In the latest stage of the stoush outage pranese whaling activities in the Southern Ocean, the (Japanese) Institute of Cetacean Research together with Kyodo Steenisplaak uhave successfully sued for a preliminary injunction against the Sea Shepherd Conservation. Society in United States Court n a judgment released on the 25 February 1280 LBS Court of Appeals for the Ninth Circuit overturned an earlier decision the Western District of Washington, which denied the Institute of Cetacean Research the injut not under the Alien Tort 6 W D W X W H W K D W S U R Y L G H V I R U D F D X V H R I D F W L R Q I R U nations of a treaty of W K H 8 Q L W HDGQ G6 WGDL W P M V V H G L W V F O D L P V W K I amount to piracy.

In a robust judgment/ery different in style and tone to thy aptically used in New Zealand or Australia

party) requires a cts of violence or detention, committed for private ends by the crew or the passengers of a private ship on the high s add. DGLWLRQDOO\ WKH WHUP 'SU interpreted as referring to acts relating to personal enrichment rathers and the application or other motive. This was the approach taken by the District Court in this case but overturned DQG GHVFULEHG DV 'HUURQHRXVµ E\ WKH 1LQWK & LUFX EURDGHU GHILQ, Las VSETROW in RVVEDS BEUVLY DFV/WHE COURD decided WKDW WKH WHUP PRUH JHQHUDOO\ UHIHUV WR 'PDWWHU FRQQHFWHG WKRHILL QWG Q Q MVµ WR ZKLFK 'SULYDWH HQGVµ L nature has benefited finorecent academic discussion, and the Court of Appeal cited works by Douglas Guilfoyle and Michael Bahare as well as a desise on by Begium courto support LWV FRQFOXVLRQ WKDW 'SULYDWH HQGVµ LQFOAXGH WKI JURXQGV VXFK DV 6HD 6KHSKHUG·V SURIHVVHG HQYLURQ

Characterising the activities of Sea Shepherd as piracy has potentiadlyirfgrimplications. Piracy is a crime of universal jurisdiction under theLOS (Article 105) and customary international law. Pirates can therefore be prosecuted by any state even where there is no connection between the prosecuting state and the pirates, pirate vessel or the victims. Moreover, any state can board and seize a pirate vessel on the highNStateS(Article 105 and 110(1)(a)). These rights do not generally apply to other offences committed at sea. Furthermore, the 1988 ternational Convention on the Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA), which was byte be Court of Appeal, explicitly does not provide for universal jurisdiction in respect of offences involving acts of violence at sea (Article 6). The fact that this Convention specifically created a number of offences involving violence at sea, broadough to include those committed with a political oprofit motive, supports the argument that piracy, a crime under customary international law, does not cover violence committed for political or nprofit motive. jurisdiction. This arguably ess too far and cannot be supported under international law as it stands today.

The Court of Appeal went on to discuss the relevance of the fact that the whaling activities are taking place in Australian Antarctic Territory (AAT). Unsurprisingly the **Conis** sed this as a consideration and confirmed the long