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# UNDERREPORTING OF CRIMES AT SEA

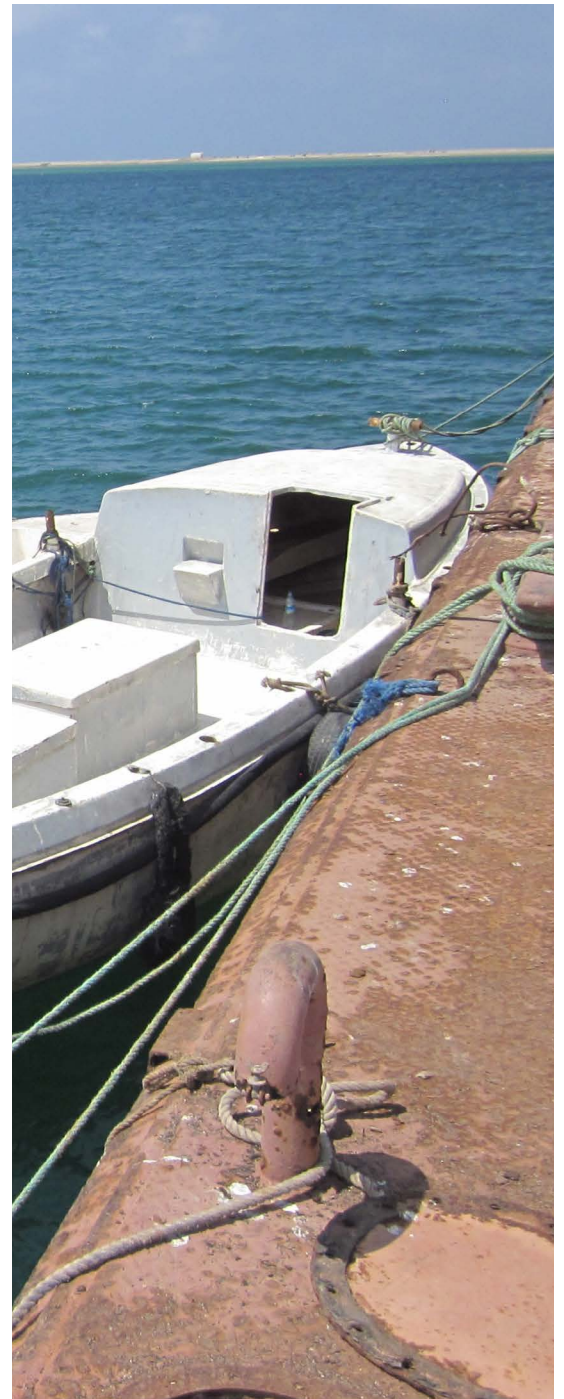
## REASONS, CONSEQUENCES, AND POTENTIAL SOLUTIONS

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**Noah D. Lombardo**  
an Oceans Beyond Piracy  
Discussion Paper

NOVEMBER 2014



# **UNDERREPORTING OF CRIMES AT SEA**

## **REASONS, CONSEQUENCES, AND POTENTIAL SOLUTIONS**

NOVEMBER 2014

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The views and ideas expressed in this paper are the author's and do not represent any official Oceans Beyond Piracy opinion or stance.

## EXECUTIVE SUMMARY

The increase in global maritime piracy, particularly in the Western Indian Ocean and Gulf of Aden and in the Gulf of Guinea off West Africa, has developed into a serious threat to maritime shipping, demanding the attention of international organizations and states around the world. Combating this problem requires a significant amount of manpower, resources, and collaboration. Piracy distinguishes itself from many other international crimes in that it by definition occurs on the high seas, outside the jurisdiction of any state. However, piracy is considered a crime that falls under universal jurisdiction, meaning that any state has the right, but not the obligation, to prosecute pirates captured either by their own navy or by another state.

Unfortunately, prosecutions are difficult to carry out if states and international organizations do not have adequate data about piracy attacks. Inaccurate data hinders both progress in safety and the research and analysis necessary to understand the magnitude of this type of crime. Therefore, it is important that private companies and flag states establish effective and consistent procedures for reporting to international institutions, and that vessel masters diligently follow through with timely reporting of pirate incidents in the unfortunate event of an attack or attempted attack.

However, underreporting of pirate attacks and crime at sea remains a significant and persistent problem. There are a number of reasons vessels may fail to submit a report of an attack, usually relating to the state's or company's own interests, notably its reputation and concerns over potential liability. A record of frequent pirate attacks may lead to a poor safety record for private companies, so vessel masters sometimes feel that they would be better off not reporting the incident at all than facing the repercussions. Submission of a report can also lead to costly shipping delays as port or coastal states may wish to carry out an investigation, which can take days or weeks.

Formulating a solution is no easy task, as law enforcement upon the high seas can be extremely difficult. International agreements may be a step in the right direction, but it is harder still to

## EXECUTIVE SUMMARY, CONTINUED

expect all port and coastal states to enforce existing agreements and to carry out investigations when needed. Jurisdictional issues raise major concerns in the area of piracy reporting, thus it may behoove the international community to not rely so heavily on foreign jurisdictions in counter-piracy efforts.

This report will examine current challenges and issues in the reporting of piracy and maritime crime incidents using the experience of the cruise ship industry as an example. It will further examine existing legislation, covenants, and efforts to improve the reporting of crime incidents. Then, it will discuss which existing laws provide an effective legal framework for future efforts to improve the reporting of piracy and maritime crime incidents.



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## LIST OF ACRONYMS

<b>BMP</b>	Best Management Practices
<b>CVSSA</b>	Cruise Vessel Safety and Security Act
<b>ICJ</b>	International Court of Justice
<b>IMB</b>	International Maritime Bureau
<b>IMB PRC</b>	International Maritime Bureau Piracy Reporting Centre
<b>IMO</b>	International Maritime Organization
<b>INTERPOL</b>	International Criminal Police Organization
<b>MOU</b>	Memorandum of Understanding
<b>MTISC-GoG</b>	Maritime Trade Information Sharing Centre - Gulf of Guinea
<b>ReCAAP</b>	Regional Cooperation Agreement on Combating Piracy and Armed Robbery Against Ships in Asia
<b>SOLAS</b>	International Convention for the Safety of Life at Sea
<b>SUA</b>	Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation
<b>UNCLOS</b>	United Nations Convention on the Law of the Sea
<b>UNSC</b>	United Nations Security Council





## INTRODUCTION

The underreporting of crime and accidents on maritime vessels remains a serious problem. It hinders progress in maritime safety and impedes research and analysis performed by risk management companies using maritime casualty statistics.<sup>1</sup> Consequently, maritime crime statistics are likely to be inaccurate, causing problems for vessels, seafarers, and passengers seeking such information.<sup>2</sup> The current approach toward the reporting of crimes is based on a reactive regulatory approach, thus necessitating a more proactive change in reporting procedures.<sup>3</sup>

The high seas are a global commons generally lacking specific national jurisdiction, which complicates measures to enforce reporting of incidents. The only jurisdiction over ships comes from the respective flag states, which may or may not have enforcement mechanisms to ensure that safety procedures, such as reporting requirements, are in place. This has led to problems in the reporting of piracy incidents as well as other crimes at sea, such as those aboard cruise ships.

A significant amount of crime on board cruise ships remains unreported.<sup>4</sup> The *Costa Concordia* incident off the coast of Italy in 2012, media reports about passenger safety while aboard cruise vessels, and an increased volume of cruise vessel passengers have recently raised concern about passenger security and safety aboard these vessels.<sup>5</sup> Between 2005 and 2010, the FBI reported that sexual assaults and physical assaults were the leading cruise vessel crimes reported to and investigated by the agency.<sup>6</sup> Between January 2010 and September 2013, there were 287 incidents of alleged crime reported to the FBI.<sup>7</sup> The majority of reported crimes were incidents of sexual assault, with 156 reported incidents.<sup>8</sup> With the enactment of the Cruise Vessel Safety and Security Act (CVSSA), cruise ships operating in and out of United States ports are now required to meet specific safety and security requirements.<sup>9</sup> Four of the 15 requirements were still in the process of being implemented as of December 2013.<sup>10</sup>

Maritime piracy also remains a major problem, particularly in the Gulf of Guinea and the Western Indian Ocean off the coast of Somalia. States from around the world, as well as international organizations, have been working together in an effort to combat piracy. However, the vast sea area upon which the pirates carry out their attacks, combined with the limited resources available, make the problem difficult to monitor and patrol.<sup>11</sup> To assist in such efforts, the International Maritime

1 Martin Hassel, Bjørn E. Asbjørnslett, and Lars P. Hole, *Underreporting of Maritime Accidents to Vessel Accident Databases*, Norwegian University of Science and Technology, Department of Marine Technology, (1 Jan. 2011), available at <http://www.diva-portal.org/smash/get/diva2:372427/FULLTEXT01.pdf>.

2 *See id.* at 2.

3 Bjørn E. Asbjørnslett, *Maritime Logistics*, Maritime Knowledge Hub, N.p., n.d. Web. 03 Mar. 2014, available at <http://www.knowledgehub.no/maritime-logistics.185116.en.html>.

4 U.S. GOV'T ACCOUNTABILITY OFFICE, GAO-14-43, CRUISE VESSELS: MOST REQUIRED SECURITY AND SAFETY MEASURES HAVE BEEN IMPLEMENTED, BUT CONCERNS REMAIN ABOUT CRIME REPORTING, 2 (December 2013), [hereinafter *GAO REPORT*] available at [http://msnbcmedia.msn.com/i/MSNBC/Sections/NEWS/GAO\\_cruise\\_%20industry\\_%20report.pdf](http://msnbcmedia.msn.com/i/MSNBC/Sections/NEWS/GAO_cruise_%20industry_%20report.pdf).

5 *Id.* at 1.

6 *Id.*

7 *Id.* at 25.

8 *Id.*

9 *See id.* at 2.

10 *Id.* at 12.

11 INT'L MARITIME ORGANIZATION: PIRACY AND ARMED ROBBERY AGAINST SHIPS, <http://www.imo.org/OurWork/Security/Piracy-ArmedRobbery/Pages/Default.aspx> (last visited Mar. 3, 2014).

Organization (IMO) issues monthly and annual reports on piracy and armed robbery against ships using data submitted by member governments and international organizations.<sup>12</sup>

The International Maritime Bureau (IMB) established its Piracy Reporting Centre (PRC) in 1992.<sup>13</sup> Before its creation, many seafarers had nowhere to turn following a pirate attack, as some local law enforcement authorities turned a blind eye or chose to ignore the threat of maritime piracy. The IMB, aware of this growing problem, established its center in response, hoping to create a free and effective service to seafarers.<sup>14</sup> The IMB works closely with the IMO and keeps a piracy report log, which is updated in real time.<sup>15</sup> Furthermore, the IMB runs a security hotline, 24/7, through which vessels can also report incidents of piracy or armed robbery.<sup>16</sup> These measures, however, are limited by the fact that the IMB PRC only reports incidents that have been reported to them and it is suspected that numerous incidents remain unreported, for various reasons.<sup>17</sup> However, the IMB PRC has been effective in keeping seafarers informed and preventing piracy in select regions.<sup>18</sup>

The suspected prevalence of underreporting means that the international community must develop new ways to combat piracy by means of reporting procedures, through legislation, international agreements, and/or the introduction of new procedures. This is no easy task, primarily due to jurisdictional issues and the difficulty of enforcing laws upon the high seas. This paper will discuss existing issues in piracy and maritime crime reporting. Then, it will examine the existing legal framework in both the cruise industry and the shipping industry and determine which system or systems provide a strong model upon which future piracy policy can be based. Finally, it will discuss how the international community and flag states, moving forward, can work together to improve reporting with the ultimate goal of eliminating piracy worldwide.

## CRUISE VESSELS

Cruise ships have become an increasingly popular vacation destination in both the United States and abroad. Since 1980, the cruise line industry has experienced an average annual passenger growth rate

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12 *Id.*

13 INT'L MARITIME BUREAU PIRACY REPORTING CENTRE, <https://ICC-CCS.org/Piracy-Reporting-Centre> (last visited Mar. 3, 2014).

14 *See id.*

15 ICC COMMERCIAL CRIME SERVICES: LIVE PIRACY & ARMED ROBBERY REPORT 2014, <https://www.icc-ccs.org/piracy-reporting-centre/live-piracy-report> (last visited Mar. 3, 2014).

16 INT'L MARITIME BUREAU 24-HOUR MARITIME SECURITY HOTLINE, <https://icc-ccs.org/piracy-reporting-centre/24-hour-maritime-security-hotline>.

17 *IMB Director Pottengal Mukundan and USCG's Robert Gauvin on Piracy in West Africa*, PIRACY DAILY (23 Sept. 2013) <http://www.piracydaily.com/interview-imb-director-pottengal-mukundan-robert-gauvin-u-s-coast-guard-director-piracy-policy/>. (“We need to shine a very bright light on the attacks of the Gulf of Guinea. There is a lot of underreporting of attacks going on. We need to encourage more ships to report it, so that it becomes international; it becomes public, and therefore encourages these local governments to deal with the problem rather than trying to ignore it.”).

18 *Id.* (“[The IMB PRC] has been very effective. We have seen piracy hotspots reduce and move from one part of the world to another. We had it in the South China Seas, before that in the Philippines, and then it has moved recently to the waters of Somalia where it's really been dominant over the last of four to five years. And in the last couple of years, we have seen it begin to decline there, and the decline in the attacks off the east coast of Africa has renewed the focus on the problems in the west coast of Africa, which have been there for decades, the attacks.”).



of 7.6 percent, and in 2011, over 16 million passengers traveled aboard cruise vessels worldwide.<sup>19</sup> About 10.9 million of these passengers traveled from US ports.<sup>20</sup> Consequently, this increased volume of passengers has led to increased crime aboard cruise vessels. From 2005 to 2010, the FBI reported that sexual and physical assaults were the most frequently reported crimes aboard cruise ships.<sup>21</sup> Because the federal government did not require the cruise lines to publish the information, and because cruise lines are often reluctant to report such data in order to avoid business repercussions, the public was generally unaware of these crimes.<sup>22</sup> It is estimated that less than one-third of alleged crimes are made public, and they are usually made so months or even years after the date of reporting.<sup>23</sup> Moreover, most cruise vessels carrying US passengers travel to foreign ports before returning to the US, raising jurisdictional issues.<sup>24</sup>

In response to the growing awareness of unreported crimes aboard cruise vessels, the Cruise Vessel Safety and Security Act (CVSSA), signed into law by President Obama in 2010, aims to improve the safety and security of cruise passengers sailing to and from the US by requiring cruise lines to adopt basic safety, security, and reporting measures. The Act requires cruise lines operating ships in and out of US ports to report allegations of certain crimes to both the FBI and the US Coast Guard to ensure that passengers have important information available upon request, such as embassy information in foreign countries, and to implement personal security measures onboard.<sup>25</sup> The Act further requires that the Coast Guard maintain a website that provides a numerical account of crimes that have been reported by cruise lines but are no longer under FBI investigation.<sup>26</sup>

## CVSSA Data Reporting Requirements

The CVSSA contains 14 safety provisions and time frames for implementation. One of these requirements specifically pertains to the reporting of incidents. It requires the owner of a vessel to record in a logbook all complaints of CVSSA crimes, all complaints of theft of property in excess of \$1,000, and all complaints of other crimes committed on any voyage that embarks or disembarks passengers in the US.<sup>27</sup> It further requires the owner to note extensive details about the incident, much like a police report, to contact the FBI to report the crime, and to furnish a written report to the Coast Guard website.<sup>28</sup>

19 TNS, *2011 CLIA Cruise Market Profile Study*, CRUISE LINES INT'L ASSN. (Fort Lauderdale, FL: 2011), available at [http://www.cruising.org/sites/default/files/pressroom/Market\\_Profile\\_2011.pdf](http://www.cruising.org/sites/default/files/pressroom/Market_Profile_2011.pdf).

20 U.S. DEP'T OF TRANSPORTATION MARITIME ADMINISTRATION, *North American Cruise Statistical Snapshot, 2011* (Washington, D.C.: March 2012).

21 GAO REPORT, *supra* note 5, at 1.

22 *Id.*

23 Joel Seidman and Mike Brunner, *Data on cruise ship crime still falls short, GAO finds*, NBC NEWS (Jan. 14, 2014), [http://investigations.nbcnews.com/\\_news/2014/01/14/22291949-data-on-cruise-ship-crime-still-falls-short-gao-finds?lite](http://investigations.nbcnews.com/_news/2014/01/14/22291949-data-on-cruise-ship-crime-still-falls-short-gao-finds?lite) [hereinafter *Cruise Ship Crime*].

24 See GAO REPORT, *supra* note 5, at 2.

25 46 U.S.C. §§ 3507(g)(3)(A), 3507(c)(2), 3507(a)(1)(B).

26 *Id.* at § 3507(g)(4).

27 GAO REPORT, *supra* note 5, at 45.

28 See *id.*, See also *Cruise Line Incident Reporting Statistics*, U.S. COAST GUARD, available at <http://www.uscg.mil/hq/cg2/cgis/CruiseLine.asp> (updated quarterly).

The FBI and the Coast Guard have fully implemented the CVSSA provisions regarding crime data reporting.<sup>29</sup> The FBI bears the responsibility of reporting CVSSA crime data to the Coast Guard for publication on the website.<sup>30</sup> Furthermore, the CVSSA identifies eight types of crimes that cruise lines must report to the FBI, if they are within the FBI's jurisdiction.<sup>31</sup> These crimes include "homicide, suspicious death, missing US national, kidnapping, assault with serious bodily injury, firing or tampering with the vessel, theft of money or property in excess of \$10,000," and certain sexual assault offenses.<sup>32</sup> The data are to be updated at least quarterly, aggregated by the cruise line, and each type of crime shall be identified and have specified whether a passenger or crewmember committed it.<sup>33</sup>

FBI officials have stated that whenever a CVSSA-related crime is reported, it can come in varying forms, but it is usually reported by telephone within 24 hours.<sup>34</sup> However, complications arise in preserving a crime scene on board, as FBI officials typically cannot board the vessel until it arrives at a US port.<sup>35</sup> For this reason, the FBI has provided the cruise lines with a standardized form for detailing information about the alleged crime that includes a description of the incident, the names of the victims, witnesses and suspects, statements made by those involved, and any evidence preserved.<sup>36</sup> Once this information is gathered, the cruise lines are expected to send the form to the FBI and the Coast Guard as soon as possible, after which the FBI will take appropriate action.<sup>37</sup> For instance, the FBI may need to board the vessel, gather evidence, interview witnesses, and survey the crime scene. If the alleged crime meets the standards for opening an investigation, the FBI will do so, and certain information about the alleged crime will be published on the Coast Guard website after the case is closed.<sup>38</sup> Information may only be posted on the website if the FBI officially opens an investigation.<sup>39</sup>

## Complications in Responding to Crime

The US Government Accountability Office (GAO) has raised questions about the CVSSA's effectiveness, and has even suggested that its methodology and reporting mechanisms do not provide much context for prospective consumers to use to judge a cruise line's safety record.<sup>40</sup> Some victims of crime aboard cruise ships have said that although the CVSSA may have improved safety and security on board, the law has done little to correct the lack of accountability in the investigation of crimes.<sup>41</sup>

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29 *Id.* at 20.

30 46 U.S.C. § 3507(g)(4).

31 *Id.* at § 3507(g)(3)(A).

32 *Id.*

33 GAO REPORT, *supra* note 5, at 20-21.

34 *Id.* at 22.

35 *Id.*

36 *Id.*

37 *Id.*

38 *Id.* at 24.

39 *Id.*

40 *See Cruise Ship Crime, supra* note 24.

41 *Id.*

Vessels generally sail through multiple local and foreign jurisdictions during a cruise. Victims of alleged crimes can therefore feel confused by dealing with different legal systems.<sup>42</sup> A crime can occur in multiple different jurisdictions or while in international waters, thus there can be several foreign ports that the cruise line visits before returning to the US.<sup>43</sup> Each of these foreign jurisdictions may investigate the crime if it chooses to do so.<sup>44</sup> However, it would be very difficult to force each jurisdiction to carry out the investigation. This especially puts more responsibility on the cruise line to effectively respond to the alleged incident and report it in a timely manner and to the appropriate authorities.<sup>45</sup>

Generally, cruise ship personnel will make extensive efforts to preserve a crime scene until law enforcement personnel are able to board the vessel.<sup>46</sup> This has the potential to create problems, because several days may elapse before law enforcement personnel can board and the crew may have trouble preserving the crime scene for extended periods of time.<sup>47</sup> In response to such concerns, FBI officials have expressed interest in training cruise line security personnel in evidence preservation, and have provided the Cruise Lines International Association with information on how to do so.<sup>48</sup>

Problems related to publicizing reported allegations also exist. The CVSSA requires the Coast Guard to publish on its website statistics reflecting all allegations of crimes reported to the FBI that are no longer under FBI investigation.<sup>49</sup> There are more than three times the number of alleged crimes reported to the FBI than the CVSSA requires the cruise lines to post publicly.<sup>50</sup> This is particularly important because without complete data, the public may not have sufficient information to make informed decisions about cruise travel. However, the number of allegations may not accurately reflect the number of actual crimes committed onboard.

Data that is reported is often not reported in a timely manner. While alleged incidents should be reported shortly after being documented, they may remain unreported for weeks or months. An alleged crime, after its reporting, can take months or even years to appear on the Coast Guard website.<sup>51</sup> This is often due to the length of the investigation, criminal trial, or the appeals process.<sup>52</sup> There may not be much authorities can do about this, but significant time lapses between the incident and the posting on the website can result in the public receiving less-than-helpful information.

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42 See GAO REPORT, *supra* note 5, at 23.

43 *Id.*

44 *Id.*

45 Janet Powers of Portland, Oregon found herself in a jurisdictional pickle during a March 2011 trip aboard a Carnival cruise ship, during which another passenger assaulted her. She reported the crime in a timely manner, but was told by security personnel that the vessel's personnel could not take action until the ship docked in Puerto Rico. However, once the ship arrived, Puerto Rican police said they had no jurisdiction and referred Ms. Powers to the FBI. She later filed a complaint with the FBI, but unfortunately, was later told that the alleged crime did not meet the criteria for prosecution. This particular incident shows a major deficiency in the ability of both cruise line personnel and law enforcement to effectively respond to reports of crime. *Cruise Ship Crime*, *supra* note 24.

46 *Id.*

47 *Id.*

48 *Id.*

49 46 U.S.C. §3507(g)(4).

50 See GAO REPORT, *supra* note 5, at 25.

51 *Id.* at 26.

52 *Id.*

## REPORTING OF PIRACY INCIDENTS

Piracy has remained a major problem on the high seas despite worldwide efforts to combat it. Piracy has also evolved over the years; rather than stealing the goods on board, modern pirates often kidnap crewmembers and demand millions of dollars in ransom.<sup>53</sup> Reporting and information-sharing is critical, as complete data on piracy incidents will allow states and international organizations to take more effective measures and better understand the evolving trends in this international crime. This will allow authorities to alert seafarers to the potential dangers they may face by sailing through high-risk areas.

The IMB is generally regarded as the world's primary source of piracy information. It works closely with the IMO and keeps a live piracy report log for the most up-to-date information available.<sup>54</sup> However, Noel Choong, head of the IMB PRC, estimates that around half of all piracy incidents go unreported, probably due to the ship captain's fear of negative publicity or delays due to investigation.<sup>55</sup> This brings to light the important reality that incentives to report are not strong enough; this is probably the most pressing issue hindering adequate reporting.

### Information-Sharing

The underreporting of crime is not a recent problem. Aside from the CVSSA and international legislation on the reporting of maritime crime, the United States has previously dealt with relevant legislation. For example, the 1990 Clery Act acknowledged a growing problem with crime on college campuses and made efforts to increase the reporting of such incidents and to combat the problems accordingly.

The Clery Act, signed by President George H.W. Bush in 1990, requires all US colleges and universities participating in federal financial aid programs to keep records of and disclose all known crimes occurring on or near their respective campuses.<sup>56</sup> It further requires the schools, among other things, to publish an annual security report, made available to the public, documenting three calendar years of campus crime statistics as well as security policies and procedures in effect.<sup>57</sup> The goal of the Act is to provide the public with accurate crime data, allow students and families to make informed decisions about college, and encourage schools to diligently report crime incidents and put forth great efforts to combat such incidents.<sup>58</sup> By requiring schools to report the data, it provides incentives to the schools to take positive steps to fight the issues.

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53 Pierre St. Hilaire, "Somali Piracy: Following the Paper Trail," 1, available at <http://www.counterpiracy.ae/upload/Briefing/Pierre%20St.%20Hilaire-Essay-Eng-2.pdf>.

54 Available at <https://www.icc-ccs.org/piracy-reporting-centre/live-piracy-report>.

55 Peter Gwin, *Dangerous Straits*, NATIONAL GEOGRAPHIC, Oct. 1, 2007, at 2.

56 20 U.S.C. § 1092(f) – Disclosure of campus security policy and campus crime statistic.

57 *Summary of the Jeanne Clery Act* (Mar. 24, 2014), <http://clerycenter.org/summary-jeanne-clery-act>. (All of the requirements of the Act can be found on this webpage in extensive detail).

58 *See id.*

The lack of effective information-sharing methods among key actors that collect or have access to relevant data on maritime piracy is a major hindrance in defeating piracy networks.<sup>59</sup> International cooperation is absolutely critical in the fight against piracy. Article 100 of the UNCLOS states that “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.”<sup>60</sup> Implicit in this obligation is the duty to share relevant information that may assist in fighting and preventing piracy and in facilitating prosecution of pirates.

The strong wording of Article 100 should be noted, as it emphasizes a duty to cooperate *to the fullest possible extent*. Thus, the standard is not a minimum effort or even a reasonable effort, but the best effort possible.<sup>61</sup> States are expected to take measures on both the national level (for example, by criminalizing piracy)<sup>62</sup> and on the international level. The main component of international measures is cooperation and information sharing, which in turn require sufficient reporting of incidents.

The duty to share information can be deduced to be an obligation within the general duty to cooperate, as information exchange is vital to ensure successful international cooperation in counter-piracy operations.<sup>63</sup> Furthermore, United Nations Security Council resolutions on this subject urge all states to share information on acts related to piracy and armed robbery at sea.<sup>64</sup>

Some organizations, such as the Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP), have taken on the mission of facilitating information-sharing and encouraging thorough reporting procedures. A key feature of ReCAAP is the creation of an information-sharing center, based in Singapore, with the role of undertaking the collection, collation, and analysis of information received from contracting parties and to ensure a flow of information between and among them.<sup>65</sup> The duty to exchange information entails, among other things, that states have a responsibility to *forewarn* other countries about potential threats by reporting relevant information and updating international databases, such as the IMB PRC, in a timely and comprehensive manner.<sup>66</sup>

59 See St. Hilaire, *supra* note 54, at 2.

60 U.N. Convention on the Law of the Sea, Dec. 10, 1982, 1833 U.N.T.S. 397, art. 100, [hereinafter *UNCLOS*] available at [http://www.un.org/Depts/los/convention\\_agreements/texts/unclos/unclos\\_e.pdf](http://www.un.org/Depts/los/convention_agreements/texts/unclos/unclos_e.pdf).

61 Yaron Gottlieb, *Combatting Maritime Piracy: Inter-Disciplinary Cooperation and Information Sharing*, 47 *CASE WESTERN L. REV.* (2014).

62 See S.C. Res. 1918, U.N. Doc. S/RES/1918 (Apr. 27, 2010).

63 Convention for the Suppression of Unlawful Acts of Violence Against the Safety of Maritime Navigation, Mar. 10, 1988, 1678 U.N.T.S. 221, art. 13.1(b) [hereinafter *SUA Convention*], available at <http://cns.miis.edu/inventory/pdfs/aptmaritime.pdf> (“States Parties shall co-operate in the prevention of the offences set forth in article 3, particularly by: ... (2) exchanging information in accordance with their national law...”); See also Gottlieb, *supra* note 62, at 12.

64 S.C. Res. 1816, U.N. Doc. S/RES/1816 (2008).

65 ReCAAP Agreement, art. 7, available at <http://www.recaap.org/LinkClick.aspx?fileticket=LoqKGC4jU-vo%3d&tabid=93&mid=542>.

66 See Gottlieb, *supra* note 62, at 13.

There are a number of organizations, flag states, and private companies that possess large volumes of information on piracy networks, but many of these actors have little experience working together.<sup>67</sup> As Pierre St. Hilaire of INTERPOL puts it: “Poor communication among ship owners, navies, and law enforcement agencies means that it has been difficult to develop complete pictures of what happens in pirate attacks.”<sup>68</sup>

The ultimate goal of all these actors is to collect and centralize this information for use by the law enforcement community.<sup>69</sup> INTERPOL helps facilitate cooperation between law enforcement and the private sector to collect and share information about pirate attacks.<sup>70</sup> But information sharing is useless if the data is not analyzed and contextualized. By “facilitating secure global communication and offering its analytical expertise through analytical data services,” INTERPOL provides assistance to the international community by identifying links between different piracy incidents.<sup>71</sup>

## The Responsibility to Forewarn

In April 2009, the *Maersk Alabama* was hijacked some 240 nautical miles off the coast of Somalia. Pirates captured several crewmembers including the captain. Later that month, several crewmembers filed suit against Maersk Line, Ltd., alleging that the company knowingly sent the crew into pirate-infested waters near Somalia, having ignored recent reports of pirate attacks and disregarded warnings to remain at least 600 nautical miles from Somalia’s coast.<sup>72</sup> There were allegedly two separate attacks in the Gulf of Aden, each occurring within two days of the *Maersk* attack; furthermore, Maersk Line, Ltd. allegedly approved the captain’s decision to sail through the dangerous waters.<sup>73</sup> It is not unlikely that this incident could have been prevented if private actors had acted with greater caution.

This “responsibility to forewarn” is also spelled out in the UNCLOS, in which Article 24(2) states: “The coastal State shall give appropriate publicity to any danger to navigation, of which it has knowledge, within its territorial sea.”<sup>74</sup>

This duty to forewarn extends to parties in the private sector as well, particularly ship owners, operators, and insurance companies.<sup>75</sup> Shipping companies carry a particularly important responsibility because they have access to crucial data and are in a position to enable the collection of evidence by law

67 St. Hilaire, *supra* note 54, at 3 (providing an example that “information on piracy attacks and those responsible may be in possession of the military; complementary information on the *same attacks* may be in the possession of the flag state, the ship owner... and the private actors conducting the ransom negotiations.” [Emphasis added]).

68 *Id.* at 6 (footnote 2).

69 *Id.* at 3.

70 *Id.*

71 *Id.*

72 *Captain Phillips Got it Wrong: Six Ways Maersk Risked Lives of Crew*, VB ATTORNEYS (Mar. 24, 2014), <http://www.vbatorneys.com/blog/hollywood-got-it-wrong-six-ways-captain-phillips-risked-lives-of-crew.cfm>.

73 *Id.*

74 UNCLOS, *supra* note 61, at art. 24(2).

75 St. Hilaire, *supra* note 54, at 2-3.



enforcement officials.<sup>76</sup> Post-incident reporting and crime scene preservation are important here, as they are critical to full cooperation with law enforcement. Despite this, it is not uncommon for captains and crew to thoroughly clean their ships upon their release by pirates, prior to any law enforcement investigation.<sup>77</sup> This is typically due to the natural desire of the seafarers to clean up the aftermath of the incident and move on, rather than a desire to cover up crime scene evidence.

Another difficulty is the lack of significant information-sharing done by shipping companies to government and law enforcement authorities.<sup>78</sup> This has been a concern particularly in relation to ransom payments.<sup>79</sup> Typically, negotiations about ransom payments occur between the pirates and the shipping company alone.<sup>80</sup> This is a major concern due to the fact that important information for future investigations (e.g. names of parties, phone numbers, etc.) can be obtained.<sup>81</sup> It has been suggested that shipping companies have been hesitant to share this information with government authorities.<sup>82</sup> The reason for this reluctance almost always goes back to the company looking out for their own best interests. Possible reasons for this hesitation may include an assumption that sharing information with law enforcement may frustrate ongoing or future negotiations with the pirates, or even the fear of criminal proceedings against the shipping company in jurisdictions where the paying of ransom is criminalized.<sup>83</sup> This clearly demonstrates a need for positive incentives for private companies to report.

## Information-Sharing Mechanisms

The ultimate goal of counter-piracy efforts is to collect and centralize information for use by the law enforcement community. This may mean centralizing the flow of information with the creation of a single information-sharing mechanism. This would require cooperation of states on both the domestic and the international levels.<sup>84</sup>

At the domestic level, each state should designate a single point of contact to facilitate domestic inter-agency coordination.<sup>85</sup> It has already become standard practice to designate a central coordination system in the area of international criminal law.<sup>86</sup> INTERPOL's National Central Bureaus have been efficient and effective at establishing informal personal relationships and overcoming language

76 Gottlieb, *supra* note 62, at 23.

77 *Id.*

78 *Id.* at 24.

79 *Id.*

80 *Id.*

81 *Id.*

82 *Id.*

83 *Id.*

84 See St. Hilaire, *supra* note 54, at 6 (footnote 2) (specifying the challenges in the fight against piracy, particularly the fact that “local law enforcement agencies may lack the expertise, manpower...and technologies to effectively conduct...complex piracy investigations;” and that “without international communication and coordination, law enforcement agencies struggle to build legal cases against the facilitators and financiers of piracy, and the truly international pirate networks.”).

85 See Brian Wilson, “Reshaping Maritime Piracy Cooperation: the importance of inter-agency coordination at the national level,” MODERN PIRACY – LEGAL CHALLENGES AND RESPONSES 202 (Douglas Guilfoyle, Edward Elgar Publishing, 2013).

86 See CONSTITUTION OF THE ICPO-INTERPOL, art. 32 (“In order to ensure the above cooperation, each country shall appoint a body which will serve as the National Central Bureau. It shall ensure liaison with: (a) The various departments in the country; (b) Those bodies in other countries serving as National Central Bureaus; (c) The Organization’s General Secretariat.”).

barriers, thereby facilitating cooperation among member states.<sup>87</sup> Such a system has been set up in Asia under the ReCAAP Focal Point system, and the Djibouti Code of Conduct uses a similar system. On the international level, states need some sort of coordinator or manager for all information-sharing operations. An example of an organization taking on this role is INTERPOL's Maritime Piracy Task Force, which serves as a single point of contact facilitating the reporting of piracy incidents and contextualizing all relevant information.

## Best Management Practices (BMP)

In high-risk areas, such as the Gulf of Aden and the Horn of Africa, there is great need for vessels to be aware of risks and take measures to avoid an attack. BMP recognizes the urgent need for the merchant shipping industry to take every possible measure to protect itself from pirate attacks, and that effective self-protection is the best defense.<sup>88</sup> The purpose of the practices is to allow ships traveling in high-risk areas to better avoid, deter, or delay pirate attacks by means of diligent reporting and constant communication.<sup>89</sup> The consequences of not following BMP can be severe, as pirate attacks in high-risk areas can be lengthy and violent.<sup>90</sup> Thus, BMP strongly encourages ship operators in the region to register with the UK Maritime Trade Operations (UKMTO) at the Maritime Security Centre – Horn of Africa (MSCHOA), and to implement ship protection measures.<sup>91</sup>

The UKMTO office in Dubai serves as the first point of contact for ships in that region.<sup>92</sup> Merchant ships are strongly encouraged to send regular reports to the UKMTO so that the organization can provide the most up-to-date information to other ships in the region.<sup>93</sup> The MSCHOA serves as the planning and coordination center for EU Naval forces, and strongly encourages companies to register their vessels with them prior to entering high-risk areas.<sup>94</sup> In addition, the MSCHOA encourages vessels to register their *movements* as a further precaution.<sup>95</sup>

## Piracy Policy in the United States

The United States arguably has the most powerful maritime presence in the world, and therefore has no choice but to face the threat of maritime piracy. While international treaties and conventions can provide a solid framework for American action against piracy, the real power of the United States to combat piracy stems from its own domestic laws.<sup>96</sup>

87 Gottlieb, *supra* note 62, at 26-27.

88 IMO, *Piracy and Armed Robbery Against Ships*, <http://www.imo.org/OurWork/Security/PiracyArmedRobbery/Pages/Default.aspx>.

89 MARITIME SECURITY CENTER – HORN OF AFRICA, *Best Management Practices for Protection Against Somali-Based Piracy*, 1 (August 2011), available at [http://www.mschoa.org/docs/public-documents/bmp4-low-res\\_sept\\_5\\_2011.pdf?sfvrsn=0](http://www.mschoa.org/docs/public-documents/bmp4-low-res_sept_5_2011.pdf?sfvrsn=0).

90 *Id.* at 1.

91 *Id.* at v (laying out the “Three Fundamental Requirements of BMP”).

92 *Id.* at 11.

93 *See id.* (emphasizing that all vessels should send 1) an initial report; 2) daily reports; and 3) a final report, upon departure from the high-risk area or arrival in port).

94 *Id.* at 12.

95 *Id.* at 15.

96 Daniel L. Pines, *Maritime Piracy: Changes in U.S. Law Needed to Combat this Critical National Security Concern*, SEATTLE U. L. REV., 26 (2012).

Piracy law in the United States extends back to the country's founding, and can be found in the Constitution. Article 1, section 8, clause 10 states that Congress shall have the power to "define and punish Piracies and Felonies committed on the high Seas, and Offenses against the Law of Nations."<sup>97</sup> Thus, in 1790, Congress enacted the first piracy law.

In the 19<sup>th</sup> century, pursuant to this clause, Congress passed legislation authorizing the president to employ military vessels to protect US merchant vessels from pirate attacks.<sup>98</sup> In 2006, President George W. Bush placed navy ships around Somalia and the Gulf of Aden and directed the navy to take military action when appropriate, including firing upon pirates, seizing pirate vessels, and capturing pirates for prosecution.<sup>99</sup> US ships continue to patrol the area, along with ships from other countries.<sup>100</sup>

Outside of Somalia and its surrounding waters, the ability of the US to combat piracy is much more limited due to concerns over sovereignty felt many coastal countries. Moreover, even the US does not have the budget or manpower to police the high seas for piracy and maritime crime; international cooperation is therefore paramount to this ongoing battle.<sup>101</sup>

There are still steps that must be taken in the area of legislation. For example, 166 countries have ratified the UNCLOS, but the United States has yet to do so. This topic has been fiercely debated, as many opposed to the treaty believe ratifying it would mean compromising the US's national sovereignty.<sup>102</sup> The US's non-cooperation in this matter further complicates the issue. One of the most important factors in combating maritime piracy is *unity*. States, and particularly those states with wide reach in the international sphere, must all be on the same page and operating under the same procedures for effective results.

Ultimately, the most compelling reason the US should ratify the Law of the Sea is to solidify its commitment to the rule of international law. The UNCLOS offers a uniform, peaceful way to settle international disputes and a specific procedure in the area of reporting and combating piracy. In international waters, in the absence of treaty law, US seafarers must rely on customary international law, which is hardly enforceable and is constantly changing. Without a solid international legal framework, the US could be compromising its own interests.

## Prosecution of Pirates and Pirate Leaders

In addition to having an efficient and effective reporting mechanism, states and international

97 U.S. CONST. art. 1, § 8.

98 33 U.S.C. § 381 (2006) (Original version drafted by Congress in 1819, reintroduced under George W. Bush).

99 James Kraska & Brian Wilson, *The Pirates of the Gulf of Aden: The Coalition Is the Strategy*, 45 STAN. J. INT'L. L. 243, 249 (2009).

100 See Pines, *supra* note 97, at 27.

101 See *id.* at 29.

102 See, e.g. Keith Johnson, *GOP Scuttles Law-of-Sea Treaty*, THE WALL STREET JOURNAL (Jul. 16, 2012), available at <http://blogs.wsj.com/washwire/2012/07/16/gop-opposition-scuttles-law-of-sea-treaty/> (reporting about GOP opposition to ratification of the treaty during a July 2012 reintroduction of the treaty in the US Senate).

organizations should work together in prosecuting pirates and pirate leaders. Unfortunately, there are several hurdles to prosecution, particularly jurisdiction issues and enforcement problems.

The UNCLOS places a duty on all states to combat piracy in the high seas.<sup>103</sup> Under the Convention, “high seas” are parts of the sea outside of any state’s territory.<sup>104</sup> This duty would include efficient information-sharing, as previously mentioned, and prosecution to the fullest extent of the law, including in places outside the jurisdiction of any state.<sup>105</sup> In the high seas, any state may seize the offending pirate ship, arrest the pirates, seize the property on board, and carry out a prosecution.<sup>106</sup>

The Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA) is a multilateral treaty that tackles the issue of states prohibiting and punishing acts of piracy or crime at sea. It criminalizes a number of acts, including attempts and liability as an accomplice, and places a duty upon member states to 1) prosecute the person or persons who committed the offense; or 2) send the individual to another state that requests his or her extradition for prosecution of the same crime.<sup>107</sup> SUA promotes the legal principle of *aut dedere aut judicare*, which holds that states have a legal obligation under public international law to prosecute people who have committed serious international crimes, when no other state has requested extradition.<sup>108</sup> There is significant evidence that this principle can significantly reduce piracy crimes if adequately enforced, as a large number of Somali pirates remain in their own “safe haven” off the coast of the ungoverned Somali state, presumably to avoid the risk of venturing into more governed territory.<sup>109</sup>

SUA applies to any ships that are scheduled to navigate into, through, or from the high seas.<sup>110</sup> It allows states to seize offending pirate vessels and individual pirates, and any state party in the same territory as an offender must take him into custody in some manner to ensure his presence for criminal proceedings.<sup>111</sup> After this, the seizing state may notify other states that it has established jurisdiction over the matter, under SUA.<sup>112</sup>

103 See UNCLOS, *supra* note 61, at preamble.

104 *Id.* art. 94; See also CHRISTOPHER TOTTEN & MATTHEW BERNAL, SOMALI PIRACY: JURISDICTIONAL ISSUES, ENFORCEMENT PROBLEMS AND POTENTIAL SOLUTIONS, Part II (2010), available at <http://www.thefreelibrary.com/Somali+piracy%3A+jurisdictional+issues,+enforcement+problems+and...-a0227280490>.

105 UNCLOS, *supra* note 61, at art. 100.

106 *Id.* at art. 105.

107 SUA Convention, *supra* note 64, at art. 1.

108 STEPHEN HALL, INTERNATIONAL LAW (2nd ed. 2006) Butterworth Tutorial Series, LexisNexis Butterworth.

109 See Richard L. Kilpatrick Jr., *Does International Law Governing Airline Hijacking Offer Solutions to the Modern Maritime Piracy Epidemic off the Coast of Somalia?* ONE EARTH FUTURE, 23 (2011), available at <http://oceansbeyondpiracy.org/publications/borrowing-civil-aviation-security-does-international-law-governing-airline-hijacking>.

110 TOTTEN, *supra* note 105.

111 SUA Convention, *supra* note 64, at art. 4; art. 7.

112 *Id.* art. 7 (“When a state party, pursuant to this article, has taken a person into custody, it shall immediately notify the States which have established jurisdiction in accordance with article 6, paragraph 1 and, if it considers it advisable, any other interested States, of the fact that such a person is in custody and of the circumstances which warrant its detention. The State which makes the preliminary inquiry ... shall promptly report its findings to the said states and shall indicate whether it intends to exercise jurisdiction.”).

In addition to urging states to act upon offenses that have already been committed, SUA further compels states to take preventative measures.<sup>113</sup> Article 13 specifically compels state parties to take practicable measures to prevent the commission of SUA offenses within their territories, and to share relevant information with member states.<sup>114</sup> A significant drawback of SUA is the fact that a number of important countries have not ratified it, including Indonesia, Malaysia, and Somalia.<sup>115</sup>

Moreover, customary international law can serve as a basis for jurisdiction. In addition to being one of the oldest and most well-established crimes in history,<sup>116</sup> piracy is a crime under customary international law;<sup>117</sup> therefore, universal jurisdiction applies to acts of piracy.<sup>118</sup> This means that any country has the power to prosecute acts of piracy in its own courts.<sup>119</sup> However, a significant number of pirate attacks occur off the coast of Somalia, which can create more complications, because Somalia is considered a “fragile state” and its law enforcement power is severely limited.<sup>120</sup> The International Court of Justice also has jurisdiction over piracy. Only member states may bring claims to the ICJ.<sup>121</sup> Somalia is a member of both the UN and the ICJ.<sup>122</sup> Since individuals or corporations cannot bring claims, effective prosecution measures would require flag states, particularly those in high-risk areas such as Somalia, to do so.

## RECOMMENDATIONS

Improved reporting on piracy and other crime at sea will require action from flag states, private companies, and international organizations. This paper will now examine several existing laws or international agreements and then evaluate each on whether it provides an effective model upon which to base future policy in the area of piracy reporting.

Since it is very difficult to enforce reporting, the best step policymakers can take is to incentivize reporting. Relying on foreign jurisdictions raises too many uncertainties. First, no states have jurisdiction in the high seas; second, there is no effective enforcement mechanism for different jurisdictions to carry out investigations and to force vessels to cooperate with reporting requirements. Thus, this report will determine which existing laws and agreements meet or take great steps toward achieving this goal through different means.

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113 TOTTEN, *supra* note 105.

114 SUA Convention, *supra* note 64, at art. 13.

115 *See id.* at signatories.

116 UNCLOS, *supra* note 61, at art. 101 (“Piracy consists of... (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...”).

117 Customary international law is derived from “a general and consistent practice of states followed by them from a sense of legal obligation.” RESTATEMENT (THIRD) OF FOREIGN RELATIONS LAW § 102(2) (1987) (The UNCLOS is generally considered to be reflective of customary international law).

118 TOTTEN, *supra* note 105.

119 *Id.*

120 *See id.* (arguing that other states would need to take action and encroach upon Somalia’s sovereignty in order to successfully carry out a prosecution).

121 U.N. Member States, available at <http://www.un.org/en/members/>.

122 *Id.*

## The CVSSA

Measures such as the CVSSA place a burden on cruise ships to meet certain requirements in order to dock at a US port, but do not do a great deal to improve reporting procedures or mitigate crimes that occur onboard. The GAO has raised numerous questions about the CVSSA's effectiveness, holding that the reported statistics are likely to be inaccurate and that no context is provided to consumers who wish to ascertain crime data.<sup>123</sup>

Cruise vessels have the responsibility to take crime investigation and reporting into their own hands. This may necessitate proactive steps being taken by the cruise lines in addition to supporting legislation such as the CVSSA. Nonetheless, cruise lines are already well aware of the myriad risks related to maritime crime that they undertake upon embarking on a journey. While positive steps are usually taken, such as risk management paperwork and surveillance camera installation, some factors are beyond the control of vessel operators.

Nevertheless, the most important purpose of reporting is to allow potential passengers to make informed decisions prior to embarking on a cruise. The CVSSA requires cruise lines to maintain a logbook for all reported crimes, and to report not only crimes, but *allegations* as well, to the FBI and to the Coast Guard.<sup>124</sup>

While this is a positive step forward, there is a long way to go in providing incentive to report. Furthermore, there remain questions as to the effectiveness of these reporting requirements. There are questions about whether the public is adequately informed of the number of alleged crimes on CVSSA cruise lines, as allegations for investigations that are not opened remain unpublished.<sup>125</sup> In addition to this, data are often not reported in a timely manner, as it can take years for crime reports to appear on the Coast Guard website.<sup>126</sup>

Essentially, the CVSSA does not provide much incentive for cruise lines to report. Moreover, it is difficult for a cruise line's safety record to be accurately reflected in public records. This makes incentivizing reporting even more difficult.

While the CVSSA accomplishes some goals, it is up to the cruise lines themselves to improve their reporting procedures. Furthermore, the CVSSA relies too heavily on the jurisdiction of flag states and port states. The Janet Powers situation<sup>127</sup> accurately illustrates this problem, taking into account that neither Puerto Rico nor the FBI could investigate the crime, for jurisdictional or procedural reasons. Some foreign jurisdictions may not reliably and consistently follow protocol, and the international

123 See *id.*, See also GAO REPORT, *supra* note 5, at 23.

124 GAO REPORT, *supra* note 5, at 12 (particularly requirements #9 and #10).

125 *Id.* at 26.

126 See *supra* notes 51-53 and accompanying text.

127 See *supra* note 46.



community cannot reasonably expect each flag state to enforce reporting procedures without proper incentive. Therefore, the CVSSA does not provide an effective model upon which to base piracy reporting policy. Now this paper will examine the Clery Act and determine whether it provides a good model for reporting incentives.

## The Clery Act and Reporting Incentives for Flag States

While there are a number of international maritime organizations, the best place to start in the area of piracy reporting is with the flag states themselves. Much like the Clery Act in relation to college campuses, flag states could pass legislation, and international organizations could work to provide incentives for reporting as well as deterrents for suppressing information. The Clery Act achieves both of these goals quite successfully by requiring schools to publicize all reported incidents of crime, thereby encouraging them to step up security and prevention efforts.

Widespread information sharing is key to effective reporting, and it begins with the flag states. Independent vessels, especially those owned by private companies, cannot reliably be expected to report all incidents to independent organizations when there is no legal obligation to do so.

A major drawback is the inability of the international community to coerce or pressure flag states to pass such legislation. International law can be very difficult to enforce, as very few entities possess enforcement power. The UN Security Council is one of the few organs with such power, but it simply does not have the wherewithal to enforce reporting procedures for flag states and private companies. Ultimately, flag states and shipping companies are looking out for their own interests. Quite often, reporting piracy incidents is not in their best interest, because doing so can lead to negative publicity for the company or delays in shipping due to investigation. So the key is to change policy so that reporting incidents *will always be* in the best interest of the ships and flag states. While flag state laws will certainly help mitigate this problem, there is a need for other sources of incentive in reporting.

## Port State Control and Flag State Performance Records

The Clery Act does a good job providing incentive to combat crime on college campuses by requiring the universities to publish an annual security report and to have a public crime log.<sup>128</sup> It is important that flag states and major players in the shipping industry have access to similar information, and that they be required or pressured to publish crime statistics to a major international body. Expectedly, flag states and private companies would not want a reputation for being prone to crime at sea; thus, they would likely take great efforts to improve security, and to avoid negative publicity. Therefore, the Clery Act provides a good model for future policy in the area of piracy reporting.

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128 See Clery Act, *supra* note 58.

In addition to the model set out in the Clery Act, Port State Control could play a significant role in incentivizing responsible behavior by flag states. Laws and regulations are nearly impossible to enforce on the high seas, but they can be more easily enforced at port. The three principal Port State Control authorities are: 1) countries that are part of the Paris Memorandum of Understanding (MOU); 2) countries that are part of the Tokyo MOU; and 3) the United States Coast Guard.<sup>129</sup> These authorities target particular flag states based on deficiencies and detentions recorded for ships flying that flag.<sup>130</sup> The performance table,<sup>131</sup> published annually by the International Chamber of Shipping (ICS), serves two purposes: 1) to encourage ship owners and operators to examine whether a flag state has sufficient substance before using it; and 2) to encourage ship owners and operators to put pressure on their flag administrations to effect any improvements that might be necessary, especially in relation to the safety of life at sea, the protection of the marine environment, and the provision of decent working and living conditions for seafarers.<sup>132</sup>

The ICS report looks at several criteria and uses a system of colored squares to report on the performance of flag states in specific areas. Each flag state's square is green, red, a combination of the two, or labeled "N/S" (no data submitted) in a red square. Green squares indicate positive performance. If performance is good but some requirements are not met, a green square with a red mark in the corner reflects that. Red squares indicate negative performance. Squares labeled "N/S" indicate that no data was submitted to the IMO, and are therefore assumed to be negative indicators.

The ICS is the principal international trade association for ship owners, and wants to ensure safe conditions for all seafarers. For this reason, its performance tables are made available to the public. This provides good incentive for vessels and flag states to comply with its regulations. Failure to report or failure to mitigate negative conditions will be reflected negatively on the table. Consequently, ships with a poor record are more likely to face inspections.<sup>133</sup>

The Paris MOU exists to eliminate substandard ships from operating in and out of flag state ports. It publishes annual "performance lists" as well, which the ICS uses for criteria in its own performance evaluations. The Paris MOU's lists are divided into three tiers, or lists: White, Grey, and Black. The White List<sup>134</sup> represents high-quality flags with a consistently low detention record; the Grey List represents flags with "average" performance; and the Black List represents those with poorly-rated performance, which are identified as "high-risk" vessels.<sup>135</sup> The lists are based on the total number of inspections and detentions over a 3-year rolling period for flags with at least 30 inspections in the period.<sup>136</sup>

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129 INT'L CHAMBER OF SHIPPING, SHIPPING INDUSTRY FLAG STATE PERFORMANCE TABLE 2013/2014, 3, [hereinafter *ICS Report*] available at <http://www.ics-shipping.org/docs/default-source/resources/policy-tools/ics-isf-shipping-industry-flag-state-performance-table-2013-2014.pdf?sfvrsn=6>.

130 *Id.*

131 *See id.* at 4-5 (performance data for all member countries in 2013 viewable).

132 *Id.* at 2.

133 *Id.*

134 Paris Memorandum of Understanding: Annual Report, 2012, 31 (2013), available at <https://www.parismou.org/sites/default/files/Annual%20Report%202012%20%28final%29.pdf> [hereinafter *MOU Report*]; *See A.*

135 gCaptain Staff, *Paris MoU Issues New Performance Lists – U.S. Climbs Back to "White"* (Jun. 13, 2013) <http://gcaptain.com/paris-mou-releases-2012-inspection-lists-us-back-in-white/>.

136 *MOU Report*, *supra* note 135, at 18.

The MOU keeps records of all deficiencies identified on inspected ships. In 2010, there were 64,698 recorded deficiencies; the number decreased to 50,738 in 2011 and 49,261 in 2012.<sup>137</sup> It is likely that the MOU places certain flags on the Grey List to incentivize efforts to improve. For example, Thailand and the United States moved onto the White List from the Grey List in 2012, likely due to greater efforts toward safety improvements and political action.<sup>138</sup>

The Black List further classifies flag states according to their risk level.<sup>139</sup> Bolivia, the lowest-ranking country in 2012, is classified as high risk, and consequently will face extensive inspections and more obstacles upon docking in foreign ports. This also entails reputational risks, as the White, Grey, and Black Lists are made publicly available. It can even lead to economic risks, as port state authorities may take greater time to inspect vessels, and some vessels may have to purchase new equipment. This provides even more incentive to avoid the Black List.

The ICS takes the Paris MOU's data into account in compiling its performance table. If countries appear on the White List, it is reflected with a green square on the performance table under the column labeled "Paris MOU White List."<sup>140</sup> There is also a separate column titled "Not on Paris MOU Black List." Accordingly, countries appearing on the Black List will have a red square under this column, and countries appearing on either the White List or the Grey List will have a green square.<sup>141</sup>

## Implementation and Adding Criteria to the Lists

Enforcement of new policies will require effective implementation. There are a number of avenues that can be taken to implement these policies, each of which may have varying effects. The most efficient approach would probably be to create an addendum to existing agreements, rather than to create an entirely new agreement related to this topic. Pressuring states to draft new legislation, or pressuring international organizations to draft new treaties, will prove to be difficult, time-consuming, and possibly counterproductive.

While the MOU's system is effective, additional criteria may be of great benefit in improving the reporting of piracy and crime at sea. These additional criteria should take into account 1) pirate attacks at sea and 2) reporting procedures following such attacks. While vessels and flag states should not be penalized simply for being attacked, their response to the attack should be taken into account. Risk management procedures are important as well, as ships are sometimes attacked because of negligence on the part of the ship owner or the parent company (e.g. ignoring warnings about pirate infested waters).<sup>142</sup>

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137 *Id.*

138 *Id.* at 2.

139 *Id.* at 35.

140 ICS Report, *supra* note 130, at 4-5; *See also* Figure A.

141 *See* Figure B.

142 *See, e.g.,* notes 73-74 and accompanying text.

Upon a vessel's arrival at port, port authorities should complete a thorough inspection, including checking to see that all of the goods are intact, checking for damage, and questioning the captain about the voyage, including whether the crew encountered anything unusual. This should be standard protocol for all ships entering the port. In the case of a reported pirate incident, the vessel's flag state should be notified immediately. The flag state bears the responsibility of carrying out an investigation and should be ready to conduct a prosecution, if necessary.

The flag state should submit all relevant information to the MOU at least annually. If there is evidence of unreported incidents or insufficient responses to incidents, the MOU should take this into account when composing the Black, Grey, and White Lists. Furthermore, if the flag state does not cooperate with the MOU, this should be reflected on the lists. This will in turn reflect on the ICS performance tables, and will be accessible to the public and to prospective seafarers who are considering whether to sail with this vessel.

While states will not be compelled to comply with the MOU, there is great incentive to do so. States appearing on the Black List are more likely to face lengthy inspections at port, and must overcome even more hurdles to dock at certain ports due to a number of risks. Moreover, states will remain on their respective lists for one year, until the next list is released. States on the Black List, after facing numerous inspections at port and other risk-management precautions from port states, will likely make great efforts to remove themselves from the list in order to facilitate operations for their shipping companies as well as government-owned vessels.

## **INTERPOL's Role**

Ultimately, the flag state is responsible for its vessels and has the power to carry out a prosecution. Because piracy is a crime under universal jurisdiction, states have the power to prosecute pirates for crimes that occur on the high seas. Organizations like the UKMTO and the IMB do not have police power. Upon carrying out an investigation and a prosecution (if necessary), the flag states should cooperate with INTERPOL and report relevant information to other independent organizations such as ReCAAP and the IMB.

One of INTERPOL's core missions and most important roles in anti-piracy efforts is "collecting, coordinating, and disseminating actionable information and intelligence, supporting and enhancing domestic and international enforcement, and tackling maritime piracy and its illicit funds, in collaboration with other key partners."<sup>143</sup> Its Maritime Piracy Task Force coordinates the organization's response to maritime piracy on all facets. However, INTERPOL recognizes that simply arresting and prosecuting individual pirates will not significantly reduce pirate attacks; further action is necessary for effective law enforcement.<sup>144</sup>

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143 St. Hilaire, *supra* note 54, at 2.

144 *Id.*

In 2011, INTERPOL launched its Maritime Piracy Database in an effort to collect and disseminate information relating to pirate attacks. According to Pierre St. Hilaire, one of the biggest obstacles in fighting piracy is the “lack of information-sharing between key actors that collect or are in the possession of relevant data on piracy networks.”<sup>145</sup> The Maritime Piracy Database plays a major role by allowing INTERPOL and its partners to identify and lead efforts in prosecuting pirate leaders and organizers.<sup>146</sup> There are multiple piracy databases worldwide, but INTERPOL’s arguably has the greatest reach, whereas others such as the UKMTO and ReCAAP are more region-specific. INTERPOL actively works with all major parties in this area, including private companies, the military, and law enforcement, to collect and share information about pirates and pirate attacks. Through these efforts, INTERPOL provides valuable aid to the international law enforcement community.

Duplicated information, added costs, and competition are all likely to make efforts less effective and efficient.<sup>147</sup> Steps should be taken to prevent the entry of the same information more than once, which would eliminate confusion and give INTERPOL more accurate data. Also, the existence of multiple reporting centers may lead to competition,<sup>148</sup> which would hinder efforts. Piracy is obviously too great of a problem for law enforcement authorities to let issues such as competition interfere with efforts. Although these reporting centers mean well and all share the same mission of thwarting piracy, having too many reporting centers may likely lead to the aforementioned problems as well as make coordination more difficult.

## Reporting Procedures

### *Standardized Forms*

The flag state’s use of standardized forms for its vessels can facilitate the reporting of incidents. Upon completion, the form should be submitted to the proper authorities, including the flag state and one or more international authorities.<sup>149</sup> The Republic of the Marshall Islands already possesses reporting procedures laying out clear instructions for what steps to follow in the event of a pirate attack; these can provide an effective model for other flag states. Steps include immediately reporting the details of an attack to MTISC-GoG using a standardized form.<sup>150</sup>

### *Anonymous Reporting*

Evidence from INTERPOL and other counter-piracy organizations suggests that a major reason that a large number of pirate attacks are unreported is that companies are looking out for their own interests.

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145 *Id.*

146 *INTERPOL*, OCEANS BEYOND PIRACY, (Jun. 17, 2014), <http://oceansbeyondpiracy.org/matrix/Interpol>.

147 *See id.*

148 *See* Kenneth Scott, *Prosecuting Pirate Leaders: Lessons Learned and Continuing Challenges*, OCEANS BEYOND PIRACY, 44 (holding that many respondents of a conducted survey reported that there are “too many different agendas” in anti-piracy efforts and therefore too much competition).

149 Depending on the geographic location of the incident, the proper international authorities can be organizations such as MTISC-GoG, ReCAAP, or INTERPOL.

150 Republic of the Marshall Islands, Office of the Maritime Administrator, Ship Security Advisory No. 21-24, 2 (17 June 2014). *See also* Figure C.

Reporting piracy incidents can lead to issues such as shipping delays or damaged reputation; for example, a company may receive negative publicity in the event of a pirate attack, and possibly earn the reputation of operating unsafe vessels. Unfortunately, information-sharing in the realm of industry may be getting worse rather than improving.<sup>151</sup> Thus, law enforcement authorities should take stronger measures to ensure that private companies provide needed information.

Although not an ideal solution, this problem could be mitigated by an anonymous reporting system. Such a system provides more incentive to report by significantly reducing legal or reputational risks and further prioritizing information-sharing over criminal investigation, as attack prevention is most important. Through this method, private companies would no longer have to worry about compromising their own interests or putting their safety records on the line. For purposes of prosecution, the vessels can report either to their flag state or directly to INTERPOL. If the vessels report to their flag state, then the state should relay the information to INTERPOL so the Piracy Database can always have the most up-to-date information. INTERPOL's database contains volumes of sensitive material, for purposes of criminal prosecution, among other things. The organization diligently processes its data in accordance with legal regulations, which includes keeping sensitive information confidential.<sup>152</sup>

## *Data Analysis*

While proper and comprehensive data entry is critical, it is not useful if the information is not synthesized and analyzed. INTERPOL has been given the mandate to collect information, but more efforts must be made to create a “centralized or coordinated multi-national program” to integrate law enforcement information for purposes of “building cases against pirate leaders and financiers.”<sup>153</sup>

This can be made more efficient by creating standardized forms and practices. With this method, the sharing of reports will be facilitated; there will no longer be a need to reformat or translate reports or forms, and the process as a whole will be expedited.

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151 *Id.* at 45.

152 *See, e.g.* INTERPOL: Annual Report, 2011, available at <http://www.interpol.int/en/News-and-media/Publications/Annual-reports/2011>.

153 Scott, *supra* note 149, at 7.



## CONCLUSION

The underreporting of incidents of piracy and crime at sea creates significant challenges for law enforcement authorities, flag states, and other parties committed to fighting piracy. This problem demands an immediate response from multiple, diverse parties. The overarching issues that lead to underreporting are lack of jurisdiction and lack of incentive. The Clery Act provides a good model upon which authorities can work to incentivize reporting. By using reporting procedures as criteria in the Paris MOU's lists, countries will be much more driven to improve their own procedures. By mitigating these problems and facilitating reporting procedures, cruise ships, private companies, navy vessels, and flag states will be more likely to report to the proper authorities and do so in a timely manner. Then, the proper authorities, particularly INTERPOL, will be able to synthesize and analyze that information in an effort to better understand piracy and formulate more efficient and effective solutions for thwarting it.

**FIGURE A: PARIS MOU WHITE/GREY/BLACK LIST**

RANK	FLAG	INSPECTIONS 2010-2012	DETENTIONS 2010-2012	BLACK TO GREY LIMIT	GREY TO WHITE LIMIT	EXCESS FACTOR
<b>WHITE LIST</b>						
1	France	306	0	29	14	-1.95
2	Germany	1,099	10	91	63	-1.82
3	Hong Kong, China	1,559	19	126	92	-1.74
4	Sweden	630	6	55	33	-1.71
5	Greece	1,154	14	96	66	-1.71
6	Denmark	1,233	16	102	71	-1.68
7	Norway	1,697	24	137	101	-1.68
8	Bahamas	2,868	47	224	178	-1.64
9	Italy	1,384	21	113	81	-1.61
10	Croatia	151	0	16	5	-1.61
11	Finland	477	5	43	24	-1.60
12	Isle of Man, UK	755	10	65	41	-1.59
13	United Kingdom	1,683	28	136	100	-1.58
14	Liberia	4,179	80	320	265	-1.57
15	Netherlands, the	3,441	68	266	216	-1.53
16	Singapore	1,408	25	115	82	-1.52
17	Korea, Republic of	123	0	14	3	-1.44
18	Marshall Islands	2,427	56	191	149	-1.38
19	Belgium	250	3	25	10	-1.28
20	China	238	3	24	10	-1.22
21	Gibraltar, UK	1,072	26	89	61	-1.22
22	Cyprus	2,157	61	171	131	-1.17
23	Malta	4,922	159	374	315	-1.11
24	Cayman Islands, UK	315	6	30	14	-1.06
25	Latvia	91	0	11	2	-1.05
26	Bermuda, UK	275	5	27	12	-1.03
27	Ireland	127	1	14	4	-0.98
28	Russian Federation	1,458	49	119	86	-0.91
29	Estonia	81	0	10	1	-0.90
30	Barbados	395	10	36	19	-0.89
31	Japan	80	0	10	1	-0.88
32	Panama	6,876	277	517	446	-0.85
33	Spain	230	5	23	9	-0.78
34	Iran, Islamic Republic of	107	1	12	3	-0.75
35	Faroe Islands, DK	223	5	22	9	-0.73
36	Antigua and Barbuda	4,364	202	334	277	-0.60
37	Turkey	1,930	88	154	116	-0.53
38	Poland	172	4	18	6	-0.52
39	United States of America	236	7	23	10	-0.46
40	Philippines	234	7	23	9	-0.44
41	Lithuania	198	6	20	7	-0.32
42	Portugal	439	19	40	21	-0.22
43	Thailand	53	0	7	0	-0.18
44	Vanuatu	203	7	21	8	-0.16
45	Luxembourg	197	7	20	7	-0.09

RANK	FLAG	INSPECTIONS 2010-2012	DETENTIONS 2010-2012	BLACK TO GREY LIMIT	GREY TO WHITE LIMIT	EXCESS FACTOR
GREY LIST						
46	Kazakhstan	47	0	7	0	0.01
47	Switzerland	89	2	11	2	0.03
48	Curacao	372	18	35	17	0.03
49	Malaysia	65	1	8	1	0.04
50	Saudi Arabia	58	1	8	0	0.09
51	India	115	4	13	3	0.10
52	Belize	616	36	54	32	0.17
53	Viet Nam	34	1	5	0	0.27
54	Algeria	73	4	9	1	0.36
55	Morocco	101	7	12	2	0.49
56	Tunisia	57	4	8	0	0.50
57	Egypt	85	6	10	2	0.51
58	Slovakia	75	6	9	1	0.59
59	Bulgaria	99	8	12	2	0.61
60	Saint Vincent and the Grenadines	1,277	96	105	74	0.71
61	Cook Islands	187	16	19	7	0.73
62	Syrian Arab Republic	94	9	11	2	0.76
63	Tuvalu	44	5	6	0	0.79
64	Ukraine	308	29	29	14	0.97

RANK	FLAG	INSPECTIONS 2010-2012	DETENTIONS 2010-2012	BLACK TO GREY LIMIT	GREY TO WHITE LIMIT	EXCESS FACTOR
<b>BLACK LIST</b>						
65	Cambodia	629	59	55	Medium Risk	1.19
66	Georgia	428	42	39		1.20
67	Saint Kitts and Nevis	344	35	32		1.23
68	Lebanon	82	11	10		1.31
69	Libya	44	7	6		1.35
70	Dominica	139	17	15		1.36
71	Comoros	483	55	44		1.71
72	Albania	159	21	17	1.72	
73	Moldova, Republic of	654	84	57	Medium to High Risk	2.26
74	Honduras	45	9	6		2.39
75	Sierra Leone	412	58	38		2.46
76	Togo	231	35	23		2.50
77	Tanzania, United Republic of	234	37	23	High Risk	2.70
78	Bolivia	39	10	6		3.66

**FIGURE B: ICS FLAG STATE PERFORMANCE**

**GREEN SQUARES SUGGEST POSITIVE PERFORMANCE INDICATORS**

\* UK dependent territories

	PORT STATE CONTROL						RATIFICATION OF CONVENTIONS						A739	AGE	REPORTS	IMO		
	PARIS/MOU WHITE LIST	NOT ON PARIS/MOU BLACK LIST	TOKYO/MOU WHITE LIST	NOT ON TOKYO/MOU BLACK LIST	USCG QUALSHIP 21	NOT ON USCG TARGET LIST (SAFETY)	SOLAS 74 (AND 88 PROTOCOL)	MARPOL INCLUDING ANNEXES I - II	MARPOL ANNEXES III - VI	LL 66 (AND 88 PROTOCOL)	STCW 78	ILO MLC	CLC/FUND 92	RECOGNIZED ORGANIZATIONS	AGE (SHIP NUMBERS)	STCW 95 WHITE LIST	COMPLETED FULL ILO REPORTS	IMO MEETINGS ATTENDANCE
ALBANIA	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
ALGERIA	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
ANTIGUA & BARBUDA	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
ARGENTINA	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
AUSTRALIA	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
BAHAMAS	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
BAHRAIN	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
BANGLADESH	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
BARBADOS	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
BELGIUM	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
BELIZE	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
BERMUDA *	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
BOLIVIA	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
BRAZIL	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
BULGARIA	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
CAMBODIA	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
CANADA	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
CAYMAN ISLANDS *	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
CHILE	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
CHINA	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
COLOMBIA	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
COOK ISLANDS	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
COSTA RICA	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
COTE D'IVOIRE	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
CROATIA	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
CUBA	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
CYPRUS	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
DEM. PEOPLE'S REP. KOREA	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
DEM. REP. OF THE CONGO	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
DENMARK	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
DOMINICA	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
EGYPT	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
ESTONIA	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
FAROE ISLANDS	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
FINLAND	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
FRANCE	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
GEORGIA	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
GERMANY	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
GHANA	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
GIBRALTAR *	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
GREECE	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
HONDURAS	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
HONG KONG (CHINA)	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
ICELAND	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
INDIA	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
INDONESIA	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
IRAN	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
IRELAND	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
ISLE OF MAN *	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
ISRAEL	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
ITALY	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
JAMAICA	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
JAPAN	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
JORDAN	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
KENYA	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
KUWAIT	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■

■ - Indicates where a UK dependent territory's entry is based on the ratification, reporting or IMO meeting attendance of the UK 'mainland' flag.  
 ■ - Indicates where a flag administration suffered no detentions within the particular PSC region for the period, but did not meet the relevant minimum requirement of inspections/arrivals to be included in an MOU white list or the USCG Qualship 21 program.



**GREEN SQUARES**  
SUGGEST POSITIVE  
PERFORMANCE  
INDICATORS

	PORT STATE CONTROL						RATIFICATION OF CONVENTIONS						A739	AGE	REPORTS	IMO		
	PARIS MOU WHITE LIST	NOT ON PARIS MOU BLACK LIST	TOKYO MOU WHITE LIST	NOT ON TOKYO MOU BLACK LIST	USCG QUALSHIP 21	NOT ON USCG TARGET LIST (SAFETY)	SOLAS 74 (AND 88 PROTO/COL)	MAIROPOL INCLUDING ANNEXES I - II	MAIROPOL ANNEXES III - VI	LL 66 (AND 88 PROTO/COL)	STOW 78	ILO MLC	CIC/FUND 92	RECOGNIZED ORGANIZATIONS	AGE (SHIP NUMBERS)	STOW 95 'WHITE LIST'	COMPLETED FULL ILO REPORTS	IMO MEETINGS ATTENDANCE
LATVIA	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
LEBANON	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
LIBERIA	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
LIBYA	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
LITHUANIA	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
LUXEMBOURG	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
MALAYSIA	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
MALTA	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
MARSHALL ISLANDS	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
MAURITIUS	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
MEXICO	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
MONGOLIA	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
MOROCCO	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
MYANMAR	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
NETHERLANDS	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
NEW ZEALAND	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
NIGERIA	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
NORWAY	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
PAKISTAN	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
PANAMA	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
PAPUA NEW GUINEA	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
PHILIPPINES	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
POLAND	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
PORTUGAL	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
QATAR	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
REPUBLIC OF KOREA	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
REPUBLIC OF MOLDOVA	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
ROMANIA	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
RUSSIAN FEDERATION	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
ST. KITTS & NEVIS	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
ST. VINCENT & GRENADINES	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
SAO TOME & PRINCIPE	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
SAUDI ARABIA	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
SIERRA LEONE	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
SINGAPORE	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
SOUTH AFRICA	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
SPAIN	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
SRI LANKA	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
SWEDEN	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
SWITZERLAND	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
SYRIAN ARAB REPUBLIC	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
THAILAND	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
TONGA	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
TRINIDAD & TOBAGO	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
TUNISIA	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
TURKEY	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
TUVALU	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
UKRAINE	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
UNITED ARAB EMIRATES	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
UNITED KINGDOM	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
UNITED STATES OF AMERICA	■	■	■	■	N/A	N/A	■	■	■	■	■	■	■	■	■	■	■	■
URUGUAY	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
VANUATU	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
VENEZUELA	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■
VIET NAM	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■

■ - No data submitted to IMO - can be regarded as negative indicator.  
N/A - Data not applicable - US not eligible for Qualship 21 or USCG target listing.



## FIGURE C: MARSHALL ISLANDS STANDARD REPORTING FORM

### APPENDIX III

#### MTISC GoG STANDARDIZED REPORTING FORMATS

CONTACT	
Phone 1.	+233 (0)302 718 227
Phone 2.	+233 (0)260 561 633
Phone 3.	+233 (0)248 060 789
Email	<a href="mailto:info@mtiscgog.org">info@mtiscgog.org</a>
Website	<a href="http://www.mtisc-gog.org">www.mtisc-gog.org</a>

#### Initial Report

*(To be submitted upon entering the VRA to register with MTISC-GoG)*

MTISC-GoG Initial Report	
1	Ship name
2	Flag
3	IMO Number
4	INMARSAT Telephone Number
5	MMSI
6	Time of report in UTC
7	Ship position
8	Course
9	Passage speed
10	Freeboard
11	Cargo
12	Destination and Estimated Time of Arrival
13	Name and contact details of Company Security Officer
14	Nationality of Master and Crew
15	Armed / unarmed security team embarked?

#### Daily Report

**at 0800 UTC**

*(All reports should be in UTC)*

MTISC-GoG Daily Report	
1	Ship name
2	Ship call sign & IMO Number
3	Time of report in UTC
4	Ship Position
5	Ship Course and Speed
6	Sightings of Illegal Unlawful Unregulated (IUU) fishing or other assessed illegal activity. Time, position, brief description of craft and activity witnessed.

### Final Report

(Upon departure from the VRA)

MTISC-GoG Final Report	
1	Ship name
2	Ship call sign & IMO Number
3	Time of report in UTC
4	Port or position when leaving the GoG VRA

### Incident Report

MTISC-GoG By Exception Report	
<p><i>All incidents of piracy, armed robbery, suspicious sightings, or illegal activity in West African waters are to be immediately reported to the <a href="#">MTISC-GoG</a> (with a copy to the <a href="#">RMI Duty Officer</a>) using the format below.</i></p> <p><i>After reporting to the MTISC-GoG, the <a href="#">Administrator</a> is to be informed of the incident by submitting form <a href="#">MI 109-2</a> and the <a href="#">IMB PRC</a> is to be notified by submitting a <a href="#">Piracy &amp; Armed Robbery Report</a>.</i></p>	
1	Own Ship Name
2	Own Ship call sign & IMO Number
3	Time of report in UTC
4	Own Ship Position
5	Own Ship Course and Speed
6	Sightings of Illegal Unlawful Unregulated (IUU) fishing or other assessed illegal activity. Time, position, brief description of craft and activity witnessed.



[oceansbeyondpiracy.org](http://oceansbeyondpiracy.org)



[oneearthfuture.org](http://oneearthfuture.org)