

KÖLNER FORUM
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KFIBS COMMENTARY

Edition: 2/09

EU and NATO Efforts to Counter Piracy off Somalia: A Drop in the Ocean?

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Introductory Remarks

Piracy off the coast of Somalia has been a simmering problem for years and has skyrocketed in 2008, when 111 out of 293 total attacks world-wide were carried out in the waters off Somalia. 42 out of these 111 attacks were successful and 815 crew members have been taken hostage. The Somali coastline has thus become the world's worst piracy area.² Spectacular scenes included the seizures of the Saudi supertanker 'Sirius Star' and of the Ukrainian arms ship 'MV Faina.' Both ships were released only after ransoms of USD 3 million were reportedly paid, ending a several weeks stand-off. The increase in attacks and audacity of pirate action drew high international attention to the vast coastal area and prompted unprecedented anti-piracy measures. Along national initiatives involving navies from China, Japan, Malaysia, Iran, Russia and India, three multinational maritime forces have been deployed over the course of the last year: the EU's first naval operation EU NAVFOR Somalia (codenamed 'Atalanta'), NATO's Standing Maritime Group 2 and the US-led Combined Task Force 151. Yet piracy off Somalia remains a serious concern and analysts agree that piracy can only be tackled onshore, as it is a symptom of a much bigger problem: the lack of a functional central government in Somalia since 1991, the ongoing conflict, and the horrific humanitarian crisis. This commentary intends to shed some light on the piracy problem, before discussing current EU and NATO responses to it.

Somali Piracy

The waters off Somalia have become a 'pirates' paradise'³ over the last years with low risks and high incentives for pirate activity. A number of factors can be identified which provide an enabling environment for piracy. Most importantly, Somalia has been the prime example of a failed state since 1991. Several attempts to broker a peace deal and set up transitional state structures have failed. While hopes had been high that the current president of the Transitional Federal Government (TFG) and former chairman of the

² 92 incidents were reported in the Gulf of Aden and 19 in the Somali waters further south. A total number of 189 attacks were launched in African waters, compared with 55 in South-East Asia, 23 on the Indian subcontinent, 14 in South Africa, 10 in the Far East and 2 in the rest of the world. Source: ICC International Maritime Bureau. 2009. *Piracy and Armed Robbery against Ships*, Annual Report 1 January-31 December 2008.

³ Lehr, Peter, Hendrick Lehmann. 2007. 'Somalia – Pirate's New Paradise.' In: Lehr, Peter (ed.). *Violence at Sea: Piracy in the Age of Global Terrorism*. New York: Routledge. 1-22.

Union of Islamic Courts, Sheikh Sharif Sheikh Ahmed, would be in the position to negotiate between moderate and radical Islamist groups, take a stand against warlords, make peace with Ethiopia and push for a durable political settlement, these hopes remained unfulfilled. The insurgency is ongoing and the radical Islamist Al-Shabaab, who are reported to have links to Al-Qaeda, control most parts of central and south Somalia and most of the capital Mogadishu. Prospects for a political solution are grim and different militia groups are taking law and order into their own hands. In the absence of law-enforcement institutions, piracy has become an easy business. The shores of Somalia have been uncontrolled since the Somali navy vanished into thin air after 1991.

A second enabling factor are the geographical characteristics: with 3025 kilometres, Somalia has one of the longest coastlines in Africa. It runs parallel to one of the busiest waterways in the world, the Gulf of Aden and the Indian Ocean. These waters are of high strategic importance, linking the Red Sea with the Arabian Sea. Approximately 21,000 ships transit these sea lines of communication (SLOC) annually. Given this heavy traffic with often precious freight, Somali fishermen and militiamen realised the huge benefit from hijacking and holding ships to ransom. Piracy has thus become a highly lucrative source of extra income. Alternatives to making easy money are missing, which constitutes a third catalyst for pirate activity. Somalia is currently in its worst humanitarian crisis in 18 years, as the UN Food Security and Nutrition Analysis Unit for Somalia reported in August 2009.⁴ While the humanitarian crisis is fuelled by the conflict, the country is also suffering from hyperinflation and ecological problems such as severe droughts.

Piracy is a clear symptom of desperate poverty, insecurity and the lack of a stable and functioning state authority. Pirates are willing to take risks, or, as Roger Middleton puts it, 'the risks associated with piracy can be seen as little worse than those faced every day.'⁵ A fourth factor needs to be mentioned: after the Barre government collapsed in 1991, foreign trawlers started invading Somalia's unprotected territorial waters and exploited the huge fishing grounds, which became a common and lucrative practice. In addition to these illegal fishing activities, some ships dumped toxic waste into the waters. These developments were witnessed by Somali fishermen, who soon found themselves

⁴ UN Food Security and Nutrition Analysis Unit Somalia. 2009. Press Release, 24 August, <http://www.fsasomali.org/fileadmin/uploads/1547.pdf>.

⁵ Middleton, Roger. 2009. *Piracy symptom of a bigger problem*. BBC News, 15 April, <http://news.bbc.co.uk/2/hi/africa/8001183.stm>.

on the losing end and were chased away from their fishing resources.⁶ They began to strike back to defend their grounds. What started as simple self-defence activities became soon an organised business and, beyond, an example of a war economy.

But who are the pirates and how do they operate? Most of Somalia's pirates are former local fishermen, who have been joined by militia leaders, members of local gangs and, presumably, by former members of the Somali coastguard. Many are based in the autonomous province of Puntland, in northeastern Somalia. They do not follow a political agenda and do not seem to maintain links to Al-Shabaab, concerns over a close link between piracy and terrorism appear unfounded. Instead, pirates seek to make easy money and carry out attacks for private ends. Pirates approach trade ships on small speedboats. They fire with automatic weapons and rocket-propelled grenades and thus attempt to board and hijack ships. Once an attack has been successful, the captured ship is taken to the shores of Somalia, where pirates negotiate for a ransom. In most cases, governments and shipping companies have agreed to pay ransoms, amounting to an estimated 20 to 40 million USD which pirates have looted in 2008 only.⁷ One exception was the spectacular case of the US-flagged 'Maersk Alabama' in April 2009, where the crew overpowered the pirates and the captain of the 'Maersk Alabama' was later rescued by the US navy.

EU and NATO Counter-Piracy Efforts

Pirate attacks in the waters off Somalia have led to extensive media coverage and to a strong international response. Since Somali pirates operate in an area of high strategic importance where many states have commercial interests, more than 15 navies have been deployed to patrol the Gulf of Aden and escort trade ships. They operate either unilaterally or in multinational frameworks. The counter-piracy operations are backed by different UN Security Council resolutions (1814, 1816, 1838, 1846, 1851), which have all been adopted in 2008. These authorise the intervening states to pursue and capture pirates in Somali waters and onshore but stipulate that the intervening states need to be granted permission by the TFG before conducting naval law-enforcement operations.

⁶ Coffen-Smout, Scott. 1998. *Pirates, Warlords and Rogue Fishing Vessels in Somalia's Unruly Seas*, <http://www.cebucto.ns.ca/~ar120/somalia.html>.

⁷ Menkhous, Ken. 2009. 'Dangerous Waters.' *Survival* 51(1). 23.

There have been different legal constraints when it came to the arrest and prosecution of pirates, leaving the impression that navies could only do little to combat piracy effectively. However, there is a sufficient legal basis for action, in the first place provided by the 1982 UN Convention of the Law of the Sea and the 1988 Suppression of Unlawful Acts against the Safety of Maritime Navigation Convention.⁸ This international law framework has also been complemented with bilateral agreements. The US, the UK, Denmark as well as the EU have recently signed agreements with Kenya, allowing for the transfer of Somali pirates for prosecution.

Supported by the UN Security Council resolutions, EU and NATO operations have been launched to deter, prevent and repress piracy off the coast of Somalia. In December 2008, the EU started its first naval operation 'EU NAVFOR Somalia.' Besides protecting vulnerable vessels in the waters off Somalia, its mandate is to escort ships of the World Food Programme delivering food aid to Somalia. Up to 12 EU ships from the Netherlands, France, Germany, Belgium, Italy, Sweden and Greece are involved. Moreover, Norway is participating as a third state and Croatia might join in the near future. The area of operation has recently been extended to the Seychelles, now encompassing the south of the Red Sea, the Gulf of Aden and part of the Indian Ocean. EU NAVFOR has also established a Maritime Security Centre, providing 24-hour monitoring of vessels transiting the area of operation. Through its interactive web site, the Maritime Security Centre communicates anti-piracy warnings and encourages shipping companies to register their vessels and transit in groups. This is an important initiative to facilitate the coordination of maritime traffic and monitor the transits. While EU NAVFOR was scheduled for an initial period of twelve months, the mandate has lately been extended until December 2010.

NATO also operates in the waters off Somalia. A first short-term operation ('Operation Allied Provider') was carried out between October and December 2008, when NATO warships escorted UN World Food Programme vessels. In December 2008, these responsibilities were handed over to the EU. In March 2009, NATO authorities decided to deploy a new and longer-term naval force and launched the operation 'Allied Protector' under its Standing Maritime Group 1, involving ships from Canada, Germany,

⁸ For an in-depth discussion of the legal issues related to counter-piracy actions see Middleton, Roger. 2009. *Pirates and How to Deal With Them*. Chatham House, Africa Programme/International Law Briefing Note: AFP/IL BN 2009/01, http://www.chathamhouse.org.uk/files/13845_220409pirates_law.pdf.

the Netherlands, Portugal, Spain and the United States of America. In August 2009, NATO commenced a third counter-piracy operation ('Operation Ocean Shield'), involving the Standing Maritime Group 2 with ships from the UK, Italy, Greece, Turkey and the US. What distinguishes this third operation from previous efforts is the requirement to develop counter-piracy capabilities of East African states.⁹ Both NATO and the EU have recently placed a stronger emphasis on capacity building but the discussions are still in an early stage and little action has been taken so far. Upon an initiative by France, the EU has announced plans to train Somali security forces in neighbouring Djibouti. However, the plan seems to lack political support among EU member states, as France is the only state willing to contribute to date.

Despite official statements stressing the need to fight the root causes of piracy, both the EU and NATO continue to be preoccupied with the symptom of the crisis and focus on short-term measures to combat piracy. Yet piracy continues to flourish. Despite the high level of international engagement, pirate activity has sharply increased in the first half of 2009. While many counter-piracy measures such as improved precautionary measures on ships and the presence of patrols have had an effect – only a fifth of all attacks have been successful in 2009 –,¹⁰ these responses are interim solutions. Piracy off Somalia remains a serious concern and pirates seem even more desperate to hijack ships. If the EU and NATO are serious about their rhetoric of tackling the root causes of piracy, they need to step up their efforts.

Tackling Piracy

But what can be done? A number of initiatives have been discussed so far. At the third Sea Power for Africa Symposium in March 2009, African naval officials agreed that maritime cooperation needs to be strengthened. In particular, they emphasised the need to generate stronger political will among political leaders to invest in adequate naval equipment and empower the navies. Moreover, there was general agreement to promote the exchange of information, harmonise national laws, establish a cohesive body of

⁹ Jane's Navy International. 2009. *NATO seeks to build anti-piracy capability among African states*, 19 August.

¹⁰ 148 attacks were reported on the Somali coast and the Gulf of Aden between 1 January and 30 June 2009. However, only 29 attacks have been successful. Source: ICC International Maritime Bureau. 2009. *Piracy and Armed Robbery against Ships*, Report for the Period 1 January-30 June 2009. 20.

legislation and carry out joint exercises.¹¹ African navies are moving towards the adoption of standard NATO procedures and have taken first steps to develop a naval component to the African Standby Force. These efforts should be further coordinated and enhanced within the International Contact Group on Piracy, which has been set up in early 2009. 28 nations and six international organisations participate in this initiative, among others the African Union, the Arab League, NATO and the EU. It is of crucial importance to seize the momentum and strengthen cooperation mechanisms. In particular, a viable and strong regional approach needs to be developed. This could be modelled on the Malacca Straits Security Initiative (MSSI), under which the littoral states of Indonesia, Malaysia and Singapore cooperate closely. Their efforts, including multinational maritime air patrols, have led to a drastic reduction of piracy in South-East Asia. Air patrols could be an important step forward, given the vast area of operation and the fact that pirates operate very flexibly. Pirate attacks have been reported up to 500 sea miles off the coast and pirates are increasingly moving down the Indian Ocean in an attempt to avoid the naval patrols. The combination of naval and air assets of different participating countries could help detecting, identifying and interdicting pirate action.¹² However, such an approach demands decisive action and solid funding mechanisms.

While strong action against piracy is necessary, cooperative endeavours need to go beyond the deterrent effect and address the onshore drivers of piracy. First efforts are currently made by setting up a new Somali navy and strengthening the security sector. These endeavours should be supported by the international community, by providing equipment, training and funding. However, the efforts can only be ultimately fruitful if both security and humanitarian concerns are addressed at the same time. To give only one example, the African Union's Mission in Somalia (AMISOM) is in dire need of more resources and a stronger mandate to deal with the Al-Shabaab militia and be able to make a difference in the long run. This is one of the first issues that should be addressed on land. Both the elimination of piracy and the contribution to peace, security and development in Somalia are a question of political will, and less a question of resources.

¹¹ Jane's Defence Weekly. 2009. *African maritime threat requires greater co-operation*, 13 March.

¹² For an in-depth analysis see Ong, Graham Gerard, Joshua Ho. 2005. *Maritime Air Patrols: The New Weapon Against Piracy in the Malacca Straits*, RSIS Commentaries No. 70, <http://www.rsis.edu.sg/publications/Perspective/IDSS702005.pdf>.

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