

Background Guide
United Nations Security Council
Topic: Piracy on the High Seas

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September 2023

I. Introduction to the Committee

The United Nations Security Council (UNSC) is one of the principal organs of the United Nations and is responsible for maintaining international peace and security. It is composed of 15 member states, with five of them holding permanent seats and having veto power: the People's Republic of China, France, the Russian Federation, the United Kingdom of Great Britain and Northern Ireland, and the United States. The other ten seats are non-permanent and are elected by the General Assembly for two-year terms.

The Security Council has several key functions. First being maintenance of peace and security, which is the primary responsibility of the Security Council. This involves responding to conflicts, mediating disputes, and authorizing military actions, sanctions, and other measures to maintain or restore peace. Another function is peacekeeping operations. The Security Council can authorize the deployment of UN peacekeeping forces to conflict zones to help maintain peace and stability. These forces are usually comprised of troops contributed by member states. Next is sanctions. The Security Council can impose economic, diplomatic, or military sanctions on countries or individuals involved in activities that threaten international peace and security. Another function is resolution adoption. The Security Council adopts resolutions that provide guidelines and directives for addressing various international issues. These resolutions can cover a wide range of topics including conflicts, humanitarian crises, and disarmament. Lastly, they can refer cases to the International Criminal Court (ICC) involving serious international crimes such as genocide, war crimes, and crimes against humanity.

The Security Council's decision-making process requires a minimum of nine affirmative votes out of the fifteen members, including the concurring votes of all five permanent members to pass substantive matters. This veto power held by the permanent members is intended to prevent any single country from unilaterally taking action that could escalate conflicts or undermine global security.

The Security Council is a central forum for discussing and addressing major international crises and conflicts, but its effectiveness has at times been hampered by the differing interests and priorities of its member states, particularly those with veto power. This can sometimes lead to deadlock and inaction on critical issues.

II. Statement of the Problem

The definition of the crime of piracy is contained in Article 101 of the *United Nations Convention on the Law of the Sea* (UNCLOS), which reads as follows: "Piracy consists of any of the following acts: 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: on the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft; against a ship, aircraft, persons or property in a place outside the jurisdiction of any State” (UN). It is also “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” (UN).

Acts of piracy threaten maritime security by endangering, in particular, the welfare of seafarers and the security of navigation and commerce. These criminal acts may result in the loss of life, physical harm or hostage-taking of seafarers, significant disruptions to commerce and navigation, financial losses to shipowners, increased insurance premiums and security costs, increased costs to consumers and producers, and damage to the marine environment (UN, 2012). Pirate attacks can have widespread ramifications, including preventing humanitarian assistance and increasing the costs of future shipments to the affected areas.

The 1982 Law and Sea Convention set forth the comprehensive legal framework for the use and protection of the sea, the seabed and subsoil, and the marine environment, including both natural and cultural resources (UN, 2012). The law of the sea is a body of customs, treaties, and international agreements by which governments maintain order, productivity, and peaceful relations on the sea. The Division for Ocean Affairs and the Law of the Sea, as the secretariat of UNCLOS, “has a mandate to provide information and advice on the uniform and consistent application of the provisions of UNCLOS, including those relevant to the repression of piracy” (UN, 2012). It also has a mandate to provide information on relevant developments in oceans and the law of the sea to the General Assembly, as well as to the Meeting of States Parties to UNCLOS, in the annual reports of the Secretary-General on oceans and the law of the sea. These reports provide updated information on developments in respect of piracy and other crimes at sea.

Piracy in the 21st century (commonly known as modern piracy) has taken place in a number of waters around the world including: the Gulf of Guinea, Strait of Malacca, Sulu and Celebes Seas, Indian Ocean, and Falcon Lake (Kemp, 2016). Now, crime on the high seas is becoming increasingly sophisticated, endangering human life on land, the economic growth of entire regions and global safety. These crimes pose an immediate danger to people’s lives and safety. In addition, acts of piracy undermine human rights, hinder sustainable development, and threaten international peace and security (UN, 2019). Violent acts have increased such as hostage taking at sea and kidnappings. Piracy also affects the safety of port infrastructure, which is an economic driver for many countries.

III. History/Past UN Action

In 1982, the *United Nations Convention on the Law of the Sea* (UNCLOS) provided the framework for the prosecution of piracy under international law, in particular in Articles 100 to 107 and 110. The Security Council has repeatedly reaffirmed that “International law, as reflected

in the United Nations Convention on the Law of the Sea of 10 December 1982 ('The Convention'), sets out the legal framework applicable to combating piracy and armed robbery at sea, as well as other ocean activities" (Security Council resolution 1897 (2009), adopted on 30 November 2009) (UN, 2019). Article 100 of UNCLOS provides that "[a]ll States shall cooperate to the fullest possible extent in the repression of piracy on the high seas or in any other place outside the jurisdiction of any State" (UN, 2019). The General Assembly has also repeatedly encouraged States to cooperate to address piracy and armed robbery at sea in its resolutions on oceans and the law of the sea. For example, in GA Resolution 64/71 of 4 December 2009, the General Assembly recognized "the crucial role of international cooperation at the global, regional, subregional and bilateral levels in combating, in accordance with international law, threats to maritime security, including piracy" (UN, 2019).

Another issue has been extensive piracy in Somalian territorial waters. After Somalia's government collapsed, piracy grew so much that it threatened the security of the western Indian Ocean Region. Many resolutions have been passed by the Security Council to help control the issue and reduce attacks. In 2008, four resolutions were passed that authorized action against piracy in Somalia. Then again, it called for intensified action. By December of 2008, Resolution 1846 authorized states and regional organizations to enter Somalia's territorial waters to combat piracy. Again, in December, Resolution 1851 expanded the anti-piracy authorization to include operations on land. From 2008 to 2021, resolutions were passed to renew anti-piracy measures in Somalia, and they are still in place today (Security Council Report).

IV. Latest Developments

Recently, the UN Security Council has adopted resolutions to keep pirates at bay in Somalia. Under Chapter VII of the United Nations Charter, which provides for enforcement action, the Security Council adopted Resolution 2608, which, among other things, condemns piracy and armed robbery at sea off the Somali coast, underscoring that it exacerbates instability by introducing "illicit cash that fuels crime, corruption and terrorism" (UN, 2021). The resolution is intended to help combat the continuing threat of piracy off the coast of Somalia, which includes measures to keep vessels safe. The resolution also encourages the Somali Government to comply with obligations outlined in the *UN Convention against Transnational Organized Crime* and develop a corresponding legal architecture as part of its efforts to target money laundering and financial support structures on which piracy networks survive (UN, 2021). Through its resolution, the Council called upon all States to "take appropriate actions...to prevent the illicit financing of acts of piracy and the laundering of its proceeds...[and] to criminalize piracy under their domestic law." Countries are asked to cooperate, under the principle of universal jurisdiction, in the investigation and prosecution of anyone responsible for or associated with acts of piracy and armed robbery off the coast of Somalia, including international criminal networks (UN, 2021).

Just recently in June 2023, UN officials for Africa called for additional action to stop the spread of piracy (UN, 2023). Despite gains made in tackling sea-faring criminal groups, “Piracy incidents continue to threaten the safety of maritime traffic in the region,” according to Martha Pobe, UN Assistant Secretary-General for Africa in the Departments of Political and Peacebuilding Affairs and Peace Operations (UN, 2023). There has been a variety of effective deterrents in decreasing piracy incidents in the Gulf of Guinea. This was due to interventions by national authorities as well as regional and international partners (UN, 2023). However, both a lack of equipment and sustainable financing are consistent concerns. From 2016 to 2021, pirate groups in the region altered their normal patterns, shifting their focus towards “kidnapping for ransom” piracy, according to the UN Secretary-General’s report (UN, 2023). This has become a bigger issue for piracy in the seas, especially because the pirate groups are targeting any type of vessels, including fishing vessels.

From 2020 to 2021, the number of cases of piracy and armed robbery at sea, including kidnapping for ransom, decreased to 45 from 123 due to national efforts. Together, the UN Office for West Africa and the Sahel (UNOWAS) and the UN Regional Office for Central Africa (UNOCA) have developed an inter-regional project to conduct a review of the Code of Conduct, which will be critical in stimulating support for these activities at a time when piracy remains a threat to the Gulf of Guinea region (UN, 2023).

V. Problems a Position Paper and Resolution Should Address

A position paper and resolution should address key areas for success. Nations should update their domestic legal frameworks. Also, enhanced coordination between the Interregional Centre and partners “remains vital” (UN, 2023). In addition, actors must address the root causes of piracy to eliminate the threat. There should be a focus on prevention and consider ways of enhancing more participatory community-based engagements in the architecture and generate sex-disaggregated data on the impact of maritime crime on women, girls, men, and boys to better inform policy options and actions (UN, 2023).

Guiding Questions

1. What is the international legal definition of piracy?
2. When did this definition emerge?
3. What are some of the motivations for piracy?
4. What does it mean to say that piracy falls under universal jurisdiction?
5. What are some areas of the world most impacted by piracy?
6. What are some examples of successful regional and global efforts to combat piracy?

VI. Helpful Sources

Information about Somalia: <https://news.un.org/en/story/2021/12/1107192>

Issue of Piracy of the High Seas: <https://press.un.org/en/2019/>

What is Piracy?: <https://www.un.org/depts/los/piracy/piracy.htm>

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