



# International Law of the Sea, Piracy and Maritime Security

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and Maritime Security**

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# International Law of the Sea, Piracy and Maritime Security

**Presentation will be structured as follows:**

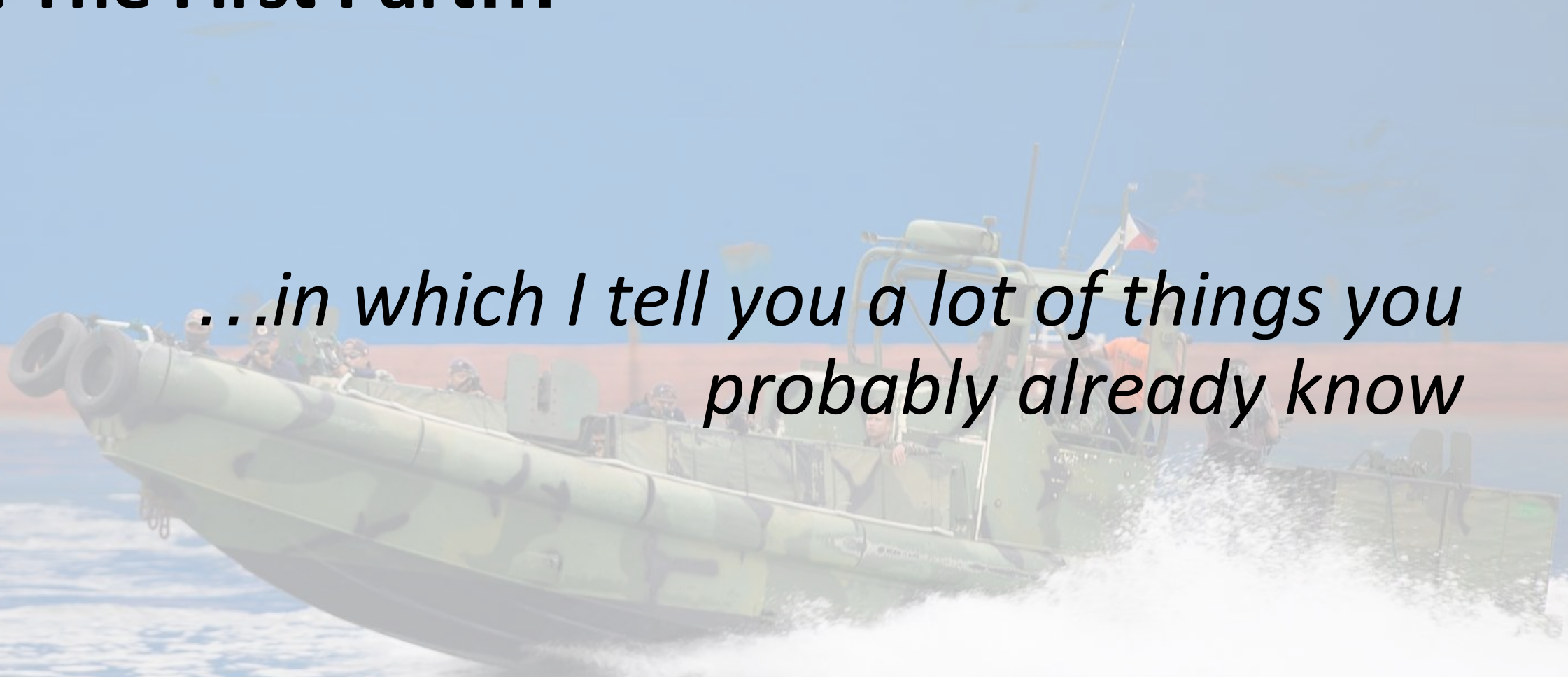
1. Introduction: Local and Regional Context
2. Law of the Sea Framework – Maritime Zones and Jurisdictional Principles
3. Law of the Sea Framework – Counter-Piracy, Counter-Terrorism and Maritime Security
4. Regional Cooperation: Progress, Tensions and Challenges





# 1. The First Part...

*...in which I tell you a lot of things you  
probably already know*



# 1. Introduction: Local and Regional Context

- A maritime, archipelagic state and seafaring people
- Complex geography and geopolitical situation
- South China Sea / West Philippine Sea: Continuing territorial disputes, tensions and risk of regional instability
- Threats from *inter alia* piracy, armed robbery at sea, maritime terrorism, including kidnapping for ransom, illegal fishing, drug and weapons trafficking, people smuggling...
- World's most deadly maritime terrorist incident...







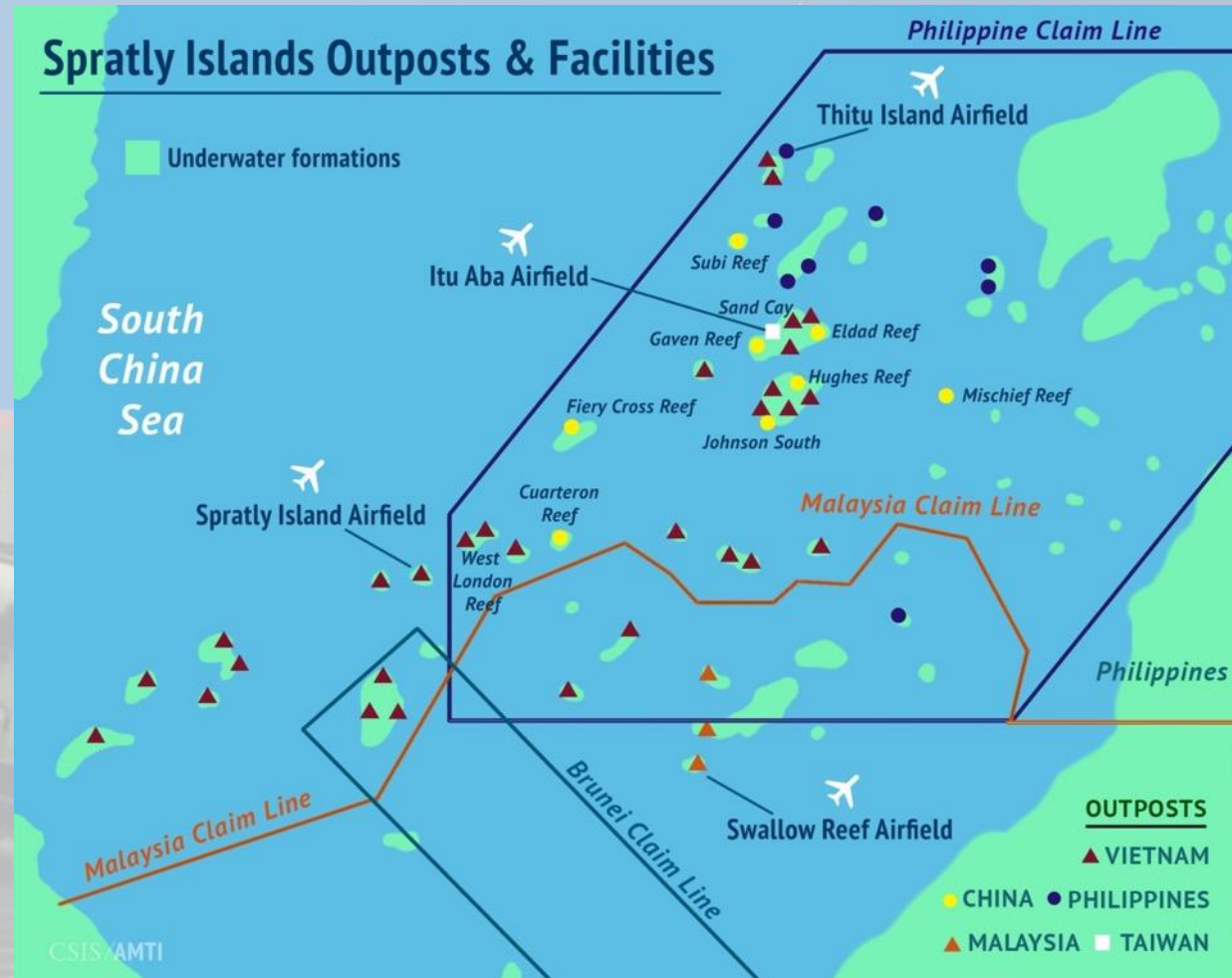
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# 1. Introduction: Local and Regional Context



Images: Wikipedia & <http://amti.csis.org/island-tracker/>

# 1. Introduction: Local and Regional Context

## Abu Sayyaf Abducts Three Indonesian Seafarers



PUBLISHED SEP 24, 2019 9:07 PM BY **THE MARITIME EXECUTIVE**

ReCAAP ISC has issued a warning stating that on September 23 at about 1200 hrs, seven masked-men armed with high powered firearms such as M16, RPG and pistols abducted three Indonesian crew from a Malaysian fishing boat. The perpetrators are believed to be members of the Kidnap for Ransom Group (KFRG) in Sulu-based Abu Sayyaf Group (ASG).

The fishing boat was in the vicinity waters of Tambisan Island, Lahad Datu, Sabah, Malaysia when the perpetrators boarded the fishing boat from two pump boats. The perpetrators then fled towards Tawi-tawi Island, Philippines. Local media reports indicate that the men were taken after a pair of trawlers were boarded.

**Splash**  
by.com



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## Abu Sayyaf restarts kidnap-for-ransom at sea campaign



Sam Chambers · July 2, 2020

1,568 🔥 Less than a minute



The Philippine Coast Guard is warning a faction of the terrorist group Abu Sayyaf is hunting vessels in Southeast Asia again looking for kidnap-for-ransom targets.



# 1. Introduction: Local and Regional Context

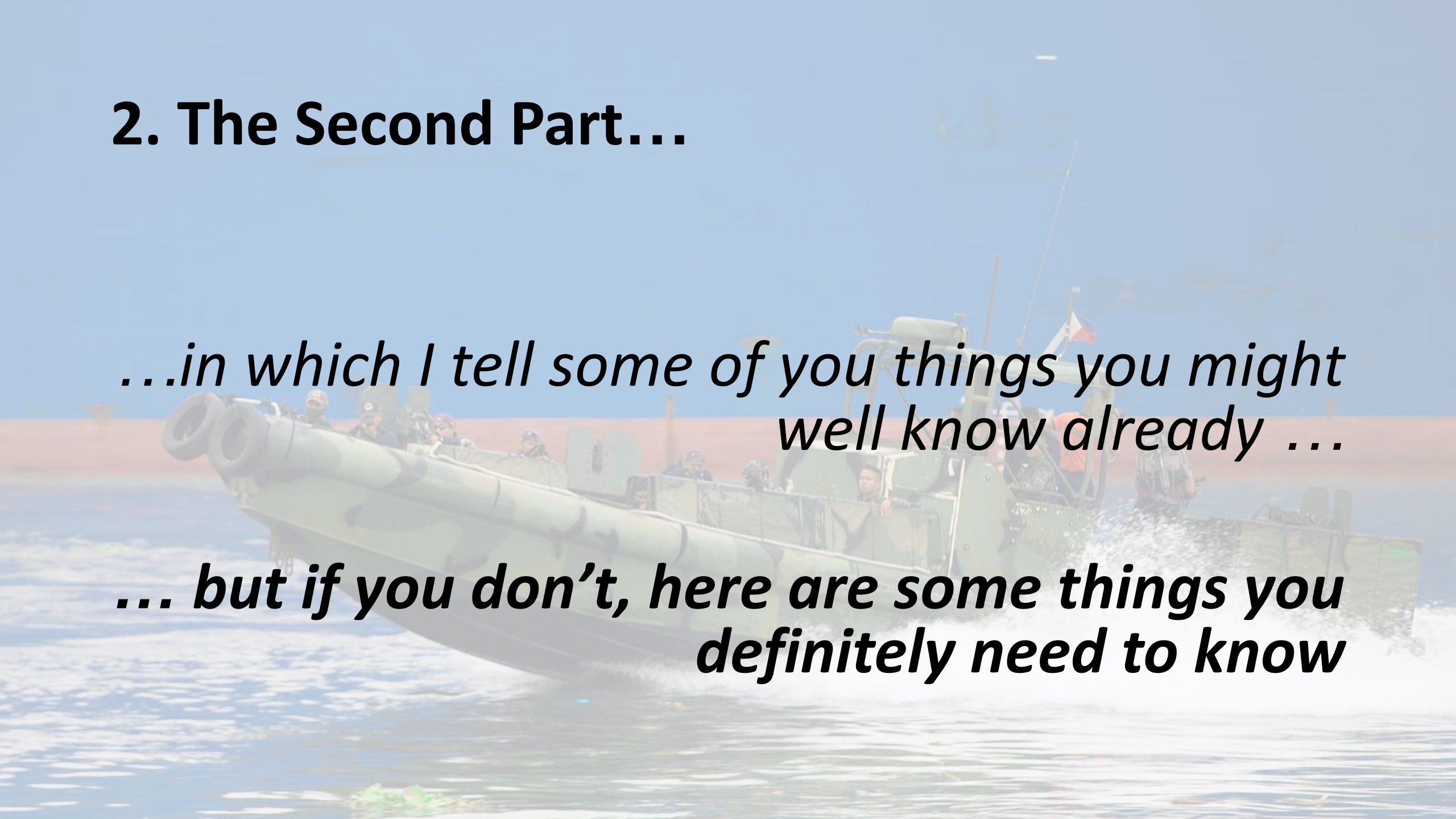
- Strong interest in maritime security cooperation, but sovereignty sensitivities and geographical vulnerabilities
- Good levels of regional cooperation, but hindered by sovereignty dilemma, territorial disputes and limitations in enforcement capability
- Recent successes in tackling piracy, but armed robbery and kidnapping threat remain... plus...
- ... underreporting of incidents in Philippine archipelago... data from ReCAAP more reliable? Yes, but uncertainties and ambiguities in incident reporting
- Intertwinement of terror threat and maritime security – possibility of a joined up maritime strategy?



## 2. The Second Part...

*...in which I tell some of you things you might well know already ...*

*... but if you don't, here are some things you definitely need to know*





## 2. The International Legal Framework –Jurisdictional Principles (“Maritime Zones”)

- The Law of the Sea (LOS) one of the oldest and most robust areas of public international law, now largely codified in:
  - 1958 “Geneva Conventions”
  - **1982 UN Convention on the Law of the Sea 1982 (UNCLOS)**
  - A host of treaty regimes, institutions and other areas of cooperation in specific subject areas (e.g. fisheries, safety at sea, security)
- Impossibility of divorcing LOS issues from other strategic concerns and areas of international law (territory: “the sea follows the land...”, use of force, etc.)





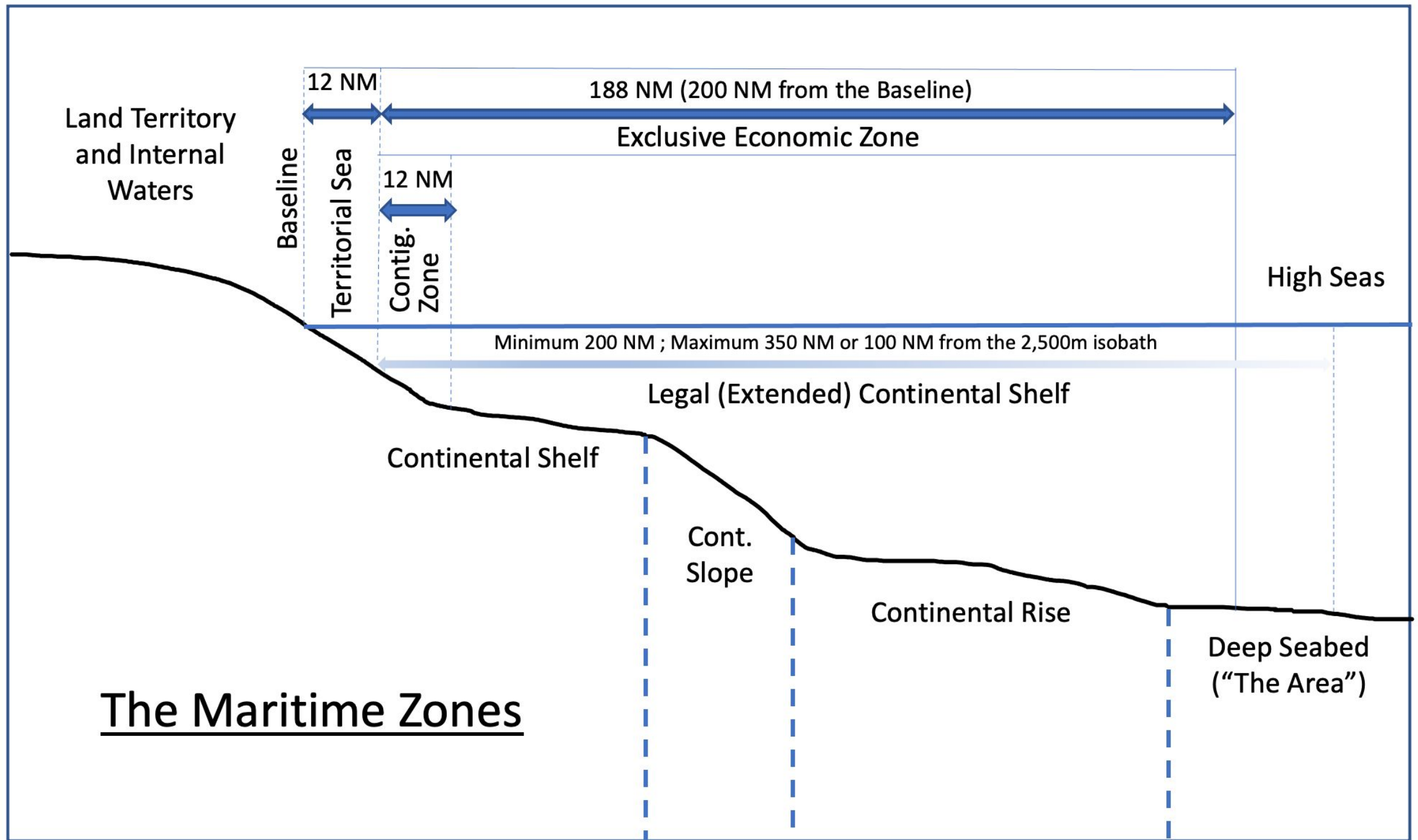
## 2. The International Legal Framework –Jurisdictional Principles (“Maritime Zones”)

- UN Convention on the Law of the Sea (UNCLOS) 1982:
  - 320 articles and nine annexes
  - preamble: ‘prompted by the desire to settle, in a spirit of mutual understanding and co-operation, **all issues** relating to the law of the sea and aware of the historical significance of this Convention as an important contribution to the maintenance of peace, justice and progress for all the peoples of the world’
  - special interests: (i) landlocked and geographically disadvantaged States & (ii) archipelagic States
  - All ASEAN states, apart from Cambodia, are states parties
  - Entered into force 16 Nov 1994 (Role of 1994 Implementation Agreement)



## 2. The International Legal Framework –Jurisdictional Principles (“Maritime Zones”)

- Current status: 168 parties (including 167 states and the European Union (EU))
- Primarily operates in terms of a “zonal approach” – allocating rights and duties between coastal and “flag” states in each maritime zone –
- However, UNCLOS also functions as a framework convention, relying on the development and implementation of more specific rules and regulations through other international institutions (e.g. IMO) and regional treaties and organisations – more on this later...





## 2. The International Legal Framework –Jurisdictional Principles (“Maritime Zones”)

- **Territorial Sea** (Article 2(1) UNCLOS): ‘The sovereignty of a coastal State extends beyond its land territory and internal waters...to an adjacent belt of sea, described as the territorial sea’
- Sovereignty extends to air space over, & sea bed & subsoil under, territorial sea (article 2(2) UNCLOS)
- Article 3 UNCLOS: ‘Every State has the right to establish the breadth of its territorial sea up to a limit **not exceeding twelve nautical miles**, measured from [the appropriate] baselines’

## 2. The International Legal Framework –Jurisdictional Principles (“Maritime Zones”)

### Core Rights and Responsibilities in the Territorial Sea:

- Flag States have right of “**innocent passage**” (Article 17 UNCLOS)
- Article 18(1) UNCLOS: ‘passage means navigation through the territorial sea for the purpose of [either] traversing that sea...or proceeding to or from internal waters’
- Article 18(2) UNCLOS: ‘Passage shall be continuous and expeditious...passage includes stopping and anchoring, but only in so far as the same are incidental to ordinary navigation or are rendered necessary by *force majeure* or distress or for the purpose of rendering assistance to persons, ships or aircraft in danger or distress’



## 2. The International Legal Framework –Jurisdictional Principles (“Maritime Zones”)

- Article 19(1) UNCLOS: ‘Passage is innocent so long as it is not prejudicial to the peace, good order or security of the coastal State’
- Article 19(2) UNCLOS : ‘Passage of a foreign ship shall be considered to be prejudicial...if in the territorial sea it engages in any of the following activities:’ including ‘threat or use of force’, weapons practice, allowing the landing or take off of aircraft, ‘wilful and serious pollution’, ‘any fishing activities’, etc.
- Article 19(2)(I) UNCLOS: ‘...any other activity not having a direct bearing on passage’
- Ongoing questions about exhaustiveness of this definition...

## 2. The International Legal Framework –Jurisdictional Principles (“Maritime Zones”)

### Coastal state rights / flag state duties in the Territorial Sea:

- Submarines must navigate on surface (UNCLOS Art 20)
- Right to pass regulations, and require use of sea lanes and traffic separation schemes (UNCLOS Arts 21 & 22)
- Take ‘necessary steps’ to prevent passage which is not innocent and temporary suspension (UNCLOS Art 25)
- Coastal state duties:
  - Not to hamper innocent passage, impose discriminatory measures and requirement to publicise dangers/hazards (UNCLOS Art 24)
- Issue of warships and hazardous vessels/cargos... area of uncertainty



## 2. The International Legal Framework –Jurisdictional Principles (“Maritime Zones”)

- Criminal jurisdiction under UNCLOS Art 27, where:
  - (a) if the consequences of the crime extend to the coastal State;
  - (b) if the crime is of a kind to disturb the peace...
  - (c) if assistance has been requested...
  - (d) to suppress the drugs trade
- NB: exercise of criminal jurisdiction v. loss of innocence (expulsion)
- Generally no civil enforcement jurisdiction except in limited circumstances
- Immunity of foreign warships from local jurisdiction (UNCLOS Art 32)



## 2. The International Legal Framework –Jurisdictional Principles (“Maritime Zones”)

- **International Straits:**

- Corfu Channel: customary right of “non-suspendable innocent passage”
- UNCLOS Articles 37 & 38: scheme of transit passage

- **The Contiguous Zone:**

- Article 33(1) UNCLOS: ‘exercise the control necessary to (a) prevent infringement of its customs, fiscal, immigration or sanitary laws within its territory or territorial sea [and/or] (b) punish infringement of [the above]’
- Article 33(2) UNCLOS: ‘may not extend beyond 24 nautical miles from the baselines’



## 2. The International Legal Framework –Jurisdictional Principles (“Maritime Zones”)

### UNCLOS Regime of Islands:

- ‘...a naturally formed area of land surrounded by water which is above water at high tide’ (Article 121(1) UNCLOS)
- Islands – always generate territorial sea, but what about other **maritime zones**?
- Must be able to sustain ‘human habitation or economic life’ to generate EEZ or Continental Shelf ... otherwise, simply ‘rocks’ (see UNCLOS, Article 121(3) and, of course, South China Sea Award (2016))



## 2. The International Legal Framework –Jurisdictional Principles (“Maritime Zones”)

**Archipelagos** – special regime (Part IV of UNCLOS):

- Article 46 UNCLOS: ‘a group of islands, including parts of islands, interconnecting waters and other natural features which are so closely interrelated that [they] form an intrinsic geographical, economic and political entity’
- Concept of “**archipelagic waters**” ...





## 2. The International Legal Framework –Jurisdictional Principles (“Maritime Zones”)

- Waters enclosed by ‘archipelagic baselines’, drawn in accordance with Article 47 UNCLOS
- *Sui generis* regime – distinguish from internal waters and territorial sea (see eg Article 50 UNCLOS)
- Territorial sovereignty subject to Part IV regime (Article 49)
- Respect for existing agreements, traditional fishing rights, and existing submarine cables (Article 51)
- Right of innocent passage (Article 52)
- Right of archipelagic sea lanes passage (Article 53) (*see over...*)

## 2. The International Legal Framework –Jurisdictional Principles (“Maritime Zones”)

### Right of **archipelagic sea lanes passage** (Article 53)

- Much more extensive right than innocent passage
- Applies between one part of the high seas or the EEZ and another part of the high seas or an EEZ (as with regime of ‘transit passage’)
- Also covers overflight of aircraft
- Subject to a number of restrictions and requirements, including use of traffic separation schemes
- Like transit passage through international straits, archipelagic sea lanes passage cannot be suspended





## 2. The International Legal Framework –Jurisdictional Principles (“Maritime Zones”)

### The Exclusive Economic Zone (EEZ):

- *Libya/Malta Continental Shelf* (1985): ‘the institution of the exclusive economic zone ...is shown by the practice of states to have become a part of customary law’
- Article 55 UNCLOS: ‘an area beyond and adjacent to the territorial sea, subject to the specific legal regime established...under which the rights and jurisdiction of the coastal State and the rights and freedoms of other States are governed by [UNCLOS]’
- Article 57 UNCLOS: ‘shall not extend beyond 200 nautical miles from the baselines’

## 2. The International Legal Framework –Jurisdictional Principles (“Maritime Zones”)

- Article 56(1) UNCLOS: CS has ‘sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources, whether living or non-living, of the waters superjacent to the seabed and of the sea-bed and its subsoil, and with regard to other activities for the economic exploitation and exploration of the zone, such as the production of energy from the water, currents and winds’
- **Note**: Article 56 sets out certain other rights, including extent of coastal State’s jurisdiction, and need to have due regard to the rights of others
- Otherwise, **high seas freedoms apply** insofar as not incompatible with the rights of CS over EEZ (UNCLOS Art 58)
- See also UNCLOS Article 78 with regard to rights in the continental Shelf



## 2. The International Legal Framework –Jurisdictional Principles (“Maritime Zones”)

### The High Seas:

- *Res communis* (Article 89 UNCLOS: no claims of sovereignty)
- Article 87 UNCLOS: ‘The high seas are open to all States, whether coastal or land-locked’
- Traditional freedoms of the high seas: freedom of navigation, freedom of overflight, freedom to lay cables and pipelines, freedom to construct artificial islands, freedom of fishing, and freedom of scientific research (Article 87)

## 2. The International Legal Framework –Jurisdictional Principles (“Maritime Zones”)

- ‘Freedom of the high seas is exercised under the conditions laid down by this Convention and by other rules of international law’ (Article 87(1) UNCLOS)
- ‘These freedoms shall be exercised by all States with due regard for the interests of other States in their exercise of the freedom of the high seas’ (Article 87(2) UNCLOS)
- ‘...reserved for peaceful purposes’ (Article 88 UNCLOS)
- Note also: obligations of cooperation in conservation and management of living resources (Article 118 UNCLOS) and protection and preservation of the marine environment of the high seas.



## 2. The International Legal Framework –Jurisdictional Principles (“Maritime Zones”)

### Principle of ‘Flag State’ jurisdiction:

- UNCLOS Art 92: ‘Ships shall sail under the flag of one State only and...shall be subject to its exclusive jurisdiction...’
- UNCLOS Art 94(2)(b): ‘[the flag State shall] assume jurisdiction under its internal law over each ship flying its flag and its master, officers and crew’
- UNCLOS Art 91: ‘genuine link’ (cf. ‘flags of convenience’)
- UNCLOS Art 97(3): ‘In the event of a collision...no penal or disciplinary proceedings may be instituted against such person except before the judicial or administrative authorities...of the flag State’ (cf. *Lotus* case)

## 2. The International Legal Framework –Jurisdictional Principles (“Maritime Zones”)

### Possible Exceptions to Flag State Jurisdiction?

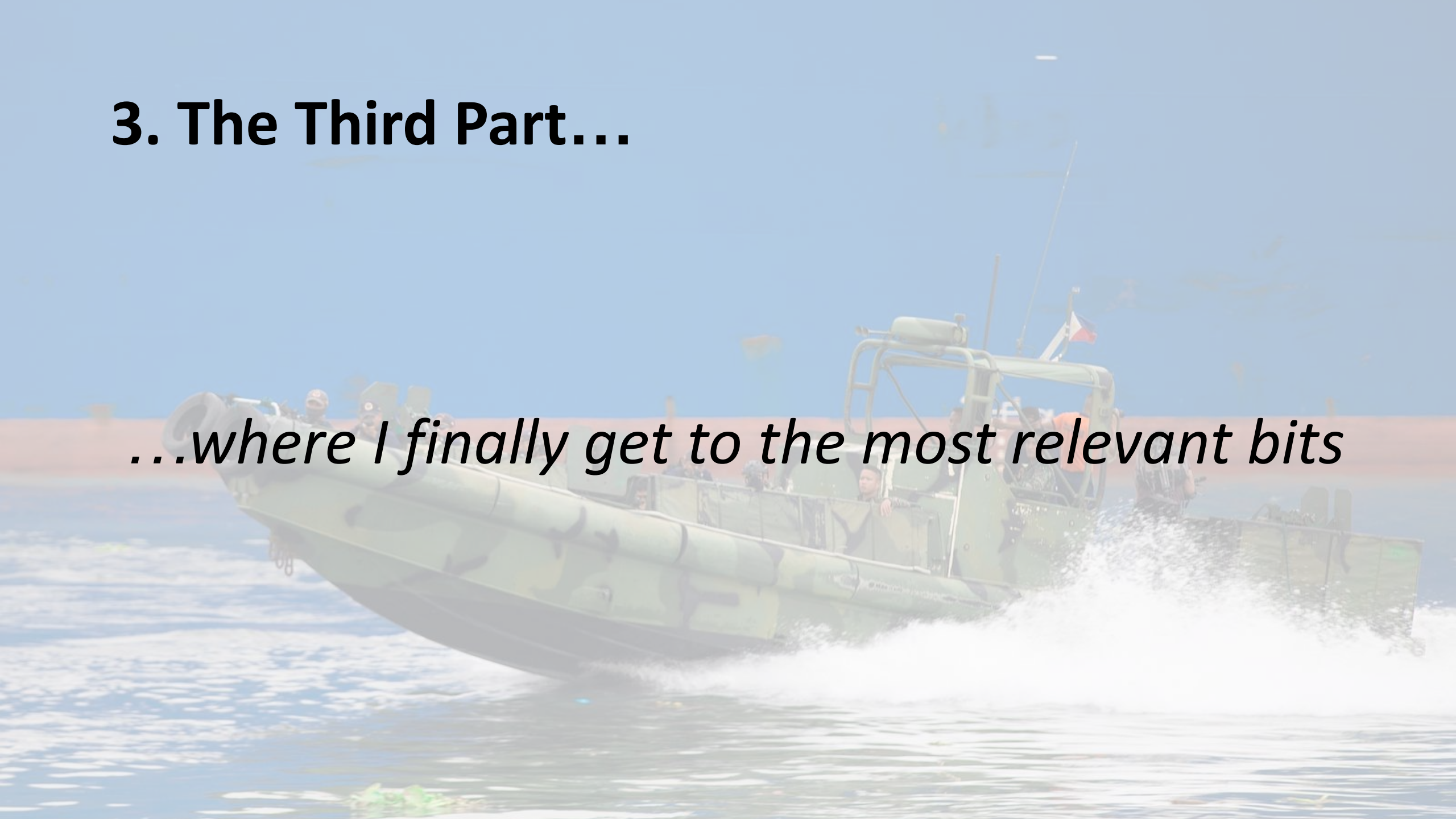
- Flag State consent (*ad hoc* / treaty)
- Chapter VII UN Security Council action
- UNCLOS:
  - Right of visit (Art 110)
  - Piracy (See later)
  - Slavery (Art 99)
  - Unauthorised broadcasting (Art 109)
  - Hot pursuit (Art 111)
  - Pollution prevention? (Art 221, 1969 Convention)
  - Suppression of drugs trade? (Art 108, 1988 Convention)





### 3. The Third Part...

*...where I finally get to the most relevant bits*



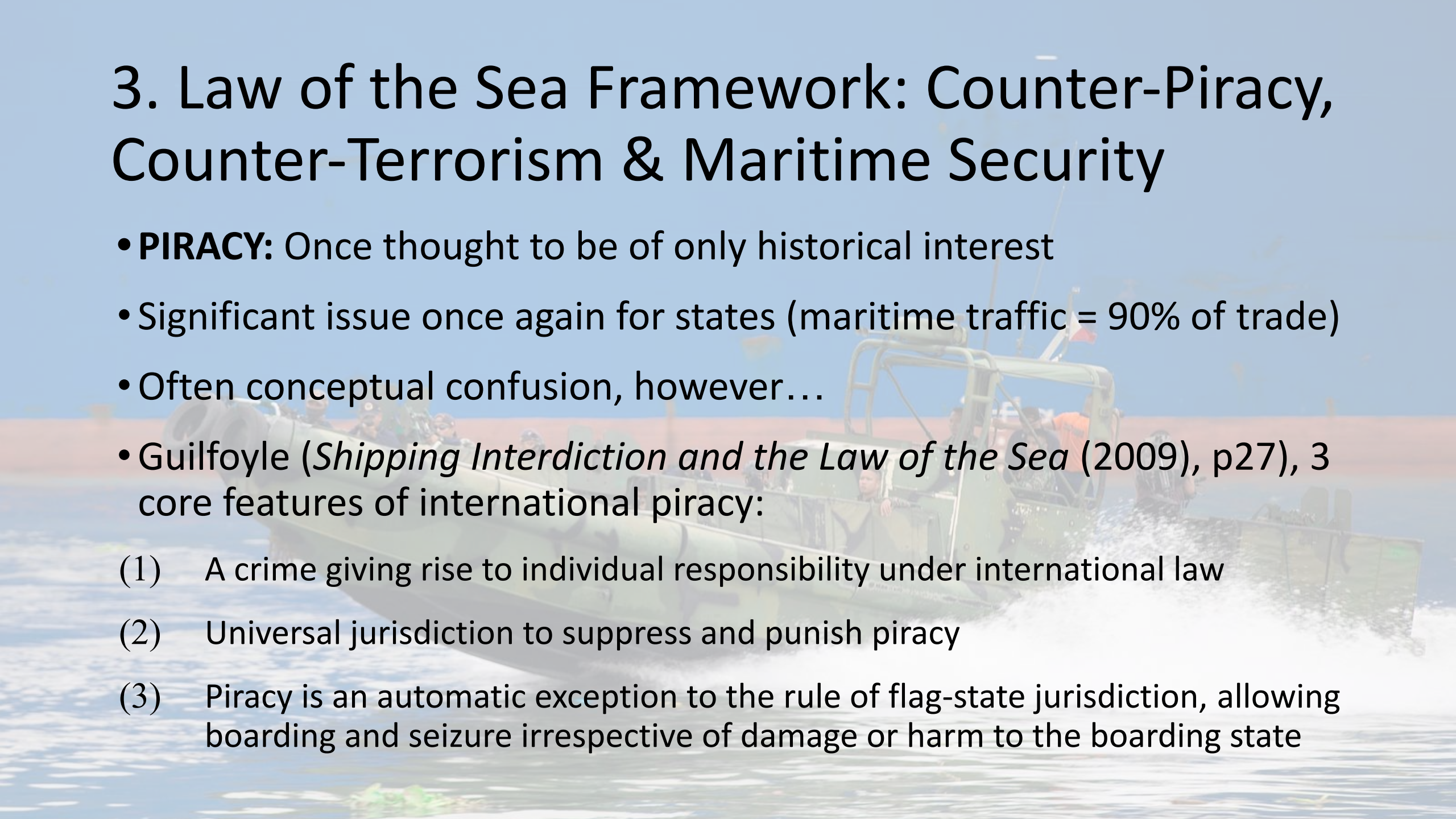
### 3. Law of the Sea Framework: Counter-Piracy, Counter-Terrorism & Maritime Security

- Klein (2016): distinction between “traditional security concerns” and perceived maritime security threats
- Limited focus of UNCLOS? Outdated in relation to contemporary security threats (e.g. unauthorised broadcasting)?
- Evolving concerns since 1982: Terrorism and WMD? Migration by sea and human trafficking?
- However, note importance of retaining residual freedoms / exclusive flag state jurisdiction (EFSJ) on high seas... does this hinder efforts?
- See recent cases discussing extent of EFSJ: M/V “Norstar” (2019) and Enrica Lexie (2020) cases



### 3. Law of the Sea Framework: Counter-Piracy, Counter-Terrorism & Maritime Security

- **PIRACY:** Once thought to be of only historical interest
- Significant issue once again for states (maritime traffic = 90% of trade)
- Often conceptual confusion, however...
- Guilfoyle (*Shipping Interdiction and the Law of the Sea* (2009), p27), 3 core features of international piracy:
  - (1) A crime giving rise to individual responsibility under international law
  - (2) Universal jurisdiction to suppress and punish piracy
  - (3) Piracy is an automatic exception to the rule of flag-state jurisdiction, allowing boarding and seizure irrespective of damage or harm to the boarding state



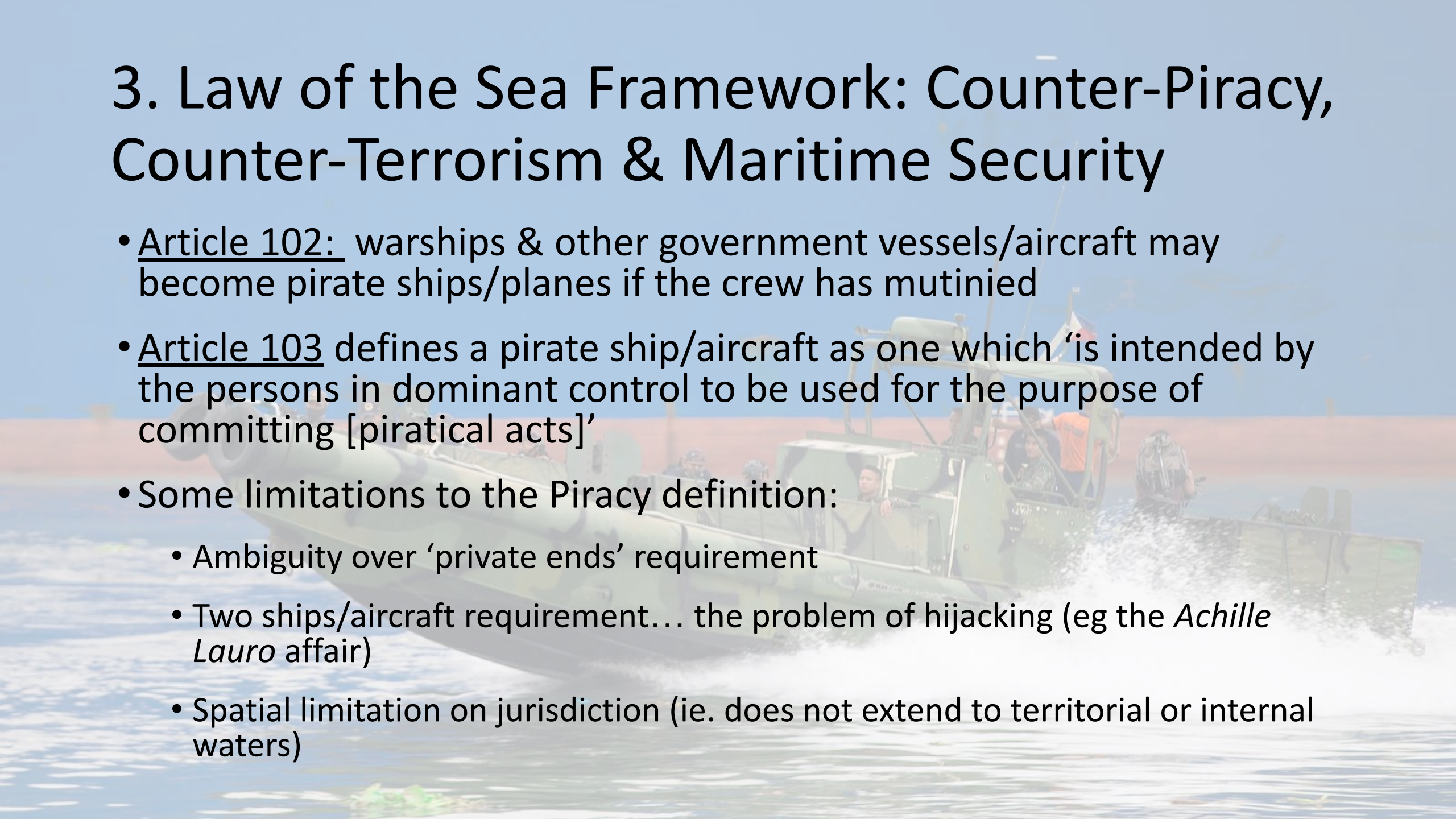
### 3. Law of the Sea Framework: Counter-Piracy, Counter-Terrorism & Maritime Security

- UNCLOS Article 101 – Definition of Piracy:
  - ‘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...’
  - ...on the high seas or other place ‘outside the jurisdiction of any State’
  - ‘against another ship or aircraft, or against persons or property on board such ship or aircraft’
- Also covers voluntary participation in operation of pirate ship/aircraft, as well as inciting or facilitating piratical acts



### 3. Law of the Sea Framework: Counter-Piracy, Counter-Terrorism & Maritime Security

- Article 102: warships & other government vessels/aircraft may become pirate ships/planes if the crew has mutinied
- Article 103 defines a pirate ship/aircraft as one which 'is intended by the persons in dominant control to be used for the purpose of committing [piratical acts]'
- Some limitations to the Piracy definition:
  - Ambiguity over 'private ends' requirement
  - Two ships/aircraft requirement... the problem of hijacking (eg the *Achille Lauro* affair)
  - Spatial limitation on jurisdiction (ie. does not extend to territorial or internal waters)



### 3. Law of the Sea Framework: Counter-Piracy, Counter-Terrorism & Maritime Security

Article 100 UNCLOS: ‘...all States to co-operate to the fullest possible extent in the repression of piracy on the high seas...’

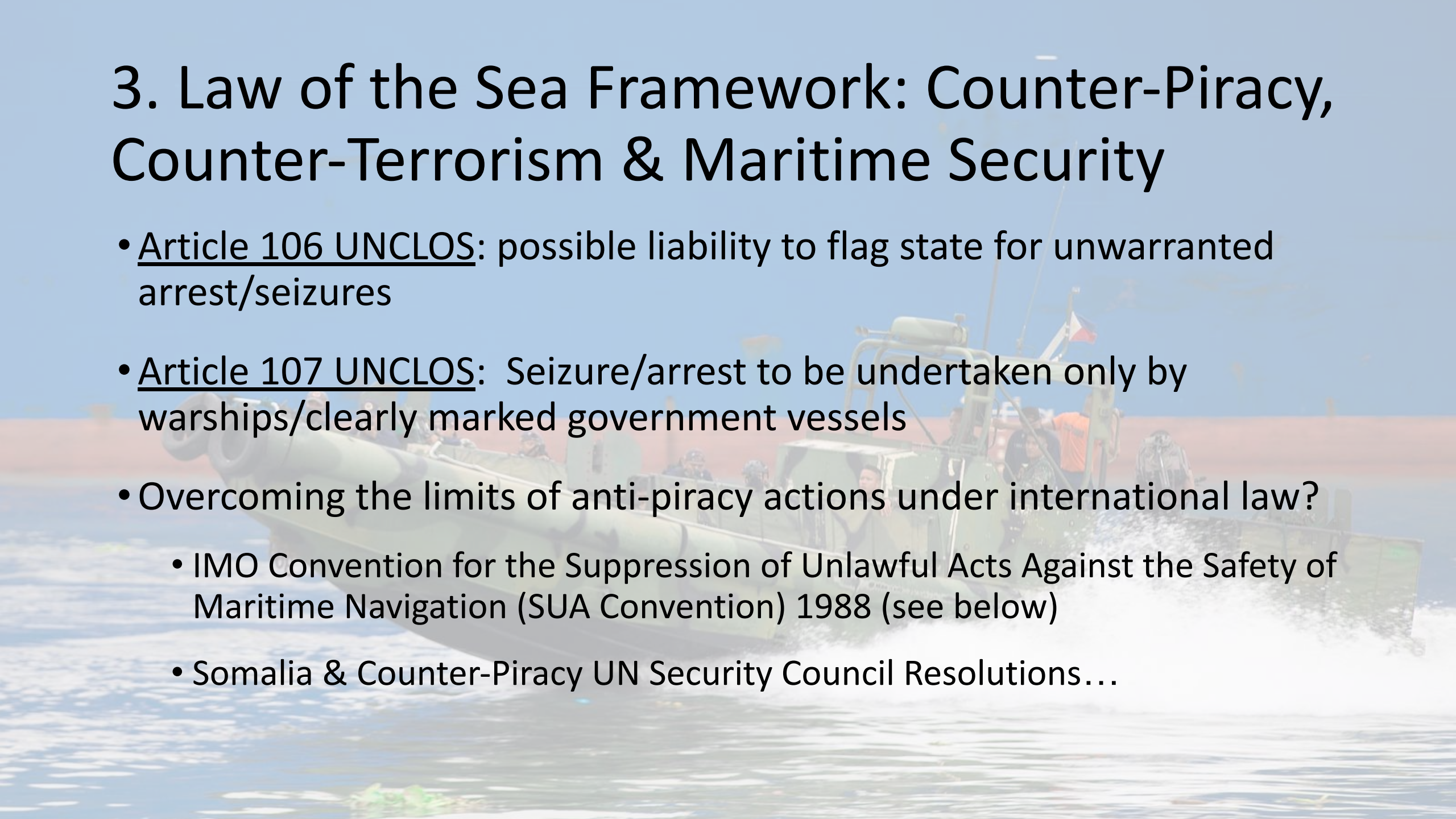
Article 105 UNCLOS: ‘seizure’ and prosecution under universal jurisdiction:

*‘On the high seas, or in any other place outside the jurisdiction of any State, every State may seize a pirate ship or aircraft, or a ship or aircraft taken by piracy and under the control of pirates, and arrest the persons and seize the property on board. The courts of the State which carried out the seizure may decide upon the penalties to be imposed, and may also determine the action to be taken with regard to the ships, aircraft or property, subject to the rights of third parties acting in good faith.’*



### 3. Law of the Sea Framework: Counter-Piracy, Counter-Terrorism & Maritime Security

- Article 106 UNCLOS: possible liability to flag state for unwarranted arrest/seizures
- Article 107 UNCLOS: Seizure/arrest to be undertaken only by warships/clearly marked government vessels
- Overcoming the limits of anti-piracy actions under international law?
  - IMO Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (SUA Convention) 1988 (see below)
  - Somalia & Counter-Piracy UN Security Council Resolutions...



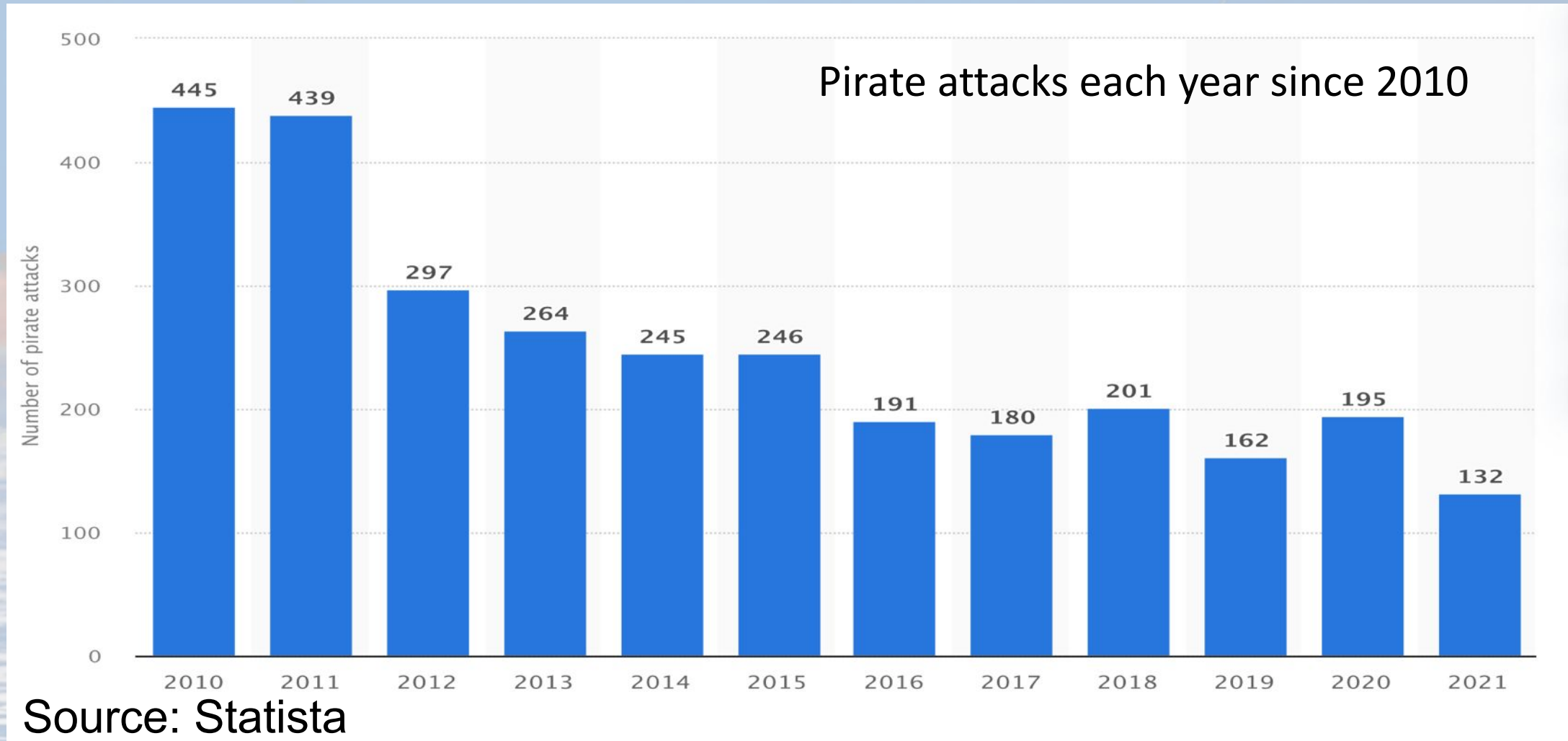
### 3. Law of the Sea Framework: Counter-Piracy, Counter-Terrorism & Maritime Security

- Modern piracy concerns (1980s onwards):
  - **SE Asia (especially Malacca and Singapore Straits)**
  - **South China Sea**
  - Indian Ocean
  - East and West African coasts
- 25% approx. of attacks are high seas piratical acts (50% of attacks, if port-based offences excluded)
  - Significant under-reporting likely, however, and figures hide a great variation in scale and severity of attacks



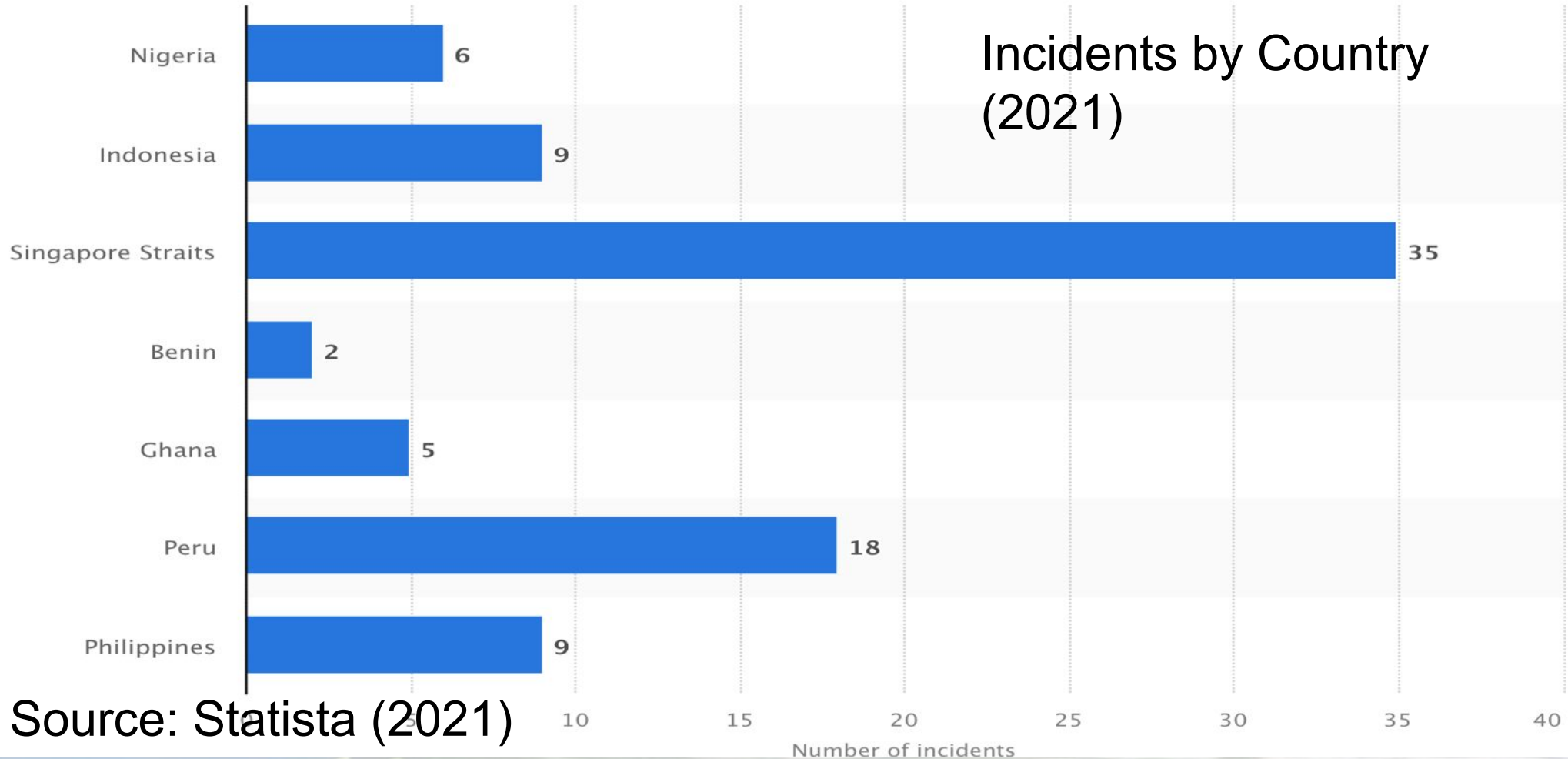


### 3. Law of the Sea Framework: Counter-Piracy, Counter-Terrorism & Maritime Security



(2021)

### 3. Law of the Sea Framework: Counter-Piracy, Counter-Terrorism & Maritime Security





# PIRACY AND ARMED ROBBERY AGAINST SHIPS

ICC INTERNATIONAL MARITIME BUREAU



## TOTAL INCIDENTS PER REGION JANUARY - DECEMBER 2022

Region	Total Incidents Reported
SE Asia	60
S America	24
Africa (Gulf of Guinea)	19
India Sub-Continent	10



International  
Maritime  
Bureau

#IMBpiracy

@IMB\_Piracy

Source: ICC International Maritime Bureau  
(2023)

### 3. Law of the Sea Framework: Counter-Piracy, Counter-Terrorism & Maritime Security

- Role of regional cooperation:
  - **2004 Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP)**
  - 2009 Djibouti Code of Conduct
  - 2013 Code of Conduct concerning the Repression of Piracy, Armed Robbery against Ships and Illicit Maritime Activity in West and Central Africa
  - 2013 IMO Resolution on Prevention and Suppression of Piracy, Armed Robbery against Ships and Illicit Maritime Activity in the Gulf of Guinea





# 3. Law of the Sea Framework: Counter-Piracy, Counter-Terrorism & Maritime Security

- Enforcement operations:
  - Involvement of international organisations (IMO, EU, etc)
  - Arguably critical in reduction in number of piracy incidents since 2010/11, particularly in relation to Somalia
  - Use of private maritime security companies, plus state-based security detachments – concerns over legality, abuses, however:

See e.g. Enrica Lexie arbitration, recently

- Still a piecemeal response globally, including ongoing reluctance by some to criminalise / prosecute pirates (See eg UN SC Res 2634 (31 May 2022))
- See also IMO Recommendations, Guidance and Codes of Practice on e.g. criminalisation and investigation of piracy, use of private security, etc.

### 3. Law of the Sea Framework: Counter-Piracy, Counter-Terrorism & Maritime Security

- The *Achille Lauro* incident
- 1988 Suppression of Unlawful Acts Against the Safety of Maritime Navigation ('SUA Convention') – 166 state parties (Jan 2023) = 95% gross tonnage of shipping (NB: Indonesia, Malaysia and Thailand not parties)
- 2005 Protocol ('2005 SUA Convention') – 52 state parties (Jan 2023); entered into force 2010
- SUA Convention applies 'if the ship is navigating or is scheduled to navigate into, through or from waters beyond the outer limit of the territorial sea of a single State, or the lateral limits of its territorial sea with adjacent States.' (Article 4(1))



# 3. Law of the Sea Framework: Counter-Piracy, Counter-Terrorism & Maritime Security

- Original SUA offences. Article 3(1) prohibits:
  - a) seizure or control of a ship by force or threat of force;
  - b) acts of violence;
  - c) destruction of, or damage to a ship;
  - d) placing on board a ship any device or substance likely to destroy or damage the ship or its cargo;
  - e) destruction of, serious damage to, or serious interference with navigational facilities;
  - f) communication of false information; and,
  - g) Injuring or killing any person in relation to any of the above.

Offences included in subparagraphs (b) to (f) are qualified by the requirement of undermining the safety of navigation

Article 3(2) also prohibits attempting, abetting or compelling or threatening others to commit any of these offences

### 3. Law of the Sea Framework: Counter-Piracy, Counter-Terrorism & Maritime Security

- The 2005 SUA Convention adds additional offences in a new Article 3bis, which prohibits:
  - Using ships for the transport of biological, chemical, or nuclear weapons
  - Using ships in a manner that causes death, serious injury or damage
  - Transporting any explosive or radioactive material with knowledge that to be used to cause death, damage or serious for the purpose of intimidation or influencing governments or int. organisations
  - Discharging oil, liquefied natural gas, radioactive materials, or other hazardous/noxious substances in quantities or concentrations likely to cause death, serious injury or damage
  - Using such weapons or substances against or on ships in such a manner as is likely to cause death, serious injury or damage



### 3. Law of the Sea Framework: Counter-Piracy, Counter-Terrorism & Maritime Security

- Right to board (and to detain) vessels with flag-state consent (Article 8bis)
- 4 hour automatic presumption of authorisation, if FS has previously notified IMO Sec - Gen
- FS jurisdiction still in terms of arrest, prosecution, seizure, etc, unless FS gives authorisation to boarding state (Article 6)
- Article 6 includes complex two-tier system of jurisdiction, but ultimately provides for prosecution or extradition



### 3. Law of the Sea Framework: Counter-Piracy, Counter-Terrorism & Maritime Security

- The Proliferation Security Initiative (PSI) (2003-onwards)
  - Interdiction strategy led by the United States
  - Series of non-binding commitments amongst members
  - Interdiction principles agreed in Paris in September 2003
  - Controversial doctrine, but does not give right to interdict vessels on the high seas
- Limited role for bilateral 'right to board' treaties
- Role of the UN Security Council also (eg measures taken against North Korea (2006 onwards...))





# 3. Law of the Sea Framework: Counter-Piracy, Counter-Terrorism & Maritime Security

## Other relevant instruments:

- 1979 International Convention against the Taking of Hostages (Hostages Convention) – all ASEAN states except Indonesia
  - Requires terrorist motive, but would cover some kidnappings for ransom
- 1999 Convention for the Suppression of the Financing of Terrorism - all ASEAN states
  - Funding for the kind of activity covered by the Hostages Convention and the SUA 1998/2005.
- Treaties adopted regionally under ASEAN to implement crime/counter-terror obligations (2004 and 2007)
- IMO amendments to Safety of Life at Sea (SOLAS) Convention, including the International Ship and Port Facility Code (ISPS Code)

## 4. The Last Part...

*...where I finally “get to the point”... and  
open up the discussion a little bit...*





# 4. Regional Cooperation: Progress, Tensions and Challenges

## Significant Number of Local and Regional Initiatives in Place:

- Indonesia, Malaysia, Singapore & Thailand - coordinated patrols and aerial surveillance (“eye in the sky”) in Malacca & Singapore Straits
- Trilateral Cooperation Agreement (TCA) and a Contact Group (CGSCS) formed for Sulu-Celebes (Philippines, Malaysia and Indonesia) in 2017 and 2018 respectively
- National Coast Watch System (NCWS) to join up Philippines maritime security since 2011...
- ...but no centralised command and control and regional governance still very fragmented

# 4. Regional Cooperation: Progress, Tensions and Challenges

- ASEAN cooperation on transnational crimes and counter-terrorism, helping to buttress international obligations, and a number of maritime meetings also, including of Navy Chiefs, Coastguards, etc.
- ReCAAP 2002 (entered into force 2006):
  - Regional focus but broad membership (including eg. US, Australia, EU)
  - Indonesia and Malaysia not parties (though participate as observers)
  - Information Sharing Centre (ISC) based in Singapore
- Information Fusion Centre (IFC) at Changi Naval Base (Singapore) since 2009 – broader maritime security focus



# 4. Regional Cooperation: Progress, Tensions and Challenges

## Tensions and Challenges:

- Fragmentation of governance with lack of overarching coordination
- Fuzziness in definitions of incidents (ISC) – four levels based on level of arms and economic impact (does not cohere with international definitions (e.g. piracy)) – and similar, and wider focus of IFC too
- Uncertainty of precise location of incidents (inadequate charts also)
- Disputed maritime boundaries further hinders cooperation and precise determination of jurisdictional matters
- Sovereignty-v-Security dilemmas play out on different dimensions (what role for third states, EU, US... ?)

# 4. Regional Cooperation: Progress, Tensions and Challenges

## Ways Forward?

- Given inherent maritime vulnerabilities, ratification of SUA 2005 could be beneficial for Philippines and Neighbouring states
- More joined up MEA in disputed areas (international frameworks can advance cooperation even in the case of fuzzy borders)
- Mixed level of treaty membership regionally further hinders cooperative efforts
- ISC / IFC could take a more interventionist role, making preliminary determinations / advisory on criminal jurisdiction ?
- Need for a streamlined, permanent ASEAN mechanism for information sharing and coordinated action