

# Piracy – What is it?

## UNCLOS Article 101

Piracy is defined as 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 ... and directed

- (i) **on the high seas against another ship...** or against persons or property on board;
- (ii) Against a ship, aircraft, persons or property in a place outside the jurisdiction of any State.



# Piracy – Powers and Obligations



## UN Convention on the Law of the Sea

### Article 100

All 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.



# Piracy – Powers under UNCLOS

- Article 105 UNCLOS provides that –
- Every State may:
  - Seize a pirate ship or aircraft or a ship or aircraft taken by pirates; and
  - Arrest the persons and seize the property on board.
- The courts of the State which carried out the seizure may:
  - Decide upon the penalties to be imposed; and
  - May determine the action to be taken with regard to the ships, aircraft or property, subject to the rights of third parties acting in good faith.
- Article 107 UNCLOS provides that any warship or military aircraft, or other clearly marked government vessel may seize pirates.

# Anatomy of a Piracy

- **Type of Act**
  - Robbery
  - Assault
  - Murder
  - Theft of property
  - Destruction of property
  - Hostage Taking
- **Location of :**
  - Piratical act
  - Seized vessel
  - Boarding
  - Transfer to Authorities Ashore
- **Stakeholder (Jurisdiction)**
  - Flag of vessel
  - Nationality of Pirates
  - Nationality of Crew/Passengers
  - Nationality of interdiction asset
  - Nationality of vessel owner
  - Nationality of cargo owner
  - Regional Port States
- **Nearest potential prosecution OR transfer venue**

# Essential Elements for National Legislation: The Offense



- Reference to international law
- One ship/two ships problem
- Motive problem
  - Private ends
  - Political motives
- Jurisdictional Scope
  - Extraterritorial jurisdiction
  - Jurisdiction over individuals
  - Jurisdiction over specific acts
- Consequences, Sentencing, and Restitution
- SUA

# THE 1988 CONVENTION FOR THE SUPPRESSION OF UNLAWFUL ACTS AT SEA (SUA)

- 78% of the world's States (150) are signatories
- Establishes a framework whereby a coastal State Party is obliged to accept custody of suspected SUA offenders
- The coastal State Party is required to investigate and then **prosecute or extradite**
- SUA offenses are violence against maritime navigation (may overlap with piracy offenses)

# Overview

- Domestic piracy laws
- Enforcement authority
- Use of Force/Rules of Engagement
- Evidence package preparation
- Establish protocols for domestic interagency coordination for maritime incident response
- Regional Cooperation
  - Consider non-binding instrument for swift adoption & implementation
  - Draw on others' experience
  - Immediately establish regional "phonebook"

