Part III

Jurisdictional and Definitional Problems
Relating to the Law of Piracy *Jure Gentium*
in the 21st Century
Chapter Seven

General Problematic Issues on Exercise of Jurisdiction over Modern Instances of Piracy

J. Ashley Roach

In my view, the general problematic issues on the exercise of jurisdiction over modern instances of piracy fall into two general categories, international law and domestic national legislation. A third category relates to the national capacity to deal with piracy at sea. I intend to structure my remarks along those lines.

I. International Law

Turning first to the international law issues, I see them as existing in several different areas: first, the international law of piracy, its requirements and authorities; second, authorities in various maritime zones; third, other international treaties addressing relevant criminal conduct; and fourth, definitions in IMO instruments.

Before turning to some of the issues that arise from the international law of piracy, I need to address two issues recently raised by Russia and Somalia, which, while they arose in connection with the operations to suppress piracy off the coast of Somalia – and my intention is not to intrude on Andrew Murdoch’s chapter to follow – pose more general questions.

The first, raised most recently by Somalia, is what right does the United States have to try Mr. Muse, the sole survivor of his piracy of the U.S.-flagged M/V Maersk Alabama on 8 April 2009. I refer to an article which states that a U.S.-based Somali official, Jamaal Cumar, “questioned the authority of any foreign country to try Somali pirates off East Africa.” Mr. Cumar is quoted in

1 Formerly of the Office of the Assistant Legal Adviser for Oceans, International Environmental and Scientific Affairs, U.S. Department of State from 1988 to 2009. The views expressed in this paper are those of the author and are not intended to reflect the positions of the U.S. Department of State or any other U.S. Agency or Department, or any international organization. This paper is based, in part, on the author’s note that appeared in the July 2010 issue of the American Journal of International Law.