

Groupe spécial sur la piraterie *
Déclaration sur la piraterie

Working group on Piracy
Declaration on Piracy

Rapporteur : **Tullio Treves**

| | |
|----------------------------------|-----|
| Délibérations de l'Institut..... | 571 |
| Déclaration | 584 |

* Le Groupe spécial sur la piraterie a été institué par le Bureau au début de la session de Naples pour faire le point sur les principales questions que pose la résurgence contemporaine de la piraterie, notamment au large des côtes de la Somalie. Placé sous la direction de M. Treves, il était composé de Mme Bastid-Burdeau, et de MM. Caflisch, Caminos, Mensah et Kirsch. Ce groupe spécial a laissé place à une commission permanente au terme de la session de Naples (voy. ci-dessous la 11^{ème} commission).

DELIBERATIONS DE L'INSTITUT

Dixième séance plénière Mercredi 9 septembre (après-midi)

La séance est ouverte à 16 h 00, sous la présidence de M. Roucounas, Premier vice-président.

Le *Président* donne la parole à M. Conforti.

M. *Conforti* indique que l'adoption d'une déclaration sur la piraterie serait très opportune compte tenu de l'actualité récente. Il rappelle qu'il a lui-même beaucoup étudié la question et qu'il s'agit d'un problème juridique complexe en ce qu'il implique un exercice du pouvoir étatique qui ne relève pas du schéma classique des compétences de l'État. Il invite dès lors l'Institut à prendre connaissance avec attention du projet de déclaration qui a été élaboré.

DRAFT 1

DECLARATION ON PIRACY

The Institut de droit international

Deeply concerned by the increase of acts of piracy and of other acts of violence which endanger the safety of international navigation and trade,

Acknowledging that existing international law on piracy, which, as reflected in the UN Convention on the Law of the Sea, is restricted to acts of violence committed on the high seas and undertaken by one ship against another, does not fully cover all acts of violence endangering the safety of international navigation,

Noting the lack of capability of some coastal States to comply with their responsibility to ensure safety of navigation in the territorial sea :

Welcomes the resolutions of the UN Security Council broadening and adapting, as regards the most serious current situation and without prejudice to general international law, the scope of the existing international rules on piracy to include, in particular, acts committed in the territorial sea and armed robbery against vessels ;

Expresses its concern over the reluctance of States to prosecute pirates and authors of other acts of violence committed at sea and to

572 Institute of International Law - Session of Naples (2009)

implement the 1988 Convention for the Suppression of Unlawful Acts against the Safety of International Navigation.

The *Rapporteur* thanked the President for having introduced the reasons why it was thought useful to try to prepare a Declaration on piracy. He underscored that this was a « declaration » and not a resolution. It had been prepared by a small group over a couple of days. He thanked the members of the working group: Mrs Bastid-Burdeau, Mr Caflisch, Mr Caminos, Mr Mensah and Mr Kirsch. The Declaration did not purport to cover all the legal aspects of the piracy phenomenon. It tried to address the aspects that were felt to be most topical in the present situation. It was considered undesirable to speak of piracy in certain specific areas and therefore, where necessary, these areas are eluded to as the « most serious current situation » in the fourth paragraph. Piracy was something in its most recent incarnation that endangered the safety of international navigation and trade and had raised the concern of maritime authorities and the UN Security Council which had adopted a number of resolutions which permitted action in the territorial sea similar to that which general international law allowed on the high seas, thus remedying a drawback of general international law, which only dealt with piracy on the high seas. The Security Council authorisation only applied where there was no effective coastal State. There were some problems with coping with pirates domestically – some States did not have legislation, while others had inadequate legislation. There was also the question of the human rights of those captured as pirates, as well as the treatment of hostages by pirates. A lot of work was going on in diplomatic circles. It might be interesting in the future for the Institut to go more deeply into these problems.

The *President* thanked the *Rapporteur* for the introduction and opened the floor for remarks.

M. *Caflisch* indique que l'on a longtemps considéré que la piraterie avait disparu. C'est ce qui explique, selon lui, qu'on ait repris comme telles les règles de 1958 dans la Convention de Montego Bay de 1982. Compte tenu de l'actualité récente, il déclare être très favorable à cette déclaration même si deux questions ne lui paraissent pas traitées de manière satisfaisante, à savoir : premièrement, les règles actuelles relatives à la piraterie ne s'appliquent pas à la mer territoriale et deuxièmement,

certain États ne répriment pas comme ils le devraient la piraterie. L'Institut devrait se pencher plus avant sur ces deux questions.

Mr *Tyagi* deeply appreciated the Rapporteur's and Working Group's work on the excellent draft declaration on piracy which reflected most of the concerns on this issue. He had a few minor suggestions. First, in order to make the draft consistent, he suggested inserting « 1982 » prior to the « UN Convention on the Law of the Sea » in paragraph 2. He also suggested in relation to paragraph 2 : deleting the word « which » in the first line; replacing the words « is restricted to » in the second line with « proscribes and prohibits »; and deleting the last phrase « does not fully cover all acts of violence endangering the safety of international navigation ». In terms of the latter suggestion, he noted that this might allow some innovative interpretation of the Law of the Sea Convention. He also noted that the colon at the end of paragraph 3 should be replaced by a semi-colon. He further proposed that references to « authors » in paragraphs 5 and 6 be replaced by « perpetrators ». Finally, in the last paragraph, in (a) he suggested replacing « concerning » with « to prevent, suppress and punish ».

He also noted that an important aspect of piracy in contemporary times was the paying of ransoms to pirates, and suggested that the Institut might express its concern about this practice in the declaration.

Mr *Wolfrum* appreciated the Declaration, but he believed that the topic should be worked on further at the next session in order to achieve a better balance. He suggested some additions to improve the content. First, he noted that according to customary law, the prosecution of piracy was based on universal jurisdiction, which should be mentioned in the text. He noted that there was a move to establish an international criminal court for the prosecution of pirates. In his view, this was not the correct approach given the subsidiarity principle and that States can and should prosecute pirates effectively. He observed that there was a passing reference to human rights, which correctly reflected the fact that pirates had human rights and that there were limits to what States could do when capturing them. However, he noted that there were problems as to which human rights instruments apply, and suggested that this might be addressed. He drew attention to two judgments of the European Court of Human Rights which dealt with people being kept on a vessel for more than 48 hours.

574 Institute of International Law - Session of Naples (2009)

With regard to the question of who may prosecute, he noted that Article 105 of the Convention on the Law of the Sea gave the impression that only the State arresting the pirates could prosecute. There was currently a case pending before a national court on this point. Therefore, the declaration might elaborate on Article 105. Another point was that the declaration referred indirectly to Security Council Resolution 1851, but also referred to the fact that States did not live up to their obligations under Convention on the Law of the Sea and the 1988 Convention. He suggested that a sentence be added stating that such a failure entailed international responsibility.

Lastly, he observed that the root causes of piracy in this area were connected to overfishing and the lack of an effective government and therefore the really effective activities to counter this practice would be to have a moratorium against fishing in this area and to call upon States to give every assistance to the transitional government of Somalia.

M. *Momtaz* félicite M. Treves pour l'excellent travail qu'il a accompli dans un délai très bref. Il formule néanmoins trois remarques qui peuvent contribuer, selon lui, à améliorer le texte. Premièrement, il serait opportun de préciser, s'agissant de la convention de 1988, que le Conseil de sécurité a demandé aux États de ratifier cet instrument. Dans le même ordre d'idées, il faudrait davantage préciser que la convention de 1988 complète la convention de Montego Bay de 1982 sur le droit de la mer. Deuxièmement, il indique que, concernant l'absence de législation nationale sur la lutte contre la piraterie, il est question dans le texte de la Déclaration de « développement ». Or, cette terminologie présuppose que tous les États ont une législation à ce sujet et ne prend pas en compte l'hypothèse où un État ne dispose d'aucune législation à cet égard. Troisièmement, M. *Momtaz* trouve qu'il serait opportun que le paragraphe (b) relatif aux accords de coopération se réfère aux accords de coopération régionaux existants.

Mr *Schrijver* welcomed the draft declaration. Like Mr Wolfrum, he felt that a reference should be made to universal jurisdiction, noting that since the days of Hugo Grotius, piracy had been recognised as one of the oldest international crimes attracting universal jurisdiction. Secondly, in the preamble, he supported a reference to the structural root causes of piracy. Lastly, as regards the final paragraph, he suggested two small amendments. First, he proposed replacing « without prejudice to the

human rights of the person » with « with full regard to the human rights of the persons ». Second, he suggested making a reference to the Resolution of the Security Council in this operative paragraph by placing in the second line, after the word « victims », the words « to implement the relevant Resolution of the Security Council, in particular: » followed by (a) and (b).

Mr *Dinstein* had seven comments. First, in the second paragraph, the text did not include the key phrase « for private ends », which played a pivotal role in the definition of piracy in Article 101 of the UN Convention on the Law of the Sea. Second, he associated himself with the suggestion made by Mr Wolfrum to mention universal jurisdiction in the text, although he added a caveat. He was not worried about the transfer of suspects for prosecution in Kenya by virtue of universal jurisdiction. He was more concerned about the phenomenon of commanders of European warships releasing pirates whom they captured *in flagrante delicto* simply because they feared that, if the pirates were brought to Europe, the end could be that the pirates (perhaps after a short jail sentence) would request political asylum. It was, therefore, necessary to underscore in the proposed Declaration not merely the universal right to exercise jurisdiction but also the universal duty to prosecute and punish offenders. Third, he noted that there was a reference to the territorial sea and not to internal waters, whereas pirates often launched their operations from internal waters such as enclosed bays. Fourth, he suggested reversing the order of the third and fourth paragraphs of the Declaration: the Security Council Resolution set out the obligation of States in relation to the territorial sea, yet the following paragraph could note the lack of capability on the part of some States to comply with that obligation. Fifth, he was concerned that, while there was an emphasis on the human rights of pirates, there was no reference to the human rights of their victims. Sixth, he noted that there was no mention of the issue of hostage-taking, observing that there was a 1979 International Convention against the Taking of Hostages. Admittedly, the Convention was designed to cope with the suppression of terrorism. Yet, there was nothing in the text of the Convention that would make it inapplicable to hostage-taking by pirates. Seventh, he noted the absence of any reference to operations on land against pirates. He noted that, although piracy was committed on the high seas, pirates always needed land bases for supplies, repairs and so forth. This was true of the pirates of old in the Caribbean Sea as much as it was

576 Institute of International Law - Session of Naples (2009)

true of present-day pirates around the Horn of Africa. There was no way to effectively fight terrorism without eliminating their land bases, and this implied of course land operations against those bases.

Mr *Merón* said that it was a very useful draft declaration. He had one point to make. Historically, the struggle of the international community against piracy was not limited to judicial enforcement, but was carried out by navies. While the declaration contained a timid reference to naval responses, for example, in (b) in the last paragraph which referred to « cooperative arrangements », he suggested a more robust formula by introducing a reference to States preparing and putting in place adequate naval responses to fight piracy.

M. *Rigaux* se réjouit de l'initiative de l'Institut au sujet de la piraterie en ce qu'elle montre que l'Institut peut se saisir de problèmes d'actualité. Il souligne qu'il serait néanmoins opportun que la déclaration indique clairement l'intention de l'Institut de poursuivre l'examen de la question.

Mr *Ronzitti* thanked the drafters for the useful draft declaration. He wanted to point out some problems of terminology because, as had been mentioned, piracy according to the Convention on the Law of the Sea was violence only for private ends, not for political reasons. He noted that violence for political reasons was terrorism. The first paragraph referred to « acts of piracy and of other acts of violence ». He would prefer to refer to « armed robbery » in order to distinguish piracy from terrorism. He also supported referring to the efforts of those States and international organisations which had dispatched navies on the high seas, by including the words : « Welcomes the efforts of States and international organisations that have dispatched navies on the high seas in order to fight pirates ». He noted that the fifth paragraph referred to the 1988 Convention for the Suppression of Unlawful acts against the Safety of International Navigation, which was more directed at terrorism than to piracy. While he found it still useful to refer to this, he submitted that there should also be a reference to the UN International Convention Against the Taking of Hostages. On the question of ransom, he agreed that the declaration should say something against this practice. He also suggested that the last paragraph of the Resolution should make a reference to the Code of Conduct adopted by the International Maritime Organization, which was very useful for the cooperative efforts in fighting piracy.

Mme *Bastid-Burdeau* revient sur deux des remarques formulées par M. Dinstein. Elle souligne d'abord que la déclaration entend aller plus loin que la convention de Montego Bay de 1982 qui n'envisage la piraterie qu'en haute mer, alors que le groupe de travail a mis l'accent sur le rôle de l'État côtier qui doit s'assurer que la piraterie ne se développe pas dans ses eaux territoriales. Mme Bastid-Burdeau invite ensuite l'Institut à dépasser la Convention de 1982 qui ne stipule qu'un droit pour les États d'arraisonner les navires et de poursuivre les pirates, alors qu'il devrait y avoir en l'occurrence une obligation.

Mr *Pocar* noted that it was not possible to include everything in one declaration, and that an overly long declaration should be avoided. However, he suggested inserting in the first paragraph a reference to the human rights violations of hostages taken by pirates. Another issue worth considering was the question of the Resolution that authorised activity not only on the territorial sea but also in internal waters and on land. In order to keep the declaration concise, he welcomed Mr Rigaux's suggestion to add a paragraph saying that the Institut would continue to work on the subject. Finally, as a drafting point, he noted that the fourth paragraph in English was in the indicative while in French, it used the word « *Saluant* ».

The *Rapporteur* stated that the discussion had been very rich in argument. This confirmed the wisdom of the point made by confrère Rigaux, which was that the Institute should do more work on this subject. The points made showed that the material and the subject were so rich that it deserved not merely a declaration but a full-fledged resolution, and a report dealing with all the details. This was not for the plenary to decide at this point, although it could possibly be taken up by the working group. The group that drafted the text had very much in mind the recommendation of the President to prepare something that could be adopted in Naples and consequently, something that was correct in law and policy, but did not cover all bases. There were many more aspects that deserved treatment. While some aspects could be added, it was not possible to include all the issues raised.

He agreed that the human rights of the victims should have more visibility and that the first paragraph was the right place for this. With regard to the question of universal jurisdiction and the duty to prosecute, he noted that the Convention on the Law of the Sea established universal

their responsibility to ensure safety of navigation in the territorial sea and to take effective steps, within their territory, including internal waters, to prevent acts of piracy and other acts of violence at sea and activities connected with such acts ;

Welcomes the resolutions of the UN Security Council broadening and adapting, as regards the most serious current situation and without prejudice to general international law, the scope of the existing international rules on piracy to include, in particular, acts against vessels committed in the territorial sea ;

Expresses its concern over the reluctance of States to exercise their jurisdiction under the UN Convention on the Law of the Sea to prosecute pirates and perpetrators of other acts of violence committed at sea and to implement the 1988 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation and the 1979 UN Convention against the Taking of Hostages ;

Expresses its concern over the lack of uniformity and sometimes the inadequacy of domestic policies and laws concerning pirates and perpetrators of other acts of violence at sea when found within their jurisdiction ;

Calls upon States, with full regard to the human rights of the victims and of the other persons involved, to implement the relevant resolutions of the UN Security Council, and, in particular :

- (a) to adopt or develop effective domestic laws and procedures to prevent and suppress piracy and other acts of violence at sea,
- (b) to adopt cooperative arrangements to deal with piracy and other acts of violence at sea, including the preparation and deployment of effective naval responses and assistance to coastal States that lack the capability to fight piracy and other acts of violence at sea and to prosecute the perpetrators thereof.

The *President* introduced the revised version of the declaration on piracy and opened the floor for discussion.

M. *Conforti* invited Mr Treves to briefly present the revised text of the declaration on piracy and recommended that Members focus on minor proposals so that the declaration could be rapidly adopted.

The *Rapporteur* thanked the President and explained that the revised declaration had been elaborated by a Committee composed of Mrs

580 Institute of International Law - Session of Naples (2009)

Bastid-Burdeau and Messrs Caflisch, Caminos, Kirsch, Mensah. The Committee tried as far as possible to take into account all the comments gathered in the plenary the previous day, without transforming the declaration into a resolution as this was not the Committee's task. He then went through the main changes made to paragraphs 1, 3, 5, and 7. Paragraph 1 had been modified in order to emphasize that piracy endangers the life and freedom of seafarers, thereby making the victims' position more visible. Paragraph 3 had been redrafted taking into account the observations concerning the responsibility of the coastal State. Paragraph 5 alluded to universal jurisdiction over pirates and mentioned the reluctance of States to exercise their jurisdiction under the UN Convention. A reference to the 1979 UN Convention against the Taking of Hostages had been added. In the final paragraph, the Committee again gave more prominence to the position of the victims of piracy by adding a reference to « full regard to the human rights of the victims and of the other persons involved ». In paragraph 7 (a) the word « adopt » was added in order to take into consideration the position of States which have no legislation and procedures on piracy. Finally, paragraph 7 (b) was modified in order to mention the « deployment of effective naval responses ».

The *President* thanked the Rapporteur and considered that the revised text was a balanced one.

Mr *McWhinney* congratulated the Rapporteur for the new text and the significant progress made by the Committee. He reminded Members that a resolution on aerial piracy had been adopted by the Institute in 1971 at the Zagreb Session by unanimous vote. He expressed the view that piracy was subject to universal jurisdiction and would have liked to have seen more clearly expressed in the draft declaration the philosophical principles underlying this subject, such as the principle of freedom of the air and the principle of freedom of international navigation. He proposed that such general principles be inserted in paragraphs 2 and 5.

Mr *Lee* welcomed the new draft Declaration, which reflected the suggestions advanced in the plenary. He congratulated the Committee for its efficient work. He had no comments on the text of the draft Declaration but suggested adding to the title a reference to « punishment and prevention » of piracy.

Mr *Suy* congratulated Mr Treves for his work and expressed his wish to have the draft Declaration adopted by the Institute. However, he had some apprehension with regard to paragraph 4 because it seemed to accept that the Security Council resolutions had broadened the scope of existing international law as far as piracy was concerned, especially when those acts take place in territorial waters. The Security Council had been very cautious in that it restricted the applicability of its resolutions to Somalia and took into account the consent of the Somali government. Therefore, paragraph 4 should not give the impression that a few Security Council resolutions alone could modify existing international law on piracy.

The *Rapporteur* found Mr *Suy*'s remark entirely appropriate. However, he pointed out that paragraph 4 had been carefully drafted in order to make clear that only those Security Council resolutions addressing the « most serious situations » had been referred to « without prejudice to general international law ». Accordingly, the paragraph did not intend to impact on the development of future customary international law.

Mme *Infante Caffi* joined other Members in congratulating the *Rapporteur* on the draft Declaration. She noted that the relevant Security Council resolutions recognized the coastal State's sovereignty over its territorial sea and that actions were undertaken on the basis of the coastal State's consent. She suggested that this could be better reflected in the Institut's draft Declaration. She would have liked to have seen an emphasis on the fact that the coastal State had primary responsibility to deal with these incidents.

Mr *Kooijmans* made a comment relative to drafting, suggesting that it would be useful to insert in paragraph 4 an explicit reference to the relevant Security Council Resolutions.

The *President* recalled that new Associate Members were not to take the floor at their first session.

Mr *Tyagi* suggested two minor changes to the title. First, it might be more appropriate to call the draft Declaration a « Declaration Against Piracy » rather than a « Declaration on Piracy ». Second, as there were many declarations on piracy it was perhaps better to call the one under consideration the « Naples Declaration Against Piracy ».

Mr *Yee* supported Mr *Suy*'s suggestion concerning paragraph 4. In his view, the Security Council's references to piracy were not so numerous,

582 Institute of International Law - Session of Naples (2009)

but rather they sought in particular to safeguard navigation. He also suggested that the word « rules » in paragraph 4 be replaced with the word « measures ».

The *Rapporteur* stated that it was hard to draft on the spot although he was fully aware of the urgency to complete the text. He indicated that personally he would have been in favour of adding the word « Naples » to the beginning of the title. However, he was not so sure on the word « against » also proposed by Mr Tyagi. He favoured the title « Naples Declaration on Piracy ».

Concerning Mrs Infante Caffi's comments, he did not think that there was any implication in the draft Declaration that they were diminishing the sovereignty or responsibility of the coastal State. In paragraph 4, one could add to the terms « without prejudice to general international law », the terms « and the sovereignty of the State ».

Mrs *Bastid-Burdeau* suggested that where there was a reference to the responsibility of the coastal State in paragraph 3, one could indicate that it was their « exclusive » responsibility.

The *President* stated that he considered the text better without this addition.

The *Rapporteur* indicated that he did not wish to act on Mrs Bastid-Burdeau's proposal. He also preferred not to replace the word « rules » with « measures ». He had no objection to introducing an explicit reference to the relevant Security Council Resolutions. As they were numerous, he suggested that mention be made of Security Council Resolution 1816 (2008) and then to add « and others ».

Mr *Wolfrum* suggested instead quoting the last of the Security Council Resolutions, namely Resolution 1851 (2008).

The *Rapporteur* indicated that some resolutions were less important than others.

The *President* indicated that the most substantive resolution needed to be quoted.

The *Rapporteur* stated that the first resolution, Security Council Resolution 1816 (2008), was the most important and that it had been prolonged and enriched by later resolutions. He thus favoured retaining the first Security Council Resolution. The *Rapporteur* indicated that Mr Suy's point was more substantive but that he had replied to it in his

earlier comments. There was already significant caution in paragraph 4 and he quoted the relevant part of the text as follows: « the most serious current situation and without prejudice to general international law ». He stated that he hoped that this was sufficient to address Mr Suy's concerns. Regarding Mr McWhinney's point, the Rapporteur indicated that it was hard to translate into half a line the basic philosophy behind the text, but he hoped that it was clear from the draft Declaration's general context.

The *President* put the amended draft Declaration to the vote.

Le *Secrétaire général* annonce les resultants du vote: 51 voix pour, 0 contre et 1 abstention.

M. *Suy* demande que l'on fasse connaître cette Déclaration par un communiqué de presse.

Mr *Kooijmans* agreed with Mr Suy's request and indicated that he would also like governments to be informed of the Declaration.

La séance est levée à 12 h 30.

584 Institute of International Law - Session of Naples (2009)

RESOLUTION OF THE INSTITUTE

NAPLES DECLARATION ON PIRACY

The Institute of International Law,

Deeply concerned by the increase of acts of piracy and of other acts of violence which endanger the safety of international navigation and trade and put at risk the life and freedom of seafarers;

Acknowledging that existing international law on piracy, as reflected in the 1982 UN Convention on the Law of the Sea, which is restricted to proscribing acts of violence committed for private ends on the high seas and undertaken by one ship against another, does not fully cover all acts of violence endangering the safety of international navigation;

Noting the lack of capability of some coastal States to comply with their responsibility to ensure safety of navigation in the territorial sea and to take effective steps, within their territory, including internal waters, to prevent acts of piracy and other acts of violence at sea and activities connected with such acts;

Welcomes UN Security Council Resolution 1816 (2008) and others broadening and adapting, as regards the most serious current situation and without prejudice to general international law, the scope of the existing international rules on piracy to include, in particular, acts against vessels committed in the territorial sea;

Expresses its concern over the reluctance of States to exercise their jurisdiction under the UN Convention on the Law of the Sea to prosecute pirates and perpetrators of other acts of violence at sea and to implement the 1988 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation and the 1979 UN Convention against the Taking of Hostages;

Expresses its concern over the lack of uniformity and sometimes the inadequacy of domestic policies and laws concerning pirates and perpetrators of other acts of violence at sea when found within their jurisdiction;

Calls upon States, with full regard to the human rights of the victims

and of the other persons involved, to implement the relevant resolutions of the UN Security Council, and, in particular:

- (a) to adopt or develop effective domestic laws and procedures to prevent and suppress piracy and other acts of violence at sea,
- (b) to adopt cooperative arrangements to deal with piracy and other acts of violence at sea, including the preparation and deployment of effective naval responses and assistance to coastal States that lack the capability to fight piracy and other acts of violence at sea and to prosecute the perpetrators thereof.

DECLARATION SUR LA PIRATERIE

L'Institut de droit international,

Profondément préoccupé par l'augmentation des actes de piraterie et autres actes de violence mettant en danger la sécurité de la navigation et du commerce internationaux, ainsi que la vie et la liberté des gens de mer ;

Reconnaissant que le droit international actuel sur la piraterie, tel qu'il est énoncé par la Convention des Nations Unies sur le droit de la mer de 1982, est limité aux actes de violence commis en haute mer par un navire à l'encontre d'un autre navire et ne couvre pas complètement tous les actes de violence mettant en danger la sécurité de la navigation internationale ;

Notant l'absence de capacité, de la part de certains États côtiers, d'assumer leur responsabilité d'assurer la sécurité de la navigation en mer territoriale et d'agir efficacement sur leur territoire, en ce compris leurs eaux intérieures, pour prévenir les actes de piraterie et autres actes de violence en mer, ainsi que les activités connexes ;

Salue les résolutions 1816 (2008) et subséquentes du Conseil de sécurité élargissant et adaptant, pour répondre à la situation actuelle la plus grave et sans préjudice du droit international général, la portée des règles existantes du droit international sur la piraterie afin d'y inclure, en particulier, les actes commis contre des navires dans la mer territoriale ;

Exprime son inquiétude face à la réticence des États d'exercer les compétences qui leur sont reconnues par la Convention des Nations Unies sur le droit de la mer en vue de poursuivre les pirates et autres auteurs d'actes de violence en mer et de mettre en œuvre la Convention de 1988

586 Institute of International Law - Session of Naples (2009)

pour la répression d'actes illicites contre la sécurité de la navigation maritime, ainsi que la Convention de 1979 contre la prise d'otages ;

Exprime son inquiétude face au manque d'uniformité et, parfois, à l'inadéquation des politiques et des législations nationales relatives aux pirates et autres auteurs d'actes de violence en mer se trouvant sous leur juridiction,

Appelle les États à mettre en œuvre, dans le strict respect des droits de l'homme vis-à-vis des victimes et autres personnes en cause, les Résolutions du Conseil de sécurité et, en particulier :

- a) à adopter et développer des lois et procédures internes effectives en vue de prévenir et de réprimer les actes de piraterie et autres actes de violence en mer ;
 - b) à adopter des mécanismes de coopération relatifs à la piraterie et autres actes de violence en mer, y compris la préparation et le déploiement de réponses navales effectives et l'assistance à apporter aux États côtiers dépourvus des moyens de lutter contre la piraterie et autres actes de violence en mer et de poursuivre leurs auteurs.
-