

# The Use of Military Measures to Counteract Maritime Piracy

**Natalya A. Knyazeva<sup>1</sup>**

<sup>1</sup> Law School, Far Eastern Federal University, Vladivostok, Russia.  
Email :info@ores.su

**Ekaterina A. Knyazeva<sup>2</sup>**

<sup>2</sup> Law School, Far Eastern Federal University, Vladivostok, Russia.  
Email :global@ores.su

**Alexander I. Korobeev<sup>3</sup>**

<sup>3</sup> Law School, Far Eastern Federal University, Vladivostok, Russia.  
Email :info@prescopus.com

## Abstract

This article studies the option of using naval force as one of the possible methods to counteract maritime piracy via the dialectical method of cognition of phenomena and processes of objective reality. The results of investigations show the effectiveness of using naval measures to counteract piracy as well as the necessity for further cooperation in this direction. In conclusion, to more effectively combat piracy it is necessary to initiate the constant patrolling of hot spots of the world's oceans by warships through the joint efforts of several states.

**Keywords:** Maritime Piracy, Counteraction, Navy Forces.

## *El uso de medidas militares para contrarrestar la piratería marítima*

## Resumen

Este artículo estudia la opción de utilizar la fuerza naval como uno de los posibles métodos para contrarrestar la piratería marítima a través del método dialéctico de la cognición de los fenómenos y los procesos de la realidad objetiva. Los resultados de las investigaciones muestran la efectividad del uso de medidas navales para contrarrestar la piratería, así como la necesidad de una mayor cooperación en esta dirección. En conclusión, para combatir más eficazmente la piratería, es necesario iniciar el patrullaje constante de los puntos calientes de los océanos del mundo a través de buques de guerra a través de los esfuerzos conjuntos de varios estados.

**Palabras clave:** piratería marítima, contraataque, fuerzas navales.

## 1. Introduction

According to the findings of the International Maritime Bureau (IMB) in 2012 pirates committed 297 attacks on vessels, in 2013 there were 264 cases, in 2014 – 245 attacks, in 2015 – 200, in 2016 – 191 and in 2017 – 180 attacks (IMB, 2017). At the same time the number of reported cases of piracy and armed robbery against ships around the world in 2013 was the lowest in six years. The main reason for the reduction in the total number of incidents of piracy in the world has been the decrease in the number of attacks by Somali pirates off the coast of East Africa. According to the IMB acts of piracy were constrained by a set of factors among which were an increase in anti-piracy features on vessels, the use of private, armed security groups and the stabilizing effect of the central government of Somalia. International naval forces also played a key role. However, the frequent attacks on small tankers off the coast of South-East Asia led to an increase in the number of seizures of vessels, despite worldwide pirate activity declining to its lowest level in eight years.

The regions where pirate attacks occur most frequently are South-East Asia and the South China Sea (the Straits of Malacca, Indonesia, the Philippines, and Thailand), West Africa (Nigeria, Senegal, Angola, and Ghana), the Indian Ocean and East Africa (India, Sri Lanka, Bangladesh, Somalia, and Tanzania), South America and the Caribbean Sea (Brazil, Colombia, Venezuela, Ecuador, Nicaragua, and Guyana). All regions that are prone to piracy differ from each other not only by the number of pirate attacks but, more significantly, by the methods employed by the pirates, their goals and the aggressiveness of the assaults.

In addition to legal means aimed at counteracting piracy, there are significant organizational measures that coordinate the efforts of states, international organizations and other specially authorized structures to combat criminal activities on the high seas. Authorities engaged in counteracting piracy include police (and the port police), naval and air forces, border control, coast guards, customs and immigration departments, Interpol, Europol and others. The above-mentioned authorities cooperate with each other as well as with similar authorities from other countries and international organizations (Sidorchenko, 2004). The aim of this study is to analyze the effectiveness of existing measures to counteract piracy, including the use of naval forces to provide security at sea.

## **2. Methods**

The methodological basis of the study is the dialectical method of cognition of phenomena and processes of objective reality. General scientific (empirical sociological, induction, deduction, system-structural, expert evaluation) and special (logical, comparative-legal, etc.) methods were used for the collection, processing, compilation, analysis and interpretation of the material. In the preparation of this article provisions of international Conventions and Resolutions, scientific works of Russian and foreign scholars in the field of criminal and international law specifically devoted to the studied topics were used.

## **3. Results and Discussion**

The use of military force is a necessary and obligatory measure to counteract maritime piracy and terrorism at sea. Naval forces employ substantial resources and are best adapted to counteract piracy. They have the ability to operate independently for extended periods of time; they are also able to conduct ongoing reconnaissance over vast areas using onboard helicopters and coastal scout planes.

They also have the appropriate armament to carry out their mission (Saveliev, 2008). According to the international conventions of 1958 and 1982 on the high seas or in any other place, when outside the jurisdiction of any country, any state is authorized to detain any pirate vessel or aircraft captured by pirate actions and which is in the pirates' power, to arrest persons on this vessel or aircraft and seize the property on board.

The judicial institutions of the state which carries out the seizure are authorized to pass resolutions concerning the imposition of punishment and to take appropriate measures in relation to such vessels, aircraft or property, without violating the rights of any third party. In some countries the responsibility of combating pirates is given to special maritime police who have at their disposal an array of specialist equipment including well-armed high-speed boats. For example, the marine police of Mexico utilize a special patrol boat that has high-powered armament and a speed capability in excess of 30 knots (Pike, 1987). The United States Coast Guard has four boats of the same class which have a speed capability in excess of 45 knots. Those ships are assigned to intercept pirates and contrabandists in the Caribbean Sea (Dennis, 1987). Two patrol boats were built in Singapore for the Indian maritime police and coast guard. The boats' assignment is that of emergency reaction to pirate attacks off the coast of India (Indran, 1887). Russian vessels also participate in operations to disarm pirates. The solution to the problem of security and protecting maritime vessels against the threat of terrorist acts at sea lies with the Navy of the RF. The main role for naval forces in overcoming pirate attacks is that of having a naval presence in the major regions of the world's oceans (Mikheyeva, 2014).

Since 2010 Russia has participated in joint naval operations within the framework of collaboration in the fight against maritime piracy, for example, cooperation with countries of the Asian-Pacific region concerning security at sea. Within the framework of the above-mentioned collaboration in 2012 ships of the Navy of the Russian Federation escorted more than 30 convoys totaling 168 vessels of different types under the flags of 27 countries across the Gulf of Aden. It should be noted that some anti-pirate ships designated for the seizure of pirate vessels are intended for coastal operations, that is, they function in coastal and territorial waters. Suppression of piracy on the high seas is only possible with assistance from the ships of the Navy. Measures were taken to counteract pirate assaults are directed to patrolling the high seas. However, it is not possible for the naval forces of a single state to effectively combat piracy.

### **3.1. The Resolutions on Counteract Acts of Piracy**

Currently it is often said that it is necessary to have a permanent patrol of the hot spots of the world's oceans conducted by military ships in a joint effort by several states. This question was raised at the 14th session of the OSCE Parliament Assembly where the resolution of the Committee on political issues of security was adopted. This resolution specifies that member states of the OSCE are required to be prepared to use naval forces for the protection of international sea lanes (Resolution 1722, 2010). Unfortunately, in practice military measures are applied only in extreme or emergency cases. Such a situation can be explained by the following: first, permanent patrolling of dangerous regions and convoying merchant ships with naval escorts involves great expense and for this reason not many states can afford ongoing patrolling. Second, there is a legal problem - military vessels and aircraft do not have the right without proper sanction to enter the territorial waters or air space of the state within which the pirates commit transgressions. Somalia is an example of this: while the ships of foreign states wait for the necessary sanction the pirates have time to escape with their stolen goods into territorial waters.

Because of the stated problem in 2008 UN representatives from Greece, Denmark, Spain, Canada, the Netherlands, Norway, the Korean Republic and Japan sent a letter to the chairperson of the UN Security Council in which they emphasized the fact that piracy is a serious threat to the security of international maritime navigation and consequently, a danger to international peace and security. In that letter representatives of those states specified that the Security Council has a fundamental plan of action to necessarily safeguard navigation, which speaks about joint actions with the transitional federal government of Somalia regarding the security of vessels. The plan points to the need to concede the right of warships from the states concerned to enter the territorial waters of Somalia for the purpose of deterring, preventing and suppressing acts of piracy and to use all necessary means for those purposes (Saveliev, 2008).

As a result of the given IMO statistical information about pirate attacks and acts of armed robbery in the coastal waters of Somalia on 2nd June, 2008, at the 5902 session the UN Security Council adopted Resolution 1816 (Resolution 1816, 2008). In the stated resolution the Security Council emphatically calls on states to activate and coordinate their efforts in order to counteract acts of piracy and armed robbery off the coast of Somalia. The UN Security Council also resolves that within 6 months from the date of adoption of the resolution the states that collaborate with the transitional federal government of Somalia in the fight against piracy and armed robbery at sea have permission to:

- Enter Somalia's territorial waters to suppress acts of piracy and armed robbery at sea in conformity with what is permitted in relation to piracy on the high seas according to the proper standards of international law;
- Use all means necessary to suppress acts of piracy and armed robbery within the limits of the territorial waters of Somalia in conformity with what is permitted in relation to acts of piracy on the high seas according to the proper standards of international law.

This resolution confirms the fact that in order to solve the problem of combating piracy in Somalia it is necessary to apply the joint forces of several states. In a sequel many resolutions to provide more effective means to counteract piracy in the region of Somalia were adopted, in particular, Resolution 1872 of the UN Security Council (Resolution S/RES/1872, 2009) of 26 May, 2009 in which the Security Council noted that an unstable situation still remained in the region of Somalia. This aggravates the problem of piracy and armed robbery at sea off the country's coast. The Security Council recognized the necessity for the international community to take comprehensive measures in order to counteract piracy and the underlying radical reasons for its existence. It welcomed the efforts of the contact group and states and international and regional organizations in addressing the problem of piracy off the coast of Somalia. The Security Council in its resolution 1918 (Resolution S/RES/1918, 2010) of 27 April, 2010 commissioned the Secretary General of the Security Council within 3 months to submit a report about possible means of assistance to achieve the goal of prosecuting and imprisoning the persons responsible for acts of piracy and armed robbery off the coast of Somalia, including the formation of a special national court having possible international components from a regional or international tribunal.

The Security Council in its Resolution 2077 (Resolution S/RES/2077, 2012) of 21 November, 2012 emphasized that the continuing instability in Somalia aggravates the problem of piracy and armed robbery at sea off the coast of Somalia and stressed the necessity for the international community to adopt comprehensive measures for the suppression of piracy and elimination of the underlying radical reasons for its existence. It recorded the necessity for further investigation and prosecution of all persons suspected of piracy and earnestly called upon states to ally with proper international organizations and initiate the investigation and prosecution of key figures involved in piracy and the

criminal communities that illegally plan, organize, support or fund such assaults and derive profits from them.

In Resolutions 2125 (2013) of 18 November, 2013, 2158 (2014) of 29 May, 2014 (Resolution S/RES/2125, 2013; Resolution S/RES/2158, 2014) the Security Council stressed that the number of pirate attacks was at their lowest level since 2006. This positive result was achieved by the efforts made within the bounds of Operation Atlanta by the European Union, Operation Ocean Shield by NATO, the joint operational and tactical group 151 of combined naval forces under the command of Pakistan and the United Kingdom and also by vessels of the United States, Russia and other countries. Thus, the use of naval forces in instances of pirate attacks must be coordinated beforehand at the state level. However, this does not always work as not every state is prepared to tolerate the long-lasting presence of military ships belonging to another state within its territorial waters, for example, an offer by the USA for their forces to patrol the Straits of Malacca and Singapore was rejected by Malaysia. Now the countries of Southeast Asia accept only financial and technical help in the interests of maritime security.

It is thought that the most acceptable option is the joint military patrolling of the dangerous pirate-infested regions of the world's oceans by naval ships of several states, for example, the joint patrolling of the Straits of Malacca and Singapore by military boats from Indonesia, Malaysia and Singapore. Another example is the patrolling by reconnaissance vessels of France, Italy, the USA and other countries in the waters of the Gulf of Aden and the East African coast which has had beneficial effects. In 2009 an international squadron consisting of 27 warships from 16 countries, including the Russian patrol boat Neoustrashimiy was patrolling the coastal waters of Somalia but took no significant action. According to the head of IMB Captain Pottengal Mucundan the presence of naval personnel certainly prevents pirates from operating in the Gulf of Aden as freely as previously. But, on the other hand, he adds, pirates merely change their theatre of operations. Now, for example, they have relocated to the eastern coast of Oman. The fact that the problem is not solved, but simply taken to another region is disturbing. Despite having the most up-to-date armament military men are not all-powerful. According to Lieutenant Nathan Christensen spokesman for the US Fifth fleet, to defend an area of approximately 3 million square kilometers against pirates is simply impossible (Vorobyev, 2005).

At the same time in 2010 and 2011 the world community started improving measures for fighting against acts of piracy. In particular, the fourth successive detachment of ships of the Russian Pacific fleet went to the Gulf of Aden to participate in an international mission to fight against pirates.

It is necessary to emphasize that the counteraction against pirates off the coast of Somalia and in the Gulf of Aden were carried out within the framework of the naval mission of the European Union Atlanta since 2008 under a code name - NATO Operation Ocean Shield. In the course of Operation Ocean Shield besides the first-priority task of fighting against piracy, assistance from countries of the region in the form of undertaking their own measures of counteraction against piracy is also presupposed.

### **3.2. Military Operations against Pirate Attacks**

At present there exist the following naval forces to fight against pirate attacks at sea:

1. Operational and tactical group 151 (CTF-151). This group was created in January 2009 to provide security in the Indian Ocean off the eastern coast of Africa. This unit was given the task of counteracting piracy off the coast of Somalia. Together with NATO forces the American fleet had to ensure safe passage across the Gulf of Aden. The group also comprises ships from Australia, Japan,

New Zealand, Pakistan, Singapore, South Korea and Thailand. They fulfill the functions of patrolling, search and examination of ships and the confiscation of illegal goods and weapons (Arthur, 2011);

2. The forces of the European Union act in the framework of Operation Atlanta. This operation involves a contingent consisting of Belgium, France, Germany, Greece, Italy, Luxembourg, the Netherlands, Spain and Sweden. In May 2012 the operational and tactical group Atlanta comprised 9 warships (3 French, 2 Spanish, 1 Portuguese, 1 Italian, 1 Dutch and 1 German). On board most ships were special units for conducting operations to liberate captured merchant vessels (Sunkler, 2012);
3. NATO forces in the framework of Operation Ocean Shield. This consists of forces from the USA, Denmark, the Netherlands, Turkey, Italy, Great Britain, Greece, Portugal and Canada (Munson, 2011).

Countries that are not included in these formations also send their ships to the coast of East Africa. Among them are Russia, China, India, Japan, Iran, Thailand and Malaysia. At different times joint forces of the anti-pirate coalition numbering 20–25 warships are dispersed along the sea coast of Somalia. Existing international organizations, including the International Maritime Organization, which formulates recommendations for the prevention and suppression of piracy attacks endeavor to coordinate actions between states in the fight against piracy. The provisions of these recommendations are reflected in the departmental regulations implemented by ship owners and captains and take into account the work of state bodies involved in ensuring the safety of maritime navigation. Unfortunately, many coastal states do not take appropriate measures to ensure safety at sea off their shores and prevent acts of piracy. In this regard the shipowners and crews are compelled to take all necessary measures to defend their vessels.

For instance, a group of insurance companies headed by Jardine Lloyd Thompson Group (JLT) intends creating a private navy under a program to escort convoys in the fight against Somali pirates. The program stipulates that an armed team of 150 people in patrol boats will protect merchant ships from pirate assaults by escorting them across unsafe waters off the coast of Somalia and take them into the Indian Ocean. Previous attempts to ensure the safety of navigation by using private security companies have failed. Shipping companies have refused to pay not only the required insurance premiums, but also for security forces to protect the ship. Another reason for shipping companies not using this practice were legal problems resulting from the possible deaths of pirates attacking ships. Currently, insurance companies have decided that they have sufficient resources to implement the project and have offered ship-owners protection against pirates as a free addition to the weekly insurance against the consequences of military actions. The role of the escort vessel guards, in its turn, will not involve the pursuit of pirates but protection from them. This, according to the insurers, will reduce the possible legal consequences from the measures taken (Isole, 1989).

Additionally, under international law, the right to seize pirate ships applies only to warships or military aircraft as well as to other vessels or vehicles authorized to carry out the capture of pirates (including ships of the coast guard, police, etc.). Privately owned merchant vessels have no such right. However, they have the right to resist pirates and with the use of weapons. International law does not prohibit the presence of armed men or small arms on board a merchant vessel. All of this highlights the apparent inadequacy of established methods to counteract piracy and the need to improve these methods. Most of the established criminal law measures aimed at combating piracy have become very outmoded and require rigorous revision. This applies to not only measures of an international character, but also to national criminal law measures. Only now have some countries introduced appropriate measures into their criminal legislature to counteract piracy (for example, France). In a number of other countries, the criminal anti-pirate legislature has either become very out-of-date and

does not address the modern realities or requires thorough revision. The anti-piracy legislation of the USA and some countries in Europe, particularly FRG, Austria and the Netherlands serve as examples. The methods and means used by pirates to conduct their operations (including armed ones) are becoming more and more inventive, for example, according to the findings of the IMB report (per 2014) well-armed pirates capture ocean fishing vessels and use them as cover for further pirate onslaughts. These facts must be considered when modifying existing methods or creating new ones to combat piracy.

#### **4. Conclusions**

In conclusion, it should be noted that the use of naval capacity is one of the most effective ways to counter piracy. International bodies and agreements provide the opportunity to use military measures for the purpose of securing maritime navigation. The issues concerning the counteraction of piracy by military force are also regulated by agreements between countries and by internal regulations. According to the study at the present time there is a fairly strong anti-piracy flotilla consisting of warships of the USA, Russia, Europe, Indonesia, Malaysia and other countries. Thus, to more effectively combat piracy it is necessary to initiate the constant patrolling of the hot spots of the world's oceans by warships through the joint efforts of several states.

#### **References**

- ARTHUR, G. 2011. **Special Operations: Anti-Piracy to Counterterrorism. Asian Military Review**. Vol. 19. N° 7: 4-8. India.
- DENNIS, E. 1987. **Fast Coastal Interceptors for the U.S. Coastguard**. Diesel Progress North American. Vol. 1, p. 12. USA.
- INDRAN, I. 1887. **Indian Coastguard Patrol Vessel Tara Bai. Work and Patrol Boat World**. Vol. 4, pp. 30-31. India.
- ISOLE, S. 1989. **Pattugliatori Pasific. Rivista Marittimo**. Vol. 3. pp. 132-133. India.
- MIKHEYEVA, D. 2014. **The Role of Russia in the International Collaboration on Counteraction to International Piracy**. Sociology and Law. Vol. 3, N° 25: 17-25. UK.
- MUNSON, M. 2011. **Somalia: Is there a Way forward?** Proceedings. Vol. 7, pp. 52-57. UK.
- PIKE, D. 1987. **Police and Fire Boats. Work and Patrol Boat World**. Vol. 4, pp. 23-24. UK.
- SAVELIEV, N. 2008. **International Collaboration is the Most Significant Element of Maritime Security of the State. Transport Safety and Technologies 4**. <http://www.transafety.ru/issue.php?m=51&art=846> (accessed August). UK.
- SIDORCHENKO, V. 2004. **Maritime Piracy**. Saint Petersburg. Russia.
- SUNKLER, S. 2012. **Boarding! Op. Atlanta. Kommando**. Vol. 4, pp. 38-41. Georgia.

VOROBYEV, V. 2005. **International Legal Problems of Arrest and Detention of Sea Vessels.**  
Moscow. Russia.