A Regional Response to Maritime Piracy: Enhancing Public-Private Partnerships and Strengthening Global Engagement

A public-private counter-piracy conference co-convened by the UAE Ministry of Foreign Affairs and DP World

June 27-28, 2012
United Arab Emirates

Selected Briefing Papers

Briefing papers were commissioned in order to reflect current cutting-edge academic and expert thought in the field of counter-piracy. The papers are intended to serve as background to the conference only. The opinions expressed in them are the views of the authors only, and do not reflect the opinions or positions of the conference organizers. Content may have been edited for formatting purposes.

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Preface

Piracy off the Coast of Somalia:
Ongoing Challenges, Unwavering Commitments

Last month, the United Arab Emirates successfully completed its first counter-piracy trial. Ten individuals were found guilty and sentenced by a Federal Judge in Abu Dhabi to 25 years imprisonment for the violent hijacking of a vessel under UAE-flag, and the subsequent taking hostage of its 24 crew.

It was a strong sentence that sent a powerful message regarding the UAE’s commitment to fight pirate activity off the coast of Somalia. The UAE is proud to join those countries that have responded to the international call to prosecute apprehended pirates within their own legal systems. Over the past year, through our collective efforts, we can be confident that the ‘culture of impunity’ that existed off the coast of Somalia has been ended.

But the successful completion of the UAE’s first counter-piracy trial, and the conclusion of a number of other high-profile international counter-piracy trials in recent months, is also a stark reminder of the challenges that remain before us. The success of the international community’s efforts to realize a long-term solution to maritime piracy off the coast of Somalia depends on a home-grown solution, which will be achieved only when pirate gangs are apprehended by Somali-led forces, tried in Somali courts, and imprisoned in Somali jails.

Ultimately, our shared goal is to enable all Somalis to enjoy lives of peace, security, and economic opportunity that have so long been denied to them. Somali youth will no longer be driven by an absence of hope to engage in dangerous criminal activity at sea. In this respect, the international community, together with its Somali partners, still has a long way to go.
On 27 and 28 June 2012, the UAE will invite its partners and friends for the second time to come to Dubai and discuss ways in which to enhance international efforts to counter piracy off the coast of Somalia. It is our hope that this second, high-level, public private counter-piracy conference will prove to be another milestone in galvanizing this response.

Last year, representatives of more than 40 countries joined with the leadership of a range of maritime industry, and international and humanitarian organizations, in order to discuss ways to improve the prevailing international approach to maritime piracy. The meeting in April 2011 reaffirmed that addressing the threat of maritime piracy is a priority among the governments and business leaders of our region - a region that is at the forefront of combating this global challenge.

The collective message of the event was clear: The international community will not allow maritime piracy to continue unchecked off the coast of Somalia.

In order to ensure that the international response to maritime piracy off the coast of Somalia is furthered in the immediate term, there are a number of keys areas in which immediate progress needs to be made.

Firstly, the international community will continue to strengthen its engagement in support of Somalia. A series of high-profile events reiterated the world’s concern for the Somali people: In London, in Istanbul, and now this month in Dubai. The continuity of purpose demonstrated throughout these efforts reflects the coordinated and joined-up approach that is being taken by the international community. Somalia’s partners are now delivering on their commitments; and tangible changes can be seen on the ground. The people of Somalia are beginning to enjoy the dividends of comprehensive international commitment: With a constantly increasing security and humanitarian situation on the ground, especially in Mogadishu.

In turn, the international community will continue to call Somalia’s leaders to maintain the strong progress and noble efforts they have made so far. The historic end of transition in August 2012 and the subsequent formation of a permanent government based on a new constitution will be a momentous step toward full Somali ownership of its future.

Secondly, public-private cooperation must be expanded in the fight against maritime piracy both at sea and on land. Last year, at the UAE Conference, the decision of a number of maritime companies to donate funds to a United Nations Trust Fund for initiatives that will counter piracy off the coast of Somalia signalled a transformative moment in
public private cooperation. It showed that all parties are fully aligned on the international response. This year, a number of key partners in the maritime private sector are looking to do more, and they can be sure that regional governments stand ready to support them.

Finally, it is clear that international counter-piracy efforts must move toward more regional leadership. Somalia is at the heart of a historic and proactive region, and a solution to the problem of maritime piracy that can be sustainable in the long-term must be regionally led and owned. In this respect, more efforts are needed to empower states in the piracy-affected region to mount effective national challenges to disrupt and defeat pirate groups operating off their shores. The UAE, and Somalia’s regional partners will therefore continue to work with Somalia, including with an expansion of support in maritime security capacity building through the raising of new financial resources toward this objective, to ensure that Somalia’s authorities have the right tools to lead this global counter-piracy response also within their territorial waters.

Over the past year, in its bilateral relationships and in its international engagement on this issue, including as Chairperson of the Contact Group on Piracy off the Coast of Somalia, the UAE emphasized these three key areas of its comprehensive response. The UAE is proud to again have the opportunity, this month, to host a range of high-level leaders from government and from business, working together to forge a more effective response to the threat from maritime piracy off the coast of Somalia.

His Highness Sheikh Abdullah bin Zayed Al Nahyan
Minister of Foreign Affairs, United Arab Emirates
Executive Summary

Piracy off the coast of Somalia continues to be a global challenge, threatening the lives of seafarers, disrupting international trade, victimizing Somali people as well as sailors, and affecting the world at large. The total cost of piracy in 2011 is estimated at $7 billion as per "The Economic Cost of Somali Piracy 2011" report published by the Oceans Beyond Piracy Program. While governments are facing specific questions regarding the allocation of resources in the fight against maritime piracy, notably with respect to the deployment of military force, the global maritime industry is facing specific problems of its own such as spiraling costs of insurance premiums, passive-security upgrades, personnel training, and private security fees. All these factors can potentially have a jeopardizing impact unless key stakeholders prioritize their long-term commitment to addressing maritime piracy issues.

Long-term counter-piracy efforts are a core aim to synergize public sector and private sector efforts to re-inforce state-to-state and multinational activities. Public-Private Partnerships (PPPs) should draw the two communities into a shared approach that encompasses sustained engagement between international assistors at the state and UN levels, the private sector community, recipient states and non-governmental organizations. The ongoing efforts by the UAE Ministry of Foreign Affairs and global ports operator DP World to further international public and private-sector collaboration in long-term counter-piracy efforts is behind this year’s conference entitled “A Regional Response to Maritime Piracy: Enhancing Public-Private Partnerships and Strengthening Global Engagement.” The ultimate goal of this conference is to enhance regional engagement, the need to develop capacity building, and to build robust public-private partnerships.
In order to draw attention to key issues and to update assessments made in the 1st counter-piracy conference in April 2011, the conference organizers engaged the Institute for Near East and Gulf Military Analysis (INEGMA) as a Knowledge Partner to commission a series of short briefing papers that reflect the latest lessons learned and to put forward recent developments on piracy-related initiatives. These papers correspond to the conference content categories and are divided into the following themes: (1) **Current Situation and Challenges in the International Counter-Piracy Response**; (2) **Addressing Industrial Perspectives and Solutions**; (3) **Short Term Containment Issues to Somali Piracy**; and (4) **Long-Term Regional Cures: Somalia and Anti-Piracy Initiatives**.

The selected papers cover a wide range of topics and propose a number of key themes ranging from the industry perspective, to the human cost, going further to tackle military responses and required actions, to the effect of media on piracy and furthermore. Collectively, however, the papers serve a unified purpose: bringing together international experts from around the world and from various backgrounds on a single platform to put forward potential solutions to maritime piracy - a crime that threatens us all.

**1) Current Situation and Challenges in the International Counter-Piracy Response**

Section 1 focuses on a number of key issues related to security and safety regarding piracy including legal issues on criminal charges against pirates. Donna Hopkins argues that through a range of capacity-building efforts, many administered by the United Nations, the European Union, and various bilateral assistance programs, donors are working with Somalis to reestablish the regional and national institutions that will eventually allow Somali authorities to control their coastal and seaward territories and bring an end to vicious forms of maritime crime. Jon Huggins suggests that military experts agree that the military response can only mitigate certain symptoms of piracy and cannot provide a sustainable solution by itself. The military has performed admirably at the tactical level – but any effort must be integrated into a comprehensive plan that would allow for a regionally-led solution. Lieutenant Commander Jacqueline Sherriff, explains why EUNAVFOR’s new program to Disrupt Pirate Logistic Dumps (DPLD) on shore is a necessary tactical shift to disrupt the piracy economic model. Ambassador Henk Swarttouw examines the Contact Group on Piracy off the Coast of Somalia (CGPCS) as a way to deal with the persistent international problem of piracy through an informal but networked cooperation between national governments, international organizations, and private-sector stakeholders. The Ambassador points out that the CGPCS was deliberately established outside the UN-system to provide a unique forum to find solutions especially from regional states. Stig Jarle Hansen tackles the issue of Al-Shabaab and Al-Qaeda in Somalia as a continuing security issue and threat. Al-Shabaab remains a thorn that needs to
be dealt with effectively as part of the security environment as this terrorist group is pushed out of Somalia into neighboring countries. Douglas Stevenson examines the very important topic of seafarers’ health and welfare which is vastly understated in the press coverage of the problem. Stevenson maintains that progress has been achieved in reducing pirate attacks but piracy’s effects on seafarers will continue to be a challenge for governments and the maritime industry, so it must remain a top priority. Finally, Eugene Kontorovich looks at pirate detention noting the difficulties in prosecuting pirates because of proving ‘piratical intent’ for those caught in attempted attacks. Overall, all contributors in this section come to an agreement that more actions need to be taken in the sphere of countering piracy and that efforts need to be integrated and escalated. But what stands out in this important section is that measures should be taken within regional and international frameworks to be truly effective.

(2) Addressing Industrial Perspectives and Solutions
Authors in Section 2 were asked specifically to give their views from their respective industries as a way to open up dialogue on private sector views, concerns, and emerging roles in counter-piracy efforts. Eirik Hooper, after conducting a survey for senior executives in the shipping industry, found that the shipping lines are focused on trying to provide cost-effective short-term protective/preventative measures, and given their experience of government, are reticent to step further into the quagmire and therefore appear to have little or no appetite to lead any land-based or longer-term solutions. Derek Rogers maintains that the insurance industry has at minimum helped limit the impact of Somali piracy through the traditional role of risk transfer and understanding how Kidnap & Ransom (K&R) insurance policy has extended the role of traditional marine insurance. Peter Middlebrook, whose past work on economic solutions for Somalia is notable, maintains that solutions must be both curative, and efforts to generate national incomes to remove the economic incentive to engage in piracy must be strengthened. Lastly, Stephen Askins asserts that the shipping industry has shown itself capable of drafting standards to help avoid hijackings and to deal with a constantly evolving threat, such as with Best Management Practices (BMP) which has a proven contribution to the rapid decline in the number of successful attacks. In sum, the authors of Section 2 put forward credible recommendations based on their own professional observations and experiences that offer interesting perspectives from the private sector.

(3) Short Term Containment Issues to Somali Piracy
Section 3 of the book looks at the role of private security companies, sailor training, public diplomacy and also provides an overview on legal issues from the Indian Ocean Commission. Peter Chalk and Carolin Liss argue that current situation is serving to increase the demand
for Private Military Security Companies (PMSCs) to make their services available to protect commercial carriers transiting pirate-prone “hot spots.” Both authors see problems with the use of these PMSCs, and that problems and controversies remain demonstrating significant weaknesses and shortcomings in maritime security governance.

Humanitarian themes are found in Pierre St. Hilaire and Marie Lynge’s contributions; both authors focus on seafarer conditions. From St. Hilaire’s point of view, INTERPOL is establishing initiatives to actively engage military and national law enforcement bodies alongside private sector stakeholders in coordinated efforts to facilitate the identification and traceability of suspects associated with maritime piracy, as well as in their prosecution, and will continue to build on such initiatives, to protect seafarers. Lynge asserts that hostage training has proven effective and should be mandatory for all seafarers to avoid Post Traumatic Stress Disorder (PTSD).

Nis Leerskov Mathiesen sees avoidance as the first option for merchant vessels defending against Somali pirate attacks and that the main problems are those of assessing, analyzing, and disseminating intelligence. Mary Harper writes that public diplomacy, whereby governments and multilateral bodies explain and promote their policies to the wider public by engaging with the international media and other non-governmental entities are in many ways contributing to myths and misconceptions about piracy. These distortions, especially as reported in the media, have in turn led to counter-piracy policies that are misaligned to the actual needs of counter-piracy goals. Finally, Jacques Belle maintains that in respect to the fight against maritime piracy, nothing concrete could and will be achieved if there is significant lack of interest, determination, and strong political will expressed by the international community to the spread of piracy across the Indian Ocean.

The submissions in Section 3 bring to light more diversity to the short term remedies necessary to address PMSCs and the need to develop mechanisms to appropriately regulate the rapidly growing private maritime security industry, the importance of correcting popular misconceptions about piracy, and developing policies that can better harness the collective efforts of those affected by the problem of piracy.

(4) Long-Term Regional Cures: Somalia and Anti-Piracy Initiatives
The final section of the book, Section 4 covers regional initiatives and potential remedies. Theodore Karasik and Kathryn Wightman-Beaven look at unique partnerships. Karasik argues that to many Western or other non-specialists, the idea that the Arabian Peninsula
and the Somalia Peninsula are closely linked through historical ties and through merchant trade relations, seems alien. He proposes the creation of a Somali Arabian Peninsula Business Council (SAPBC) that could be based in Dubai to help develop trade and economic relations between Somalia and the GCC plus Yemen by encouraging contacts between businessmen so that the economic roots of piracy can be addressed in long term ways. Kathryn Wightman-Beaven asserts that long term solutions take a long time to develop and implement, so state building and economic development programs supported by PPPs (Public-Private Partnerships) must also be complemented by short-term counter-piracy solutions. PPPs in Somalia require a tailored approach, and an emphasis on state building and harmonization within local government plans as well as other agencies. Evidence from the region shows that large scale partnerships can be very effective; however they must be approached cautiously and flexibly.

Anja Shortland explains that although piracy is often approached from an international security perspective requiring a military solution, piracy in Somalia is best understood as an organized crime. In coastal Puntland, piracy provides considerable employment and investment opportunities and its proceeds spread throughout the local community. As the targets of piracy are mainly outsiders to the community, local grass-roots counter-piracy efforts are mostly weak and therefore demand assertive approaches. A land-based approach to piracy should combine improved law enforcement with developing alternative livelihoods in coastal communities to strengthen local incentives to deny pirates their land bases. Shortland’s contribution adds weight to the arguments set forth by Karasik and Wightman-Beaven.

Both Muhyadin Ali Yusuf and Rear Admiral Naval Staff Ibrahim Al Musharrakh, argue the need for maritime naval solutions. Ali Yusuf maintains that the building of a functional Somali National Coast Guard (SNCG) is important in order to ensure safety and security of marine transport and coastal activities, and Rear Admiral Naval Staff Al Musharrakh, puts forward the case for a GCC counter-piracy force, composed of naval assets and maritime patrol aircrafts that could rely on the information-sharing center established in Bahrain. He also proposes that GCC countries should consider providing suitable coast guard equipment and training to participating countries in an Arab-led coalition. Together the two contributors argue for a robust regional solution. There is a consensus among the authors in Section 4 that a regional solution is necessary to bring together business leaders, governments, and regional navies to act in a united front against maritime piracy. Regional integration needs to start sooner rather than later as part of the long-term solution to eradicate piracy off the coast of Somalia and the wider region of the Indian Ocean.
Overall, the conference book brings together some of the latest and most cutting-edge thinking on the challenge of maritime piracy off the coast of Somalia, covering a number of key areas of international and regional interest. Throughout the research, the importance of regional solutions through public-private partnerships repeatedly emerges. The breadth of issues tackled in this book will help create awareness about the complexity of the piracy problem: Understanding both the context in which it emerges and thrives, and the response necessary to reverse its growth. In this respect, the papers demonstrate the progress made both by Somali parties within Somalia and in the international action taken in support of Somalia, but they also demonstrate how many challenges still lie ahead.

The research presented within the book in this respect will surely serve as a platform for discussion and debate at the United Arab Emirates-hosted counter-piracy conference, *A Regional Response to Maritime Piracy: Enhancing Public-Private Partnerships and Strengthening Global Engagement*, which will build on the success of the previous year’s conference, as well as a number of admirable recent international initiatives taken in this regard by a range of key countries and stakeholders, and help facilitate even greater a more effective solution to maritime piracy on land and at sea.
Current Situation and Challenges in the International Counter-Piracy Response
The Changing Threat from Somali Pirates and their Major Centers of Activity in 2012

Donna Hopkins
Coordinator for Counter Piracy and Maritime Security, Bureau of Political-Military Affairs at the US Department of State

Maritime piracy emanating from the Somali coast came to the world's notice abruptly in late 2008 with the hijacking of the M/V Faina, which was carrying a cargo of heavy weapons, and the Saudi oil tanker M/V Sirius Star, which was subsequently ransomed for millions of dollars. Since that time, the international community and maritime industry have worked together to combat this menace that is threatening global trade, regional security, and Somalia's own recovery from two decades of devastating internal conflict and repeated humanitarian disasters. Somali piracy is a particularly ugly form of hostage taking for ransom, victimizing both the seafarers and families whose lives are disrupted and sometimes destroyed by their brutal captivity and the ship-owners and shipping countries that deliver cargo ranging from food aid destined for some of the world's poorest populations to goods upon which the global economy depends.

The concerted international response to this plague has yielded impressive results. Nations, coalitions and alliances mounted naval counter-piracy patrols at sea that have disrupted countless attacks and made specific sea lanes much safer to travel. The maritime industry has developed and continues to press for implementation of a wide range of protective and preventative vessel security actions, collectively known as Best Management Practices (BMP), that have dramatically reduced ships' vulnerability to pirate attack. States have increasingly embraced the employment of armed security on commercial ships, ranging from military or paramilitary Vessel Protection Detachments (VPDs) to Private Maritime Security Companies (PMSCs). Together, these actions have reduced the success rate of pirate attacks by about 70 percent; as of this writing in mid-April 2012, Somali pirates hold 9 ships and 215 hostages, down from a historic high in January 2011 of 31 ships and 710 hostages.
Somali pirates, in response, have adapted their tactics. Formerly given to using large pirated vessels with hostage crews at gunpoint as mother ships from which they could launch wide-ranging attacks using multiple skiffs, pirates have recognized that navies can more easily monitor, intercept, and disable these large platforms, and are increasingly shifting to the use of dhows from which to mount their attacks. Dhows can more easily blend in with legitimate fishing fleets, and while they are more limited in range, they are more mobile and less vulnerable to interdiction by naval counter-piracy patrols. Somali piracy is largely a crime of opportunity, and pirates go where naval patrols are absent; as a result, there are increasing numbers of attacks northward near Oman, southward off the coast of Seychelles, and eastward as far as India – in fact, across much of the Indian Ocean and its outer extremities. With the decrease in success rates in maritime attacks, kidnappings on land are increasing, either perpetrated by or involving Somalis from clans associated with maritime piracy. There have been several cases in recent months of aid workers and tourists being kidnapped by or sold to pirate gangs for hostages. Furthermore, hostages are increasingly being held for longer periods and subsequently ransomed for smaller amounts of money, which indicate that the pirates are modifying their own goals and aspirations, probably due to the pressure exerted by their dwindling success at sea.

The international community also continues to adapt to the changing circumstances of piracy. Recognizing early on that naval counter-piracy forces could not adequately protect shipping spread over more than a million square miles of ocean surface; national governments have increasingly welcomed the employment of private armed security personnel on commercial ships. Reversing longstanding policies regarding the carriage of arms on merchant vessels, this acceptance was simply a recognition that self-protection is both a right and a responsibility of vessels who sail, of necessity or choice, into areas where the danger of piracy ranges from significant to acute. Armed security is effective; not a single ship protected by armed guards has been hijacked to date. However, it is not without its challenges. Littoral states are grappling with policies and processes dealing with the introduction of weapons into national ports, and insurance companies are debating how to deal with the potential liabilities incurred by the presence of protective armed teams. The Contact Group on Piracy off the Coast of Somalia (CGPCS) and the International Maritime Organization (IMO) are working in concert to define the legal and policy aspects of private armed security on commercial ships, even as increasing numbers of companies employ them and states are enacting national legislation, regulations and/or policies to enable and oversee their use. In the meantime, pirates have taken notice of the presence of these teams on ships, typically breaking off approaches when confronted with armed security and seeking softer targets to attack. Roaming over an extremely large maritime territory in their mother ships,
The Changing Threat from Somali Pirates and their Major Centers of Activity in 2012

even using mid-size dhows, pirates seek victim ships travelling less-obvious routes that are less likely to be protected by naval forces, to be armed, exercising security Best Management Practices or otherwise able to defend themselves against the predators who are searching for them.

The international counter-piracy community has coalesced around the understanding that piracy, while occurring at sea, has its origins on-shore in the networks that plan, finance, and facilitate piracy, and in Somalia’s institutional weakness, which renders local authorities unable to deal with them. There is now a serious and concerted international effort to identify and disrupt these shore-based networks and their leaders through the sharing of military and financial intelligence and law enforcement information. One notable success was the conviction on April 27, 2012 of Mohammed Saaili Shibin in Norfolk, Virginia on charges related to attacks on the German *M/V Marida Marguerite* and the American sailing vessel *S/V Quest*, in which four U.S. citizens were murdered by their Somali captors in February 2011. Shibin faces mandatory life sentences on four of the fifteen charges, including conspiracy to commit piracy, of which he was convicted. He is not the first and will not be the last pirate hostage negotiator to be brought to justice for his crimes. In a bold collaboration, the small Indian Ocean island nation of Seychelles and the United Kingdom have announced the establishment in 2012 of the Regional Anti-Piracy Prosecution Intelligence Coordination Center, which will serve as a focal point for the collection, analysis and dissemination of piracy-related information for the purpose of building prosecutable cases against pirate organizers and financiers. A number of nations, including the United States and the Netherlands, have already announced their support for this novel counter-piracy prosecution center.

In another positive trend, Somalis themselves are beginning to push pirates out of the coastal communities that have historically offered them safe haven, in their growing understanding that piracy is degrading the fabric of traditional Somali society. As many as 15 percent of the men who go to sea on pirate missions — hundreds of men, young and old — never return, either lost at sea or captured and sent to prisons outside of Somalia. There are reports that Somali women and girls are being enticed or forced into prostitution to service pirate gangs, wrecking any prospect for themselves of better lives. The political processes that hold the only real hope for Somalia’s economic and social recovery are being corrupted by a flood of ransom money into this stressed economy.

The net effect of these negative factors is a noticeable shift in Somali attitudes against piracy. No longer defending kidnapping and hostage-taking for ransom as a legitimate reaction to illegal fishing and toxic dumping — which they certainly never were — Somalis are beginning
to take action themselves against pirates, and the international community stands ready to help them do so. Millions of honorable Somalis, both in Somalia and among the large Somali diaspora, are understandably offended by the damage that pirates are wreaking on their reputations and their homeland, and are starting to take action against the criminals in their midst. The international community should applaud and materially aid those who are working to force pirates out of their communities.

Through a range of capacity-building efforts, many administered by the United Nations, the European Union, and various bilateral assistance programs, donors are working with Somalis to re-establish the regional and national institutions that will eventually allow Somali authorities to control their coastal and seaward territories and bring an end to this vicious form of maritime crime. This will take time, effort, and patience, but the international community and Somalia itself are committed to this cause. Maritime piracy has no place in the 21st century, and the international community is collectively taking the measures necessary to end it.
The Military Response: Successes and Outstanding Challenges

Jon Huggins
Director of the Oceans Beyond Piracy (OBP) Program,
One Earth Future Foundation

While the military response to piracy off the Coast of Somalia has been the most visible aspect of international counter-piracy efforts, it is also been the one that has generated the most questions. In the public’s eyes, a sizable flotilla made up of ships from NATO, the European Union (EU), and a US-supported Coalition should certainly be sufficient to defeat a collection of pirate-operated skiffs.

However, despite early optimism and enthusiasm, it was apparent from the very early stages that the military response could not address piracy on its own. In February 2011, Colonel Richard Spencer, the EUNAVFOR Chief of Staff stated that “The military resource is finite and only treats the symptoms. We’re only holding the line.” Therefore, an assessment of the military effort cannot be based on whether the military has been able to reduce piracy on its own, but rather on how successfully it has achieved its tactical mandates, and how effectively it has contributed to the overall international response to piracy.

Specifically, this paper will examine (Case 1) the coordination and execution of the tactical military response in theater, (Case 2) how successfully the military supports other lines of effort as part of a comprehensive plan, and (Case 3) the challenges facing the military in transitioning to a lasting solution by the end of its current mandate.

Each of these three areas has an associated focal point or mechanism for planning and coordination where the efforts of the multiple actors should be coordinated. As an overall measure of effectiveness, the success at the tactical level is remarkable, but the grades get progressively lower moving from Case 1 to Case 3, which also represents the progression from tactical to strategic and from short-term mitigation measures to sustainable effect.
Case 1: Tactical Military Response
The primary coordination at the tactical level occurs through the Shared Awareness and Deconfliction (SHADE) mechanism in Bahrain. These quarterly meetings involve over 100 participants to include the three prominent coalitions of forces operating in theater (NATO, EUNAVFOR and the Coalition Maritime Forces) as well as representatives of countries providing “independent deployers” including China, India, South Korea, Japan, Russia and others. In addition to the larger meetings, there are sub-groups to address specific issues such as convoy coordination, resource requirements, and aviation operations. Overall, SHADE has received overwhelmingly positive response from participants as a mechanism that has successfully brought together disparate nations and organizations to achieve tactical success in theater.

To evaluate the individual tasks in theater, there are four areas of focus that can be used to broadly define the mandates of the larger coalitions, and can be used here as a framework of the assessment:

- **Protection of Shipping:** This can more generally be viewed as the defensive side of military counter-piracy operations and includes the specific escort of World Food Program (WFP) and African Union Mission in Somalia (AMISOM) vessels as well as the protection of merchant traffic in the Internationally Recognized Transit Corridor. The navies’ record of success can be measured with statistics that show a precipitous drop in piracy attacks and hijacks in the Gulf of Aden over the last three years and a 100 percent success rate providing escorts to WFP vessels. This protection comes at a high cost, particularly for EUNAVFOR, which uses a large portion of its available forces for these missions.

- **Disruption and Suppression of Piracy:** As an offensive response to piracy, disruption and suppression is defined by the EU as an action by armed forces that render a pirate group incapable of further pirate operations. Here too, naval forces can point to statistical success that includes over 100 disruptions in both 2010 and 2011. This success can be attributed to improved coordination, more persistent surveillance (including operations closer to the Somali shore) and the use of citadels, which have provided more opportunities for naval forces to arrive in time to disrupt attacks. However, some have argued that the successful disruptions have displaced the pirate hunting grounds to the east and south and have resulted in the advent of mother-ships and more sophisticated targeting by pirates. It has yet to be seen how the latest expansion of the EU mandate to include Somali coastal territory will affect pirate operations.

- **Deterrence of Piracy:** While the number of reported attacks appears to be down thus far
in 2012, the total number of attacks attributable to Somali pirates has increased every year that the navies have been operating. It appears as though Naval forces alone are not able to overcome the so-called “risk-reward ratio” given that a young Somali male with very limited education and skills can earn a life-time’s income in a few months as a pirate with little risk of arrest and imprisonment. It has also been alleged that the “catch and release” tactics used by navies may actually be counter-productive; this claim is reinforced by anecdotal evidence suggesting that the compassionate treatment of suspected pirates after capture has convinced some Somalis that there is little to fear from naval forces.

• Trust-Building Activities: To address Somali concerns highlighted in UN Mandates authorizing the naval presence, navies have begun to emphasize the importance of building relationships and partnerships with coastal Somali communities and regional authorities. Positive press from assistance to fishermen in distress or the rescuing of Somali hostages from pirates has proven effective in building these relationships. However, there has still been no concerted international effort to address the moral underpinning of piracy in some communities, namely allegations of toxic dumping and illegal fishing. While EUNAVFOR stated that it will “contribute to monitor fishing activities” the data collected has not been publically disseminated.

Case 2: Military Action as Part of a Comprehensive Approach against Piracy
The primary coordination mechanism established to “act as a point of contact between and among states, regional and international organizations on aspects of combating piracy and armed robbery at sea off Somalia’s coast” is the Contact Group on Piracy off the Coast of Somalia. The Contact Group itself was divided into four (now five) Working Groups that encourage cooperation in specific issue areas. The Plenary session is held three times per year to encourage cooperation amongst the different Working Groups. The Contact Groups have faced particular challenges in encouraging coordination and prioritization across Working Groups and to provide direction for efforts, rather than retroactively documenting unilateral initiatives by members. A more specific assessment of how the first four Working Groups support, or are supported by, the military response is below:

• Working Group One (Operational Navy Response and Regional Capacity Building): Since 2009, this group has been guided by a Needs Assessment Survey and resulting Needs Assessment Matrix to direct effort and identify required resources. This group has faced difficulties in consolidating strategic direction on issues such as force generation,
mandates and rules of engagement, and thus leaving these to each individual participant. The second part of WG 1’s mandate, to coordinate Regional Capacity Building, is also challenged to provide proactive coordination due to the growing number of new entries into this field.

• **Working Group Two (Legal Aspects):** Most of the military forces operating off the Coast of Somalia have done a remarkable job at increasing their capacity to conduct constabulary tasks, such as capturing and detaining suspected pirates, and evidence collection. However, the ability of navies has outpaced the capacity of regional nations and the willingness of other nations to prosecute captured pirates. This has resulted in navies conducting incredibly dangerous operations to detain suspects, only to be forced to release them on shore. As a consequence, the Chair of WG2 has recently raised a discussion on the reasons behind the gap between the number of prosecutions and the number of suspected pirates detained by international forces.

• **Working Group Three (Cooperation with Industry):** The primary framework for industry efforts to counter piracy is through the industry-developed Best Management Practices (BMP). While most responsible shipping lines have voluntarily complied, there is still a persistent 30 percent that do not follow BMP and increase the vulnerability of their vessels. Another crucial aspect of industry counter-piracy is through the employment of Private Maritime Security Companies (PMSCs). PMSCs have made a large impact in reducing the success rates of pirate attacks against merchant vessels, but the cooperation between PMSCs and the military suffers from a lack of trust and transparency. This lack of trust can be attributed to many factors, including the ambiguous policies towards PMSCs by various Flag States, concerns surrounding liability and possible prosecution, and lack of standardized certification/vetting and use of force policy. WG3, with support from WG2, is currently working on producing guidelines and a code of conduct for PMSCs.

• **Working Group Four (Strategic Messaging):** Due to a variety of reasons, the military line of effort has not been adequately supported by consistent messaging by the international community: Both to the international audience about the threat from piracy, and within Somalia itself, in order to inform the Somali public about the dangers of piracy and the importance of a response. Some of the blame is due to political considerations in Brussels, Washington, and other capitals which result in uncoordinated messaging by governments or organizations. There is also a lack of messaging cooperation between the different sectors involved in piracy (industry, governments, seafarers, etc.) The navies can also help themselves through the development of trust-building activities to
encourage greater support from Somali regional authorities ashore, better information-sharing between the coastal communities and international navies, and through better communication with coastal fishermen and merchant vessels.

Case 3: Future Challenges
Recently, decisions were taken in both the EU and at NATO to extend the mandates for Operation ATALANTA and Operation Ocean Shield until the end of 2014. It cannot be assumed that the mandate will be expanded further, based on factors such as the opportunity cost associated with committed naval forces in the Horn of Africa (HoA) and the impression that the threat of piracy may be waning. However, since the risk-reward ratio cannot be adequately addressed until the strategic conditions are changed, all of the gains are reversible. Therefore, it is imperative that actors begin to consider planning for a transition to a regionally-led approach before the current mandate expires. Some work has already been done by individual actors to comprehensively address piracy through their own resources, but there is no overall planning effort that includes all stakeholders that would maximize limited resources. The Contact Group is well placed to take on such a challenge, and if properly executed, this line of work would be a tremendous benefit for international counter-piracy efforts. Otherwise, a new mechanism should be considered to begin planning for this transition.

Conclusion
In conclusion, the goal of the international militaries involved in fighting piracy off the Coast of Somalia should be to focus their efforts over the next two and a half years to encourage and support a lasting, regionally-led solution, thereby making themselves redundant. The fastest and most efficient way to achieve this goal is to build on the success gained at the tactical level through closer cooperation with industry, cross-coordination with complementary lines of effort, and to establish the planning and implementation mechanisms needed to transition the current efforts from navy-centric operations to a regionally-led rule of law effort.
EUNAVFOR – Disruption of Pirate Logistic Dumps (DPLD) on the Shoreline: A Necessary Action?

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The EU’s engagement in the Horn of Africa (HoA) is defined by the region’s geostrategic importance, the longstanding EU engagement with countries of the region, the EU’s desire to help lift the people from poverty into self-sustaining economic growth, and the need for the EU to protect its own citizens from security threats. Piracy in the Indian Ocean has been a growing threat to international shipping, security and development from the middle of the last decade. In response to the rising levels of piracy in the Western Indian Ocean, the EU formed the European Union Naval Force and began Operation ATALANTA in December 2008 under the European Common Security and Defence Policy (CSDP) and in accordance with various UN Security Council Resolutions.

Piracy is a symptom of a wider malaise, reflecting Somalia’s recent traumatic history, the fragmentary state of its government and the largely lawless nature of much of the country. These fundamental problems, together with a lack of alternative means of employment, make piracy an appealing option. Only by addressing these root causes will the problem of piracy be overcome, and thus the use of EUNAVFOR to counter acts of piracy is simply one line of activity in a comprehensive approach that the EU has adopted which will address each of the challenges that face Somalia.

Countering the Pirate Threat at Sea
All activity conducted by EUNAVFOR is an integral part of the comprehensive approach and the wide spread of activity that the EU undertakes throughout the region. EUNAVFOR actively seeks out pirate groups and disrupts their activities. Until recently, this disruption took place exclusively at sea but on May 15, 2012 it demonstrated the ability and willingness
to take action against pirate equipment ashore. These disruptions amount to the denial of the equipment that the pirates need to operate, thus preventing them from mounting attacks on innocent shipping in the Indian Ocean and Gulf of Aden. Data collated since 2008 suggests that the Counter Piracy (CP) forces of the EU, of NATO and of the Anti-Piracy coalition are becoming more effective in preventing attacks before they happen. In addition, the success rate of those attacks which are mounted has decreased sharply as a result of the self-protection measures taken by the ships and the embarkation of PMSCs.

**Countering the Pirate Threat Ashore**

The Council of the European Union extended ATALANTA’s mandate from December 2012 to December 2014 and at the same time extended Operation ATALANTA’s area of operations to include Somali coastal territory and internal waters allowing us to disrupt the pirates before they take to the water. This has given credible and visual evidence to the local community of the support that EUNAVFOR is providing to the local authorities to bear down on this criminality. The increasingly positive support for the operation from Somalia and the wider international community, suggests an underlying desire to counter the criminal pirate gangs at source and bolstering regional authorities to develop the confidence to act to continue their effort to re-establish the rule of law.

The disruption on the beach is a tactical shift of focus, creating a disruptive effect in areas previously considered to belong to the pirates, damaging their sense of impunity and opens the door for the Transitional Federal Government (TFG) and regional authorities to take action to combat the criminal pirate gangs. It is endorsed by the TFG. Initial indications demonstrate that there are several areas of benefit for the CP Forces. The pirates will be forced to change their behaviour or re-locate bases further inland decreasing their ability to deploy at short notice and, as importantly, may have a detrimental effect on their standing as a pirate, creating friction with rivals, subordinates and clans. With the wide range of camps along the coast of Somalia, there is ample opportunity to disrupt criminal activity when conditions are deemed appropriate. Maintenance of this pressure on the beaches, as part of the comprehensive approach, will assist in allowing Somali authorities to create the suitable security infrastructure to permit stabilisation and economic regeneration throughout the country over the long term.

While these tactics are a new initiative for EUNAVFOR, they should be viewed as an extension of the successful disruptive actions that EUNAVFOR has previously undertaken at sea. DPLD operations are performed in accordance with International Law and all force is commensurate with the constabulary nature of the ATALANTA mission. All
action has been, and will remain, proportionate and precise with small calibre weapons used to specifically focus on pirate equipment following in-depth surveillance prior to the disruption.

**Conclusion**
While EUNAVFOR recognizes that the extension of the counter-piracy mandate will not solve the problem of piracy off the Horn of Africa by itself, it sees the mandate change permitting DPLD operations as a positive, necessary move. For limited tactical activity, the disruptive effect on the pirates can be disproportionately large through damage to their business model. The impact of sound and visual stimulus during a disruption on communities adjacent to the pirate beach cannot be underestimated. Crucially, the extension has been welcomed by the Transnational Federal Government as well as regional entities.
In 2009, a number of countries established the Contact Group on Piracy off the Coast of Somalia, as a way to deal with the persistent international problem of piracy through an informal but networked cooperation between national governments, international organizations, and private-sector stakeholders.

Pirates have been active for thousands of years, and almost as long as humans have been constructing sea-going vessels to enable travel, trade, and to conquer or migrate. Only in the last 100 years have we started to consider piracy a thing of the past, with occasional flare-ups in specific regions. However, in 2007 and 2008 piracy returned to the front pages of newspapers and to desks of ship-owners, navy-officers and government officials.

After several decades of civil war and lawlessness, pirates from Somalia had developed a very profitable new ‘brand’ of piracy: Hijacking ships and kidnapping crews for ransom. Piracy Somali-style spread like wildfire, and in 2008 more than 40 ships were taken by Somali pirates as well as many hundreds of seamen kidnapped. That same year UN-officials made clear that the organization at that moment did not have the capacity to deal effectively with the rapid growth of this new form of piracy. Consequently, several nations took up the gauntlet and deployed warships into the region as escorts for humanitarian aid transports to Somalia, and to protect their and other countries’ merchant fleets when passing through the vital shipping lanes in the Gulf of Aden.

In January 2009 the “Contact Group on Piracy off the Coast of Somalia” (CGPCS) was established, pursuant to the unanimously adopted UN Security Council resolution 1851. Paragraph 4 of this resolution “encourages all States and regional organizations fighting piracy and armed robbery at sea off the coast of Somalia to establish an international
cooperation mechanism to act as a common point of contact between and among states, regional and international organizations on all aspects of combating piracy and armed robbery at sea off Somalia’s coast; […]”

The CGPCS was deliberately established outside the UN-system (although it usually holds its plenary meetings at the UNHQ in New York). Participation in the work of the CGPCS is open to any country or organization that contributes to counter-piracy efforts or is directly affected by it. In practice, the “membership” of the CGPCS has stabilized at around 60 countries: Regional states, states that participate in the naval operations, and states with large shipping interests. The Transitional Federal Government of Somalia (TFG) and the regional authorities of Somaliland, Puntland and Galmudug also participate in the work of the CGPCS. Countries without specific interests at stake tend not to participate. Although the ‘membership’ of the CGPCS is restricted to states and international organizations (e.g. EU, NATO, IMO, UNDP, UNODC), other organizations, both public and private, actively contribute to the work of the CGPCS, for example, different trade organizations from the shipping industry, and organizations representing seamen and seafarers, also participate in CGPCS.

The mission of the CGPCS is “to foster closer international cooperation to address the scourge of piracy off the coast of Somalia”; this means that the CGPCS itself does not deliver outcomes, but intends to encourage, support and facilitate action by other actors, such as national and regional governments, UN, IMO, EU, NATO, and private sector organizations. To this end, the CGPCS has organized itself along the following lines of action:

• Support to the military carrying out counter-piracy operations;
• Support to the shipping industry deploying self-defense measures;
• Support to law enforcement and to the judiciary to investigate piracy networks and prosecute pirates, especially in the region;
• Support to capacity building programmes in the region.

The CGPCS has thus positioned itself as the lynchpin in a loosely structured counter-piracy coalition of governments, international organizations, military alliances, and the private sector.
Plenary meetings of the CGPCS take place three times per year for just one day. The chairmanship rotates among member states on a voluntary basis – the 10th and 11th plenary meetings were chaired by the Netherlands and the United Arab Emirates respectively. The CGPCS meetings serve to pull together the threads of all activities related to the fight against Somali piracy and to provide a general sense of direction for the work in the immediate future. The meetings take place in a business-like fashion; there are no lengthy statements, resolutions or negotiations about agreed texts. Decision-making is by consensus, or arguably rather by the absence of objection. In the absence of rules of procedure, the CGPCS works by the virtue of a shared conviction held by all participants to “get the job done.” Furthermore, the CGPCS delivers results with no administrative burden: The CGPCS has no secretariat and no budget.

The actual work of the CGPCS takes place in five working groups, which each have a permanent chairman and meet as often as deemed necessary. Participation in the work of the working groups is voluntary; not all members participate in the work of all working groups. Working Group 1 (WG1), chaired by the UK, has a double mandate: Ensuring effective naval operational co-ordination and supporting the building of the judicial, penal, and maritime capacity in the region. One of its key outcomes is supporting the so-called SHADE-mechanism (Shared Awareness and Deconfliction), which is an initiative to coordinate military operations to combat piracy and meets regularly in Bahrain. Additionally, SHADE serves as a forum for information sharing and the exchange of views between stakeholders from force-providing nations, regional countries, international organizations and industry groups. SHADE regularly reports to Working Group 1.

The efforts of the Working Group regarding capacity-building focus on the coordination of and support to initiatives aimed at the development of rule of law, maritime security and alternative livelihoods in Somalia and in the wider region. Working Group 1 supports the implementation of regional initiatives such as the Djibouti Code of Conduct (IMO) and the Regional Plan of Action of the Eastern and Southern Africa – Indian Ocean group of countries (ESA-IO).

Working Group 2 (WG2) deals with legal issues and is chaired by Denmark. It aims to provide specific, practical and legally sound guidance to the CGPCS, states and organizations on all legal aspects of counter-piracy. One of its products is a virtual (legal toolbox,) which contains a number of specific legal tools to be used by states on issues such as applicable international law, transfer of piracy suspects and ship-riders. WG2 also supports the prosecution of piracy suspects in the region through judicial capacity building, including detention capacity in Somalia, and has discussed legal questions with regard to guidelines for private maritime
security companies providing armed guards on board merchant vessels.

Working Group 3 (WG3), now chaired by the Republic of Korea, works with the shipping industry. In close cooperation with the military and shipping trade organizations, WG3 has been instrumental in developing the “Best Management Practices for Protection against Somalia Based Piracy” (BMP), now in its 4th version, which provides practical guidelines to crews, masters, and owners on how to protect themselves against hijacking by pirates. Full implementation of the BMP has proved to be the single most effective way to prevent ships from being hijacked. WG3 has also addressed the use of privately-contracted armed security personnel on board of merchant vessels.

Working Group 4 (WG4), currently chaired by Egypt, focuses mainly on public diplomacy. It aims at raising awareness on the dangers of piracy, reaching out to Somali communities and diaspora, and encouraging partner organizations to use various means of communication and education to inform the public in Somalia and the wider region about the dangers posed by piracy and the efforts of the international community.

These four working groups were established at the inception of the CGPCS in 2009. In 2011, a fifth Working Group (WG5) was added, chaired by Italy, to coordinate international efforts to identify and disrupt the financial networks of pirate leaders and their financiers.

Finally, the CGPCS has established the Trust Fund to Support the Initiatives of States to Counter Piracy off the Coast of Somalia. The objective of the Fund is to “help defray the expenses associated with prosecution of suspected pirates, as well as other activities related to implementing the Contact Group’s objectives regarding combating piracy in all its aspects.” The Trust Fund has disbursed more than $12 million to counter-piracy projects and has supported piracy trials in several countries in the region.

One of the CGPCS’s greatest assets is its flexibility. Without formal rules of procedure or a secretariat, the CGPCS is able to quickly adapt its working methods to changing circumstances. For example, as the work of the CGPCS is maturing, participating countries may reflect on its meeting schedule and decide to meet twice rather than thrice a year. Furthermore, a year-long chairmanship (rather than a new chair for each plenary meeting) may provide more strategic depth to the work of the CGPCS, since chairs would have a longer time to carry out an agenda, which could be set in consultation with working group chairs and interested countries.

Over the past three years the CGPCS has proven to be an effective and efficient mode of
international cooperation to combat a specific problem, which challenges the international order and threatens a significant number of international stakeholders. CGPCS is able to achieve tangible results and excellent coordination and cooperation at very limited costs, no budget, no secretariat and no bureaucracy, yet able to focus on getting the job done – this is ‘multilateralism light’. The CGPCS-model may serve as an example to deal with other, future international problems.
Harakat Al Shabaab has since their ill-fated Ramadan offensive in 2010 encountered large problems, but has also demonstrated great resilience against increasingly unfavorable odds. Despite predictions that it would collapse and split, Al Shabaab has maintained unity even as some of its main sources of income were cut. This brief article will explain why Al Qaeda and Al Shabaab joined forces, and the current tactical situation of Al Shabaab.

Al Shabaab’s Unclear Origins

Al Shabaab was created as a means of self-protection by its founders because of disgruntled feelings towards existing jihadi organizations. The exact time of Al Shabaab’s formation is unknown, with various reports suggesting this took place in 1998, 2003, 2005, and 2006. The confusion about its origins is explained by the fact that Al Shabaab started out as a loose network, before formalizing as an organization some time later. This original network had current and former members of Al Qaeda’s East Africa organization amongst its ranks, and veterans from Afghanistan enjoyed high prestige, giving it clear connections with elements within Al Qaeda in its earliest days.

Al Shabaab had also become involved in targeting non-Somali targets inside Somalia’s peaceful north (Somaliland), and rose to prominence with the killing of the teachers Richard and Enid Eyeington in October 2003 as well as the attack against a German (GTZ) aid convoy in March 2004.

By 2005, the Al Shabaab network had consolidated as an organization and participated in the uncoordinated militant campaigns to take control of Mogadishu at the time (the
so-called ‘Shadow Wars of Mogadishu’), supporting the Sharia courts against the warlords, *Al Qaeda* veterans against the United States, and Somali nationalists against Ethiopian agents. The Shabaab network rose to power when the Sharia courts expanded in 2006, but was only one group amongst many inside this coalition – and certainly not the strongest. Sources in Mogadishu suggest *Al Shabaab* was more unified than other groups, being led by a northerner, Abdullahi Sudi Arrale, who was later detained by the United States and sent to Guantanamo bay.\(^1\) Despite his inclination to not show his face in photographs, the most ‘media savvy’ member of *Al Shabaab* was Aden Hashi Ayro – although the organization itself denied he was ever their leader.\(^2\)

*Al Shabaab* managed to consolidate its position and influence within the Sharia Court system, gaining deputy command of the Sharia Court army, conducting fundraising amongst the Somali diaspora, and gaining responsibilities in the health and youth work activities of the coalition. By December 2006, the Ethiopians intervened and abolished the Sharia courts. However, *Al Shabaab* managed to re-organize themselves to resist Ethiopian forces, at first taking peripheral roles in the fighting but later using suicide attacks and assassinations to gain prominence. By mid-2007, *Al Shabaab* had broken away from the rest of the Sharia Courts, declaring in press statements that ‘they were not fighting as a resistance, but fighting a jihad’ which opposed ‘alliances that the Sharia Courts had made with secularists and Christians, and the participation of ladies with non-Muslim husbands in the opposition’\(^3\) At around the same time, the current *Al Shabaab* leader, Ahmed Abdi Aw Muhammad ‘Godane,’ assumed command, and the group’s press statements started to appear in *Al Qaeda* related webpages.\(^4\)

Eventually the insurgency campaign waged by *Al Shabaab* was successful, but it was only post the withdrawal of Ethiopian forces in 2009 that *Al Shabaab* expanded into large parts of southern Somalia and filled the new power vacuums. *Al Shabaab* was able to enforce relative order in these southern areas under their control. Crime was less prevalent in these small areas when controlled by western-backed transitional governments whose seldom paid police and army looted the areas despite a high profile UNDP support program for the police. *Al Shabaab* was also active on the internet, being noted for its high quality videos, often commenting on the wars in Iraq, Palestine, and Afghanistan, as well as United States, and quoting *Al Qaeda* leaders such as Osama bin Laden in ways that made them unique in the Somali setting. However, *Al Shabaab* attacks were usually locally focused.

By 2010, *Al Shabaab* launched a large scale offensive in Mogadishu, the last part of central Somalia held by the western backed transitional government. However, the forces of
Burundi and Uganda, which had started to arrive in 2007 in an African Union Mission (African Union Mission to Somalia (AMISOM), both outnumbered Al Shabaab forces, and were better trained. Al Shabaab suffered a huge defeat at the hands of AMISOM, especially the forces of Al Shabaab commander Muqtar Robow “Abu Mansoor.” This defeat signaled the beginning of the first large scale internal conflict between the Al Shabaab leadership.

Discords, Weaknesses and Al Qaeda

Al Qaeda was a controversial theme inside Al Shabaab, and Al Shabaab was controversial inside Al Qaeda. Many members of Al Shabaab were reluctant to join Al Qaeda, despite viewing it with sympathy. As Abu Mansoor put it, “We are not them, but they are our friends, and we will help them as far as possible.”5 There was also hesitation within Al Qaeda towards Al Shabaab, as it was not clearly understood what Al Shabaab was about. It is important to understand that the Al Qaeda members initially operating with Al Shabaab were on the periphery of Al Qaeda, either from the old and decimated east African cell, and later from Al Qaeda in the Arabian Peninsula. In this sense, Al Shabaab was more closely connected with the periphery of Al Qaeda than with the centre. However, Al Qaeda also changed, going through what Thomas Hegghammer named “The hybridization of Al Qaeda,” and the global organization opened up to more local focuses. In this sense Al Qaeda moved closer to Al Shabaab ideologically, perhaps aided by Ayman Al Zawahiri becoming the new leader of Al Qaeda after Osama bin Laden, as Al Zawahiri traditionally favored a more local focus.6

The resistance against Al Qaeda inside the Al Shabaab weakened as it suffered defeats. Much has been said about the so-called nationalist-transnationalist divide inside Al Shabaab, where individuals with a local focus were often claimed to be on the verge of leaving Al Shabaab, leading to frequent predictions of its collapse that never materialized.7 When interviewing Al Shabaab leaders this writer identified a larger sense of pragmatism inside the two groups (one group said to be led by Muqtar Robow, the other by Ahmed Abdi Aw Muhammad ‘Godane’) said to be in confrontation. First, Al Shabaab had a surprising ability to achieve conflict resolution within its organization, second, Muqtar Robow was clearly - as can be seen in his speeches - more internationalist than was often believed, while Godane was more locally focused than it was generally perceived. There where clear differences inside Al Shabaab, however these differences were often regarding the implementation of Sharia law, applying the harsh punishment standards propagated by Al Shabaab in a slower phase, openness to foreign aid organizations, and to strategic issues such as the Ramadan offensive, and later, the employment of regular frontlines versus guerilla warfare.
Kenya and Ethiopia Intervene

In October 2012, Kenya intervened inside Somalia and created a buffer zone in southern Somalia. The Kenyans did not manage to inflict a strategic defeat on Al Shabaab, and failed to take the strategically important town of Kismayo. It should be noted that the Kenyan intention could have been just to create a cordon sanitaire to protect their own interests. Before this Kenyan intervention, AMISOM forces had literally surrounded the second most strategic part of Al Shabaab-held areas - the Bakara market in Mogadishu - thereby destroying a major source of revenue for Al Shabaab. The loss of Bakara market might have led to the Al Shabaab decision to withdraw most of its forces from Mogadishu in August 2011, although Al Shabaab to this day controls parts of two districts in that town.

The greatest defeats suffered by Al Shabaab were inflicted by Ethiopian forces, who intervened in force against Al Shabaab, first taking control of the capital in the Hiran Valley, then taking control over Baidoa in February 2012, Ethiopian forces then advanced to take control over several other large cities in the Bay-Bakool province, and intervened in central Somalia to help their Somali allies protect Dhusamareb against an Al Shabaab attack, at the same time pushing Al Shabaab out of their capital El Buur in central Somalia.

In the face of a stronger opposition coalition, Al Shabaab took several measures. Godane announced a change of strategy publicly on an Al Shabaab radio station, claiming that the organization should return to guerilla warfare. Indeed Al Shabaab-style assassinations re-occurred in Baidoa and Mogadishu, and Al Shabaab attacked the logistical lines of their enemies. The Al Shabaab merger with Al Qaeda has also been seen as an attempt to reinforce the faltering Al Shabaab campaign.

Al Shabaab: Not Beaten Yet

In the current situation Al Shabaab is pressured but retains its unity, once again proving all those predicting its collapse to be wrong. However, this does not mean that Al Shabaab lacks candidates for defection. Hassan Dahir Aweys, an old-fashioned clannish Islamist from the Ayr clan that more or less had to join Al Shabaab when his old faction was on the verge of defeat in 2010, has made clear statements at odds with the rest of the organization. The power centralization processes within Al Shabaab also alienated some members of the organization, such as Fuad Khalaf Shongole, although the power of these individuals within the organization is low.

Al Shabaab do however enjoy several advantages, the first being that the current strength of the Somali government forces and the AMISOM forces is insufficient to militarily secure
the countryside, which means *Al Shabaab* can operate relatively freely there. The Somali government is scheduled to be reformed in August 2012, and it is not clear what will emerge. The second advantage for *Al Shabaab* is that it has now expanded – into Kenya, through Kenyan recruits, and *Al Shabaab* is clearly able to recruit in Uganda and Tanzania as well. *Al Shabaab* still holds some following in the region and may, as they did in the Kampala bombings of 2010, hit their enemies on their home-turf. The third advantage *Al Shabaab* has is the growth of their regional allies, *Al Qaeda* in the Arabian Peninsula, and *Ansar al Sharia* in Yemen.

Some analysts and civil servants have predicted the evacuation of *Al Shabaab* to the north of Somalia\(^9\). However, *Al Shabaab* still has the potential to remain in the south where it is still in full control of large cities such as Merka, Brawa, Jowhar and Kismayo. It is likely that *Al Shabaab* will remain in control of Kismayo until it is forced out. However, it is also likely that *Al Shabaab* will return to its old pattern of assassinations, terror attacks, and guerilla fighting, to remain a dangerous but central player in Somalia.

(Endnotes)


5 Ibid.


8 Stig Jarle Hansen (forthcoming 2012): “The Enemy of my Enemy is my Friend?” Janes Intelligence Review

The Humanitarian Response: Seafarers Health and Welfare - Can We Declare Victory and Go Home?

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It appears that the tide is turning for Somali pirates. For the first time since Somali pirates captured international attention in 2007, attacks on merchant shipping in waters off Somalia are down. Governments and shipping interests are cautiously optimistic, attributing improvements to increased naval patrols coupled with more aggressive naval tactics, more criminal prosecutions, greater implementation of the maritime industry’s Best Management Practices (BMPs), and widespread employment of private armed security teams. While considerable progress has been achieved on deterring and preventing pirate attacks, much work remains for helping seafarers who have been affected by piracy.

Though the numbers of pirate attacks and captures are down for 2012, far too many seafarers continue to be held hostage. As of the end of March 9, 2012 ships and 236 seafarers where held hostage by Somali pirates.¹ Since 2006, pirates have kidnapped or taken hostage more than 4,500 seafarers, and they have robbed or attacked many more. What happened to the seafarers after their release or after being attacked? Did they continue their seafaring careers? Are they fit to work on ships? Do they need continuing medical attention? Do they receive medical attention? Where they compensated for lost wages and personal property stolen by the pirates? Where do they get help to deal with the aftermath of surviving a piracy incident?

Sadly, despite recent efforts to address caring for seafarers’ and their families who have been affected by piracy, the answers to these questions remain largely unanswered.

In 2007, the Seamen’s Church Institute (SCI) urged the maritime industry and governments to devote attention to the seafarers who were being attacked and held hostage by Somali pirates by, among other things, creating a piracy survivors resource center where seafarers,
their families, shipowners, and seafarers’ assistance organizations find help for dealing with the effects of piracy on seafarers and their families; study the psychological effects of piracy on seafarers; and create guidelines on caring for seafarers and their families affected by piracy. At that time, almost all attention was being devoted to stopping piracy that was threatening UN World Food Program shipments to Africa. Of the five UN Security Council Resolutions adopted in 2008, none cited protecting seafarers as a reason for combating piracy off the coast of Somalia. Ironically, the greatest threat to maritime security then and now was the challenge of recruiting and retaining enough skilled people to operate the ships needed to sustain commerce, and piracy was having a negative effect on recruiting and retaining seafarers.

The SCI took up a part of its challenge by initiating in 2009, a clinical study of the mental health effects of piracy on seafarers. It is the first study of its kind in the maritime industry. This clinical study seeks to identify unique stressors of transiting high-risk areas, piracy attacks, hostage situations, along with immediate and ongoing medical evaluation strategies for crew members and their families. Study outcomes include plans for clinically assessing seafarers after piracy incidents, assisting families during prolonged piracy episodes, and triaging short- and long-term mental health treatment. SCI’s team of clinical psychologists and medical doctors has completed the data collection phase of the study that included interviewing seafarers representing the diverse nationalities and cultures of maritime commerce. Scientists are now analyzing the data, and the results of the study will be presented at a conference in Cape Town, South Africa this July 2012.

A preliminary product of the clinical study is SCI’s Guidelines: Post-Piracy Care for Seafarers, a document that explores issues surrounding mental health care for seafarers affected by piracy. Now in its third version, the guidelines have been circulated to the maritime industry, international organizations, governments and nongovernmental organizations. The guidelines contain an appendix listing common symptoms experienced by persons who have experienced a traumatic event. Seafarers, their families and ship-mates can use the list to assess the advisability of seeking therapy should the symptoms become problematic in terms of magnitude or duration.

In 2011, International Maritime Organization’s declared its theme for the year and for maritime day as: “Piracy – Orchestrating the Response.” This, along with initiatives of Working Group 3 of the Contact Group on Piracy Off the Coast of Somalia (CGPCS), spawned broad maritime industry attention to piracy’s impact on seafarers. The Save our Seafarers campaign, initiated in March 2011, is a coalition of more than thirty maritime organizations that have joined together to raise public and governmental awareness of the human and economic costs of piracy. The
The Humanitarian Response: Seafarers Health and Welfare - Can We Declare Victory and Go Home?

The campaign is calling on governments to take a firmer stance to put an end to seafarers being tortured and murdered by pirates. The Maritime Piracy - Humanitarian Response Program (MPHRP), initiated by the International Transport Workers’ Federation in September, 2011, has brought together a wide cross-section of the maritime industry, including ship-owners, managers, insurers, and welfare organizations with the singular focus of assisting seafarers and their families who have suffered from the effects of piracy. Among other projects, the MPHRP is preparing good practice guidelines for shipping companies, first responders and seafarer welfare organizations.

In an effort to draw attention to the toll that piracy takes on seafarers and their families, the Seamens’ Church Institute has videotaped seafarers’ first-hand accounts of their experiences with piracy and posted them on the internet. The seafarers relate stories of mental and physical torture, intimidation of both them and their families and drug abuse by pirates while on board. The videotaped interviews provide seafarers with a platform for sharing in and contributing to the dialogue on post-piracy care.

Much progress has been made towards eradicating the scourge of piracy and several programs have been initiated to provide care for the seafarers and their families who have been affected by piracy. However, there remains great challenges in identifying seafarers who have been affected by piracy and to providing them with care and services, particularly in paying wages earned during captivity, compensating them for their stolen personal property, and according them appropriate medical care.

I am aware of several cases where seafarers, long after being released from captivity by pirates, have not been paid their earned wages or compensated for their personal property that was stolen by pirates. In cases where ship operators fail to meet their obligations to seafarers, there should to be a mechanism available to seafarers to recover unpaid wages earned while they were being held hostage by pirates and to compensate them for their stolen property.

A more pressing and difficult challenge is overcoming the stigma of mental health care that deters seafarers from taking advantage of effective therapy. Ship operators are responsible for providing medical care to their seafarers and must ensure affected seafarers receive appropriate medical care and therapy if they need it. Equally critical, employers must not view seafarers as “damaged goods” after a piracy incident. Most seafarers like most people, are resilient and can continue their careers with few or no adverse effects. Some seafarers experience symptoms that commonly follow post-traumatic events. Extremely effective therapies are available to treat such symptoms. Confronting the stigma of mental health care that deters many seafarers from taking advantage of effective therapy remains our
biggest challenge. Programs designed to provide mental health therapy for seafarers offer little benefit if seafarers do not take advantage of them because they fear losing their jobs or not being rehired.

Every nation depends on merchant shipping for its prosperity and every nation has an interest in protecting the safe and efficient flow of commerce by sea. Because the well-being of all the world’s citizens relies on shipping, protecting the safe and efficient flow of commerce by sea must be a top priority. Everyone benefits from shipping; therefore everyone must share in the responsibility for countering threats to shipping.

The biggest threat to shipping today is the worldwide crisis of recruiting sufficient numbers of skilled and responsible men and women to operate all of the ships that are required to sustain maritime commerce. All of us – governments, non-governmental organizations, commercial interests and consumers – must work together to make sea-going careers more attractive options for skilled and responsible men and women.

Unfortunately, the threat of piracy and how seafarers are treated after suffering the effects of piracy create extremely negative perceptions about seagoing careers that make them unattractive to many men and women. Therefore it is in everyone’s best interests to ensure that seafarers are justly compensated for their losses caused by piracy and that they are provided effective therapy for symptoms caused by piracy without fear of losing their livelihoods. It is also the right thing to do.

(Endnotes)


The persistence of Somali piracy is a significant problem for international institutions and international law. In theory, international prosecution of pirates should be easy; piracy is amongst the oldest international crimes. Under international law, any nation can try any pirate it catches, even if it has no connection with the crime. Few issues command as uniform an international consensus or enjoy such a level of cooperation. The U.N. Security Council has passed at least 12 resolutions on the issue. And in an unprecedented display of military cooperation, dozens of nations from around the world have sent their navies to the area to protect shipping.

Yet, many countries catching pirates have shown little interest in prosecuting them in their own courts. Roughly 90 percent of suspects apprehended by the patrolling navies have been promptly released. “That practice [of catch-and-release] has now become the rule, and judicial prosecution the exception,” according to the report of the Secretary General’s Special Advisor on Legal Issues Related to Piracy, Jack Lang.¹ This paper will survey the legal obstacles to prosecuting pirates both in the courts of the capturing state and in other countries. It will conclude by suggesting the persistence of the problems indicate that legal efforts would be better focused on removing impediments to vigorous private and naval efforts to defend against pirate attacks.

There are two main reasons nations appear reluctant to prosecute: One involves the difficulty of proving a case. But more serious problems often center on what happens after the trial. Proving piracy may become complicated when the defendants are not caught in the act but rather encountered on the high seas equipped with weapons and boarding equipment, which in itself is not a crime. In addition, many pirates throw any equipment that might indicate that they are involved in pirate activity overboard upon the approach of international forces. Pirates caught under such circumstances routinely claim to be they were innocent fishermen. Second, there are logistical problems: For example, all evidence
must be preserved by the capturing navy, shipped back to court, Somali translators must be secured, the crews of victim vessels (who may be anywhere around the world by this time), must be located and their testimonies obtained. Moreover, there must be admissible proof that the defendants are old enough for trial.

Such technical and logistical impediments, however, while far from trivial, have proved to be surmountable. There is evidence that a growing number of nations have undertaken - quite successfully - prosecutions in cases where their own nationals or vessels have been attacked. Such countries include the United States, South Korea, Oman, and numerous states in the European Union. In fact, countries that engage in catch-and-release do not regard the prosecution of Somali pirates in their courts as impractical or undesirable in itself - rather, they simply do not wish to prosecute under universal jurisdiction. In other words, states prefer not to prosecute in cases where their direct interests are not involved - yet universal jurisdiction is crucial to prosecuting pirates, as they are usually captured by navies unconnected to the particular crime.

The central concern capturing states have about bringing Somalis back for trial is that it would likely be a one-way trip. For example, especially under European understandings of human rights law, pirates who have served their sentence or been acquitted cannot be returned to Somalia because of the conditions there, under the international law doctrine of non-refoulement. It is in fact the same doctrine of non-refoulement that makes most states hesitant to handover suspected pirates to Somali authorities for trial, preferring instead to release them. Also, given that low-level pirates are typically young men and the pool of potential pirates in Somalia is large, so long as ransoms get paid, a country that agrees to try pirates could be accepting a large permanent pirate population for an indefinite time.

The main alternative to prosecution by capturing states that the international community has pursued is transferring the pirates for trial in one or more regional nations, with financial and technical assistance from international bodies. Regional prosecution, in states like Kenya, the Seychelles or Tanzania, has obvious logistical advantages – these countries are close to the crime and may be less burdened by expensive and elaborate judicial systems than those in capturing states. However, regional states can also present serious disadvantages, such as the limited ability to provide security, sometimes problematic human rights records, and/or limited prison capacities.

For arrangements with regional states to be successful, they must be durable. Kenya originally took the lead in accepting pirates captured by other states but cancelled these arrangements after just one year, leaving the status of over a hundred Somalis that had
been already transferred there in considerable doubt. The Seychelles has stepped into the gap, and successfully conducted several cases in a very creditable manner. However, the Seychelles is a small country with serious judicial and penal capacity constraints. In fact, the Seychelles has begun re-transferring pirates that had been transferred to the Seychelles for trial back to Somalia for incarceration, raising many of the non-refoulement problems for European nations.

Recently, the United Kingdom has facilitated the establishment of regional ‘prosecution cycles’ with countries such as the Seychelles, whereby pirates captured by UK forces are passed to the Seychelles for trial, and then transferred to regional territories of Somalia such as Somaliland where they serve sentences in UNODC-established penal facilities that have been constructed and are operated in line with international standards. However, the issue of non-refoulement is an important one, and unlikely to disappear with emerging attempts to devise and pilot new approaches to judicial punishment for captured pirates given the overall treatment the process could hold for transferees.

Secondly, the United Nations Convention on the Law of the Seas does not provide clear support for trials by third-states: Article 105, for example, which codifies universal jurisdiction over piracy, only speaks of trials “in the courts of the State which carried out the seizure” and not in any court to which the defendants might be cost-effectively “off-shored.” Nations have not paid much regard to this apparent lack of authority, but it remains a possible basis for challenges to such transfers in pirate trials, or even in claims against the transferring state in its courts.

Moreover, the proximity of regional states – including those that may be part of any ‘prosecution cycle’ – also raises the possibility of reprisal or pressure by pirate gangs. If one nation were to become the locus for pirate prosecutions, the pirates, organized along clan lines, could threaten the fishing and coastal vessels of the forum state, or seek to harm hostages from that nation.

**Conclusion: Prevention before Prosecution**
In summary, there are many obstacles to the systematic prosecution of pirates by capturing states. Nor is it apparent that prosecution is necessarily preferable to a policy of catch-and-release by capturing states. It is far from clear if trial and typically brief incarceration in affluent countries, or by the pleasant beaches of the Seychelles, would deter pirates given the poverty and brutality of conditions in Somalia: Pirates tried in European countries have reportedly been quite enthusiastic about their new conditions – not surprising given that
they have gone from the fifth poorest country in the world to some of the richest. One told reporters that he would not return to Somalia “for a million dollars,” while others have filed papers to bring their families over to Europe as well.\(^3\)

Given numerous complications with judicial measures, more attention should be paid to legal reforms that would reduce the piracy problem without a need for trial. Self-defense by merchant mariners has historically been at least part of the response to piracy. Currently most ships go unguarded, in part because of restrictive national regulations. Even at the height of the piracy crisis, leading maritime nations and organizations strongly opposed firearms on ships – yet one of the outstanding successes of anti-piracy efforts is that no ship with an armed security team has even been successfully hijacked. Only in recent months have governments begun to internalize this reality, with several leading nations and maritime groups reversing their gun-shy stance.

However, measures involving private security companies still face a daunting slew of regulatory obstacles. For example, ships with arms on board must comply with the firearms regulations of every port they call in, requiring each vessel to navigate a bewildering sea of bureaucratic permissions, often futilely. Moreover, the rules governing the use of lethal force by ships against pirates remain murky, which ultimately turn on individual nations’ varied criminal law principles on self-defense. The specter of criminal liability – and civil suits – by putative pirates still hangs over private security.

Leading maritime nations should develop and promote easy-to-understand and not unduly cautious guidelines for weapons possession and use on the high seas. Current draft guidelines in circulation, following the laws of many nations, only allow the use of lethal force when facing imminent danger to life or limb, which is unduly restrictive. Normal self-defense doctrine assumes some potential police response, which is unlikely on the high seas. Given the threat posed by piracy to the safety and wellbeing of individuals they aim to take hostage, it is hard to understand why ships should be deterred from using the necessary levels of force to prevent such outcomes.

Parallel to the legal uncertainty over private security, the rules for military action against pirates also remain unclear. Pirates are not combatants, nor are they engaged in hostilities - presumably making them ordinary civilians under international law, who can only be fired upon in immediate self-defense. Currently, European and United States naval forces operate under very restrictive rules of engagement. Yet historically, customary international law has given greater latitude to naval forces in dealing with pirates, and today Russia and some other states have apparently adopted more aggressive postures. In recent months,
The EU has announced intentions to take a more aggressive approach to fighting piracy, including potentially disruptive attacks on bases on shore. Moving forward, it is worth developing and articulating international practice and legal opinion that reflects pirates’ status as somewhere between traditional combatants and simple criminals. Such efforts, if successful, would reduce the need for prosecution.

(Endnotes)


2 “Seychelles Hands Over Pirates to Somaliland” (Somalia Report). For example, in April, the Seychelles government transferred 17 convicted pirates from the Seychelles to Somaliland, in line with an agreement made at the London Conference on Somalia between President James Michel and Somaliland President Ahmad Mohamed Silyano. They will serve jail terms of between 10 and 24 years, in prison facilities established with the support of the UNODC.

2

Addressing Industrial Perspectives and Solutions
The Shipping Industry and the Spiraling Costs of Maritime Piracy

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As part of the background research for this paper, a cross-section of senior executives in the shipping industry were contacted to obtain their views on how the costs of piracy have impacted their businesses and decision-making. These views were mainly gathered through a survey but also included a number of one-on-one discussions.

Overall the responses tended to be very consistent, with only minor differences relating to the specific market/focus of the shipping line or body in question. The overwhelming feeling was one of resignation to the status quo, where they feel action against piracy is largely focused on private initiatives to protect trade, even when such initiatives are felt to rightly belong in the public sphere. These activities bear costs which fall mostly on the shipping industry and will eventually find their way through the supply chain to be added to the price to the end consumer. With prices of individual goods affected only slightly, and therefore essentially hidden, the concern is that inefficiencies in global trade will become institutionalized and without a specific trigger that might encourage firm international resolve to put an end to the problem, the shipping industry will continue to be exposed to unacceptable risk to cargo, the vessels and their crew.

A recent report titled ‘The Economic Cost of Somali Piracy 2011’ by Oceans Beyond Piracy (OBP), a program of One Earth Future Foundation concluded that Somali-based piracy cost the world between $6.6 and $6.9 billion in 2011. To put this into perspective, this figure is more than 110 percent of Somalia’s annual GDP (at PPP). Of this total, the $160 million collected by pirates as ransom payments represents a disproportionately low 2 percent, with the vast majority spent on deterring pirate attacks - safeguarding vessels, their crew and cargo.

Given that almost 50 percent of the total economic cost of piracy comes from increased
fuel consumption (either through maintaining higher speeds or re-routing around the high risk area) it is perhaps not surprising that the OBP report also showed that the shipping industry bore the lion’s share of these costs ($5.3 to $5.5 billion). This paper looks into the effects of these costs on the industry that bears them.

**Impact of Cost**

Whilst each individual transit through the High Risk Area (HRA) may incur significantly different costs based on the trade-lane being served, the type of vessel in question and the strategies adopted by each company to manage its risk, the amount borne by the shipping industry translates to an average cost for each vessel transit of roughly $125,000.

Using the OBP data to assess the specific cost elements incurred by the container shipping industry, it is evident that, counter-intuitively given the lower risk profile of container vessels, total additional costs for container vessels range from $135,000-$255,000 per transit, significantly greater than the average cost for the shipping industry as a whole. As the OBP report correctly points out, different costs fall on different sectors of the shipping industry. Container vessels generally rely on their inherent physical characteristics and have tended not to opt for re-routing around the HRA and often eschew the use and expense of armed guards but, with their higher freeboard and faster maximum speed, have incurred significant additional fuel costs (bunkers) in speeding up through the most sensitive regions. Further investigation shows that fuel makes up a much larger proportion of the additional costs (70 percent - 90 percent) than for other shipping sectors.

In the past few years, high oil prices mean bunkers are generally accepted to be the largest single cost element in container shipping, making up roughly 25 percent of the total. In recent years this has led to an industry-wide adoption of “super-slow-steaming” which strives to minimize bunkers by travelling at the most economic speed for the particular hull/engine design, commonly around 12-13 knots, well below their maximum speeds of 20+ knots. This cost-saving strategy is particularly effective in trades with longer sea-legs, such as Trans-Pacific, Trans-Atlantic and Indian Ocean crossings. By adopting a ‘safety in speed’ strategy, the container shipping industry is effectively buying its relative immunity from piracy through higher fuel consumption.

Container shipping is an extremely competitive industry where participants have a strong incentive to focus on reducing unit costs to better compete in the marketplace. A number of container lines have attempted to introduce security surcharges as a means of passing the additional costs attributable to piracy on to the trade, but in current market conditions
most business is transacted on an “all-in rate” – i.e. inclusive of the various surcharges such as the bunker adjustment factor (BAF), currency adjustment factor (CAF) and the security surcharge. Essentially this means that the direct economic costs of piracy borne by the container shipping industry in 2011 (around $2.4 billion) have been fully absorbed by the same market participants who have recently announced combined losses of more than $6 billion in that period. This absorption of the direct additional costs due to piracy into the general cost structure of the industry means the visibility of these costs is lost to the underlying trade and thus it is impossible to gauge whether the small additional cost per TEU has had any impact on that trade. A number of shipping industry executives have bemoaned this lack of visibility as one of the primary reasons why this issue hasn’t generated a stronger public response – it has been suggested by more than one participant that a small ‘piracy surcharge’ applied at the point of sale to the consumer would swiftly result in international resolve to curtail this problem.

A further outcome of the characteristics of container shipping (higher freeboard, faster speeds, absorption of costs) is that, in general, piracy appears to have had very little impact on trade patterns. Certainly on the prime East-West routes, all respondents to the survey suggested that there has been little or no impact on trading patterns or decision-making other than adherence to BMP4 (vessel hardening and crew training) and slightly faster transit times through the area.

The few trades that have been affected are those servicing the East African coast, specifically Kenya. This market is generally served using smaller vessels that are more vulnerable to pirate attacks and pass through the heart of the HRA. Some shipping lines are delaying the introduction of new services to this market while they assess the risks involved and all are carefully considering the type of vessels being deployed there. Lines are more likely to use larger container vessels capable of higher speeds, even though the underlying trade may not fully support such vessels, resulting in sub-optimal slot-cost dynamics. Conversely, there is some evidence to suggest that the perceived security of container shipping when compared to bulk vessels has led to a significant shift from cargo moving in bulk to container vessels. The shift towards containerized transport has increased the transport cost per ton for many basic imported commodities such as sugar, cement and fertilizers. Furthermore, the increase in the number of containers has pushed up congestion levels in the container infrastructure which also adds cost to the transport chain.

As short-term strategies adopted to mitigate the risks of piracy, such as the use of citadels and a high maximum speed, become more firmly accepted across the shipping industry these have begun to impact some longer-term decisions. Citadels and other vessel hardening options are being incorporated into new vessel designs, especially in the bulk and tanker markets. The container industry is also being forced to forgo the option of designing more efficient slow-
steaming container vessels with lower maximum speeds, as the capability to make at least 18-20 knots remains critical.

As a protective measure of last resort, the use of armed guards has become increasingly evident across the shipping sectors over the past year, with many operators believing them to be one of the prime reasons for the drop in attacks and hijackings. They are becoming almost a requirement to protect the more vulnerable vessels (i.e. low & slow) that operate in the HRA and are sometimes used on container vessels, if their use adds value to the counter-measures already in place.

The industry view on the use of armed guards is a pragmatic one, though adopted only reluctantly. Most participants have been forced to accept this solution since current international bodies have not been able to suppress the threat from piracy at sea, in spite of significant naval deployments. Private enterprise has therefore taken on a responsibility usually borne by governments, a development that many shipping industry leaders feel strongly about.

Furthermore, the industry is concerned that the on-going use, and qualified success, of armed guards provides little incentive for international bodies to back-track now despite widespread and repeated commitments having been made by governments and relevant international bodies to permit the deployment of privately contracted armed security personnel on ships for the short-term only, and as a pragmatic solution only for so long as piracy continues to pose a significant threat off the coast of Somalia. The fact is that this ‘sharing’ of responsibilities has led sections of the maritime private sector to take on poorly defined or understood legal risks - as demonstrated by the recent case of the M/V Enrica Lexie in India - giving states fewer reasons to agree to a common international platform, as has been noted by more than one cynical executive.

With shipping lines focused on trying to provide cost-effective short-term protective/preventative measures, and given their experience of the difficulty in achieving a coordinated international response once the private sector has come up with a solution (even if it is legally grey), calls for funding and participation in longer-term and/or land-based PPP solutions to address the root causes of piracy are likely to be given short shrift.

Overall, the shipping industry is very concerned that, without some specific trigger to push for more forceful action to limit the pirates’ activities, the current situation has become a new status quo. Whilst hidden within the cost structures of most of the shipping lines, these additional costs and inefficiencies will yet be passed onto consumers in import markets, and are in real danger of becoming institutionalized.
Modern piracy is traditionally referred to a band of men, armed with guns and machetes, boarding a vessel under the cover of darkness, violently restraining the crew, and searching through the cargo for easily transportable merchandise. The fact that this was done at sea was the only aspect that separated them from what would simply be known on land as robbery. Kidnap for Ransom (K&R), however, has suddenly become the new face of modern piracy, now accounting for the majority of attacks over the last several years. The consequences for individual ship-owners as well as the role of insurance to assist the private sector in mitigating these are vastly different today. While the international community has focused extensively on tactical and strategic counter-piracy methods as well as the financial costs of Somali piracy on global trade, the experience and needs of individual ship-owners, forced to manage a prolonged seizure of their vessel and kidnapping of their crew for ransom, has not received a similar level of attention.

The UN Convention on the Law of the Sea (UNCLOS) of 1982 includes both depredation and detention within its definition of piracy. The depredation, or robbery, aspect was historically the main concern of commercial shipping. The objective would typically be the personal belongings of the crew and contents of the ship’s safe, which held cash needed for payroll, port fees and cargo, to a lesser extent. A successful operation would be best characterized by making a quick ‘getaway’ to a safe location, usually close to the scene of the crime due to the limited range and speed of equipment available. This scenario had become so prevalent in some regions that many shipping companies resorted to keeping an amount of cash in the ship's safe so the pirates would be immediately assuaged and therefore leave the vessel quickly without injury to the crew. These tactics represent the historical norm of modern piracy and can clearly be contrasted with those employed currently by Somali pirates.

This change in tactics has very serious implications for the ship-owner: When managing
a robbery related incident it is irrelevant whether the target is the contents of a safe, crew possessions or cargo. The avenue for financial recovery and crew support are relatively clear in that it is largely a matter to be dealt through their existing marine insurance policies and crew support measures. Their responsibilities are largely passive in this context and the incident represents more of an administrative burden as opposed to a serious crisis. The rise of Somali piracy however has forced ship-owners into a new and more difficult role. They are now an active participant facing the prospect of lengthy interaction with the criminals themselves over much higher stakes. Owners are also forced to work with other interested parties such as the multiple governments representing the various crew nationalities, media outlets, cargo interests, naval task force representatives as well as family members, some of whom will judge the ship-owners’ performance and hold them responsible for the outcome, perhaps even inadvertently hindering a successful resolution by attempting to influence their decision making. All of this can result in a serious disruption to their day-to-day operations. Managing such an event can also be an unprecedented strain on an owner’s finances caused by having to bear the upfront costs of multi-million dollar ransoms and sizable expenses throughout a process that can take six months or more. Such a burden in a difficult shipping market, combined with demands on time and focus of key executives, has effectively shut down a number of smaller owners who were already operating under difficult financial circumstances.

With the life of the crew and potential environmental disaster hanging in the balance, coupled with few options for outside support, many owners have turned to private firms specialized in assisting clients with land-based kidnap for ransom and extortion threats in order to guide them through the crisis rather than attempt to manage the crisis on their own. These response consultants’ have long been associated with a non-marine insurance policy, known as Kidnap for Ransom (K&R). These policies are generally triggered by demands made by criminal gangs who threaten to kill, injure or damage property unless a financial demand is met. The policies are designed to both provide the necessary expertise to resolve a kidnap situation without loss of life and reimburse the ransom itself along with a wide range of expenses occurred during and after the successful release. K&R insurers do not front the ransoms; however, the owner receives reimbursement shortly after delivery and is compensated for many expenses as they are incurred, thereby relieving the financial strain during the process. While this financial element is important, the critical role this insurance has played in the context of Somali piracy has been to place those with the greatest understanding of the phases and mechanics of a kidnap for ransom incident at the disposal of the owners. Without access to such expertise, ship-owners are largely left to attempt to manage the crisis on their own, thereby increasing the potential for loss of life and environmental damage.
It is important to note that, while there are many in the security arena who claim to possess such knowledge, there are in fact few who actually have the necessary training and experience. For this reason, some insurers have retained the services of the most accomplished advisors exclusively for their clients. This is a danger for owners unfamiliar with the security industry in general, much less this niche profession in particular, because bad advice can produce the same result as no advice when lives are at stake. Those providing these services are dealing with the subject of crisis management, not security, and therefore the experience gained from former roles within the military or law enforcement cannot solely justify claims of having such expertise. First and foremost, the consultants should work for the owner with their interests in mind. The immediate goal is to fill a large information gap by providing the benefit of years of kidnap-specific case knowledge so that owners are making informed decisions. Consultants work in an advisory capacity only and therefore should seek to help the company in creating a crisis management team so that roles and responsibilities of those involved are clear and decision making orderly and decisive.

One of the most important of these roles is that of a “communicator” who should be trained by the consultant on responding to demands and threats as well as methods of communicating with the pirate negotiator. A good consulting firm will also help to identify key stakeholders such as government agencies, the media, crewing agents, family members and coalition authorities, before potentially conflicting interests arise. They will also inform the owner as to the logistical difficulties related to raising, transporting and delivering ransoms before the negotiations reach their final phase, and will recommend those who can provide advice regarding the legal ramifications of the options considered. Finally, consultants should work with the owner to provide the necessary post-release support and crew debriefing.

The above should be considered a very basic summary of the many aspects of support afforded by a qualified kidnap response consultancy. Ultimately, these consultants serve to effectively reduce a highly complex and sensitive issue requiring careful coordination of multiple interests to a manageable event, with the end result being the safe release of the crew in the shortest possible time. It should be noted that many of the smaller owners who would benefit the most from this expertise and resources to deploy them are the least likely to have such a policy behind them. The public responsibility of states to ensure free navigation in international waters is not disputed and in the months and years ahead, much thought, energy and resources will rightly be directed at further reducing this threat and eventually eliminating it. However, it is the private responsibility of individual owners themselves to protect their crews, vessel and cargo while at the same time balancing
human life against the demands of pirates, the financial resources at their disposal and the competing interests of state, non-state and private actors.

The insurance industry has at minimum helped limit the impact of Somali piracy through its traditional role of risk transfer. It can also be argued that it has contributed to an ultimate solution by incentivizing the use of best security practices on the vessels themselves. For those owners facing the prospect of a six months negotiation over the fate of their crew and vessel, the professional support and expertise that comes with a K&R policy has extended the role of traditional marine insurance by providing unique practical guidance. Until such time as this threat is completely eliminated, the shipping community in general and smaller ship-owners in particular, should be careful not to underestimate the level of support required to both ensure a successful resolution and enable them to continue their critical business operations throughout the process. This phenomenon of kidnap for ransom is not new; it has been a reality on land for organizations in many regions for decades. While there is understandably little knowledge among ship-owners of the complexities and associated dangers posed by such an event, until they suddenly find themselves responsible for the outcome, the shipping community can greatly benefit from heeding the hard lessons learned by those outside of the marine industry and taking a closer look at the private sector solutions that have developed over time to support them.
The Economics of Piracy: Who Wins? Who Loses?

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Since publishing an independent report titled “Economics of Piracy: Pirate Ransoms and Livelihoods Off the Coast of Somalia” in 2011, this author argued that not only are pirates the very essence of rational profit maximizing entrepreneurs described in neo-classical economics, but also that understanding ‘who wins’ (those who benefit) and ‘who loses’ (those who pay the costs) across what we call the ‘Pirate-Value-Chain’ is critical to effective long-term mitigation. While this report and the economic model underpinning it only focused on incidents ‘Off the Coast of Somalia’—which accounted for 275 of the 439 piracy attacks in 2011—it does however provide significant insights into how best to combat pirates recidivistic tendency.

A National Business with Global Market Connectivity

In allocating the costs and benefits across the ‘Pirate-Value-Chain’ it becomes clear that piracy is a business with significant global supply and demand dimensions, given the direct linkages between an act of piracy and global maritime shipping, underwriters, public and private security forces, regional law enforcement, international payment transmission operators and international naval forces and aid donors. Moreover, the term ‘Off the Coast of Somalia’ has become increasingly misleading given that the majority of incidents in 2012 so far are ‘Off the Coast of Yemen and Oman’ and not Somalia per se, despite pirates being largely Somali nationals (See Figure 1). Furthermore, we also know more about the value of benefits to pirates than how costs and benefits accrue higher up the value chain. Individual pirates are therefore in many ways the weakest-link in the entire pirate value chain; just as opium farmers in Afghanistan receive only 2-4 percent of the total value of opium sold on international markets.

The Multi-Billion Dollar Industry

The economic model we developed provides a comprehensive (and independent)
framework of trend analysis, whilst also highlighting across the value chain where costs and benefits accrue. In estimating costs we need to add the costs of maritime piracy to the international community and the costs of running piracy operations on land and sea. To include trend, comparator and predictive analysis, the model included (i) cost-benefit analysis at the level of the individual pirate, based on existing socio-economic and market data (ii) the aggregate costs and benefits at the international systems level and (iii) comprehensive data on the resurgence of piracy by functional classification, sovereign jurisdiction. Even though ‘winners are essentially paid by losers’, because piracy is a business with global supply and demand dimensions and as costs and benefits are public and private in nature, outlining winners and losers in exact monetary terms is a complex exercise. Illustrative findings, based on 2010 data, but with continued relevance to piracy in 2011 and 2012, include:

• The cost of piracy to the international community was between $4.9-8.3 billion based on upper and lower bound assumptions. This cost likely increased in 2011 despite the implementation of the International Maritime Bureau’s (IMB) Best Management Practices (BMP) and the deterrent effect of Private Maritime Security Companies (PMSCs), precisely because implementation of preventive measures costs more than the total cost of pirate ransoms annually;

• Total piracy income off the Coast of Somalia was around $110 million in 2010, around $4.85 million per hijacking. Even though global piracy incidents decreased marginally from 445 in 2010 to 439 in 2011, and figures show 87 attacks worldwide by March 18, 2012, a reduction in pirate earnings as direct beneficiaries does not compare to the costs of preventive action which benefit insurers and Private Maritime Security Company (PMSC) operators; and,

• Assuming there to be some 1,500 pirates operating off the coasts of Somalia, Yemen and Oman on average a pirate could expect to earn between $33,000 and $79,000 a year, with potential average lifetime earnings of $168,630 and $394,200 over a five-year career; assuming ransom profits are sustained over time. Pirate incomes would therefore be 67-157 times higher than national incomes, or the next best alternative, which is $14,500 over their entire working adult life.1 This highlights the significant income disparity between pirates and non-pirates and consequently the incentives that exist to begin with.

Figure 1 below identifies the actors across each stage of the value chain, off shore and on land, nationally and internationally. This indicative value-chain, around which broad-
order costs and benefits can be allocated, allows us to identify the greatest areas of value addition in broad order terms only, because while pirates are visible and known, financiers are harder to track, sponsors remains invisible and other costs and benefits are globally dispersed.

Figure 1: Agency & Institutional Actors Across the ‘Pirate Value Chain’

Who are the Winners?
Analysis shows that the biggest winners in the piracy game are not pirates per se, although pirates do reap considerable profits from their activities. Figure 2 below provides low and high bound ranges based on different data for 2010, highlighting that ransom payments are in fact marginal to total costs, with the green line showing the lower bound cost range and red line the higher bound estimate. Clearly, the costs of insurance and security deterrent
equipment substantially exceed pirate ransoms, adding to the logic of moving from curative to preventive measures.

Figure 2: Lower and Higher Bound Cost Estimates (2010)

Moreover, anecdotal evidence suggests that a significant proportion of profits paid from ransoms go to financiers and sponsors and to local communities. What is clear though is that international security companies remain the largest indirect winners, as a result of the need for private security and on board deterrent equipment, alongside global insurance companies, which reap considerable profits from charging higher war-risk premiums. According to the Indian National Ship-Owners Association such premiums increased 300 fold for certain routes. Those involved in illegal fishing and the dumping of toxic waste have benefited from the absence of an effective Coastguard. Finally, with the Government of Puntland’s national budget around $30 million in 2011, clearly the proceeds of piracy have boosted the local economy despite food and fuel price inflation triggered by increases in the nominal wage.
Who are the Losers?
With eight hostages killed in 2010 and 2011 respectively, the thousands of seafarers taken hostage since 2005 and their families are clearly the biggest losers. In 2012 alone, 102 incidents of piracy and armed robbery have taken place with 11 vessels hijacked and 212 crew taken hostage. Furthermore, the shipping industry and ship-owners have been terribly affected by piracy, and the direct costs and disruption caused have often been devastating. These costs are also subsequently passed on to consumers in the UAE, Oman, Saudi Arabia and beyond to mainland Europe, at a time when food and fuel price inflation are already hurting poorer consumers. The image of Somalia too, which imploded following the ousting and death of Siad Barre in 1991, will long be remembered through such negative acts.

Economic Solutions
Solutions must be both preventive and curative, and efforts to generate national incomes to remove the economic incentive to engage in piracy must be strengthened, alongside the issuance of measures such as fishing licences to generate revenues to finance the re-establishment of a National Coastguard. As shown above, the cost of ship re-routing are at least ten times the national budget of the Government of the Puntland in 2011, and the costs of EUNAVFOR and maritime insurance are many multiples greater; implying significant cost savings for alternative land-based income generation approaches. Currently, much of the work of the international counter piracy task force has resulted in high-cost ex-post facto responses rather than on preventive actions, and this is where a fundamental gear shift is required. Moreover, Geopolicy has recently advised the Government of Puntland on alternative national economic development strategies and with ground-based security not a serious impediment to alternative approaches, shifting the battle from sea to land must surely be the primary track to balance the current sea-based approach. In the long-term, increased domestic and foreign direct investments are also necessary as are the strengthening of law enforcement, judicial and other punitive measures.

(Endnotes)

1 GDP/capita in Somalia is estimated at $500/annum. Over an average working lifetime, which we assume to be 29 years, a Somali man may earn $14,500. This is used as the next best alternative to engaging in piracy.
Industry may well look back at the summer of 2011 as the nadir of piracy: By July 2011 over 40 ships were being held with hundreds of seamen enduring their own living hell at the point of a gun whilst owners negotiated their release for ever increasing sums of money. It took some time for the international community to get off the back foot and start giving piracy the priority it deserved. That change of mood can be traced back to the autumn of 2008 with the hijacking of the M/V Sirius Star and the arms carrying M/V Faina. A lack of political will meant that the international community failed to contain piracy at precisely the time that it began to proliferate and spread into the Indian Ocean. With the shortcomings of the international community, industry was left to create its own standards– and has proved itself adept in responding to the evolving tactics of pirates. As a somewhat inevitable drift towards the use of armed guards has taken place, the international community has mobilized to put in place much needed national and international standards in order to ensure that those people who are guarding vessels are regulated. This essay looks at two of the regulatory initiatives which have or are shaping owners’ behaviour, namely: the adoption of Best Management Practice Guidelines “BMP” and; Guidelines for the Deployment of Armed Guards.

The emerging success story of industry standards must be the uptake and adherence to BMP which are now in their 4th edition. This set of guidelines – drafted with the cooperation of all the major industry bodies– has as its stated aim the protection of shipping against Somali based piracy. BMP is broken down into a number of broad headings, including Risk Assessment, Company Planning, Ship Masters Planning, and Ship Protection Measures, which can be implemented by crew or with some external assistance. The EUNAVFOR headquarters based in London estimates that over 80 percent of ships now comply with BMP.
There has been some frustration from the naval forces as to why more cannot be done by, for example, insurers to force greater compliance. This is not the place to go into detail on the law of insurance and warranties but the language of BMP lacks the certainty of quality assurance type documents, and, because they are essentially guidelines, it is difficult to enforce them strictly. Owners can only be nudged into compliance and more likely insurers will make policies conditional on having one or two key Ship Protection Measures such as the deployment of razor wire or a condition that the vessel trades at a minimum distance from the coast of Somalia. Additionally, the Maritime Security Centre – Horn of Africa (MSC-HOA) has a policy of reporting what it sees as non-compliance by flag states, who then follow up with individual owners- a practise that has proved effective to enforce higher levels of compliance.

Some commentators are concerned that BMP 4 and other similar guidelines imposed by flag states, have become almost mandatory in tone, a concern to ship-owners because if a vessel is hijacked then there is a greater chance that cargo or charterers will be able to find fault in the conduct of the owners or master which in turn might give rise to contractual liabilities. However, notwithstanding the increase in the use of armed guards it remains the fact that most vessels avoid being hijacked through good seamanship and the adherence to the principles of BMP, than by anything else. BMP has proved to be a successful policy of self-protection, and indeed many of the generic principles within it can be applied in other high risk areas such as in the Gulf of Guinea, which is fast becoming a hot spot to rival the Gulf of Aden.

The number of successful hijackings is well down on the same period last year. The duration of a hijacking based on a rolling average of the last six ships released peaked recently at over 250 days, and with a prolonged hijacking there is an increased risk of the mistreatment of crew. Further, the success of the coalition navies has meant that pirates have lost equipment and even their lives, which in turn has created a greater determination to maximize the return on their successful hijacks. Greater determination from pirates undoubtedly manifests itself in an increase in ransoms paid. As the shocking story of the M/V Iceberg (now held for over two years) has shown, pirates are prepared to wait however long it takes to secure a payment.

As pirates have been forced back to using dhows as mother-ships, we will have to wait to see how this affects their appetite to continue their hijacking activities and how they may be forced to change their tactics or the type of weapons they use. For now, each hijacking has serious financial implications and so, to avoid attack, vessels are routinely routing closer to India with approximately 40 percent of them carrying armed guards.
It is estimated that there are around 220 maritime security companies, most of whom have signed the Private Security Company’s International Code of Conduct “ICOC”, which is administered out of Geneva. At the moment, the ICOC, a voluntary code, is about the only barrier to entry into the maritime security industry. Trying to sort the wheat from the chaff is difficult and without an independent and internationally recognized auditing standard, much of the due diligence is left to owners. With as many as 75 percent of all armed security companies being based in the UK or having a UK component, it is perhaps unsurprising that the UK is trying to take the lead in efforts to regulate maritime security companies. Some guidance has been issued by the IMO through IMO Circular 1405 (which is a comprehensive guide to the due diligence that owners should undertake before selecting a security company) and Circular 1406 (a similar document aimed at Flag States). A third IMO Circular, 1408, is expected and will be aimed at port states.

There are logistical difficulties in moving weapons in and out of the key ports such as Galle, Sri Lanka, and Muscat, Oman and regulations on the entry and movement of weapons within ports around the region are not uniform. Security teams have faced arrest where paper work was incorrect and when vessels were diverted to ports unexpectedly. However, the demand for armed guards necessitates the movement and storage of large numbers of automatic weapons in the region and, often, the need to embark and disembark in sensitive places. At the same time, however, it is unsurprising that some states, such as India, are extremely cautious about weapons being brought in. The recent tragic shooting of the Indian fisherman and the subsequent detention of the M/V Enrica Lexie have brought into sharp focus the need for clear guidance, not only on the movement of weapons and rules of engagement, but also on the role of the port authorities and of the vessel’s flag state in investigating incidents.

In the UK, a government quango/quasi-autonomous organization SCEG (Security in Complex Environments Group) has been tasked with producing a national auditable standard which, it is hoped, will provide the basis for a future international framework. The industry trade organization Security Association of Maritime Industry (SAMI) is also beginning to audit companies, and nations such as Norway, Cyprus, Greece and the UK have or are drafting legislation that details how armed guards can be deployed on vessels flagged to their state. The UK is some six months from having such a standard, although it is far from clear how long it will be before an internationally recognized standard is formalized. In the short term, a patchwork of regulations to force security companies through a number of audits in order to satisfy a myriad of standards will have to suffice. Moving forward, it must be in everybody’s interests to reach as quickly as possible an auditable international standard which will mean that companies audited in one jurisdiction will automatically be recognized in others.
In conclusion, the shipping industry has shown itself capable of drafting standards to help avoid hijackings and to deal with a constantly evolving threat, such as with the BMP which has a proven contribution to the rapid decline in the number of successful attacks. The fact that the deployment of armed guards is becoming standard practise for many ship-owners means that national governments must respond to the demands of ship-owners and put in place the necessary legislation and auditing standards to facilitate this.

(Endnotes)

1 Interim Guidance to Ship-owners...On the use of privately contracted armed security personnel on board ships and High Risk Areas. See also IMO circular 1406 which is similar guidance aimed at flag states.
3

Short-Term Containment Issues to Somali Piracy
Private Maritime Security Companies (PMSCs) and Counter-Piracy

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Despite the deployment of an unprecedented naval force in the Gulf of Aden (GoA), Somali-sourced piracy off the Horn of Africa (HoA) and Arabian Peninsula remains a significant problem. According to the International Maritime Bureau (IMB), 236 attacks occurred in this wider vicinity during 2011, representing roughly 53 percent of the global tally of 439 during the year. High incident levels have been accompanied by a major surge in ransom demands for hijacked ships that now average in the range of $4-$5 million compared to just $15,000 in 2005. In 2011, a total of $159.62 million was paid out to secure the release of captured vessels, including a record $12 million for the return of the M/V Zirku – a Kuwaiti-owned oil tanker that was captured in March and held for 73 days. The deteriorating situation is serving to increase the demand for private military security companies (PMSCs) to make their services available to protect commercial carriers transiting pirate-prone “hotspots.” Although a number of parties have welcomed the emergence of these firms, the privatization of maritime security poses a number of potentially serious challenges that have yet to be resolved.

The Role of PMSCs in Counter-Piracy off the Horn of Africa

According to David Johnson, Chief Executive of the UK-based Eos Risk Management, business opportunities for protecting ships in the wider vicinity of the Arabian Peninsula have more than doubled since 2008. At least 22 major companies (mostly based in the UK) have entered the market, arguing they constitute a vital force multiplier to existing naval patrols in the GoA by providing professional protection that is uniquely tailored to the requirements of their customers. The wide spectrum of PMSC services currently on offer typically include:

- Carrying out security audits to identify and rectify specific vulnerabilities and gaps in
a vessel’s security organization and preparedness;

- Running training courses for crew on how to respond when they come under attack;

- Aiding with recovery of hijacked ships and/or the negotiation of ransoms; and

- Deploying guards – armed and unarmed – and occasionally escort boats to accompany freighters when transiting high-risk areas.

Several parties have welcomed the growing presence of PMSCs protecting ships off the HoA. Washington has been especially receptive: In March 2012, Andrew Shapiro, the Assistant Secretary in the State Department’s Bureau of Political-Military Affairs, explicitly endorsed the employment of protection teams noting that to date “not a single ship with Privately Contracted Armed Security Personnel aboard has been pirated.”

Maritime insurance companies have also supported the use of PMSCs, with some slashing premiums by as much as 40 percent for vessels hiring their own security. In 2008, the UK-based Hart Group launched the first joint venture with an insurance firm. Under the terms of the arrangement, all ships using the firm’s guards would benefit from significantly lower rates when sailing past Somalia.

The endorsement of PMSCs reflects some important advantages these companies have over purely state-led counter-piracy initiatives. They are able to provide one-on-one protection, which is obviously beyond the scope of naval deployments in the GoA. They also have a definite deterrent value – reflected by Shapiro’s observation that no ship with armed guards onboard has yet been hijacked. Finally, they play an important role in burden-sharing because they shift the onus of mitigating piracy back to the shipping industry – which, until recently, effectively “free ride” off the back of extremely costly coalition naval task forces conducting counter-piracy missions.

**Challenges Associated with PMSCs in Counter-Piracy**

Despite these benefits, the use of PMSCs has some significant limitations. One major drawback is that clear rules of engagement (ROEs) on the use of force at sea have yet to be fleshed out, much less institutionalized. There is a particular need for greater awareness of the consequences of opening fire against suspected pirates and insurgents who are subsequently found to be innocent. To attain this awareness, it is critical that a solid international legal framework regulating the use of PMSCs and their ROEs is developed. Just as importantly,
Private Maritime Security Companies (PMSCs) and Counter-Piracy

A culture needs to be fostered within PMSCs that encourages these companies to seek sound legal guidance on the potential consequences of their activities. Accidental death or injury, for instance, could expose contractors, and conceivably those that employ them, to exorbitant liability claims and, worse, criminal charges (as it has with the Italian guards who wrongfully killed the two Indian fishermen).6

A related difficulty is the absence of a public registry covering the different companies that provide armed guards to commercial vessels which can be used to audit and verify their bona fides. In many cases shipping companies will be forced to rely on the sales pitch of a PMSC, which is hardly an objective basis for making an informed decision on whether to hire the firm. The winding down of military operations in Iraq has exacerbated these problems as it has increased the number of companies entering the maritime security market. In the absence of any formal vetting procedure, it will be extremely difficult to ascertain whether PMSC contractors have an established and reliable track record in the provision of maritime (as opposed to land-based) security and protection.7

PMSCs are also expensive: Providing a robust external escort costs between $10,000 and $100,000 depending on the length of the accompanied trip, while an on-board security detail typically runs to between $21,000 and $50,000 per transit.8 Although larger owner-operators are able to contemplate such outlays, they are well beyond the means of small- and medium-sized shipping companies. Unfortunately, it is these small- and medium-sized shipping companies that constitute the bulk of attacks in the HoA, presently accounting for around two-thirds of all hijackings in the region.9

A final issue relates to the absence of uniform and standardized protocols governing the movement, licensing and storage of weapons transiting the sovereign maritime space of third countries. Many littoral states do not allow armed vessels to enter their territorial waters as such passage runs counter to the established right of “innocent passage.”10 Even in cases when entry is permitted it is usually accompanied by a requirement that weapons arms be lodged with competent port authorities while the vessel is moored and, in certain cases, the imposition of fees that directly charge against the presence of munitions. These technical issues will obviously create a plethora of legal complications - not to mention delays and associated costs, in particular for voyages involving numerous ports of call, which applies to most merchant ships.11

The Future
Irrespective of the latent problems and difficulties associated with employing PMSCs
in counter-piracy missions, the reality is that the presence of these firms is unlikely to disappear any time soon. Indeed even the International Chamber of Shipping (ICS), which has traditionally opposed any use of PMSCs, has accepted that they may have a future role to play in vessel protection. This became apparent last year when the ICS Chairman, Spyros Polemis, acknowledged that mariners must be able to retain *all* possible options – including guards - to deter and defend their crews against attack.\(^\text{12}\)

Problematically, with private security contractors now seeking new business opportunities of the sort that arose during the wars in Iraq and Afghanistan, there is a realistic prospect of counter-piracy evolving into the next PMSC “gold rush” – attracting all sorts of actors that may or may not have appropriate maritime backgrounds. To offset this danger, proper protocols governing ROEs, the licensing of weapons, and the transit of armed teams through the territorial waters of third countries need to be developed. Just as importantly a public registry to audit the bona fides of the various companies currently providing protection services for commercial vessels must be put in place.

(Endnotes)


Private Maritime Security Companies (PMSCs) and Counter-Piracy


10 Currently there are only 13 flag states that allow PMSCs: Cyprus, Denmark, Finland, Germany, Greece, Hong Kong, India, Italy, the Netherlands, Norway, Spain, UK and US. See *The Economic Cost of Somali Piracy*, 2011, 2011.


Regulating Private Military and Security Companies at Sea: New Developments and Challenges

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As efforts by states to combat piracy off Somalia have struggled to comprehensively eradicate pirate activity, Private Military and Security Companies (PMSCs) are increasingly hired to provide armed guards to protect vessels passing through the ‘pirate infested’ waters of the wider Gulf of Aden (GoA) area. The large scale employment of counter-piracy PMSCs is a new phenomenon because until the current spate of attacks conducted by Somali pirates began, international maritime institutions, maritime industry representatives, and governments around the world opposed the armament of merchant ships. Yet, as piracy escalated and financial losses grew, sentiments regarding the use of armed PMSC guards have shifted and PMSCs increasingly relied upon. This trend is controversial and problematic because international and national laws often do not specifically address the provision of armed PMSC guards on board ships. However, as a result of the increasing employment of PMSCs off Somalia, new regulations of maritime PMSCs are slowly emerging.

This paper first briefly discusses the employment of armed guards to protect merchant ships from pirate attacks in the wider GoA area. The second part examines how states and international maritime regulatory bodies have reacted to the use of armed PMSC personnel on board ships – many of whom have ultimately sanctioned their employment. The paper concludes by suggesting that despite recent efforts to regulate anti-piracy PMSCs, problems and controversies remain - demonstrating significant weaknesses and shortcomings in national and international maritime security governance.

**PMSCs in the Counter-Piracy Response**

PMSCs are hired to provide counter-piracy services in different parts of the world, but
especially in strategically important waterways where piracy is a serious security concern, pushing clients to pay for additional protection for their vessels. While counter-piracy PMSCs have been hired in the past to protect ships in some waters, such as the Malacca Strait, it was the spate of pirate attacks in the GoA area, or more precisely the substantial financial losses they caused for insurance companies and ship owners, that resulted in the expansion of the industry.

Counter-piracy PMSCs are hired by (potential) victims of pirate attacks, including shipowners. To protect shipping in the wider GoA area, PMSCs are employed to provide passive security services, including risk assessments for vessels passing through pirate infested waters or training for crew members. However, many PMSCs are engaged to provide active security services, most importantly, the actual protection of ships from pirate attacks. To secure merchant vessels, PMSC guards have to be on board the protected ship and/or on an escort vessel accompanying it. These PMSC guards are armed, mostly with lethal, but in some cases also with non-lethal, weapons. The employment of guards armed with lethal weapons and the working practices of some counter-piracy PMSCs have caused concern, particularly because PMSC personnel have to use and transport their weapons across different jurisdictions.

Responses to the Employment of Armed PMSC Guards
The enduring challenges faced by governments attempting to end piracy in the wider GoA area and the increasing employment of PMSC personnel with lethal weapons on board ships prompted states and international regulatory bodies to respond. While some government officials, such as representatives of the US Navy, have encouraged and openly supported the employment of counter-piracy PMSCs,2 the broader set of responses by states and regulatory bodies have focused primarily on attempts to control and regulate armed PMSC activities.

On the international level, no binding regulations exist that specifically address the employment of private armed guards on board vessels. In regard to the international regulation of shipping, the International Maritime Organisation (IMO) is the institution that is arguably best placed to establish international guidelines because it is concerned with maritime safety issues. However, instead of offering a standardized convention, the IMO’s Maritime Safety Committee recommended in December 2008 that flag states should work with ship-owners to design policies for the employment of armed PMSC personnel on board ships.3 In May 2011, the IMO confirmed the crucial role of flag state regulation in its interim recommendations for flag states, ship-owners, ship operators, and shipmasters.
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regarding the use of armed PMSC guards. Other international regulatory bodies also - so far - do not offer binding regulations and existing maritime regulations also do not provide much guidance.

The increased employment of maritime PMSCs, the dearth of international regulations and perhaps also the encouragement of the IMO, forced flag states to look at their own laws regarding the armament of ships. Few flag states had specific regulations for the employment of armed guards in place and only some countries, including Greece and Japan, prohibited the arming of merchant ships. However, regardless of the nature of previous regulations, many flag states have responded to the current situation and are discussing new approaches and considering the revision of existing laws.

Overall, flag states have approached the issue in two different ways. First, some states continue to avoid the establishment of clear regulations and simply declare that the employment of armed guards is the responsibility of the ship-owner or the master of the vessel. This approach seems to be taken mostly by Flag of Convenience (FOC) states and is in line with the generally lax approach to security regulations of many FOC countries. The second approach, which seems to be taken mostly by states with national registers, is to introduce new regulations. While flag states are presently at different stages with regards to the establishment of new regulations, there is clear evidence that an increasing number of flag states are (in the process of) allowing the use of armed guards. Greece, for example, which has previously prohibited the use of armed guards on ships, has in November 2011 introduced a new law that allows up to six armed guards to work on a Greek flagged ship. However, the law still needs to be ratified by the Greek Parliament. Other countries that had no clear guidelines in place have already sanctioned the employment of armed private security personnel: In the UK, for instance, where the armament of ships was strongly discouraged in the past, a new legislation that UK flagged vessels can be licensed to carry armed guards was approved by the government in October 2011. Also, not only cargo ships are sometimes permitted to carry armed PMSC personnel, but also other vessels such as cruise ships and fishing boats. Spain, for instance, has since October 2009 allowed the protection of fishing vessels by armed PMSC guards in areas of severe risk. To facilitate their employment, Spain entered into an agreement with the Seychelles, which allows the guards to operate out of the country’s main port of Victoria.

PMSCs and Weaknesses in Maritime Security Governance – A Conclusion

The increasing employment of counter-piracy PMSCs and the responses by states and international regulatory bodies demonstrate significant weaknesses and shortcomings in
national and international maritime security governance. These are exemplified by the failure of international regulatory bodies to establish binding regulations regarding the use of armed PMSC personnel on ships. The IMO, which is responsible for issues relating to safety at sea and is in many ways best suited to issue clear guidelines, only published recommendations that place the responsibility into the hands of the flag states – which is problematic for a variety of reasons.

Flag state regulation is difficult both in regard to the creation of laws and their enforcement. While improved regulations are emerging in some countries, many (new) laws only regulate issues such as the type of weapons that can be used by PMSC personnel, and how many guards are permitted to protect a ship. They often fail to address other problems such as how armed PMSC personnel will board and de-board merchant vessels - which often has to take place in waters or ports under the jurisdiction of other countries. Furthermore, even if regulations exist, enforcement remains difficult for flag states as the operations of armed PMSC personnel often takes place far away from the country of registration. The fact that counter-piracy operations are conducted at sea, almost entirely removed from the eyes of observers, creates further problems in regards to oversight and accountability.

Equally problematic is that clients can easily avoid strict national flag state regulations by simply changing the registration of a vessel to an open ship register. As discussed above, while it is legal to use armed guards on many FOC flagged vessels, many FOC countries do not have any genuine regulations in place and also do not have the capacity (and sometimes the will) to enforce regulations even when they exist. This ability of ship-owners and other PMSC clients to avoid stringent regulations clearly reveals shortcomings in maritime security governance.

In conclusion, the employment of armed PMSC personnel on board ships in the wider GoA area is a reality, and international regulatory bodies and individual states have reacted to the use of armed guards in the maritime sphere. However, given the weaknesses in current national and international maritime security governance, oversight and accountability of PMSC activities in the maritime sphere remains both difficult and so far under-addressed. It will require further action by states and the wider international community to ensure that the growing role of PMSCs takes place in a secure, well-regulated and accountable context.
Regulating Private Military and Security Companies at Sea: New Developments and Challenges

(Endnotes)

1 The term PMSCs, Private Military and Security Companies, is used here because most of these firms also offer non-maritime services. This paper only focuses on private guards that work for PMSCs, not other kinds of armed guards on board ships.


8 David Ing, ‘Seychelles allows Spanish trawlers to up-arm in fight against pirates’, Jane’s Navy International, September 13, 2011.
Since man first built a boat and filled it with wares, there has been piracy. The fundamentals of piracy have remained almost entirely unchanged for thousands of years. Today, as in the past, piracy involves the capture, often violently, of a merchant ship for pecuniary gain. One development in modern times has been that the cutlass has been replaced with the AK-47, and rocket-propelled grenades (RPGs), the Jolly Roger no longer flies and the financial stakes are much, much higher. However, piracy has also evolved in one more important way - rather than stealing whatever goods happen to be onboard, modern pirates often demand millions of dollars in ransom. Piracy has thus become an exceedingly lucrative crime, proving an alluring vocation in a region where young men have few other prospects to escape poverty and destitution.

Piracy is said to represent the first truly international crime. However, while all nations agree that piracy is a universal crime, their domestic laws can differ on how a particular crime is defined, whether or not court jurisdiction can be established, and what the eventual punishment for piracy must be, including how it must be delivered. Which country takes the lead in prosecuting pirates, is highly dependent on the facts of an individual case. Relevant factors, for example, may include the flag country of the captured vessel, the nationalities of the ship crew or those kidnapped, the nationality of the pirates, and the location of the ship when it was attacked and, or, hijacked. Political considerations may also play an important role in deciding whether or not, and where, to prosecute a given case of piracy. While hundreds of pirates have been prosecuted by regional states and from around the world, the pool of recruits for the organizers of piracy attacks remains constant – there is, in fact, an indication that it is growing. Through an unbroken line of resolutions on the situation in Somalia – from United Nations Security Council Resolutions 1950 to 2020 – the UN Security Council (UNSC) has recognized the need to focus not only on the pirates captured at sea but also the networks that finance and orchestrate these attacks, and to dismantle them.¹
Increased and Sustained Focus on High Value Targets

One of INTERPOL’s core missions is to assist the global law enforcement community in collecting, coordinating, and disseminating actionable information and intelligence, supporting and enhancing domestic and international enforcement, and tackling maritime piracy and its illicit funds, in collaboration with other key partners. INTERPOL’s Maritime Piracy Task Force (MPTF), created in January 2010, coordinates INTERPOL’s international response to the maritime piracy threat in all its facets. It specifically considers the financial aspects of the piracy criminal enterprise, with a special focus on High Value Targets (HVTs) such as pirate leaders, organizers, negotiators, and investors. INTERPOL has long recognized that, given the low risks and high rewards of piracy, simply arresting and prosecuting individual pirates captured at sea will not meaningfully lower the incidence of pirate attacks.

In the words of INTERPOL Secretary General Ronald Noble, “To strike at the heart of maritime piracy, we must investigate, understand, and use to our advantage the financial component behind each of these attacks. We must follow the money as part of a global response involving law enforcement against maritime piracy” (INTERPOL Press Release January 19, 2010). The global law enforcement community faces a number of challenges in trying to identify the organizational and financial structure of pirate networks and to prosecute these HVTs. Without a concerted effort to improve information-sharing between all the actors involved it will be extremely difficult to bring to justice those who orchestrate and organize these pirate attacks.

Information-Sharing and the INTERPOL Maritime Piracy Global Database

One of the biggest obstacles in defeating piracy networks is the lack of information-sharing between key actors that collect or are in the possession of relevant data on piracy networks. The process of investigation, arrest, and prosecution of persons associated with maritime piracy is initiated in a maritime environment. However, its roots and the pursuit of closure are land-based and require the cooperation of military, law enforcement authorities, and the private sector maritime shipping community, including owners, operators and insurance companies. There is a large volume of information on piracy networks that is fragmented and in the possession of actors that have little past experience of working together closely. For example, information on piracy attacks and those responsible may be in the possession of the military; complementary information on the same attacks may be in the possession of the flag state, the ship-owner, local law enforcement, crew members and hostages, and the private actors conducting the ransom negotiations. The ultimate goal is to collect and centralize this information for use by the law enforcement community.
Either bilaterally or through Working Group 5 of the Contact Group on Piracy off the Coast of Somalia, under the stewardship of the government of Italy, INTERPOL actively works with all of these partners – the private sector, military, and law enforcement – to collect and share information about pirates and pirate attacks. All of these actors have a shared resolve to defeat the piracy networks. Because of the international nature of piracy networks, even well-trained local law enforcement will only be able to glean a partial picture of the network behind a lone pirate attack. It is only by sharing the results of investigations with the international community that a more complete picture will begin to emerge. Drawing on two of its core functions, INTERPOL is uniquely positioned to facilitate that kind of international collaboration. By facilitating secure global communication and offering its analytical expertise through operational data services, INTERPOL aids the international law enforcement community to identify links between different piracy incidents. Stimulating information-sharing and collecting data becomes meaningless unless the data can be analyzed and contextualized. INTERPOL’s Maritime Piracy Task Force (MPTF) provides this assistance chiefly via its Global Maritime Piracy Database. On July 29, 2011, INTERPOL Washington, in collaboration with INTERPOL General Secretariat (IPSG) MPTF developed and implemented a customized database which contained information on Somali piracy in order to assist law enforcement authorities around the world by sharing information to facilitate piracy investigations, and increase piracy-related prosecutions. 

INTERPOL further assists select member states in proactively exploiting evidence in their custody to help identify the organizers and leaders of the pirate networks. In 2011, INTERPOL launched Project EVEXI (Evidence Exploitation Initiative) – a strategic initiative co-funded by France and Norway – to assist select states exploit maritime piracy evidence in their custody and establish procedures for maritime piracy intelligence-gathering and forensic evidence collection. By establishing these procedures in all of the regional countries currently involved in investigating piracy, the project will provide regional investigators with an INTERPOL-supported methodology and information-sharing mechanism. Through ensuring that information assets are optimally exploited for intelligence, and evidence dispersed across jurisdictions is more able to be unified for the purposes of prosecution, local police forces will be able to better target individuals involved in the organization, financing, and implementation of acts of piracy. 

**Developing Regional Capacity to Conduct Complex Transnational Investigations, including Financial Investigations**

INTERPOL plays a central role in capacity-building efforts, including through improving
and providing infrastructure and exchanging data. INTERPOL’s counter-piracy strategy is organized around a single, unifying principle: to build, balance, and integrate the tools of regional structures to combat maritime piracy by strengthening existing assets of investigation and prosecution, reinforcing investigative skills, and building international cooperation. A European Union-funded, 36-months capacity-building project aimed at developing the forensic and investigative capacity of seven Eastern African countries will provide essential equipment and/or training to law enforcement in those respective countries. In addition to building the forensics capacity of select member states involved in prosecuting maritime piracy (notably the Seychelles, Kenya, Tanzania and Mauritius), INTERPOL’s projects and initiatives with “front-line states” in Eastern Africa seek to further develop the capacities for criminal investigation units in those countries conducting the type of pro-active, transnational investigations required to successfully prosecute those who illicitly finance, plan, organize, or unlawfully profit from pirate attacks off the coast of Somalia.

More specifically, UNSCR 1976 calls for the “implementation of anti-money-laundering laws,” and “the establishment of Financial Investigation Units” as tools against the international criminal networks involved in piracy. Regional states, as well as other states, could be vulnerable to efforts by piracy networks to launder the proceeds of maritime piracy. Assisting states in the effective implementation of the Financial Action Task Force (FATF) 40 Recommendations remains a high priority in addition to creating FIUs, and developing trained financial investigators that are experienced in financial investigatory matters involving both domestic laws and international conventions and standards.

“Countries should make it a policy priority to ensure that there are an adequate number of properly trained financial investigators. These financial investigators should be adequately trained, and experienced in financial investigatory matters involving both domestic laws and international conventions and standards. Countries should create institutional conditions that provide the appropriate environment to carry out financial investigations and to facilitate cooperation by providing the proper legal authority for any involved agencies.”

INTERPOL, along with other partners such as the United Nations Office on Drugs and Crime (UNODC) and the World Bank, should continue their collaborative efforts to develop FIUs in front-line states and to train “financial investigators” to identify and arrest “those who illicitly finance, plan, organize, or unlawfully profit from pirate attacks off the coast of Somalia.” This objective is eminently reasonable and possible given that an FIU in the Seychelles which has set the gold standard for financial investigations could serve as a model for other countries.
Conclusion

The costs of maritime piracy are enormous. Seafarers are being held hostage in horrific conditions, many of whom have been tortured, abused, and sometimes murdered. It is, first and foremost, a humanitarian issue that must be addressed with urgency. Action must be taken that attacks all of the components of the intricately orchestrated international crime of maritime piracy. INTERPOL has established initiatives to actively engage military and national law enforcement bodies alongside private sector stakeholders in coordinated efforts to facilitate the identification and traceability of suspects associated with maritime piracy, as well as in their prosecution, and will continue to build on such initiatives.

(Endnotes)

1 For example, UN Security Council Resolution 1950 (passed in 2010) calls on member states to work with INTERPOL to investigate international criminal networks involved in piracy off the coast of Somalia, including those responsible for illicit financing and facilitation. In Resolution 1976 (passed in 2011), the UNSC called on INTERPOL and other international and regional organizations to assist countries in Eastern Africa to strengthen their counter-piracy law enforcement capacities, including the implementation of anti-money laundering legislation, the establishment of Financial Investigation Units (FIUs), and the strengthening of forensic capacities. A later UNSC Resolution urged “all States to take appropriate actions under their existing domestic law to prevent the illicit financing of acts of piracy and the laundering of its proceeds” and “in cooperation with INTERPOL and Europol, to further investigate international criminal networks involved in piracy off the coast of Somalia, including those responsible for illicit financing and facilitation,” stressing the “need to support the investigation and prosecution of those who illicitly finance, plan, organize, or unlawfully profit from pirate attacks off the coast of Somalia.”

2 Four of those primary challenges can be summarized as follows:
   - Poor communication among ship owners, navies, and law enforcement agencies means that it has been difficult to develop complete pictures of what happens in pirate attacks.
   - Local law enforcement agencies may lack the expertise, manpower, physical and technologies to effectively conduct what are often complex piracy investigations.
   - Without international communication and coordination, law enforcement agencies struggle to build legal cases against the facilitators and financiers of piracy, and the truly international pirate networks.
   - There are relatively few law enforcement personnel in the world who have on the ground experience in investigating piracy. This lack of experience, especially among countries in East Africa, is problematic.

3 INTERPOL’s MPTF has a robust information-sharing relationship with EUNAVFOR, the US Naval Criminal Investigative Service, members of the Combined Maritime Forces (CTF-151), and more recently, with the NATO’s Operation Ocean Shield.
Database content is entirely unclassified and fully shared with international law enforcement. As of February 2012, the database contains information on: approximately 700 subjects (including pirates, negotiators and financiers); transactional information on pirates arrested and their co-conspirators; various businesses; GPS units; documents; serial number of skiff engines; and weapons. Database information is analyzed by INTERPOL and synthesized into analytical products that can be shared with international law enforcement. These products include subject profiles, link analysis depicting connections between multiple pirate events, incident mapping, and telephone calls analysis. Requests to check subject names and phone numbers against the database are submitted to INTERPOL daily, typically with a response time of a few hours. Notably, the database was endorsed by UNSCR 2020 in November 2011. In this resolution, the UN commended INTERPOL for the creation of the piracy database and urged all states to share information with INTERPOL for use in the database.

INTERPOL, the World Bank and UNODC are actively involved in a study of this phenomenon. The focus of the study is to follow the illicit flows of the proceeds generated by piracy off the coast of Somalia.
Sailor Education and Training: Cutting the Human Cost

Marie Lynge

Military Linguist and Counter-Piracy Specialist

Ship pilots report a clear trend on-board the ships that are destined for pirate infested waters. The sailors are increasingly anxious. In spite of the fact that they still face weeks of transit before even entering a high risk area. This is the hidden part of the human cost that global piracy has added to sea transit. It is not only the actual hostages, and their families who suffer; many sailors struggle daily to cope with the overhanging threat of coming under armed attack, facing violent sea robbers or an unknown period as captives in the hands of the professional hostage business in Somalia. The sailors are uncertain and full of apprehension of a situation where armed guards or security escorts are becoming a visible part of sea transit.

The Science of Hostage Taking

Though a hostage-taking is considered a misfortune by some, it is considered a professional business by others. The sailors should be properly prepared for that misfortune and on how to handle the professional piracy business they risk encountering at sea. Educating the sailors helps even out the scales between professional hostage-takers and the men and women who have become their targets.

Professional pirates are subject to professional rules. They exist in a hierarchal structure, subjected to internal discipline and social protocols. They adhere to certain standard operational procedures; during attack, robbery, citadel-breaching and when guarding the hostages. Their interaction with each other and their hostages follow a certain pattern as do the negotiations for a ransom settlement. Proper preparation and the right foundation of knowledge and education can help minimize the level of trauma in connection with pirate encounters. The human cost in connection with hostage-taking has proven less severe when the captured individual has received hostage training or education beforehand.
Sailors need to be trained on how to cope with piracy, thereby giving them the opportunity to influence their surroundings and thus obtain a sense of control of their own situation. One of the keys to coping with capture is for the hostage to obtain a feeling of control and influence on his surroundings.

Hostages report that humiliation, feelings of helplessness and feeling completely under the control of others are among the most distressing issues suffered during captivity. It may even lead to severe psychological trauma, such as Post Traumatic Stress Disorder.

Another important issue for the hostages is maintaining the unity of the group. Pirates have been known to divide the group of sailors into smaller groups based on nationality, hierarchical positions or religious views and to separate the hostages by means of isolation or by causing internal disputes. Internal disputes or unwillingness to cooperate can have a severe impact on the hostages’ morale and resilience. It is therefore of utmost importance for the wellbeing of the crew that all crewmembers cooperate towards strengthening the unity of the group and assist each other using psychological first aid. This serves to ensure that all crew-members are included in the community and that no one is left to sink into depression or apathy. Long-term captivity creates an emotional rollercoaster for the hostages. The group serves as a stable core and as a safety net for the individuals.

Stress management focuses on mental tools and knowledge to help the sailor cope under stressful situations and thereby improve his chances of returning home with as few physical and emotional injuries as possible.

**Example:** The optimal course of action, when a safe room is about to be breached, and there is no chance of rescue, is for the captain to call for surrender just before the room is overrun by pirates. The captain should calmly inform the pirates that everyone has surrendered and that the crew and ship now belong to them and open the door voluntarily. It is not recommended to remain inside the safe room until the pirates break down the door and enter by force.

The two scenarios may seem similar and the end-state is the same, but the consequences for the crew-members, both the immediate level of aggression they have to face, and their treatment as captives in the long run, are very different.

The higher the level of stress resilience and ability to cope with the capture, the more likely it is for the sailor to wish to return to his work at sea afterwards. The level of trauma is lessened
and it becomes easier for the sailor to re-adjust to his normal life after being released.

The hostages need to be armed with knowledge about how pirates work, their current strategies, their hierarchy and cultural norms and ethics, and their general treatment of the hostages. Knowledge and training is the key to reducing stress and to becoming more stress-resistant.

The hostage is prone to two types of stress during captivity: the acute and the long term, accumulated stress. Acute stress is a state of highest alert, connected mainly to abnormal, potentially life threatening situations like extreme violence, aggressive robbery, a pirate attack or hostage taking. Acute stress causes the individual to react instinctually, without first pausing to consider the consequences of his actions. This reflex is meant to help protect us and even save our lives by either making us escape the danger or strike out at the opponent. If you are unaware of the effects of acute stress, and furthermore have no knowledge of how to counter it, it may prove very dangerous in a hostage situation. Neither fight nor flight is an option here and instinctual reactions will only serve to further escalate the danger of situation, not only for the individual but also for the colleagues around him.

Being properly prepared on how to handle stress-reactions and cope with acute and accumulated stress will help the hostage get through his captivity with as little physical and psychological trauma as possible.

**Conclusion**

Sailors are suffering daily due to the current instability in the seas in South East Asia, off the Horn of Africa, West Africa, among others. The piracy victims are thought of as those who have survived encounters with pirates and sea robbers. Often we neglect to include, as victims, the sailors who put themselves at risk, transiting through areas where they risk violent attack, injury or even death. A sailor transiting through pirate infested waters has a higher risk of being captured than a professional soldier on deployment. Training and education can help reduce the human cost that is a result of the professionalization of the piracy business. Professionalizing the hostages by teaching them advanced stress management and how to manage their fear and handle pressure in connection with piracy related incidents will help the sailor make the best possible choices in stressful situations to facilitate his and his mates’ survival and well-being, and assist them in returning home with as few mental and physical injuries as possible.
The International Chamber of Commerce (ICC) International Maritime Bureau’s (IMB) Global Piracy Report: 2010: Pirates took 1181 seafarers hostage; 2011: Pirates took 802 seafarers hostage; Military hostages: open sources (all media): In 2010 less than 50 soldiers were taken hostage while on deployment and also less than 50 in 2011
Every day, merchant vessels are able to avoid pirate threats due to a mesh of intelligence support. But civil-state intelligence cooperation needs to evolve if avoidance is to play a larger role compared to deterring or defending against an attack on a merchant vessel.

Since the beginning of 2011, Private Maritime Security Companies or (PMSCs) have become the counter-piracy measure of choice for many shipping companies. Although they come with a substantial cost, the use of PCASP has demonstrated their value in deterring and defending against pirates. As a popular saying goes ‘No ship with armed guards has been taken by pirates.’ Whether this claim will endure or not, defense against pirates is nonetheless most effectively done in a layered fashion. Considering avoidance, detection and deterrence of pirates is part of all structured risk assessment-based planning.

In a layered and defensive mode of thinking avoidance of pirate attack is one of the first steps to take. The most extreme measure of this is to reroute ships, where possible, from Europe south of Africa to Asia to avoid the Arabian Sea. On a smaller scale, however, it is also done on an everyday basis, as vessels steer clear of known pirate hotspots. The key to effective avoidance is intelligence. There is already an impressive multitude of agencies and companies that work in supplying intelligence on Somali pirates. But despite – or perhaps due to – this multitude there are several issues standing in the way of using the full potential of intelligence for active risk avoidance. It will be pointed out below what shortcomings the current system has and possible ways to improve the situation.

On the face of it, the counter-piracy operation off Somalia is one of the most advanced cooperative military undertakings across traditional coalition lines and national interests. At the US-led Shared Awareness and Deconfliction (SHADE) meetings the EU, Russia,
China, Japan and several smaller countries plus private industry associations as well as UN organizations orchestrate an overlapping or shared effort to protect a common interest. This has received praise and admiration from many commentators - and rightly so. But looking at the intelligence side of things, the more competitive and suspicious undercurrent of national interest is dominant. This is not surprising as intelligence systems and sharing has always been one of the most closely guarded systems in a military organization.

**Types of Intelligence**
The intelligence that is interesting for merchant shipping is mainly to be found on the tactical and the operational level. Tactical intelligence pertains to pirate attack groups: Where are they, how many are they, how do they operate? Tactical intelligence mainly stems from surveillance, reconnaissance and encounters with pirates at sea. This means that both navies and merchant vessels are gathering information for their tactical intelligence.

Operational intelligence can be viewed as the information about region-wide developments that might have an influence on the tactical side of things: Which pirate groups are active, who are the leaders and investors, how do they organize and operate this pirate season? This type of intelligence is not directly applicable on the bridge of a merchant vessel or in the shipping company, but is still shaping the operating environment. Operational intelligence can be obtained through traditional intelligence means such as human sources, image intelligence and signals intercepts but also in a good old fashion by talking to people and reading open sources. This means that government intelligence agencies as well as private intelligence companies, journalists, ordinary citizens, Internet users and NGOs gather information that can be processed into operational intelligence.

Strategic intelligence about the Somali situation – such as the political wrangling or the general forecast of the country’s direction – is influencing the operational level and strategic intelligence shares some traits with the above but will not be treated here.

**Current Situation**
For a long time the United Kingdom Maritime Trade Operations (UKMTO) has been the mainstay of aggregating, analyzing and disseminating tactical intelligence for the purpose of avoidance. This was initially done on a limited budget by a small but dedicated staff in a small apartment in Dubai. More recently, UKMTO has been up-scaled, but considering their centrality in the intelligence cooperation, the operation is still doing a large amount of work with a very limited staff. UKMTO is the main contact point for mariners under
attack and does get some of the most high-grade information, including pictures and descriptions, directly from merchant vessels. They are also a central node in the MERCURY chat system. UKMTO disseminates intelligence for avoidance directly to ships in the area and a broad selection of partners, but does not aim to keep public record of incidents. Since piracy became an issue with international attention, NATO and EU have started operating military operations in the area. Both organizations have also set up civil-military liaison bodies that supplement and overlap some of UKMTO’s services.

UKMTO, however, will not receive nor disseminate all intelligence. There is a tendency that intelligence collected by military aircraft, ships and other means is kept within a national or coalition system, like NATO’s CENTRIX. Some of this is shared on a need-to-know basis with UKMTO, but some is also released more unilaterally. A good example is processed analysis and forecasts on NATO Shipping Centre’s homepage or from the US Office of Naval Intelligence. A good deal of this intelligence is, however, kept out of public sight. This is in keeping with the systems that collect and disseminate, which are designed for wartime naval battles.

There are some important non-governmental providers of tactical intelligence as well. The International Maritime Bureau (IMB) has a global role as a piracy reporting centre. They sit more removed from the military sources but will get certain types of reports from merchant vessels that have not previously been sent to UKMTO. More importantly, IMB acts as a librarian of incidents, producing a public overview of all incidents that have been reported to them. Between UKMTO and IMB, most of the incidents that are reported by vessels or companies off Somalia will be gathered up. Beyond these, however, there are still a number of incidents that go unreported. Some shipping companies are not interested in getting their name associated with a case. This also seems to be the case with some armed security providers, who are sometimes put in charge of reporting incidents for vessels. Word or reports of these and other unreported incidents, however, might filter out through small regional media outlets, word of mouth – or they will simply never get beyond the vessel involved.

**Main Problems**

To sum up the situation off the Horn of Africa, there is a lot of information and intelligence about pirates that can be used for avoidance. But in the current environment, problems arise in the assessment, analysis and dissemination of intelligence. Assessing incoming reports is an important part of the counter-piracy cycle. As useful as it is for a Master to know that a ship 100 nautical miles up ahead has just been attacked, it is disruptive to have
harmless sightings of fishermen or smugglers reported in multitude. Piracy in itself is a small-scale, criminal event and thus it can be difficult to point it out short of when a ship is boarded. The vetting of incidents is the most effective the closer to the collecting source it is. The intelligence nodes in the military systems should, however, be the backstop. This is not always the case, unfortunately, as most military personnel rotate in and out of jobs. So even vital command posts like that of UKMTO are rarely granted for more than six months. This also means that the “corporate knowledge” is worn thinner than necessary. Given that most navies active in the area have now been there for a long time, the problem lessens somewhat, but military systems should consider changing placement policies.

Analyzing the piracy threat for avoidance purposes is one of the tasks that require experience and “staying power.” To this comes gathering and analyzing operational intelligence to understand the trends. It is striking that none of the organizations dealing with tactical intelligence has a significant capacity to gather, analyze and present operational-level intelligence in the context of avoidance. The reason for this is again a historical one, as most of the capacities needed for understanding a criminal organization on shore traditionally rest with a country’s security or criminal intelligence agency, not with navies. Operational intelligence is analyzed by international and national agencies today, but there is an obvious gap when Masters and companies have to relate this to the day-to-day tactical intelligence. Fusing the sources consistently on a day-to-day basis would be helpful to spread a fuller understanding of the problem.

Lastly, dissemination of collected data and finished intelligence products is likely the largest problem. This is to some extent a technical issue as has been pointed out by many observers, including NATO’s own Joint Analysis and Lessons Learned Centre. But the real stumbling block is a conceptual one. As mentioned above, military intelligence systems are designed for wartime use and emphasize compartmentalization, classification and operational security – all of this for good reasons. But in the Somali piracy context, these parameters become destructive when it comes to tactical intelligence for avoidance purposes. As an example, there are several instances where a picture or a location of a known pirate group could not be shared immediately to a nearby naval ship because the vessel was from another country or coalition. The problem of sharing is aggravated when intelligence needs to cross the governmental-commercial divide. Although most intelligence organizations and navies in the area have established close contacts to industry bodies, individual shipping companies and private intelligence companies by now, there is still a culture of classification that keeps much vital and non-compromising intelligence out of the hands of those who have the most immediate need. Obviously, intelligence should not fall in the wrong hands, but weighing the benefits against the disadvantages on the short and long term, intelligence
should be shared more readily. In the current situation, shipping companies and private intelligence companies have become producers as well as consumers of intelligence, so for intelligence agencies and navies a more open culture of sharing would likely benefit these organizations themselves.

**Conclusion**
Avoidance of known pirate attack groups is the best method for merchant shipping when trying to mitigate the risk of piracy. The current environment for actionable tactical intelligence is in itself promising, with a historical high degree of cooperation across traditional state divides as well as between governments and commercial actors. But the system is less than perfect. Owing to traditions and structures designed for a wartime setting, intelligence agencies and navies tend to keep information and intelligence that could otherwise be put to good use, in their closed systems. Given that Somali piracy is not a threat to national security as such for most countries, a conscious revision of intelligence procedures would be a worthwhile endeavour that could even benefit the individual country in the end.
The dramatic rise of piracy off the coast of Somalia in the past few years has led to a corresponding explosion of media interest. Governments and multinational institutions have, in many cases, found it relatively easy to get their message across to a receptive media, desperate for information on the subject because stories on piracy have proved a big hit with the audience - in short, piracy ‘sells’.

However, both sides feed off the other. It is likely that public diplomacy has contributed to the media myths about piracy due to the selective release of information to journalists by those involved in counter-piracy operations. In turn, the romanticization and distortion of the subject by the media has, in all probability, led to misguided counter-piracy strategies. Before discussing the role of public diplomacy in counter-piracy, it is important to describe what ‘public diplomacy’ actually means as it is a fuzzy term, with no clear, single definition available.

For the purposes of this discussion, ‘public diplomacy’ can be taken to mean the efforts by governments and multilateral institutions to explain and promote their policies and interests to people around the world, and to influence global opinion. This is primarily done through the international media and through dealing with non-governmental organizations.

This piece will focus on the way governments and other bodies try to spread the ‘counter-piracy’ message, primarily through the media. It will examine the resulting media narrative, which in many ways distorts the reality of piracy, and may well have contributed to misguided policies.

**The Perfect Media Story**

Somali pirates took the world by surprise in the early years of this century when they
set sail in tiny skiffs, hijacking enormous cargo ships and their crews, demanding multi-
million dollar ransoms for their release. The shipping industry, governments, international
organizations and the media were caught unprepared, and were obliged to hurriedly develop
new policies, strategies and narratives on the issue.

While those directly affected by piracy tried to find ways of countering the problem,
the media revelled in what was in many ways the perfect ‘story’. Somali pirates were
romanticised as ‘heroes’ or ‘villains’, often described in a child-like, storybook fashion or as
something akin to the characters in a Hollywood blockbuster. Pirates were rarely portrayed
as ‘real’ people.

As piracy was such a seductive subject, governments and other institutions did not have to
try particularly hard to get their messages into the public domain. In the early days, when
the story was new and exciting, media organizations would feature almost any item on
piracy, knowing it would sell newspapers, generate internet hits, and attract viewers and
listeners.

As Somali piracy was for most people something far away and ‘exotic’, there was not much
pressure from the world’s public for the immediate development of successful counter-
piracy policies. Things might have been different if the media had chosen to make the story
more relevant to its audience by focusing on how the actions of Somali pirates were leading
to increased prices for oil and other goods transported through the Gulf of Aden and the
Indian Ocean.

In the past few years, it is likely that more media column inches and airtime have been
devoted to piracy than any other aspect of the ‘Somali problem’. This is in spite of the
fact that pirates make up a negligible proportion of the Somali population, and that their
activities are fairly insulated from what is happening elsewhere in the country.

Although the media questioned how it was possible for tiny groups of poorly-armed men
to successfully hijack huge vessels, it is unlikely that the ‘CNN effect’ - whereby the media
shames or pressurises governments into taking action on a specific issue - came into play
with piracy. This may have been because governments and other bodies reacted relatively
fast to the problem; unlike famines, floods or other humanitarian disasters which do not
immediately affect the rest of the world, piracy was hurting the pockets of the powerful
shipping industry, and threatening a key supply route for oil and other goods.

The fact that the motivation to tackle piracy was economic as well as political helps explain
why so many countries came together so quickly to fight the problem. It is interesting that states, such as Iran, the US, China and Russia, have all had ships patrolling pirate-affected areas, communicating and working together in a relatively coordinated and harmonious way that overlooks wider political divergences.

Myths and Misconceptions
The media frenzy surrounding piracy and the intense pressure on journalists to find stories on the subject in some cases led to rushed reporting and the distortion of the reality on the ground. It is likely that the media has contributed towards misguided policies on piracy because of the way it has reported the subject, leading policy makers to believe in myths instead of realities. Public diplomacy has also contributed to these distortions, as governments and other bodies have fed to the media only the information they want to get across.

Some piracy stories have received far more attention than others. The seizing of civilians aboard yachts, such as the British couple, Paul and Rachel Chandler who were captured in October 2009 and held for more than a year, generated huge media interest, especially in the UK. According to those involved in negotiations with the pirates, the media frenzy severely disrupted attempts to get them released.2

Another pirate story that received massive international media attention was the attempted capture of the US-flagged _Maersk Alabama_ in 2009, the taking hostage of its captain and his subsequent rescue by US Special Forces. The heavy media focus on this single hostage was probably due to two main factors: That he was an American and due to the effectiveness of the US public diplomacy machine. This same incident is now inspiring a Hollywood motion picture entitled _Captain Phillips_ starring Tom Hanks scheduled for release in March 2013, which coincidentally made cast calls for extras in Dubai.

These two stories contrast sharply with the scant international media attention paid to the on-going hijacking of merchant vessels with crews from less powerful countries such as the Philippines, Bangladesh and Ukraine. The often horrific treatment of hostages, and the duration of their captivity, are seldom given significant media coverage, partly because some shipping companies prevent released crew members from speaking to the press, fearing that their horror stories will dissuade employees from taking to the sea in future. It is worth noting that pressure groups representing the rights of seafarers have been set up in order to remind the world of their plight.3
Somali pirates also complain that they have been misrepresented by the media and policy makers. As the Somali pirate, Gedow Ali, said: “The rest of the world believes we are bad people. They think we are criminals. But nobody has come to ask us for our side of the story.”4 This type of attitude reflects at least a small part of Somali public opinion, among which the notion of Somali pirates as “vigilantes” or “coast guards” protecting Somali waters from international interests involved in illegal fishing or dumping of toxic wastes, endures.

Another aspect of piracy that remains under-reported is how well people other than the pirates themselves are doing out of piracy. As I argue in the book “Getting Somalia Wrong? Faith, Hope and War in a Shattered State,” people “are making money from the substantial industry that has developed around trying to deal with the problem of Somali piracy. New security companies have been set up to help protect ships from the pirates. Anti-piracy equipment is being designed and sold… New breeds of consultants, insurers, lawyers, counsellors, security personnel and ransom negotiators are making a good living from Somali piracy. Insurance premiums for ships sailing off the coast of Somalia increased tenfold following the rise of piracy in the area.”5 The public diplomacy of countries such as the UK, which have benefitted from these aspects of piracy, may play down such elements.

An example of how public diplomacy can lead to a distorted reality of piracy can be seen in the widely-reported comments of the US State Department’s Counter Piracy Unit Donna Hopkins: “Somali piracy has grown from being essentially a garden-variety, local, off-the-coast protest against illegal fishing…into a seriously networked and capable, transnational, organized and criminal enterprise.”6 Although piracy has doubtless become more sophisticated, by all accounts it remains a fairly localized phenomenon; treating it as something different will lead to failed strategies. As the piracy expert, Stig Jarle Hansen, argues: “The myths of piracy in the greater Gulf of Aden are many, but the average pirate group is a clan-based, low-tech group, consisting of former fishermen. Pirates are thus decentralised, and far from the advanced structures suggested by many observers.”7

One body that has developed a relatively effective public diplomacy machine is the European Union Naval Force for Somalia or EUNAVFOR, which was established in 2008. It offers well-organized press briefings and media embeds, and has intelligent, well-informed spokesmen who have successfully got EUNAVFOR’s message across.

Of course, EUNAVFOR – like all other official actors around the world – sometimes overlooks (whether intentionally or unintentionally) some facts that should be given to the public. For example, during a press briefing in February 2012, EUNAVFOR spoke proudly of its successful counter-piracy operations in 2011, downplaying the role played by private
armed guards on board ships and completely failing to mention that, in 2011, pirates received greater revenue for fewer hijackings because they demanded higher ransoms.

In conclusion, popular stereotypes and widespread media attention to the phenomenon of piracy off the coast of Somalia has in part contributed to unhelpful media myths and stereotypes on the subject, which in turn have led to bad counter-piracy policies. Efforts made by governments to increase public messaging on the topic have not been extensive, and have not succeeded in countering popular misperceptions of the problem. However, public diplomacy has had some success in persuading shipping companies to adopt best practise measures, such as protecting their ships with barbed wire, establishing citadels or safe havens for crew on board vessels, and, in some cases, hiring private security guards. It has also, to some extent, dissuaded people from taking to the sea in risky areas unless absolutely necessary. But piracy off the coast of Somalia will continue as long as it remains a low-risk, high reward business model, and as long as the situation on land remains lawless, with no effective central government.

(Endnotes)


2 Personal conversations with negotiators for the Chandlers.

3 For example, Ecoterra International Counter-Piracy Updates.


5 Harper, op cit., page 145.


The Legal Process: The Indian Ocean Commission’s Effort to Promote Regional Harmonization of Laws against Piracy

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The situation of persistent instability and conflict in Somalia is directly linked to the rampant scale of piracy which has recently developed from a disorganized endeavor to a highly structured transnational criminal enterprise. Piracy off the coast of Somalia is no longer considered as a regional issue as it has now turned into a global one and the international community has quickly realized that solving this problem is not an easy task and that it cannot be done overnight.

Since its creation in 1984, the Indian Ocean Commission (IOC) which is one of the smallest inter-governmental organizations grouping Comoros, France (Reunion Island), Madagascar, Mauritius and Seychelles, has continuously put greater emphasis on the enhancement of regional cooperation particularly at the strengthening of the legal framework for dealing with various maritime threats in the region. Today, piracy is the most worrying maritime threat affecting directly or indirectly the five IOC Member States.

Regional Legal Cooperation with UNODC
With a view to reinforce the legal cooperation existing throughout the region, the United Nations Office on Drugs and Crime (UNODC) in conjunction with IOC, are undertaking an assessment of the laws of the five IOC Member States focusing on their extradition and mutual legal assistance and have since 2008 jointly developed two technical assistance tools in that respect. Soon after, each of the IOC Member States designated their respective focal points to compose the ‘Justice’ regional platform responsible to coordinate information related to extradition and mutual legal assistance cases. This marked the very first step made by IOC in improving the cooperation among regional law enforcement agencies.
The Djibouti Code of Conduct

The issue of regional harmonization of anti-piracy laws was further addressed in January 2009 during a meeting in Djibouti organized by the International Maritime Organization (IMO) whereby nine countries initially signed the Djibouti Code of Conduct.

Under this Code, the Signatory States considers the United Nations Convention on the Law of the Sea (UNCLOS) as the international law that sets out the legal framework applicable to combating piracy and armed robbery at sea. They are all committed to review their national legislation in compliance with the UNCLOS with a view to ensure that there are laws in place to criminalize piracy, so that there will be a degree of uniformity of treatment of captured pirates. However, this Code is a ‘soft’ law instrument meaning that it has no legally-binding force. This could perhaps explain why out of the current 18 Signatory States, only two (Seychelles and Kenya) have fulfilled their commitments and are currently prosecuting suspected pirates in their national courts.

Resolution on Maritime Piracy in the IO and the Gulf of Aden

The need to strengthen the legal framework was felt even more in February 2009, soon after Seychelles experienced its first piracy attack and hostages taken. In its 25th Council of Ministers held in Moroni in April 2009, a resolution on maritime piracy in the Indian Ocean region and the Gulf of Aden was adopted unanimously by all IOC Member States. This was considered as a symbolic measure as it was the first resolution that stressed on the need to harmonize at regional level national laws so as to reach a consensual legal text against piracy. This same Resolution also calls upon all maritime forces for stronger mobilization in the effort to fight piracy off the coast of Somalia and this explains the rapid deployment of the European Naval Forces (EUNAVFOR)’s Operations in the region. By then, the number of attacks in the Indian Ocean had escalated rapidly.

Regional Ministerial Meetings on Piracy

As a result, in May 2010 on the occasion of the official visit to Seychelles of Baroness Catherine Ashton, the government of Seychelles with the support of the IOC decided to host the very first ministerial regional meeting on piracy. This meeting was of great importance to the Eastern and Southern Africa-Indian Ocean (ESA-IO) countries as it was the first to open up a discussion on developing a regional approach in the fight against piracy. This meeting was followed by a second one hosted by the government of Mauritius in October 2010 whereby a Regional strategy (RS) and a Regional Plan of Action (RPA) for Maritime Security were adopted by the ESA-IO countries.
At this stage, no one can deny that each ESA-IO country is being individually concerned either directly or indirectly by the scourge of piracy which is affecting the general interest of the region and so the burden will have to be shared by all in order to accomplish the overall deterrence of maritime piracy. However, sometimes the strong political will of the states to stop piracy as expressed in conferences or in resolutions is not enough.

“Hard” Legal Instrument (Domestic Legislation to Fight Piracy)

The use of ‘hard’ legal instruments by the regional states is an efficient way for them to put into effect their willingness to combat this threat.

As of today, three of the five IOC member states (Seychelles, Mauritius and Reunion) have implemented their own domestic legislation to facilitate the arrest, the prosecution and the repatriation of pirates.

Seychelles was the first member state to amend its laws in relation to the offense of piracy. In March 2010, it modified its Penal code by adapting the articles 101-117 of the UNCLOS Convention. Following this law, Seychelles has signed a total of 15 MOU’s on transfer of suspected pirates and has prosecuted around 60 suspected Somali pirates. Other states like Mauritius are slowly following. In July 2011, they expressed strong commitment by signing a pre-trial prisoner transfer agreement with the European Union (EU), and also adopted in December 2011, their Piracy and Maritime Violence Bill. Although not directly affected like Seychelles, the Mauritian authorities are conscious of the seriousness of this threat and are currently building a special court of justice to sentence pirates.

France (acting on behalf of Reunion) has enacted a law on January 5, 2011 in relation to the fight against maritime piracy. Its law is similar to Seychelles and Mauritius in the sense that it is in full conformity with the UNCLOS Convention as it adopts the same definition of piracy and refers to the latter for resolving any claims for damages, injury or loss.

Limitations and Challenges: The Overcrowding of Prisons

However, some states such as Seychelles that are accepting suspected pirates for prosecution has been reluctant to take more, due to their limited capacities on their prison facilities. Seychelles currently has 86 Somali pirates in its small prison which represents over 20 percent of its total jail population; it therefore cannot continue incarcerating large number of Somali pirates. As a result, too many suspected pirates apprehended at sea are simply released without any punishment. This is the unacceptable ‘catch and release’ situation,
which has been widely criticized by former Special Advisor to the UN Secretary General on Legal Issues related to Piracy off the Coast of Somalia, Jack Lang. Lang developed the concept of “Somalization” of prosecution, whereby he insisted that specialized courts in Somalia are to be established in order for Somali authorities to take up their responsibilities in incarcerating their own citizens immediately after conviction.

It is in line with this that countries including Seychelles adopted in July 2010 a law regarding the transfer of sentenced persons to their countries of origin. Under this law, convicted Somali pirates have to serve their sentence or the rest of their sentence in Somalia. In ensuring the full implementation of this law, the Seychelles authorities even went further in signing three MOUs on transfer of the sentenced pirates with the Transitional Federal Government (TFG), Puntland and Somaliland in early 2011. As of today, the government of Seychelles has transferred a total of 17 convicted Somali pirates to prison mainly in Somaliland. It is well understood that any increase of prosecution capacity must correspond to an increase in prison capacity in Somalia.

The Newly Established IOC-APC

The recent establishment of the IOC Anti-Piracy Cell (IOC-APC) as per the 27th IOC Council of Ministers, will be of great use to the ESA-IO region as it will prepare the latter for the implementation of the immediate actions of the 10th EDF MASE Start-Up program aimed at implementing the above referred RS and RPA for promoting maritime security in the region. The action plan on legal issues which relates to the detention, transfer and prosecution of pirates is currently undertaken by UNODC. Among the immediate actions that will need urgent consideration is the harmonization of laws at the regional level. By 2013, this responsibility will be handed over to the Eastern African Community (EAC) who will then become the regional coordinator for the legal related issues of the Maritime Security (MASE) program for a period of five years. The IOC-APC based in Seychelles will be supervising all these activities.

Conclusion

In conclusion, the best remedy to solve the problem of piracy off the coast of Somalia is by establishing an effective cooperation framework between regional states combating piracy, both at the operational and the legal levels. This solution cannot be led by a single country, not even by a single international organization; it requires a concerted action on the part of the international community as a whole. However, the IOC has so far demonstrated a remarkable effort in galvanising regional action in this area, and it is not
surprising if today the IOC has won a deserved reputation of being the ‘champion’ for mobilizing regional states in the fight against piracy.
Long-Term Regional Cures:
Somalia and Anti-Piracy Initiatives
Historical Links between the Arabian Peninsula and Somali Peninsula: A Regional Response Based on Partnership

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To many Western or other non-specialist minds, the idea that the Arabian Peninsula and the Somali Peninsula are closely linked through historical ties and through merchant trade relations seems alien. Many if not all counter-piracy analysts or government officials tend to look at the Somali Peninsula separately from the Arabian Peninsula, or to consider them as part of two distinct ‘regions’. It is known, for instance, that because of proximity, African migrants used Somalia as a transit port onto Arabian Peninsula through Yemen and then into the Kingdom of Saudi Arabia (KSA). This lacunae in the foreign policy literature is surprising in light of the extensive and unique historical relationships that have existed between the people of both areas. The following chapter provides a brief overview of these relationships in order to suggest how these ‘trans-regional’ connections may be leveraged to enhance the current international response against piracy emanating off the coast of Somalia.

Brief Historical Background
Somalia has a long history of cultural, religious, and trade ties with the Arabs of the Arabian Peninsula, in particular from the introduction of Islam to what is present-day Somalia in the 1400s. Although Somalis ethnically are not Arab, they identify closely with Arabs – and generally more than they do with other Africans. Why is this relevant today? In addition to the position of Arabic as an official language of Somalia and Somalia’s membership of the Arab League, there are other cultural and social dynamics that are often overlooked in the relationship between Somalis and Gulf Arabs.

Many clans in Somali society, which remains highly tribal, claim themselves to be descended from Arab ancestors. Nearly seventy-five percent of the Somali population in Somalia for
example comes from the Dir, the Darod, the Isaaq, and the Hawiye families, which can still be found in the Arabian Peninsula today. Linkages between the two Peninsulas were seen in between the 15th and 19th centuries along the main coastal centers of Somalia which were under the control of Arab merchant families and under the sovereignty of the Sultanate of Oman. Somalis traditionally migrated back and forth between the Somali colonial states and the Arabian Peninsulas part of trade, familial movements (intermarriage in what would be Yemen), and education.

In the 20th century there was a significant increase in migration from Somalia to the Arabian Peninsula. In the 1970s and 1980s, the number of Somalis moving to the Gulf States climbed significantly as employment opportunities opened up with the development of those oil-rich countries’ economies. Remittance flows from the Arabian Peninsula soon became the largest source of diaspora funds, with over 60 percent of total remittances to Somalia coming from the Arabian Peninsula states immediately prior to the outbreak of the Somali civil war in 1991.

However, Somalis continued to arrive in Arabian Peninsula states for also other reasons such as to join family members, to pursue religious education, and to avoid the political and violent situation in Somalia. Through this period, the states of the Arabian Peninsula and Somalia developed closer political relations as Somalia became increasingly dependent upon economic aid from GCC states. Partly due to his alignment with GCC states, the then-Somali President Siad Barre chose to side with the United States-led coalition in the First Gulf War to liberate Kuwait. Support for the coalition brought significant economic dividends to Somalia: Qatar canceled repayment of and interest on outstanding loans, while Saudi Arabia offered Somalia a $70 million grant and promised to sell it oil at below prevailing international market prices.

Current Relations and the Regional Linkages
In addition to long-standing religious, cultural and economic ties, over the past two decades a new dimension has emerged to their relationships since the beginning of the Somali civil war. In supporting Somalia and its people through the conflict by donating aid countries like Qatar, Kuwait, Yemen, and Oman have played important roles. But the UAE has emerged as the predominant hub for Somali business and in the post-civil war era, Dubai has become Somalia’s key link to the Arabian Peninsula. With the collapse of the Somali government and state institutions, and violence that has forced millions to flee, a large Somali community has found refuge in Dubai. Today an estimated 900,000 Somalis reside in the states of the Arabian Peninsula, with Yemen, Saudi Arabia, and UAE the major diaspora centers.
In the UAE, between 80,000-100,000 Somalis currently reside and number among the country's largest immigrant communities. A large number of Somali-owned businesses are concentrated in the Deira area of Dubai, with large numbers of Somalis running import-export businesses, restaurants, cafes, and hotels. Today Somalis even own three Dubai-based airlines offering direct flights from the UAE to Mogadishu. A large proportion of Somalia's elite also reside in Dubai, such as former President Abdullahi Yusuf, who died in March 2012. President Yusuf was the first Somali president to return to the Somali capital, Mogadishu, since the fall of Mohammed Siad Bare in 1991, serving four years before he handed power to Sheikh Sharif Sheikh Ahmed in 2008.

For major commodity trading, Somali shipping operators use Dubai as a hub for their activities, receiving rice from India, Pakistan, and China to import to Somalia. Somalia's major exports - livestock, meat, and charcoal - are shipped to Dubai. Consequently, Dubai and its Somali residents play a major role in supplying all regions of Somalia with basic needs. Somali's major ports, including Heis, Maidh and Laasqoray in northern Somalia, Haradheere and Hobyo in the Mudug region, and CeelDheer in the Galgaduud region and Kismayo in southern Somalia, are also common ports for merchants from the Arabian Peninsula. The dhows coming to and from these ports dock in ports up and down the Red Sea coast of the western Arabian Peninsula and the southern ports of the Arabian Peninsula by the Gulf of Aden, and on the Arabian Gulf.

Specifically, in the UAE, commercial cargo dhows sail regularly between Somalia and the ports at Dubai Creek, Ajman, and Sharjah. These dhows carry a wide variety of consumer and material goods, including lumber, lubricants, tires, vehicle and machinery parts, complete vehicles, bulk and processed foodstuffs, consumer electronics, and durable goods. Tires for automobiles and trucks are, by volume, the largest type of cargo shipped to southern Somalia. Total figures of this trade are unknown.

A Regional Response Based on Historical Partnerships
Regionally-based partnerships between Arabian Peninsula merchants and Somali Peninsula merchants who reside in the Arabian Peninsula itself or in Somalia proper offer a promising basis on which to develop further cooperation between Somalia and the Arabian Peninsula. Firstly, the UAE's social and cultural appeal is very strong among Somalis. Secondly, the scale of trade between the two Peninsulas helps the UAE position as a regional trade hub which Somalia—like many other regional states—is increasingly becoming dependent on. Thirdly, there are high numbers of intermarriages between Arabian Peninsula families and Somalis, specifically in Yemen, which makes the need for such a cross-regional partnership
so central. Fourthly, Somali leaders like to visit the UAE, many do so frequently, and the current Somali leadership is still seeking to expand the bilateral political relationship between the UAE and Somalia but also want to see the business community grow because they see Dubai in particular as a major point of rescue for the ailing Somali economy in order to end piracy. A regional partnership built on historical linkages could have an impact on the piracy threat if it was able to help develop key industries in Somalia, providing the ‘alternate livelihoods’ for coastal communities in Somalia. More aggressive investments by a regional-based partnership would make all participants accountable and would help to centralize transactions and promote transparency. In order to encourage such an increase in investment and business development, a framework able to build trust through a legally-sound mechanism would be required.

Institutionalizing Arabian-Somali Peninsula Links: A Somalia-Arabian Business Council

One such framework to consider is the creation of a Somalia-Arabian Peninsula Business Council (SAPBC) that could be based in Dubai and to be closely linked with the Somali Business Council (SBC). From 2001 until about 2006, the SBC was highly successful: Advocates for business interests in Somalia and a venue for information-sharing and community-building among its members. Unfortunately, the SBC fell apart in 2006 due to an inability to agree over a new leadership for the group. Now the SBC is being revived at a critical time and should include small and medium sized businesses that would help feed into the SAPBC.

The SAPBC would be an organization that develops the trade and economic relations between Somalia and the GCC plus Yemen, and could provide assistance in establishing business contacts between businessmen in order to develop robust public-private partnerships to boost Somalia’s development and facilitate the long-term eradication of Somali piracy. The SAPBC could meet quarterly in various Arabian Peninsula and Somalia Peninsula cities to discuss key issues and using the latest social media technology to inform readers of ways to help build new coastal communities in Somalia as well as to build closer relations between the two geographical units in a united effort for healthy multi-lateral relations. Working groups within the SAPBC would be responsible for different streams of investment ideas and projects.

Clearly, an effort such as the SAPBC is seen as a way to find a regional solution to make Arabian Peninsula and Somali Peninsula ties more forceful. The SAPBC combined with a strategic information campaign designed to highlight the positive and historical dimensions of Somali communities on the Arabian Peninsula would help to eliminate the current
negative press associated with Somali piracy. Personal relationships and business association among leading actors in the trade networks provide the underlying organizing principles of a robust business network. Overall, further bringing together the two peninsulas via commerce and people to people contacts can help to mitigate Somali piracy.
Public-Private Partnerships (PPPs): Supporting Programs to Counter Piracy

The Efficacy and Implementation of Successful PPPs, and their Contribution to the Long Term Alleviation of the Root Causes of Piracy in Somalia

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The London Conference on Somalia in February 2012 sent a clear message that while Somalia is emerging from its worst humanitarian crisis in a decade, the situation in the country remains fragile. Following the Conference there is an emerging consensus that comprehensive and sustained action by the international community will require a range of innovative partnerships able to support the economic and social development needs of Somalia. It is well documented that the issue of piracy starts on-shore, as the population of Somalia face limited alternatives to the significant financial yields of piracy. The UN clearly articulates:

‘the Somali people, especially the youth, need greater incentives not to succumb to the lure of piracy. Economic rehabilitation and the creation of alternative livelihoods, especially the development and rehabilitation of coastal fisheries, must be at the centre of efforts to fight piracy. But as long as piracy is lucrative, alternate livelihood options will be a hard sale’. (UN, 2011)

Rehabilitation and development is the long term solution - working hand in hand with short term mitigation and containment strategies, as well as ongoing state-building strategies. Public-Private partnerships (PPPs) are a globally recognized mechanism for effecting long term sustainable change, however Somalia, as one of the most challenged countries in the world, is not a place to apply a 'standard' approach to implementing partnerships. This paper looks at the effectiveness of PPPs, how they may be optimally implemented within Somalia, and what steps can be taken to ensure their efficacy.
PPPs - The Principle

The concept of working in partnership to tackle an issue is not a new one. Different parties bring different competencies, skills and vision to the table for a common mission. Often they set aside any differences to focus on a defined outcome. The nature of the partnership is one of sharing not only expertise and competencies but also risk, finances, accountability and responsibility. Typically a public-private sector partnership will involve government at either central or state level or an NGO/Not-for-Profit organization and a private sector entity. Although partnerships often have a common goal, they are not always guaranteed to be a marriage made in heaven and require a number of stages to be successful, including, but not limited to:

- Clarity of accountability, decision making and responsibility;
- Clear and effective communication mechanisms;
- Well-defined and clearly articulated agreements that are targeted at the right measurable outcomes/outputs;
- Alignment and harmonization with host country policy objectives and strategic plans and alignment between partners;
- Commitment to integration with host country policies and practices (avoidance in establishing ‘parallel operating units’);
- Transparency;
- Commitment to long-term development.

There are clear benefits from well-defined and well-managed public-private sector partnerships, and as such, collaborative approaches work to the advantage and interest of both parties. In some cases it can result in access to revenue, new markets, technologies and methods of operating while at the same time sharing the risk and maximizing cost efficiencies. Both sectors provide defined skills and in the case of the private sector there is the opportunity to drive social change through the use of core competences - doing what the business does best, rather than relying on philanthropy as a mechanism for change. For the public sector there is an opportunity to innovate with shared risk while meeting a demonstrated social need.
Public-Private Partnerships (PPPs): Supporting Programs to Counter Piracy

PPP and Counter-Piracy Initiatives
Before setting course on developing PPPs to counter piracy there is a need to understand the root causes of piracy and from this what type of partnership will have the greatest long-term and sustainable impact. Without understanding the issue it is a challenge for any type of partnership to create and design a focused program. The root causes of piracy are well documented including poverty, economic disadvantage, toxic waste at sea impacting fish stock, fragmented government structures and an under-developed social and physical infrastructure. Piracy is a lucrative option. PPPs however cannot and should not aim to tackle all the socio-economic challenges. It would be rather naive to consider the answer to piracy and its root causes lie in partnerships between the public and private sectors. However they can contribute by supporting the emerging federal government structure and harmonizing with it policy aims, objectives and vision; a ‘parachute’ approach that gains little traction but significant publicity will not suffice in Somalia.

Effective and successful partnerships work on two levels: (1) Where there is a common vision and the outcomes combined exceed those that could be delivered by the organizations individually; (2) Where there is alignment, harmonization and integration to the government policy and approach. The development of ‘parallel operating units’ not only encourages further fragmentation of effort but also creates fatigue within the community. The cost of reporting also becomes an issue.

Effective Implementation in Somalia
Somalia, using a UN definition, can be classified as a ‘Fragile State’. Due to its emergence from conflict and weak governance, standard models of development, whether they are aid or partnership, are not applicable. Useful insights into effective approaches in fragile states can be drawn from the way key global bodies, such as the UN, amend their development strategies to work in these areas.

The UN ‘Fragile States principles’ place importance on:

- A joint understanding among development partners of each specific context, including adequate political economy, conflict and risk analysis;
- The state-building agenda (understood as involving not just the capacity of the state but its legitimacy and accountability);
- A whole of government approach;
• A “do no harm” approach; and
• Harmonized approaches from development partners (OPM/IDL 2008)

For PPPs to be effective in Somalia, these principles are equally valid. Harmonization with government policy is essential to both increase efficiency but also to ensure support is ongoing. This must be reinforced with state-building goals; for countries with only a tenuous grasp on government, processes that enhance and reinforce government power/influence are the priority, not least because these are the processes most likely to be supported by the governing bodies.

This is further compounded by a need for enhanced flexibility and prioritization. Flexibility dictates that any implemented project should be easily adapted to changing circumstances. Prioritization means that measures of success also need to be flexible - for example instead of sticking to rigid performance targets, outcome measures, strict definitions of ownership, etc, it may be more important to have a project which is actively supported and suitably flexibly engaged.

The importance of the ‘do no harm’ principle cannot be stressed enough. Projects that are poorly planned, harmonized or implemented can do more damage than good to both the local population as well as the partnering organization. It is very hard for a partnering organization to exit a non-delivering project as it risks reputation as well as local communities. To mitigate this factor a very thorough risk analysis process must be undertaken - more thorough than in less fragile states. Risk assessments must take into account the current and future political climate, conflict, levels of support for the project (from all sectors), financial costs (although as stressed before this needs to be flexible), and also the impact of project failure. This last point is very important; partners need to develop an effective exit strategy. With complex risk assessment can also come ‘assessment fatigue’ and there are many reports from Somalia that the community no longer wants to be assessed but requires development and positive action. During any risk assessment process, it is critical to listen to (and act on) the needs of the community.

**Evidence for Success**

With the above caveats it can be seen that PPPs in fragile states cannot be taken lightly, however this does not imply they cannot be done well. Many large organizations have significant investment in emerging markets, and place their future development plans in these sectors. Developing nations need skills and expertise and not just financial
investment. Melding these two needs creates a rich platform for public-private partnerships. Private partners need to bring to the table their expertise and core competencies, not just investment, if partnerships are to create lasting change. DP World in Djibouti in partnership with the government won the concession to manage the port at Djibouti and build the port at Doraleh. This development created over 700 employment opportunities, supported the physical and social infrastructure of the area, as well as opened a gateway for humanitarian aid into the hinterland. Further, through a targeted program in partnership with aid organizations United States Agency for International Development (USAID), Family Health International (FHI360), and the government of Djibouti, DP World is tackling health issues of the port community through the development of a dedicated health and community center. Similarly in Senegal, DP World, collaboratively with the Senegal government, manages the Dakar port, and has increased volumes by around 30 percent in 4 years, as well as supporting employment opportunities for over 500 people. This approach in Senegal and Djibouti focused on what DP World does best - building, managing and growing port operations - collaboratively with local government to positively impact the social, economic and physical infrastructure of the country.

Somalia is more fragile, however well-designed and implemented projects can work well there - the key being that increasing trade, revenue and employment opportunities, as well as skills and expertise input, will work towards the essential state-building process.

**Conclusion**

Long-term solutions take a long time to develop and implement, and for this reason state-building as well as economic development, which are both supported by PPPs, must also be complemented by more short-term counter-piracy solutions. PPPs in Somalia require a tailored approach, and cannot simply utilize a standard method. The emphasis is on state-building and harmonization with the local government’s plans as well as other agencies. Evidence from the region shows that large scale partnerships can be very effective; however they must be approached cautiously and flexibly. The importance of emerging markets to the global economy cannot be understated, and it is in the interest of all parties to develop effective, long-term solutions.

(Endnotes)

2 A parallel operating unit is where multiple separate processes/bodies are attempting to implement and monitor a single development activity.

3 That is: It is better to do nothing than something that could make the situation worse.

Alternative Livelihoods: Developing and Maintaining Economic Growth in Troubled Territories

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Estimates of ransoms paid to Somali pirates are in the region of $70 million for 2009, $100 million in 2010 and $130 million in 2011. While this is a very small sum compared to the total cost of containing piracy (estimated to be in the region of $6.3-6.9 billion annually), these are large figures in the context of the local economy of the pirates’ anchorages in the Horn of Africa. Although Puntland’s capital, Garowe, and its main harbor, Bossasso, have boomed in recent years, economic growth in the coastal areas remains weak and the government has been unable to offer (and sometimes pay) attractive salaries to its security forces. With the government struggling to project power in the coastal area, pirates provide important local government functions: most importantly employment, but also stability and local investment necessary for their own business. Although coastal towns have not grown rich on the proceeds of piracy (most of the profits appear to be invested elsewhere), the lack of attractive alternative employment makes it difficult for locals to resist the lure of co-operating with pirates. Effective counter-piracy would combine development and law enforcement approaches to change the relative risks and rewards of engaging in long-term hijack and ransom business. Once Puntland starts to exploit its oil resources more revenues will become available to its government and with appropriate international pressure and incentives some of this may be used for counter-piracy initiatives.

Coastal Puntland is economically deprived. Satellite images of coastal settlements along the Indian Ocean coast show dirt roads, mostly small-scale low-quality housing and little in the way of public infrastructure. Most coastal settlements simply have a beach from which small skiffs can be launched rather than —berth, docking, and port infrastructures. Trading vessels are unloaded at sea and hijacked merchant ships are anchored several miles off the coast. The well-known pirate anchorage near Hobyo serves as a good illustration. The local elder Abdullahi Ahmed Barres’ complains: “We have no schools, no farming, no fishing.
It’s ground zero here” and “The nearest hospital is an eight-hour drive on a rough road.”

In this context it is hardly surprising that participating (to whatever small extent) in piracy is an attractive business. The heavily armed attack teams are just the tip of the iceberg as far as employment in the broader piracy business is concerned. Hijacked ships are often held for several months (and sometimes more than a year) while ransom negotiations are carried out. Given that it would be much easier to steal a ship moored two miles from the coast than braving the waves on the high sea, pirate groups need to post guards to defend their ships from possible attacks by rival gangs (or even local security forces) – as many as 100 guards are needed for each ship. Once the ships’ supplies run out, local traders and businesses provide food and marine diesel to ships in return for a stake in the final ransom. The guards are often addicted to a mildly narcotic plant called *khat*, which provides further business to traders. Clan elders are involved in facilitating the ransom negotiations and get a cut for providing safe anchorage and smoothing local relations. Piracy is therefore a business that involves many people, though a large number of them probably only make a fistful of dollars from their investment or employment.

There are very few alternative livelihoods in Puntland’s coastal communities - and certainly none that promise anything approaching the potential gains to successful piracy, both monetary and in terms of status. Somalia does not have a strong fishing culture: Seafood is avoided in the local diet as much as possible. Instead, ownership of livestock and trucks / SUVs confers social status. The transformative power of participating in a successful hijack is easily illustrated by comparing Somalia’s per capita GDP (estimated around $600) to even the lower end of reported pay-outs of $15,000 for a member of a pirate attack team – plus a brand-new SUV for the first man on board. The successful pirate thus earns 25 times annual GDP per capita: in US terms this is equivalent to a premium of $1.2 million (United States per capita GDP stands at $48,000). It is hardly surprising that young men aspire to being pirates.

On the other hand there are massive risks and most recruits and investors see piracy as a way of getting the funds to establish themselves in legal businesses rather than thinking of piracy as a long-term career or investment choice. Many (and possibly most) aspiring pirates perish at sea or more recently in fire-fights with armed guards and (occasionally) the naval forces - or end up in prison in the Seychelles or Kenya. A recently interviewed “pirate king” said that six of his attack teams had failed to return in a row. Many investors see their entire capital disappear in unsuccessful raids, when a ship is liberated or when the owner abandons ship and crew rather than paying a ransom. Thus piracy is a high risk – high return business and comparable to the pay-offs in other organized crimes such as drug smuggling and money laundering.
There is very little positive evidence that one can combat organized crime purely with a strategy of alternative livelihoods. Pay-offs in legal business simply do not come close to the rewards for successful high-end criminals. The best a development strategy for Puntland’s coastal settlements can hope to achieve is offering locals a better deal than that offered by the pirates. This would mean that the local communities would help rather than hinder local law enforcement efforts. And a development strategy need not be particularly costly. While there is evidence that pirate ransoms are being invested in Puntland (and increasingly in Galmuduq), it appears that most of the investment is in the inland cities and Bossasso.

Analysis of satellite images of the coastal villages show that hosting pirates has not brought visible prosperity: there is little new building activity and little new public infrastructure (except piracy-relevant telecommunications facilities). A further indicator of continued economic deprivation is that none of Puntland’s coastal settlements on the Indian Ocean generate sufficient light emissions to feature on the global nightlights charts published by the National Oceanographic and Atmospheric Administration’s Earth Observation Group. A small amount of investment in these communities would go a long way.

A second and vital aspect of a land-based counter-piracy strategy would be to strengthen law enforcement through local security forces. Local forces, although not particularly well resourced, are surprisingly effective when they are working with local communities. In Somaliland the combined political will of government and local businesses to improve the international perception of Somaliland has meant that pirates are not finding havens to conduct ransom negotiations on Somaliland’s coast. Similarly, grass-roots anti-piracy sentiment in Eyl has allowed Puntland’s authorities to drive pirates out of this former pirate stronghold. However, pirates were able to take the ships to alternative anchorages further up and down the coast, where local communities chose to shelter them in return for their business.

With the Puntland authorities keen to exploit oil resources in their territory, both the political will and financial means to strengthen law and order are likely to improve considerably. The international community can lean on the Garowe authorities to try to project power into the coastal areas and counter piracy. In combination with a development strategy that makes impoverished coastal communities better off, land-based counter-piracy is likely to be both more effective and considerably cheaper than the current naval and private sector response, which can, at best, control the symptoms of economic underdevelopment and weak governance on land.

While “rehabilitating the fishing industry” is often mentioned as a possible option for
a development strategy, it is important to understand that Somalia has a pastoral rather than a fishing culture. Many inhabitants of coastal villages were forcibly settled there and have no connection to the sea or aspiration to fish. Further research is therefore needed to explore how the communities would choose to develop local economic prosperity and to what extent their young men are simply seeking to escape from rural life altogether. Only with this information can we offer these communities attractive alternative livelihoods.

In conclusion, developing an economic development strategy is an important part of a land-based approach to piracy, but one that will only work in combination with effective law enforcement. There is likely to be a window of opportunity regarding the latter with Puntland’s government keen to lose the label of “pirate state-let” and likely to be in a much better financial position when it starts to benefit from oil revenues. However, simply depriving some of the poorest communities in the world of their employment is likely to lead to bloodshed and deep economic misery. The international community has a role to play in offering alternative livelihoods to those who currently have little option but to take pirate money.

(Endnotes)

1 Jean-Marc Mojon, In the Heart of a Somali Pirates’ Lair, AFP2 September 2, 2010.

Building Somali Maritime Capacity for Self-Defense and Reliance

Muhyadin Ali Yusuf
Chairman of the Anti-Piracy Task Force in Mogadishu, Somalia

Piracy cannot be brought to an end by naval blockade alone – the fight needs to be taken to the ground, and this should be done by Somali forces. Within this backdrop, the building of a functional Somali National Coast Guard (SNCG) is important in order to ensure safety and security of marine transport and coastal activities. To realize an effective SNCG, there is a strong need for well-co-ordinated efforts in the field of capacity-building by involved stakeholders, in close cooperation with Somalia, the region, and the wider international community.

The Transitional Federal Government of Somalia (TFG) has recognized the importance of securing Somalia’s territorial integrity and so much effort has been placed on building Somalia’s national security forces, both military and police. However, there is also a serious need to turn attention to the area of maritime security and to the threats at sea. Indeed, Somalia’s maritime borders are as important as its land boundaries. With the TFG, there has been a steady commitment to support the speedy eradication of piracy in Somali waters. There has in fact also been a keen commitment to address growing human trafficking, drug smuggling, and illegal trading, all activities that harm Somalia’s reputation and hinder the growth of its economy. There is also a dire need to prevent the plundering of Somali fishing stocks by illegal fishing and to stop the dumping of toxic waste in Somali waters.

Achieving these goals rests on the ability of Somalia to secure and control its territorial waters, protect its Exclusive Economic Zone (EEZ) and manage its extended continental shelf in appropriate ways which emphasize the need to rebuild a Somali naval capability and in particular the (SNCG). Placed under the Ministry of Defense, the SNCG will be an integral part of the national security apparatus and will have land, sea, and air components. Once equipped with the necessary capabilities, SNCG will be able to work in close cooperation with the international naval operations already active. The establishment of a maritime operations centre in Mogadishu will enable SNCG to coordinate intelligence,
planning, and operations of its own forces as well as provide support to those of the international community. The primary goals of the SNCG will be to: Effectively enforce national jurisdiction over territorial waters; Provide law enforcement to ensure maritime resources are exploited only under license and to those with legal permissibility; Monitor the ecological environment in support of wider activities to protect the marine environment, and; Secure navigation of territorial waters.

Yet, there are a range of inherent challenges that impede the rebuilding of the SNCG, from financial constraints, to a lack of political consensus between power players inside Somalia, and growing suspicions at the grass-roots level on what are seen as hidden agendas of foreign navies conducting counter-piracy operations. There is a recognized need for assistance from the international community to the Somali state in order to build the necessary institutional capacity that will enable Somalia to address the piracy problem through an effective, long-term approach. Amongst experts on the problem of piracy off the coast of Somalia there is shared recognition on the key future role the SNCG must play in long-term counter-piracy efforts.

A lack of resources, institutional capacity, and expertise in modern coast guard operations inside Somalia – a set of challenges that are exacerbated by the long coastline of Somalia – show that the need for a focused and unified commitment from the international community to help Somalia rebuild the SNCG is obvious. However, international support for rebuilding SNCG has lacked the commitment and urgency required. Indeed, the political fragmentation within Somalia has created hurdles in achieving the national consensus and policy necessary to address national challenges, of which piracy is an important one.

The political fragmentation of Somalia makes any attempts to oppose the piracy phenomenon at a national level unsuccessful. In fact, many Somalis are suspicious of the international response to piracy of their coast, seeing hidden agendas and a potential threat to their sovereignty. For example, coastal communities in Somalia would like to see the eradication of piracy alongside illegal fishing and the dumping of toxic waste. However, as part of the international response, many countries have sent navies to protect illegal fishing vessels – so there is a belief these countries do not want to see an effective SNCG emerge. Also, there are many foreign organizations, companies, and individuals that are benefiting from Somali piracy, many of whom also would not like to see the emergence of an effective SNCG. These misunderstandings can be offset by closer cooperation that supports Somalia in building the institutional capacity with which it can address the root causes and practical dimensions of the piracy problem.
Organizing the SNCG

Somali Army Naval Forces (SANF) were established in 1965, but disappeared in the 1990s during the civil war - along with the other regular national forces of Somalia. Prior to their dissolution, however, the SANF were regarded as one of the strongest in the region, and had proved themselves capable of safeguarding a long coastline, protecting territorial waters, and ensuring international navigation along Somali waters. The former SANF were equipped with: Two Soviet-built Osa-II missile-armed fast attack craft; Four Soviet-built MoI PFT torpedo-armed fast attack craft; Several patrol crafts; One Soviet-built Polnocny-class landing ship capable of carrying five tanks and 120 soldiers; Four smaller mechanized landing craft; Two coastal battery artillery, and; Numerous patrol crafts. Different sites along the coast also housed radar and radio communication facilities, and functioned as observation posts.

Coastguard forces have multiple security functions, and the SNCG would operate to keep order along the Somali coast and within its territorial waters by launching patrols to combat piracy, illegal fishing, drugs and human trafficking, as well as other illegal activities at sea. The SNCG would also be involved in monitoring and protecting the marine environment, and leading Search and Rescue (SAR) activities in times of emergency.

A future SNCG is likely to require 3,000 personnel. In terms of operating platforms, the nature of the current and emerging operating environment and the range of missions the SNCG would need to execute, the following are judged to be necessary: Two offshore patrol vessels (85 meters), with integrated radar; Six coastal patrol vessels (38 meters), with integrated radar; Twelve fast patrol boats (16 meters), with integrated radar; Thirty rigid inflatable boats; Two search and rescue helicopters; Two search and rescue fixed-wing aircraft, and; Fifty 4X4 trucks. Additional systems would be designed to obtain an effective coastal surveillance capability to around 50km into sea. A modern command and control infrastructure would need to be built allowing headquarters to communicate with units and outposts, as well as allowing units and outposts to communicate with each other; all of this equipment will also require staff training for their accurate operation.

Additionally to the development of the SNCG, Somalia needs assistance with its intelligence capabilities – which will lend important support to counter-piracy operations that are heavily intelligence-driven. Somalia needs training assistance in the area of human intelligence techniques, from source debriefing through to cultivation and recruitment operations, and basic agent handling techniques. The intelligence support for SNCG operations could be an internal branch, or an external one to the organization.
Conclusion

Due to the nature and magnitude of the piracy problem, the Somali government requires assistance in its own efforts to contain and reverse this phenomenon. Through international assistance and greater collaboration, Somalia would be able to reconstitute an effective national coast guard to conduct counter-piracy operations alongside other missions that are related to the root causes of piracy, such as countering illegal fishing activities, criminal gangs active in drugs smuggling and human trafficking, as well as waste dumping. Before its collapse, the Somali Army Naval Forces were regarded as a professional and effective force in the region. Building on this history, through international support Somalia can once again bring its territorial waters under jurisdiction and control to the benefit of itself, the region, and the wider international community suffering from Somali piracy.
Constructing a Robust GCC Response at Sea: Reviving the Arab Counter-Piracy Force

Rear Admiral Naval Staff Ibrahim Al Musharrakh
Commander of UAE Naval Forces

Piracy off Somalia has been internationally recognized as a major threat that could have significant repercussions on economies. Therefore, countries from all over the world decided to send naval assets or maritime patrol aircrafts to the Indian Ocean in order to deal with the phenomenon and protect their interests. Those assets are operating either under national control or within coalitions. The main coalitions that were established are ATALANTA (European Union), Task Force 508 (North Atlantic Treaty Organization), and Task Force 151 (Combined Maritime Forces). Among the countries acting independently, we can mention China, Japan, Russia, India, Iran and Saudi Arabia. When going through the list of all the participating countries, it is noticeable that, despite their key location, most Arab countries are absent from the scene.

Nevertheless, in June 2009, convinced that countries in and around the Arabian Peninsula had a special responsibility to protect waters in their region, eleven Arab states from the Gulf and the Red Sea agreed to set up an all Arab Navy Task Force to prevent the spread of piracy to the Red Sea. The force was to be under a unified command for a one-year period, at the end of which, a review of the situation was to be conducted. Participating countries were to be Bahrain, Djibouti, Egypt, Jordan, Kuwait, Oman, Qatar, Saudi Arabia, Sudan, the United Arab Emirates and Yemen. Gulf States, most of them located outside of pirates operation areas, got involved in those talks because of increased concern about the danger posed by piracy to their oil and gas exports.

Despite good intentions, the agreement was not followed by concrete steps and naval involvement of Arab countries remained limited to national actions such as Saudi ships or Yemeni coast guards patrolling in the Red Sea or the Gulf of Aden.
UAE Approach

Even if not participating in naval patrols off Somalia, the UAE is acting actively in the fight against piracy. In 2011, from a military aspect, the UAE showed its operational readiness and strong determination to fight piracy by raiding *M/V Arrilah I*, a UAE flagged merchant vessel that had been hijacked by pirates. This national action resulted in the freeing of all hostages and the arrest of the pirates who are now waiting to be prosecuted in UAE.

The UAE is also supporting the reinforcement of regional capabilities such as in the Seychelles with the delivery of two patrol boats, three fast crafts and the construction of a coast guard station. By providing such support, the UAE is helping countries to safeguard their territorial waters and contribute to the fight against piracy.

The UAE conference organized on April 18 and 19, 2011 in Dubai, whose theme was “Global Challenge, Regional Responses: Forging a Common Approach to Maritime Piracy” was a strong signal of UAE involvement. This conference achieved mainly two aims. First, was to bring together governments representatives and private companies to address the issue of piracy. Second, was to raise money to contribute to a United Nations Trust Fund aimed at financing initiatives such as, for example, prisons refurbishment in Somalia or in countries that accepted to prosecute pirates. At a diplomatic level, on March 31, 2012, the UAE chaired the 11th plenary meeting of the Contact Group on Piracy off the Coast of Somalia.

In order to get an even bigger momentum, it is my opinion that the UAE stance should be endorsed at a regional level by the Gulf Cooperation Council (GCC).

The Gulf Cooperation Council

The Gulf Cooperation Council is mainly a political and an economic entity. Its military component established in 1986, is called the Peninsula Shield Force. It is a standing coalition land force. Up to now, there are only the annual combined exercises but the organization could evolve in the future. Indeed, a significant step in that direction was achieved with the GCC decision in 2010 to establish in Bahrain an information-sharing center. When implemented and operational, this center will improve regional awareness on maritime traffic and the patterns of life of all maritime actors, making any suspicious action at sea easier to detect, as announced in January 2012 during a maritime security conference held in Abu Dhabi. The next step should logically be to increase cooperation at sea between the GCC navies in order to have a common approach and to deal effectively with transnational crimes (illegal human or goods trafficking, terrorism, etc.) or piracy.
GCC Involvement in the Fight against Piracy

GCC growth and wealth are highly dependent on the sea and the ability of ships to sail safely along sea-lanes. As a consequence, the GCC needs to address piracy issues in a resolute way and take its share of the fight against this phenomenon. The approach of the problem has to be a global one, as a long lasting solution to piracy is unlikely to be achieved at sea. Improving economy, strengthening political institutions and supporting the implementation of robust security forces in Somalia are the solutions to put an end to the phenomenon. But they are long-term solutions; the Dubai conference in April 2011 was part of this process.

While those long-term solutions will take years to be effective, it is important to implement immediate responses in order to limit piracy effects. Those solutions are basically:

- Reinforcing merchant vessels’ internal protection, which is a responsibility of shipping companies;
- Protecting sea-lanes of communication by sending naval units to sea, which is a state responsibility.

In regards to the latter solution, piracy trends in past years have shown the limits of a sole military approach. Indeed, despite the important number of naval assets patrolling the area, the number of pirate attacks remained high. In a certain way, concentration of naval assets in close vicinity of Somalia led to a dramatic extension of the pirate operations area. Nevertheless, naval assets are bringing a necessary contribution, from which Arab countries cannot be absent. Therefore, a GCC counter-piracy group, taking benefits of the lessons learned from years spent within TF 152, should be implemented. As the backbone of the Arab force that was envisioned in 2009, it could provide good reinforcement to the actual maritime presence off Somalia. Taking benefits of historical links, long lasting economic relations and perfect knowledge of Somali society, especially the clan structure, this force could achieve significant results. Moreover, it could generate a synergy within the navies of the participating states and improve their operational readiness and efficiency at sea, building bases for long lasting security in this strategic area. In addition to this operational consideration, the implementation of such a force would also be a strong political statement that Arab countries are fully committed to the stability of the region. In order to implement such a force, the first step should be to reach a consensus within GCC members. When formed, a GCC counter-piracy force, composed by naval assets and maritime patrol aircrafts, could rely on the information-sharing center established in Bahrain.
A second step would be to gather all the Arab countries that were part of the agreement in 2009. Nevertheless, it appears that some navies, despite good will, would be unable to provide suitable assets. Therefore, as the UAE did to support Seychelles in its contribution to the fight against piracy, GCC countries should consider providing, suitable coast guard equipment and training to participating countries. This limited investment would reinforce littoral forces allowing them to improve the coverage of their territorial waters. Some countries could also limit their contribution to providing maritime traffic information. Locations such as Suez Canal, Bab al Mandeb Strait, Socotra, Hormuz are ideal to monitor traffic and contribute to the maritime surface picture. As such, leaving no blind sector would result in limiting pirate freedom of movement, denying any shelter outside of Somali waters and challenging their logistics channels. Therefore, success in gathering Arab countries under the same umbrella would weaken piracy. The efforts to improve maritime domain awareness would also bring benefits in the fight against illegal trafficking of goods, weapons or people in the Red Sea and the Gulf of Aden. Those efforts would be a key contribution to the fight against terrorism, which also is a great threat to the GCC.
Biographies of Authors
Biographies of Authors

**Rear Admiral Naval Staff Ibrahim Al Musharrakh** is the Commander of the UAE Naval Forces. His operational assignments include Navigator, Weapons Officer, XO Duties and Command of missile boats. He was the Deputy Commander of the 1st and 2nd flotillas. In 1995, he was Head of the Department of Inspection and Evaluation and in 1998, he was the Commander of the Emirates frigate. In 2006, he commanded the UAE fleet where he was the Director of Logistics and in 2007, he was promoted to Brigadier, and assumed the responsibilities of Deputy Commander of the UAE Naval Forces from 2008 to 2010. As a Brigadier, he assumed command of the UAE Navy since 2011 and got promoted to Rear Admiral in January 2012. Various medals and decorations have been awarded to him during his service including the UAE Federation Medal, Defense Superior Service Medal, and the Legion of Merit, amongst others.

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Jacques Belle is the Seychelles designated Maritime Piracy Expert (legal expert) for the newly established Indian Ocean Commission Anti-Piracy Cell (IOC APC). He has worked as a Legal Advisor and a Second Secretary in the Legal Affairs and Research section at the Ministry of Foreign Affairs of the Republic of Seychelles and was designated rapporteur and member of the Seychelles’ High Level Committee on Piracy (HLCP) established by the President of the Republic in 2009. In 2009, he was also appointed desk officer for Piracy, Military and Defense issues at the Ministry of Foreign Affairs and has represented Seychelles in many regional and international workshops and meetings on piracy (CGPCS, COMESA, SADC, IOC, UNODC, US AFRICOM and others).

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Mary Harper is the Africa Editor at the BBC World Service. She has reported on Africa for the past twenty years, and has a special interest in Somalia. She has reported frequently from the country, covering conflict, piracy, Islamism and other subjects. She is the author of *Getting Somalia Wrong? Faith, War and Hope in a Shattered State* published in 2012. She has reported from many other African conflict zones, including Sudan, Congo, Liberia, Sierra Leone and Algeria. Harper has written for several publications including *The Economist, Granta, The Guardian, The Times* and *The Washington Post*.

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Eirik Hooper is Director of Competitive Intelligence for DP World, leading the development of all competitive intelligence activities throughout the business, helping the company make fact-based, customer-driven decisions that will positively impact the business and the brand. He has a broad international experience in the ports industry, having held a number of positions in diverse regions with the company since joining P&O Ports as an analyst in 1999. Prior to joining P&O Ports, Hooper worked in the international construction industry on major infrastructure projects in the US, Norway, Lebanon, and Egypt.

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**Jon Huggins** is the Director of the Oceans Beyond Piracy (OBP) Program at the One Earth Future Foundation and has successfully facilitated multi-stakeholder cooperation between industry, governments and civil society. Previously, Huggins served as NATO’s Operational Liaison Officer to the European Union Council Secretariat in Brussels, where he coordinated interaction between NATO and EU missions in the Horn of Africa, Afghanistan and the Balkans. Huggins also served on the military staff at NATO Headquarters, developing plans and policy recommendations for NATO’s ISAF Mission in Afghanistan, the KFOR Mission in Kosovo and initial planning for Operation Ocean Shield – NATO’s counter-piracy mission off the Horn of Africa.

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About DP World

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1 As of March 2012. Includes non-container terminals.
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The Institute for Near East & Gulf Military Analysis, (INEGMA) is a UAE national company with an international team and exposure; it is a free zone company, based in Dubai, UAE which provides the most prestigious defense conferences and events in the region, in addition to customized Research and Media Services to the defense industry worldwide. INEGMA is a non-partisan organization. It receives no financial assistance from any government or political party, worldwide.

INEGMA is best described as a commercial hybrid organization that complements the attributes of a research house with that of a corporate management consultancy, operating exclusively within the defense and security domains.

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