Combating Terrorism at Sea: The Suppression of Unlawful Acts Against the Safety of Maritime Navigation

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Abstract

While piracy is an age-old phenomenon plaguing mankind, terrorism at sea has only manifested itself in recent times with the Achille Lauro hijacking in 1985 serving as a wake-up call. As the rules of international law relating to piracy are not mutatis mutandis applicable to terrorism, the international community has since been striving to adopt a series of legal as well as practical measures in order to prevent a recurrence of such a terrorist act. The Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, adopted in 1988, for the first time addressed terrorism at sea, representing an important extension of a cooperative law enforcement regime into a wholly new area, containing a finely balanced aut dedere aut iudicare scheme.

As the 1988 Convention had focused on reaction to a terrorist act rather than its prevention, it became obvious in the wake of the terrorist attacks of September 11, 2001 that it required revision and updating. The amendments of 2005 significantly expand the scope of the Convention by providing for the first time an international treaty framework for combating and prosecuting individuals who use a ship as a weapon or means of committing a terrorist attack, or transport by ship terrorists or cargo intended for use in connection with weapons of mass destruction programs. Furthermore, a mechanism has been established to facilitate—with the explicit authorization of the flag State—the boarding in international waters of vessels suspected of engaging in these activities.

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A. Introduction

On October 7, 1985, the Achille Lauro, an Italian-flag cruise ship, was seized while sailing from Alexandria to Port Said. It was not quite clear whether the initial seizure took place on the high seas or within the territorial waters of Egypt, however, there is no doubt that the ship was on the high seas while being held by the hijackers. The four Palestinian hijackers had boarded the ship in Genoa posing as tourists and had managed to smuggle on board automatic weapons, grenades and other explosives. They held the ship’s crew and passengers hostage and threatened to kill the passengers—who hailed from a number of different countries, including Italy, the United States and Austria—unless Israel released 50 Palestinian prisoners. They also threatened to blow up the ship if a rescue mission was attempted. When their demands were not met, one of the passengers was murdered. This hijacking of a cruise ship and the killing of a passenger constituted one of the first genuine acts of maritime terrorism recorded in modern history.

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2 Id.
