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The Danger of Piracy in Somalia

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The issue

The upsurge of the Somali piracy

Piracy off the coast of Somalia is growing at an alarming rate and threatens to drastically disrupt international trade. Beyond the immediate threat that maritime piracy poses to crews, property, and ships, it endangers sea lines of communication, interferes with freedom of navigation and the free flow of commerce, and undermines regional stability by providing funds that feed the vicious war in Somalia. Political and social development is corroded by piracy in Africa, disrupting capital formation and economic development, fuelling corruption, and empowering private armies.

According to the International Maritime Bureau (IMB) Piracy Reporting Center, maritime piracy has been on the rise for years. One of their latest reports states that in 2008 maritime piracy has reached its highest level since they began tracking piracy incidents in 1992. Global piracy increased 11 percent, and in the Gulf of Aden where 20,000 ships pass through each year transporting cargo that includes 12 percent of the world's daily oil supply¹, piracy has increased 200 percent. Somalia, situated at the famous Horn of Africa, has one of the longest coast-lines in Africa: from the border to Djibouti near the Bab el-Mandeb in the Gulf of Aden to Kenya at the East African coast. The Somali coast stretches for roughly 3,300 kilometers. From a geostrategic perspective, Somalia's northeastern part along the Gulf of Aden to the Cape Guardafui – the very Horn of Africa – is perfectly placed to control and possibly interdict shipping coming from or going to the Red Sea. The much longer Bannadir Coast along Somalia's Arabian Sea side is somewhat less important, but still, the sea lines of communications (SLCs) – connecting the Red Sea to East Africa and to South Africa – are particularly important because it is there where most acts of piracy happen.² The so-called pirate capital of Somalia's Puntland region is where the high seas hijackers often steer their captured vessels. In 2005, the international community started to draw some attention on the rapid insurgence of the Somali piracy. On 27 June, 2005 a 58-meter cargo ship was attacked and the crew was hijacked by Somali pirates in three fiberglass speedboats with powerful outboard motors, armed with pistols, AK-47 assault rifles, and rocket-propelled grenades. The cargo was under charter by the UN World Food Program to bring food aid to the Somali victims of the Boxing Day tsunami on December 2004, carrying 850 tons of rice donated by Germany and Japan.³ But in 2008, when pirates operating off the coast of Somalia hijacked a Ukrainian ship MV Faina, full of Russian tanks, they finally gained worldwide attention. After a four-month saga, \$3.2 million in cash was dropped by

¹ Kraska J., Wilson B., *Fighting Pirates: The Pen and the Sword*, “World Policy Journal” No. 4, World Policy Institute, MIT, Winter 2008/2009. <http://www.mitpressjournals.org/doi/pdf/10.1162/wopj.2009.25.4.41?cookieSet=1>

² Lehr P. & Lehmann H. (2007), *Somalia – Pirates' New Paradise*, London: Routledge for International Institute for Strategic Studies, p. 2.

³ *Ibid.*, p. 3.

parachute to pay the ransom for the release of the ship in February 2009.⁴ Some analysts suggest the cost of ransoms could range between \$1 billion and \$16 billion a year. However, some experts on piracy maritime terrorism, such as Martin N. Murphy, downgrade these losses since he believes that \$16 billion in losses is a small sum in comparison to annual global maritime commerce, with a net worth well over trillions of dollars.⁵

For many Somalis, especially marine experts and coastal dwellers, the current problem of piracy began when foreign fishing boats started invading the country's fishing grounds after the fall of the Somali government in 1991. Since the various groups failed to fill in the vacuum and instead turned on each other, foreign vessels took the opportunity to fish for diverse species in Somalia's territorial waters. These foreign boats come from a variety of countries such as Belize (French of Spanish-owned purse seiners operating under a flag of convenience to avoid EU regulations); France (purse seiners targeting tuna); Honduras; Japan (long-liners under license to Somaliland); Kenya (Mombasa-based trawlers); Korea (long-liners targeting swordfish); Pakistan; Saudi Arabia; Sri Lanka (trawlers, plus long-liners targeting shark under license to Somaliland and based at Berbera); Taiwan, and Yemen (trawlers financed by a seafood importer in Bari, Italy).⁶ Illegal fishing is a very lucrative business worth approximately US\$300 million per year. The illegal fishing activities conducted by foreigners diverted much-needed resources away from Somalia's coastal population. In the absence of a central Somali government, the local fishing community turned to what they called "self-defense". The frustration of young local fishermen brought them to attack foreign vessels and also commercial cargo ships, which turned to be easier targets than foreign trawlers equipped with similarly weapons that these fishermen use during their attacks. This set the basis for the Somalia's piracy.

Defining piracy: maritime piracy or maritime terrorism?

The IBM defines piracy as "an act of boarding or attempting to board any ship with the apparent intent to commit theft or any other crime and with the apparent intent or capability to use force in the furtherance of that act...Petty thefts are excluded, unless the thefts are armed"⁷. The United Nations Convention of the Law of the Sea (UNCLOS) defines maritime piracy as:

"(a) any illegal acts of violence or detention, or any act of depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft, and directed:

⁴ Gettleman J., *Hijacked Arms Ship Limp Into Port*, "The New York Times" February 12, 2009.

http://topics.nytimes.com/top/reference/timestopics/subjects/p/piracy_at_sea/index.html?8qa&scp=1-spot&sq=&st=nyt

⁵ Murphy M. N. (2007), *Contemporary Piracy and Maritime Terrorism. The threat to international security*, London: Routledge for International Institute for Strategic Studies. p. 161.

⁶ Coffen-Smout S., *Pirates, Warlords and Rogue Fishing Vessels in Somalia's Unruly Seas*.

<http://www.chebucto.ns.ca/~ar120/somalia.html>

⁷ Snoddon R. (2007), *Piracy and Maritime Terrorism: Naval Responses to Existing and Emerging Threats to the Global Seaborne Economy*, London: Routledge for International Institute for Strategic Studies, p. 228.

(i) *on the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft;*

(ii) *against a ship, aircraft, persons or property in a place outside the jurisdiction of any State;*

(b) *any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft;*

(c) *any act of inciting or of intentionally facilitating an act described in subparagraph (a) or (b).’’⁸*

By the aforementioned definitions it can be stated that maritime piracy is an organized crime. The degree to which it is a threat at any level, from the purely local to the international, depends on the degree to which it is effectively organized. Piracy not only suppresses economic activity and distorts economic incentives, but also lowers productivity, undermines confidence in authority and the notion of justice. Piracy at this level is what it has always been, a lucrative business. This form of organized criminal behavior is not only linked with corruption, but it is also the main vehicle by which criminal gangs achieve their aims and become well-renowned figures within their towns. Nowadays, Somali pirates have learned how to effectively size big cargo ships and frighten unarmed crews. These pirates are experienced, highly skilled, motivated, intelligent, and adaptable criminals with key qualities such as aggression, speed, surprise, and control to carry on their attacks. They are well equipped on every level: transport, communication, means of access, suitable weapons, and, significantly, a defined objective and a plan of execution. These pirates are getting more and more sophisticated acquiring automatic weapons including RPGs, satellite phones, navigation gear, and fast fiberglass boats. Investing in this high-tech equipment brought with it higher mobility and more lethality, thus enabling the pirates to gradually wide their range of possible targets from small and slow inshore fishing vessels to larger offshore trawlers, and finally to international ships in even more distant waters off the coast of Somalia.

On the methodology level, the pirates first identify the target – all vulnerable vessels and cargo ships that transport high-value goods become potential victims for the attackers. Subsequently, the pirates proceed to the boarding of the vessel by scaling the sides of the ship using poles, ladders, or ropes. The best environment to execute these tasks is when the waters are calm and when it is dark. Then, the ships are seized and the crew is taken as hostage, and finally ransoms are expected to be paid for the exchange process. These pirates operate from mother ships, such as large blue-water fishing boats or even small coastal general cargo vessels equipped to carry several smaller assault crafts, which can be lowered into the water at a strategic time for assault, often during the early hours of the morning, dusk or at night.⁹

⁸ *United Nations Convention on the Law of the Sea.*

http://www.un.org/Depts/los/convention_agreements/texts/unclos/closindx.htm

⁹ Herbert-Burns R. (2007), *Compound Piracy at Sea in the Early Twenty-First Century: A Tactical to Operational-Level Perspective on Contemporary, Multiphase Piratical Methodology*, London: Routledge, p. 106.

On the other hand, maritime terrorism is the “unlawful use or threatened use of force or violence against people or property to coerce or intimidate governments or societies, often to achieve political, religious or ideological objectives”¹⁰. Two clear examples of maritime terrorism were the attacks on the NAGOT, the USS Cole, and on the MV Limbourb.¹¹ These were not piracy attacks, but terrorist attacks aimed at specific targets, both military and economic. Even though, pirates could benefit from this kind of terrorist acts, and eventually collaborate with terrorists groups for the same outcome but for different aims, there is no evidence that suggest these terrorists are actively pursuing piracy as a deliberate method of conflict.¹² Terrorists target their victims, pirates attacks appear to be random and uncoordinated. An ongoing debate is trying to address the possible linkage between piracy and maritime terrorism and to define pirates as ordinary criminals or as a quasi-military force. When pirates attack a vessel using automatic weapons, take hostages, and commit murder, it is difficult to know whether the attack is an act of terrorism or an act of piracy. Analyst, Peter Chalk, believes that pirates are interested on material gain, while terrorists are “assumed to be seeking the destruction of the global maritime trade network as part of their self-defined economic war against the West”¹³. Moreover, analyst, Martin N. Murphy, asserts that “there is no worthwhile evidence, despite the speculation, of any cooperation between pirates and insurgent/terrorists”¹⁴. On the other hand, analyst, Douglas R. Burgess Jr, believes that there are links between piracy and terrorism, “...Both crimes involve bands of brigands that divorce themselves from their nation-states and form extraterritorial enclaves; both aim at civilians; both involve acts of homicide and destruction”¹⁵. Burgess Jr suggests the U.S. and the international community to “adopt a new, shared legal definition that would recognize the link between piracy and terrorism”¹⁶. However, another well-known maritime security analyst, Robert Snoddon, like Murphy and Chalk, states that it is unlikely terrorist groups will form an alliance with any external groups, and it is even less probable that they would include pirates.¹⁷ For instance, in the case of Horn of Africa, some reports confirm very loose links between the indigenous terrorist organization Al Ittihad Al Islamiya (AIAI) and Somali pirates. The looseness of this “collaboration” may be due to the fact that Somali pirates belong to specific

¹⁰ Snoddon R. (2007), *Piracy and Maritime Terrorism: Naval Responses to Existing an Emerging Threats to the Global Seaborne Economy*, London: Routledge for International Institute for Strategic Studies, p. 228.

¹¹ Ibid., p. 229.

¹² Ibid., p. 229.

¹³ Chalk P., *The Maritime Dimension of International Security Terrorism, Piracy, and Challenges for the United States*, The RAND Corporation 2008. http://www.rand.org/pubs/monographs/2008/RAND_MG697.pdf

¹⁴ Murphy M. M., *Suppression of Piracy and Maritime Terrorism*, “Naval War College Review” Number 3, Summer 2007, p. 31. <http://www.nwc.navy.mil/press/review/documents/NWCRSU07.pdf>

¹⁵ Burgess Jr. D. R., *Piracy Is Terrorism*, “The New York Times” December 5, 2008.

http://www.nytimes.com/2008/12/05/opinion/05burgess.html?_r=2&ref=opin

¹⁶ Ibid.

¹⁷ Snoddon R. (2007), *Piracy and Maritime Terrorism: Naval Responses to Existing an Emerging Threats to the Global Seaborne Economy*, London: Routledge for International Institute for Strategic Studies, p. 229.

clans which are sympathizers of the AIAI.¹⁸ However, these pirates do not have any specific interests in closely working with terrorists groups since they have to divide the obtained ransoms between many collaborators that range up to 300. Having extra people “on board” would mean less money for them. It can be concluded that Somali piracy is indeed, maritime piracy and as such well designed and effective measures need to be taken to tackle the current situation in the Gulf of Aden.

The current situation

Sizing oil tanks in a strategic choke point

Chokepoints are narrow channels along widely used global sea routes. They are a critical part of global energy security due to the high volume of oil traded through their narrow straits. The Strait of Bab el-Mandab is a chokepoint between the Horn of Africa and the Middle East, and a strategic link between the Mediterranean Sea and Indian Ocean. It is located between Yemen, Djibouti, and Eritrea, and connects the Red Sea with the Gulf of Aden and the Arabian Sea. In 2006, an estimated 3.3 million barrels per day flowed through this waterway toward Europe and the United States, and Asia.¹⁹ Somali pirates being so active in this area were able to seize the Saudi *Sirius Star* – a huge ship that represents the largest class of oil tanker. It weighs 300,000 tons, has a draft of 17 meters and when fully laden transports 2 million barrels of crude, which accounts for almost a quarter of a day’s Saudi production. This ship cost \$140 million to build and the day it was seized far off the coast of Kenya, its load of oil fetched \$110 million. It is the biggest ship seized by pirates in history. The pirates demanded an incredible ransom of \$25 million. At the present time, some oil tanker owners have started to take the longer route around the Cape of Good Hope and avoid the Gulf of Aden, even if it means 10 to 14 days longer for deliveries and about a half million dollars more in fuel and labor costs.

Ships held by Somali pirates 2009

According to a recent report, the International Maritime Bureau (IMB) Piracy Reporting Centre has received 102 reports of global pirate attacks in the first three months of 2009 – compared to 53 incidents in the first quarter of 2008. Somali pirate activity off the Gulf of Aden and east coast of Somalia accounted for 61 of the 102 attacks. In January 2009, one in every six vessels attacked was successfully hijacked. This increased to one in eight for February 2009 and one in 13 for the month of March. As the IMB Director Pottengal Mukundan commented, “the recent attacks off the east coast in the past three months confirm the need for merchant vessels to remain alert as they sail in

¹⁸ *Ibid.*, p. 230.

¹⁹ *World Oil Transit Chokepoints*, Energy Information Administration, January 2008.
http://www.eia.doe.gov/cabs/World_Oil_Transit_Chokepoints/Bab_el-Mandab.html

these waters”²⁰. At the peak of pirate activity off Somalia – between 6 April and 7 May – 17 vessels with a total of 153 crew members have been held captive pending negotiations between owners and hijackers.²¹ Since the international community responded to calls to protect shipping in the Gulf of Aden, the number of successful hijacks off Somalia’s northern coast has significantly dropped. Mr. Mukundan states that the presence of foreign navies, which are currently operating off the Horn of Africa, “...have played an invaluable role in protecting vessels in the Gulf of Aden and this has resulted in a dramatic drop in successful hijackings there, although attempted attacks continue”²².

International presence in the Gulf of Aden

NATO started to provide escorts to food deliveries of the WFP already since October 2008 destining four frigates from Italy, Greece, Turkey, and the UK, which accounted for a substantial part of the Standing NATO Maritime Group 2 (SNMG2), upon the request of the UN.²³ Naval forces from the U.S., Canada, Denmark, France, Germany, the Netherlands, Sweden, Italy, Pakistan, Singapore, United Kingdom, and other countries are now patrolling the Gulf of Aden to deter pirates. These countries take part of two multinational anti-piracy operations, the European Union’s military operation EU NAVFOR Atalanta²⁴, launched after UN Security Council Resolutions 1814, 1816, 1838 and 1846 adopted in 2008, and a multinational contingent “Combined Task Force 151” to combat piracy in the Horn of Africa.²⁵ The multinational contingent was commanded by U.S. Navy, but since 3 May, 2009, the command has been passed to the Turkey Navy.

Under the agreement signed between Kenya and the EU on 6 March 2009²⁶, the military personnel of Operation Atalanta are allowed to seize the pirates’ vessels, arrest, detain, and transfer the perpetrators to any EU member state or Kenyan authorities for prosecutions. Furthermore, there are private security contractors (PSC) active in Somali waters, whose list of services include specialized antipiracy and maritime counter-terrorism operations. The private military security firm Blackwater has made available to commercial shippers in the Gulf of Aden the services of a security escort ship. Most of the PSCs offer close protection and escorts for ships traveling through these waters, they provide negotiators for hijacked vessels and crew, and they even offer the

²⁰ *IMB reports a cluster of pirate attacks off the East Coast of Somalia*, ICC Commercial Crime Services, March 31, 2009. http://www.icccs.org/index.php?option=com_content&view=article&catid=60%3Anews&id=347%3Aimb-reports-a-cluster-of-pirate-attacks-off-the-east-coast-of-somalia-&Itemid=51

²¹ *Ibid.*

²² *Ibid.*

²³ *NATO navy escorts protect UN-shipped food aid to Somalia against pirates*, UN News Center, November 11, 2008. <http://www.un.org/apps/news/story.asp?NewsID=28896&Cr=somalia&Cr1=pirates>

²⁴ *EU naval operation against piracy*, Information Brochure, Council of the European Union, May 2009, p.

1. http://www.consilium.europa.eu/uedocs/cmsUpload/090507%20Factsheet%20EU%20NAVFOR%20Somalia%20-%20version%207_EN.pdf

²⁵ *Combined Task Force 151 News*, Navy News Service, 2 June, 2009. <http://www.navy.mil/local/CTF-151/>

²⁶ *EU naval operation against piracy*, Information Brochure, Council of the European Union, May 2009, p.

2. http://www.consilium.europa.eu/uedocs/cmsUpload/090507%20Factsheet%20EU%20NAVFOR%20Somalia%20-%20version%207_EN.pdf

“reacquisition” of these ships by hijacking them back. These measures are expensive and often not implemented. However, evidence indicates that ship owners are clearly not doing enough to protect their vessels and their crews and to invest in anti-piracy systems, such as ship-wide alarm, surveillance systems, anti-boarding devices (electric fences, interior-locking armored doors, long-range acoustic devices, water cannons, etc.), and even armed guards in high risk areas.²⁷

U.S. supporting piracy suppression

The U.S. efforts supporting piracy suppression are constantly increasing. Already on 18 November, 2005, the U.S. Department of State issued a new piracy warning, in which U.S. citizens in general and shippers in particular were advised to avoid the Port of Mogadishu and to stay at least 200 sea miles off the Somali coasts. Shippers transiting the Horn of Africa and the Gulf of Aden were advised to travel in convoys and to maintain good communications contact at all times.²⁸ Also, in the summer of 2007 former President George W. Bush developed a policy governing diplomatic and legal action to fight Piracy. The piracy policy established a framework for warships to interrupt acts of maritime piracy and armed robbery at sea and facilitates the prosecution of perpetrators and the repatriation of victims and witnesses. The policy emphasizes collaborative strategies by states and the maritime industry to prevent pirate attacks and other criminal acts of violence against U.S. vessels, persons, and interests. More recently, The Global Maritime Partnership (GMP) has been created as part of the U.S. policy in tackling piracy and related issues. The goal of the GMP is to increase the benefits of working together, capitalizing on international law to smooth the way for closer collaboration among states.

In April 2009, stakes grew higher after the U.S. Navy killed three Somali pirates, and took one captive in the rescue operation of a U.S. cargo ship captain taken hostage few weeks earlier. The same month, on 15 April, U.S. Secretary of State Hillary Clinton unveiled a “Four Points Plan” to tackle piracy in the Gulf of Aden. Among the recent developments, the Obama Administration committed itself to send a special envoy to the Somali Donors’ Conference that took place on 23 April in Brussels. The request by the UN Special Representative for Somalia and the international presence in the conflict area asked for 166 million. However, the pledges was over 213 million, and so, it was more than one third above the request.²⁹ The pledge is meant to help the emergent government in Somalia to gain a security foothold in the faction-torn country by funding its nascent security forces and the peacekeeping efforts of the African Union (AU). The “Four Points Plan” includes the creations of a Contact Group on Piracy Off the Coast of Somalia (CGPCS) and the

²⁷ Patch J., *The Overstated Threat*, “Proceedings Magazine” Vol. 134/12/1,270, U.S. Naval Institute. http://www.usni.org/magazines/proceedings/archive/story.asp?STORY_ID=1694#footnotes

²⁸ Lehr P. & Lehmann H. (2007), *Somalia – Pirates’ New Paradise*, London: Routledge for International Institute for Strategic Studies, p. 6.

²⁹ *Brussels/Somalia Donors Conference*, UNifeed webpage, April 23, 2009. <http://www.unmultimedia.org/tv/unifeed/d/12736.html>

establishment of a Counter-Piracy Coordination Center; the freezing of all the pirates' assets; the commitment to hold meetings with TFG and regional leaders; and the prosecution and the imprisonment of pirates through the new bilateral agreement signed between the U.S. and Kenya. Finally U.S. Secretary of State firmly reiterated that no concession on ransom payments will be made to rescue hijacked vessels.³⁰

Options

The international community and the United States need to understand that this problem is greater than simple law enforcement. There are three options that need to be taken into account before adopting the most suitable solution to fight maritime piracy in the coast off Somalia.

Option I: Fighting piracy through military means

Fighting Somali maritime piracy through military means could be an option. However, history clearly shows that the past U.S. military intervention in the region had failed to restore peace and stability. To the contrary, the U.S. has suffered major losses such as the already mentioned “Black Hawk Down” that took place in October 1993 and killed 18 U.S. marines. At that time, the U.S. was not able to properly assess the problem and miscalculated the fact that Somali rival clans do collaborate when confronted by external enemies and foreign forces. The same way, in 2006, the Ethiopian intervention, which was supported by the U.S., did not succeed in restoring peace and ending the conflict in Mogadishu. To the contrary, only one day after the Ethiopian forces left Somalia, the Islamic Courts Union regained parts of Mogadishu and since then, more insurgencies have gained ground. In addition to that, a strong anti-American sentiment has grown within the population and among all the victims of the conflict.

A U.S. military option has to be excluded as an option because it will be impossible to fight Somali piracy on water since the Gulf of Aden is a huge extended area in which the audacity of pirates, their small speed boats, and the well-defined methods to attack vessels complicate any military action against those pirates. The same way, any military actions on land would not only agitate the population even more than already is, but it would increase the animosity against the U.S. troops and any international presence in the territory. Another important factor is that Islamist radicals will profit from this possible scenario and will use the population as a shield to fight back U.S. troops. A military intervention is the most expensive solution that Americans can opt for and, at the present time, the U.S. is already facing huge costs in another two ongoing wars (Iraq and Afghanistan) and its federal budget has severely been damaged due the financial crisis.

³⁰ Clinton H. R., *Announcement of Counter-Piracy Initiatives*, U.S. Department of State, April 15, 2009. <http://www.state.gov/secretary/rm/2009a/04/121758.htm>

Option II: U.S. financial support to local communities

A U.S. support to elders and religious sheiks and to local communities could also be seen as an option. Somali pirates are currently facing intensifying naval pressure on the seas and now a rising backlash on land where elders and religious sheiks are fed up with pirates and their vices. For the first time, some of the communities that had been flourishing with pirate dollars – giving them their support, brides, respect and even governmental help – are now trying to push them out. Sheiks and government leaders are campaigning to excommunicate these pirates and are warning women not to marry these sea bandits. Now the local communities hold pirates responsible for inflation, for the increase of prostitution, and the increase of drug consumption among youngsters. As a matter of fact, Islamic law has zero tolerance for this unacceptable behavior including banditry, whether sea-based or land-based. Isolating the pirates from their communities is a promising first step and will certainly help the local communities to become less depend of piracy. However, the option of financially supporting the local communities could be too risky. First of all, it could lead to fundamentalism in the long-run. Even though a victory of the UIC could be seen as the best solution for Somalia, giving the fact that during their ruling in Mogadishu piracy declined substantially, it would be the very end result the U.S. and other Western powers want to have in the territory. In addition to that, a hard core Islamic state in Somalia would mean a threat for the Ethiopian government since Ethiopia, being the only Christian country in the region, perceives itself as a leading actor in the Horn of Africa. An invasion by Ethiopia into Somalia would most likely lead to the intervention of a long lasting enemy of Ethiopia, thus Eritrea, creating a regional conflict that would further destabilize the region.

Option III: A quick fix?

A combination of short-term solution can also be seen as a quick fix for the current situation in the coast off Somalia. Besides the increasing presence of foreign navies, which are patrolling in the Gulf of Aden, Private Security Contractors (PSCs) are also offering their services to fight piracy and to escort vessels that pass through the infested waters. They offer short-term protection at very high prices. Due to these costs, they are often not implemented. Added to these expenses, there are the increasing costs of the insurance companies' premiums which have an impact on the economic calculations for the shipping companies who are reaching to the conclusion that it is cheaper to take the longer route south of Africa rather than paying the larger amounts of money. Another possibility is the usage and implementation of anti-piracy systems such as ship-wide alarm, surveillance systems, and anti-boarding devices (electric fences, interior-locking armored doors, long-range acoustic

devices, water cannons, etc.).³¹ These systems can be very useful, but again, they are very expensive and only solve the problem temporarily of those vessels that have the means to equip themselves to the teeth. Another possibility is to have an on-board security team. A well-trained group of 4 to 5 individuals could travel with the crew and provide them security and protection in the event of an attack. All these options need to be combined and eventually implemented, at least for the vessels which can afford it. Equipping better big vessels with, for example, helicopters could be used as a key weapon in the suppression of piracy. Helicopters are readily available, they can cover a large area and can carry a variety of weapons, light, heavy, stand off, as well as carrying marines and commandos. They can be used for the recovery of survivors both pirates and sailors while the helicopter crew can make on the spot judgments better than remote UAV operators since their strategic positioning allows them to sense a lot of the environment around them. However, if helicopters are so effective against pirates and their activities, then it is only a matter of time before the pirates attempt to shoot one down.

Some other policies can also be seen as quick fix measures that certainly give some room to further anti-piracy measures, but at the same time do not entirely solve the problem and give birth to other problems. The bilateral agreements for prosecutions of pirates were a first step to properly deal with the pirates captured by foreign vessels that literally did not know what to do with them and where to prosecute them. However, the weakest point of these agreements (EU-Kenya and U.S.-Kenya) is that the entire international community is relying on only one partner, Kenya. The differences over laws concerning the arrest of pirates are hampering efforts to curtail piracy. It is difficult getting the pieces together, the evidence, the witnesses and if a prosecution fails, the burden lies with that country. There is always the possibility that the suspected pirate might then claim asylum. For this reason, Western countries are reluctant to conduct the trials and prefer to leave Kenya to take most of the cases. However, this might endanger the Kenyan penitentiary system. Kenya is a signatory to the United Nations Law of the Sea which also covers piracy, but it has not incorporated this into its domestic jurisdiction and thus, it might not be competent enough to deal with these pirates. Dumping the alleged perpetrators in Kenya without ensuring the international standards of fair trials is inappropriate and brings with it huge legal headaches.

The freezing of assets of Somali pirates are certainly measures for individuals who effectively hold bank accounts in other countries, but do pirates have checking accounts, credit cards, and/or savings? This is an anti-terrorists approach, but as previously defined, Somali piracy is a maritime piracy and not maritime terrorism. The establishment of a Contact Group on Piracy off the Coast of Somalia is the perfect forum to exchange best practices and valuable information. However, at this

³¹ Patch J., *The Overstated Threat*, “Proceedings Magazine” Vol. 134/12/1,270, U.S. Naval Institute. http://www.usni.org/magazines/proceedings/archive/story.asp?STORY_ID=1694#footnotes

point, all these forums continue to be talk shops, and to properly tackle piracy, the international community should concentrate less on talk shops and put more emphasis on international institution that have the power to enforce the law and has the ability to draw international agreements. Finally, another unresolved dilemma is between paying ransoms and literally killing pirates. The business capital of the world's maritime industry, London, is home to many of the lawyers, negotiators, and security teams who help reunite ship owners with their seized vessels. Maritime risk consultants and legal advisers assist companies to regain their hijacked vessels by negotiating ransom fees while hired muscle ensures the cash is delivered to the pirates. On the other hand, there are countries such as France and the U.S. that are leading the way in taking tough action against the pirates. In the past year, French forces have captured more than 70 Somali pirates and killed three others, and the U.S. has also engaged its marines in the killing of three pirates while rescuing the Captain of a sized vessel.

Action Plan for maritime piracy

Most of the option of a quick fix cannot be completely discarded, but to the contrary, they should be taken into account in this actions plan. However, to tackle properly maritime piracy in Somali, there is the need of a holistic approach that analysis the issue from every angle and provides a solution for every single level: social, institutional, environmental, political, and regional.

Social level

The target group is young pirates who are the most “redeemable” individuals in this phenomenon. A psychological approach is needed to communicate with these kids who still might have a future instead of just dumping all of them in Kenyan and Western prisons, with some of them even facing life sentences. As a matter of fact, a Somali teenager has been charged with 10 counts in New York and faces a life sentence. There are another 15 suspects in France who are waiting for trial and five suspects in the Netherlands. They face up to nine years in prison.³² Pirates are not certainly against the Western style of life. In other words, they seem to be attracted to American food, clothes, music, and an overall Western behavior. They carry iPods, eat junk food, wear expensive clothes, and drive expensive cars. They are even behaving as the most typical “bad boys” spending nights with prostitutes, consuming alcohol and drugs, and taking part of vandalism to gain some pride, and of course, to get large amounts of cash. There are certainly many similarities with troublesome teenagers in the West that are conducting similar life styles, and yet the idea of having them in rehabs or not charging them as adults seems not to be a possible solution for the rehabilitation of young pirates. These pirates are between 16 to 19 years old. They are brave and love the risk, and are conscious that on land, there is no better future waiting for them. While they are greedy for a \$6 million ransom, they come from poverty stricken communities angered by pollution and overfishing of Somalia's

³² Westcott K., *Pirates in the dock*, BBC News, May 21, 2009. <http://news.bbc.co.uk/2/hi/africa/8059345.stm>

coastal waters by foreign vessels. They call themselves “Somali Marines” or “the Robin hoods of the Seas”. However, it is important to note that these pirates are no modern day versions of Robin Hood. Whilst their country starves and collapses around them, they spend their cash on flash cars, women and even have accountants and spokesmen. If anything these individuals contribute to the sorry cycle of misery in Somalia. An important tool to influence these young minds is through the media and by improving their lives on land. The new Obama administration has called for “enlightened counter-measures”, and not finding solutions to change the equation for these kids, there will be only fragmented results.

Institutional level

Somalia is a country without a functioning judicial system and legal framework. Its weak government can barely take control of the capital city Mogadishu, and its people, do not even understand what the meaning of “the rule of law” is. Somalis need to understand why they need law and order in their territory. They need to understand how to use, implement, and value these laws. However, a “Western judiciary model” is not the most adequate one for the local environment because Somalis do not understand that system and it does not reflect their culture and their laws. The law is part of a culture and for this reason, it is imperative to understand the Somali society and the realities of the law in their society. A well-designed “aid project” has to avoid a lack of local ownership and be very flexible to any changes. The same way, it can not be labeled as “aid democracy” because the goal is not to impose democracy in Somalia, but to bring order, some basic laws, and fully support to the few local institutions that have survived the atrocities of the ongoing war in the territory. The end goal of any aid project in failed states is indeed, in the long run, to establish a peaceful democracy. For this reason, it is imperative to rebuild the law from the bottom up – including the civil society and all the groups that are still struggling for power. Credible local structures need to be reinforced as well as local actors. This should be reached without taking size to any party involved in the conflict. A well planned project can help to cultivate and sustain the current fragile government. The promotions of ownership and capacity building have to be based on multilateral cooperation/coordination process. It is important to educate the general public about the international presence and their goals. Somali needs unity and the international presence can contribute to help the country stay together. An action plan needs to give them what they are fighting for on land and on the sea. It is important to focus less on the output and more on the effects on the actions. Numbers and figures are not the goals of this action plan, but qualitative results that successfully show the local and the international community that an effective aid plan did have positive effects on the actions taken.

Environmental level

Somali waters have become a maritime “no-go” zone not only because of the increase of acts of piracy and armed robbery at sea, but also because “other type of pirates”, whose illegally activities in Somali waters continue to be unchecked, contribute to the Somali problem. Somalia’s 3,300 km coastlines, which are very productive in terms of marine living sources – include high-value fish stocks – have proved vulnerable and too appealing for foreign poachers. For this reason, it is imperative to stop the more than “700 foreign-owned vessels engaged in unlicensed fishing in Somali waters”³³. It is ironic that some of the countries which are currently contributing warships to the anti-piracy flotillas patrolling the waters off the Horn of Africa are themselves directly linked to the foreign fishing vessels that are stealing Somali’s offshore resources. Therefore, the action plan has to include measures that control the rampant fishing activities and the stop of dumping of toxic waste in Somali waters. The spokesman of the UN Environment Program (UNEP) Nick Nuttall has recently reported that “European companies found it to be very cheap to get rid of the waste, costing as little as \$2.50 a tone, where waste disposal costs in Europe are something like \$1000 a tone”³⁴. Nuttall reported the presence of uranium radioactive waste, lead, and heavy metals like cadmium and mercury as well as industrial waste, hospital wastes, and even chemical wastes in Somali waters.

The legal framework and the operational scope of EU NAVFOR Atalanta & Combined Task Force 151 would have to be broadened in a way that it will allow the warships’ crew to apprehend illegal fishers and to execute controls on “dubious” fishing vessels. It is unrealistic to propose the task force to confiscate toxic material found on foreign vessels, but they could certainly escort them to the nearest internationally agreed harbor to depose the hazardous waste. Subsequently, an international body could be responsible to secure the proper disposal of the toxic material back to the country of origin, and if not possible, a less environmental-friendly technique would have to be implemented, namely incineration. Curbing illegal fishing and toxic waste in Somali waters would represent a positive first step towards addressing the roots of the problem.

Political level

At the present, Somalia is a country in transition. Most of the political factions are still militia and clan outfits rather than proper parties. The “action plan” could give a positive input to the current political situation in Somalia. First of all, the U.S. should facilitate the unification of Somalia by providing good offices. However, the U.S. cannot take part in the process as a “mediator” because the TFG would be too reluctant to accept such aid. For this reason, the U.S. should take into account the possibility to include actors such as Norway or neutral countries such as Switzerland

³³ Clive Schofield, *The Other Pirates of the Horn of Africa*, RSIS Commentaries, S. Rajaratnam School of International Studies, NTU, Singapore, 5 January 2009, p.2

³⁴ Najad Abdullahi, *Toxic waste' behind Somali piracy*, Al Jazeera October 11, 2008. <http://english.aljazeera.net/news/africa/2008/10/2008109174223218644.html>

and Austria. A possibility to form and to recognize a Federation of Somalia should not be overlooked as it could bring back peace in the territory. The Federation should be based on equal rules and with equal division of power. Thus, the positions for President, Prime Minister, and Chief of Army should be constitutionally secured and present equal rights. These positions would have to rotate among the three Federal states, namely, Somaliland, Puntland, and Southern Somalia.

Finally the U.S. should sign a security treaty with the Somali unity government TFG. This step would not only mark the first time the U.S. signs a treaty with Somalia, but it would also send out a peace message to the Muslim world and other countries in great need that America is ready to establish a formal relationship with any country on issues of mutual interest and international security.³⁵

Regional collaboration

Our collective security depends on maritime security. A well-established network of shipping states, regional partners, and major maritime powers are currently collaborating on how to best respond to piracy attacks in the Gulf of Aden. The regional anti-piracy patrols and the task force should take into account the successful model of Indonesian, Malaysian, and Singaporean navies, which conducted a program of coordinated air and sea patrols that dramatically reduced marine piracy throughout the Strait of Malacca. The lessons learned from the MALSINDO patrols could give a valuable input to the current patrolling in Somali waters. Close collaboration with the International Maritime Bureau (IMB), a body that manages the Piracy Reporting Center based in Kuala Lumpur, Malaysia should continue to be foster as they provide valuable information and technical support for analysts and shipping companies operating in hot areas and release key reports accounting for the trends and incidents happening in infested waters in vulnerable areas such as the coast off Somalia. This action plan is designed to tackle and properly consider a holistic approach of the current situation in Somali. It is highly recommended to take concrete steps based on this roadmap.

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³⁵ Muhammad Shamsaddin Megalommatis, *The Horn of Africa – Somalia Spring 2009 Chronicles V. Sacrifice Kenya “Ethiopia” for peace*, Ecoterra Press Release SMCM (Somali Marine & Coastal Monitor). Issue No 187, 7 June, 2009. <http://www.buzzle.com/articles/the-horn-of-africa-somalia-spring-2009-chronicles-v-sacrifice-kenya-ethiopia-for-peace.html>