

Master's thesis



# Modern Maritime Piracy after the End of the Cold War – a Challenge for the Marine and Coastal Management

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*Modern Maritime Piracy after the End of the Cold War – a Challenge for the Marine and Coastal Management*

45 ECTS thesis submitted in partial fulfilment of a Master of Resource Management degree in Coastal and Marine Management at the University Centre of the Westfjords, Suðurgata 12, 400 Ísafjörður, Iceland

Degree accredited by the University of Akureyri, Faculty of Business and Science, Borgir, 600 Akureyri, Iceland

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Printing: University Centre of the Westfjords, Ísafjörður and Háskólaprent, Reykjavík, August, 2012

# Declaration

I hereby confirm that I am the sole author of this thesis and it is a product of my own academic research.

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# Abstract

This research aims to examine whether the disintegration of the Soviet Union and the end of the Cold War are the primary reasons for the rebirth of maritime piracy. This question has largely been left overlooked in contemporary academic literature. The research examines the hypothesis that after the end of the Cold War, commercial sea routes have become as dangerous as they were in the Middle Ages, due to the changes in the international sociopolitical situation. Globalization and increase of the shipping traffic, the end of the sponsorship of the client states which weakened hegemony of the state in many Third World countries, proliferation of the small arms and partly due to the lapses in surveillance and control of the oceans that the West and the East have imposed during the Cold War, as well as due geographical, social, cultural and economic factors which are not directly connected to the changed post Cold War environment – all that may be the causes of the increase of the piracy. The research examines two case studies. The first is the analysis of current situation in Somalia/Gulf of Aden. It attempts to seek out the roots and causative factors of piracy in the region and proposes management decisions on how to uproot it. The second case study analyzes the successful war on piracy in the Malacca Strait/Indonesia, which has brought to the triumph of the rule of law. It derives lessons from this successful initiative. The work also takes into account lessons of the past and analyzes piracy from the cultural angle.

There are two main conclusions made at the end of this research. The first is that the end of the Cold War is accountable for the appearance of many causative factors for contemporary maritime piracy and armed robbery. The second is that in order to succeed, the war on piracy in Somalia must be different than in Southeast Asia, and will require ground operations in order to restore law and order at sea.

# Útdráttur

Í þessari rannsókn er ætlunin að skoða hvort hrun Sovétríkjanna og lok kalda stríðsins séu megin orsök þess að sjórán hafa færost í vöxt á ný. Þessari spurningu hefur verið gefinn lítill gaumur í fræðiritum samtímans. Rannsókuð er sú tilgáta að eftir lok kalda stríðsins hafi siglingaleiðir fyrir verslun orðið jafn hættulegar og á miðöldum vegna breytinga í alþjóðastjórnámálum – hnattvæðingar og aukinnar umferðar skipa, og vegna þess að ríki hættu að fá stuðning sem dró úr yfirráðum ríkja á yfirráðasvæðum sínum í mörgum þriðjaheimslöndum, útbreiðslu handvopna og að hluta vegna hnökra í eftirliti með hafinu sem vestrið og austrið komu á í kalda stríðinu, auk landfræðilegra, félagslegra, menningarlegra og efnahagslegra þátta sem ekki tengjast með beinum hætti breyttum heimi að loknu kalda stríðinu. Rannsóknin er gerð með athugun á tveimur raundæmarannsóknum. Sú fyrri er greining á ástandinu í Sómalíu/Aden-flóa. Þar er reynt að komast að rótum og ástæðum sjórána á svæðinu og tillögur gerðar að stjórnunarákvörðunum til að uppræta þær. Í þeirri síðari er hið árangursríka stríð gegn sjóránum í Malacca-sundi/Indónesíu rannsakað, þar sem lög og réttur báru sigur úr bótum. Þar er dreginn lærdómur af þessu árangursríka framtaki. Einnig er tekið mið af því sem læra má af sögunni og sjórán rannsókuð frá menningarlegu sjónarmiði.

Tvær megin niðurstöður má draga af rannsókninni. Sú fyrri er að margir orsakabættir sjórána nú á dögum og vopnaðra rána eiga rætur til kalda stríðsins. Sú síðari er sú að til að ná árangri í stríðinu gegn sjóránum í Sómalíu þarf að beita öðrum aðferðum en beitt var í Suðaustur-Asíu, og að grípa þurfi til aðgerða á landi til að koma á lögum og reglu á hafi úti.

# **Dedications and Acknowledgements**

I would like to dedicate this work to Hashem and my best friends, Gershon Beloritsky and Netaly Arieli, who have supported me and made this work possible.

I would like to use this opportunity and thank my mother for all she has done for me throughout my life.

I would like to thank my advisor, Dong Yang, the University Centre of the West Fjords, and Peter Weiss personally.

Thanks to Yigal Markov and David Gonen who have proofread parts of the thesis.

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# Acronyms

AMMTC – ASEAN Ministerial Meeting on Transnational Crime

APEC - Asian Pacific Economic Cooperation Forum

ASEAN – Association of Southeast Asian Nations

BC – Before Christ

BMP – Best Management Practices

CIA – Central Intelligence Agency

CMF – Combined Maritime Forces

CSCAP - Council for Security Cooperation in Asia Pacific

CTF – Combined Task Force

DFID – Department for International Development

EEZ – Exclusive Economic Zone

EU – European Union

FPDA - Five Power Defense Arrangements

GDP – Gross Domestic Product

GPS – Global Positioning System

GOA – Gulf of Aden

ICC – International Chamber of Commerce

ICU – Islamic Courts Union

IMB – International Maritime Bureau

IMO – International Maritime Organization

IRTC – Internationally Recommended Transit Corridor

MALSINDO – Malaysia, Singapore, Indonesia

MSPA – Maritime Security Patrol Area

MSSP - Malacca Straits Sea Patrol

MV – Motor Vessel

NAFTA – North American Free Trade Agreement

NATO – North Atlantic Treaty Organization

OEF – One Earth Future Foundation

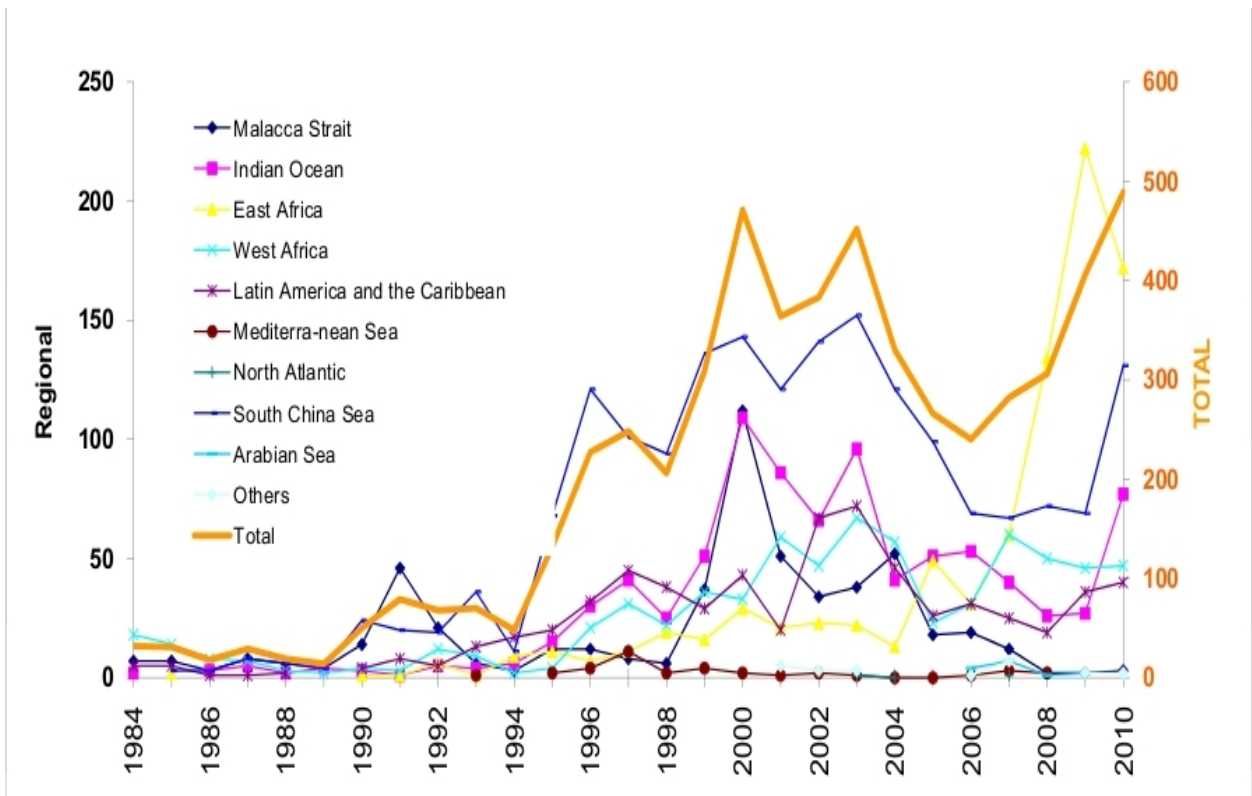
PCASP – Privately Contracted Armed Security Personnel

PCASP – Privately Contracted Armed Security Personnel  
PLF – Palestine Liberation Front  
PR – Public Relations  
ReCAAP - Regional Cooperation Agreement on Combating Piracy and Armed Robbery  
Against Ships in Asia  
RMSI - Regional Maritime Security Initiative  
RPG – Rocket Propelled Grenade  
SEAPOL – Southeast Asian Programme in Ocean Law  
SUA – Suppression of Unlawful Acts  
STRAITREP – Strait Reporting System  
TFG – Transitional Federal Government  
UN – United Nations  
UNCLOS – United Nations Convention on the Law of the Sea  
UNITAF – Unified Task Force  
UNOSOM – United Nations Operation in Somalia  
UNSCR – United Nations Security Council Resolution  
US – United States  
USA – United States of America  
USD – United States Dollar  
USSR – Union of Soviet Socialist Republics  
VPN – Virtual Private Network

# 1. Introduction

Maritime piracy is among the world's oldest professions. It was widespread during the ancient times and throughout the Middle Ages. It is described in historical literature how incredibly difficult it has been to uproot piracy (Сухачева, 2009), although this has been successfully accomplished. More recently, in the 20<sup>th</sup> century, it seemed as though piracy has finally been retired to history books. The world's maritime commons has been a safe space for trade since the end of the World War II (Palmer, 2010). However, since the early 1990's, maritime piracy has turned into a common curse for shipowners and their clients, as well as has dealt a heavy blow to international trade, much of which requires marine shipping. Not only maritime piracy has not been eliminated from the face of the earth, it has been developing and expanding exponentially during the past two decades. The pirates are no longer the bandits on wooden prosthetics, sporting black eye patches, and jazzy cockatoo's on their shoulders, but are well-trained guerrilla fighters, often with battle experience in regional armed conflicts, with sophisticated systems, such as GPS and Satellite Telephones, powerful boats and engines and modern weapons, like antitank missiles, automatic rifles and machine guns, etc. (Luft&Korin, 2004). Pirates attacks occur not only near the currently well known pirates' home bases around Somalia, as widely believed, but almost everywhere in the world, along popular trade and tourist routes.

The existing statistical data on the activity of modern maritime pirates after the End of the Cold War clearly shows reincarnation of the piracy in the waters of the world oceans. For instance, we can see this trend clearly on the graph of the International Maritime Organization, tracking piracy since 1984:



Graph 1.1 Yearly Statistics of Incidents which occurred worldwide since 1984

Source: International Maritime Organization (2011a) Reports on Acts of Piracy and Armed Robbery Against Ships, Annex 4.

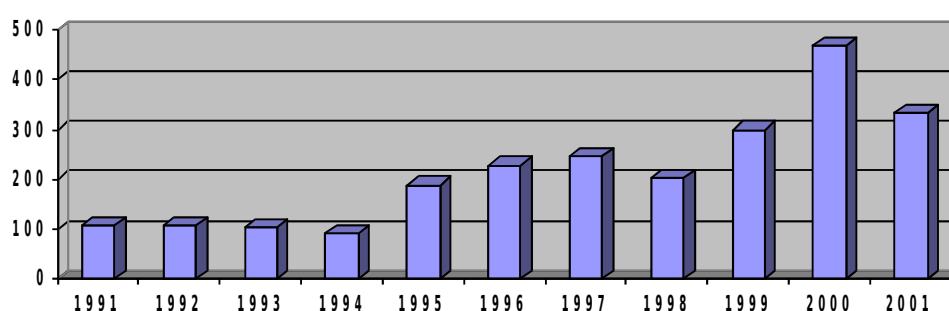
In the Report of International Maritime Bureau of the International Commerce Chamber of January 2002 by Jayant Abhyankar, covering the period after the End of the Cold War, between 1991 and 2001, it is possible to track deeper the dynamics and trends of the growing numbers of maritime piracy as well as their geographical occurrence locations:

Table 1.1 The Piracy Incidents by Location 1991 — 2001.

Locations	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001
SE ASIA											
Cambodia			1	1	1	1	1				
Indonesia	55	49	10	22	33	57	47	60	115	119	91
Malacca Straits	32	7	5	3	2	3		1	2	75	17
Malaysia	1	2		4	5	5	4	10	18	21	19
Myanmar(Burma)						1	2		1	5	3
Philippines		5		5	24	39	16	15	6	9	8
Singapore Straits				3	2	2	5	1	14	5	7
Thailand					4	16	17	2	5	8	8
FAR EAST											
China/ Hong Kong/Macau		1	6	31	9	5	2			2	
East China Sea	1	10	6		1	1				1	2
Hong Kong/Luzon/Hainan (HLH) Area			27	12	7	4	1			-	
Papua New Guinea						1	1	3			1
Solomon Islands							1		1	2	
South China Sea	14	6	31	6	3	2	6	5	3	9	4
Taiwan					2						2
Vietnam				2	4		4		2	6	8
INDIAN				2	2	4	9	9	25	55	25
SUB CONTINENT											
Bangladesh		5	1		8	11	15	12	14	35	27
India			2	1	6	9	13	1	6	3	1
Sri Lanka											
AMERICAS											
Brazil			4	7	17	16	15	10	8	8	3
Caribbean				1							
Colombia			1		1	3		4	4	1	1
Dominican Republic						1	3	4	2	4	5
Ecuador				3		3	10	10	2	13	8
Guatemala										1	
Guyana			1			2		2		1	
Haiti									1	1	
Honduras										1	
Jamaica						1	3	2	2		
Mexico									1		1
Nicaragua					1	1					
Panama					1					1	
Peru					1	2	1	1	2	4	1
Salvador						1	1				
Trinidad & Tobago											1
Uruguay						1					
USA							1	1		1	
Venezuela						1	3	1	6	3	1
AFRICA											
Algeria				1							1
Angola			3				1	1	1	3	1
Cameroon							3	5	3	2	7
Congo										1	1
Egypt				1				2	1	1	2
Equatorial Guinea										1	
Gabon					1			2	3	2	3
Ghana					1	2	2	4	2	2	5
Guinea				1	1	2	3	2	6	6	3
Guinea Bissau									1		1
Ivory Coast				1		4	4	1	5	5	9
Kenya								7		5	
Mauritania										1	
Madagascar							1				1
Morocco									1	1	1
Mozambique										2	
Nigeria			2		1	4	9	3	12	9	19
Red Sea / Gulf of Aden										13	11
Senegal						2	6	2	1		1
Sierra Leone						3	3				3
Somalia/Dibouti				1	14	4	5	9	14	9	8
South Africa										1	1
Tanzania			2	1	2	3	4	3	3	2	7
Togo										1	
Yemen						1	5			1	1
Zaire									2		
REST OF WORLD							5	1			
Albania											
Arabian Sea										2	
Australia										1	
Denmark					1		1				
France								1			
Greece						1	2			1	
Indian Ocean										1	1
Iran					8	2	3	1	3	1	1
Iraq											2
Italy					1	2		1	2		
Malta							1				
Netherlands							1				
Portugal							1				
Russia					1		1				
Turkey					1	1	2				
UAE										1	
Location Not Available	5	31	2		1			1			1
Total for the year	107	106	103	90	188	228	247	202	300	469	335

Source: 1991-2001 data from report by Jayant Abhyankar, ( 2002 ), *Piracy and Maritime Violence: A Continuing Threat to Maritime Industry*, Hong Kong: ICC – IMB, p.8

If in the period 1991-1994 the maritime piracy attacks have occurred mostly in the South East Asia coming to one hundred incidents per year, the situation have dramatically changed starting at 1995 when the amount of the maritime piracy attacks have grown to several hundreds annually and geographically spread out around the globe. However this problem has acquired a truly alarming proportions since the 1999 in the South East Asian region, around Indonesia and in the Malacca Straits ( demonstrated in the Tables 1.1 and Graph and Table 1.2 ) and then since 2005 have moved to the Gulf of Aden and the waters around Somalia which is following from the table 1.3 in the Appendix I.



*Graph 1.2 :Number of Maritime Piracy Attacks between 1991 – 2001*

*Source: 2002 data from report by Jayant Abhyankar, ( 2002 ), Piracy and Maritime Violence: A Continuing Threat to Maritime Industry, Hong Kong: ICC – IMB, p.8*

*Table 1.2 :Number of Maritime Piracy Attacks between 1991 – 2001*

Year	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001
TOTAL Maritime piracy attacks	107	106	103	90	188	228	247	202	300	469	335

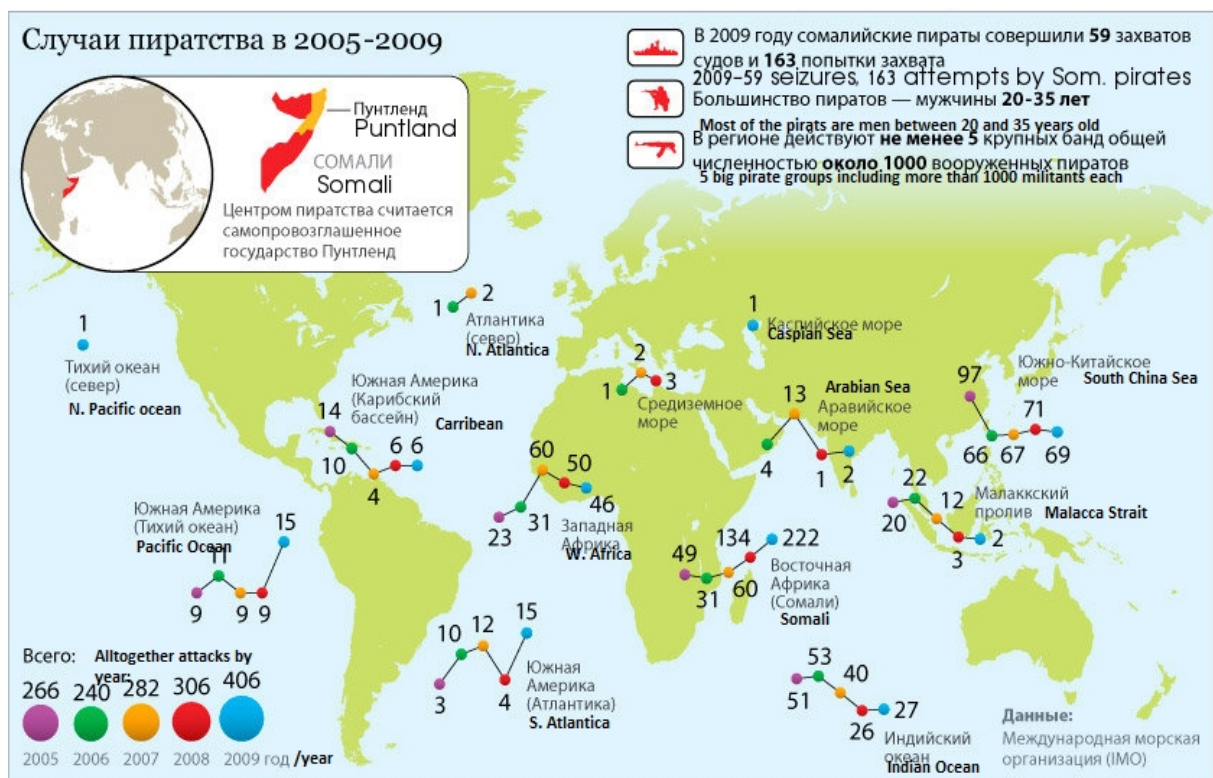
*Source: 2002 data from report by Jayant Abhyankar, ( 2002 ), Piracy and Maritime Violence: A Continuing Threat to Maritime Industry, Hong Kong: ICC – IMB, p.8*

Therefore, the maritime piracy, as the rising from the ashes of the Phoenix, is currently an international challenge of the high complexity.

This is challenge to the rule of law, flagrant violation of the human rights, enormous damage to the peaceful shipping, trade and commodity circulation most of which done by sea, etc. which will be examined next.



Here is statistical map of modern-day pirate attacks around the globe constructed on the basis of the IMO information and Russian news agency “RIA-Novosti”. The following picture illustrates the cases of hijacking the ships or attempts to do so between years 2005 and 2009 by region, showing the statistics of such illegal actions, as well as provides the answers on the age structure and amount of piratical groups in different piracy-prone regions. This map indirectly illustrates potential paths of deviation from the traditional routes of the merchant ships, transporting people and goods, which they have to resort to in order to avoid the fate of being captured by pirates at sea and which are hundreds and in some regions of the world thousands nautical miles longer than the regular shorter but more dangerous routes.



Picture 1.4 Pirate Attacks, 2005 – 2009

Image from; Russian State News and Analytics Agency “RIA- Novosti” based on IMO data , ( 2010 ), retrieved on 21.03.2011 from RIA Novosti website, { some translations added }

There is no doubt that the international maritime piracy is a gross violation of existing norms and customs of the international law, including the United Nations Convention on the Law of the Sea (UNCLOS, 1982). It should be noted that in addition to an international legal perspective, there is also a national dimension i.e. implementation of international norms and standards in the field of the freedom of navigation and combat against piracy at the level of national legal systems of individual states in their judicial, administrative and other legal and law enforcement practice. From the point of view of modern standards of Western liberal democracy, any acts of piracy which directly and/or indirectly affect individuals are systematic violations of human rights and cannot be tolerated by international community. Nor can we ignore the economic dimension, as the 21st Century is the era of global economy.

Taking into account that the majority of goods are transported by sea, the potential effect of maritime piracy will be very significant if it is allowed to grow at the current pace. Sea banditry is bound to disrupt global supply routes and deal a heavy blow to the world economy by curtailing the exchange of goods and services between different economies. It is necessary, especially in today's global economy, to secure free passage for international trade. There have been only 107 attacks in 1991, all of which happened in one region: the Southeast Asia. In just a few years, the piratical attacks have spread all over the world, including West and East Africa, Latin America, and even around Europe (Abhyankar, 2002). The number of pirate attacks has nearly doubled from 2008 to 2009, from the 293 reported incidents in 2008 to 406 reported pirate attacks in 2009 (4 times higher than in 1991) (ICC IMB, 2010) . Not all the attacks are reported. The IMB estimate that at least half of the attacks are not being reported. Shipping companies are afraid that the investigations will slow down their shipping processes, that the insurance companies will raise their insurance fees, the crews of their ships will ask for higher salaries, and their clients will take their business elsewhere because they would doubt their company's credibility (Kvashny, 2003). Somali pirates have been accountable for most of the attacks. It will definitely damage globalization, as the price of goods may rise, due to unnecessary payments to insurance companies, security expenses and other expenditures associated with piracy. The rise of piracy has already had several significant consequences: (1)

payouts of multimillion dollar ransoms; (2) suspension of critically-needed food aid; (3) major disruptions to the international shipping industry and the resulting price hikes, especially in oil; and (4) the potential for environmental disasters created by attacks on oil shipments (Ross&Ben-David, 2009).

It seems that the maritime pirate gangs take advantage of the current lack of international strategy for fighting the phenomenon. The longer this issue remains on the bottom of the international community's list of concerns, the greater the damage that it is bound to cause, and the more difficult it will be to deal with at a later date. Maritime piracy has turned into a highly profitable industry, with 238 million USD income (Gill, 2011), and indirect loss for the shipowners and the victimized states is estimated at 7 to 12 billion USD per annum (Bowden, Hurlburt, Aloyo, Marts&Lee, 2010), or according to another source, between 1 and 16 billion USD (Ploch, Blanchard, O'Rourke, Mason, King, 2011), and quickly rising. The profitability of this trade and the lack of accountability by the perpetrators stimulate maritime piracy to spread virally around the globe, way beyond the traditional vicinity of Southeast Asian or Somali shores.

Beyond great costs that piracy poses such as rising insurance rates, restrictions on free trade, increasing tension between littoral states, damage to the reputation of the coastal states and their ports (as the shipping companies may choose alternative routes and harbors) and the threat to human life, it may cause significant ecological catastrophes in cases of attacks on tankers carrying oil or other hazardous materials. Two of the piracy infested places are of great importance to world economies: the Gulf of Aden (hereinafter – GOA) and the Malacca straits (the amount of attacks is declining). For instance, the Malacca straits and Singapore are accountable for one quarter to one third of seaborne trade. These waterways connect the oilfields of the Middle East with the four “Asian Tigers” as well as the Chinese and Japanese economies. South Korea imports 2.1 million barrels of oil daily and China imports 5.56 million barrels daily (Young, 2007), and according to the U.S. Department of Energy, 3.3 million of barrels of oil per day are transited through Bab el-Mandeb (Gulf of Aden) (Ploch et al., 2009). Fortunately, over the last few years, the number of attacks by pirates in Southeast Asia has declined, thanks to the cooperative efforts of regional navies. Most of the attacks in 2011 have happened in the

vicinity of Somalia ( until 16 September 2011 – 188 out of 335 attacks, and 24 out of 35 hijackings (IMB Piracy Reporting Centre, 2011), which endangers very important maritime traffic path – the main route between Europe and Asia – Suez Canal route with the daily average of 47 ships, 17993 ships have made their way through the Canal in 2009 (Suez Canal Authority, 2010) and, respectively, piracy infested GOA. The alternative to Suez Canal is transit via Cape of Good Hope, but this route adds to the costs of navigation, and also means some 10-15 days of added sailing time until Europe (International Energy Agency, 2011).

Over the last several years there has been a growing concern in the West about a possible alliance between the maritime pirates and jihadist terrorist groups<sup>1</sup>, for instance, between the Somali pirates and the Al-Shabaab Islamist group and other Islamic militant groups. It is clear that the potential use of the piratical tactics against the maritime industry by terrorists could cause an ecological catastrophe (Chalk, 2008).

Various reasons have been suggested throughout scientific literature for the reincarnation of piracy in modern times, including the failure and weakness of some states that the pirates use as their home bases (Hastings, 2009), a complete disorder in Somalia (collapsed state) (Hua-Lun, 2009), massive increases in maritime traffic, increased commercial traffic passing through narrow maritime choke points that expose the ships to easy pirate attacks, weak coastal and port security, corruption and global proliferation of small arms (Chalk, 2008). The lawless abuse of Somali territorial waters by foreign states and corporations for toxic waste disposal and illegal fishery has become an incentive for the local fishermen-tuned-pirates to launch attacks against foreign vessels (Lansing&Petersen, 2011). The end of the Cold War, although briefly mentioned in published literature (Куманев, 2010), as a reason for the rise of modern-day maritime piracy, has never been analyzed or emphasized as a cause for the viral growth of pirate attacks in the 1990's and 2000's.

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<sup>1</sup>For the purpose of this work, “Jihadist terrorism” is a variety of international terrorism that draws on extreme interpretation of Islam and which is a threat to peace, security, liberty and democracy.

## **2. Impacts of the Contemporary Maritime Piracy and Reasons for its Reappearance - Literature Review**

All scientific literature used and analyzed in this thesis is divided into two parts. The first part will explain why maritime piracy is worthy of attention and the economic impact it makes, in other words – how much the piracy costs to the world. In the second section, literature regarding the reasons for maritime piracy will be reviewed, taking into account social, political, economic and cultural factors.

### **2.1 Modern Maritime Piracy: The Economic Impact**

The contemporary literature on this subject emphasizes that in the contemporary world the most affected by maritime piracy areas are Eastern Africa ( the Gulf of Aden and the vast area eastern of Somalia ), West Africa ( Niger Delta and the Gulf of Guinea ), South China Sea, waters around Indonesia, Malacca Straits, Caribbean and South America. Since the beginning of 1990's until mid 2000's the most affected areas were Southeast Asia, but since 2005, Southeast Asia has traded places with Somalia. Now, Somalia leads the World in piracy and acts of maritime robbery.

Most articles stress that the vast majority of goods are transported by sea, and the piracy hotspots are usually situated at the maritime shipping chokepoints, such as the Gulf of Aden, in the Straits of Malacca and nearby, in the waters of Malaysia, Indonesia and Singapore. Most works stress the importance of those pirate-infested areas, such as Malacca straits and Singapore, which are accountable for one-quarter to one third of the seaborne trade and most of the oil to China, Korea and Japan is transported through the Straits (Young, 2007) and 45% of all World's seaborne trade passes through the waters of

this piracy-prone region. These waterways connect the oilfields of the Middle East with the four “Asian Tigers”, the Chinese and the Japanese economies. South Korea imports 2.1 million barrels of oil daily and China imports 5.56 million barrels daily (Young, 2007), and according to the U.S. Department of Energy there are 3.3 million barrels of oil transited per day through Bab el-Mandeb (Gulf of Aden) (Ploch et al., 2009).

There are a few works that estimate the losses for the maritime shipping industry and the authorities. “One Earth Future” Foundation, a NGO that develops and promotes new methods of international governance, has conducted vast research in order to estimate how much piracy is costing the world economy and has published the results of this thorough study in an One Earth Future working paper. According to their research, the maritime piracy costs the world economy between 7 and 12 billion dollars per year (Bowden et. al., 2010). According to Peter Chalk, the senior policy analyst of the Rand Corporation, piracy might cost between 1 and 16 billion dollars to world economy (as cited in Ploch et al., 2009). Alexa Sullivan, in turn, in her paper “Piracy in the Horn of Africa and its Effects on the Global Supply Chain” analyzes the impact of Somali piracy on the international business. According to Sullivan's research, maritime piracy is the reason for the current decrease of maritime shipping of goods through the Suez Canal, northbound movement of goods decreasing by 36.2% and southbound goods movement decreasing by 4.6%, which translates into a \$1.09 billion loss to Egypt's economy. In 2009, maritime piracy disrupted 2% of traffic through the Canal which is equivalent to \$7.4 billion worth of goods (Sullivan, 2010).

However of all existing works on this subject, the most detailed and comprehensive study is provided in the collective monograph which was published in 2010 under the auspices of the Oceans beyond piracy. This research have analyzed around 350 articles on maritime piracy and came up with direct quantified answers on the economic impact of this global threat. The work covers direct economic costs, such as the cost of ransoms for recovering the vessel and the seized cargo, the cost of heightened insurance because of piracy risk, the cost of re-routing in order to avoid the pirates, the cost of piracy-deterrent equipment to make vessel a more difficult target, the cost of Naval forces engaged in counter-piracy operations, the cost of prosecuting the pirates, the cost of piracy-deterrent organizations,

and indirect costs, such as costs to regional trade, food prices inflation and reduced foreign revenue. The research maintains that if maritime piracy will continue to increase at the current rate, international trade will be too costly to participate in.

In other words, it seems that it is worth a brief overview what maritime piracy costs the world directly and indirectly in accordance with the following parameters:

1. The most blatant direct loss from piracy is the payment of ransoms. Most hijackings in GOA and around Somalia end up with a ransom demand. In Southeast Asia most vessels are simply robbed as there are wide possibilities and infrastructure for sale of plundered goods, unlike in Somalia. The highest ransoms recently paid were \$9.5 million for the release of a Korean oil tanker Samho Dream, and \$7 million for a Greek supertanker MV Maran Centaurus in 2010. The ransom amounts are constantly rising, averaging \$150,000 in 2005, \$3.4 million in 2009, and around \$5.4 million in 2010. The ransoms had cost \$415 million to the shipping industry in 2009 and 2010 in total.

In fact, the total cost of a ransom might be double of the actual amount paid, as it includes such things as the cost of negotiations, psychological trauma counseling, ship repairs, ransom money delivery done by special helicopter or plane crews, and costs of the vessels being out of service (Bowden et. al., 2010).

2. In response to the risk of piracy attacks the shipping industry has encountered an increase in shipping insurance. Davis has assessed the current situation as follows:

The increase in insurance rates due to the threat of piracy in the Gulf of Aden has been significant. In an article for the Naval Institute's Proceedings, Admiral Stavridis states: "In June 2009, marine insurers were charging between 0.05 percent and 0.175 percent of the value of a ship per voyage in the Gulf of Aden versus zero to 0.05 in May of 2008. For a vessel the size of the Sirius Star, that amounts to between \$150,000 and \$500,000 per trip.

In a report by the United States Maritime Administration, the increase in cost for obtaining a war risk binder is assessed as follows:

The cost of the war risk binder for ships transiting the Gulf of Aden is estimated at \$20,000 per ship per voyage, excluding injury, liability, and ransom coverage. A year ago, the cost of the additional insurance premium was only \$500. ("The long Way

Around”, Lloyd’s list, November 26, 2008) It is estimated that the increased cost of war risk insurance premiums for the 20,000 ships passing through the Gulf of Aden could reach as much as \$400 million. (“Piracy Could Add \$400m to Owners’ Insurance Costs,” Lloyd’s List, November 21, 2008) Clearly, this estimate represents an upper bound on additional insurance cost as not all vessels will seek the additional coverage, and the estimate excludes rebates given when no claim is exercised on the policy (Maritime Administration, 2009) (Davis, 2009, 24).

Bowden et al. have estimated that it had cost to the shipping industry a maximum of \$3.213 billion or a minimum of \$459 million in 2009, and the same amount in 2010 (2010).

3. Re-routing. Those ships that are more vulnerable to pirate attacks, usually slow-moving ones, are opting for a longer voyage through the Cape of Good Hope, instead of passing through Suez Canal and GOA.



*Picture 2.1 Rerouting ships to avoid piracy. Image from: Bowden A. et al., ( 2010 ), The Economic Cost of Maritime Piracy, One Earth Future Working Paper, p.12*



According to the report on the economic impact of piracy made by the United States Marine Administration

...routing a tanker from Saudi Arabia to the United States via the Cape of Good Hope adds approximately 2,700 miles to the trip. This longer distance will increase the annual operating cost of the vessel by reducing the delivery capacity for the ship from about six round-trip voyages to five voyages, or a decrease of about 26 percent. the additional fuel cost for traveling via the Cape of Good Hope is about \$3.5 million annually “ and “a routing from Europe to the Far East via the Cape of Good Hope, rather than through the Suez Canal, would incur an estimated additional \$89 million annually, which includes \$74.4 million in fuel and \$14.6 million in charter expenses. In addition, the rerouting would increase transit times by about 5.7 days per ship. This would result in the need for additional vessels to maintain the service frequency (Davis, 2009, 25).

Bowden et al. have created their own “One Earth World Cost of Piracy Model”, which uses data from different sources, such as United States Department of Transport Maritime Administration and Baltic and International Maritime Council. According to their calculations, the shipping industry pays annually between \$2.3 and \$3 billion for re-routing in order to avoid the pirates (Bowden et. al., 2010).

4. Deterrent Security Equipment and/or Security Staff. Ship owners may want to protect their vessels and crews from piracy attacks using special deterrent non-lethal equipment or using special armed security teams. Usually, this kind of defense is used near Somalia as it is the most piracy-prone area today. Bowden et al. estimate the cost of deterrence to the shipping industry between \$363 million and \$2.5 billion per year.

5. As the main piracy-prone area today is around GOA, the international security effort, involving 27 countries, is concentrated there. The main forces acting are the EU force (Operation Atalanta), CTF 151 (mostly U.S. Warships), and NATO forces (Operation Ocean Shield). Aside from those three main missions, there are the navies from other states, such as India, China, Russia etc., operating in the area. One Earth Future estimates that it costs roughly \$2 billion per year to patrol the waters around Somalia, including

GOA.

6. Pirates' prosecution cost. According to the international legislation, maritime piracy is an international crime, and pirates are regarded as "hostes humanis generis" - enemies of all mankind and they may be prosecuted by any state that has abducted them. Somalia is anarchy and has almost no prosecutorial ability, while other African regional states' ability is very low. As will be explained later, it is not deterrent and effective to prosecute pirates in the states that may potentially apprehend them (mostly the Western states), therefore the western states have signed agreements with Kenya and Seychelles, which will prosecute pirates caught by the Western Navies. The cost of improving prosecutorial capacity was around \$31 million in 2010 (Bowden et. al., 2010).

7. Piracy-deterrence organizations. As the prevalence of piracy increases, a few organizations that are dealing with piracy issues have appeared. OEF have figured the cost of their operation according to their published budgets. The cost of all anti-piracy organizations is \$24.5 million annually.

8. International trade costs. Piracy-prone regions are considered dangerous or unstable, entire trading routes – changed, alternative ports are being used, etc. All that increases the cost of international trade. According to the Kenyan Shippers Council, piracy increases the cost of import by \$23.8 million per month and cost of export by \$9.8 million per month. According to the Prime Minister of Yemen, the fishing sector of his country had lost \$150 million in 2009 due to piracy. The minister of the Environment and Natural Resources of the Seychelles has stated that the fishing, tourism and other sectors of their industry lose \$10.5 billion annually (Bowden et. al., 2010).

9. Food Price Inflation. Many vessels attacked are ships carrying food supplies. Since pirates often target ships transporting food, many shipping companies simply refuse to carry food to Somalia. According to Somali food importer this has raised the food prices, for instance sugar has increased from \$30 per 50kg bag to \$34, wheat – from \$18 to \$22, rice – from \$25 to \$28 in less than one month in 2010. It has a disastrous humanitarian effect on the extremely poor countries, such as Somalia or Mozambique, where most of the food is imported. It can also cause social unrest and riots (Bowden et. al., 2010).

10. The cost of reduced foreign revenue. Piracy-prone regions do not look attractive to

potential foreign investors which will rather look for alternative regions to invest in.

The tourism industry also suffers from piracy, although it is very hard to estimate to what extent piracy has reduced the income from marine tourism (cruise liners) in Kenya or Indonesia, because of other important factors, such as the economic crisis. Nevertheless, OEF Cost of Piracy Model have tried to sum up macroeconomic costs of piracy (tourism, loss of income for Egypt due to Suez Canal avoiding, trade) to piracy-affected states, and came up with a loss of \$1.25 billion per year (Bowden et. al., 2010).

There are also additional concerns about maritime piracy, which is usually active in regions with large coastal areas, high levels of commercial activities, poor level of law enforcement, and weak or non-existent regional cooperation. According to the research prepared for the U.S. Congress, “These characteristics facilitate other maritime security threats, including maritime terrorism, weapons and narcotics trafficking, illegal fishing and dumping, and human smuggling operations” (Ploch et al., 2009, 2), therefore, these concerns are likely to increase the significance of piracy as an issue of international importance.

According to the researcher from the Faculty of the U.S. Army Command and General Staff College W. M. Davis, there are two other repercussions of pirate attacks:

The first is a result of the fact that during a pirate attack, the crew is either engaged in defending the vessel or is under the pirates’ control, which is brutal violation of fundamental human rights. During this time, unless the maritime pirates are well trained in the navigation of the vessel, the ship has the potential of not being under any positive control. This makes the ship a hazard to navigation and increases the chance, especially in high traffic areas, of a collision. This would be even worse if the ship not under control was carrying a large amount of crude oil or other environmentally-hazardous material. The result could be a catastrophe with potentially severe environmental implications. The second is the potential cooperation, or at least, the use of pirate networks by terrorists. Pirate networks could be used in many ways to support terrorism. They could be used as a way to transport weapons, people, or money. Terrorist networks could set up their own ‘pirate networks’ as a method to make money to support terrorist operations.

Terrorists could also hijack vessels and then use the vessels themselves as weapons.. (2009, 12).

Thus, the vast majority of authors are of the opinion that modern piracy is causing the global economy a huge financial loss.

## **2.2The reasons and causative factors for maritime piracy**

The existing scientific literature pays special attention to the reasons and causative factors for maritime piracy. According to Peter Chalk, senior policy analyst in Rand Corporation, there are seven factors that contributed to the appearance and development of piracy in the contemporary era.

1. Increase in maritime traffic and the number of ports around the world have provided pirates with high number of ready targets.
2. Many piracy-affected areas are located inside and near narrow and clogged “bottlenecks”. These congested choke-points require vessels to greatly lower the speed and make them very convenient targets for maritime bandits.
3. Especially relevant to Southeast Asia is the economic crisis of the late 1990's that has pushed more people to crime, including maritime crime. Another consequence of this economic crisis was that it has bereft authorities of necessary funds to fight piracy.
4. 9/11 has resulted in increased efforts and funds for land security initiatives, which affected maritime surveillance.
5. Careless coastal and port security measures worldwide have made possible harbor thefts from berthed vessels.
6. Corruption in the Third World states played a great role in emergence of the “phantom

ship” phenomenon<sup>2</sup>.

## 7. Global proliferation of arms (Chalk, 2008).

Not all of the mentioned above factors would be supported by the rest of the researchers, for instance such a controversial circumstance as the 9/11 factor. The author of this thesis does not agree with the “9/11” reason. It will be further explained how “9/11” has brought to the increased cooperation between the littoral states of Southeast Asia and to the decrease in piracy.

Jon Vagg, a senior lecturer in Criminology in the Department of Social Sciences of Loughborough University, especially stresses economic factors. According to him, piracy is a result of disruption caused by economic development, or is a result of weak governmental control in the economically marginal areas. The piracy is likely to occur:

- “when and where there is a 'reserve army' of young males with a mix of seafaring and military skills,
- in economically marginal areas that also contain shipping lanes close to land, and
- where the writ of the government does not fully run, because its capacity to enforce the law is compromised by an inability to police the area, insurgency, officials being induced to collude with pirates as a result of corruption, or a mix of all three” (Vagg, 1997).

In his turn, Charles Reinhardt, researcher from the University of Toronto echoes those words and adds a political factor: “Piracy attacks appear to be most prevalent in countries with emerging economies, numerous estuaries and offshore islands, large stretches of remote coastal areas, and ongoing political insurgencies” (2003, 16). Ghosh, in a paper prepared for the Center for Strategic and International Studies Center, makes a similar

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<sup>2</sup> Phantom ships fraud is hijacking and re-registration under the flag of convenience for further illegal trade or theft of cargoes. The fraud is usually as follows – a desperate seller with expiring Letter of Credit is looking urgently for a vessel able to transfer his cargo to the buyer. He finds this phantom vessel, loads the cargo and the vessel disappears with her cargo never delivering it to the final destination. Then the criminal syndicate sells the cargo and quickly changes vessel's identity. Another similar fraud is called “re-flagging”. Re-flagging refers to a complex scheme where the member of the organized crime group urges a corrupt official to take over a certain vessel under the claim that the vessel threatens national security or has problems with tax payments. The aim of this fraud is to make the owner to give up and pay bribe as the procedure of suspension is lengthy and costly. For explanations on different cargo frauds see: (Mukundan, 1999 )

statement:

...heavy infestation of piracy has a lot to do with the geography of the area, but economic conditions and the mindset of the coastal people in the hundreds of minor islands that lace the Malacca Straits and South China Sea are also a significant factor (2004, 4).

Also Ger Teitler from the Amsterdam University states that piracy in Southeast Asia has always been connected to two main factors - "...to political instability, on the other hand to trade, which offered opportunities for plunder" ( 2002, 67).

While considering this phenomenon, when we are talking about the "mindset" of local coastal peoples in Southeast Asia, we must mention a fundamental work by Adam Young, which is fully devoted to analyzing the roots of modern maritime piracy in the Southeast Asia. The main idea of the work is that, unlike Europe, where pirates were mostly considered as pariahs and people standing up against mainstream society and its laws, some forms of Southeast Asian piracy were considered legitimate and even the people doing it were respected members of society (Young, 2007). Ger Teitler has expressed this historical phenomenon in Southeast Asia well in one statement: "trade and piracy accompanying this pattern as two sides of the same coin" (2002, 67). His work represents another good analysis of Southeast Asian piracy. We will go into it further in the case study on the Southeast Asian piracy.

Adam Young, in his thesis counts three main groups of factors supporting the existence of maritime piracy in Southeast Asia:

- Marginal status of many maritime peoples leaves them on the bottom of the society, and they comprise large pool of potential labor force for piracy. In order to be able to control maritime crime, the state has to incorporate those people into the state and the broader society. The state hasn't been able to fulfill this and left those peoples on their own, to create opportunities for themselves .
- Piracy tends to blossom in times of weak political control of the state. It is only one of the

symptoms of the breach of power, others being separatist movements (in Philippines and Indonesia), criminal networks, extensive corruption (to the extent of support of bandits by some state actors) in the states of this region.

Colonial states have not been able to cooperate on issues like piracy and smuggling. For a long time, the regional states have not been able to cooperate in the framework of ASEAN either (in fact since the mid 2000's the cooperation has gone well and has brought a substantial decrease in piracy, as we will analyze it in the case study). This is a result of a weak political control, as well (Young, 2007).

- Access to technology is of great importance in re-emergence of the modern piracy. In the recent years, all kinds of technology became accessible to anyone able to pay for it and not only to governments. This includes informational technology and boat technology. Weaponry became largely accessible with the End of the Cold War when many countries decreased the size of their armies and their weapons stockpiles were sold out, and many states, especially of the former Eastern Bloc, started to sell weapons to whoever was able to pay (Young, 2007).

Another researcher of the maritime piracy problem, Joshua Haberkornhalm in his paper gives four main factors contributing to the rise of maritime piracy. The first three were overviewed above: abundance of waterway shipments, corruption and volatile economic conditions. Another interesting thought on what has contributed to the global rise in maritime piracy is expressed in the following passage:

...while technological advances have resulted in greater efficiency that allows for a reduction in the necessary size of commercial ship crews, they have also enhanced the pirates' attack capabilities – particularly their stealth, firepower, ability to track ships, and speed ( Haberkornhalm, 2003, 3).

The 2009 Research made for Congress, explaining the motives for maritime piracy in Somalia, brings up the words of Ahmedou Ould Abdallah, the special representative of UN for Somalia, who made the following statement in 2008:

“Poverty, lack of employment, environmental hardship, pitifully low incomes, reduction of pastoralist and maritime resources due to drought and illegal fishing and a volatile security and political situation all contribute to the rise and continuance of piracy in Somalia”(cited in Ploch et al., 2009).

A group of scientists under the guidance of Lauren Ploch, analyst in African affairs, in a report prepared for the U.S. Congress add that

While the profitability of piracy appears to be the primary motivating factor for most pirates, other observers argue that since conditions in Somalia make survival difficult for many and prosperity elusive for most, the relative risk of engagement in piracy appears to have been lowered in many areas (Ploch et al., 2009).

Besides, in the opinion of the Dutch graduate researcher Meijden L.R., one of the obvious but rarely stated reasons in the literature is the willingness of the ship-owners to rather pay the costs of the piracy than the higher shipping insurance premiums (2008). Many shipping companies seemingly see the likelihood of paying the ransom low and regard it as the cheaper option than constantly paying high insurance premiums.

It is important to keep in mind that illegal fishing in the waters of lawless Somalia and the dumping of toxic waste by developed countries is often stated as one of the first incentives for piracy rise in Somalia. We will go further into this in the case study about Somalia.

Somali pirates interviewed by international media sources frequently link their piracy activities to trends such as illegal fishing and dumping in Somali waters that have emerged as the country has lost its ability to patrol its waters over time. While these explanations may mask the opportunistic piracy of some, reports suggest that illegal fishing and dumping have disrupted Somalia's coastal economy. For example, a July 2005 report from the United Kingdom Department for International Development (DFID) estimated that Somalis lost \$100 million to illegal tuna and shrimp fishing in the country's exclusive economic zone in 2003-2004 (Ploch et al., 2009, 7).



Nevertheless, the regional fisheries industry was not saved but damaged by piracy:

Paradoxically, the regional fishing industry reportedly has been damaged significantly by the threat of piracy. According to some reports, tuna catches in the Indian Ocean fell 30 percent in 2008, in part because of fishing vessels' fears of piracy. This has had a major impact on countries like the Seychelles, who rely on the fishing industry for up to 40 percent of their earnings (Ploch et al., 2009, 7).

Along with the above Western scholars, the Russian researcher from the Far Eastern University Dmitry Kumanev makes an original attempt to find the root causes for the return of the piracy phenomenon to the global agenda by linking its renaissance with the end of the Cold War leading to a loss of effective control of the problem regions of the World by the superpowers.

*The End of the Cold War as a factor or reason in the existing scientific literature*

According to Kumanev, the maritime piracy has been a constant problem for the countries and societies of Southeast Asia, but thanks to the East-West opposition it has been suppressed in the second half of the 20<sup>th</sup> century. The reason for this suppression was massive presence of navies in the waters of the Asian part of the Pacific Ocean, which constricted the crime at sea and ensured the safety of navigation and security of communication lines in this part of the world (Куманев, 2010).

It will be later analyzed if Kumanev's conclusions are correct and high concentration of warships in certain waters is able to bring to suppression of piracy there.

According to Peter Chalk,

... the initial euphoria evoked by the end of the Cold War has been systematically replaced by a growing sense that global stability has not been achieved, and has in fact been decisively undermined by transnational security challenges, or “gray-area” phenomena. These threats...cannot be readily

defeated by the traditional defenses that states have erected to protect both their territories and populaces...Stated more directly, the geopolitical landscape that presently confronts the global community lacks the relative stability of the linear Cold War division between East and West. Indeed, many of today's dangers are qualitatively different from classical security threats of overt military aggression stemming from a clearly defined sovereign source ( 2008, 1).

In another words, Chalk says that since the end of the Cold War, threats like piracy and terrorism traded places with traditional threat of military aggression from one state onto another. Nevertheless, Peter Chalk doesn't include the end of the Cold War into one of his factors for the emergence of contemporary maritime piracy.

As for the Cold War, many researchers have stated the positive role of the end of the Cold War in the emergence of modern maritime piracy. Nevertheless, not many authors state it explicitly as a factor in their "list of reasons", which must have some logic behind them, which we will try to understand later.

As one of the factors for the emergence of piracy "...should also be mentioned that since the end of the Cold War, navies have reduced size and patrol, while trade has considerably expanded. This evolution has made organized piracy far easier" (Association Munwalk, 2009, 1).

So, to sum it up, in the contemporary literature the modern-day maritime piracy is seen as multifaceted phenomenon, due to the complex of social, economic, legal and other factors which require further examination, analysis and conclusions.

# **3. Research Methodology**

## **3.1 Research Question**

The main purpose of this paper is to study the phenomenon of contemporary maritime piracy, which began after the end of the Cold War, in the context of a global challenge to the international community's right to free and safe movement of passengers, goods and civil ships on the high seas, as well as to the coastal and marine management in the above aspects.

The rise of the maritime piracy in the early 1990's has likely been caused by cessation of the Cold War (the hypothesis of the author of this thesis) and the superpower opposition that implied tight political and military order and control over commercial sea routes. The statistics show that there have been very few pirate attacks in the 1980's, but those cases skyrocketed after the end of the Cold War, in 1990's, and even more so in 2000's. According to the International Maritime Organization the number of incidents in the late 80's was less than 50 per year, increasing sharply to between 50 and 100 per year in early 90's, and getting up to hundreds in the late 90's and 2000's (cited in British House of Commons, 2006). According to the research conducted by Andrew Conte as the part of his doctoral dissertation in the Moscow Lomonosov University, based on the analysis of the statistical data from the authoritative shipping journal "Lloyd's List", before the end of the Cold War, only 7 to 10 ships had disappeared every year (cited in Конте, 1990). This research will focus on the impact of the Cold War, and the cessation thereof, on contemporary maritime piracy. Was the disintegration of the Soviet Union a primary cause for the appearance and quick rise of contemporary maritime piracy? Was the end of the Cold War and vanishing power struggle between the two superpowers the root cause that provided the opportunity to citizens of failed and weak states to look for easy money by abducting vessels at sea, or have there been other reasons that stimulated the rebirth of maritime piracy? How important in appearance of piracy have been the end to superpowers' struggle?

The year 1990 had a great importance in the global geopolitical order generally and in

naval history and order particularly. The first Gulf War has marked the end of the fixed in the second half of the 20<sup>th</sup> century bipolar system of the world order. During the preparation for the attack on Iraq, the United States Navy have placed half of its total aircraft carrier striking power into two narrow seas – the Persian Gulf and the Red Sea (Rubel, 2010). This move would be almost impossible a few years before that, but the expected breakup of the Soviet Union and its decision to stand aside during the war, has allowed the Americans to act freely and disregard possible strategic threat from the Soviet Navy in other parts of the world. Since then, for the last twenty years, the American Navy has enjoyed full command of the seas (Rubel, 2010). At the same time, the U.S. and British Navies have decreased their naval presence in the oceans of the world by almost a half, and Russia -almost totally. Vast tracts of the waters were outside of their direct control. Also, the seriously weakened administrative control over the vast island territories of the newly independent states or states which are now without superpower backup, which are not able, or lack the political will to provide necessary forces at sea (Зарраница, n.d.). During the Cold War, the wide scale Navies presence held back the increase in crime at sea and ensured safe navigation for the marine routes, especially in the more tensed theaters of opposition of the superpowers such as the Pacific (Куманев, 2010).

The secondary research question will deal with the issue of sea control. Did the massive presence of Navies help prevent piracy during the years of the Cold War? Can the Navies, if they are present and patrol the ocean, effectively control and prevent maritime crime? Was the sharp decline in the number of ships, as the Cold War has come to an end, been a factor in the re-appearance of piracy?

The hypothesis is that with the breakup of the Soviet Empire and the end of the Cold War, the pirates have obtained freedom of navigation and action. It will be speculated that the bi-polar system of world order, the tight control of the high seas and the rivalry between the U.S. and the Soviet Navies that controlled the high seas, restrained criminal activity and, particularly, piracy in the ocean. The other end of the Cold War's impact may be the cessation of the substantial sponsorship by U.S.A and U.S.S.R of client-states ( weak states among them) , which has even brought chaos to some of them ( Somalia).

The research question and objective of the study is to analyze the effects of the Cold War

and the end thereof, on the suppression and emergence of maritime crime. The study will go into the practical aspects of the current control over the high seas and analyze more effective ways of handling maritime crime, drawing from the lessons of the past. In the case studies it will try to understand what part has the East-West opposition and sponsorship of the states of the Third World played in the temporary suppression of piracy during the Cold War. Apparently, this will be the first study conducted that draws from the lessons of the Cold War to both answer questions about the causes of modern-day piracy, and find what would be a solution to effectively address this ever-growing threat to the world's economic prosperity.

Another research question is whether the current international strategy is effective and why. This research question draws from the first one, as the first hypothesis says that the reason for suppression of piracy is control of the Third World states by the Cold War adversaries. The hypothesis is that the rise of piracy is directly proportional to the lack of international control onshore.

All research questions are interconnected and the secondary questions assist in better understanding of the main one. If we will be able to comprehend the client-state phenomenon we will be able to better understand if stricter land control will support anti-piracy efforts today; learning from the history of piracy will help us compare and see if the current international strategy is effective or not.

Therefore, the paper will analyze international counter-piracy efforts and their effectiveness in two key international trade shipping zones – the Gulf of Aden and Malacca Straits/Indonesia. The war on piracy is ongoing in the Gulf of Aden now and the current strategy seems to be ineffective. The Malacca straits/Indonesia has recently been the most piracy-infested region, but because of successful international efforts, the maritime piracy and armed robbery has significantly declined.

## **3.2 Structure**

This study is a desktop study, conducted through an analysis of books, a survey of news reports, a research of published and unpublished academic articles and master's and

doctor's theses, both published and unpublished<sup>3</sup> and analyzing and comparing statistical data.

The paper is comprised of five parts. The first part of the work is the introduction which provides general description of the problem.

The second part of the work is literature review, which looks for explanations from the existing literature for importance of the phenomenon of piracy and the reasons and factors for its appearance.

The third part explains research question, methodology, limitations of the work and some theoretical basis, which will help to analyze the roots of piracy in the case studies. It will provide explanation in political theory, as the piracy issue is not a separate phenomenon and must be viewed in context with the current sociopolitical trends. This part reviews the emergence of piracy along the cultural lines in certain areas and provides explanation of the importance of maritime trade for maintaining the liberal values of the Western lifestyle and for attempts to disrupt it, as well as the connection between piracy and terrorism and between piracy and indigenous cultures. It will be provided by Dr. Huntington's "The Clash of the Civilizations" hypothesis.

The next part of the work are the Case Studies and it will concentrate on contemporary maritime piracy and armed robbery during the past 20 years. In this part, the lack of control over the land and seas that makes maritime shipping industry extremely vulnerable to attacks at sea, will be analyzed. This part will examine the so often appearing new hotbeds of piracy, such as in the South East Asia and around Somalia (it will concentrate on those also in order to narrow down the researched high seas), and explore if it is related to the non-sufficient control by the world community. It will try to explore why today's international efforts to curb piracy are ineffective, as opposed to the maritime safety that prevailed during the Cold War era. Each case study will try to figure out the roots and causative factors of piracy in the respective regions.

The Somali Case Study gives the presentation of the problems associated with the most important piracy hotbed today – the Gulf of Aden and the territory to the east of Somalia.

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<sup>3</sup>Some works which the author wasn't able to find in an open access or through university's VPN, were bought by the author.

The research of the roots of Somali piracy starts from the analysis of the situation on land, in other words transformation of Somalia since the end of the Cold War into a failed state. Afterward, the development of pirate criminal networks and their practices are explored. Since this piracy has started as a fight against foreign transgressors, but quickly became a profitable business, the alleged roots as they are claimed by the Somali pirates are examined. Then, the consequences of Somali piracy are looked into. The next part of the case study deals with “civilizational” aspects of piracy e.g. explores the relationship between piracy and Islam against the backdrop of the struggle between moderate Islamist Transitional Government backed by the West and African countries, different clan factions and radical Islamist groups as represented by the ICU. The case study continues with the analysis of the effectiveness of the international response, which also leads to conclusions about the author’s initial hypothesis about the effectiveness of sea control during the Cold War.

Important parts of the case study are the lessons of past experiences that the international community could learn from. Finally, the case study tries to identify the main problems on land that must be addressed for the positive changes to take effect. Conclusions and management propositions are further made.

The Case Study on South East Asia analyzes the effective regional and international struggle against piracy, which converted piracy and armed robbery troubled waters into relatively calm and secure for the maritime shipping region. The first part of the case study is the presentation of the recent piracy problem, which arose in the region since the End of the Cold War. Then, piracy has been looked at through Huntington’s “civilizational lens” which tries to explain the perception of piracy by indigenous peoples that is different than that of the Europeans. Roots, factors and practices of Southeast Asian piracy are explored. Important part of the Southeast Asian Case Study is the research of the strategy and tactics that have brought piracy to the current low level.

In the fifth part of the paper are the conclusions that will be drawn from the lessons of the Cold War, and practical steps that could be taken to improve the security situation at sea will be suggested.

### **3.3 Limitations**

In order to fulfill its scientific objective, the research examines piracy in two regions - Indonesia/Malacca Strait and Somalia/Gulf of Aden, as each of these case studies is important in its own right for the understanding of the nature of "new piracy", as will be explained in the preview to the case studies (Chapter 4). Nevertheless, there is a difficulty in learning lessons from the Indonesia/Malacca Strait case and its application to the current Somalia/Gulf of Aden piracy situation. Somali case is unique: a lawless, failed state, Somali pirates find full sanctuary on land and have few threats to their business.

Southeast Asian piracy problem has been successfully solved by increased international pressure on the littoral states, which made them cooperate in security matters. Neighboring states around Somalia are willing to cooperate ( as we will see further ), but this approach will only help after law and order in Somalia restored. Thus, the main limitation of the work seems to be the difficulty to apply lessons from any other case studies to the Somali piracy situation. The way to overcome this difficulty may be a thorough and long historical analysis of the struggle against piracy in the old times, when control over the land was not as thorough as today, and many pirates easily found their sanctuaries. This analysis must be coupled with the study on the possibility to apply historical lessons within modern human rights laws and practices. Also, many more case studies must be done, both historical and contemporary. Since the modern maritime issue is quite a new phenomenon, there is not much literature available on the subject, especially researching other piracy hotspots, such as West Africa, the Caribbean, South America etc., thus it may be required to travel to all those places and interview local professionals who deal with maritime crime issues first hand. The scope of this work does not allow completing such a long and thorough analysis coupled with the long-term data collection. Another limitation is the shortage of theory. The author has used the "Clash of Civilizations" theory by Dr. Huntington, but there may exist other theories that could be explored to better understand the modern-age piracy phenomenon.



### **3.4 The End of the Cold War as the Factor of Maritime Piracy Recurrence**

Since the USSR and the associated socialist states broke up in 1991, many believed that a new era of prosperity and welfare was coming (Chalk, 2008). Different leading politicians and diplomats have estimated that the new world order will be based on Western liberal democratic values. The most famous realist, Samuel Huntington (1927 – 2008), understood that the clash of interests in the Post-Cold War originated of cultural rather than ideological differences. In 1992, Samuel Huntington gave a lecture at American Enterprise Institute for Public Policy Research (Cohen, 2009). Later, in 1993 wrote an extremely influential article “The Clash of the Civilizations” in “Foreign Affairs” magazine (Huntington, 1993) (cited by 7201 (Google Scholar Citations Index, n.d.)). Since this article was very successful, he elaborated later on this topic in his book “The Clash of the Civilizations and the Remaking of World order” (cited by 10674 (Google Scholar Citations Index, n.d.)).

These “Clash of the Civilizations” series were actually a response to Francis Fukuyama’s thesis of the “End of the History”. According to Fukuyama, history is a process of struggle between ideologies. Fukuyama surmised that history has come to the end with the fall of the Soviet bloc and the world will now start the final process of settling on liberal democracy: “What we may be witnessing is not just the end of the Cold War, or the passing of a particular period of postwar history, but the end of history as such: that is, the end point of mankind's ideological evolution and the universalization of Western liberal democracy as the final form of human government” (Fukuyama, 1989).

Thus, Fukuyama's thesis is that the failure of communism and the breakup of the Soviet Union and the socialist bloc has marked the final victory of the liberal democracy. Security and freedom has been achieved with the death of the communism and there will be no more struggles like the Cold War.

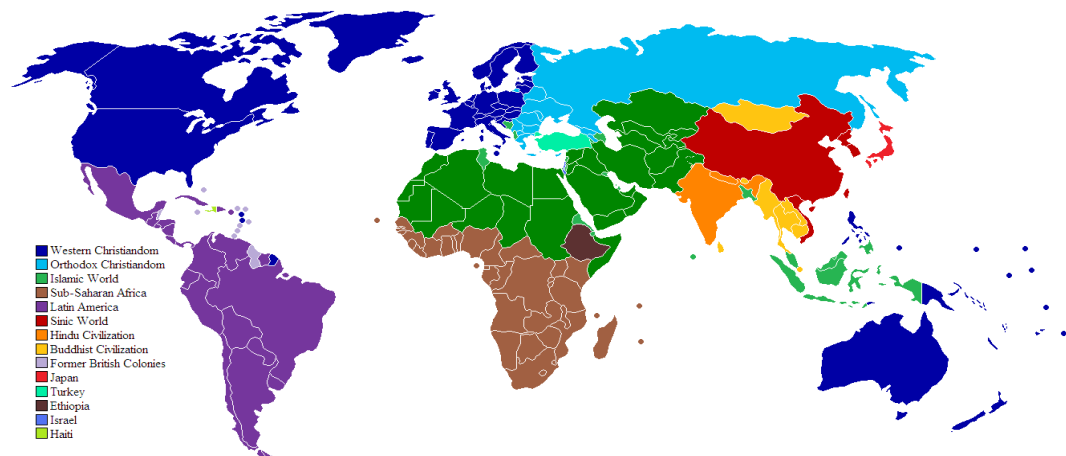
On the contrary, Huntington in the “Clash of the Civilizations” proposes an alternative paradigm for understanding and forecasting international politics in the post-Cold War world - he argues against the hypothesis that the human rights, capitalism and liberal democracy is the only alternative for the nations after the end of the Cold War. Actually, Huntington claims that the age of ideology has passed and that humanity has returned to an

age where the culture and religion matter:

It is my hypothesis that the fundamental source of conflict in this new world will not be primarily ideological or primarily economic. The great divisions among humankind and the dominating source of conflict will be cultural. Nation states will remain the most powerful actors in world affairs, but the principal conflicts of global politics will occur between nations and groups of different civilizations. The clash of civilizations will dominate global politics. The fault lines between civilizations will be the battle lines of the future (Huntington, 1993, 22).

According to Huntington, since the end of the Cold War, the world has returned to the normal state of affairs – the conflict occurs along the cultural and religious lines. The key concept of the “Clash of the Civilizations” hypothesis is the “Civilization”. When Huntington talks about “Civilization” he means cultural entity - “Villages, regions, ethnic groups, nationalities, religious groups, all have distinct cultures at different levels of cultural heterogeneity” (1993, 23). Two villages in one of the European countries may be different, but they will have some cultural traits in common that distinguish both of them from a village in another European country. However, those three villages have many common traits that distinguish them from another village in Southeast Asia or Africa and they constitute civilizations. “A civilization is thus the highest cultural grouping of people and the broadest level of cultural identity people have short of that which distinguish humans from other species” (Huntington, 1993, 24). A villager from the Icelandic village Bolungarvik in the West Fjords, for instance, may define himself as Bolungarvikur, the West Fjords settler, Icelander, Protestant, Lutheran, Christian, European, Westerner. Of course his identification with the aforementioned definitions is with various levels of intensity. His broadest and most intense identification is the civilization he belongs to. People define and redefine their identity – this is how the civilizations develop and change their boundaries.

A conflict manifests itself along fault lines. Since Huntington’s extremely influential 1993 article provoked great debate among international relations scientists, Huntington wrote a book where he expanded on the subject and drew the fault lines between the civilizations:



*Picture 3.4. The clash of civilizations according to Huntington, as presented in the book. Source: Civilizations Map, ( 2008 ), Wikipedia, { the picture drawn by the Usergreatpower user of Wikipedia according to the ideas of Samuel Huntington }, retrieved on 12.04.2012 from Wikipedia*

The line doesn't necessarily coincide with the states' borders. Moreover, oftentimes the fault line is inside the country which almost always causes deep conflict ready to blow up with violent consequences. Huntington regards those countries as “cleft” countries, for instance – former Sudan (the cleft between Muslim and Christian civilization ), Ukraine ( Catholic west and Orthodox East ), Benin, Chad, Nigeria, Tanzania etc.

According to his hypothesis, conflict among the civilizations usually takes two forms: The fault line conflict and the core state conflict. The fault line conflict is the conflict between two bordering states associated with different civilizations or between different civilizations inside the same state.

The core state conflict is the global conflict between two major states representing two different civilizations. Generally, the intercivilizational conflicts may be caused by imposing values of one civilization on the other, intervention in order to defend kinsmen in a different civilization, relative military or economic influence or power (Huntington, 1997).

The “core state” is the leading state to which the other states from the same civilization adhere. Such states include Russia as the core state of the Orthodox civilization, USA as the core state of Western civilization and China as the core state of the Sinitic civilization. Some civilizations do not have core states, such as the Islamic or African ones. Those

states can, but not always, beget political, economic or cultural unity.

“Torn states” are those which are going through change of identity and suffering from a kind of “cognitive dissonance”. The examples of such countries include: Turkey, a country with culture based on Islamic cultural values and whose traditions derived from Islam, but governed by secular leaders, which are seeking constantly since 1920's to affiliate with the West. Mexico, yet another example, has a Latin American society which has much more in common with Central and South American countries and societies, but is trying to get closer to its North American NAFTA partners. Generally the successful “Torn country” must meet three requirements: it's elite must support the change, the public have to support the move as well, the elite of the accepting civilization must be ready to welcome the new country. In Turkey's case it is clear that the third condition is not satisfied – the EU elites are not ready to accept the country into the Union.

The “Clash of the Civilizations” hypothesis have found lots of academic supporters, but have also fallen under harsh critics from various academic writers ( Koechler, 2002; Fox, 2005; Mungiu-Pippidi&Mindruta, 2002; Henderson& Tucker, 2001; Russett, Oneal& Cox, 2000), but one thing is clear – it hasn't left many people apathetic towards the hypothesis. It seems to the author of this paper, that the basic elements of Huntington's thesis of civilization's encounters can explain some of the Post-Cold War dynamic dialectics, including those between the pirates, seen as challenging the Western lifestyle and the shipping industry. Interestingly enough, the contemporary piracy of last 10-20 years gets much attention, while the piracy of an earlier period doesn't have much attention at all. Of course the reason seems to be that the piracy of an earlier period is much less in numbers as it was noticed earlier. But also, the “earlier” piracy had to do a lot with ideological reasons and didn't threat the worldwide shipping industry as much.

One of the better known examples was the hijacking of the Achille Lauro. On October 7<sup>th</sup>, 4 Palestinian members of the PLF (Palestinian Liberation Front) hijacked an Italian cruise line and killed an American passenger of the Jewish origin. The hijackers pursued the release of Palestinian prisoners from the Israeli prisons. The motivation for the attack was political, the location of the attack was not in “high seas”, there was no “second vessel” involved and the hijackers did not act for the “private ends” as the UNCLOS demands in

order to describe the act as piratical, so it left the US without the possibility to prosecute the hijackers under the universal jurisdiction. This case has left much impact on the legal international system and led to the adaptation of the Rome Convention (Convention of the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, Mar. 10, 1988) which made it possible to legally prosecute the hijackers of the ships in cases that do not fall under the UNCLOS anti-piracy framework (Barrios, 2005).

Of course, this doesn't mean that nowadays, after the end of the Cold War, there are no “ideological” hijackings. On the contrary, there is no less than before (for instance Al-Qaeda trying to make use of the anti-Western sentiment (Wassef, 2009), Kenyan security forces accusations that Al-Qaeda is involved in piracy in order to help finance itself (Potgetier, 2008) or already proven link between Indonesian separatist Free Aceh Movement and the piracy in the Strait of Malacca (Luft&Korin,2004) and even more. Terrorism is looking for new opportunities and it seems that they found some by trying to link the modern maritime piracy. Unlike the piracy of the Middle Ages, which main objective was an economic gain. Many of today pirates have broad ideological agenda which aggravates the whole piracy issue, taking into account that most of world's oil and gas is transported through piracy infested seas (Luft&Korin, 2004).

As part of this work, S. Huntington's hypothesis will be applied in relation to the phenomenon of contemporary maritime piracy that will be studied in detail on the example of Somalia and Southeast Asia –piracy, terrorism, ideology and their connection in the light of Dr. Huntington's hypothesis of the Clash of the Civilizations will be discussed more in regard to the modern maritime piracy in the Case Study section.

## 4. Case studies

For the purpose of this study two case studies have been chosen (as the most distinguishing models of contemporary maritime pirate activity):

The first case study analyzed is Somalia (with an accent on the Gulf of Aden). This case study has been chosen because it has the highest level of pirate activity in the world for the last few years, and because it seems that there is no effective international management plan to remedy the situation. Also, it is clear that the main reason for the high level of piracy is complete lawlessness in the country as a result of the end of sponsorship of Somalia after the end of the Cold War, which calls for the main research question of this thesis.

The second case study will analyze piracy, its reasons and counter-piracy efforts in the South East Asia, and specifically, around the Strait of Malacca/Indonesia region. The case study has been chosen because it occurred in recent history and had a high level of piracy and effective international response, and especially, a high degree of regional cooperation, which brought down the incidence of piracy to a low level at the present time.

### 4.1 Somalia

#### ***4.1.1 Background of the Somali piracy problem***

Presentation of the Somali piracy problem must begin with an analysis of the legal conflict between various documents of the contemporary international law of the sea.

First of all, we should note the presence of a definitional difference between what regarded “piracy” by IMB and IMO. IMO as a UN agency follows the UNCLOS definition of the “piracy”, while IMB is not concerned with a formal legal definition. According to the article 101 of the UNCLOS the definition of the piracy is:

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

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

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

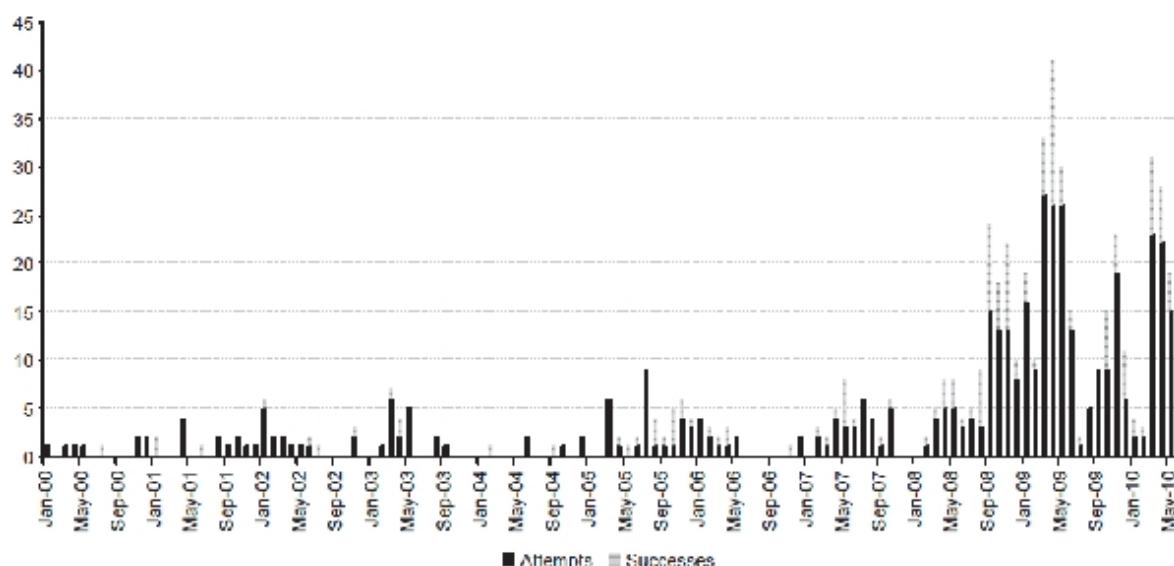
(b) any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft;

(c) any act of inciting or of intentionally facilitating an act described in subparagraph (a) or (b) (United Nations Convention on the Law of the Sea, 1982, art. 101).

This definition is troublesome as most of the attacks against ships and hijackings have occurred inside the EEZs (It is estimated by scholar Samuel Menefee that 85-93% of maritime crime take place in territorial waters (as cited in Kvashny, 2003), such as EEZ of Somalia and Yemen where all the Gulf of Aden hijackings constantly occur and Malacca strait and Indonesian and Malaysian waters, which used to be the hotspot No. 1 before the Somalia piracy skyrocketed in the last decade. Some of the states do not have the resources to monitor their EEZs and since the attacks within the borders do not count as piracy and are not under universal jurisdiction some of the actual offenders can go free. Not defining the attacks inside the territorial waters as “piracy” leaving the definition, repression and prosecution to national legislation of the countries concerned and some of them do not have “piracy” in it or the judicial or executive structures are not able or are not willing to deal with it. There can be also huge differences in criminal responsibility in different countries as well – death penalty or prison term. Thus it seems that IMB’s (International Maritime Bureau of the International Chamber of Commerce) definition of piracy "Piracy is the act of boarding any vessel with an intent to commit theft or any other crime, and with an intent or capacity to use force in furtherance of that act."- is more relevant if one wants to estimate dynamics of piracy in the world and will be adapted for the purposes of this thesis (There are much more aspects to legal uncertainties in this issue, though it is not in the scope of this work. One can proceed to following works: Satkauskas, 2011; Roach, 2010; Nong&Ng, 2010; Коште, 1990)

During the past few years, roughly since 2003-2004 to the present, the world piracy

hotspot has shifted from South East Asia to the international waters around Somalia – a very wide territory that includes the Gulf of Aden and stretches from India to the Mozambique strait. According to the IMB statistics, the two most common piracy hotspots are trading places. South East Asian piracy is on the decline, while the Somali piracy is on a steep rise (ICC IMB, 2011). While there were only 5 Somali pirate attacks in the first quarter of 2006, there were already 85 reported attacks near Somalia in the first quarter of 2011. Somali pirates have been active not only near Somali waters, but their threat has spread onto a wide region from the southern part of the Red Sea in the west to 73° longitude East, and even further. There have been reports of attacks involving Somali pirates off the coast of Oman in the Arabian Sea in the north up until 22° South, with 97 Somali pirate (ICC IMB, 2011a) attacks in total.



*Graph 4.1.1 Somali piracy – attempts and successful attacks ( 1/2000 – 6/2010 ). Image from: Shortland A., Vothknecht M., (2011), Combating “Maritime Terrorism” off the Coast off Somalia, European Journal of Political Economy*

### ***Transformation of Somalia into the “failed state”***

Somalia, officially known as Somali Republic, is a state in the eastern-most part of Africa. It is bound by Djibouti in the northwest, Ethiopia in the west, and Kenya in the southwest. Since 1969 it has been ruled by the dictator Major General Mohammed Siad Barre, whose administration direction was predominantly socialist. Initially, Mohammed Siad Barre was



supported by the Soviet Union, but since the late 70's, he began to lean towards the USA, which poured millions of dollars into the country (Wengraf, 2011). During the 80's United States gave large amounts of military and economic aid to Somalia as it had special value due to its strategic location which provided open access to the Gulf's oil fields (Lofland, 2002).

As many other third world states, it was a client state of the superpowers during the Cold War, but Somalia stopped receiving financial aid from the superpowers as its strategic importance was diminished when the Cold War drew to a close in the late 80's.

In 1991 Mohammed Siad Barre was ousted by opposition forces. As the former dictator fled the country, Somalia became engulfed in anarchy. In 1992, probably, the worst drought of the century, plagued the continent, resulting in 300,000 deaths. Up to 25% of children under age of 5 had died and around half of the population had faced food shortages. Collapsing Soviet Union have stopped to finance Ethiopia, Somalia's major opponent in the region, and the U.S. Aid to Somalia have been stopped either as in this conditions Somalia have not represent any value (Wengraf, 2011). The international community has tried to intervene, but the intervention failed (UNOSOM I, UNITAF). Later, the Security Council of the UN has passed the resolution 814 and has started the UNOSOM II operation. The UNOSOM II force was supposed to assume responsibility over the initiative, replacing the above-mentioned forces, set up the government, the justice system, create police, and help organize the economy. It was a force that consisted of 20,000 peacekeepers, 8,000 logistical staff and 3,000 civilians from 23 nations. One of the main goals of the operation was to arrest or liquidate General Mohammed Farah Aideed, Somali military leader and warlord, who was seen as the main obstacle to peace. Aideed drove UN force out of Somalia. After the infamous "Black Hawk down" incident, during which around 1000 Somalis and 19 soldiers, most of which were Americans, died, Bill Clinton decided to withdraw the American forces, which were the main component of the UN UNOSOM II force. The rest of the UN force withdrew soon after, as well (Potgieter, 2008). Somalia didn't have a central government until the year 2000, when a parliament convened in nearby Djibouti and elected a new government. This government never controlled more than 10% of the country. Two of the more stable and peaceful territories, Somaliland and

Puntland, have declared independence, though they were never recognized by the international community.

The new and the worst outbreak of violence began in May of 2006. The battling sides were the Somali Islamic Courts Council, the local warlords, and the Government of Somalia, which controls only some districts of Mogadishu, the capital. In June of 2006 the Islamic Courts have seized Mogadishu and much of the south. At the end of that year, the forces loyal to the Transitional Government have seized Mogadishu back from the Islamic Courts Council, supported by the Ethiopian forces. Since the departure of the US and UN forces in 1994, the international community has become little more than observers. The Cold War was over and the interest of the West in helping the developing nations has clearly declined, because there was no more risk of these countries falling in the hands of the Eastern bloc.

Al-Shabab, the strongest Islamist group in Somalia, which began gaining strength in 2007, opposes the transitional government and seeks to establish an Islamist state in Somalia. Some of its plans include promoting traditional Islamic punishments, such as chopping off hands, stoning, and also banning different forms of technology. By February of 2009, this group controlled most of Southern Somalia.

### *Development of modern maritime piracy in Somali:*

#### *Piracy practices and tactics*

According to the US CIA World Factbook, Somalia rated 223rd (2010) - fifth from the bottom - in the GDP world rating, and the foreign aid was estimated at \$16 per month per capita (2010), which is essential for Somalia, as the income per capita in 2002 was only \$226 per year (World Bank, 2003), and due to the abysmal security situation, the World Food Programme has partially suspended its activities in southern Somalia (CIA, 2010). At this state of lawlessness and extreme poverty, the pirates have the highest level of motivation to attack. Somalia is one of the poorest places on Earth, strife-ridden and war-torn. Thus, its youth have little to lose, and seek their fortune in the waters of the world ocean. Those people are fighting not for ideological or religious reasons, but for their own financial salvation (Lennox, 2008). It is one of the few places in Africa where the security

situation on land has seriously affected maritime security.

Somalia's location is very important strategically. It is situated at the Horn of Aden, where the Gulf of Aden is one of the few key places of international maritime trade. Hundreds of vessels pass it every single day, traveling between Europe and the Far East through the Suez Canal. The tactics of the Somali pirates remained the same over the last year, although they succeeded to technically upgrade their arsenal using the ransom money they receive. Due to the increased presence of the world's navies in the Gulf of Aden, some of the pirate activity has moved into the open sea, far from the Somali coast. Pirate activity had spread as far as the Indian coast, but the main hunting ground still is the area between the Seychelles islands and Tanzania (Gettleman, 2010). In order to be able to attack and hijack foreign ships, the pirates are using so called "motherships" and "attack skiffs". Mother ship are usually a hijacked trawler, often a fishing boat, operated by Indians, Taiwanese or South Koreans (The Atlantic Monthly, 2008) that is used by pirates to navigate far from shore and to hide their bases from the naval forces in the region. When an opportunity presents itself, the neo-pirates attack their victims using fast attack skiffs. There are usually 10 pirates divided into 3 skiffs taking part in the attack, each skiff of very simple structure but quite fast with 40-50 horsepower engines. The pirates' equipment consists of guns, including rocket-propelled grenades, GPS, satellite phones, grappling hooks and ladders.

The typical pirate group goes to sea "on a hunt" for about three weeks (The Atlantic Monthly, 2008). The mother ship's original crew is usually locked away somewhere on the mothership, and once it runs out of fuel the ship is simply abandoned (Gettleman, 2010). The deceptive tactics of the Somali pirates include false distress calls and disguising themselves as fishermen (Lennox, 2008). If a ship is successfully captured, it is either used as a mother ship, or is dragged to a friendly coastal town and moored there awaiting its ransom.

Somali piracy consists of four main types that can be classified according to their location, capabilities, and tactics. The "Somali Marines" group - operating out of central Somalia - has superior tactics. They have adopted the "mother ship" model, which allows them to carry out attacks in the Indian Ocean, far away from Somali coast, loading mother ships

with a few small and quick skiffs. Another group is the “National Volunteer Coast Guard” operating from Kismayo in the Southern Somalia, the third group is constituted by a few factions in Marka, Southwest of Mogadisho, and finally the forth one group is located in the “pirate state” of Puntland, operating mostly in the Gulf of Aden (Ross&Ben-David, 2009). Pirate networks are organized mostly along the clan lines (Ploch et al., 2009).

Unlike pirates of other origins, the Somali ones do not have infrastructure to trade with goods stolen from captive ships, thus the hostages are their main commodity. There are different accounts on pirates’ attitude toward their captives. Most of the accounts and papers say that the attitude is usually quite moderate or even good in some cases (as it will be shown further, it is generally much better than the attitude of some of their Southeast Asian colleagues’ (Ploch et al., 2009), such as the Malaya pirates (Teitler, 2002) or their Nigerian counterparts, whose attacks are much more violent (ICC IMB, 2009). The Somalis understand that the physical condition of their captives is an important factor in ransom negotiations, unlike their colleagues, who mostly target ships for their cargo. It seems that the Somali pirates, according to a strict code of conduct in everything connected to the hostages (Shortland&Vothknecht, 2011), and according to some other evidence, even have printed copies of those rules, kind of “Pirate’s Handbook” (Gettleman, 2010). After they drag the ship to a friendly coastal town, the pirates separate the hostages to lower the chance of rebellion, and keep the hostages detained while negotiating and receiving the ransom. The process usually takes around five weeks (Lennox, 2008).

Spokespersons for the Somali pirates claim that they distribute part of the ransom money among poor families in the region (Watkins, 2008). Also, even though the fight is not, as was mentioned above, a religious fight, but the thesis of Samuel Huntington finds an endorsement here in the words of the pirates’ spokesman. When the Saudi tanker “Sirius Star” was hijacked in 2008, the pirates’ spokesman, talking about the incident, said that the hijackers have special love for Saudi Arabia, as it is a Muslim country, and would reduce the ransom, as “they respect very much and love because it is a Muslim country” (Watkins, 2008).

Therefore, the contemporary Somali buccaneers have reached high level of organization of their activities, including extensive network and internal hierarchy, speedboats, modern

weapons and communication equipment, channels of obtaining intelligence on the movement of cargo and ships in international waters, schemes of obtaining ransoms for captured vessels and crews, as well as ideology justifying piracy as a phenomenon. The above circumstances cannot but arouse particular concern in the light of the affiliation of Somali modern piracy model with ideologically extreme fundamentalist movements.

### *Alleged roots of Somali piracy*

It seems that Somali piracy has begun as a fight against the foreign transgressors.

Commercial fishing has risen four times since the end of the Second World War. Foreign fishing companies have pressed on by their wide presence and intensive fishing methods, which have devastated the fishing grounds of North Atlantic and other seas, practiced it near Somalia before the rise of piracy. They threatened small, local fishing communities and depleted their fishing stock beyond the point of future recovery (Ananthakrishnan, Dombrowski&Marcus, 2010). There have never been serious coastal patrolling capacities in the Horn of Africa, and especially in Somalia, where after the collapse of the state, its coast guard collapsed, as well. Much of the foreign fishing has been illegal (Potgieter, 2008). According to the EU study, the fishing trawlers fish illegally in volume of 1 to 2 billion dollars per year in the Sub-Saharan Africa (Ananthakrishnan et. al., 2010)<sup>4</sup>. According to the United Kingdom Department for International Development, only in 2003-2004, Somalia has lost the revenue of 100 million dollars due to illegal fishing in its EEZ (2005, 6). Some of the foreign fishing trawlers have used “dirty” fishing tactics next to the Somali coast, such as the usage of dynamite or waterborne vacuums, which sucked up everything from the marine floor including coral reefs, plants, fish etc., compromising the ability of future generations to use these marine resources. Other incidents, such as cutting nets, boxing out local skiffs, or even firing guns at local fishermen by the foreign trawlers have occurred (Gettleman, 2010).

Another problem is the illegal dumping of the chemical and nuclear waste in the Somalia

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<sup>4</sup> Not only Somalia but other countries in the region are losing greatly from the illegal fishing and the depletion of the stocks as a result. It was reported (American Forces Information Service, 2007 ) that Mozambique and Tanzania are losing more than 1 billion dollars yearly from illegal fishing, destruction of the reefs and stocks depletion.

waters by EU and US. According to the United Nations study on Somalia:

Further, Somalia is one of the many Least Developed Countries that reportedly received countless shipments of illegal nuclear and toxic waste dumped along the coastline. Starting from the early 1980s and continuing into the civil war, the hazardous waste dumped along Somalia's coast comprised uranium, radioactive waste, lead, cadmium, mercury, industrial, hospital, chemical, leather treatment and other toxic waste. Most of the waste was simply dumped on the beaches in containers and disposable leaking barrels which ranged from small to big tanks without regard to the health of the local population and any environmentally devastating impacts. The issue of dumping in Somalia is contentious as it raises both legal and moral questions. First, there is a violation of international treaties in the export of hazardous waste to Somalia. Second, it is ethically questionable to negotiate a hazardous waste disposal contract with a country in the midst of a protracted civil war and with a factionalized government that could not sustain a functional legal and proper waste management system.

The impact of the tsunami stirred up hazardous waste deposits on the beaches around North Hobyo (South Mudug) and Warsheik (North of Benadir). Contamination from the waste deposits has thus caused health and environmental problems to the surrounding local fishing communities including contamination of groundwater. Many people in these towns have complained of unusual health problems as a result of the tsunami winds blowing towards inland villages. The health problems include acute respiratory infections, dry heavy coughing and mouth bleeding, abdominal haemorrhages, unusual skin chemical reactions, and sudden death after inhaling toxic materials. It is important to underscore that since 1998, the Indian Ocean has experienced frequent cyclones and heavy tidal waves in the coastal regions of Somalia. Natural disasters are short-term catastrophes, but the contamination of the environment by radioactive waste can cause serious long-term effects on human health as well as severe impacts on groundwater, soil, agriculture and

fisheries for many years. Therefore, the current situation along the Somalia coastline poses a very serious environmental hazard, not only in Somalia but also in the eastern Africa sub-region (UNEP, 2005, 134).

In some cases, the pirates insist that the ransom money goes for cleaning of the toxic mess that the EU and other ships have left in the Somali waters since the breakup of the Somali state in the 1990's. According to their spokesman, the 8 million ransom from the Ukrainian MV "Faina" will go to the cleaning of the toxic waste " that has been continually dumped on the shores of our country for nearly 20 years" . "The Somali coastline has been destroyed, and we believe that this money is nothing compared to the devastation that we have witnessed on the seas", Januna Ali Jamaa says (Abdullahi, 2008).

Not only the EU and the US ships overfish and dump toxic waste in the Somali waters, but also the neighboring countries are taking advantage of Somalia's disability to protect itself. According to Radio Somaliland (Diriye, 2006), the "Somaliland Coast Guard"<sup>5</sup> has captured numerous Yemeni fishing boats (according to Somaliland authorities – 17 and according to Yemeni ones – 86). They have released them soon, but claimed that they are a part of approximately 200 boats fishing illegally in Somaliland waters. Although acts like that are often viewed as piracy, the Somaliland officials claim that they are just protecting their fishing resources.

The consequence of the state failure in Somalia was the above mentioned international exploitation of the fishing grounds and its use as a site for toxic and nuclear waste dumping. In the beginning, the enraged Somali fishermen started capturing foreign ships and charging them "fines", but since the locals realized how much money they are able to earn from it, they have gone to capturing the ships that were not connected in any way with illegal fishing or dumping toxic waste in Somali territorial waters (Shortland&Vothknecht, 2011). Since then, piracy has become a major business there,

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<sup>5</sup>Somaliland is a part of Somalia Republic officially (which is in fact non existent as a state) which is situated in the North-East part of Somalia next to the Gulf of Aden. It is de facto sovereign state but is not recognized internationally. This part of Somalia hasn't been affected by constant war between the Transitional Federal Government and Islamic militants and remained probably the most stable part of Somalia

especially in Puntland (Shortland&Vothknecht, 2011), with the pirates belonging to the highest class in the Somalia society hierarchy and having deep connections with local authorities. In this places where pirate dens are located, all economy is based on serving pirates' needs with hundreds of locals employed as guards, cooks (there are special restaurants providing food for captives (Williams, 2008), skiff-builders, accountants, mechanics, PR managers (spokesmen), etc. It is almost the only industry that functions well in Somalia. There is even a pirate stock-exchange in the Somali city of Haradhere, which was opened in 2009 to finance pirate activities. There are seventy two private pirate companies that "went public" (Gettleman,2010).

Thus, it must be noted that short-sighted policy of the most industrialized nations of the world in the 80 's and 90 's, including uneven use of the coastal waters of Somalia, led to the radicalization of the local population and indirectly provoked the retaliation against offending ships. However, over time, groups led by patriotism and desire for equity, have transformed into well organized pirate network, which inflicted the world economy billions in annual losses which also undermined the force of the power of international law. In these circumstances the international community become concerned about the answer to this global challenge.

### *The consequences of the Somali piracy and international response*

Finally, after years of inaction, there is some response from international community, although it is limited to patrolling the seas. The piracy has raised the price of goods' transportation, threatened oil supply to the West, and is perceived as a potential threat to the world trade, as the Gulf of Aden is the cornerstone of a major marine route from oil-rich Arab states and producers of cheap goods in the Far East to Europe (Shortland&Vothknecht, 2011). Broadly speaking, this potentially threatens the Western way of life that is based on broad consumption of cheap goods and energy. Extraordinary growth of piracy has led to an international legal and military response, unprecedented cooperation of the world's navies, with the intention of fighting off piracy and armed robbery in the Gulf of Aden (Shortland&Vothknecht, 2011). The United Nations Security Council has adapted a resolution (UNSCR 1851, 2008), which empowers the fleets of



several states to address maritime piracy and armed robbery, gives them unprecedented power to enforce the law and order at sea, and empowers them to pursue the pirates in Somali territorial waters. Altogether, in 2008, the UNSCR has passed five resolutions on Somali piracy (UNSCR 1816, 2008; UNSCR 1838, 2008; UNSCR 1844, 2008; UNSCR 1846, 2008; UNSCR 1851, 2008) – more than on any other subject. Those resolutions have strengthened the authority to fight piracy beyond the bounds of international customary law<sup>6</sup>. Nevertheless, the options for prosecuting the pirates are still very limited. Thus, for instance, Britain has made an agreement with Kenya that enables prosecuting the pirates and maritime robbers in Kenyan courts. The foreign office of Britain and some other countries with shipping-protecting missions in the East Africa has told their Navies (except for the French) not to send the pirates back to Somalia, because they might be abused by the Somali justice system - in accordance to different international treaties it is forbidden to send or repatriate suspects or criminals to countries where they might be abused (Kontorovich, 2009). Pursuant to the United Nations Security Council Resolution 1851 (2008), several working groups on piracy have been formed by the international community. One of them deals with building up judicial and penal capacities in Kenya, Seychelles, Puntland, and Somaliland. Thus, the option of trying the pirates in the courts of the capturing nation isn't usually concerned, probably because of unwillingness to take care of suspects and criminals by the mostly Western States that patrol the sea, although according to international customary law, Article 105 of the UNCLOS, “every nation may seize a pirate ship” and the pirates shall be tried in the “courts of the state which carried out the seizure” (UNCLOS, 1982). As experience shows, pirates are not deterred by being captured by the Western Navies, acting under highest international human rights standards (Shortland&Vothknecht, 2011). It may be advised to the Western navies acting in the Gulf of Aden to cooperate more with the African countries, such as Kenya, in order to constantly bring pirates to justice there. This would clearly be more of a deterrent for them

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<sup>6</sup>Good example would be S.C. 1816 (June 2, 2008) which authorizes the navies to pursue the pirates in the territorial waters of Somalia, as they often try to quickly disappear in the territorial waters of Somalia after they attack ships in the Gulf of Aden – narrow strip of sea between territorial waters of Somalia and Yemen.

than the current “capture and release” policy, or even trying them in European courts. It is rather rewarding for the Somali pirates to receive a few years in a European prison and become the citizen of that country upon release.

In addition to the international Navies cooperation, other measures have been undertaken – many ship owner companies have begun to invest into ship protection measures, both active and passive ones. In 2011, the US government issued a regulation that essentially complicates ransom payouts to the pirates. Nevertheless, according to the IMB data (Shortland&Vothknecht, 2011), there have been 237 incidents of piracy involving the Somali pirates in 2011 (ICC Commercial Crime Services, 2012), compared to 216 in 2009, 218 in 2010, and 111 in 2008. The number of successful hijackings diminished from 49 in 2010 to 28 in 2011 (ICC Commercial Crime Services, 2012), which may show that the international action and some other practices may have provided some improvement. According to Captain Pottengal Mukundan, the Director of Piracy Reporting Center of the IMB, “These pre-emptive naval strikes, the hardening of vessels in line with the Best Management Practices (BMP), and the deterrent effect of Privately Contracted Armed Security Personnel (PCASP), have all contributed to this decrease” (ICC Commercial Crime Services, 2012). But the overall number of piracy attempts is still on the rise .

The above gives reason to conclude that the shortcomings of the law of the sea, as well as the lack of a consensus among the international community on a single algorithm to solve the problem of Somali piracy, together constitute a significant obstacle to overcome the existing situation in the sphere of international shipping.

#### **4.1.2 Analysis of Somalia piracy problem**

##### *Looking at piracy through Huntington's “civilizational” lens*

Most of the papers mention that Islamic fundamentalist movements are fighting piracy as the piracy doesn't correlate with Islamic values and is “haram” – a forbidden activity (e.g. Lennox, 2008). As armed insurgent groups captured new territories, would wipe out piracy dens in those areas. This widespread view that Islamists successfully fight piracy is based on the 2006 events, when the Somalia's Islamic Court, which by then ruled over most of the Southern Somalia, consolidated their forces and moved up to the North, taking control

of the places which were widely regarded as bases of the pirate gangs. Sheikh Said Ali, who is an ICU official, has declared that "The actions of the pirates were unlawful, unacceptable and un-Islamic". Anybody suspected of aiding the pirates, or being among them, will be punished according to Sharia law" (Spiegel online, 2006). Since then, not a single act of piracy has happened in that area for a half a year (Shortland&Vothknecht, 2011).

The relationship between Islam and Piracy is rather a business relationship. There is clearly no ideological closeness between piracy and Islamism. Piracy is forbidden according to Islam, and has been chased out by the Islamists in 2006. Authors like Peter Chalk (2008) do not see any collaboration between pirates and Islamists, which is nevertheless strange, at the least. He writes:

"The presumed convergence between maritime terrorism and piracy remains highly questionable, however. To date, there has been no credible evidence to support speculation about such a nexus emerging. Just as importantly, the objectives of the two actors remain entirely distinct" (Chalk, 2008).

Of course, theoretically, pirates and terrorists have separate objectives, as the pirates seek financial gain, and the Islamists pursue ideological goals. But it is more complicated than this. It will be shown that it doesn't correlate with the true state of affairs.

The above mentioned papers fail to mention that, in fact, the Islamist forces have started to cooperate with this biggest and most successful Somalia industry. It seems that things have changed since 2006. For instance, one of those groups – Hizbul Islam, which occupied Haradhere, is now getting 40,000 dollars from each ransom payment. The biggest and most powerful Islamist group – al-Shabab – has agreed to not interfere in pirates' activities in exchange of 5% of each ransom (Gettleman, 2010).

It may well be that the main reason is economic and the Islamists, in fact, are ready to coexist in peace with the pirates, provided that the pirates will share the profits. Islamists need material income to bear their insurgent activities, and the pirates need wealth and freedom to keep on with their attacks (Ross&Ben-David, 2009). It is well known that throughout history, many insurgent groups have secured their freedom of operation through involvement in criminal networks – just to mention bank robberies by the Bolsheviks or

the Taliban opium growing patronage. Very little is produced in Somalia, and almost everything that is produced is exported. Thus, one of the more lucrative businesses in Somalia is importing goods, and therefore in order to finance itself, any group must have access to a port. There are five main ports in Somalia. Berbera is in autonomous Somaliland, Bosaso is in autonomous Puntland, Kismayo and Merca ports belongs to Al-Shabab, Mogadisho and its port – to Transitional Government, so it makes sense that Hizbul Islam needs a port – and it has one, the Haradhere port.

Shortland and Vothknecht ( 2011, 18 ) has checked the relationship between the Muslim holiday of Ramadan and Piracy. We could expect a decline in piratical activity during Ramadan, as piracy is forbidden in Islam and thus we may expect that some of the pirates would abstain from this activity during their holiday. Even though a link has been found, conversely – there have been more attacks during the Ramadan season. There was no single convincing hypothesis offered for this phenomenon.

According to the research model of Shortland and Vothknecht, Islamists' incursion into Haradhere is not supposed to have any statistically significant effect on pirate activity (2011, 16). There are allegations that pirates are funding Islamist forces (Hartley, 2008; Wassef, 2009). As has been noted already, the mix of piracy and terrorism represents the highest degree of threat to the Western World. According to the *Jane's Terrorism and Security Monitor*, the consequences of piracy are, in fact, much more serious than mere threats to the shipping industry. Because piracy and terrorism in Somalia closely cooperate in three fields: training, arms trafficking, and investments in criminal activities (Ross&Ben-David, 2009), it makes sense for the insurgents to use the pirates' maritime knowledge, resources and abilities to illegally smuggle arms and foreign fighters. In May 2008, the pirates have already delivered an arms cargo to the insurgency leader Hassan al-Turki (Ross&Ben-David, 2009). Al-Shabaab is also investing money into the pirate activities and is getting dividends between 20% and 50% (Ross&Ben-David, 2009) in zones controlled by Al-Shabaab. Training is another field of cooperation between the pirates and the Islamists, and it is bilateral: the pirates train the Islamists in maritime skills and the Islamists train the pirates in combat skills (Ross&Ben-David, 2009). The use of piratical tactics and resources by terrorists can potentially cause an ecological catastrophe

(Chalk, 2008). An oil tanker, such as MV Savina Caylin, the Greek Irene SI, or the Saudi Sirius Star, captured by pirates earlier, can get damaged, and millions of barrels of oil will spill into the sea, or even worse, the terrorists can turn it into an enormous dirty bomb.

In 2008, after the Somali pirates captured a Saudi-owned oil tanker, they had to move the tanker farther out into the sea, because of the fear of Islamic Al-Shabaab group, who threatened to attack the pirates that dared to capture a ship belonging to a Muslim nation (Williams, 2008). But as it was said above, there are signs that the Muslim insurgency groups, at least some of them, have realized that it is possible to benefit from cooperation with the pirates and turn a blind eye on some of their activities. There have been reports that al-Shabab is looking for Israelis and Americans on the sea as valuable hostages, which blurs the line between the pirates and Islamists (Lennox, 2008). The terrorists who carried out the attacks in Mumbai have been brought there by a vessel hijacked by pirates in the Indian Ocean (Lennox, 2008). The pirate leader Yusuf Mohammed Siad, better known as Inda'ade, used his income from ransoms he received to buy weapons for Al-Shabaab (Ryu, 2008). All this infers that pirates and Islamists are getting closer to one another, which is something that the Western leaders do not want to happen. This can be proof for Huntington's claim that such activity not only presents a great danger to maritime shipping, but also presents an equally great danger for other Western and Global economic and ecological interests in the region. Primarily, it also means that there is cooperation between piracy and terrorism, as the terrorists are getting access to the piratical tactics and assets. Since the pirates have become a key ploy for the terrorists worldwide at sea (Munwalk, 2008), there cannot be a guarantee that the same will not happen in Somalia.

The above facts, give grounds to conclude that the civilizational factor plays a significant role in the development of the problem of piracy, particularly in the depressed regions of the world, however, this factor cannot be regarded as fundamental. This conclusion may be justified particularly by available in the scientific circulation statistical information, which clearly and unequivocally proves no incidence of piracy off the coast of Somalia until the second half of the 90 's, while in Asia the piracy was blossoming. Thus, it is difficult to assume that after the 1995 the civilisational parameters of Somalia had undergone substantial change to something that have made it the new center for the global maritime

piracy. It is more realistic to conclude that these changes have been made possible due to the cumulative effect of a number of objective and subjective factors, among them are: weakening of governmental authority in Somalia factor (which de facto ceased to exist in 1991); the related segmentation of the country into zones controlled by different armed groups, the total destruction of the national economy and the related problems of unprecedented famine and impoverishment of the local population; the lack of prospects for a better life and employment; conspicuous violation of the borders of national sovereignty over maritime waters of Somalia by the ships of foreign merchant, fishing fleets and navies and lack of punishment for such crimes; weak international legal regulation of safety of navigation as well as institutional failure of the international community to ensure the rule of law in the international waters, etc.

### *Strategy and tactics of international anti-piracy cooperation*

As it has been noted above, the Security Council has made outstanding steps – it adopted 5 resolutions in 2008 alone against piracy, which allows entering the territorial waters of Somalia and uses “all means necessary” to stop pirates from committing their crimes. The resolutions may have represented a turning point in the fight against piracy but it seems it had not. The resolutions launched the EU operation Atalanta and CTF 151 mission in support of SC resolutions together with Navies from other states such as Russia, China, India etc. Of course cooperation represents a key element in confronting piracy, but it only created a special security corridor (IRTC – Internationally Recommended Transit Corridor) in the Gulf of Aden, where ships are supposed to get protected while passing from Suez canal to the Indian ocean (warships do not attack the pirates themselves first, neither on sea nor in its home ports (Lennox, 2008). According to the Shortland and Vothknecht study “pirates attacks have not been reduced neither due to the implementation of the IRTC nor to the private sector defences” (2011, 17). According to the US National Security Council report *Countering Piracy Off the Horn of Africa: Partnership and Action Plan* «Combined Maritime Forces (CMF) warships and aircraft patrol this area and preliminary data indicates that the pirate success rate for hijacking is only slightly lower inside the MSPA (IRTC) than outside” (U.S. National Security Council, 2008). Since the implementation of

the IRTC, the number of pirate attacks and the size and value of attacked ships only continues to escalate (Lennox, 2008). According to the experts, the area of the IRTC is simply too vast to be able to protect all ships and prevent all incidents (Ploch et al., 2009). Vice Admiral William Gortney, Commander from the U.S. Naval Force Command testifying before the House Armed Services Committee said that “Ultimately, piracy is a problem that starts ashore and requires an international solution ashore. We made this clear at the offset of our efforts. We cannot guarantee safety in this vast region” (Ploch et al., 2009). It is estimated that 5 to 7 million square miles require protection, an area that Navies are simply not able to cover (Ross&Ben-David, 2009).

Thus it should be recognized that the effectiveness of the strategy and tactics of international cooperation is limited in combating sea piracy which can be vividly confirmed by fresh statistics on acts of maritime piracy for 2010 year.

*Table 4.1.2: Locations of Actual and Attempted Attacks: 2011*

Location	ACTUAL ATTACKS				ATTEMPTED ATTACKS	
	Boarded	Hijacked	Detained	Missing	Fired Upon	Attempted Boarding
<b>S E ASIA</b>						
Indonesia	41	3				2
Malacca Straits		1				
Malaysia	13	1				2
Myanmar (Burma)	1					
Philippines	3					2
Singapore Straits	9	1				1
<b>FAR EAST</b>						
China	2					
South China Sea	9	1				3
Vietnam	8					
<b>INDIAN</b>						
Bangladesh	10					
<b>SUB CONT</b>						
India	6					
<b>SOUTH</b>						
Brazil	1					2
<b>AMERICA</b>						
Colombia	2					2
Costa Rica	3					
Ecuador	6					
Guyana	1					
Haiti	2					
Peru	2					
Venezuela	2					2
<b>AFRICA</b>						
Angola						1
Benin	10	8				2
Dem. Republic of Congo	4					
Egypt	3					
Ghana	2					
Guinea	4				1	
Gulf of Aden*	1	4			19	13
Ivory Coast	1					
Kenya	1					
Nigeria	5	2			2	1
Red Sea**	4				13	22
Sierra Leone	1					
Somalia	15	23			78	44
The Congo	3					
Togo						6
<b>REST OF</b>						
Mediterranean Sea	1					
<b>WORLD</b>						
Oman***		1				
<b>Sub total</b>	<b>176</b>	<b>45</b>			<b>113</b>	<b>105</b>
<b>Total</b>	<b>439</b>					

*Source: 2010 data from ICC International Maritime Bureau, ( January 2011 ) Piracy and Armed Robbery Against Ships, Annual Report, 1 January-31 December 2010, (London, United Kingdom), p. 5*

The above table shows that as of 2011 there were 439 acts of maritime piracy, the bulk of which occurred in the waters around Somalia and in the Gulf of Aden. Bearing in mind that not all pirate incidents fall into summary statistics, it can be assumed that in fact their numbers in 2010 were higher. From all of the above may be suggested that the major handicap of the existing strategies and tactics of the international community in this area is the absolute concentration on the fight against the consequences of the problem instead of a coherent strategy for the elimination of the root causes of this negative phenomenon. This issue should also be considered in the context of the theory and practice of marine and coastal management, since piracy affects international sea trade, adjusts the length of the routes of trade and other civil ships upward, redistributes the popularity of different routes, as well as the work-load of ports. Among other things, the factor of piracy must be taken into account when calculating the costing of goods and cargo, in the aspect of extra insurance risks and the need to strengthen the safety factors on the civil boats and in waters which are in accordance of international law under the jurisdiction and/or responsibility of a contiguous state.

It is important to note that major root causes of Somali piracy are, as discussed above, in the absence of central authority in the country, and the assistance should be the help to end the civil war and to bring national reconciliation; international assistance in post-war settlement of Somalia, with an emphasis on education, health, creating many jobs with adequate levels of pay, with the influx of investments, including in the coastal zones of the country, etc.

It is obvious that without the assistance of the United Nations and the international community it is not possible to achieve the above objectives, however, only such steps could lead to normalization of the situation in this area. In this regard, the power measures may have purely subsidiary nature to the economic, political, social and legal measures to resolve the problem. In other words, developed after the end of the Cold War reality requires tackling the new challenges using modern methods, which are fundamentally



different from authoritarian (power) methods for solving international conflicts at that time, in favor of economic and consiliatory mechanisms in the new era.

### *Sea control during the Cold War*

During the East – West confrontation there has been much more Eastern and Western Navies but all together and not in GOA. Definitely the amount of ships seen in GOA today (within the framework of Atalanta we see 2000 military personnel included (Ministry of National Defense of Republic of Lithuania, 2011) and up to six frigates and three aircraft at any time (Ross&Ben-David, 2009), around 24 ships from CTF 151 mission, 5 ships from NATO deployment mission (Ploch et al., 2009) and Navies of countries such as Russia, India, China etc.) is very big. But as mentioned before, it doesn't really decrease the amount of attacks. So it seems that the issue of sea control during the Cold War wasn't something that prevented the piracy. During the Cold War most of the states, even the so called “unaligned” ones were in fact sponsored and as a result controlled by either the West or the East. This kind of discipline together with sponsorship meant law and order was more important factor that prevented piracy.

### *Learning from past experience*

The piracy problem is ages old. In order to realize how to manage the threat we probably have to look into the past experiences – pirates have been active and combated during every historical era. Piracy has existed in the Ancient Mediterranean seas around the beginning of the first century BC, in the Hansa commerce way in the Baltic and North Sea, in the Spanish Caribbean between 1500 and 1750. There were also wars against pirates of the Barbary coast by the US Navy during the eighteenth and beginning of nineteenth century and by the British fleet in the Indian Ocean and Western Pacific during the same centuries (Puchala, 2005).

According to Donald Puchala (2005, 1) the piracy phenomenon has a cyclical nature in history. In the beginning it is rather nuisance than a menace, but at the later stages pirates become more of a tribulation and more abundant in numbers which allows them to start to choke the flow of the trade. Then, the country or a coalition of few countries, that have most to lose as a result of the extensive buccaneers activity, declare war on piracy. The result of this war is always complete devastation of the piracy strongholds on land. Only

after assaults on their land bases and the killing or capturing of their leaders does piracy disappear, until a new cycle arises.

The main difference between Somalia and other “piracy countries” is in availability of “sanctuary”, something that maintains and gives life to the piracy. Somalia is a country “without a state” - the only completely failed state in the world. Like all sailors, pirates must have a place where they can come to rest, refill their reserves – food, oil, weaponry etc. or have fun. In fact, unlike their colleagues in South East Asia or other piracy-infested places, pirates can use the most of the territory of Somalia as a sanctuary for their activities. According to the research made for the US Congress,

One of the unique characteristics of Somalia piracy has been the taking of hostages for ransom. In this sense, piracy off Somalia can be viewed as a form of maritime kidnapping. Unlike pirate attacks in Strait of Malacca or Nigeria, where ships are boarded either to take the vessel or its contents, pirates off the Horn of Africa routinely take the target vessel’s crew hostage in return for ransom payments. This approach to piracy is possible because the pirates have a sanctuary on land in Somalia and in its territorial waters from which they can launch pirate attacks and conduct ransom negotiations. Pirates in other parts of the world are less likely to have such sanctuaries. This has presented maritime security forces with significant challenges to traditional engagement strategies and tactics. (Ploch et al., 2009, 8).

Throughout the ages, sanctuaries have been the key element of the success of buccaneers (Puchala, 2005). Donald Puchala basically gave us the answer on how to manage the piracy threat:

Needless to say, it would be most satisfying to discover that good things do go together in international history, and thus to find that piracy was suppressed because the rule of international law eventually prevailed, or because coalitions among nations ultimately came together to protect the seas and sea coasts, or because international regimes brought compliance with principles and norms that mobilized action against pirates, or because the global issue of piracy led to the formulation of global public policy opposing it, or because

the root causes of piracy were eliminated and the villainous practice was eliminated along with them. From much that has already been said, it should be clear that none of these explanations are valid. The historical fact is that pirates were suppressed when they were sought out, hunted down and forcefully destroyed along with their strongholds and sanctuaries (Puchala, 2005, 13)

Puchala is echoed by Freedman who is criticizing Chinese and Indonesian authorities for being not tough enough on piracy:

If the Indonesians need a useful precedent, they don't have to look far. In the Philippines, scores of luxury and coastal craft were being hijacked and robbed. The authorities became so embarrassed about these goings-on that they decided to do something about it. The Filipino police pursued the perpetrators and killed as many of them as they could. It's been remarkably quiet on the waterfront ever since (cited in Kvashny, 2003, 31).

As for the risk reduction practices - they might help, although not much, as have been mentioned above (Shortland&Vothknecht, 2011). International maritime organizations such as International Maritime Organization (IMO, 2011b) and International Maritime Bureau (ICC IMB, 2011b) have issued special advice on best management practices on how to avoid hijacking. There are many useful recommendations including usage of different non-lethal weapons and protective fences, watch and detection procedures, evasive maneuvers etc. Some companies invest in protective measure and some don't, thinking that occasional ransom will be less costly than investments or rerouting around Cape Cod. Arming ships with lethal weapons seems to be the best protective option but is associated with many problems, one of them being impossible for merchant ships entering ports of many states on the way and other legal problems such as lawsuits after fatal shootings. Others are concerned with possible greater violence from pirates and arms race between merchants and piracy groups, moreover today pirates are capable of hijacking vessels hundreds miles off the Somalia coast so it is clear that none of the individual protective measures can serve as long term management solutions.

Passive defense never succeeded. When the Spanish government in the 16<sup>th</sup> century declared the war on piracy which devastated Spanish shipping in the Caribbean carrying treasures from the New World they have used passive defense tactics – convoys. But convoys were not able to fully protect all the ships and pirates have ravaged the ships before the convoys arrived (Puchala, 2005). All success stories of fighting against piracy in history, such as Ptolemaic emperors of Egypt against pirate bases in the Cyclades, Romans clearing islands in the Mediterranean from the pirates, Barbary war against pirates by the Americans and French later, complete closing down by British fleet of pirate havens in British Caribbean, Jamaica etc., included invasion, occupation and complete destroying of piracy strongholds, including execution of the pirate leaders. “Eliminating pirates clearly required the use of force: they had to be sought out and physically destroyed” (Puchala, 2005, 19).

*On shore support network as a necessary condition for existence of piracy*

Piracy cannot function and survive if there are no supporters and sympathizers, people who finance and encourage them, on shore. As have been said there is a whole support network for piracy business in Somalia, from the locals ashore, who feed the captives to the corrupt officials, who protect the pirates on all governmental levels. Enjoying government protection on different levels has been an important condition for piracy to function throughout history:

In all of the notable eras of piracy, relationships between pirates and those who abetted their projects amounted in effect to conspiracies of greed. The relationships were symbiotic: pirates could neither accomplish their ends nor convert their booty into profits without the aid of their protectors; for their part, the protectors could not so readily and splendidly enrich themselves without the booty brought in by the pirates. Yet, it also must be recognized that abetting piracy usually meant disregarding the law, as piracy was outlawed even in Roman times, in England at least since the time of Edward III, circa 1361, among continental European states for at least as long, by Spain with specific reference to the New World, and throughout much of the Caribbean and in

British North America certainly by the turn of the eighteenth century. Disregarding the law by those who suffered pirates was frequently matched by inability to enforce the law by those entrusted with enforcement (Puchala, 2005, 7).

According to Boyah, interviewed commander of the pirates who is talking about governmental support for piracy - "They motivate us. It's their money and their weapons. Thirty percent belongs to them"(McKenzie, 2008, 1).

"Believe me, a lot of our money has gone straight into the government's pockets", said Farah Ismail Eid, a pirate who was captured in nearby Berbera and sentenced to 15 years in prison. His pirate team, he said, typically divided up the loot this way: 20 percent for their bosses, 20 percent for future missions (to cover essentials like guns, fuel and cigarettes), 30 percent for the gunmen on the ship and 30 percent for government officials.

Abdi Waheed Johar, the director general of the fisheries and ports ministry of Puntland, openly acknowledged in an interview that "there are government people working with the pirates" (Gettleman, 2008, 1).

Corrupt government officials are all the way enjoying piracy revenues. As Patrick Lennox puts it, "...wherever and whenever pirates have been successful, they have owed a great deal of their success to their aiders and abettors ashore.» (Lennox, 2008, 3). And it is exactly the same in Somalia (Lennox, 2008) . And according to Roger Middleton, a researcher at the Royal Institute of Political Affairs in London, all significant Somalia politicians profit from piracy , even Mr. Muse, Puntland's president have been accused by several pirates of being paid off (Gettleman, 2008). Moreover, government officials are alleged to be some of the main piracy financiers (Lennox, 2008). According to the UN representative to Somalia pirate money are even used to finance Puntland presidential elections (Pham, 2008).

One of the great challenges is changing of the thinking of the sympathizers, from corrupted African officials to Western thinkers and journalists (such as the authors of the article "Editorial: The Enemies of All Mankind" and, Will the Real Villains Please Stand Up!"(Ananthakrishnan et. al., 2010), who in fact, justify the crimes due to the injustices done to the Somalis. Nevertheless, it seems that the most people do understand that crime

is crime and it should be punished.

Piracy is a socially acceptable profession in Somalia. “They wed the most beautiful girls; they build big houses; they have new cars; new guns,” says Abdi Farah Juha who lives in Garowe. “Piracy in many ways is socially acceptable. They have become fashionable” (Hunter, 2008). As long as piracy is “trendy” for disenfranchised Somalia citizens, the industry can be expected to develop and expand over time (Ross&Ben-David, 2009). It seems that another factor that contributes to the social acceptability of piracy is the total absence of governmental institutions. As was mentioned before, pirates position themselves as coastal guard, protecting Somalia shores from illegal fishing and toxic waste dumping, one of the groups calling themselves “Somalia Marines” and the another - “National Volunteer Coastal Guards”:

“...Coast Guard”, which sees itself as the protector of the Somalia fishing industry. “We don’t consider ourselves sea bandits,” say members of the guard. “We consider sea bandits [as] those who illegally fish in our seas and dump waste in our seas and carry weapons in our seas. We are simply patrolling our seas (Ross&Ben-David, 2009, 57).

#### **4.1.3 Conclusions and recommendations**

Thus, we may come to conclusion and propose an effective piracy management solution for Somalia piracy coming from the lawless, utterly failed, as a result of the end of the Great Powers games (the end of the Cold War), country. As have been said before, passive defense measure have never been of great help, neither in the past nor in the past number of years, including IRTC and passive defense measures for the ships. Let’s put it straight - unfortunately, any comprehensive solution must include elements of invasion and occupation of Somalia, so called “ground operations” in order to stabilize the country, clean up piracy sanctuaries, and destroy its infrastructure. Security Council resolutions mentioned above, especially 1851 passed on 17 December 2008 and others open up territorial sea of Somalia and even permit “use all necessary measures to suppress piracy enabled States and regional organizations to act with force, if necessary, on land in Somalia” (UN SCR 1851, 2008, Statements section), but what is lacking is political will, as

it is clear that the Western States do not want to pay the price of a massive invasion to Somalia, as was proven after 1993 notorious “Black Hawk” failure, when the American forces completely withdrew understanding their inability to neither secure UN humanitarian help delivery nor peace restoring in completely lawless country where basically everyone is at war with everyone else. The US have acted through their Ethiopian proxy, which has not succeeded, and they withdrew forces leaving a not very effective African Union peacekeeping force. Another reason is the international human rights regime (Lennox, 2008). Diplomatic efforts did not bring any progress until now and it seems that without Western military help, i.e. ground operations, there will be no progress.

Occupation of Somalia by Islamist forces, very much undesired by the West, may contribute to the establishment of an order of sorts. Nevertheless, as was explained above, the rapprochement between the pirates and Islamists does not promise elimination of piracy. Moreover, it seems that the hostile to the West and bordering African countries ideology will not bring peace. In these conditions, law, order, and economic development is not possible.

From all stated above one can conclude that the economic, social and political determinants of piracy are all well known, but the current strategy to combat piracy does not address them directly. The fact is that the total number of attacks is constantly rising and this is despite the costly international effort, which proves that the current anti-piracy strategy is inefficient. Until Somalia will have a properly functioning government protecting the law, order and security throughout the country, the counter-piracy operations on the seaward side of the littoral are destined to have minimal effect.

## **4.2 South East Asia**

### ***4.2.1 Background of the Southeast Asia piracy problem***

#### ***Presentation of the South East Asia piracy problem***

Piracy in South East Asia has a long history. This can be easily explained – unlike African nations (excluding the North African communities), who never had significantly developed

maritime fleet, some of Southeast Asian nations have had some level of maritime knowledge. The piracy existed in Southeast Asia at least since the times people were able to record it or even before that. The word “mangayaw”, which means raiding, has always existed in all major languages of the Philippines (Young, 2007). Even in times when piracy was believed to be non-existent, ( 20<sup>th</sup> century ) South East Asia has been its last resort. For example, in Eastern Malaysia and Southern Philippines, especially in and around North Borneo (Eklöf, 2005 ), piracy has returned after World War II for a period of time.

Since the beginning of the 90's, the number of attacks in South East Asia was rising, peaking in the end of 90's, and clearly, declining after 2003-2004 (Psarros, Christiansen, Skjong&Gravir, 2011). There were only 2 attacks in Malacca Straits in 1999, but already 75 incidents in 2000. As a result, in the year 2000, IMB estimated Malacca Straits to be the second most dangerous area for maritime shipping after Indonesia (Beckmann, 2002). Most incidents include boarding attempts from speedboats by pirate gangs of two to twelve people. The arms widely used are knives and machetes, but sometimes guns are used, as well. After they board the ship, the pirates get inside the shipmaster's cabin and seize all valuables, cash, contents of the ship's stores, equipment etc. Less frequently they take crew members as hostages. In most of the incidents pirates do not take the ship itself, incidents of this kind happen much more often further in Andaman Sea (Beckmann, 2002).

One of the most dangerous parts of Malacca Straits is Phillip Channel, where most of the attacks in the early 90's occurred. At Phillip Channel Malacca Straits narrows down to 1.5 nautical miles while lateral clearance between two ships going in opposite direction sometimes is not more than a mile, making it very dangerous for passage. While a vessel passes through Phillip Channel all of ship's personnel are fulfilling their navigational responsibilities, and there is no additional staff to watch out for pirate attacks. If an attack occurs, and the bridge is left unmanned for even a few minutes a catastrophe will be the imminent consequence (Abhyankar, 2002). We can imagine severe environmental effects of such catastrophes in the littoral and highly populated zone, be that an oil or chemical tanker. Sadly, potential threats usually are not perceived as serious until they actually occur. As Captain Abhyankar puts it:

It is unfortunate fact that many people will never acknowledge something that



exists in potential only. The IMB is convinced that, because there will be no second chance with an oil-spill, a pro-active attitude to the possibility is essential and it would be fool-hardy to the point of irresponsibility not to take all possible measures to prevent the first one. (Abhyankar, 2002, 10)

Indonesia has remained the most piracy-prone area until the beginning of the decrease in pirate attacks of 2003-2004, as was mentioned earlier. Most of the attacks would be regarded as “armed robberies”, as they happen while the ships were berthed. In 1998, 45 boarding attempts, 35 out of which occurred while the victimized ships were at anchor, in 1999, 89 hijack attempts, 65 of which occurred while at anchor, and 78 out of 88 attacks in 2000 while at anchor (Beckmann, 2002). As was mentioned earlier, while there is almost no violence in GOA and near Somalia, and the attitude toward the captured crew members is rather moderate to good, there are a few cases of extreme violence in Indonesian waters. In some cases, it seems that all crew members of ships were slaughtered after the hijacking, in other – set adrift on a life boat. Most of the other incidents resemble incidents in Malacca straits (Beckmann, 2002).

Attacks in Malaysia, most often, occur while ships are berthed. Attacks in Malaysian waters appear to be less violent than in Malacca Straits or in Indonesian waters (Beckmann, 2002).

The number of incidents occurring in the South China Sea was significant in the early 90's, but not anymore. South China Sea is the only piracy-infested place in Southeast Asia where most of the incidents that occur are regarded as “piracy”, according to UNCLOS, as they happen in the international waters (Beckmann, 2002). Thus, it seems that UNCLOS is a very weak legal tool for fighting this phenomenon, and it is also a reason that IMB adopted different definition to run its statistics (the definitional difference and the problems concerned are explained above – see paragraph 4.1.1).

Usually attacks happen at night while assailants come along the side of the ship, board the ship and rob the ship seizing all the valuables found (Abhyankar, 2002).

Until it's decline just few years ago, piracy in the Southeast Asia has been of a serious concern to international trade and shipping (Barrios, 2005), because one-quarter to one-third of the world maritime merchant shipping goes through Malacca Strait and Singapore

alone (Young, 2007), and speaking of the whole region, it is 45% of world commercial shipping going through its waters (Barrios, 2005).

The water covers around 80% of South East Asia, its islands and peninsulas are situated among major routes of trade communication. Its oceans and seas are the source of livelihood for more than 60% of Southeast Asian population, including industries such as hydrocarbon extraction, fishing and tourism. Many hazards threaten local populations and the security of the states, such as maritime territorial disputes between the states, non-state political violence, transnational crime and environmental degradation (Bradford, 2005). Strait of Malacca is particularly important as it serves as the main passage corridor in Southeast Asia for merchant, military and almost every type of vessels (for the type of vessels going through Malacca Strait and their cargo see Masuda, 2005). The Strait of Malacca is located between Indonesia, Malaysia and Singapore and is 600 miles long, narrow and contains thousands of small islands and rivers flowing in, making it comfortable for pirates to hide. Around 60,000 ships go through it every year. Around 80% of Northeast Asia's oil transported through the Strait (Massey, 2008). Through Malacca and Singapore passes one-quarter to one-third of all Worlds' seaborne trade (Young, 2007), valuable of 525 million metric tons – more than \$390 billion dollars per year (Massey, 2008). The Strait is of great importance to biggest World economies, such as USA, China and Japan. The Strait as extremely important for their economic needs, and trade choking in this narrow passage by maritime crime would undoubtedly be perceived as threatening their security. 60% of Chinese oil import (which by 2015 is expected to rise to 75%) travels through the Strait, and 90% of all Japanese import is coming to Japan through the Strait. United States, being the greatest military power today, is using it for its Navy (Massey, 2008).

Piracy in these regions has been on the rise since the 1970's, but only in the last 10 years of the 20<sup>th</sup> century it increased greatly. The dramatic increase of the 1990's has been felt in all previously pirate-infested regions of the South East Asia: Malacca Strait, Singapore and Philip Straits, Riau province in Indonesia, the Gulf of Thailand, Hainan/Luzon/Hong Kong triangle of the South China Sea, Sabah ( Malaysia ), southern Philippines region of the Sulu Sea, and all the regions where piracy has always existed historically (Young, 2007).

#### **4.2.2. Analysis of Southeast Asian piracy problem**

##### *Looking at piracy through Huntington's "civilizational" lens*

According to Young (Young, 2007), the concept of "piracy" has been imposed by Western colonial powers over Southeast Asian nations and their future rulers gradually had to accept it as such. Although previously, different attitudes have existed toward "piracy" in Southeast Asia – it could have been "legal" or "illegal". Privateering became unnecessary for the strong European maritime nations and was finally outlawed by nineteenth century. Western concept of piracy and its unacceptability became the basis of international legal attitude known as "*hostes humani generis*" (enemy of all mankind, act that may be punishable by all nations). There is a cultural gap between the Western (or of "international law") understanding of piracy and Southeast Asian one, which is enrooted in the local context. Young's thesis goes further and contextualizes "piracy". According to Young, it is crucial to understand the context in which piracy occurs in order to find the right approach and a solution to the problem. For instance, piracy (or rather raiding) was a socially accepted practice, and pirates were recognized as heroes (and their motivation were not always or not exclusively material), respected warriors or leaders of societal groups - it wasn't a criminal enterprise, and raiders did not represent outlawed hardened criminals, like in the Atlantic or the Caribbean. Unlike in Europe, in the Southeast Asia, raiding was never a revolt against mainstream society and its laws, on the contrary, it was a part of a cultural context and the laws of society. This does not, however, mean that all piracy and raiding was legitimate, there were legitimate and illegitimate forms of it (Young, 2007). Further in his work, Young analyzes different traditional patterns of maritime raiding in accordance to the different regions. One of the legitimate and most "unpleasant" for colonial governments type of piracy in the nineteenth century, was very profitable slave capturing raiding. This was more than just a mere economic activity, rather a prestigious way of life for Sulu pirates from the Sulu Sultanate in the North Borneo archipelago. They raided coastal zones in search for slaves to a degree that several coastal areas became depopulated. This was a traditional way of life for many Sulus (whole communities including the sultan's court being engaged in it) who saw this type of raiding also as demonstration of independence from the non-Muslim colonial rulers. This type of criminal

activity thrive for a long time, as colonial forces were reluctant to take radical measures against the criminals, as the Sulu Sultanate was situated between the Dutch, British and Spanish spheres of interests, and they feared to provoke diplomatic tensions (Teitler, 2002). All this calls to Huntington's thesis, which promulgates opposition on the basis of cultural (“civilizational”) differences.

European presence since the sixteenth century, and especially from the end of the eighteenth century, in Southeast Asia has started to alter traditional patterns, also of maritime trade and crime, criminalizing pirate activities. The tactics of fighting piracy by the colonial governments included forcing them into less lucrative grounds, which made piracy less attractive. Afterward, the pirates were offered collective amnesty by the colonial governments (Teitler, 2002).

#### *Roots, factors, tactics and practices of South East Asian piracy*

As with Somalia, the main reasons for the upsurge of piracy are connected with the weakening of the state (Young, 2007), however there is no single state in the region that has been weakened to the degree that Somalia was. Nevertheless, piracy does emerge only in states that experience problems with their political stability and integrity. Piracy appears as a result of weakened economy, weak political legitimacy of the state actors, state corruption, and organized crime, and threatens the state hegemony and political authority. Piracy is a sign of political weakness and decay. Regional conditions play into the hands of pirates – natural borders are non-existent, the waterways are narrow, with numerous islands (Barrios, 2008) making it easy for pirates to approach their potential victim unnoticed or to quickly disappear. Here is the description of difficult natural conditions offered by Young:

The geography of maritime Southeast Asia defies the notion of static territorially based boundaries, because the geography is so fluid. Both historically and presently the geography is incredibly complex, characterized by extensive coastlines, mazes of littoral mangrove and lowland swamps cut by riverine estuaries, spotted with sand banks and shifting waterways, and thousands of islands surrounded by innumerable coral reefs. Where as the seas act as highways for trade and exchange, the interiors of islands are often divisive, being mountainous, frequently cut by unnavigable river valleys and

ravines, covered in dense tropical jungle in the hills, and covered in swamps lower down, making overland networks difficult, and at times, impossible to maintain. Even contemporary overland transit is frequently not possible, as between islands, and is not as efficient as moving by sea (2007, 113).

Technological means are widely available to pirates. Unlike security and police forces, who have to go through bureaucratic obstacles in order to get their budgets, pirates, those of them, who have enough funds can easily get all the needed equipment, such as fiberglass boats, powerful engines, GPS, radars, Information Technology (IT), and of course, arms, which are widely available in the Southeast Asia. During and after the Vietnam War, many of the remaining arms flowed into the Southeast Asia. As a result of the End of the Cold War, another massive flow of arms has arrived in the region. Impoverished post-Soviet nations had many arms factories as their heritage from the Cold War times, and in order to support their economies, they had to (and some still do) sell arms without much consideration of who their customers are. Many arms have ended up in the hands of terrorist groups and criminal gangs, and the pirates were not an exception. The result is that some of the pirate gangs are much better equipped than the police forces dealing with them, who normally don't have weapons like RPGs, mines, mortars, which are widely available to the pirates . Thus, this is unfair to expect from the police to chase down pirates, who have better and faster boats and heavier arms (Young, 2007).

Knowledge is another field of great importance both for the pirates and the law enforcement agencies. Intelligence seems to be more important than technology (Young, 2007), as even in the mid 19<sup>th</sup> century, when the pirates did not have access to modern European technology, competed with much more technologically advanced fleets of colonial powers. Even then, the piracy still persisted, although on a lower scale. There are two types of intelligence important for pirate gangs. The first one is the knowledge of locality – coastline and activities, which is especially important in the geographically complex Southeast Asia. Another kind of crucial information involves the knowledge of ships routes, types of cargo, crew number and rotations, etc. For this purpose, special informants are hired (Young, 2007).

Asian economical crisis in the end of the 1990's and the political instability in the region,

have all contributed to the piracy upsurge (Young, 2007). As a result of the crisis, political institutions and regimes have been damaged. Also, as a result of the crisis, Suharto, the Indonesian dictator, had to step down. In terms of piracy – the crisis has led to a very steep rise in the number of attacks – from 96 in 1998 to 259 two years later, having the largest numbers in the world (Young, 2007).

No state will ever admit to disregarding, or worse, supporting piracy, but there is evidence that the high level of corruption in Indonesia, in fact, serves as a fertile soil for piracy and some public servants simply turn a blind eye on the issue (Davis, 2009).

Unlike Somalia, the affected states – primarily Indonesia, Malaysia and Singapore, are not failed states and have governments which are interested in maintaining stability, law, and order. Even though some parts of Indonesia are not fully controlled by the state police, still, its territory cannot serve as full sanctuary for pirate activities to such a high degree as in Somalia. Therefore, the main interest of the pirates there is in the cargo or the ship itself, and not the hijacked crew for ransom demands. Moreover, since those states have broad trade infrastructure, the cargo can be sold by organized crime groups quickly and the ship can be repainted, documents can be forged and it can be used again for shipping purposes. It takes a great amount of infrastructure and skilled labor to transport cargo on a global scale. For instance, oil stolen from a captured tanker cannot be sold the same way that other high demand, but legal goods can be sold. The oil has to be quickly transported using large industrial equipment, which is capable of storage and moving this highly flammable, dangerous fluid. Other illegal goods, such as counterfeit medications, do not require such costly and highly skilled labor. Thus piracy often involves highly organized criminal groups with good ramified connections, whose existence requires broad trade infrastructure on land.

The loot that has been plundered at sea has to ultimately arrive at a port, and that much of the cargo must get official documents, forged documents or even real ones, received with the help of corrupted officials.

An important feature of Southeast Asian states is their dependence on the United States and other economically developed countries of the region, which has been used effectively by the international coalition of States to address this acute for the whole region problem.

Piracy affects states of South East Asia which are interested in maintaining sovereignty, therefore they can be politically pressed to act themselves by stronger states (such as U.S. and Japan) and international organizations. Nevertheless, the regional states must understand that if they do not cooperate effectively, the foreign intervention of the stronger states is inevitable since the Malacca Straits are extremely important for international trade. It seems that it became clear to them in the years following the terrorist attack on New York known as “9/11” when the U.S. commenced the worldwide War on Terror and were less reluctant to press many Third World governments to proceed with explicit steps on improving state of security on land and at sea.

Since the end of 90's piracy and armed robbery in Southeast Asia has been the subject of discussion in many regional and international forums, such as ASEAN Regional Forum, the Asian Pacific Economic Cooperation Forum (APEC), the Council for Security Cooperation in Asia Pacific (CSCAP), SEAPOL, IMB and IMO, some of which issued special instructions and guidelines for seafarers, shipmasters, recommendations for governments, strategies for investigations of piracy and armed robbery, annual reports and statistics etc. (Beckmann, 2002).

Since most of the attacks (excluding small number of incidents in South China Sea) are not regarded as piracy by UNCLOS as all the waters the incidents happen in are within the territory of relevant countries and also are not offenses under 1988 SUA Convention (“Rome Convention”) since the relevant states are not parties to it (Beckmann, 2002), it makes sense that the best management solution for the problem is regional cooperation.

There has been a lot of international pressure applied on the littoral states in order to make them cooperate between themselves to fight piracy and armed robbery more effectively. As a result, the three littoral states (Malaysia, Indonesia and Singapore) have established a joint task force which came up with the doctrine, which was presented then by the Malaysian Deputy Prime Minister at the Asian Security Forum in 2005:

- Counter-piracy effort should be performed mainly by the three littoral states
- Technology must be widely used for coordination and enforcement
- All other states can support the effort financially and technically only
- Enforcement implementation must concentrate on the roots of piracy on shore more

than on the high seas (remarkable that it is well understood that the pure sea control is not of the high value here)

- There shall not be any infringements of territorial integrity of the littoral states
- There should be constant search for new ideas on how to deter pirates (Davis, 2009).

It is important to note that( although due to the international pressure ) the three littoral states have agreed to cooperate with one because piracy is against the political norms of the region (Massey, 2008). Cooperation was virtually non-existent before (Massey, 2008) and there are a few reasons for this:

- Most of the countries were colonies before and cooperation with the Western states, China and Japan sometimes is seen as exploitation. For instance China has supported communist partisan groups which have tried to undermine authority of legally chosen governments in almost all Southeast Asian states during the Cold War. Japan occupied during the World War II much of South East Asia and its rule was considered especially brutal. These past experiences have made the littoral states especially sensible to any potential breach of their sovereignty be that on land or at sea and this explains why they are so reluctant to receiving security help or cooperation in all ways other than financial aid or joint training.
- The relationship between the three littoral states has not always been easy. Since those states have become independent there have been few disputes between them:

1. Severe political and military confrontation between Indonesia and Malaysia in 1963.
2. Confrontation between Malaysia and Singapore along “civilizational” lines. There are two main political parties in Singapore – Muslim-dominated and Chinese-dominated parties and Malaysia support the Muslim one, of course.
3. Singapore wishes to redeem the land in the Johor Straits through reclamation project. Malaysia and Indonesia strongly object to the project. Malaysia suspects Singapore of winning deep water vessels to its port and Indonesia has one island submerging into the water as a result of Singapore's reclamation project.
4. Malaysia, who is the main and the only water supplier of Singapore, wants to revise the agreements on water supply and to heighten water price.



5. Islet Pedra Branca is claimed by Malaysia, although it has been clearly marked as belonging to Indonesia in the early maps. It is important to Malaysia to have the land because this way it can maintain the territorial integrity of its waters. There have been armed confrontations over this issue between Malaysia and Singapore in 1989.

- Southeast Asian states ( ASEAN states ), most of which do not have great military potential are afraid that their security cooperation might be seen as provocative by or directed against China as their potential rival. Malaysia's former Defense Minister has summed it up this way:

ASEAN doesn't need a military pact. ASEAN military forces are familiar with each other on a bilateral basis. To me, that's good enough. Because when you have a pact, people will ask: Who is it directed at? So it raises a lot of questions. So rather than alarming anyone or sending a wrong signal, it is better for us to continue on the same basis because we have been so successful (Massey, 2008).

- Piracy is definitely the "smaller security issue" for some of the littoral states particularly and for all ASEAN states in general, as issues like insurgency movements, such as "Free Aceh Movement" are threatening unity of the state and piracy is just one of the issues that contribute to general instability. In the wake of challenges like weakened economy, crime, corruption, insurgency movements and terrorist organizations, illegal fishing, smuggling, migration etc. piracy is not a priority issue for the authorities.

- The littoral states that we are talking about do not produce weapons but buy them from many different sources altogether, such as USA, Europe, Russia which raises issues of very difficult military interoperability between them.

- There was no collective identity between the littoral states based on a common threat prior to 9/11 so they haven't felt the need for security cooperation.

- "The ASEAN way". One of the main ideals over which ASEAN was created is respect to sovereignty and non-interference in each other's businesses. Indonesia and Malaysia are of the main pillars of this ideology. Moreover, the principle of non-interference notably includes non-interference from non-regional powers as well. This explains the choice of the individual or at most bilateral ways of solving problems by the littoral countries.

There was always perception by the littoral states that the security problems are used by

foreign powers as an excuse to exercise control over their sovereign territory (Davis, 2009). The countries of ASEAN also do not interfere in each other's affairs, including issues such as human rights, internal security concerns (which includes piracy or rather "maritime robbery" as the attacks happen in internal waters) etc. and they are usually left out of their meetings, seen as "interventionist" (Young, 2007).

The ideology of ASEAN has made multilateral security cooperation extremely difficult except for one issue (withdraw of Vietnamese forces out of Cambodia) which never made any real success in any issue. In terms of official expression on the paper we can see some of this identity in the Treaty of Amity and Cooperation which was signed in 1976 and in fact gave birth to the ASEAN ( Chapter 1, Art. 2 ):

...the High Contracting Parties shall be guided by the following fundamental principles:

- a. Mutual respect for the independence, sovereignty, equality, territorial integrity and national identity of all nations;
- b. The right of every state to lead its national existence free from external influence, subversion or coercion;
- c. Non-interference in the internal affairs of one another;
- d. Settlement of differences or disputes by peaceful means;
- e. Renunciation of the threat or use of force;
- f. Effective cooperation among themselves (Treaty of Amity and Cooperation in Southeast Asia, 1976, Chapter 1, Art. 2).

The result of the norms represented by ASEAN was incapability to cooperate multilaterally. Terrorism also wasn't a topic of special importance for ASEAN until the international pressure following 9/11 (Massey, 2008) especially from USA which has embarked on aggressive, often unilateral, foreign policy and Japan, most of whose oil is transferred through Malacca Straits.

After the end of the Cold War, cooperation inside the ASEAN has mostly involved efforts on protecting national interests from outside influences. The member states have acknowledged, for the first time in 1992, in a ASEAN declaration that the security

cooperation was important indeed. There were few measures on enhancing security proposed through ASEAN or by the states from outside the region most of which have failed or were ineffective:

- STRAITREP – Strait Reporting System, information sharing system, although involved informing on a very limited number of issues. The system is supposed to provide the name of the vessel, it's course, speed and position, description of dangerous cargo or potential pollutants. In fact, all of this information doesn't really help any substantial security cooperation among the littoral states.

- Conference on transnational crime in 1997 in Manila which didn't establish any effective form of cooperation.

- Since 1995 U.S. Navy holds exercises with one of the littoral states on bilateral basis (every year a new littoral state takes part ). Piracy and maritime terrorism exercises started only after 9/11.

- Japan has been a proponent of active security measures against piracy for a long time. It has always been concerned about possible disruption of trade flow through the Straits of Malacca. Japan has participated in the joint Coast Guard exercises with the littoral states and has helped equip the coastal forces of some of the Southeast Asian states. There are three other programs Japan has tried to establish in cooperation with littoral states all of which have failed because the littoral states have perceived them as encroaching their sovereignty (Massey, 2008).

Terror attacks of the end and the beginning of the millennium and especially the biggest one in the history which happened on September 11, 2001, brought the most damage and has encouraged many countries to strengthen their anti-terrorism legislation and expand law enforcement powers. This incident has made the littoral states particularly willing to change their perceptions of threat. The increasing tensions from states like USA and Japan has persuaded the littoral states to cooperate in the multilateral (the three littoral countries) Operation MALSINDO against piracy in 2004, which would be virtually impossible before 9/11 and international pressure .

Another important reason that has brought the Southeast Asian states to a great degree of cooperation was the end of the Cold War. During the Cold War the regional states were

divided over the communism/capitalism issues and belonged to two confronting camps. After the Cold war these differences weren't relevant anymore (Massey, 2008). On the other hand, most of the relevant contemporary security issues were not so threatening before the end of the Cold War, as Islamic insurgency wasn't on such a big scale and piracy level was much lower, as was shown above.

The governments of the littoral states have also started to feel that security problems might become relevant to them since after 9/11 - there have started terrorist attacks in those states such as bombing of ship transporting Christians in Indonesia, kidnapping tourists and Malaysian citizens from the island of Sipidan, tanker transporting oil to Malaysia bombing, Marriot Hotel bombing and the worst of all – 2002 Bali bombings, killing 200 people (Massey, 2008). No doubt that their feeling of responsibility has increased and prompted them to multilateral cooperation. Singapore and Malaysia were especially helpful and started a number of measures, such as building radar tracking stations, creating new agencies etc. Indonesia has less effective forces and has more difficult conditions for operating – it is archipelagic state with more than 17,500 islands and more than 50,000 miles of the coastline which would be quite a big challenge even for much better organized Navies. Nevertheless, Indonesia started Operation “Gurita” in the Malacca Straits, which according to the IMB have improved the security situation and lessened the number of attacks. Moreover, Indonesia has undertaken another important step – understanding that one of the reasons for piracy is difficult socioeconomic situations. Indonesian authorities are trying to better the life conditions along the Malacca Strait, hoping it will reduce the level of drawing into criminal activities (Massey, 2008).

In terms of multilateral cooperation, a few programs and institutions have been established together with the general change of threat perception, which has resulted in what we have today – elimination of the piracy hotspot in Southeast Asia:

- The first step was a sign-up of a Declaration of Joint Action to Counter Terrorism in 2001. Although it was only a first step that hasn't solved all cooperation issues yet, nevertheless, this document recognized and acknowledged that security issues must be dealt with regionally. In this declaration the littoral states have undertaken a package of arrangements for further cooperation:

1. Review and strengthen our national mechanisms to combat terrorism;
2. Call for the early signing/ratification of or accession to all relevant anti-terrorist conventions including the International Convention for the Suppression of the Financing of Terrorism;
3. Deepen cooperation among our front-line law enforcement agencies in combating terrorism and sharing "best practices";
4. Study relevant international conventions on terrorism with the view to integrating them with ASEAN mechanisms on combating international terrorism;
5. Enhance information/intelligence exchange to facilitate the flow of information, in particular, on terrorists and terrorist organizations, their movement and funding, and any other information needed to protect lives, property and the security of all modes of travel;
6. Strengthen existing cooperation and coordination between the AMMTC and other relevant ASEAN bodies in countering, preventing and suppressing all forms of terrorists' acts. Particular attention would be paid to finding ways to combat terrorist organizations, support infrastructure and funding and bringing the perpetrators to justice.
7. Develop regional capacity and building programs in order to enhance existing capabilities of ASEAN member countries so that they can investigate, detect, monitor and report on terrorist acts;
8. Discuss and explore practical ideas and initiatives for ASEAN to increase its' role and involvement with the international community, including extra-regional partners within existing frameworks such as the ASEAN + 3, the ASEAN Dialogue Partners and the ASEAN Regional Forum (ARF), to make the fight against terrorism a truly regional and global endeavor.
9. Strengthen cooperation at bilateral, regional and international levels for combating terrorism in a comprehensive manner and affirming that the United

Nations should play a major role in the international level. (ASEAN Declaration of Joint Action to Counter Terrorism, 2001, 1)

The consequences of this agreement was setting up Plan of Action to Combat Transnational Crime which also had explicit deadlines for each and every initiative set up by this Plan. The Plan expands regional cooperation , arranges investigation and prosecution procedures, enhances cooperation on issues such as intelligence sharing, promises to conduct regular meetings and conferences, establishes ASEAN Center for Combating Transnational Crime, sets up institutional frameworks and even promises to strengthen extra-regional cooperation (ASEAN Plan of Action to Combat Transnational Crime, 2002 ).

We clearly see that ASEAN countries began realizing that such crimes do not have borders. Their attitude to their so closely guarded borders and national sovereignty is changing (Massey, 2008).

- Regional Cooperation Agreement on Combating Piracy and Armed Robbery Against Ships in Asia – ReCAAP is an international organization comprised of 14 member countries. It was proposed first by Japanese Prime Minister Keizo Obuchi at the ASEAN 1+ Summit in Manila in 1999 (Ho, 2009). The Japanese were much concerned then about high level of piracy which directly affected their vessels in Southeast Asia and Malacca Straits in particular. Nevertheless, this idea, like all others at the time prior to 9/11 was rejected because of the ASEAN norms of sovereignty as we have discussed this above. When after 9/11 the ASEAN countries have recognize the need for extra-regional cooperation the Agreement was finalized in 2004 by 16 countries (Ho, 2009). It is first multilateral extra-regional agreement on such a high level. It consists of the few main points – agreement to share information, agreement to share best practices in the combating piracy, consent to extradite criminals and support capacity building endeavors of its parties (ReCAAP, 2004). The most impressing thing is that the ASEAN countries allowed the extra-regional country, Japan, which has the history of occupying SE Asia, to directly participate in anti-piracy effort, and actually adopted its idea.

ReCAAP in fact began the inter-agency cooperation between such services and organizations as Coast Guard, Navy, Customs etc. (Ho, 2009). The biggest limitation of ReCAAP is that Malaysia and Indonesia, in whose waters most of the piracy attacks occur have not ratified the Agreement until now.

- Regional Maritime Security Initiative is the most controversial cooperation effort. It was proposed in 2004 during the testimony given by the then Commander of the U.S. Navy Pacific Command to the U.S. House of Representatives. The proposition was to keep U.S. Navy forces in the Malacca Straits in order to deter piracy and terrorism. Singapore supported it, but Malaysia and Indonesia have rejected the proposal because of the concerns over the sovereignty issues. Malaysian Foreign Minister Syed Hamid has warned Singapore against engaging U.S. Navy in patrolling the Straits (Davis, 2009). Malaysia and Indonesia were ready to nothing more than financial, information sharing, or training assistance. Nevertheless, it was a very important step. This proposal, in fact, constituted an act of political pressure and its consequences were that Malaysia and Indonesia agreed to increase its maritime patrols in the area (Massey, 2008).

- The Five Power Defense Arrangements (FPDA) – between Malaysia, Singapore, UK, Australia and New Zealand. In the beginning, it was a project that helped Singapore and Malaysia in establishing their own security forces but with time it evolved into the consultations framework between those five states and included common training programs and maritime interdiction exercises. After the U.S. proceeded with RMSI, the FPDA made a statement which stated that they recognize the need to fight maritime crime. This statement spearheaded the MALSINDO operation. This is a great example how the extra-regional great powers pressured the littoral states to be responsible for unilateral actions.

- Malacca Straits Sea Patrol (MSSP) or Operation MALSINDO was started in 2004 by the three littoral states (Malaysia, Indonesia, and Singapore) and is supposed to reduce piracy and smuggling activities. There are Navy vessels and aircraft from the three states patrolling their respective parts of the Malacca Straits. At the time of establishing of the Sea Patrol hot pursuits wasn't allowed, but as the time passed, the

parties have agreed to allow hot pursuits according to bilateral agreements between the states (Massey, 2008).

The above described actions, the international cooperation have brought to the decrease of piracy, the trend can be tracked easily by the comparison of the data between the years and the time when the cooperation efforts were undertaken (data for ten years between 1999 and 2009):

*Table 4.2.2 Relationship between the number of piracy attacks and cooperation efforts undertaken*

	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Malacca Strait	2	75	17	16	28	38	12	11	7	2	2
Indonesia	115	119	91	103	121	94	79	50	43	28	7
Malaysia	18	21	19	14	5	9	3	10	9	10	16
Initiatives				Plan of Action to Combat Maritime Crime approved		Operation MALSINDO; FPDA started maritime exercises; ReCAAP finalized		ReCAAP implemented			

*Table 4.2.3 Created by Author. Total Attacks in the Malacca Straits and Indonesia compared with the years of the international efforts. 1999-2001 data from report by Jayant Abhyankar, ( 2002 ), Piracy and Maritime Violence: A Continuing Threat to Maritime Industry, Hong Kong: ICC – IMB, p.8, 2002 data from ICC International Maritime Bureau, ( January 2006 ), Piracy and Armed Robbery Against Ships, 1 January-31 December 2005, (London, United Kingdom), p. 7; 2003-2008 data from ICC International Maritime Bureau, ( January 2009 ), Piracy and Armed Robbery Against Ships, Annual Report, 1 January-31 December 2008, (London, United Kingdom), p. 5 ; 2009 data from ICC International Maritime Bureau, ( January 2011 ) Piracy and Armed Robbery Against Ships, Annual Report, 1 January-31 December 2010*

It is clear that international effort and cooperation, together with the changed perception and good will of the littoral states, has brought the change and resulted in the improvement



of the security situation in Southeast Asia.

#### **4.2.3 Conclusions and recommendations.**

Asian case-study led us to the following conclusions:

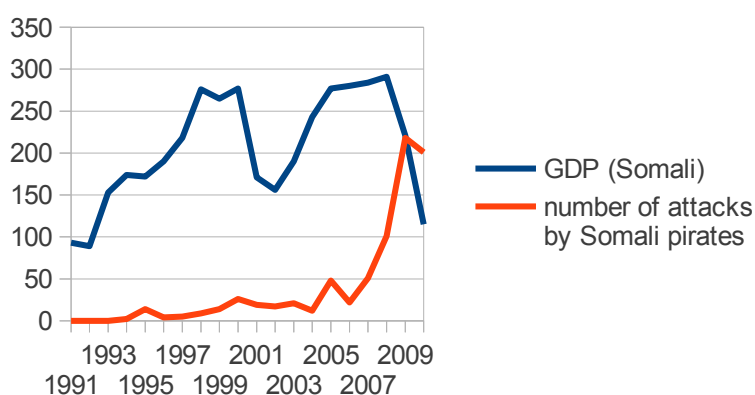
1. The problem of piracy in the Southeast Asia region has traditionally existed and even rivalry between the two blocs-the Soviet-Communist and Western-Democratic failed to eradicate the problem using methods popular at that time.
2. However, the combined efforts of all Southeast Asian states during the first half of the 2000's, based on an integrated approach to solving the problems of maritime piracy, i.e. on a united political will to eradicate piracy, coordinated military and police action, together with effective measures of economic development in piracy-infested areas led to the desired result.
3. The example of the Southeast Asia in countering maritime piracy is encouraging that both in respect of this region as well as in other piracy-prone areas, the situation can be brought under control.
4. The solution to the problem of piracy in a given region requires the consolidation of international efforts in the political, economic, military and other fields; on the one hand — establishment of effective and efficient local authorities in States where the pirates based and on the other hand - provided that all these actions will be guided by clear evidence-based scheme, in accordance with the principles and norms of international law and respect for human rights.
5. A wide range of international support is needed not only at the stage of the active phase of the fight against piracy in a given region, but also at the stage of the "post-piracy rehabilitation" of states and it's society.

## 4.3. Comparative Analysis of the Somali and Southeast Asian models: the Factors and Solutions

The information collected in the study enables us to build graphics that illustrate the presence or absence of direct relationship between GDP of the countries and regions – the main hotbeds of pirate activity and dynamics of pirate activity in them. Since Somali is one of the major receivers of the foreign aid it also has been possible to check the relationship of the amount of international aid and piracy.

Table 4.3.1 Relationship between GDP of Somali and number of pirate attacks by Somali Maritime pirates

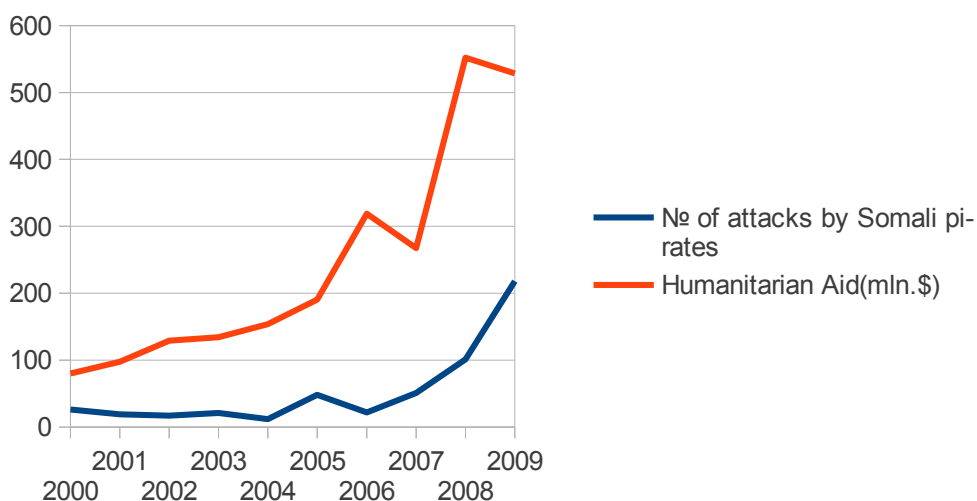
Year	GDP (Somali)	number of attacks by Somali pirates
1991	93	0
1992	89	0
1993	153	0
1994	174	2
1995	172	14
1996	190	4
1997	218	5
1998	276	9
1999	265	14
2000	277	26
2001	171	19
2002	156	17
2003	190	21
2004	243	12
2005	277	48
2006	280	22
2007	284	51
2008	291	101
2009	221	218
2010	115	201



*Graph 4.3.1 Relationship between GDP of Somali and number of pirate attacks annually*  
Created by Author. Source (data for Table 4.3.1 and Graph 4.3.1): 1991-2001 data from report by Jayant Abhyankar; ( 2002 ), *Piracy and Maritime Violence: A Continuing Threat to Maritime Industry*, Hong Kong: ICC – IMB, p.8; 2002 data from ICC International Maritime Bureau, ( January 2006 ), *Piracy and Armed Robbery Against Ships, 1 January-31 December 2005*, (London, United Kingdom), p. 7; 2003-2008 data from ICC International Maritime Bureau, ( January 2009 ), *Piracy and Armed Robbery Against Ships, Annual Report, 1 January-31 December 2008*, (London, United Kingdom), p. 5 ; 2009-2010 data from ICC International Maritime Bureau, ( January 2011 ) *Piracy and Armed Robbery Against Ships, Annual Report, 1 January-31 December 2010*, (London, United Kingdom), p. 5; GDP for 1991-2010: UN Data, Per Capita GDP at Current Prices- US Dollars, Somalia, UN Data website

*Table 4.3.2 Relationship between Foreign Aid ( humanitarian assistance ) to Somalia and Number of Attacks by Somali Maritime Pirates*

Year	№ of attacks	Foreign aid ( mln.\$)
2000	26	79,9
2001	19	97,7
2002	17	129,2
2003	21	134,2
2004	12	153,7
2005	48	190,4
2006	22	318,8
2007	51	267,3
2008	101	552,3
2009	218	528,5



*Graph 4.3.2. Relationship between Foreign Aid to Somalia and Number of Attacks by Somali Maritime Pirates*

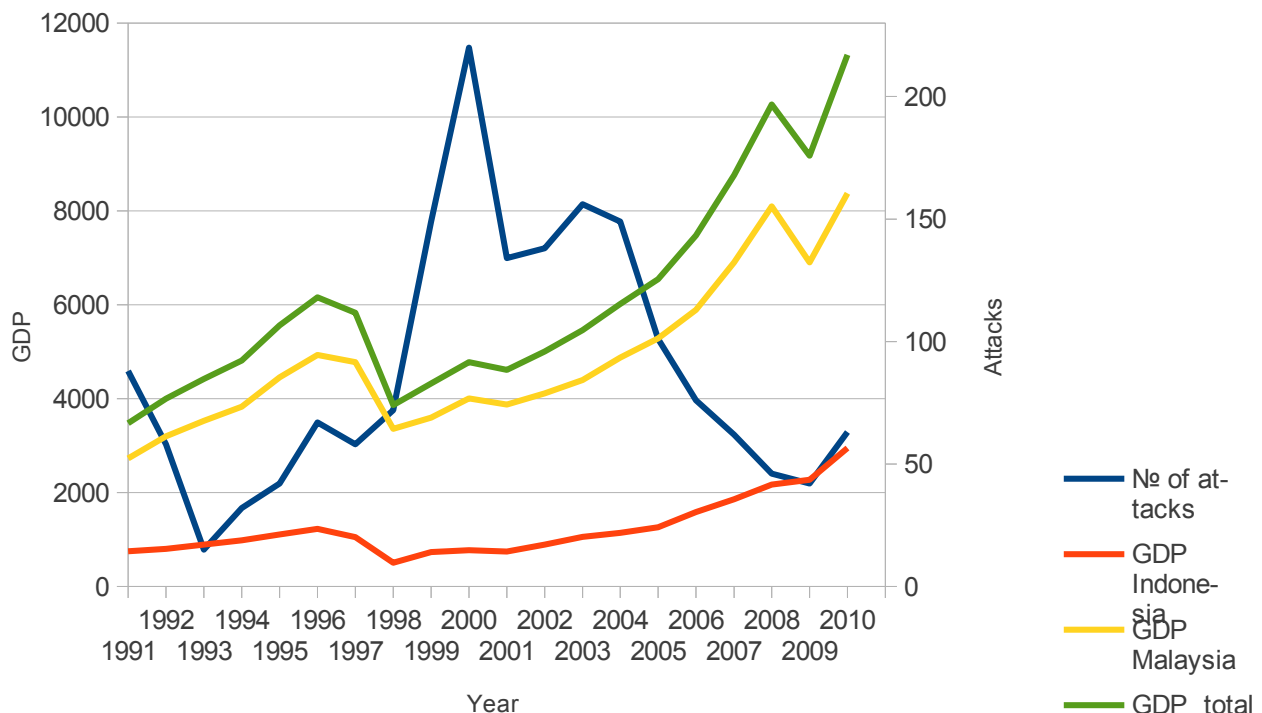
*Created by Author. Source (data for Table 4.3.1 and Graph 4.3.1): 1991-2001 data from report by Jayant Abhyankar, ( 2002 ), Piracy and Maritime Violence: A Continuing Threat to Maritime Industry, Hong Kong: ICC – IMB, p.8; 2002 data from ICC International Maritime Bureau, ( January 2006 ), Piracy and Armed Robbery Against Ships, 1 January-31 December 2005, (London, United Kingdom), p. 7; 2003-2008 data from ICC International Maritime Bureau, ( January 2009 ), Piracy and Armed Robbery Against Ships, Annual Report, 1 January-31 December 2008, (London, United Kingdom), p. 5 ; 2009-2010 data from ICC International Maritime Bureau, ( January 2011 ) Piracy and Armed Robbery Against Ships, Annual Report, 1 January-31 December 2010, (London, United Kingdom), p. 5; GDP for 1991-2010: UN Data, Per Capita GDP at Current Prices- US Dollars, Indonesia, Malaysia,, UN Data website*

The graph shows that since the 1990's and up to the present time the GDP of Somalia is at changing low level, but the number of acts of maritime piracy in the region has also risen since that time, with no relation to the GDP, dozens of times. It is important to note that the increase in the volume of humanitarian assistance to the territory had not reduced pirate activity emanating from it, which only increased all the time. This trend remains relevant today.

Example of Southeast Asia is quite different from the Somali one, as can be seen in the Graph 4.3.3. Since we cannot know for sure what is proportion between Malaysians and Indonesians in the number of attacks and in th pirate gangs themselves, but we do know that most of the pirates committing attacks in the region come from those two countries, we also draw a combined GDP curve.

*Table 4.3.3 Relationship between GDP of Indonesia and Malaysia and number of piracy attacks committed by Indonesian and Malaysian pirates in the waters around Indonesia, Malaysia, Malacca Strait and Singapore Strait.*

Year	No of attacks	GDP Indonesia	GDP Malaysia	GDP total
1991	88	748	2727	3475
1992	58	799	3198	3997
1993	15	893	3526	4419
1994	32	985	3828	4813
1995	42	1109	4452	5561
1996	67	1230	4929	6159
1997	58	1051	4776	5827
1998	72	503	3358	3861
1999	149	730	3594	4324
2000	220	773	4006	4779
2001	134	742	3872	4614
2002	138	893	4114	5007
2003	156	1058	4398	5456
2004	149	1143	4875	6018
2005	101	1258	5286	6544
2006	76	1586	5890	7476
2007	62	1859	6904	8763
2008	46	2172	8093	10265
2009	42	2272	6902	9174
2010	63	2949	8373	11322



*Graph 4.3.3. Relationship between GDP of Indonesia and Malaysia and number of piracy attacks committed by Indonesian and Malaysian pirates in the waters around Indonesia, Malaysia, Malacca Strait and Singapore Strait.*

*Created by Author. Source ( Table 4.3.3 and Graph 4.3.3 ): 2000 -2001 data from report by Jayant Abhyankar, ( 2002 ), Piracy and Maritime Violence: A Continuing Threat to Maritime Industry, Hong Kong: ICC – IMB, p.8; 2002 data from ICC International Maritime Bureau, ( January 2006 ), Piracy and Armed Robbery Against Ships, 1 January-31 December 2005, (London, United Kingdom), p. 7; 2003-2008 data from ICC International Maritime Bureau, ( January 2009 ), Piracy and Armed Robbery Against Ships, Annual Report, 1 January-31 December 2008, (London, United Kingdom), p. 5 ; 2009-2010 data from ICC International Maritime Bureau, ( January 2011 ) Piracy and Armed Robbery Against Ships, Annual Report, 1 January-31 December 2010, (London, United Kingdom), p. 5; Foreign Aid:Key Figures, Global Humanitarian Assistance programme, Development Initiatives, UK, GHA programme website*

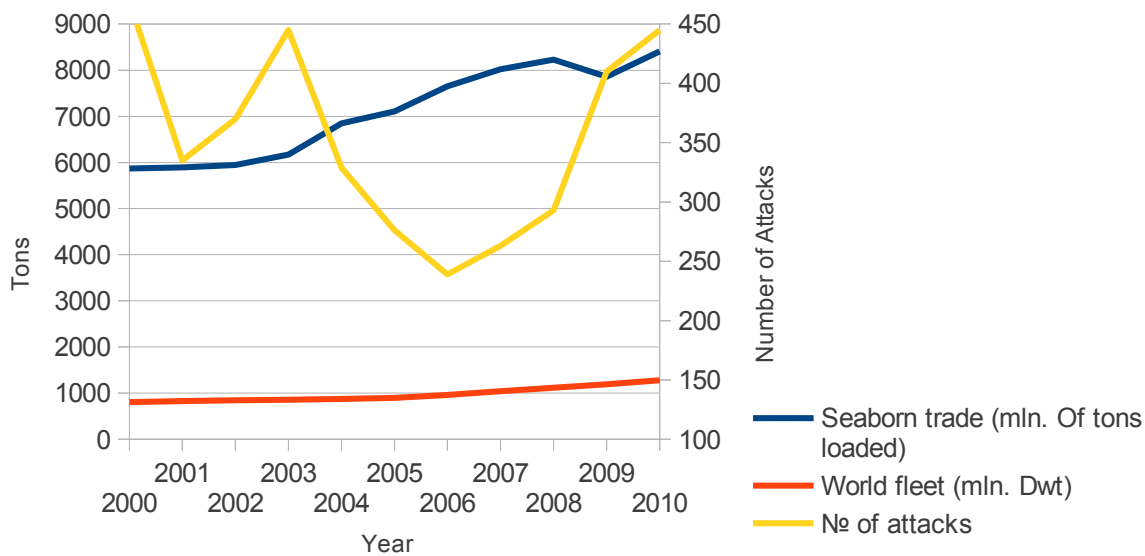
However, despite the uniqueness of both situations, they had in common that the activation and subsequent increase in pirate activity in both regions was not directly caused by a significant deterioration of the economic situation and especially the fall in GDP, as well as the increase in GDP in Southeast Asia has not lead to the decrease in pirate attacks.

As has been mentioned above, there is constantly a big amount of military ships on the anti-piracy mission including CTF151, NATO, European Union ships (“Atalanta”) and several warships from China, Russia, India and Iran, all together more than 30-40 ships in the GOA at any given time. It is impossible to record annual data as all navies and missions have constant rotation cycles, but it is clear that since the start of the build up of the amount of warships in 2006 (the then anti-terrorist CTF150 mission, which turned into CTF151 in 2009, were first one to intercept piracy vessels and Atalanta was launched in 2008 as mentioned above) there is still constant upsurge in the level of piracy and military intervention has failed to stop the huge upsurge of piracy in the region.

At the same time it should be borne in mind that the total number of vessels in the world engaged in international maritime trade steadily increases. This factor should be taken into account by practitioners and theoreticians of marine and coastal management for effective work in the new realities of maritime shipping. Nevertheless, the Table and Graph 4.3.4 show that there is no direct correlation between the growth of the world fleet, maritime trade and the growth of piracy.

*Table 4.3.4 The Relationship between the growth of world trade, maritime fleet and the number of piracy attacks worldwide.*

Year	Seaborn trade (mln. Of tons loaded)	World fleet (mln. Dwt)	№ of attacks
2000	5872	808	469
2001	5891	826	335
2002	5948	844	370
2003	6168	857	445
2004	6846	872	329
2005	7109	896	276
2006	7652	960	239
2007	8022	1043	263
2008	8229	1118	293
2009	7858	1192	410
2010	8408	1276	445



*Graph 4.3.4 The Relationship between the growth of world trade, maritime fleet and the number of piracy attacks worldwide.*

*Created by Author. Source (data for Table 4.3.4 and Graph 4.3.4): 1991-2001 data from report by Jayant Abhyankar, ( 2002 ), Piracy and Maritime Violence: A Continuing Threat to Maritime Industry, Hong Kong: ICC – IMB, p.8; 2002 data from ICC International Maritime Bureau, ( January 2006 ), Piracy and Armed Robbery Against Ships, 1 January-31 December 2005, (London, United Kingdom), p. 7; 2003-2008 data from ICC International Maritime Bureau, ( January 2009 ), Piracy and Armed Robbery Against Ships, Annual Report, 1 January-31 December 2008, (London, United Kingdom), p. 5 ; 2009-2010 data from ICC International Maritime Bureau, ( January 2011 ) Piracy and Armed Robbery Against Ships, Annual Report, 1 January-31 December 2010, (London, United Kingdom), p. 5; Seaborne trade and World fleet: Development of International Seaborne Trade, UNCTAD, annual reports, p.5; Review of Maritime Transport, UNCTAD, annual reports, p.8*

At the same time, speaking about the situation with piracy in Southeast Asia, consolidated enforcement measures of the states of the region (as described in section 4.2.2 ), along with the improvement of the economic situation in the region (see the graphics) yielded the desired effect – local victory over pirates.

All of the above inspires confidence in the ability to effectively counter piracy challenge, provided proper consolidation of the international relations actors using skilled planning and cumulative application of a wide range of instruments: military, economic, legal, political, social or of other nature.

## 5. Conclusions and Recommendations

### 5.1 Conclusions

The main question, about what influence the end of the Cold War had on the contemporary re-emergence of piracy, will be answered in this section.

First of all, we need to separate two different concepts: “reason” and “factor”. “Reason” is a cause or a motive for an action or a determination. According to *Merriam-Webster dictionary* online, reason is “*a rational ground or a motive*”, “*something that supports a conclusion or explains a fact*”, “*the thing that makes some fact intelligible*” .(Merriam-Webster, n.d., entry "reason"). In its turn, “factor” comes from Latin *factor* - “*a doer, maker, performer*”. In Merriam-Webster Dictionary the word factor is defined as “*one that actively contributes to the production of a result*”, “*a substance that functions in or promotes the function of a particular physiological process or bodily system*”(Merriam-Webster, n.d., entry "factor"). The *factor* that results in something happening is the *cause* for something happening. The reason for something happening is why something happens. The factor is objective and does not depend on the one who expresses this view. The reason is the explanation, conclusion, motive, and is subjective.

Most of the papers reviewed in the “literature review” section address factors affecting the re-emergence of maritime piracy, and while the end of the Cold War was mentioned a few times, it was not included in the list of factors. It is rather a reason.

The author of this thesis maintains that the reason of the re-emergence of piracy worldwide is the end of the Cold War. It might be not the only reason, though, but it seems that is the main reason for its substantial increase over the last two decades. This reason has brought the emergence of a few factors that directly affected the emergence of contemporary piracy. As the result of the case studies conducted, a conclusion has been made that instead of the End of the History claimed by Francis Fukuyama, the End of the Cold War has resulted in the appearance of a new hostile political environment with new threats, such as terrorism and insurgence movements (not fueled and fed by the superpowers as before, but as a by-product of the “civilizational” differences), instead of interstate conventional wars.



As a result of the changed political environment after the End of the Cold War, a few factors have appeared that are the causes for the emergence of modern-day maritime piracy:

1. The end of the military and economic contest during the Cold War and transition of planned economic systems of the Eastern Bloc into the free ones, have resulted in the diminishing of the barriers to the international trade, reduction of tariffs, export fees, import quotas and have brought what is presently known as Globalization – increasingly global relationships of culture, people and economic activity. Globalization has undoubtedly contributed to the global rise of the maritime shipping traffic and an increase in the number of ports that is often called the reason for the increase of maritime piracy.

2. After the U.S.S.R and the Eastern Bloc have collapsed, the world has expected a decline for the need for arms control. In fact, the opposite has happened. Since the end of the Cold War the world, and the Western World in particular, has become much concerned about proliferation of conventional and non-conventional weaponry to the “rogue” regimes and terrorist organizations. Thinking of piracy, the proliferation of small arms, mentioned in the Southeast Asia case-study, is a threat to the maritime shipping industry and is one of the factors for piracy mentioned above. The end of the Cold War and the dissolution of the socialist bloc have affected small weapons proliferation in two major ways:

a) The collapse of totalitarian controls and corruption spread in the newly independent states have allowed access of individuals<sup>7</sup> to previously very well guarded army arsenals. There was no need any more for big armies and the weapons were sold away. Those weapons not only took part in armed conflicts all over Europe (the Balkans) and Asia (Armenia, Azerbaidjan, Tadjikistan etc.) but have been re-sold to insurgency movements and criminal networks.

b) Impoverished states of the former Eastern Bloc have many arms factories left from the

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<sup>7</sup>One of the most scandalous cases happened recently was the arrest of former Soviet military officer Viktor Bout in Thailand and his extradition to the U.S. Victor Bout has smuggled great amounts of small arms to different terrorist and criminal networks and rogue regimes in the war-torn countries of Africa (BBC, 2008)

Soviet times, and the production and sale of arms presents an opportunity to improve their economic situation. Arms have been sold without much discrimination of who the customer was. Many arms have ended up in the hands of terrorist groups and criminal gangs, and the pirates are not an exception. The result is that some of the pirate gangs are much better equipped than the police forces trying to contain them, who normally don't have weapons like RPG, mines, mortars which are widely available to the pirates.

3. During the Cold War most of the countries in the world were aligned with the East or the West. The countries of the so called “Non-Aligned Movement” in fact were aligned with one or another of the superpowers and were “client states” - were subordinated to the USA or the USSR in the international affairs, in return for financial and/or military aide. As the Cold War ended and the opposition of the superpowers ceased to exist, there was no more incentives on the side of the former rivals to benefit many of the former client states. The result was weakened political hegemony of the governments of those previously-supported states, instability, upheavals and in the more extreme cases – complete anarchy, which gave rise to piracy. The most current examples are pirate groups that operate from Somalia, feeling comfortable onshore even more so than at sea.

4. The author's initial hypothesis assumed that the Cold War has helped to restrain the piracy in another dimension as well – by the control and surveillance of the seas exercised by the superpowers. As was introduced above, there were much bigger fleets plowing the seas during the Cold War. As the Western Navies reduced their size and the Eastern ones almost disappeared, there is more freedom of action for the maritime criminals. And indeed, as the maritime patrols exercised by the littoral states of Southeast Asia have increased in the Malacca Strait and Indonesian waters, piracy showed significant reduction. Nevertheless, the increased presence of the powerful Western Navies in GOA haven't had any significant effect. The reason is that the control over the seas without the control over the land cannot result in any significant effect, and as was explained in the Somali piracy case study, the fleets are simply not able to exercise full control over the vast sea area. Therefore, the control of the seas is an important element of the war on piracy but only in a case, when it is supplemented with control over the land, as well.

5. The findings, obtained in the study, including the constructed graphics, clearly

demonstrate the lack of a correlation between the growth or decrease of the countries', home of pirate activity, GDP, humanitarian assistance from the international community, increasing volume of international maritime trade and shipping and the growth dynamics of marine piracy. This study is the first specialized work that reliably found on the examples of Somalia and Southeast Asia that despite the improvement or deterioration of the financial situation of the concerned regions and countries and despite the increase in international humanitarian assistance, the curve of the pirate activity in Somalia is increasing steadily, while the dramatic decline of piracy activity in Southeast Asia has been achieved in the period of lacking of the growth of the country's GDP.

5.1. With respect to Southeast Asia has also been found that in some of pre-crisis years which are good from the point of view of the region's GDP, piracy rates were comparable, with some years of the crisis, in which the GDP of countries in the region fell almost two times.

5.2. At the same time, the increase in GDP in the first post-crisis years in Southeast Asia has had no positive impact on the number of acts of maritime piracy in the region.

6. This research has highlighted the urgent need for further in-depth and comprehensive study of the problem of the contemporary maritime piracy, its real causes and consequences for the world economy in general and for Coastal and Marine Management in particular, based on more precise and broad array of scientific data, as well as further study of the causal relationship between these factors.

## **5.2 Piracy management recommendations**

There are many papers suggesting different management solutions against the threat of piracy, especially important are the two fundamental guides for shipping industry – one by IMB (IMB, 2011b) and another prepared by IMO (IMO, 2011b). Nevertheless, all of them deal with technical details, in other words, on how the shipping company or a particular vessel can prevent boarding by pirates, and not on how to prevent piracy itself.

As the result of the case studies performed and the study of the history of the war on pirates, the author came to the conclusion that the only effective measure to restore the

order in the sea is to exercise good governmental control on land. Southeast Asia-like piracy solutions, which emphasize maritime control and intra-regional cooperation may be only effective in piracy-prone regions where states have potential to exercise control on land as well, e.g. in such piracy-infested regions like West Africa (Niger Delta and the Gulf of Guinea), South China Sea, waters around Indonesia, Malacca Straits, Caribbean and South America. Piracy has to be fought at its source – the land based criminal networks must be fully eliminated. The annual cost of the piracy to the world has been analyzed and it seems it is quite high, while the efforts that the money spent on, are ineffective.

It seems adequate to recall Donald Puchala's words from his research *“Of Pirates and Terrorists: What Experience and History Teach”* on the historical lessons about the fight against piracy. He states that the historical fact is that the piracy never was eliminated due to the international regimes adherence to international law, eradication of the roots of piracy or as a result of formulation of global policy and building international coalitions, but because the *“pirates were suppressed when they were sought out, hunted down and forcefully destroyed along with their strongholds and sanctuaries”* (Puchala, 2005, 6).

Since the “Scorched Earth Policy” is not possible in current human rights regime and also not effective as been mentioned before, the only possible and effective “piracy management solution” would be the full restoration of the law and order in Somalia and unifying its national territory under legitimate government, working towards Somalia's social and economic development with the help of international community. As the diplomatic efforts and financial and indirect military support of the transitional government by the Western states proved to be ineffective for the restoration of the law and order, the best available option might be the military support of the TFG by stronger countries or better organized international forces.

As was explained in the Somali case study above, Islamism, even though officially declares the piracy “haram” - forbidden activity, in fact does not guarantee its suppression. Therefore the only promising solution for the piracy problem in the Gulf of Aden and waters around Somalia would be military help together with establishing of effective governance and gradual improvement of economic development.

As for the forecast for the future, it does not seem that the piracy will be fully eliminated

from the face of the Earth soon. Piracy is not a separate phenomenon and must be seen in the light of the international sociopolitical trends. If we look at it through the Huntington's "civilizational lenses", the issue will probably get worse before it gets better. It's "civilizational" aspects, e.g. it's intertwining with culture, religious ideology and terrorism with the increasing gap in the level of life between the West and the Third World in the background, do not promise fast convalescence of the international maritime environment.

# Appendix I

*Table 1.3 : Locations of Actual and Attempted attacks, January – December: 2002 – 2010*

Locations	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
SE ASIA	103	121	94	79	50	43	28	15	40	46
Indonesia										
Malacca Straits	16	28	38	12	11	7	2	2	2	1
Malaysia	14	5	9	3	10	9	10	16	18	16
Myanmar (Burma)			1				1	1		1
Philippines	10	12	4		6	6	7	1	5	5
Singapore Straits	5	2	8	7	5	3	6	9	3	11
Thailand /Gulf of Thailand	5	2	4	1	1	2		2	2	
FAR EAST		1	3	4	1			1	1	2
China / HK /										
Papua New Guinea	1					1				
Solomon Islands	2					1				
East China Sea	1									
South China Sea		2	8	6	1	3		13	31	13
Taiwan	1	1								
Vietnam	12	15	4	10	3	5	11	9	12	8
INDIAN SUB	32	58	17	21	47	15	12	18	23	10
Bangladesh										
CONTINENT India	18	27	15	15	5	11	10	12	5	6
Sri Lanka	2				1	4	1			
SOUTH ARGENTINA		2			1					
AMERICA	6	7	7	2	7	4	1	5	9	3
Brazil										
Caribbean		4								
Colombia	7	10	5	2	2		1	5	3	4
Costa Rica	1							3	1	3
Cuba		4								
Dominican Republic	7	6	2	1						
Ecuador	12	2	1		1		2	2	3	6
Guyana	12	6	2	1	1	5			2	1
Haiti	1	1	6	2		2	2	4	5	2

Honduras		1	1							
Jamaica	2	5	7	8	3	1				
Martinique		1								
Panama	2	2								
Peru	6	7	5	6	9	6	5	13	10	2
Salvador				1						
Suriname						2				
Trinidad & Tobago		2	1	1						
USA	1	1	1							
Venezuela	8	13	7	2	4	1	3	5	7	4
AFRICA		3			4	1	2			1
Angola										
Benin		1						1		20
Cameroon	5	2	4	2	1		2	3	5	
Congo							1		1	3
Dem. Congo Republic					3	4	1	2	3	4
Egypt						2			2	3
Equatorial Guinea							1			
Eritrea			1			1				
Gabon	7									
Gambia	1									
Ghana	5	3	5	3	3	1	7	3		2
Guinea	2	4	5	1	4	2		5	6	5
Guinea Bissau										
Gulf of Aden / Red Sea*	11	18	8	10	10	13	92	132	78	76
Ivory Coast	5	2	4	3	1		3	2	4	1
Kenya	2	1	1			4	2	1		1
Liberia		1	2			1	1		1	
Madagascar	3		1	1		1				
Mauritania			2	1	1					
Morocco				1		1	1			
Mozambique	1	1				3	2			
Nigeria	14	39	28	16	12	42	40	29	19	10
Senegal	3	8	5							
Sierra Leone	1		3		2	2				1
Somalia	6	3	2	35	10	31	19	80	139	160
South Africa		1								
Tanzania	3	5	2	7	9	11	14	5	1	
Togo	1	1			1		1	2		6
REST OF Arabian Sea			2	2	2	4		1	2	

WORLD	1	1								
Arabian Gulf										
Caspian Sea								1		
Mediterranean Sea										1
Gulf of Oman								1		
Belgium					1					
Bulgaria	1	1								
France							1			
Indian Ocean				1				1		
Iran		2			2	2				
Iraq			1	10	2	2			2	
Italy	1									
Oman	1					3				1
Pacific Ocean			1							
Saudi Arabia					1					
Seychelles							1			
UAE			2							
United Kingdom	2					1				
Yemen	5									
<b>Total at year end</b>	<b>370</b>	<b>445</b>	<b>329</b>	<b>276</b>	<b>239</b>	<b>263</b>	<b>293</b>	<b>410</b>	<b>445</b>	<b>439</b>

*Source: Created by Author. 2002 data from ICC International Maritime Bureau, ( January 2006 ), Piracy and Armed Robbery Against Ships, 1 January-31 December 2005, (London, United Kingdom), p. 7; 2003-2008 data from ICC International Maritime Bureau, ( January 2009 ), Piracy and Armed Robbery Against Ships, Annual Report, 1 January-31 December 2008, (London, United Kingdom), p. 5 ; 2009-2010 data from ICC International Maritime Bureau, ( January 2011 ) Piracy and Armed Robbery Against Ships, Annual Report, 1 January-31 December 2010, (London, United Kingdom), p. 5; 2011 data from ICC International Maritime Bureau, ( January 2012 ) Piracy and Armed Robbery Against Ships, Annual Report, 1 January-31 December 2011, (London, United Kingdom), p. 5*



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