

The Malmö Declaration: Calling for a Multi-Sectoral Response to Piracy

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1 Introduction

Over the more than three decades starting with the 1990s, at least 6,000 robberies and violent attacks against merchant vessels have been reported to the International Maritime Bureau (IMB) of the International Chamber of Commerce (ICC).¹ Pirates and armed robbers prey upon merchant ships with impunity in many of the world's waters. In 2010 alone, 1,181 persons were reported taken hostage, 37 were injured, and 8 were killed. During the same year, 196 ships were boarded, 107 were fired upon, and 53 were hijacked.² In 2011, 802 were taken hostage, 42 injured, and 8 were killed; 176 ships were boarded, 113 ships fired upon, and 45 were hijacked.³ In 2012, 585 people were taken hostage, 28 were injured, and 6 were killed; while 174 ships were boarded, 28 were fired upon, and 28 were hijacked.⁴

The grave threat of piracy to the security and efficiency of marine transportation, particularly to the men and woman carrying out this important function, led the International Maritime Organization (IMO) to adopt the theme “*Piracy*:

¹ A specialised division of the ICC, the IMB is a non-profit making organisation, established in 1981 to act as a focal point in the fight against all types of maritime crime and malpractice. For over 25 years, the IMB has used industry knowledge, experience and access to a large number of well-placed contacts around the world to protect the integrity of international trade by seeking out fraud and malpractice. “ICC Commercial Crime Services,” <http://www.icc-ccs.org>, accessed 31 January 2013.

² ICC-IMB (2011).

³ ICC-IMB (2012).

⁴ ICC-IMB (2013).

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orchestrating the response” for World Maritime Day in 2011. To commemorate this theme and contribute to the efforts of maritime industry stakeholders and the international community at large to identify, monitor, study, research, and implement preventive measures to combat violent crime against merchant shipping, the World Maritime University (WMU) hosted the International Conference on Piracy at Sea (ICOPAS 2011) from October 17 to 19, 2011 at Orkanen, Malmö Högskola in Malmö, Sweden. The Conference was organized in cooperation with IMO. The programme is available as Annex 1 of this chapter.

ICOPAS 2011 brought together more than 400 industry practitioners, government officials, academics, and researchers in a 3-day conference where they exchanged views and ideas on the complex web of underlying factors behind the phenomenon of piracy, examined and reviewed current responses and initiatives, as well as discussed ways whereby industry stakeholders and the many disciplines engaged in maritime research might better work towards an integrated approach to control or eradicate piracy and other violent crimes at sea. They shared their views in developing the Malmö Declaration, the conference resolution that calls on all participants and their organizations to use their resources and energies in the most optimal manner to meet the goals set and agreed upon at the conference.

2 Conference Theme: “Save Our Seafarers”

The Conference aligned itself with the maritime industry’s initiative—*Save Our Seafarers*—that placed a particular emphasis on the human cost of piracy, focusing on the seafarers that are risking their lives each and every day while transiting the world’s pirate infested waters. These are the individuals that are most directly affected by maritime piracy, not to mention their families that are at home worrying about the safety of their loved ones at sea. Special attention was also given to piracy’s long-term effects on seafarers as well as joint initiatives to provide rehabilitation and sustained support for affected seafarers.

3 Keynote Speakers

The welcoming remarks by Dr. Björn Kjerfve, President of the World Maritime University were followed by the addresses of three Keynote Speakers—IMO Secretary General Efthimios Mitropoulos, BIMCO Secretary General Torben Skaanild-Secretary, and NATO Deputy Assistant Secretary General Richard Froh. They challenged all conference participants to refrain from being mere bystanders in eradicating piracy and use the conference as a venue for being active parts of the solution. They emphasized the significant effort that is already being exerted; the need to develop further long-term measures; the significant, life-changing impact of these on seafarers; and the need for further collaboration and support among all stakeholder groups not only to pursue viable solutions, but also

the timely implementation and ownership of these solutions. The common message was that the problem of piracy could only be controlled through the combined and focused efforts of all.

4 Human Cost of Piracy

In support of the Conference theme, an entire session was focused on the human cost of piracy chaired by Mr. Peter Swift, Chairman, Programme Steering Committee of the Maritime Piracy Humanitarian Response Programme (MPHRP). During this session, conference attendees had the privilege of listening to the moving reflections of Capt. Calixto Caniete as he retold his encounter with pirates before, during, and after being held hostage for 133 days. He eloquently communicated the bravery of his crew and brought to light the heavy price that the captive seafarers and their families pay. After Capt. Caniete's presentation, representatives from MPHRP explained the development of a system of first responders that are now readily available. These first responders are a cadre of trained professionals, ready to assist mariners in rehabilitation after a piracy incident and lend an ear to seafarers as they voice their concerns over the threat, helping them to cope with the fear as well as prepare them for the perils of being attacked and held hostage.

5 Launching of the Seafarers Emergency Fund Foundation (SEFF)

In consideration of seafarers' welfare, Ms. Kimberly Karlshoej, Director and Program Officer of the TK Foundation used ICOPAS 2011 as an opportunity to announce the launch of the Seafarers Emergency Fund Foundation (SEFF). SEFF was established to provide immediate and essential aid to seafarers and their families, when the former are directly involved in sudden and unforeseen crises. This fund is channeled through seafarer welfare organizations and other welfare organizations and is designed to provide the means to purchase goods and/or services for seafarers and/or the spouse or children of seafarers to alleviate the burden brought about by the crises. The SEFF may be used to cover costs related to immediate needs such as psychological counseling, medical expenses or repatriation. Further information is available at <http://www.thetkfoundation.com>.

6 Panel Discussion and Conference Conclusions

The final day of the Conference began with a panel discussion chaired by Craig Eason of Lloyd's List, with discussants Annika Engblom (Member, Swedish Parliament), Michael Gilday (Rear Admiral (USN), Director of Operations, Joint

Force Command Lisbon, NATO), Peter Hinchliffe ((OBE), Secretary General, International Chamber of Shipping and International Shipping Federation), Sascha Pristrom (Technical Officer, Sub-Division for Maritime Security and Facilitation, International Maritime Organization), and Jon Whitlow (Secretary, Seafarers, Fisheries and Inland Navigation, International Transport Workers' Federation). The recurring theme during the panel, and indeed throughout the Conference, was that the long and arduous voyage to curtailing the threat of piracy can only be navigated through the dedicated commitment of efforts and resources as well as sincere collaboration between a multitude of agencies and organizations. While there are numerous current initiatives toward mitigating risks and solving the symptoms of piracy, it was noted that most are only short-term measures; everyone was in agreement that the key to a lasting solution to the problem of piracy can only be found ashore. The problem will persist until Somalia and countries in the Horn of Africa and other piracy hotspots are able to develop the infrastructure and resources to address the issue at its roots. It is therefore incumbent upon all stakeholders to work not only towards mitigating the threat, but also to grow and implement solutions that focus on capacity-building, political stability, and socio-economic development in the affected regions.

7 Malmö Declaration

Mr. Giles Noakes of BIMCO led Conference participants in drafting and fine-tuning two documents that reflect the most significant and recurring points raised during each of the sessions at ICOPAS 2011. On the second day of the Conference, following the conclusions of the thematic sessions, conference participants were invited to share their time and collective expertise by meeting in the plenary hall to scrutinize and add value to these two documents. Finalized on the third day, they reflect the general consensus reached at the Conference. The first document—*Malmö Declaration*—is a call to action for the international community as a whole to support counter-piracy programmes and is reproduced in this chapter as Annex 2. The second—*Conference Summary and Conclusions*—summarizes the Conference findings and is reproduced in this chapter as Annex 3.

8 This Volume

This book includes 19 chapters comprising a selection of papers presented at ICOPAS 2011, beginning with the keynote addresses by IMO Secretary-General Efthimios Mitropoulos and BIMCO Secretary-General Torben C. Skaanild. Chapters from the session “Piracy and the world public order” include an examination of legal uncertainty in the treatment of human rights in counter-piracy operations by Anna Petrig, the use of ship-riders to assert jurisdiction over piracy

and armed robbery off Somalia by Efthymios Papastavridis, a law enforcement approach to overcoming challenges to effective investigation and prosecution of Somali pirates by Henri Fouché, the protection of flagged-out ships under the new Japanese Anti-Piracy Law by Kentaro Furuya, the law and economics of piracy at sea by Caitlin Stapleton Kaprove, an overview of the economic implications of piracy and armed robbery against ships in Nigeria by John A. Wajilda, China's efforts to fight piracy at sea by Lin Zhen, lessons from Puntland State of Somalia by Ahmed Khalif Bile, the North American Maritime Security Initiative by Ricardo Eliseo Valdés, and economic, political, and social implications of piracy in the Gulf of Guinea by Yusuf Mohammad Bala.

From the session "Industry response to piracy at sea," there are chapters on following the money trail of piracy and organised crime at sea by Marelize Schoeman and Benjamin Häefe, core strategies of security to thwart success in piracy by Joan P. Mileski et al., risk modelling of non-lethal response to maritime piracy and estimating its effect by George Ad Psarros et al., and understanding the criminal business model of Somali piracy by George Kiourktsoglou and Alec D. Coutroubis. From the session "Humanitarian response to piracy at sea," there are chapters on the 133 days of captivity of the crew of the *MV Renuar* by Calixto Caniete, and the human cost of Somali piracy by Kaija Hurlburt.

Together, these chapters bring together views and insights from a wide a spectrum of maritime stakeholders—seafarers, shipowners, industry practitioners, government officials, academics, and researchers—presenting different aspects of the problem in an open manner and presenting their thoughts on how to deal with a truly complex situation. Through this volume, the World Maritime University aims to consolidate the ideas brought out at the conference and encapsulate this collective wisdom in a publication that can serve as easy reference for practitioners as well as researchers, and hopefully contribute to more concrete action.

Annex 1

International Conference on Piracy at Sea (ICOPAS)

17–19 October 2011

Orkanen, Malmö Höskola, Malmö, Sweden

Conference Programme

Monday, 17 October

09:30–10:45 Opening session

Welcome remarks, Björn Kjerfve, President, World Maritime University

Keynote address, Efthymios Mitropoulos, Secretary General, International Maritime Organization (IMO)

Keynote address, Torben Skaanild, Secretary General, Baltic and International Maritime Council (BIMCO)

Keynote address, Richard Froh, Deputy Assistant Secretary General for Operations, North Atlantic Treaty Organization (NATO)

11:15–12:00 Session 1: Piracy and the world public order

Session keynote: Maritime piracy—the reality across the globe, Cyrus Mody, Manager, International Maritime Bureau

Session keynote: Countering piracy off the coast of Somalia: current legal challenges, Thomas Winkler, Ambassador, Under Secretary for Legal Affairs, Ministry of Foreign Affairs of Denmark

13:30–17:30 Parallel session 1-A: Restoring public order through law enforcement (Session chair: Hugh Williamson, Lead Investigator/Project Manager, Dalhousie Marine Piracy Project, Marine Affairs Program, Dalhousie University)

Human rights and counter-piracy operations: a special focus on transfers of pirates for prosecution and enforcement of sentences, Anna Petrig, Head of the Sea Piracy Project, Max Planck Institute for Foreign and International Criminal Law, Freiburg, Germany

Djibouti Code of Conduct and the assertion of jurisdiction over pirates: lessons from the Caribbean concerning questions of international responsibility, Efthymios Papastavridis, Lecturer in Public International Law, University of Thrace; Research Fellow, Academy of Athens

Sea piracy—the law enforcement approach: overcoming challenges to effective investigation and prosecution of Somali pirates, Henri Fouché, Professor Extraordinarius, Department of Police Practice, University of South Africa

Japanese anti-piracy law: protection of flagged-out ships, Kentaro Furuya, Japan Coast Guard Academy International Research Centre for Marine Policy; Japan Association of Marine Safety, London Research Office

The law and economics of piracy at sea, Caitlin Stapleton, Associate, Greenberg Traurig, LLP (Global and Government Contracts Groups) Former Law Clerk, International Court of Justice

An overview of the economic implications of piracy and armed robbery against ships in Nigeria, John A. Wajilda, Nigerian Shippers' Council

Combating piracy: the Indonesian case, Melda Kamil Ariadno, Senior Lecturer of International Law, Faculty of Law, Universitas Indonesia

13:30–17:30 Parallel session 1-B: Suppressing piracy: operational and economic issues (Session chair: Suzanne B. D. Lassen, Strategic Facilitator and Integrator)

Somali piracy: a view from the ground, Robert Young Pelton, Publisher, Somalia Report

Anti-piracy operations and the lack of policing in the global commons, Lars Bangert Struwe, Research Fellow, Faculty of Social Sciences, Centre for Military Studies, Denmark

Naval operations in the Gulf of Aden: a perspective from the Swedish Navy, Frank Johnsson, Commander, Swedish Navy

Warships alone will not curb piracy off the Somali coast: lessons from Puntland, State of Somalia, Ahmed Khalif Bile, Puntland Development Research Center

Fresh thinking on deterring and defeating piracy, Christopher J. Parry (CBE), Rear Admiral (RN) (ret.) Director, Merl House

The North American Maritime Security Initiative (NAMSI), Ricardo Eliseo Valdés Cerda, Lieutenant Commander, Secretariat of the Navy, Mexican Navy

The economic, political and social implications of piracy in the Gulf of Guinea and world trade: Nigeria as a case study, Yusuf Bala, Nigerian Maritime Administration and Safety Agency

Tuesday, 18 October

09:00–12:00 Session 2: Industry response to piracy at sea

Session keynote: The SOS campaign, Bill Box, Senior Manager for External Relations and Communications, INTERTANKO

Parallel session 2-A: Piracy, technological developments, and the multisectoral response (Session chair: Proshanto K. Mukherjee, Professor of Maritime Law, World Maritime University and Lund University)

The hijacking of the CEC Future, Gary S. Porter, Corporate Security Manager, Clipper Ferries/Ro-Ro

Piracy: organised crime at sea—following the money trail, Marelize Schoeman and Benjamin Häefe, Department of Criminology Security Science, Faculty of Law, University of South Africa

The industry-military interface: successes to date and challenges for the future, Martin Ewence, Commander (RN) (OBE), Maritime Security Advisor to EUNAVFOR

Polarimetric radars detect pirates at sea, Sten Wärnfeldt, Area Manager, Sea-Hawk Navigation

Improvement of maritime safety and security at sea with blackbox and DGMIS, Michael Bochmann, Prof. Ing. (mul.), Nautical Department, University Applied Science, Leer

How to thwart success in piracy: core strategies of security, Joan P. Mileski, Department of Maritime Administration, Texas A & M University at Galveston; Maximo Q. Mejia, Jr., Maritime Law and Policy, World Maritime University; Arielle D. Carchidi, Department of Maritime Administration, Texas A & M University at Galveston

Parallel session 2-B: Privately contracted armed security personnel (Session chair: Giles Noakes, Chief Maritime Security Officer, BIMCO)

IMO guidance regarding the use of privately contracted armed security personnel, Sascha Pristrom, Technical Officer, Sub-Division for Maritime Security and Facilitation, International Maritime Organization

The use of armed guards on board ships: an industry perspective, Giles Noakes, Chief Maritime Security Officer, BIMCO

Setting up and managing a private maritime security company: legal and business risks, Thomas Bennett, Solicitor, Member of PVI's General Counsel

Security Association for the Maritime Industry, Peter Cook, Secretariat, Security Association for the Maritime Industry

A risk based methodology for shipping companies' response to piracy, Richard Filon, Director of Maritime Services, AKE Group

Risk modelling of non-lethal response to maritime piracy and estimating its effect, George Psarros and Rolf Skjong, Det Norske Veritas AS; Ronald Kessel and Chris Strode, NATO Undersea Research Centre

Somali piracy: understanding the criminal business, George Kiourktsoglou, PhD Candidate, University of Greenwich; Alec D. Coutroubis, Principal Lecturer and Teaching Fellow, University of Greenwich

13:30–17:30 Session 3: Humanitarian response to piracy at sea (Session chair: Peter Swift, Chairman, Programme Steering Committee, Maritime Piracy Humanitarian Response Programme (MPHRP))

Session keynote: The crew of the MV Renuar: 133 days of fear, helplessness, and hopelessness, Calixto Caniete, Master Mariner

Good practice guides for seafarers and their families, Roy Paul, Programme Coordinator, MPHRP

Seafarers' pre-piracy training, Toon van de Sande, Assistant Programme Coordinator, MPHRP

Psychosocial response, Colm Humphries, Psychosocial Consultant, MPHRP

Welfare organisations as first responders, Ken Peters, Rev Canon, ICMA/Mission to Seafarers

Managing the practical aspects of the humanitarian response, Ole Månsson, Lead Instructor, Safety and Security Department, Maersk Training Svendborg A/S

Piracy at sea: the human impact, Hugh Williamson, Lead Investigator/Project Manager, Dalhousie Marine Piracy Project, Marine Affairs Program, Dalhousie University

Oceans Beyond Piracy: the human cost of Somali piracy, Kaija Hurlburt, Research Associate, Oceans Beyond Piracy Project, One Earth Future Foundation

Wednesday, 19 October

09:00–10:30 Panel discussion

Moderator: Craig Eason, Technical Editor, Lloyd's List

Members: Annika Engblom, Member, Swedish Parliament

Michael Gilday, Rear Admiral (USN), Director of Operations, Joint Force Command Lisbon, NATO

Peter Hinchliffe (OBE), Secretary General, International Chamber of Shipping and International Shipping Federation

Sascha Pristrom, Technical Officer, Sub-Division for Maritime Security and Facilitation, International Maritime Organization
 Jon Whitlow, Secretary, Seafarers, Fisheries and Inland Navigation, International Transport Workers' Federation
 11:00–12:30 *Presentation and Adoption of Conference Declaration*, Giles Noakes, Chief Maritime Security Officer, BIMCO
Presentation of the Seafarers Emergency Fund Foundation (SEFF), Kimberly Karlshoej, Director and Program Officer, TK Foundation
Closing Remarks, Neil Bellefontaine, Vice President (Academic), World Maritime University

Annex 2

International Conference on Piracy at Sea (ICOPAS) 17–19 October 2011 Orkanen, Malmö Högskola, Malmö, Sweden

Malmö Declaration

The participants at the International Conference on Piracy at Sea (ICOPAS):

HAVING EXAMINED the current scourge of piracy from a number of different angles;

AGREEING that the humanitarian and economic costs of piracy at sea and on land are unacceptable;

RECOGNIZING the need for the international community to coordinate efforts and for States to demonstrate political will not only to deter and suppress piracy, but also eliminate the root causes;

CALL ON the international community as a whole to:

- Support legal capacity building and maritime governance in affected States;
- Urge the United Nations, once the Transitional Federal Government (TFG) of Somalia claims its exclusive economic zone (EEZ), to create a “Maritime Enforcement Mandate” to protect Somali and international interests;
- Enhance cooperation among national, regional, and international law enforcement agencies and institutions;
- Support the progressive development of international law to overcome the constraints of national boundaries and jurisdiction in dealing with piracy;

- Maintain the strategic commitment of, and enhance coordination among, the multinational naval forces in the area;
- Establish better co-operation mechanisms and harmonize efforts by all international organizations involved;
- Foster the engagement of the TFG and promote the sustainable economic development of resources in the Somali EEZ;

URGE States to:

- Fulfil their responsibility to successfully prosecute and punish for the universal crime of piracy, regardless of the place where it is committed, and to criminalize conspiracy to commit piracy, with due regard to international human rights law;
- Cooperate with relevant international organizations to develop the infrastructure for prosecution and incarceration in affected States;
- Provide full Long Range Identification and Tracking (LRIT) details to the multinational naval forces and facilitate the use of vessel protection detachments (VPDs);
- Adopt, through the International Maritime Organization (IMO) and other international organizations, standardised training for seafarers to increase awareness of risks, and to cope with eventual piracy incidents;
- Coordinate with relevant human rights organizations in dealing with the issue of juvenile pirates;

CALL ON companies and individuals to:

- Facilitate prosecutions by assisting the International Criminal Police Organization (Interpol) response teams, where possible, in preserving evidence at the scene of the crime;
- Ensure the full and effective implementation of the latest version of Best Management Practices for Protection against Somalia Based Piracy (BMP);
- Maintain the position that seafarers should not be armed;
- Apply risk assessment methodologies, in accordance with IMO MSC Circular 1405, in determining the use of advanced security measures such as the employment of privately contracted armed security personnel (PCASP);
- Treat the employment of PCASPs as a palliative, and not an institutional, measure;
- Consider the growing number of technologies available, such as advanced radar systems and citadels, to mitigate risks;
- Implement the “good practice” guides for companies and welfare associations for the humanitarian support of seafarers and their families;
- Recognize the high level of anxiety that piracy incidents cause in seafarers and their families and
 - Conduct further research into the true human cost of piracy; and
 - Ensure that the psychosocial support provided meets the highest standards of quality and efficacy;

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