CHAPTER FOUR

FINDING AND ANALYSIS

A. The history of piracy in Indonesia

When we see the Indonesia history from the marine areas, the thought and science in the past-which are a fundamental to know and understand the present- are always imbalance. When writing on the history to pretend or to create national aspire, it is commonly not complete actually. If the land unsure which got priority than the homeland.[1]

To learn about the role of indigenous cruise in the past, we had to go back to the 19th Century and the earlier times. Towards the end of the 19th Century, the colonial state business enterprise to master the waters of Southeast Asia has been relatively successful. Of course, it should not be hastily drawn to conclusion that the mastery of the sea by ships is an absolute colonial because there are no more opportunities for indigenous shipping to move.[2]

But in the nineteenth century there was a process of colonial maritime power expansion at one hand and the decline of native marine power on the other. In other words, the century is a strategic time for a period that determines the inherited state in the 20th Century and beyond.[3]

---

[1] Adrian B. Lapian, *op. cit,* p. 1
[2] *Ibid,* p. 2
[3] *Ibid*

Since the beginning of the 19th Century, the power of the pirates of the archipelago began to diminish because they are hunted by the colonial government who consider their actions as an act which classified as criminal. It makes the movement of the pirates increasingly hampered by foreign competitors who came in the archipelago. At first they are still able to face the pressure exerted by foreign pirates, but over time, they are increasingly cornered. It is reinforced by laws made by the colonial government.[4]

Then in the 19th Century, the phenomenon of piracy in Southeast Asia was very complicated. First, there were various sizes of indigenous states and also political and military (naval) power which have various degrees. They were contending with one another about supremacy in their respective localities, they also had to face expansionistic ambitions of the colonial powers.[5]

Nowadays, piracy's economic motive is very clear due to the redeemed money which asked by the vessel owner or operator to release hostages. In general, the vessels are released with other crew members, while the most important persons on the vessel such as the captain and the chief engineer are

---

[4] *Ibid*
[5] John Kleinen and Manon Osseweijer, 2010, *Pirates, Ports, and Coasts in Asia,* Singapore, ISEAS Publishing, p. 132

kept hostage as it is believed that the vessel owner or operator is more likely to willing pay a high amount of ransom for them.[6]

Picture 3:

Indonesian ship hijacked by the Abu Sayyaf in Sulu waters at March 2016. The pirates asked for ransom of IDR 15 billion.

Photo by CNN Indonesia, downloaded at http://www.cnnindonesia.com/internasional/20160331134228-106-120765/sandera-wni-abu-sayyaf-lanjutkan-tradisi-bajak-laut-di-sulu/

---

[6] Melda Kamil Ariadno, 2013, *Combating Piracy: The Indonesian Case,* Vol. 20 No.1, Yogyakarta, Jurnal Media Hukum, p. 4

The statistic shows the total number of actual and attempted piracy attacks in Indonesian territorial waters from 2008 up to 2016. In 2012, there were 81 actual and attempted piracy attacks in Indonesia. Here is the detail statistic number of piracy attack:

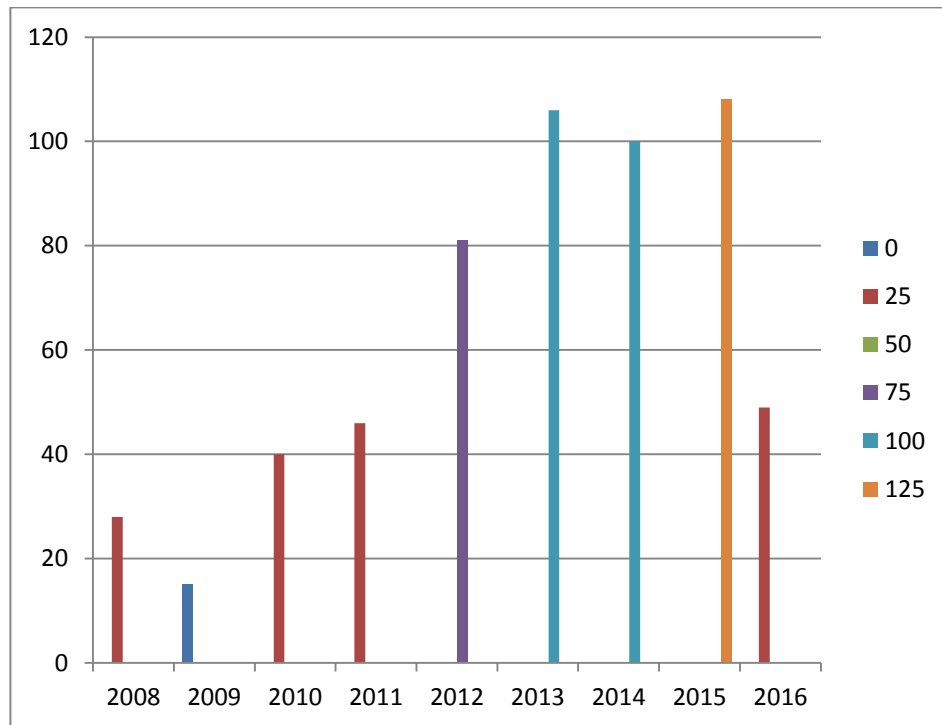**Table 1:**

Statistic number of piracy attack in Indonesia

Table by The Statistic Portal, accessed at https://www.statista.com/statistics/250866/number-of-actual-and-attempted-piracy-attacks-in-indonesia/

Piracy attacks in Indonesian waters spiked in 2013 when 106 incidents were reported. One of the most obvious reasons why Southeast Asia's largest economy has come under threat from maritime crime is the region's abundance in natural gas and petroleum resources: In 2013, Indonesia was ranked among the world's largest exporting countries of liquefied natural gas. Moreover, Indonesia's other main export categories include electronic equipment, electrical appliances and garments.[7]

The merchant ships that carry these commodities and consumer goods may need to navigate through one of the world's narrowest chokepoints: the Strait of Malacca. Predominantly a strategic passage for petroleum and natural gas transport, the trade route is also frequented by ocean freight haulers moving goods from the Persian Gulf to Japan, South Korea and China.[8]

As a result, the sea around the archipelago has become a prime target for armed robbery at sea, and recently the pirates have become increasingly successful in outsmarting naval forces by expanding their hunting grounds and moving towards open waters in the east or the along Sumatra's fragmented coastline in the south. Due to the pirates' good organization and

[7] The Statistic Portal, "Number of Actual and Attempted Piracy Attacks in Indonesia from 2008 to 2016", taken from https://www.statista.com/statistics/250866/number-of-actual-and-attempted-piracy-attacks-in-indonesia/ accessed on Wednesday, April 19th 2017, 11:55 a.m.
[8] *Ibid.*

versatility, incidents of maritime crime off the Indonesian coast increased sevenfold from 2009 to 2013.[9]

Of course, the modus is entirely different from the previous piracy movement where the vessel was taken under control; and the crews were killed or thrown into the sea. Then the vessel was repainted or modified and had its name changed. The cargo was sold in the free market where the fielder was being set. It is usually called as "phantom ship phenomenon".[10]

That phenomenon also known as ghost ships because the pirates usually equipped with global positioning devices, forged registration documents and also bill of lading to facilitate their operations. That is why the role of port state is very crucial here in being very careful in allowing any foreign vessel to transit in its port. It should be done with the close investigation of foreign vessels.[11]

Other categories of piracy's motive according to Adrian B. Lapian are religion and psych-social *(avonturism)*, as a complementary of piracy's categorization. Religion motives refer to the Crusades in Europe and *Jihad* in Arab and also Turkey. While the *avontirusm* or adventure motives viewed

[9] *Ibid.*
[10] Melda Kamil Ariadno, 2013, *op. cit,* p. 4
[11] *Ibid,* p. 5

from a variety of tribal war nation-which as manifestation of that adventure that has long been institutionalized in various places in the world.[12]

Picture 4

The most famous ghost ship of the Eastern Seaboard is the Carroll A. Deering, a schooner that ran aground near Cape Hatteras, North Carolina in 1921. The ship had just returned from a commercial voyage to deliver coal in South America, and had last been spotted just south of Hatteras by a lightship near Cape Lookout.

Photo by Toptenz, downloaded at http://www.toptenz.net/top-10-ghost-ships.php

So, whatever the motives of those various categories stated before, there is one common thread in it, which is "violence in the sea" that becomes the essence of any act pirates.

---

[12] Adrian B. Lapian, *op. cit*, p. 120

The history has recorded that it is not only a huge commercial vessel that is being attacked by pirates but also a private vessel and also fishing vessel. There are two types of piracy, namely as follows:

1. Stealing piracy

   Stealing piracy which has an economic aspect;

2. Well planned piracy

   It contains other motives such as political motive. The example of the well planned piracy such as terrorism in the Philippines, *Gerakan Aceh Merdeka* or Aceh Liberation Movement who had also been involved in piracy around the Straits of Malacca, for both economic as well as political motives, yet proof was scarcely given in Somalia and Sri Lanka.[13]

The piracy incidents are further aggravated by the vessel owners' hesitance to report the piracy involving their vessel because of many reasons. In general, the reason is to maintain their business reputation. Actually the situation needs to be addressed properly because only with immediate reporting and defense, piracy activity can be combated effectively.[14]

Then what is the difference between piracy and sea or armed robbery? Actually the International Law already differentiates between those two terms due to the ensuing legal consequences. The general definition of piracy is

---

[13] *Ibid,* p. 6
[14] *Ibid,* p. 6

robbery or other serious acts committed at sea[15]. UNCLOS is also provided the definition of piracy as like as explained in the previous chapter.

The IMO defines Armed Robbery in Resolution "Code of Practice for the Investigation of Crimes of Piracy and Armed Robbery against Ships" as:

"Armed robbery against ships" means any of the following acts:

1. any illegal act of violence or detention or any act of depredation, or threat thereof, other than an act of piracy, committed for private ends and directed against a ship or against persons or property on board such a ship, within a State's internal waters, archipelagic waters and territorial sea;

2. any act of inciting or of intentionally facilitating an act described above.[16]

That mentioned definitions are clearly giving line to categorize if piracy happens on the high seas or beyond state jurisdiction, which means beyond harbor and the territorial sea of state.

---

[15] Houghton Mifflin Harcourt, "The American Heritage Dictionary", available at https://ahdictionary.com/word/search.html?q=piracy accessed on Friday, March, 31st, 2017 at 2:41 p.m.

[16] International Maritime Organization, *Code of Practice for the Investigation of Crimes of Piracy and Armed Robbery against Ships,* IMO Assembly Reslution A. 1025 (26) (adopted December, 18th, 2009).

B. The Importance of the Ratification of the Regional Cooperation Agreement on Combating Piracy And Armed Robbery against Ships in Asia (ReCAAP) by the Government of Republic of Indonesia

It is no longer a secret that waters in Southeast Asia especially Indonesia, Malaysia, and Singapore waters are like a "paradise" for pirates. The issue of piracy remains a very real threat in Southeast Asia.

The rising number of reported actual and attempted piracy and armed robbery in Southeast Asia are depicted by the data released by the International Maritime Bureau (IMB), as stated in the table:

Table 2:

Southeast Asia piracy: actual and attempted piracy attack in different regions, 2011-2016

Location	2011	2012	2013	2014	2015	2016
Indonesia	21	32	48	47	54	24
Malacca Straits		1	1	1	3	
Malaysia	11	4	3	9	11	4
Myanmar (Burma)	1					
The Philippines	1	3	1	2	4	3
Singapore Straits	7	3	4	6	6	

Thailand / Gulf of Thailand						5

Table by International Chamber of Commerce, downloaded at http://webcache.googleusercontent.com/search?q=cache:http://www.icc.se/wp-content/uploads/2016/07/2016-Q2-IMB-Piracy-Report-Abridged.pdf

Nowadays, pirates and armed robbers in Asia are operating for the purposes of theft. Primarily they board ships in order to steal stores and engine spares as well as personal possessions of seafarers. The type of attack affects all ships big and small, in the region. Hijacking of ships for the purposes of cargo theft has been limited to small parcel tankers carrying refined products which can be sold on various black markets. Attacks, both outside and inside territorial waters, appear to be the result of intelligence led planning by the pirates, with particular products such as gas oil or gasoline being targeted in well co-ordinated and executed operations. At present, kidnapping of seafarers has not been a major feature of piracy or armed robbery activity in the region.[17]

Piracy which happened in Indonesia is an international problem. Article 1 paragraph (1) of United Nation Charter stated that the main task the establishment of United Nation is to keep peaceful and international security.[18] Piracy is included as an illegal action. It consists of violence and plundering towards commercial vessels. Therefore, that action becomes an

---

[17] ReCAAP, "Regional Guide to Counter Piracy and Armed Robbery against Ships in Asia", taken from http://www.recaap.org/ accessed on Saturday, April 15th, 2017, 12:23 p.m.
[18] See Article 1 paragraph (1) of UN Charter

action which threatens international security and widely human interest. One of international regulations which can handle piracy in Indonesia ruled in Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP).

ReCAAP is the first international organization multilateral agreements government-to-government in anti-piracy and armed robbery. The agreement consists of three pillars:[19]

1. Sharing of information between member states of ReCAAP.

2. The increase in capacity between member states by sharing the best practices in the fight against piracy and armed robbery.

3. Conduct a cooperation agreement with likeminded organizations to strengthen the capacity of member countries to manage incidents at sea.

The 2002 ASEAN Plan of Action Combat Crimes (ASEAN-PACTC) states that the eight types of transnational crimes within the scope of ASEAN cooperation and piracy fall into one type of transnational crime. Transnational crime is a crime that crosses national borders. Piracy is a transnational crime and therefore the problem of piracies must be solved jointly by all states,

---

[19] Joshua Ho, 2009, *Combating Piracy and Armed Robbery in Asia:The ReCAAP Information Sharing Centre (ISC),* Marine Policy Journal, p. 432

especially the coastal States. International support and regional cooperation are the keys to success to eradicate piracy.[20]

Even though, the states have already applied many ways to prevent and against pirates such as by making the Navy but it is still difficult to impose legal action in high seas.[21] Criminal prosecution for pirates, however, should become deterrent effect in order to prevent piracy in the future.[22] Piracy is a serious crime and it shall be cared by international society and international society shall formulate the solution as well as action under international law. [23]

C. The Absence of National Law

The absence of special rule on piracy as well as armed robbery becomes one of the causes for the increase of piracy and armed robbery. Therefore, it needs instrument of laws or regulation on piracy and armed robbery so Indonesia may reduce the level of piracy and armed robbery by providing legal certainty to the pirates.

The criminal act that is piracy, whether by foreign vessels or by domestic ships in Indonesian waters, have recently caused unrest for domestic

---

[20] Supriyanto Ginting, 2012, *Kerja Sama Regional dalam Memberantas Piracy dan Armed Robbery di Laut Cina Selatan dan Selat Malaka,* Depok, Universitas Indonesia, p. 23
[21] Yordan Gunawan, 2012, *Penegakan Hukum terhadap Pembajakan di Laut melalui Yurisdiksi Mahkamah Pidana Internasional,* Jurnal Media Hukum, Vol. 19 No. 1, June 2012, ISSN 0854-8919, Yogyakarta, p. 3
[22] See Rome Statute 1998
[23] Yordan Gunawan, *op. cit*, p. 3

and international shipping. The actions of the maritime piracy and piracy crimes are based on the enactment of criminal offenses relating to the "Sailing crime", using the same term as the "piracy" offense.[24]

In terms of legal arrangements, efforts to overcome piracy and armed robbery in the sea are still far behind with the development of international regulation and the development of the modus operandi of violence itself. The system of legislation in Indonesia has no specific regulation on piracy. The existing laws like The Penal Code, there are other positive laws applicable in general and may be imposed to the pirates. The regulation of armed robbery is regulated in the following Articles:

a. Article 439 of Penal Code

   (1)   Threatened by piracy on the coast with a maximum imprisonment of 15 (fifteen) years, whichever one is on a vessel performs artificial violence against another vessel or against any person or any of the above, within the territorial sea of Indonesia.

   (2)   The territorial sea of Indonesia region "territorial zee en maritime kringen Ordonantie" 1939.

b. Article 440 of Penal Code

Threatened by pirating on the beach with a maximum of fifteen years of imprisonment, whoever landed or watered around the coast or river

---

estuary, committed violent acts against persons or property thereafter, having first crossed the sea in whole or in part for that purpose.

c. Article 441 of Penal Code

Threatened by piracy in the river, with a maximum imprisonment of fifteen years, whoever wields a vessel commits a violent act in the river against another or against any person or property thereon, upon arrival to the place and for the purpose of the called the ship from somewhere else.

While the regulation which talked about piracy is regulated in one of Article 438 of Penal Code:

Article 438 is defined as two kinds of deeds, namely:

(1) Threatened by piracy in the sea with a maximum imprisonment of 15 years imprisonment of any person who enters into the job of becoming the master or carrying on the work is destined or used to commit violent acts in the free seas of another vessel or against persons of war or without entering force the sea of a recognized country;

(2) Threatened by piracy in the sea with a maximum imprisonment of 12 years, whoever knows about the purpose or use of the vessel, enters the work of the ship's sailor or voluntarily continues to perform the work after it has been identified by him, or including the crew.

In practice, what has been occurring until now to the piracy case is the application of the Penal Code articles. It needs the establishment of a special regulation on piracy as *lex specialis*. To be consistent with the principles of international law, then the establishment of related regulation should be based on the international convention on piracy which is the ReCAAP, so the regulation to be established also becomes the implementing legislation.

In the fact, the provisions of the Penal Code use the term "piracy", to mention violence committed in the high seas, as well as acts of violence committed in the territorial waters of Indonesia. As a legislative product from colonial times that is still in effect, the hijacking arrangements in the Indonesian Penal Code are said to have been left behind by the development of international regulatory arrangements and the development of the need for conditions and situations when working on in a river, with a maximum imprisonment of fifteen years, whoever by means of a ship commits a violent act in the river against another or against any person or thing above him, having come to the place and for the purpose of the ship from elsewhere.[25]

Actually, activity above is one of the threat factors for law and sovereignty enforcement in the Republic of Indonesia. Basically, the Navy, as mandated in Law No. 3 of 2002 on National Defense is mentioned as a State instrument in the field of defense. While in Article 9 of Law No. 34 of 2004

---

[25] *Ibid,* p. 26

on the Indonesian National Army is also affirmed that one of the duties of the Navy is to enforce the law and maintain security in the territorial sea of national jurisdiction in accordance with the provisions of national law and international law which have already been ratified in addition to the power granted by other laws.

D. Urgency to Combating Piracy

The member of 1st Commission of House of Representative, Charles Honoris, in the discussion on prevention of piracy at Universitas Paramadina, Jakarta said that according to his data, Indonesia in highest position in piracy. Even though Indonesia has already ratified the United Nations Convention on the Law of the Sea (UNCLOS) but it is not contextual, since in UNCLOS the thing that regulated is only piracy in high seas.[26]

Actually, Indonesia had already ratified International Convention for the Suppression of the Financing of Terrorism (SFT), at 1999 by Law No. 6 of 2006. The government of Republic of Indonesia should have another concrete ways such as becoming the initiator of legal framework against piracy and maritime crimes in Southeast Asia, building the intelligence sharing, as well as establishing the internal coordination system among institutions and ministries, Charles added. He also said that there are three international

---

[26] Republika, *"Perompakan di Laut Indonesia Tertinggi"*, taken from http://www.republika.co.id/berita/koran/nusantara-koran/16/07/29/ob2goo21-perompakan-di-laut-indonesia-tertinggi accessed on Wednesday, April 19, 2017, 2:55 p.m.

conventions regarding piracy which is important to be ratified. Those are International Convention against the Taking of Hostages, Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA) and Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP).

However, to ratify international convention is not easy. Mardjono Reksodiputro, Lecturer of Faculty of Law Universitas Indonesia, reminds the government to be more careful in adopted international provisions. He is afraid that ratification will harm state interest.[27]

Another Lecturer of Faculty of Law Universitas Indonesia, Hikmahanto Juwana said that there are four requirements which shall be considered while doing ratification:

a. The instrument of international law that can be adopted by national law

b. The commitment of government if the ratification is performed

c. The implementation of Indonesia law enforcement

d. The next implementation especially regarding the report and monitoring.

The implementation of law enforcement in combating piracy in Southeast Asia is still not maximal yet. According to Prof Aleksius Jemadu, Indonesia has limited power to protect our sea. The example is the case of, Abu Sayyaf.

---

[27] HukumOnline.com, *"Jangan Asal Ratifikasi Hukum Internasional"*, taken from http://www.hukumonline.com/berita/baca/hol20365/jangan-asal-ratifikasi-hukum-internasional, accessed on Tuesday, June, 13, 2017, at 10:18 a.m.

This group has held hostage to ten Indonesian citizen in Sulu. It happened for three times during 2016.[28]

He also added if Indonesia responded hostages by paying ransom, it would motivate pirates to continue it. Then it will be repeated because such a conduct is profitable. Indonesia cannot send military since the Philippine Constitution prohibited any foreign military activity in her country. The constitutional barrier seems to be used by Abu Sayyaf to continue repeating the same crime, believing that other military may not enter the Philippines.

Senior Official of Ministry of Foreign Affairs, Bebeb AK Nugraha Djundjunan said that the solution to piracy problem needs cross country cooperation. Sea traffic needs to be well managed, so piracy does not happen.[29]

The implementation of law enforcement in case against piracy is still not effective yet. It is because the main solution to this problem is by making the cross country cooperation. It needs long consultation between the states in order to get good security. A good security will allow easier monitoring.

---

[28] Republika, *op. cit.*
[29] *Ibid*

E. The Impact of Piracy

Piracy in the Indonesia Ocean has taken an alarming turn recently, and is getting increasingly lucrative and violent. According to International Chamber of Commerce's International Maritime Bureau, pirate attacks against ships in the water of Indonesia rises sharply. From 141 piracy cases in Southeast Asia, 100 cases happened in Indonesia. The same percentage also happened in 2015. From 190 piracy cases, majority occurred in Indonesia.[30]

The International Maritime Bureau also says that the pirates appear to have extended their reach, threatening many waters. In 2014, many piracy cases happened, such as piracy of MT Oriental tanker which went to Bintan Island and MT Moresby with Honduras flag from Anambas Islands. During that year, there were 35 reports which told the pirates entered from Bintan Island. That is why Bintan Island becomes the most piracy-prone area according to Asia Pacific International Transport Worker's Federation.[31]

Furthermore, piracy has also affected the world economy. It has impeded the delivery of shipments and also has increased shipping expenses, costing expenses, costing estimated in global trade. According to German Institute for Economic Research (DIW), a veritable industry of profiteers has risen because

---

[30] Hukumonline.com, *op. cit.*
[31] Sindo News, *"Kawasan Laut Indonesia Paling Rawan Perompak"*, https://nasional.sindonews.com/read/1016307/149/kawasan-laut-indonesia-paling-rawan-perompak-1435115132/ accessed on Wednesday, April 19, 2017, at 3:41 p.m.

of piracy. Insurance companies, in particular, have profited from pirate attacks, as insurance premiums have increased significantly. [32]

Unless they are involved in the shipping industry, the main effect would be higher prices. Shopping companies pass on the increasing coast security, higher than premiums insurance, ransoms and extra fuel for longer routes in their fees and so it eventually finds its way onto the high street.[33]

F. The Advantages and Disadvantages of Regional Cooperation Agreement Ratification in Combating Piracy and Armed Robbery against Ships in Asia

   a. The Advantages by Ratifying Regional Cooperation Agreement in Combating Piracy and Armed Robbery against Ships in Asia

   Being the first regional multilateral government-to government effort, ReCAAP, as the organization that has many strengths regarding combating piracy as well as armed robbery cases.[34]

   ReCAAP Information Sharing Centre (ISC) has issued its annual report revealing a significant improvement in the situation of piracy and armed robbery against ships in Asia in 2016 compared to the past four years (2012-2015). The total number of incidents reported in 2016 has

---

[32] Melda Kamil Ariadno, 2013, *op. cit.,* p. 7
[33] *Ibid*
[34] Joshua Ho, *op. cit*, p. 3

decreased by 58% compared to 2015. 2016 has the lowest total number of reported incidents amongst the five-year reporting period of 2012-2016. [35]

A total of 85 incidents were reported in 2016 compared to 203 incidents in 2015. Of the 85 incidents reported in 2016, five were incidents of piracy occurred in the South China Sea and 80 were incidents of armed robbery against ships, mostly occurred at ports and anchorages. The decrease in overall numbers for 2016 was most apparent in the Straits of Malacca and Singapore (SOMS). Two incidents were reported in the SOMS in 2016 compared to 104 incidents reported there in 2015.

---

[35] ReCAAP ISC, "ReCAAP ISC Annual Report 2016", taken from http://www.safety4sea.com/wp-content/uploads/2017/01/ReCAAP-ISC-Annual-Report-2016.pdf accessed on Wednesday, May 10, 2017, 8:45 a.m.
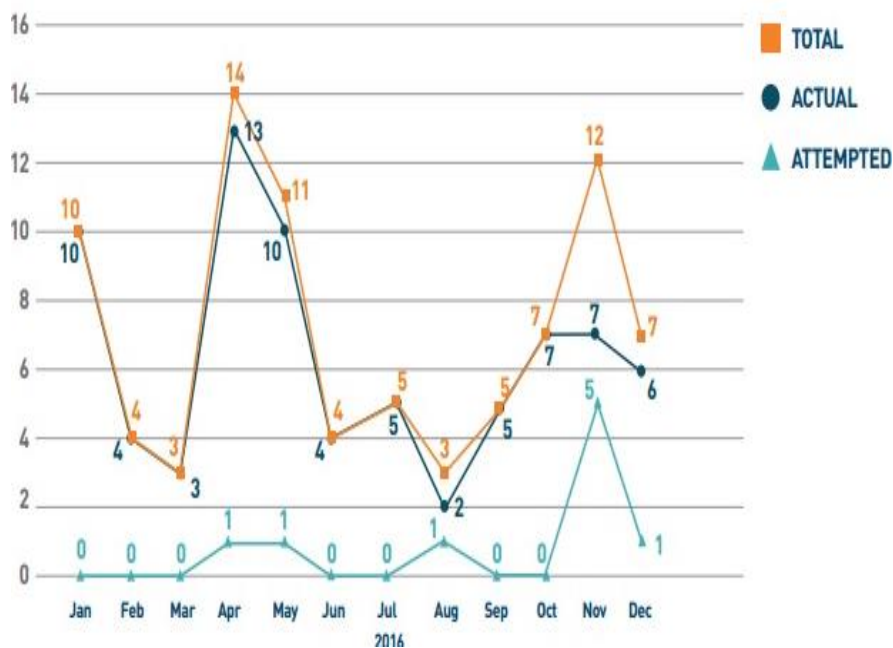
Table 3:

The decreasing number of piracy

The improvement in SOMS was due to joint coordinated patrols and enhanced surveillance carried out by the littoral States and stringent enforcement on land. This had resulted in several arrests of the perpetrators responsible for the incidents occurred in 2015.[36]

There are several advantages by ratifying ReCAAP, as follows:

---

[36] Safety 4 Sea, "ReCAAP ISC Reports 58% Decrease of Piracy in Asia during 2016", taken from http://www.safety4sea.com/recaap-isc-reports-58-decrease-piracy-asia/ accessed on Wednesday, May, 10, 2017, at 8:56 a.m.

a. Focal Point

Focal point is the requirement for each contracting party which should be identified and designated. It would act as the point of contact for the ISC, means that a contracting party that may not have a habit to inter-agency coordination would now have to look at its organization for dealing with armed robbery and also piracy and it identifies the inter agency process associated with it. It is because every focal point in each country has its specific roles, as follows:[37]

a) managing the piracy and armed robbery activity within its territorial waters,

b) acting as a point of information exchange with the ISC,

c) facilitating law enforcement investigation in its country,

d) coordinating surveillance and enforcement for piracy and armed robbery with neighboring the focal points.

The things that become focal points could be the country's Coast Guard, Marine Policy, Navy, Port Authority or Customs (Marine). ReCAAP has in fact jump-started interagency cooperation process in its member countries as they would have to

---

[37] Joshua Ho, 2009, *op. cit,* p. 3

look at how the several maritime agencies cooperate with each other.

b. Capacity Building Program

As stated before in the previous chapter, the three pillars of ReCAAP, capacity building include there. Capacity building workshop is conducted to enhance the ReCAAP Focal Points' capability in information sharing on piracy and armed robbery in Asia.

The Information Sharing Centre (ISC) of the Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP) with the co-host, the Philippine Coast Guard, organized the ninth Capacity Building Workshop in Manila, the Philippines, on 21-23rd June 2016.[38]

Picture 5:

ReCAAP ISC Capacity Building Workshop 21st-23rd June 2016 at Manila Hotel, the Philippines

---

[38] ReCAAP ISC, "ReCAAP ISC Capacity Building Workshop 9/16", taken from http://www.recaap.org/LinkClick.aspx?fileticket=dm_njubwu2Y%3D&tabid=80&mid=393 accessed on Friday, May, 12nd, 2017, at 4:18 a.m.

ReCAAP also has capacity-building program. Many times, maritime organization within a country, not to mention those between countries, tend to operate in their own self-contained silos with minimum interaction between the organizations. ReCAAP helps to break down these silos and inculcates a greater awareness between the contracting countries through capacity-building initiatives such as exercises, training workshops, and well as technical assistance programs that share practices.

c. ReCAAP is an Inclusive Organization

Recognizing that the organizations have a role to play, ReCAAP enters into cooperative arrangements with a variety of

organizations that may be interested in sharing information or in conducting capacity-building programs. These may include governmental, intergovernmental, international, or non-governmental organizations, and research institutes that have activities that are consistent with the purpose, functions, and spirit of the ReCAAP ISC.[39]

The examples of partner organizations as include:[40]

a. Asian Shipowners' Forum (ASF),

b. the Baltic and International Maritime Council (Bimco),

c. the International Maritime Organization (IMO),

d. and the International Independent Tanker Owners' Organization (Intertanko).

Although piracy and armed robbery may affect governments, the shipping communities are largely the ones who bear the brunt of its consequences. As a result, expertise on how to deal with the issue may not reside in the government departments alone but could well resides in organization that is outside of government.

Being an inclusive international organisation and a specialist agency in combating piracy and armed robbery, Cooperative Arrangements facilitates the ReCAAP ISC in establishing linkages

---

[39] Joshua Ho, *op. cit,* p. 3
[40] *Ibid.*

with governmental agencies, international organisations, nongovernmental agencies, research institutes, maritime industry associations and others which have similar interests.[41]

The overall situation of piracy and armed robbery against ships in Asia in 2016 has improved significantly compared to 2015. The total number of incidents reported in 2016 was the lowest among the past five years (2012-2016).[42]

Besides entering into cooperative arrangements with like-minded organizations, ReCAAP also recognizes parties the knowledge could reside in countries that are not currently parties to the Agreement. Therefore, ReCAAP also opens for accession by any state which paves the way for ReCAAP to grow when more like-minded states decide to join it. For example, the Netherlands has formally conveyed its intention to sign the ReCAAP. [43]

That regulation consists of articles which talked about definition of piracy and rules of catching the pirates. In substance, legal provisions on that regulation could settle piracy problems.

---

[41]   ReCAAP   ISC,   "ED's   Report   2014",   taken   from https://www.google.co.id/url?sa=t&rct=j&q=&esrc=s&source=web&cd=2&cad=rja&uact=8&ved=0ahUKEwj75ZT8j-rTAhVMro8KHWQiCpgQFggrMAE&url=http%3A%2F%2Fwww.recaap.org%2FLinkClick.aspx%3Ffileticket%3DRr8uH0moIt8%253D%26tabid%3D93%26mid%3D542&usg=AFQjCNHc6B2YkgWG1uBvxnBRKu5QOy1-ag&sig2=a3KPVAzHLbkPsU_vZ_brHQ accessed on Friday, May, 12nd, 2017, at 5:25 a.m.
[42] Safety 4 Sea, *op. cit.*
[43] Joshua Ho, *op. cit,* p. 3

The ReCAAP ISC urges the respective littoral States to step up surveillance, enhance patrols and initiate timely operational responses to reports by victim ships. The ReCAAP ISC also urges shipping industry to exercise enhanced vigilance, keep abreast of latest situation update by connecting to ReCAAP ISC website and reports, and adopt relevant preventive measures as recommended in the [Regional Guide to Counter Piracy and Armed Robbery against Ships in Asia](#).[44]

G. The Disadvantages by Ratifying Regional Cooperation Agreement in Combating Piracy and Armed Robbery against Ships in Asia

Although ratifying ReCAAP has so many advantages for Republic of Indonesia but there are also some disadvantages when ratifying it. The disadvantages are as follows:

a.   Poor Timeliness Report

ReCAAP ISC nowadays does not have an operational role. It is because when this organization receives information on piracy and armed robbery incidents from each focal points, which necessarily means a delay in reporting. In order to improve the timeliness of reports, ReCAAP ISC could consider engaging the shipping industry and encourage ships to report directly on it. When receipt of the reports,

---

[44] Safety 4 Sea, *op. cit.*

ReCAAP ISC could then cue the respective operations entering at its member countries. They have responsibility for developing patrol ships on the ground. It would be improving the timeliness of reports tremendously and also would speed up the response to incidents. That operations role performed when ReCAAP ISC would have to set up a small operations center with the necessary communications equipment. It also will be linked to the respective operations centers of state members.[45]

[45] Joshua Ho, *op. cit,* p. 3