



**International Journal of Biology, Pharmacy
and Allied Sciences (IJBPAS)**

'A Bridge Between Laboratory and Reader'

www.ijbpas.com

**COMBAT WITH MODERN PIRACY OFF THE GULF OF ADEN BASED ON THE
UNITED NATIONS SECURITY COUNCIL RESOLUTIONS (THE LATEST
DEVELOPMENTS)**

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ABSTRACT

Seas and oceans have transportation lines and ensure the establishment and development of international relations of civilizations by facilitating the transport of goods and shipping the passengers. Practical procedures of countries - especially the great sea powers- over the sea during many centuries had drawn optimal structure of the International Law of the Sea. An image which was established based on the principle of freedom of the seas and coastal state sovereignty on the territory of the sea around territorial coasts of each country.

Changes in Geopolitical balance of the international community, in addition, changes in social and technological factors caused conceptual change in some established. This transformation leads to rethink the basic concept of the certain aspects of the Law of the Sea. The commitment of governments to deal with the crime of piracy and the exercise of universal jurisdiction over crimes committed in recently is an exception to this old rule which refers to the "exclusive sovereignty over the territorial sea of a coastal state and exclusive jurisdiction of the flag State of the vessel subsidiaries".

Piracy is the first crime that universal jurisdiction tends to be exercised. Piracy laws expanded to protect foreign trade. Given the various definitions of piracy done in international instruments and restrictions on these definitions, and given the prevalence of piracy off the Gulf of Aden,

several UN Security Council resolutions issued under Chapter VII of the Charter and with the Law of the Sea Convention 1982 a legal framework was introduced to combat piracy, the effects of which are beyond the scope of international law. In light of these licenses are granted under the "Transitional Federal Government" of Somalis and can be only applied to the situation in Somalia functionality.

Although the Convention on the Law of the Sea in 1982, only gave the pirates jurisdiction of the trial to the arresting government, today, countries are reluctant to exercise this authority. This reluctance is mainly due to human rights concerns. In order to combat the criminal pirates, various ways have been adopted, for example, some countries concluded agreements with neighboring countries of Somalia which have taken the action for trial of captured Pirates.

This article analyzes the content of the provisions of Security Council resolutions that have considered the situation in Somalia's coast and investigates the issues related to the prosecution of pirates.

Keywords: Sea piracy, International Law - UN Security Council resolutions - Gulf of Aden

INTRODUCTION

Piracy is a crime under international law that occurs in a specific place which is the free waters where no government has the right or duty to discipline it. Act of piracy that occurs at this location is a crime against all humanity and therefore [it] against international law. Some have interpreted this offense as the oldest international crime (**Banketas, 2001, p.48**). Piracy is the first criminal offense which most governments have a tendency to exercise universal jurisdiction on it (**Soheila, 2004, p. 6**).

Rules of piracy were developed to protect the common interests of Sailor countries who wish to maintain their foreign trade. It should be noted that in slang terminology, the term

"piracy" is different from piracy under international law. Therefore piracy under international law should not be mistaken by the piracy according to domestic law (**Moghtader, 2011, p. 213**)

For example, according to the criminal law of England every citizen English that helps Britain's enemies at wartime in the sea or provides facilities to them or transport slaves in the open sea, he is considered piracy (**Alikhani, no date, p.863**). Non-specialists often use the word "piracy" as any contrary act but in many cases the application of international law is different. For example, sometimes the non-specialist, sometimes called rebellion (mutiny) as piracy since it is

defined so in the domestic laws (Akehurst, 1993, p.186).

Ships and goods that are stolen should be returned to their owners under the rule that one cannot prove legal ownership to his trophy won (Piracy cannot change ownership- Priata non mutat dominium) (Beldosov and Buschek, 1996, p. 292)

In the seventeenth century the practice of some states was that ship, regardless of who owned the property was awarded to the arresting as the prize. But during the eighteenth century the rule that third party should not be affected by acts of piracy gradually became known. Today, all states have adopted the rule that the hijacked ship and its property shall be returned to the original owners and only if the original owner was not recognized, pirate ship is owned or will be paid to the arresting. A pirate ship or aircraft can retain their nationality.

Maintain or lose citizenship

Citizenship will be granted according to the internal law of the country (Ziaee Bigdeli, 2006, p. 354).

A. Association of committing piracy

1. Caribbean region

Piracy in the region where recreational vessel traffic has taken a traditional style and thieves target is to rob and destroy the property of individuals.

2. Region of West Africa

In this region, piracy occurs in the territorial sea of the coastal countries and even sometimes near ports where the ships waiting to enter the ports are attacked.

3. Strait of Malaga

Because of the extensive cooperation of countries, it can actually be claimed that piracy in this region is obsolete.

4. Horn of Africa

Piracy in this region is exercised by the new methods and usually with a hostage and ransom.

Reasons of increased piracy

Several factors should be considered as the reasons for the increase in piracy such as the low number of staff on the ship that uses advanced technology to work and thus do not need a lot of manpower and becomes vulnerable, lack of adequate diplomatic support by countries whose flag is used by the ship owners simply to facilitate activities while they have no significant relationship with that country and poor countries that have extensive coastal border which are not even able to protect their coastal waters what about protecting their adjacent seas (Mir Mohammad Sadeghi, 2009, p. 19).

C. Rampant piracy off the coast of Somalia

It seemed that Pirates have stopped being a public threat against the international

community until their activity off the coast of Somalia since 2000 and especially the 2006 was revolutionized. Seized ships and detained workers for ransom by armed groups mainly in Gulf of Aden territorial waters, and with the support of stocks actually been plundered by foreign fishermen and also with the support of coastal waters in the absence of a government that is able to apply the law, it was used as a dustbin for waste. Pirate activity continued to exploit the lack of a functioning government and with connections to terrorist groups and the abuse of ongoing political and armed conflicts in Somalia, has led to an increasing number of people attracted to these activities. It now shows serious threat to shipping. Piracy in the areas of maritime off the coast of Somalia and South Africa has also developed and ships are attacked in marine areas even at a distance from the shore. Since the Resolution 733 of 1992, Security Council has regularly referred to Chapter Seven on the situation in Somalia. In its first resolution on piracy off the Gulf of Aden, it has stated that: "Such a situation is a threat to international peace and security" or continues this threat and "decides" the piracy" has deteriorated the situation in Somalia, so that it continues to create a threat to international peace and security in the region".

In this paper, after discussing the definition of constituent elements of the crime of piracy and the question of the scope of the rules of international law about piracy by the United Nations Security Council resolutions will be addressed. Then the issue of Pirates trial will be investigated.

Definition of piracy

A. Traditional customary international law

The traditional definition of piracy corresponded to the definition given by the "Oppenheim": "Piracy in the original and exact concept is any violent illegal act that any private vessel committed on the high seas against another ship with intent to rob". Shorter definition can be found in the case of the classical definition "of piracy under international law", that is when the court described it as "the closest definition of a" recognized "maritime piracy and armed violence in all but one lawful act of war (Von Glan, 2009, p.317).

B. International law codified

International intervention and state legislative action has been effective in presenting the various definitions of the crime of piracy in international documents and treaties. For example,

the International Chamber of Commerce, Bureau of International seafaring which is an organization with the financial industry and many of its members are among the insurance companies offers a very wide definition of piracy (Due to the fact that we can use the extent of define as a means to justify the insurance rates and insurance revenues, particularly in areas under the control of pirates.)

Other organizations such as the local Chamber of Commerce and Governing bodies of Ports in countries have much narrower definition of piracy (aiming to provide a minimum number of robberies and persuading customers to use port facilities).

International law relating to piracy is stated in Articles 100 to 107 and Article 107 of the Convention on the Law of the Sea (Akehurst, 1993, p.185).

The fact that this material is almost repeated word for word in articles 14 to 22 of the Geneva Convention of 1958 on the high seas and the fact that although some countries, including the United States and Switzerland have joined the 1982 Convention for the

binding, this implies that the article indicated the common law and the law of contract legally binding.

Article 101 of the Law of the Sea Convention which is the repetition of article 15 of the Geneva Convention of 1958 provides: "Piracy consists of any of the following acts: 1. Each unlawful act of violence, detention or plunder with personal goals, committed or guided by the crew or the passengers of a private ship or a private aircraft, provided that:

- A. On the high seas against any ship or aircraft or persons or property on board ship or aircraft or
 - B. Against another ship or aircraft, persons or property conducted in a place outside the jurisdiction of any state.
1. Any voluntary participation in the operation of a ship or aircraft with the knowledge that the vessel or aircraft that is used in this way is a pirate ship or aircraft.
 2. Any action that stimulates the performance of the acts enumerated in paragraphs 1 and 2 intended to facilitate the exercise" (Ref to Greene, 2001, p. 318)

C. Constituent elements of the crime of piracy

Regardless of the legal elements that are the subject of the 1982 Convention on the Law of the Sea and the 1958 Convention on the High Seas, it clearly exposes the definition of the crime of piracy according to the acts covered by the definition of this crime as element of the article. While the League of Nations Committee of Jurists considered "Deprivation of property and acts of violence against persons" as element of piracy, 1958 and 1982 Convention considered any unlawful act of violence, detention and looting against any ship or aircraft, or against persons or property outside the jurisdiction of the country subject to piracy. International Law Commission in interpretation of 1958 Convention stated that actions taken by the crew of a ship in the area of the ship or its passengers, is not considered acts of piracy (International Law Commission, 1956, p. 282).

The spiritual element in the commission of a robbery resort, almost all the treaties and initiatives related to the development of international law governing the fight against

piracy, all the lawyers consensus on "personal goals of Pirates" to resort to acts of piracy acquisition of intellectual property as elements of the crime of, because they cannot resort to violent acts motivated by material, but hate or revenge. International law, believes, "piracy is animus furandi and it is necessary to commit piracy by feelings of revenge, not merely motivated by financial gain along. Despite disagreement of lawyers and silence of international conventions, there is agreement about the actions committed with political motivation will not be in the form of piracy (Ghorbanpour, 2009, p. 220).

CONCLUSION

Definition of piracy is rather narrow, so that it only covers the action by a ship on the high seas against another ship but coercive measures without the presence of the ship is not considered piracy. For example, capturing the Portuguese ship Santa Maria (Santa Maria in 1961 by Captain Galvao) who wanted to show their opposition to the Portuguese dictator Antonio Salazar is not considered piracy, because there was only one ship in the case.

2. Expansion of the scope of the rules of international law on piracy by the United Nations Security Council Resolutions

With the adoption of Resolution 1816 in January 2008 and its subsequent resolutions especially Resolution 1846 in December 2008 and Resolution 1851 in the eighteenth of December 2008, Security Council sought to counter with the increasing risk created as a result of acts of piracy off the coast of Somalia. Therefore, in the framework of Chapter VII to the extent that the implementation of the measures in question were relevant adopted them with the aim to compensate for the limitations of the rules of international law on piracy and the governments of countries with military capabilities and maritime capabilities were urged to take immediate action to deal with this phenomenon .

B. Permission to enter the territorial waters of Somalia and to use all necessary means

A key element in paragraph 7 of resolution 1816 states and seeks to overcome the limitations of the definition of piracy acts committed on the high seas, it will take steps to address the inadequacy of this definition which sometimes occurred entirely in the territorial sea in most cases, including attacks on ships at sea and a ship hijacked by pirates in the territorial sea and holding them for ransom in a port or near a beach or is attacked

by invading boats which have retreated the internal or territorial waters of Somalia.

The key element is what some governments are allowed to do this: 1. Enter Somalia's territorial waters with the intention of suppressing acts of piracy and armed robbery at sea in the same way that such action on the high seas is allowed under international law of Piracy. 2. Using of all the tools in the territorial waters of Somalia to repress acts of piracy and armed robbery in the same way that such action on the high seas is allowed in International law of Piracy.

The main effect of these provisions is that in addition to the pursuit of territorial waters into the sea, rules of international law relating to piracy on the high seas is also applicable in the case of the territorial sea and mention that states which act according to the rules of the territorial sea of Somalia can use "all necessary means" (Trôs, 2010: 91)

C. License of ground operations in the territory of Somalia

Draft Joint Resolution 1851 (2008) was prepared by the Government of America. This resolution authorized the use of military force to ground operations extended and developed in the territory of Somalia for one year to allow government to suppress acts of piracy in Somalia taking any appropriate action. Concerned members of the Security Council

thoroughly granted America the draft resolution to their referring to air operations in Somalia territory although America argues that Resolution remains and the use of airspace is allowed .

D. Observing the international humanitarian law

Further resolutions hold necessary that any action on the territory of Somalia should be in accordance with international humanitarian law. In modern international law, pirates on the basis of the law of armed conflict are not illegal as warriors and fighters. Except in the case of immediate self-defense (and, if necessary), naval forces cannot enter the robbers' armed conflict. What is certain, however, clash with pirates off the coast of Somalia with armed conflict is not an international resort, but this is not an obstacle to the exercise of Article 3 of the Geneva Conventions of 1949 in the maximum protection of human rights. Measures consistent with international humanitarian law requirement may be very limited scope of the action pursuant to resolutions attained the military action. It has always warned that any

act fighting piracy on the land may retaliate against civilians.

The internal situation in Somalia is a great similarity to a civil war. The events of 1991 began, after the collapse of the central government in this country. It seems that referring to the observance of international humanitarian law is to the fact that during combat pirates it has also undergone a civil war.

E. Human rights

The international law campaign will also require respecting for human emphasized in Security Council resolutions. The Council stressed on International Human Rights during the fight against piracy off the coast of Somalia was due to the military operation of United States of America in Afghanistan during accident and incident after the eleventh of September and the beginning of the war on terrorism (Ghorbanpour, 2009: 235).

F. Limitation within the rules of Security Council resolutions

Security Council resolutions are expressed granted permits are "only applied to the situation in Somalia." This implies in particular that the

permits to enter the territorial waters and ground operations do not go to work in the other countries involved with the problem of piracy or neighboring countries of Somalia (like Yemen or Kenya).

G. Permission of the Transitional Federal Government of Somalia

Security Council resolutions have adopted by the Gulf of Aden Transitional Federal Government's permission. The ninth paragraph of Resolution 1861 "confirms" that it is expressed in paragraph VII "Just received the following letter from the Permanent Representative of the Republic of Somalia to the United Nations by the President of the Security Council in the twenty-seventh of February, 2008 which implies the consent of the Transitional Federal Government has been decreed". Similar phrases in resolutions 1846 and 1851 contains that Transitional Federal Government should be satisfied.

In fact, in light of measures which apparently are allowed on coastal states (Somalia) by the Security Council "permission" can also be performed in the absence of Security Council Resolution which is adopted in the framework

of Chapter VII. It seems that the importance of the coastal State consent is highlighted by the fact that Security Council resolutions granting of licenses is limited to "the government that will work with the transitional government" since the "notice placed by the TFG to the Secretary-General."

The importance given to the consent of the coastal State and is unnecessary under Chapter VII, is aimed to strengthen the transitional government which despite the UN presence in Somalia does not exercise effective authority in Somalia. Another objective is that the provisional Government, through the determination of those ships authorized to act on his territorial sea, can limit the presence of foreign vessels in Gulf of Aden waters to the states that are most involved and a government that is prepared to cooperate with each other (Trôs, 2009, p. 95).

3. Calls for pirates

Numerous Security Council resolutions are issued on the occasion of the situation in Somalia coast and several legal remedies have been invoked to counter piracy in the region. The use of multiple documents at the United Nations Security Council resolutions gave the government the power over the situation and filling gaps in the existing law of any

document for a legal battle with the perpetrators of this crime.

A. 1982 Convention on the Law of the Sea

1982 Convention on the Law of the Sea in Article 100 (Article 14 of the 1958 Geneva Convention on the High Seas) as the "duty to cooperate in the prevention of piracy" provides that: "All countries should cooperate with one another to the extent possible for the suppression and punishment of piracy on the high seas or any place where there is no state jurisdiction". This commitment will be captured pirates on trial. International Law Commission in formulating the provision was following the exercise of arresting state jurisdiction is only limited exercise of universal jurisdiction to arrest pirates and their property by all the governments, but only the arresting government can to trial and punished. Interpretation of Article 38 of the International Law Commission explicitly states that each state which has had the opportunity to take necessary measures against piracy but failed to do is experienced a violation of international obligation

(International Law Commission.1956: 283).

It can be argued that universal jurisdiction under Article 105 of the Convention is not Universal jurisdiction in the modern sense, but it is a category of executive authority in the world in the fight against this phenomenon. since the piracy is based on what considered by the Law of the Sea Convention 1982, only committed on the high seas outside the jurisdiction of the countries, however, the majority of attacks on ships occur around Somalia's territorial waters and existing legal restrictions are practical obstacles in the fight against crime. UN Security Council regarding the legal gaps in the 1982 Convention has provided a legal basis for action in the fight against crime taking place off the coast of Somalia.

B. Convention for the suppression of unlawful acts against the safety of seafaring

In the wake of the ship Achile Lauro and other news related to ship piracy, resolution A.584 (14) was accepted in the fourteenth meeting of the international seafaring (IMO) in November 1985. This resolution includes measures concerning the prevention of illegal activities against the health and safety of the passengers

and crew of the ship. In December 1985 the United Nations General Assembly urged the study international seafaring the scourge of terrorism on ships and against them from the perspective of the recommendations presented to take appropriate measures.

In 1986, the governments of Austria, Egypt and Italy suggested that the International Maritime Organization Convention on the issue of illegal acts provide maritime security. The project was supported and in March 1988 a conference was held in Rome and the Convention for the suppression of unlawful acts against the safety of maritime was accepted by Conference participants. Article 3 of the Convention mentioned what is considered a crime including the ability to seize control of the ship to be coercive or intimidating or threatening any. If necessary Parties are required to exercise its jurisdiction over the identified offenses by the conventions measures:

- "A. Crime is committed against the government or on the deck of the ship which raised its flag at the time of committing; or
 - B. the crime is committed on the land of its territorial sea; or
 - C. Offenses committed by one of its nationals.
- "

The Parties may exercise jurisdiction in the case of the following crimes:

- "A. If it is committed by a person without citizenship which usually resides in the land the crime is committed; or
- B. If the crime is leading to threaten, maim and murder one of the citizens of that country or;
- C. The offense are committed in order to do a specific act or omission"

The Convention requires Parties to punish the crimes with the punishment fit with the severity of crime and governments to prosecute them in civil courts or extradite the offender or alleged offender. The Convention on Supplementary sources is mentioned in the fight against piracy (**Wallace, 2005: 166**).

Resolution 1846 (2008) note the obligations set forth in the Convention Suppression of unlawful acts against the safety of maritime and the governments of the member states to "fully implement" this commitment. **Resolutions 1851 (2008) and 1987 (2009)** with emphasis on different aspects of the convention 1988 and the criminalization of acts covered by it, establish jurisdiction and accept delivery of these people. Paragraph 5 of resolution 1851 of Convention 1988 points to it as an administrative tool in the fight and counter against piracy on the high seas.

However, most of the governments involved in such state flag vessels are victims of piracy or administration of the flag ships to patrol in the waters off Somalia or neighboring coastal states such as Kenya, Yemen and Djibouti apart from Somalia are required to fulfill the commitments expressed in clear in the 1988 Convention. In the meantime, and as happened in the case, referring to the Convention as a basis for jurisdiction several questions will be asked and the fact that Somalia has not ratified the treaty will create its own problems. However, recent issues of piracy again international attention has been considered in this Agreement.

The event of 11 September became a factor causing piracy being related to terrorism. In addition, the groups in Somalia which cooperated with Al-Qaida provide the necessary condition for relating piracy to terrorism and so the use of the Convention of suppressing illegal piracy against the sea security which does not have the limitation of the 1982 convention. This convention can be used as complementary tool against the related crimes which are not specified as piracy. This convention has more than 160 members which do 90 percent of business transportation through the sea.

C. United Nations Convention against Transnational Organized Crime

In paragraph 15 of the **convention 1851 (2008)** emphasizing the increase and empowering the regional abilities with cooperation of United Nations Office on Drugs and Crime in defining the orders and conventions about shipping based on the sea rights convention of 1982T in order to fight against the piracy, it has pointed to the Transnational Organized Crime.

Modern piracy has specific complexities which usually includes sever forms of transactional crimes including illegal trades especially in relation to drugs, weapons and people, illegal trade and financial terrorism.

In order to provide proper answers both in national and international level, it is necessary to have a convention for transactional crimes. This conventions has more than 160 members which has been necessary to do based on the resolution 55.25 of the general commision in 15 november 2000 and in 29 september in 2003. In fact, most of the cases of piracy and its crimes in the realm of international convention for foghting against transactional crimes and three attached protcol about human, immigrants and weapon trafficking.

Based on article 3, in order to apply the convention on the related crime, the crime should be trasnactional and include a transactional group, too. So, it is necessary that the crime is done in a realm of more than

one country or its effect include more than one country (Salimi, 2012, p. 31).

Applying this convention based on property region related to the events taken place in coast of Somalia, it is reasonable that the crimes are planned in Somalia and in the ship with the country owning the flag or at least out of the region of a country which can be considered as the condition of being transnational. Therefore, one can accept that this convention can be a legal base for cooperation of member countries to fight piracy.

D. Human Right Issue

Lack of tendency from the states arresting the piracy due to worries related to costs and legal complexities in a place far from the place where the claimed crimes are done and specially the human right consequences. There is also a worry that the pirates may ask for refuge due to the bad condition in Somalia. Up to now, the dominant approach was that the arresting pirates in the initial place should be avoided and in case of arresting they have to be released without legal prosecution.

Arresting the criminals on the sea which were to the court of arresting countries which might be very far was objected by the arrested ones and were taken to the European court of

human rights for judgement. It is the case of Rigopoulos and Medveyev.

In these cases which the plaintiff was accused of cooperating in drug trafficking on the ship in free seas with the licence of the state owning the flag. The question raised by the court was that whether considering the detention for about two weeks in the arresting ship with the article 3 of human right convention 5, the arrested ones should be sent to the legal courts or not. The enough condition was provided for positive response but the arresting is not compatible for a long run, therefore, it is possible that the states member for the convention of human right may encounter different condition for decision making which is the violation of the human right of the criminals. Considering the wide authorities of the international rights and the resolutions of the security council, the probability of the same decision about the piracy is impossible. But it is stated that the court such as European court of human right wanted to interpret the international rights and sea rights which had the maximum support of the members.

E. the Trial of the Pirates in national courts of neighbor countries of Somalia

Taking back the arrested pirates to Somalia for trial is an unselected option, both due to lack of an authoritative country in Somalia

and worry about the fact that the accused is treated unfairly. The states want the new courts with other divisions for suing the pirates.

In order to fight the lack of punishment and encouragement of the piracy to continue their activities, some states decided to contract with some of the neighbouring states of Somalia about the transporting and trial of the pirates in these countries. This is reasonable since the statement of the article 105 of the sea law conventions the competence of the states in fighting with this phenomenon should be limited to the arresting states and the failure will be removed by contracting the special treaty and in the form of transferring the judicial competence from the arresting state to the judging state.

In fact, the extend of the states authority in avoiding the judicial exercises in the form of contract and giving it to another country is questioned. Generally, it seems that since the judicial competence is an aspect of the political authority of those countries, they have the authority to limit their own authority with their satisfaction. Giving the judicial right to the third country can be explained in one mood and based on the resolution **1846 (2008) and 1897 (2009)** and this is defining the relationship between the judicial competence of the countries with the related event. Since

the security council from all the countries specially the countries with flag, coastal and port ownership, the victims countries and the pirated and other states which have the competency based on the international law and internal law and to cooperate in judging. United states was the first state which in 2006 with Colombia signed a contract based on which the arrested pirates were sent to Colombia for judgement. England used this strategy in december 2008. European union in 6 march 2009 signed a contract with Kenya about the transporting the people accused of piracy which were arrested by the forces of this union. Based on the notes which was traded among the union representatives and kenia state in Nairobi, the state of Kenya promised that the accused of the piracy in coast of Somalia are arrested and punished. In this agreement, the rules related to supporting the arrested pirate rights in article 3 and 4, the exchange is noted. In this agreement, the term “transfer of persons suspected of having committed acts of piracy is used and the terms extradition and surrender which are legal terms are avoided since they are not practically efficient for this condition. Based on the claim of the foreign minister of the Kenya, this agreement is the “agreement note” and will not be a way for implementing the pirates. These agreements are based on case to case

implementation. These agreements are parts of the approach stated by the security council resolutions which encourages cooperation between the states whose ships are patrolling in waters of Somalia and the countries which tend to arrest the pirates. National union encourages more states to pursue and punish the pirates through the legal office of fighting the crimes and drugs.

CONCLUSION

Defining piracy in the existed rules including the convention of sea rights 1982 has some limitations so that most of the modern crimes specially those which happen in Somalia are not included. Therefore, the national union asked the countries to maintain their promises in the Convention of suppressing the ilegal acts against the security of shipping on the sea and the convention of fighting the transnational organized crimes is a based for the cooperation of the member countries.

The resolution of the security council introduces the 1982 convention as the legal framework for fighting the pirace and gives the countries the permission for entering the sea land and even the realm of the Somalia. Doing the air practices against the training campus of the priates inside the land of Somalis is investigated. Recent air attacks of the European union on the coast of Somalia is not formed as an approach. Although the

promises are given by the transferred state of Somalia but security council resolution emphasize on observing the human right at international level.

The problems and obstacles of the pirates trial specially observing the huamn right who were arrested and high costs of trial caused that other arresting countries have no tendency to punishing the pirated. Looking at the trials in Europe in the countries such Netherland, France , Germany and Belgium or Korea, the problems of trial in a place far from the palce of committing crime such as long process of trial and the related issues, the arrested countries prefer to have contracts with some neighbouring countries such as kenya and Jiboti for punishing the pirated. After the capacity of Sishil prison in recent months, for the first time the piartes were given to Somalia for trial. This time, Moriss island agreed with Somalia and semi-independent regions of Somalia Land and Pontland to have trials for arrested pirates.

As it is stated in the new report (22 October 2012), “ the secretary of the united nations about piracy around Somalis” that in order to remove the piracy, its roots including lack of efficient stated in Somalia and underdevelopment should be taken into account. The security council in its recnt resolution (2077, 21 November, 2012)

considered Gulf of Aden as the initial responsible for fighting the piracy and asked the Somalian officials to immediately cooperate with the national union and martial institutes to approve the complete rules of fighting piracy. Moreover, in order to prevent the illegal misuse of the sea sources of economic region of Somalia, a notice about the exclusive economic region of Somalia based on Convention 1982 was released. On the other hand, all the states member in the union should have efficient supervision of implementing the rules of martial prohibition, considering the piracy in legal systems, international cooperation in finding and trial of the pirates. In addition, the council, despite the claim that illegal fishing and sea pollution in Somalia cannot be the cause of piracy among the Somalian Youth, all the states were asked to search about illegal fishing and sea pollution around the Somalian sea.

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