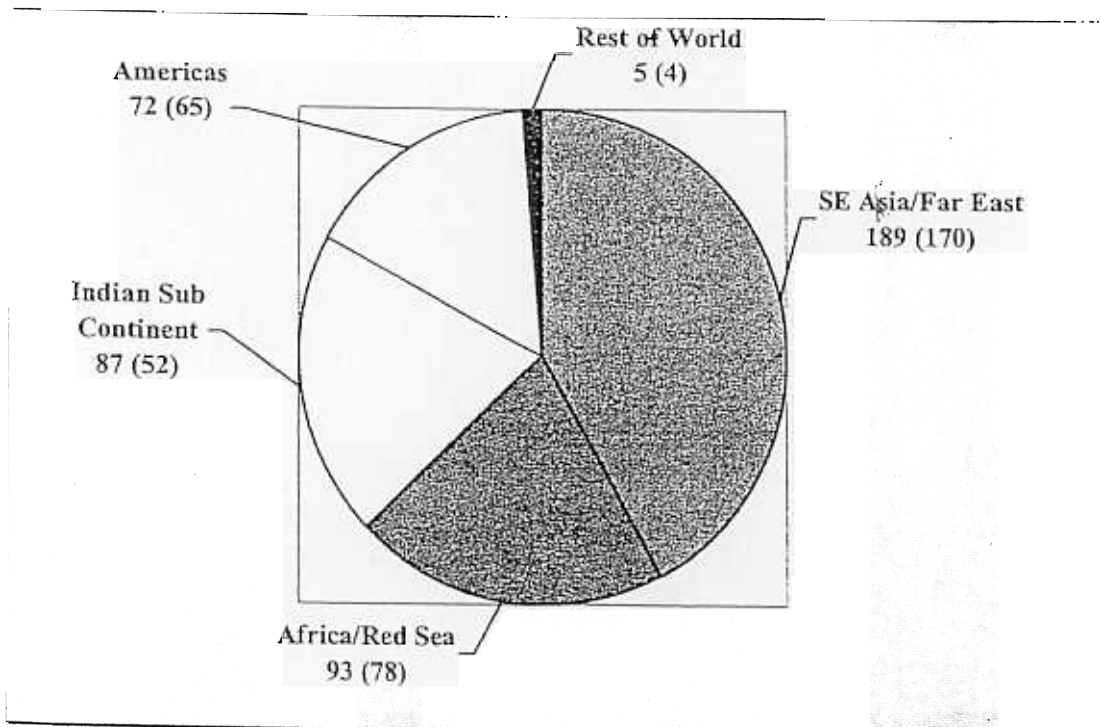|	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003
Cambodia	0	0	1	1	1	1	1	0	-	-	-	-	
Indonesia	55	49	10	22	33	57	47	60					
Malacca Strait	32	7	5	3	2	3	0	1					
Malaysia	1	2	0	4	5	5	4	10	18	21	19	14	5
Myanmar	0	0	0	0	0	1	2	0	1	5	3	0	0·
Philippines	0	5	0	5	24	39	16	15	6	9	8	10	12
Singapore Strait	0	0	0	3	2	2	5	1	14	5	7	5	2
Thailand	0	0	0	0	4	16	17	2	5	8	8	5	2
South China Sea	14	6	31	6	3	2	6	5	3	9	4	0	2
Vietnam	0	0	0	2	4	0	4	0	2	6	8	12	15
Total	102	69	47	46	78	126	102	94	166	257	165	165	187

Source: 1991 data from Jayant Abhyankar, "Piracy as a Growing Menace"; 1992-2003 data from ICC-International Maritime Bureau, <u>Piracy and Armed Robbery Against Ships Annual Report 2003</u>, p. 5.

Table 2. Worldwide Reported Piracy Attacks by Region 1991-2003

	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003
Southeast Asia*	102	69	47	46	78	126	102	94	166	257	165	165	187
Far East	0	1	38	24	40	15	9	5	1	5	5	5	2
Indian-Subcontinent	0	5	3	3	16	24	37	22	45	95	53	52	87
Africa	0	0	7	6	20	25	46	41	55	68	86	78	93
Americas	0	0	6	11	21	32	37	35	28	39	21	65	72
Rest of World	0	0	0	0	12	6	17	4	5	7	4	5	4
Location Unavailable	5	31	2	0	1	0	0	1	0	0	1	0	0
Total	107	106	103	90	188	228	248	202	300	469	335	370	445
Southeast as % of total	95%	65%	46%	51%	41%	55%	41%	47%	55%	55%	49%	45%	42%

Source: 1991 data from Jayant Abhyankar, "Piracy as a Growing Menace"; 1992-2003 data from ICC-International Maritime Bureau, <u>Piracy and Armed Robbery Against Ships Annual Report 2003</u>, p. 5. *In the IMB reports Vietnam and South China Sea incidents are included in the Far East rather than Southeast Asia data; however, in this table the statistics have been readjusted to include those attacks in Southeast Asia.

Chart A: The following 9 locations shared three quarter of the total reported
Incidents, i.e. 331 from a total of 445 reported attacks in 2003
Numbers in (brackets) are for 2002

Vietman
15 (12)

Venezuela
13 (8)

Philippines
12 (10)

Gulf of Aden /
Red Sea
18 (11)

Indonesia
121 (103)

Nigeria
39 (14)

India
27 (18)

Malacca Straits
28 (16)

Bangladesh
58 (32)
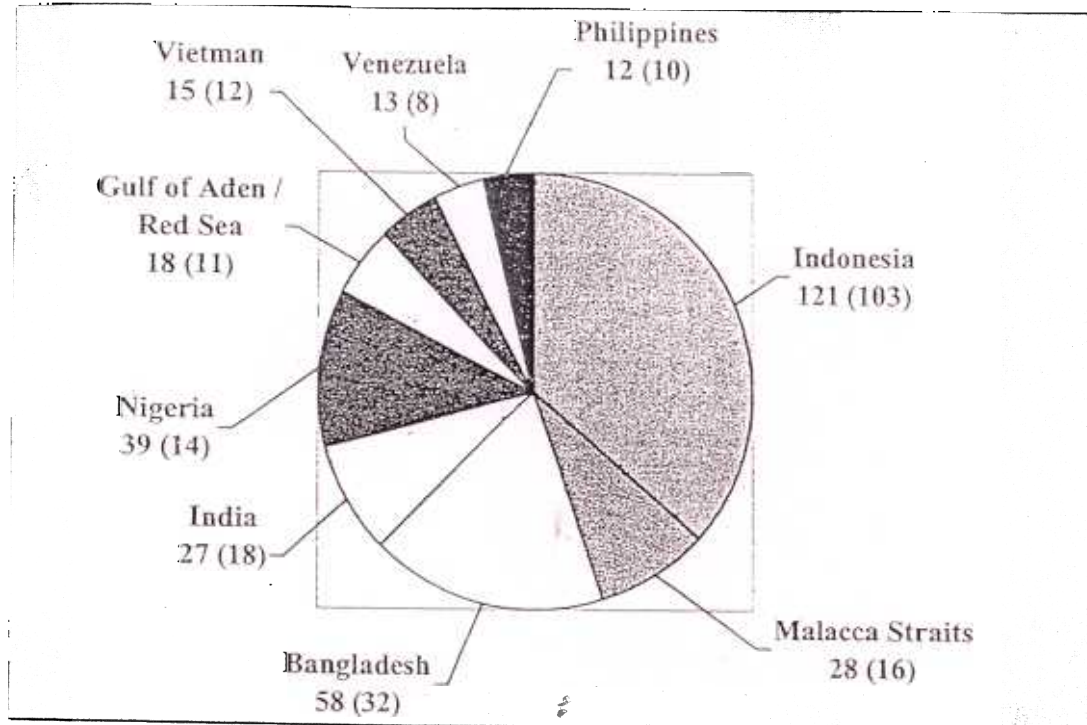
Chart B: Regional Breakdown of total reported incidents in 2003
Numbers in (brackets) are for 2002

Americas
72 (65)

Rest of World
5 (4)

SE Asia/Far East
189 (170)

Indian Sub
Continent
87 (52)

Africa/Red Sea
93 (78)

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MSC/Circ.623/Rev.3
29 May 2002

PIRACY AND ARMED ROBBERY AGAINST SHIPS

Guidance to shipowners and ship operators, shipmasters and crews on preventing and suppressing acts of piracy and armed robbery against ships

1   The Maritime Safety Committee, at its seventy-fifth session (15 to 24 May 2002), approved a revised MSC/Circ.623/Rev.2 (Guidance to shipowners and ship operators, shipmasters and crews for preventing and suppressing acts of piracy and armed robbery against ships) as given at annex.

2   The revision was carried out on the basis of the outcome of COMSAR 6 to make RCCs and others concerned aware of the dangers in alerting pirates/terrorists that a distress alert or other communication has been transmitted by the affected ship following a piracy/terrorist alert.

3   Member Governments and organizations in consultative status with IMO are recommended to bring this circular to the attention of shipowners, ship operators, shipping companies, shipmasters and crews and all other parties concerned.

4   This circular revokes MSC/Circ.623/Rev.2.

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ANNEX

GUIDANCE TO SHIPOWNERS AND SHIP OPERATORS, SHIPMASTERS AND CREWS ON PREVENTING AND SUPPRESSING ACTS OF PIRACY* AND ARMED ROBBERY AGAINST SHIPS

Introduction

1   This circular aims at bringing to the attention of shipowners, masters and crews the precautions to be taken to reduce the risks of piracy on the high seas and armed robbery against ships at anchor, off ports or when underway through a coastal State's territorial waters. It outlines steps that should be taken to reduce the risk of such attacks, possible responses to them and the vital need to report attacks, both successful and unsuccessful, to the authorities of the relevant coastal State and to the ships' own maritime Administration. Such reports are to be made as soon as possible, to enable necessary action to be taken.

2   These recommendations have been culled from a number of sources. Where conflicting advice has been apparent, the reason for choosing the recommended course has been stated.

The pirates/robbers objective

3   In addition to hijacking of ships, and the theft of cargo, the main targets of the South East Asian attacker appear to be cash in the ship's safe, crew possessions and any other portable ship's equipment, even including coils of rope. In South America some piracy and armed robbery attacks are drug related. When there has been evidence of tampering with containers, it has been suggested that the raiders may initially have gained access when the ship was berthed in port and then gone over the side, with what they could carry. Thorough checking of ships' compartments and securing before leaving ports is therefore recommended.

Reducing the temptation for piracy and armed robbery

Cash in the ship's safe

4   The belief that large sums of cash are carried in the master's safe attracts attackers. On several occasions this belief has been justified and substantial sums have been stolen. While carrying cash may sometimes be necessary to meet operational needs and crew requirements and to overcome exchange

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* The following definition of piracy is 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)."

control restrictions in some States, it acts as a magnet for attackers and they will intimidate the master or crew members until the locations have been revealed. Shipowners should consider ways of eliminating the need to carry large sums of cash on board ship. When this need arises because of exchange control restrictions imposed by States, the matter should be referred to the ship's maritime Administration to consider if representations should be made to encourage a more flexible approach as part of the international response to eliminate attacks by pirates and armed robbers.

Discretion by masters and members of the crew

5   Masters should bear in mind the possibility that attackers are monitoring ship-to-shore communications and using intercepted information to select their targets. Caution should, therefore, be exercised when transmitting information on cargo or valuables on board by radio in areas where attacks occur.

6   Members of the crew going ashore in ports in affected areas should be advised not to discuss the voyage or cargo particulars with persons unconnected with the ship's business.

Smaller crews

7   The smaller crew numbers now found on board ships also favour the attacker. A small crew engaged in ensuring the safe navigation of their ship through congested or confined waters will have the additional onerous task of maintaining high levels of security surveillance for prolonged periods. Shipowners will wish to consider enhancing security watches if their ship is in waters or at anchor off ports, where attacks occur. Shipowners will wish to consider providing appropriate surveillance and detection equipment to aid their crews and protect their ships.

Recommended practices

8   The recommended practices outlined below are based on reports of incidents, advice published by commercial organizations and measures developed to enhance ship security. The extent to which the recommendations are followed or applied are matters solely for the owners or master of ships operating in areas where attacks occur. The shipping industry would also benefit from consulting other existing recommendations*.

9   The recommended actions are defined as phases related to any voyage in a piracy and armed robbery threat area. The phases define the main stages in all situations of non-piracy/armed robbery, attempted piracy/armed robbery and confirmed piracy/armed robbery. Depending on the development of any one situation, they may or may not materialize.

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*   For example, United Kingdom Marine Guidance Note 75, BIMCO publication "The Ship Master's Security Manual" (July 1998), ICS/ISF Pirates and Armed Robbers - A Master's Guide (Third Edition 1999), IMB Special Report on Piracy and Armed Robbery (March 1998)

The pre-piracy/armed robbery phase - Ship security plan

10   All ships expected to operate in waters where attacks occur should have a ship security plan** which pertains to piracy and armed robbery against ships. The ship security plan should be prepared having regard to the risks that may be faced, the crew members available, their capability and training, the ability to establish secure areas on board ship and the surveillance and detection equipment that has been provided. The plan should, *inter alia*, cover:

.1   the need for enhanced surveillance and the use of lighting, surveillance and detection equipment;

.2   crew responses, if a potential attack is detected or an attack is underway;

.3   the radio alarm procedures to be followed; and

.4   the reports to be made after an attack or an **attempted attack**.

Ship security plans should ensure that masters and crews are made fully aware of the risks involved during attacks by pirates or armed robbers. In particular, they should address the dangers that may arise if a crew adopts an aggressive response to an attack. Early detection of a possible attack is the **most effective deterrent**. Aggressive responses, once an attack is underway and, in particular, once the attackers have boarded the ship, could significantly increase the risk to the ship and those on board.

11   In accordance with the ship security plan, all doors allowing access to the bridge, engine room, steering gear compartments, officers' cabins and crew accommodation should be secured and controlled in affected areas and should be regularly inspected. The intention should be to establish secure areas which attackers will find difficult to penetrate.

12   It is important that any response to an incident is well planned and executed, and those involved should be as familiar as possible with a ship environment. Therefore those responsible within the security forces for responding to acts of piracy and armed robbery against ships, whether at sea or in port, should be trained in the general layout and features of the types of ships most likely to be encountered and shipowners should co-operate with the security forces in providing access to their ships to allow the necessary on board familiarization.

Routing and delaying anchoring

13   If at all possible, ships should be routed away from areas where attacks are known to have taken place and, in particular, seek to avoid bottle-necks. If ships are approaching ports where attacks have taken place on ships at anchor, rather than ships underway, and it is known that the ship will have to anchor off port for some time, consideration should be given to delaying anchoring by slow steaming or longer routing to remain well off shore thereby reducing the period during which the ship will be at risk. Contact with port authorities should ensure that berthing priorities are not affected. Charter party agreements should

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**   Possible guidance can be found in MSC/Circ.443

recognize that ships may need to delay arrival at ports where attacks occur either when no berth is available for the ship or offshore loading or unloading will be delayed for a protracted period.

Practice the implementation of the ship security plan

14   Prior to entering an area, where attacks have occurred, the ship's crew should have practised and perfected the procedures set down in the ship security plan. Alarm signals and procedures should have been thoroughly practised. If instructions are to be given over the ship's address systems or personal radios, they must be clearly understood by those who may not have fully mastered the language in which the instructions will be given.

15   It cannot be emphasized enough that all possible access points to the ship and any key and secure areas on it must be secured or controlled in port, at anchor and when underway in affected areas. Crews should be trained in the use of any additional surveillance or detection equipment installed on the ship. Planning and training must be on the basis that an attack will take place and not in the belief that with some luck it will not happen. Indications to attackers that the ship has an alert and trained crew implementing a ship security plan will help to deter them from attacking the ship.

Precautions at anchor or in port

16   In areas where attacks occur it is important to limit, record and control those who are allowed access to a ship when in port or at anchor. Photographing those who board the ship can be a useful deterrent or assist the identification of attackers who may have had access to the ship prior to their attack. Film need only be developed in the event of a subsequent attack. Given that attackers may use knowledge of cargo manifests to select their targets, every effort should be made to limit the circulation of documents which give information on the cargoes on board or their location on the ship.

17   Prior to leaving port the ship should be thoroughly searched and all doors or access points secured or controlled. This is particularly important in the case of the bridge, engine room, steering space and other vulnerable areas. Doors and access points should be regularly checked thereafter. The means of controlling doors or access points which would need to be used in the event of an onboard emergency will need careful consideration. Ship or crew safety should not be compromised.

18   Security guards employed in port or at anchorage on different ships should be in communication with each other and the port authorities during their watch. The responsibility for vetting such guards lies with the security personnel companies, which themselves should be vetted by the appropriate authorities.

Watchkeeping and vigilance

19   Maintaining vigilance is essential. All too often the first indication of an attack has been when the attackers appear on the bridge or in the master's cabin. Advance warning of a possible attack will give the opportunity to sound alarms, alert other ships and the coastal authorities, illuminate the suspect craft, undertake evasive manoeuvring or initiate other response procedures. Signs that the ship is aware it is being approached can deter attackers.

20   When ships are in, or approaching areas where attacks take place, bridge watches and look-outs should be augmented. Additional watches on the stern or covering radar "blind spots" should be considered. Companies should consider investing in low-light binoculars for bridge staff and look-outs. Radar should be constantly manned but it may be difficult to detect low profile fast moving craft on ship's radars. A yacht radar mounted on the stern may provide additional radar cover capable of detecting small craft approaching from astern when the ship is underway. Use of an appropriately positioned yacht radar when the ship is at anchor may also provide warning of the close approach of small craft.

21   It is particularly important to maintain a radar and visual watch for craft which may be trailing the ship when underway but which could close in quickly when mounting an attack. Small craft which appear to be matching the speed of the ship on a parallel or following course should always be treated with suspicion. When a suspect craft has been noticed, it is important that an effective all-round watch is maintained for fear the first craft is a decoy with the intention to board the ship from a second craft while attention is focused on the first.

22   Companies owning ships that frequently visit areas where attacks occur should consider the purchase and use of more sophisticated visual and electronic devices in order to augment both radar and visual watch capability against attackers' craft at night, thereby improving the prospects of obtaining an early warning of a possible attack. In particular, the provision of night vision devices, small radars to cover the blind stern arcs, closed circuit television and physical devices, such as barbed wire, may be considered. In certain circumstances non-lethal weapons may also be appropriate. Infrared detection and alerting equipment may also be utilized.

Communications procedures

23   The master should ensure that an authorized person responsible for communications is on duty at all time when the ship is in, or approaching, areas where attacks occur.

24   Prior to entering areas where attacks have occurred and where the GMDSS installation on board does not have facility for automatically updating the "ship position" data from an associated electronic navigation aid, it is strongly recommended to enter the ship's position at regular intervals into the appropriate communications equipment manually. It is recommended that owners initiate the GMDSS INMARSAT "C" alarm programme before entering affected areas for use when appropriate (MSC/Circ.805).

Radio watchkeeping and responses

25   A constant radio watch should be maintained with the appropriate shore or naval authorities when in areas where attacks have occurred. Continuous watch should also be maintained on all distress and safety frequencies, particularly VHF Channel 16 and 2,182 kHz, as well as in any other channels or frequencies which could have been determined by local authorities for certain areas. Ships should also ensure all maritime safety information broadcasts for the area monitored. As it is anticipated that INMARSAT's enhanced group calling system (EGC) will normally be used for such broadcasts using the SafetyNET service, owners should ensure a suitably configured EGC receiver is continuously available when in, or approaching areas where there is risk of attack. Owners should also consider fitting a dedicated receiver for this purpose, i.e. one that is not incorporated into a Ship Earth Station used for commercial purposes to ensure no urgent broadcasts are missed.

26   The International Maritime Organization (IMO) recommends in MSC/Circ.597, issued in August 1992, that reports concerning attacks by pirates or armed robbers should be made to the relevant Rescue Co-ordination Centre (RCC) for the area. MSC/Circ.597 also recommends that Governments should arrange for the RCCs to be able to pass reports of attacks to the appropriate security forces.

27   If suspicious movements are identified which may result in an imminent attack, the ship is advised to contact the relevant RCC or with the radio stations which could have been recommended by local authorities for certain areas. Where the master believes these movements could constitute a direct danger to navigation, consideration should be given to broadcasting an "All stations (CQ)" "danger message" as a warning to other ships in the vicinity as well as advising the appropriate RCC. A danger message should be transmitted in plain language on a VHF working frequency following an announcement on VHF Channel 70 using the "safety" priority. All such measures shall be preceded by the safety signal (Sécurité).

28   When, in his/her opinion, there is conclusive evidence that the safety of the ship is threatened, the master should immediately contact the relevant RCC or, in certain areas, with the radio stations which could have been recommended by local authorities, and if considered appropriate, authorize broadcast of an "All Stations" "Urgent Message" on VHF Channel 16, 2,182 kHz or any other radiocommunications service he/she considers appropriate or which could have been recommended by local authorities; e.g. INMARSAT, etc. All such messages shall be preceded by the appropriate Urgency signal (PAN PAN) and/or a DSC call on VHF Channel 70 and/or 2,187.5 kHz using the "all ships urgency" category. If the Urgency signal has been used and an attack does not, in fact, develop, the ship should cancel the message as soon as it knows that action is no longer necessary. This message of cancellation should likewise be addressed to "all stations"

29   Should an attack occur and, in the opinion of the master, the ship or crew are in grave and imminent danger requiring immediate assistance, he/she should immediately authorize the broadcasting of a distress message, preceded by the appropriate distress alerts (MAYDAY, DSC, etc.), using all available radiocommunications systems. To minimize delays, if using a ship earth station, ships should ensure the coast earth station associated with the RCC is used.

30   The ship may be able to send a covert piracy/terrorist alert to an RCC. However, as pirates/terrorists may be on board the ship and within audible range of the communication equipment, when the RCC sends an acknowledgement of receipt and attempts to establish communication, they could be alerted to the fact that a piracy/terrorist alert has been transmitted. This knowledge may serve to further endanger the lives of the crew on board the ship. RCCs and others should, therefore, be aware of the danger of unwillingly alerting the pirates/terrorists that a distress alert or other communication has been transmitted by the ship.

31   Masters should bear in mind that the distress signal is provided for use only in case of **imminent** danger and its use for less urgent purposes might result in insufficient attention being paid to calls from ships really in need of immediate assistance. Care and discretion must be employed in its use, to prevent its devaluation in the future. Where the transmission of the Distress signal is not fully justified, use should be made of the Urgency signal. The Urgency signal has priority over all communications other than distress.

Standard ships' message formats

32   The standard ships' message formats given in appendix 2 should be used for all piracy/armed robbery initial and follow-up alert reports.

Lighting

33   Ships should use the maximum lighting available consistent with safe navigation, having regard in particular to the provisions of Rule 20(b) of the 1972 Collision Regulations. Bow and overside lights should be left on if it can be done without endangering navigation. Ships must not keep on deck lights when underway, as it may lead other ships to assume the ship is at anchor. Wide beam floods could illuminate the area astern of the ship. Signal projector lights can be used systematically to probe for suspect craft using the radar guidance if possible. So far as is practicable crew members on duty outside the ship's secure areas when in port or at anchor should avail themselves of shadow and avoid being silhouetted by deck lights as this may make them targets for seizure by approaching attackers.

34   It has been suggested that ships should travel blacked out except for mandatory navigation lights. This may prevent attackers establishing points of reference when approaching a ship. In addition, turning on the ship's lights as attackers approach could alert them that they have been seen, dazzle them and encourage them to desist. It is difficult, however, to maintain full blackout on a merchant ship. The effectiveness of this approach will ultimately depend in part on the level of moonlight, but primarily on the vigilance of the ship's crew. While suddenly turning on the ship's light may alarm or dazzle attackers, it could also place the crew at a disadvantage at a crucial point through temporary loss of their night vision. On balance, this approach cannot be recommended.

Secure areas

35   In accordance with the ship security plan, all doors allowing access to the bridge, engine room, steering gear compartments, officers' cabins and crew accommodation should be secured and controlled at all times and should be regularly inspected. The intention should be to establish secure areas which attackers will find difficult to penetrate. Consideration should be given to the installation of special access control systems to the ship's secure areas. Ports, scuttles and windows which could provide access to such secure areas should be securely closed and should have laminated glass, if possible. Deadlights should be shut and clipped tightly. The internal doors within secure areas which give immediate access to key areas such as the bridge, radio room, engine room and master's cabin, should be strengthened and have special access control systems and automatic alarms.

36   Securing doors providing access to, and egress from, secure or key areas may give rise to concern over safety in the event of an accident. In any situation where there is a conflict between safety and security, the safety requirements should be paramount. Nevertheless, attempts should be made to incorporate appropriate safety provisions while allowing accesses and exits to be secured or controlled.

37   Owners may wish to consider providing closed-circuit television (CCTV) coverage and recording of the main access points to the ship's secure areas, the corridors approaching the entrances to key areas and the bridge.

38   To prevent seizure of individual crew members by attackers - seizure and threatening a crew member is one of the more common means of attackers gaining control over a ship - all crew members not engaged on essential outside duties should remain within a secure area during the hours of darkness. Those whose duties necessarily involve working outside such areas at night should remain in constant communication with the bridge and should have practised using alternative routes to return to a secure area in the event of an attack. Crew members who fear they may not be able to return to a secure area during an attack, should select places in advance in which they can take temporary refuge.

39   There should be designated muster areas within the ship's secure areas where the crew can muster during an attack and communicate their location and numbers to the bridge.

Alarms

40   Alarm signals, including the ship's whistle, should be sounded on the approach of attackers. Alarms and signs of response can discourage attackers. Alarm signals or announcements which provide an indication at the point at which the attacker may board, or have boarded, may help crew members in exposed locations select the most appropriate route to return to a secure area.

Use of distress flares

41   The only flares authorized for carriage on board ship are intended for use if the ship is in distress and is in need of immediate assistance. As with the unwarranted use of the Distress signal on the radio (see paragraph 24 above), use of distress flares simply to alert shipping rather than to indicate that the ship is in grave and imminent danger may reduce their effect in the situations in which they are intended to be used and responded to. Radio transmissions should be used to alert shipping of the risk of attacks rather than distress flares. Distress flares should only be used when the master considers that the attackers' actions are putting his/her ship in imminent danger.

Evasive manoeuvring and use of hoses

42   Provided that navigational safety allows, masters should consider "riding off" attackers craft by heavy wheel movements as they approach. The effect of the bow wave and wash may deter would-be attackers and make it difficult for them to attach poles or grappling irons to the ship. Manoeuvres of this kind should not be used in confined or congested waters or close inshore or by ships constrained by their draught in the confined deep water routes found, for example, in the Malacca and Singapore Straits.

43   The use of water hoses should also be considered though they may be difficult to train if evasive manoeuvring is also taking place. Water pressures of 80 lb per square inch and above have deterred and repulsed attackers. Not only does the attacker have to fight against the jet of water but the flow may swamp his/her boat and damage engines and electrical systems. Special fittings for training hoses could be considered which would also provide protection for the hose operator. A number of spare fire hoses could be rigged and tied down to be pressurized at short notice if a potential attack is detected.

44   Employing evasive manoeuvres and hoses must rest on a determination to successfully deter attackers or to delay their boarding to allow all crew members to gain the sanctuary of secure areas. Continued heavy wheel movements with attackers on board may lessen their confidence that they will be able to return safely to their craft and may persuade them to disembark quickly. However, responses of this

kind could lead to reprisals by the attackers if they seize crew members and should not be engaged in unless the master is convinced he can use them to advantage and without risk to those on board. They should not be used if the attackers have already seized crew members.

Firearms

45   The carrying and use of firearms for personal protection or protection of a ship is strongly discouraged.

46   Carriage of arms on board ship may encourage attackers to carry firearms thereby escalating an already dangerous situation, and any firearms on board may themselves become an attractive target for an attacker. The use of firearms requires special training and aptitudes and the risk of accidents with firearms carried on board ship is great. In some jurisdictions, killing a national may have unforeseen consequences even for a person who believes he has acted in self defence.

The phases of suspected or attempted piracy/armed robbery attack

Suspected piracy/armed robbery vessel detected

47   Early detection of suspected attacks must be the first line of defence. If the vigilance and surveillance has been successful, a pirate/armed robbery vessel will be detected early. This is the stage at which the security forces of the nearest littoral or coastal State must be informed through the RCC, using the ships' message format contained in appendix 2. The ship's crew should be warned and, if not already in their defensive positions, they should move to them. Evasive manoeuvres and hoses should be vigorously employed as detailed in the preparation phase.

Being certain that piracy/armed robbery will be attempted

48   If not already in touch with the security forces of the littoral coastal State, efforts should be made to establish contact. Crew preparations should be completed and, where a local rule of the road allows ships under attack to do so, a combination of sound and light signals should be made to warn other ships in the vicinity that an attack is about to take place. Vigorous manoeuvring should be continued and maximum speed should be sustained if navigation conditions permit.

Pirate/armed robbery vessel in proximity to, or in contact with, own ship

49   Vigorous use of hoses in the boarding area should be continued. It may be possible to cast off grappling hooks and poles, provided the ship's crew are not put to unnecessary danger.

Pirates/armed robbers start to board ship

50   Timing during this phase will be critical and as soon as it is appreciated that a boarding is inevitable all crew should be ordered to seek their secure positions.

Pirates/armed robbers have succeeded in entering ship

51   Early detection of potential attacks must be the first line of defence, action to prevent the attackers actually boarding the second, but there will be incidents when attackers succeed in boarding a ship. The majority of pirates and armed robbers are opportunists seeking an easy target and time may not be on their side, particularly if the crew are aware they are on board and are raising the alarm. However, the attackers may seek to compensate for the pressure of time they face by escalating their threats or the violence they employ.

When attackers are on board the actions of the master and crew should be aimed at:

.1   securing the greatest level of safety for those on board the ship;

.2   seeking to ensure that the crew remain in control of the navigation of the ship; and

.3   securing the earliest possible departure of the attackers from the ship.

52   The options available to the master and crew will depend on the extent to which the attackers have secured control of the ship, e.g. by having gained access to the bridge or engine room, or by seizing crew members who they can threaten, to force the master or crew to comply with their wishes. However, even if the crew are all safely within secure areas, the master will always have to consider the risk to the ship the attackers could cause outside those areas, e.g. by using firebombs to start fires on a tanker or chemical carrier.

53   If the master is certain that all his/her crew are within secure areas and that the attackers cannot gain access or by their actions outside the secure areas they do not place the entire ship at imminent risk, then he/she may consider undertaking evasive manoeuvres of the type referred to above to encourage the attackers to return to their craft.

54   The possibility of a sortie by a well-organized crew has, in the past, successfully persuaded attackers to leave a ship but the use of this tactic is only appropriate if it can be undertaken at no risk to the crew. For an action like this to be attempted the master must have clear knowledge of where the attackers are on the ship, that they are not carrying firearms or other potentially lethal weapons and that the number of crew involved significantly outnumbers the attackers they will face. If a sortie party can use water hoses, they stand an increased chance of success. The intention should be to encourage the attackers back to their craft. Crew members should not seek to come between the attackers and their craft nor should they seek to capture attackers as to do so may increase the resistance the attackers offer which will, in turn, increase the risk faced by members of the sortie party. Once outside the secure area, the sortie party should always stay together. Pursuit of an individual attacker by a lone crew member may be attractive but if it results in the crew member being isolated and seized by the attackers, the advantage turns to the attackers. Crew members should operate together and remain in constant communication with the bridge and should be recalled if their line of withdrawal to a secure area is threatened.

55   If the crew do apprehend an attacker, he/she should be placed in secure confinement and well cared for. Arrangements should be made to transfer him/her to the custody of officers of the security forces of a coastal State at the earliest possible opportunity. Any evidence relating to this activities should also be handed over to the authorities who take him/her into custody.

The pirates/armed robbers begin to gain control and take one or more of the ship's crew into their custody

56   If the attackers have gained control of the engine room or bridge, have seized crew members or can pose an imminent threat to the safety of a ship, the master or officer in charge should remain calm and, if possible, seek to negotiate with the attackers with the intention of maintaining the crew's control over the navigation of the ship, the safe return of any hostages they may hold and the early departure of the attackers from the ship. There will be many circumstances when compliance with the attackers' demands will be the only safe alternative and when resistance or obstruction of any kind could be both futile and dangerous.

57   In the event of attackers gaining temporary control of the ship, crew members should, if it is safe and practicable, leave Close Circuit Television (CCTV) records running.

58   As there have been occasions when entire crews have been locked up, consideration should be given to secreting equipment within areas in which the crew could be detained to facilitate their early escape.

The pirates/armed robbers have stolen property/money, etc.

59   At this stage it is essential that the pirates/armed robbers are assured that they have been given everything they demand and a strong reassurance that nothing has been secreted may persuade the pirates/armed robbers to leave.

The pirates/armed robbers start to disembark from the ship

60   If the crew are in their secure positions, it would be unwise of them to leave this security until it is confirmed that the pirates/armed robbers have left the ship.

The pirates/armed robbers have disembarked from the ship

61   A pre-arranged signal on the ship's siren will alert the crew to the "all clear".

Action after an attack and reporting incidents

62   Immediately after securing the safety of the ship and crew a post attack report (Follow-up report, as shown in Ships' message formats in appendix 2) should be made to the relevant RCC and, through them, to the security forces of the coastal State concerned. As well as information on the identity and location of the ship, any injuries to crew members or damage to the ship should be reported as should the direction in which the attackers departed together with brief details of their numbers and, if possible, a description of their craft. If the crew have apprehended an attacker, that should also be reported in this report.

63   If an attack has resulted in the death of, or serious injury to, any person on board the ship or serious damage to the ship itself, an immediate report should also be sent to the ship's maritime Administration. In any event a report of an attack is vital if follow-up action is to be taken by the ship's maritime Administration.

64   Any CCTV or other recording of the incident should be secured. If practicable, areas that have been damaged or rifled should be secured and remain untouched by crew members pending possible forensic examination by the security forces of a coastal State. Crew members who came into contact with the attackers should be asked to prepare an individual report on their experience noting, in particular, any distinguishing features which could help subsequent identification of the attackers. A full inventory, including a description of any personal possessions or equipment taken, with serial numbers when known, should also be prepared.

65   As soon as possible after the incident, a fuller report should be transmitted to the authorities of the coastal State in whose waters the attack occurred or, if on the high seas, to the authorities of the nearest coastal State. Due and serious consideration should be given to complying with any request made by the competent authorities of the coastal State to allow officers of the security forces to board the ship, take statements from crew members and undertake forensic and other investigations. Copies of any CCTV recordings, photographs, etc. should be provided if they are available.

66   Ships should take the necessary precautions, and implement the necessary procedures to ensure rapid reporting of any case of attack or attempted attack to the authorities in the relevant coastal States to enhance the possibility of security forces apprehending the attackers.

67   Any report transmitted to a coastal State should also be transmitted to the ship's maritime Administration at the earliest opportunity. A complete report of the incident, including details of any follow-up action that was taken or difficulties that may have been experienced, should eventually be submitted to the ship's maritime Administration. The report received by maritime Administrations may be used in any diplomatic approaches made by the flag State to the Government of the coastal State in which the incident occurred. This will also provide the basis for the report to IMO.

68   The format required for reports to IMO through maritime Administrations or international organizations is attached at appendix 4. Indeed, at present the lack of adequate and accurate reporting of attacks is directly affecting the ability to secure governmental and international action. Reports may also contribute to future refining and updating any advice that might be issued to ships.

69   Reports to the RCC, coastal State and the ship's maritime Administration should also be made if an attack has been unsuccessful.

70   Using RCCs, as recommended by IMO in MSC/Circ.597, will eliminate communication difficulties.

On leaving piracy/armed robbery threat areas

71   On leaving piracy/armed robbery threat areas, shipmasters should make certain that those spaces that need to be unlocked for safety reasons are unlocked, unrig hoses and revert to normal watchkeeping/lighting.

72   A summary of the piracy/armed robbery phases and how they may, or may not, develop is given in appendix 3.

APPENDIX 1

STATISTICS, FLOW DIAGRAMS AND OTHER RELEVANT INFORMATION

Flow diagram for attacks in coastal waters

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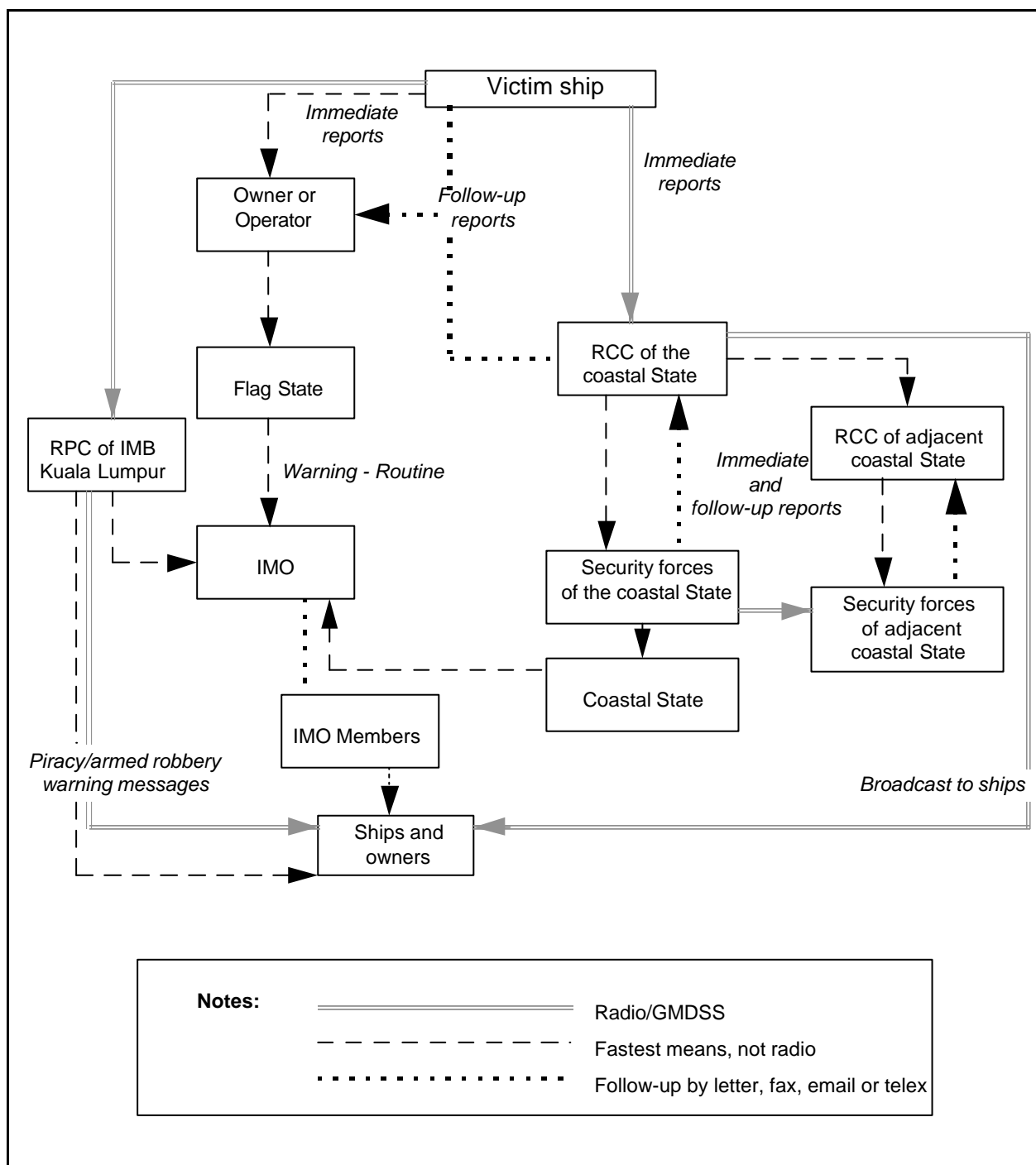
Ref. T1/13.01

MSC/Circ.984
20 December 2000

DRAFT CODE OF PRACTICE FOR THE INVESTIGATION OF THE CRIMES OF PIRACY AND ARMED ROBBERY AGAINST SHIPS

1   The Maritime Safety Committee, at its seventy-third session (MSC 73/21, paragraph 14.26), approved the proposed Code of Practice for the Investigation of the Crimes of Piracy and Armed Robbery Against Ships, for circulation pending adoption by the twenty-second session of the Assembly in November 2001.

2   Member Governments are invited to use the Code when arranging for investigations into the crimes of piracy and armed robbery against ships to be conducted under their jurisdiction.

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ANNEX

DRAFT CODE OF PRACTICE FOR THE INVESTIGATION OF THE CRIMES OF PIRACY AND ARMED ROBBERY AGAINST SHIPS

1   PURPOSE OF THIS DOCUMENT

The purpose of this document is to provide IMO member states with an *aide-mémoire* to facilitate the investigation of the crimes of piracy and armed robbery against ships.

2   DEFINITIONS

For the purpose of this Code:

2.1   **"Piracy"** means unlawful acts as defined in Article 101 of the 1982 United Nations Convention on the Law of the Sea (UNCLOS).

2.2   **"Armed robbery against ships"** means 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 a ship, within a State's jurisdiction over such offences.

2.3   **"Investigators"** means those people appointed by the relevant State(s) to intervene in an act of piracy or armed robbery against a ship, during and/or after the event.

3   PRIOR CONSIDERATIONS

Legislation

3.1   States are recommended to take such measures as may be necessary to establish their jurisdiction over the offences of piracy and armed robbery against ships, including adjustment of their legislation, if necessary, to enable those States to apprehend and prosecute persons committing such offences.

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*   The following definition of piracy is 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)."

3.2 States are encouraged to ratify, adopt and implement the practical applications of the 1982 United Nations Convention on the Law of the Sea, the 1988 Convention for the Suppression of Unlawful Acts Against the Safety of Navigation and the 1988 Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf.

Action by coastal/port States

3.3 To encourage masters to report all incidents of piracy and armed robbery against ships, coastal/port states should make every endeavour to ensure that these masters and their ships will not be unduly delayed and that the ship will not be burdened with additional costs related to such reporting.

Coastal State agreements

3.4 Coastal states are encouraged, where appropriate, to enter into bilateral or multilateral agreements to facilitate the investigation of piracy and armed robbery against ships.

4. TRAINING OF INVESTIGATORS

4.1 Training of investigators should cover the **primary purposes of an intervention/investigation:**

.1 In any cases where persons on board have been abducted or have been held hostage, the primary objective of any law enforcement operation or investigation must be their safe release. **Their rescue must take precedence over all other considerations.**

.2 Arrest of offenders.

.3 Securing of evidence, especially if an examination by experts is needed.

.4 Dissemination of information which may help prevent other offences.

.5 Recovery of property stolen.

.6 Co-operation with the authority responsible for dealing with any particular incident.

4.2 Investigators must be trained and experienced in conventional investigative techniques, and should be as familiar as possible with a ship environment. Maritime knowledge will of course be an advantage, and access to persons with knowledge on maritime procedures useful, but it is investigative skills which are vital.

4.3 Trainers may wish to emphasise that offenders could still be at the scene of crime when investigators arrive on scene.

5   INVESTIGATIVE STRATEGY

5.1   It is essential that those employed by security force agencies to investigate piracy or armed robbery against ships have demonstrated investigation skills and competencies, as well as maritime knowledge/experience. Offenders are ultimately land-based, and it is likely that it is on land they will be most vulnerable to detection. Associates may be prepared to give information against them, for example, and it is there that they will be spending the proceeds of their crime. It is also probable that offenders will be involved in other offences such as carrying of illegal immigrants, and useful intelligence may be lost if investigators are too compartmentalised in their approach.

5.2   Conventional detective methods offer the best chance to identify and apprehend pirates and perpetrators of armed robbery.

5.3   It may be appropriate to link anti-piracy measures to anti-smuggling patrols or efforts to prevent drug smuggling or unlawful drug trafficking, so minimising duplication of effort and leading to saving of resources. Wherever possible, inter-agency approach to investigation should be adopted.

Overall management/other liaison/co-operation

5.4   It is important to identify the person and/or organisation in charge of an investigation. Confusion or delay in the early stages will, at best, result in delayed investigative opportunities and loss of evidence. At worst, it may increase the danger to any crewmen held captive by the offenders, possibly resulting in avoidable loss of life or injury.

5.5   Recognition should be given to the different national interests that may be involved in each case including: the flag state of the ship; country in whose territorial waters the attack took place; country of suspected origin of the perpetrators; country of nationality of persons on board; country of ownership of cargo; and country where the crime is committed. In cases of piracy and armed robbery against ships outside territorial waters, the flag State of the ship should take lead responsibility and in other cases of armed robbery the lead should be taken by the State in whose territorial waters the attack took place. In all cases it should be recognised that other States will have legitimate interests and therefore liaison and co-operation between them is vital to a successful investigation.

5.6   It is important to involve relevant organizations (e.g. Interpol, ICC/International Maritime Bureau) at an early stage, where appropriate, to take account of the possibility that transnational organised crime may be involved.

5.7   If in the course of the investigation there is an unavoidable need to change the investigators in charge a full debriefing should take place.

6   DEALING WITH AN INITIAL REPORT

When information is received that a ship is under attack, or a recently committed major offence is reported and the ship is accessible, investigators should attend without delay. The responsibilities of those who first attend crime scenes will be the following:

Preservation of life

.1   They must secure medical treatment for all persons injured.

Prevention of the escape of offenders

.2   They must be alert to the possibility that, in some circumstances, offenders may still be in the vicinity.

Warnings to other ships

.3   Whenever practicable warnings should be issued to other ships in the vicinity which may be vulnerable to attack.

Protection of crime scenes

.4   Recovery of forensic material from a crime scene has the potential to provide evidence to identify offenders. Equally, interpretation of what happened at the scene will help investigators and determine the outcome of the investigation. It is therefore vital that crime scenes be protected until the attendance of appropriately qualified personnel to examine them. This point must be fully understood by the master, crew and shipowner of any ship involved.

.5   The initial phases of the law enforcement and emergency services' response present the greatest risk of scene contamination. Personnel co-ordinating the law-enforcement response should be aware of the risk of contamination and advise persons attending scenes, including other law enforcement officials and naval personnel, accordingly.

.6   They must ensure that the authorities in the country with lead responsibility for investigating any crime are informed of the details of the incident and given the opportunity to conduct an investigation into it.   Any evidence, details of action taken, etc should be passed to the State with the lead responsibility.

Securing evidence

.7   Focused questioning at the crime scene may lead to information which, by being rapidly passed to all appropriate authorities, could lead to the identification or arrest of offenders e.g. description of offenders, description of ship and direction last seen heading in.

.8   Law enforcement officials first attending a scene must appreciate the importance of their role in gathering and passing on as quickly as possible, relevant evidence even if the offenders have escaped. Mistakes or omissions at the outset may have serious implications for the subsequent investigation.

.9   Investigators should bear in mind that recovery of property during the investigation is important as it may become evidence in the event of any prosecution.

7   THE INVESTIGATION

Proportionality

The course of an investigation will to a large extent depend on the circumstances of the offence. In this regard the investigating agency will wish to take account of the "seriousness" of the incident. This will range from stolen property to the loss of life. Consequently, action to be pursued should be proportionate to the crime committed and consistent with the laws that were violated. The following will, however, be common to all piracy and armed robbery investigations:

Establishing and recording of all relevant facts

.1   All relevant facts must be recorded in a systematic way. Most law enforcement agencies use multi-purpose crime reporting forms, but officers dealing with offences at sea must be sure to include the additional information which may subsequently prove essential in legal proceedings in these cases e.g. weather, sea state, position, direction of travel and speed of the ship, a detailed description of the ship and so forth.

.2   Photographs and videotapes taken of and on a ship will help investigators and witnesses subsequently explain what happened.

.3   Investigators must bear in mind that laws governing offences committed at sea allow, in some circumstances, for legal proceedings in countries other than those where initial investigators may be based. Investigations must therefore be sufficiently comprehensive and detailed to explain what happened to courts other than the investigators' own, possibly several years after the offences have been committed. The *modus operandi* of investigators has to be described in the investigation report.

Recording of individual witness accounts

.4   These should be recorded in a formal manner acceptable for use in subsequent court proceedings. These accounts will form the basis of any prosecution case and untrained personnel should not be used for this important task.

.5   Witness accounts must be recorded at the earliest opportunity, as memories do fade and accounts may be influenced by contact with other witnesses and media reports.

.6   Where witnesses speak different languages to the investigators, as will happen frequently in piracy cases, their accounts must be recorded in their own languages and through use of properly qualified interpreters when this can be done within a reasonable timescale. Investigators should be aware that an account signed by a witness, or indeed the suspect, in a language foreign to that person may be valueless in court proceedings. It is important, therefore, to establish the legal requirements for the validity of evidence in each case.

.7 Experience has proved that witnesses in piracy cases, and particularly those who have been subjected to violence, are likely to be exceptionally distressed. Their experience will have been all the worse if they have been held captive for a long period and/or been in fear of death, and the situation will be exacerbated still further if they are far from home. Investigators should bear these factors in mind and deal with them sympathetically and patiently if they are to elicit all relevant facts.

.8 Witnesses should be interviewed separately from each other when this can be done within a reasonable timescale to protect the integrity of the individual accounts of the incident.

.9 Investigators should focus upon obtaining specific descriptions of the individuals involved in the piracy incident, particularly noting any distinguishing characteristics of the "leader".

.10 If more than one offender is involved, investigators should attempt to obtain particular information from the witnesses about the actions of each individual offender, rather than be satisfied with the general statements about what "the hijackers" or "the pirates" did on the ship.

Detailed forensic examination of scenes

.11 Detailed forensic examination of the crime scene, particularly in serious matters including homicides, offers investigators the best opportunities to establish crucial information and evidence which may ultimately result in the case being detected.

.12 Investigators should secure particular objects or places on the ship where the offenders may have left fingerprints or other latent prints of value.

.13 Investigators will be well advised to take advantage of the full range of specialist services available to them.

.14 Investigators should take into consideration the need not to detain ships or impede work on board the ship longer than what is strictly necessary when carrying out the forensic examination.

Search of intelligence databases

.15 Crimes must not be treated in isolation.

.16 Offenders may be responsible for similar offences not yet solved, but when the evidence from all those cases is accumulated and considered opportunities to identify offenders may emerge. Appropriate databases, including those held by the International Maritime Bureau in Kuala Lumpur, Malaysia should be searched to identify series of offences. However, usage of private databases has to be compatible with the law governing the investigation. Consideration should be given to contacting Interpol in case they have any information on the offenders.

.17   Equally, offenders may have convictions the details of which could link them to crimes under investigation.

Distribution of information and intelligence to appropriate agencies

.18   An important product of an effective investigation, even if it does not lead to any arrests, should be the generation of intelligence, and systems should be in place to ensure that potentially useful intelligence is disseminated to all appropriate parties. These might include law enforcement agencies, naval authorities, coastguards, harbour masters and others who may need it and could act on it according to their national regulations.

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Comparison of the type of attacks, January to June, 1993 – 2004

Category	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
Attempted boarding	24	11	17	18	7	15	16	42	41	39	47	43
Attempted / Fired Upon	13		7	4	18	7	6	4	5	10	13	9
Ship boarded	20	18	58	85	77	69	87	112	106	106		
Hijack		5	9	4	11	8	6	2	12	14	9	
Robbery/Theft	4	5		2	1	1		-	-	-	-	-
Detained	7	6	6		1	1		-	-	-	-	-
Missing								1	1	2	-	-
Not Stated	8	3			2				-	-	-	-
Sub total for six months	76	48	·97	113	117	101	115	161	165	171	234	182
Total at year end	103	90	188	228	247	202	300	469	365	370	445	

Types of violence to crew, January to June, 1993 -2004

Types of Violence	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
Taken hostage	6	6	145	157	118	121	343	34	120	98	193	139
Threatened	1	3	49	26	56	41	9	22	27	16	34	25
Assaulted	4			4	6	33	7	3	6	4	30	9
Injured	2	5	2	5	12	26	15	13	19	21	52	44
Killed			3	24	7	26	1		3	6	16	30
Missing								5	-	23	20	21
Tot for six months	13	14	199	216	199	247	375	77	175	168	445	268

Type of violence to crew by location, January to June 2004

LOCATIONS		TAKEN HOSTAGE	THREATENED	ASSAULTED	INJURED	KILLED	MISSING
S E ASIA	Indonesia	47	4	5	2		5
	Malacca Straits	30	1		3	4	
	Malaysia	6					
	Philippines	3				2	4
	Singapore Straits	12		1			
	Thailand		1				
FAR EAST	South China Sea	3	5	-			
	Vietnam				2	4	5
INDIAN	Bangladesh	18			30	3	5
SUB CONT	India		1		1		
AMERICAS	Brazil	1	2				
	Colombia		2				
	Ecuador	1					
	Jamaica		1				
	Pacific Ocean	2					
	Peru				1		
	Trinidad & Tobago					1	
	Venezuela		2			1	
AFRICA	Cameroon		1				
	Guinea		1				
	Ghana				1		
	Ivory Coast	1					
	Madagascar				1		
	Mauritania		1				
	Nigeria	4	2	1	5	15	2
	Red Sea / Gulf of Aden	10					
	Senegal	1	1				
REST OF WORLD	-						
	Sub total	139	25	9	44	30	21
Total for six months				268			