



Anti-Piracy Concept and Preparatory Workshop
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“INDONESIA’S PERSPECTIVE ON ANTI PIRACY CONCEPT IN SOMALIA AND INDIAN OCEAN”

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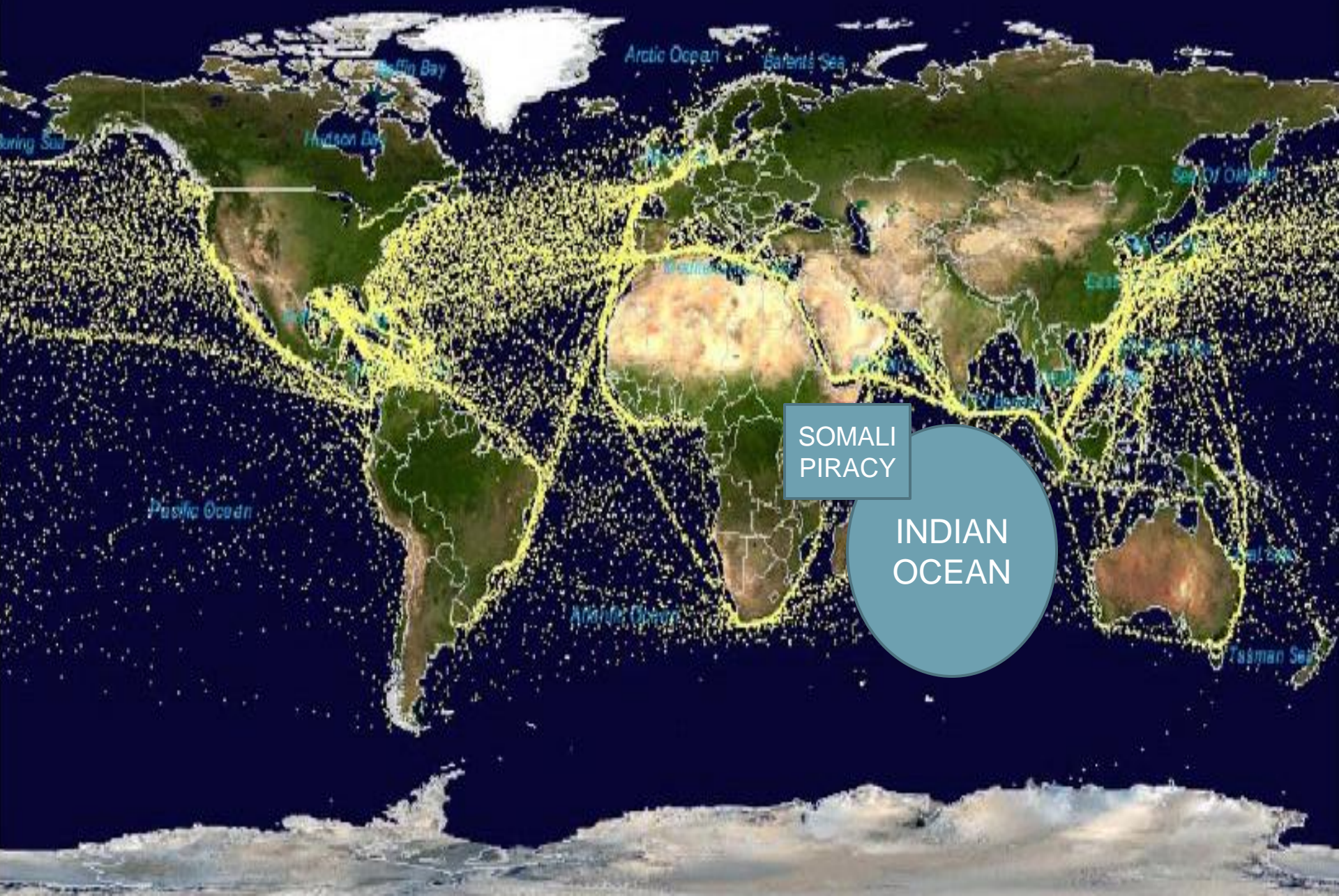
Highlight

- Introduction
- Piracy in Somalia
- Piracy and Armed Robbery at Sea
- UN Resolutions and Its Application
- Comprehensive Solution



Introduction

International Shipping Routes



Piracy in Somalia

Somali Piracy

- **Civil war in Somalia since 1990's**
- **Somalia became failed state**
- **Somali water is not guarded = Illegal Fishing, toxic waste**
- **Somali fishermen became frustated → Pirates**
- **Cases :**
MV Sirius Star, FV Ekawat Nava-5, MV Sinar Kudus



UN Resolutions re Somali Piracy (1)

- 1814 (15 May 2008) – Omnibus Somalia;
- 1816 (2 June 2008) – Military Operation, all necessary measures, based on international law and human rights – OP 9 : only in Somalia
- 1838 (7 Oktober 2008) – Requesting IMO to set up special guidance for ships crossing Somali water
- 1846 (2 December 2008) – Extending Res 1816;
- 1851 (16 December 2008) – Extending the mandate to the terrestrial area



UN Resolutions re Somali Piracy (2)

- 1897 (30 November 2009) – Extending Mandate of Res1851. Suggesting bilateral ship rider agreement
- 1918 (27 April 2010) – requesting States to criminalize piracy
- 1950 (23 November 2010) – Extending mandate based on Res. 1897 (2009), requesting Interpol investigate the pirate groups
- 1976 (11 April 2011) – Considering the establishment of Tribunal



Definition of Piracy

Article 101 UNCLOS 1982:

“Piracy consists of any of the following acts:

- (a) 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:
 - i. on the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft;
 - ii. against a ship, aircraft, persons or property in a place outside the jurisdiction of any State;
- (b) 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;
- (c) any act of inciting or of intentionally facilitating an act described in subparagraph (a) or (b)”



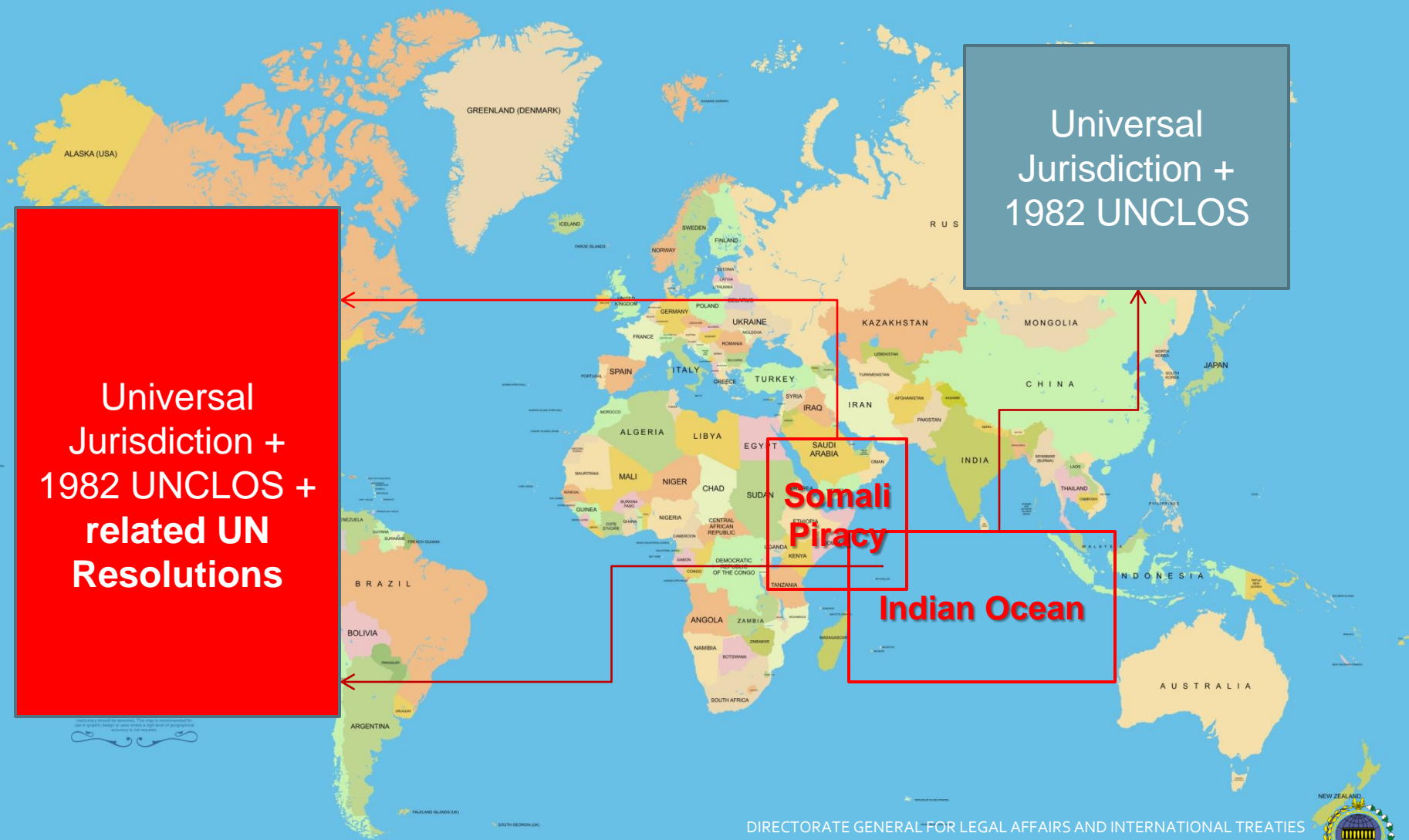
Piracy vs Armed Robbery at Sea

Code of Practice for the Investigation of the Crimes of Piracy and Armed Robbery against Ships (IMO Res A.922(22))

- ⦿ “**Piracy**” means unlawful acts as defined in article 101 UNCLOS;
- ⦿ “**Armed robbery against ships**” means any unlawful act of violence or detention or any act of depredation, or threat thereof, other than an act of piracy, directed against a ship or against persons or property on board such a ship, within a State’s jurisdiction over such offences.”



Indian Ocean and Somali Piracy



Universal Jurisdiction + 1982 UNCLOS

Universal Jurisdiction + 1982 UNCLOS + related UN Resolutions

Somali Piracy

Indian Ocean



UN Res. No. 1838 (7 October 2008) - IMO to set up special guidance for the ships crossing off coast Somali water

- Best Management Practices (BMP) - shipping industry initiative
- Ships Guarding initiatives :

Privately Contracted Armed Security Personnel (PCASP)

vs.

Military Vessel Protection Detachment (VPD)

- **Article 107 of UNCLOS 1982:** ships and aircraft which are entitled to seize on account of piracy may be carried out only by **warships or military aircraft**, or other ships or aircraft clearly marked and identifiable as being on **government service** and authorized to that effect.



UN Res. No. 1838 (7 October 2008) - IMO to set up special guidance for the ships crossing off coast Somali water

- Ships guarding initiatives :
 - IMO MSC.1/Circ. No. 1333 and No.1334 (Juni 2009) guard deployment = a full authority of flag states to decide + consultation with the ship owner, operator and companies.
- VS
- IMO MSC.1/Circ. 1405 (May 2011) : guidance for the usage of PCASP
 - IMO MSC.1/Circ. 1406 (May 2011) : guidance for the Flag States in allowing the attachment of PCASP.



Resolution No. 1976 (11 April 2011) considers the establishment of special tribunal for Somali piracy cases.

- Recommendations from UN Special Legal Adviser, Jack Lang:
- the establishment of Somali tribunal in the third country's jurisdiction with or without UN participation
- the establishment of special tribunal in national jurisdiction of Somaliland or Puntland.



Comprehensive Solution

- ⦿ Not only law enforcement
- ⦿ Addressing the source of problems in the terrestrial area – Political Stability
- ⦿ Regional Cooperation, such as : Cooperative Mechanism in the Straits of Malacca and Singapore





THANK YOU

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