COMBATING PIRACY AROUND THE HORN OF AFRICA

Benjamin-Tedla Hecker

The issue of maritime security and the widespread threats to shipping in the area around the Horn of Africa has received a little less media attention in recent times due to the events in the Arab world since the beginning of 2011. But this region of East Africa continues to be important because of the ongoing catastrophic drought and the recent abductions in Kenya by Somali militias. Despite international efforts to combat their activities, Somali pirates have actually extended their operating range in the region. Every day the live monitor at the International Maritime Bureau's (IMB) Piracy Reporting Centre (PRC), based in Kuala Lumpur, reports on new and sometimes serious attacks by pirates, mostly in the Gulf of Aden and off the Somali coast.[1]

As early as 2009, the PRC reported a total of 217 pirate attacks in the Indian Ocean, the Red Sea and the Gulf of Aden.[2] Statistically, the number of attacks off the Somali coast has actually increased since then. In the first six months of 2011, the PRC reported 125 incidents in the area.[3] Attacks in the Gulf of Aden, on the other hand, have decreased steadily, which is largely due to the coordinated efforts of international maritime forces.

Benjamin-Tedla Hecker studied Political Science, American Studies and Romance Studies at the University of Bonn. He is currently carrying out research into German development cooperation in Africa and South East Asia.

1 | See also a list of abbreviations at the end of the text. The definition of piracy according to the United Nations can be found in Article 101 of the United Nations Convention on the Law of the Sea (UNCLOS; Malcolm D. Evans, *International Law Documents*, Oxford, Oxford University Press, 2007.
2 | *ICC Annual Report*, "Piracy and Armed Robbery against Ships", http://ddata.over-blog.com/xxxyyy/0/50/29/09/Docs-Textes/Pirates2008RAP-BMI0901.pdf (accessed December 9, 2011).
3 | Ibid.

Despite all these detailed statistics from the PRC, experts believe that this may not be the full picture and suspect that there are a large number of attacks by Somali pirates on private companies and illegal fishing boats that go unreported.[4] Many of these companies prefer to keep quiet and pay the ransoms demanded in order to avoid coming to the attention of authorities investigating illegal fishing or illegal waste dumping. As a result, the actual size of the piracy problem off the coast of Somalia is difficult to quantify.

The maritime dangers off the coast of Somalia have resulted in the decaying state being listed as one of the most dangerous countries in the world, both on land and sea, a fact that is supported by the current statistics on pirate attacks. These attacks by Somali pirates are having a serious impact on one of the most important shipping lanes in the world, along which around 20,000 ships and twelve per cent of the world's oil shipments pass every year.[5] In 2010, the U.S. Energy and Information Administration ranked the waterway that runs through the Suez Canal and past the coast of East Africa as the second most important maritime trading route in the world.[6] One of the disastrous consequences of Somali piracy for global business and the countries that lie along this route was the decision by the British insurance market, Lloyd's of London, to declare the Somali coast a war risk zone.[7]

The U.S. Energy and Information Administration ranked the waterway that runs through the Suez Canal and past the coast of East Africa as the second most important maritime trading route in the world.

4 | Sam Bateman, "Sea piracy – some inconvenient truth", http://unidir.org/pdf/articles/pdf-art2960.pdf (accessed November 25, 2011).

5 | Kerstin Petretto, "Piraterie als Problem der internationalen Politik", in: *Piraterie und maritime Sicherheit*, SWP-Studie, Stefan Mair (ed.), Stiftung Wissenschaft und Politik (SWP), Berlin, July 2010, http://swp-berlin.org/fileadmin/contents/products/studien/2010_S18_mrs_ks.pdf (accessed December 8, 2011).

6 | United States Energy Information Administration (EIA), "World oil transit chokepoints", Country Analysis Brief, February 2011, http://205.254.135.24/countries/regions-topicscfm?fips=WOTC#sumed (accessed December 8, 2011).

7 | Lord Levene, "Today's piracy problem", April 27, 2009, http://lloyds.com/Lloyds/Press-Centre/Speeches/2009/04/Todays_piracy_problem (accessed December 9, 2011).

Large scale operations by international maritime forces to combat piracy around the Horn of Africa are mostly being carried out by NATO units,[8] the Combined Maritime Force (CMF), the European EUNAVFOR ATALANTA mission and other missions from China, Russia and India. A CMF Shared Awareness and Deconfliction Meeting (SHADE)[9], led by the USA, set itself the task of finding better ways to coordinate the various missions and of incorporating Arab and African units into the operations.[10] An estimated thirty to forty ships from the various missions patrol specially selected corridors on a rotation basis and try to prevent attacks by the pirates on international merchant vessels.[11]

An estimated thirty to forty ships from the various missions patrol on a rotation basis and try to prevent attacks by the pirates on international merchant vessels.

And yet even the most modern military technology, the use of a protected transit corridor (IRTC)[12], special escorts for cargo ships belonging to the World Food Program (WFP) and the employment of private security firms[13] seem to have made little impression on the attackers. Added to this is the fact that the nearly 4,000 kilometres-long Somali coast is home to numerous hidden pirate strongholds and is difficult to access or control even by marine vessels equipped with the most modern technology.[14]

8 | North Atlantic Treaty Organization, "Counter-Piracy Operations", June 17, 2011, http://www.nato.int/cps/en/natolive/topics_48 815.htm (accessed November 25, 2011).

9 | Alastair Clark, "Combined Maritime Forces Operations. Counter piracy operations, challenges, shortfalls and lessons learned", June 4, 2009, http://www.nato.int/structur/AC/141/ pdf/PS-M/Combined%20Maritime%20Forces%20Ops.pdf (accessed November 25, 2011).

10 | Hemmer Jort Van Ginkel, Susanne Kammerling and Frans Paul Van der Putten, "Pioneering for Solutions to Somali Piracy – Facing the Challenge, Seizing the Opportunity", CSCP Policy Brief, No. 3, August 3, 2009, http://www.clingendael.nl/ publications/2009/20090800_cscp_policybrief_3.pdf (accessed November 25, 2011).

11 | Michelle Nakamura, "Piracy off the Horn of Africa. What is the most effective method of repression?", May 4, 2009, http://dtic.mil/cgi-bin/GetTRDoc?AD=ADA503032&Location= U2&doc=GetTRDoc.pdf (accessed November 25, 2011).

12 | Petretto, n. 5.

13 | Further details about private security firms active in the Gulf of Aden are discussed in a Deutsche Welle article: Darren Mara, "German shippers reject British plan for private anti-piracy battleships", Nancy Isenson (ed.), October 27, 2010, http://dw-world.de/dw/article/0,,6153192,00.html (accessed November 25, 2011).

14 | Ibid.

"MARITIME TERRORISM" OFF THE HORN OF AFRICA

Against a background of tension on the Somali mainland and the ongoing terrorist threat from the fundamentalist Al Shabaab, who carried out attacks in Uganda in 2010 and who are making it difficult for aid shipments to reach the crisis-hit regions of Somalia, the question arises as to what extent the success of the Somali pirates could have an influence on other activities associated with transnational organised crime (TOC).[15] Some experts are talking of cooperation between pirates and terrorists. There is some evidence of this to be found in a report from the UN Security Council in 2008, which highlighted cooperation between the fundamentalist Alliance for the Re-liberation of Somalia (ARS) and pirate leaders.[16] The report also refers to the existence of training camps used jointly by both Al Shabaab and pirates. While this may point to possible cooperation between pirates and terrorist groups, other sources suggest that the pirates are being squeezed out by Islamic Somali forces in certain areas. What is interesting here is that many experts believe that the significant increase in Somali piracy in recent times is associated with the collapse of the Islamic Courts Union (ICU).[17] Those who take this view have been critical of measures introduced to combat terrorist groups in Somalia in terms of the piracy problem. According to Roger Middleton, Somalia expert at Chatham House, the only real cessation of pirate activities took place during the six-month rule of the Somali ICU.[18]

Experts believe that the significant increase in Somali piracy in recent times is associated with the collapse of the Islamic Courts Union.

15 | For further information on transnational organised crime see: Jeanne Giraldo and Harold Trinkunas, "Transnational Crime", in: *Contemporary security studies*, Alan Collins (ed.), Oxford, Oxford University Press, 2010, 428-447.

16 | Dumisani Shadrack Kumalo, "Letter dated 10 December 2008 from the Chairman of the Security Council Committee established pursuant to resolution 751 (1992) concerning Somalia addressed to the President of the Security Council", http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/Somalia%20S2008%20769.pdf (accessed November 25, 2011).

17 | Ibid.

18 | Roger Middleton, "Piracy in Somalia. Threatening global trade, feeding local wars", Chatham House Briefing Paper, October 2008, http://chathamhouse.org/sites/default/files/public/Research/Africa/1008piracysomalia.pdf (accessed November 25, 2011).

The Danish researcher Bjørn Møller goes even further and maintains that the fight against radical Islam in Somalia has actually unwittingly led to the pirates being given more freedom to operate.[19]

There is no doubt that both piracy and terrorism pose a serious threat to Somali's long-term stability and the waterway through the Gulf of Aden. The linking of the two criminal networks increases the danger of arms trafficking in the area going virtually unchecked, and large numbers of arms are already being moved through the Horn of Africa, according to the annual Arms Trade Survey.[20] While it is safe to assume that some representatives of both pirate and terrorist groups are prepared to cooperate with each other in principle, it seems unlikely that the naval force termed by Osama bin Laden the "Mujahideen at Sea"[21] are in bed with the Somali pirates, for the simple reason that the latter are basically interested in profits and threatening private trading companies rather than having a political motivation. To what extent individual Somali militia or fundamentalist groups profit from the proceeds of piracy remains unclear.

In his article for the Institute of Southeast Asian Studies (ISEAS), Mark Valencia suggests that, in terms of piracy in South East Asia, the pirates seem more motivated by profits than by politics.[22] Nevertheless, pirate attacks in Yemen and numerous incidents in South East Asia have shown that cooperation between local pirates and terrorist groups should never be discounted.

Pirate attacks in Yemen and numerous incidents in South East Asia have shown that cooperation between local pirates and terrorist groups should never be discounted.

Given the fact that neighbouring states, such as Yemen, Eritrea and Djibouti, also face the threat of terrorism, certain aspects of the fight against piracy should be combined with that

19 | Bjørn Møller, "Piracy of the Coast of Somalia", DIIS Brief, January 2009, http://diis.dk/graphics/Publications/Briefs2009/bmo_piracyofsomalia2.pdf (accessed November 25, 2011).
20 | Rahel Stohl and Doug Tuttle, *The Challenges of Small Arms and Light Weapons in Africa*, Conflict Trends, 2009.
21 | Peter Lehr, "Somali piracy. The next iteration. Perspectives on Terrorism", http://terrorismanalysts.com/pt/index.php/pot/article/view/80/164 (accessed November 25, 2011).
22 | Mark J. Valencia, "The Politics of Anti-Piracy and Anti-Terrorism Responses in Southeast Asia", in: *Piracy, Maritime Terrorism and Securing the Malacca Straits*, Graham Gerard Ong-Webb (ed.), ISEAS Publishing, 2006, 84-103.

against terrorism at a regional level. Only in this way will it be possible for attacks by Islamist groups on the local waterways, such as happened in Yemen in 2001, to be prevented on a long-term basis.

One thing we know for certain: 2011 was another profitable year for Somali pirates and their backers. However, there are also signs of hope that new and long-term counter-offensive measures are being developed. Experts and the media are becoming increasingly vocal in their calls for regional cooperation in defending the Somali coast, in order to reduce the expense involved in using international naval forces.[23]

The question needs to be asked how Somalia can resolve the piracy problem on its own, in spite of any understandable reservations that may be felt by the international community.

Somalia itself, like its neighbouring states, has very limited possibilities when it comes to protecting its own territorial waters.[24] Nevertheless, on the basis that a permanent naval presence in the Gulf of Aden and the Red Sea is also not a practical alternative, the question needs to be asked how Somalia can resolve the piracy problem on its own, in spite of any understandable reservations that may be felt by the international community. A lasting solution to the piracy problems around the Horn of Africa can only really be found when the country itself becomes more stable. To this end a strengthening of regional cooperation could help to quickly reduce local conflicts.

THE SITUATION IN NEIGHBOURING EAST AFRICAN AND ARAB STATES

The list of disputes and armed conflicts in the Horn of Africa is long and complex. Border disputes and proxy wars[25] between countries such as Eritrea and Djibouti are

---

23 | Lutz Feld, "Moderne Piraterie. Antworten der internationalen Staatengemeinschaft", http://ims-magazin.de/index.php?p=artikel&id=1264438955,1,srahn (accessed November 25, 2011).

24 | Julia Galaski, "Chancen und Grenzen der Pirateriebekämpfung. Die Straße von Malakka und der Golf von Aden Im Vergleich", March 2009, SWP (ed.), Berlin, http://swp-berlin.org/fileadmin/contents/products/arbeitspapiere/galaski_piraterie_format_ks.pdf (accessed November 25, 2011).

25 | Marius Kahl, "Piraterie um Somalia. Ein Blick durch die Brille der vernetzten Sicherheit", Konrad-Adenauer-Stiftung (ed.), ▸

an everyday occurrence. It requires a huge amount of effort to get neighbouring countries here to work together to combat piracy. Dialogue at intergovernmental level is mostly carried out under the auspices of the regional Inter-governmental Authority on Development (IGAD)[26], based in Djibouti, which is part of the African Union (AU) and offers a regional forum for East African countries.

The issue of piracy and its economic and political impact on East African and neighbouring Arab states has already been discussed in a number of forums and conferences. The regional Djibouti Code of Conduct for combating piracy, agreed in 2009, proved that it is possible even for countries with fundamental differences to come together around a table and reach an agreement if the security of maritime trade and economic stability is at stake.[27]

Somali piracy is a cause for concern not only amongst East African countries, but also within the Arab world. The dangers posed by piracy and the resulting reduction in shipping passing through the Suez Canal was the subject of many heated discussions in Egypt long before international counter measures were introduced. The former Prime Minister, Ahmad Nazif, sought to reassure the country in 2009 that piracy was not having a negative impact on the economy,[28] even though it is heavily dependent on income from the Suez Canal, while in the same year the Egyptian newspaper *Daily News* was actually reporting a reduction in income from the Suez Canal of up to eight per cent as a result of piracy off the Horn of Africa.[29]

The dangers posed by piracy and the resulting reduction in shipping passing through the Suez Canal was the subject of many heated discussions in Egypt.

Analysen & Argumente, No. 71, December 2009, http://kas.de/wf/doc/kas_18238-544-1-30.pdf (accessed December 14, 2011).

26 | More information on the formation of IGAD and its work can be found on their homepage: http://igad.int/index.php?option=com_content&view=article&id=93&Itemid=124 (accessed November 25, 2011).

27 | See the list of signatory countries.

28 | Egypt State Information Service, "Egypt and sea piracy", http://www.sis.gov.eg/en/LastPage.aspx?Category_ID=92 (accessed November 25, 2011).

29 | Alex Dziadosz, "Suez Canal revenues down 8 pct on piracy threat", *Daily News Egypt*, January 19, 2009, http://thedailynewsegypt.com/suez-canal-revenues-down-8-pct-on-piracy-threat.html (accessed November 25, 2010).

Indeed, at that time large shipping companies, such as the Norwegian Odfjell company, were also officially announcing that, as a result of the dangers posed by Somali pirates and the additional financial burden of rising insurance premiums, they would in future be sending their fleet via the longer Cape of Good Hope route.[30] The French shipping company CMA CGM even published a list showing how insurance premiums had gone up as a result of the pirate attacks off Somalia.[31] Despite all this, a report from the Baltic and International Maritime Council (BIMCO) suggested that the longer shipping route via the Cape of Good Hope actually resulted in higher financial losses overall.[32]

The Suez Canal Authority in Port Said reported 17,228 cargo ships passing through the canal in the year 2009 – a significantly lower number than in the previous year.

These circumvention measures adopted by the shipping companies started to have an effect in 2009. The Suez Canal Authority in Port Said reported 17,228 cargo ships passing through the canal in the year 2009 – a significantly lower number than in the previous year (2008: 21,415).[33] And this kind of reduction in traffic cannot be attributed to the worldwide financial crisis alone. In this respect, piracy represents a significant burden on the national economies of the countries around the Gulf of Aden.

Even the Yemeni government has joined in the battle against the Somali pirates, not just because of the country's geographical proximity to the Somali coast, but because it is in its financial interests to do so. Economic experts talk of significant financial losses in Yemeni ports as a result of the higher insurance premiums companies have to pay to

30 | Brian Wilson, "Effectively Confronting a Regional Threat: Regional Piracy", *Conflict Trends*, No. 1, 2009, 11-19.
31 | CMA CGM, "Customer Advisory #107 – 2010. Piracy Risk Surcharge – East Africa & Indian Ocean Islands", July 2, 2010, http://www.cma-cgm.com/Images/ContentManagement/en-US/WorldwideNetwork/Local/USA/Documentation/2010-CA-107-Piracy-Surcharge-East-Africa-and-Indian-Ocean-Islands-Aug-2010.pdf (accessed November 30, 2011).
32 | BIMCO calculate, as an example, that shipping via South Africa would mean a loss of 2.4 million Euros for a container ship: The Baltic and International Maritime Council, "Avoiding piracy by sailing round the Cape of Good Hope is a costly busi ness", 23.11.2009, https://bimco.org/en/News/2009/11/23_Avoiding_piracy.aspx (accessed November 30, 2011).
33 | Suez Canal Authority, "Suez Canal Traffic Statistics. Brief Yearly Statistics", http://suezcanal.gov.eg/Files/Publications/44.pdf (accessed November 30, 2010).

stop over in Yemeni waters.[34] Experts at the Institute for Security Studies (ISS) based in Addis Ababa and Pretoria also fear there will be a spill-over effect of violent pirate attacks from Somalia's poorly-secured territorial waters into Yemeni waters.[35] There is already talk of Somali pirates attacking Yemeni fishing boats with a view to using the boats again for their own purposes.[36] Meanwhile, the abduction of several tourists and two aid workers from Kenya by Somali fundamentalists at the end of October 2011 has also resulted in the Kenyan government undertaking a military offensive in southern Somalia.[37]

The Gulf States are also feeling increasingly threatened by piracy, especially after the Saudi supertanker Sirius Star was attacked in November 2008. In an area that is already trying to cope with the significant challenges posed by terrorism and Somali refugees,[38] a potentially long-term threat to the Somali shipping lane between Egypt and the Indian Ocean poses a security problem for the Arab world as a whole.

Following the terrorist attacks on the USS Cole in October 2000 and the MV Limburg in October 2002 off the coast of Yemen, the Yemeni coastguard was modernised and strengthened in 2003 with the help of the U.S. government. This kind of action could offer a glimmer of hope in the battle against the pirates. However, as Maria Bos of the

---

34 | Brian Fort, "Transnational Threats and the Maritime Domain", in: *Piracy, Maritime Terrorism and Securing the Malacca Straits*, Ong-Webb Graham Gerard (ed.), Institute for Southeast Asian Studies, 2006, 23-37.

35 | El Jamila Abdellaoui, "Yemen: Part of the problem, part of the solution", April 28, 2010, http://www.iss.co.za/iss_today. php?ID=937 (accessed November 30, 2011).

36 | Stig Jarle Hansen, "Piracy in the greater Gulf of Aden. Myths, Misconceptions and Remedies", Norwegian Institute for Urban and Regional Research (ed.), December 2009, http://estaticos. elmundo.es/documentos/2009/11/12/piratas.pdf (accessed December 31, 2011).

37 | Further information on these counter-measures can be found at: *The Economist*, "Kenya invades Somalia. A big gamble", October 29, 2011, http://economist.com/node/21534828 (accessed November 30, 2011).

38 | Between 2004 and 2005 alone the Saudi government reported on more than 1,500 refugees who tried to pass the Yemeni boarder to Saudi Arabia. "The Gulf and Africa. Developing a New Strategic Partnership", 2009, http://www.grcevent.net/ gulfafrica/files/event_paper.pdf (accessed September 9, 2011).

Gulf Research Center (GRC) rightly points out, 15 modern Yemeni ships are nowhere near enough to patrol Yemen's own long coastline, let alone that of nearby Somalia.[39]

Despite differing day-to-day political interests, governments are working together in an attempt to secure their trading routes and to minimise the negative impact on tourism. In addition to East African countries, even more southerly countries, such as the Seychelles and Mauritius, also find themselves affected by the Somali pirates' huge operating range. Despite differing day-to-day political interests, governments from Cairo to Dar es Salaam are working together in an attempt to secure their trading routes and to minimise the negative impact on tourism. Having said that, the countries around the affected waters also want to protect their territorial sovereignty against the rest of the world. The Seychelles, Mauritius and Kenya are already receiving practical support for their coastguards from the European Union and the United Nations as part of a joint EU-UNDOC project.[40] As part of the battle against Al Shabaab troops in southern Somalia, Kenya has effectively opened up a new front against organised crime in Somalia with the start of Operation Linda Nchi at the end of October 2011.[41] However, many experts believe that the buffer zone established by the Kenyan government in southern Somalia is considered a step too far by the Somali Transitional Federal Government under Sheikh Sharif Ahmad.[42] Even though the operations against Al Shabaab are principally aimed at combating the risk of terrorism, pirate strongholds such as the port city of Kismayo were also attacked by the Kenyan and French navies.[43] It remains

39 | Ibid.
40 | United Nations Office on Drugs and Crime (UNODC), "Counter Piracy Program. Support to the trial and related treatment of piracy suspects", No. 3, July 2010, http://unodc.org/documents/easternafrica/piracy/20100701_CPP_Brochure_3.pdf (accessed November 30, 2011).
41 | Further information on these military operations can be found at: Andrews Atta-Asamoah and Emmanuel Kisiangani, "Implications of Kenya's military offensive against Al-Shabaab", October 25, 2011, http://www.iss.co.za/iss_today.php?ID=1377 (accessed November 30, 2011).
42 | Ibid.
43 | Jamestown Foundation, "Kenya's navy joins counterterrorist operations off Somalia", *Terrorism Monitor*, November 11, 2011, http://www.jamestown.org/programs/gta/single/?tx_ttnews[tt_news]=38661&cHash=0c5136b37cc7a5854bef757bf6f6aa55 (accessed November 30, 2011).

to be seen what impact the military measures undertaken by the Kenyan government, which are principally aimed at Somali Islamic fundamentalists, will have on the pirates operating in that area. There is no doubt that Operation Linda Nchi represents a new departure in terms of concrete action in the region, especially as it was instigated by an East African country that had always previously preferred a non-military response to dangers coming out of Somalia. This decisive action by the Kenyan government against terrorism and organised crime could signal a fundamental change in approach amongst East African countries in combating the threat posed by Somali pirates.

In terms of long-term measures to combat piracy off the Horn of Africa, Lars Bangert Struwe even talks in his report to the Danish Institute for Military Studies of the creation of a Greater Horn of Africa Sea Patrol (GHASP), set up with help of the Danish navy, among others.[44] While this might sound like a pipedream, given the precarious security situation around the Horn of Africa and the state of the local coastguards, it could actually be a sensible long-term solution, at least in terms of reducing the cost of having international naval forces operating in the area.

The idea of some form of regional cooperation amongst maritime forces is not new, as can be seen with the Malacca Strait Patrol (MSP) set up by Indonesia, Malaysia and Singapore. The Strait of Malacca, which lies between the three countries, was a target for pirate attacks, especially between 2002 and 2006.[45] Under pressure from the international community to make this international trading route safe, the countries around the Straits addressed the problem themselves by using local coastguards.[46] Although the governments in Jakarta, Kuala Lumpur and Singapore

The Strait of Malacca, which lies between Indonesia, Malaysia and Singapore, was a target for pirate attacks, until the countries around the Straits addressed the problem themselves.

44 | Lars Bangert Struwe, "For a Greater Horn of Africa Sea Patrol. A Strategic Analysis of the Somali Pirate Challenge", Dansk Institut for Militære Studier, 3/2009, http://humansecuritygateway.com/documents/DIMS_Greater-HornOfAfricaSeaPatrol_StrategicAnalysisOfTheSomaliPirate-Challenge.pdf (accessed December 9, 2011).
45 | *ICC Annual Report*, n. 2.
46 | Howard Loewen and Anja Bodenmüller, "Straße von Malakka", in: *Piraterie und maritime Sicherheit*, SWP-Studie, Stefan Mair (ed.), SWP, Berlin, 2010, 46, http://www.swp-berlin.org/fileadmin/contents/products/studien/2010_S18_mrs_ks.pdf (accessed November 30, 2011).

were initially criticised for their strict ban on coastguards crossing into each others' territorial waters, security expert Catherine Zara Raymond highlighted in her article for the Naval War College the fact that there had been a significant reduction in pirate attacks in the Strait of Malacca, with only one successful and three foiled attempts in 2009.[47] Statistics from the PRC in Kuala Lumpur show that these joint efforts against piracy have been worthwhile, and that the Strait of Malacca is now predominantly safe.[48]

It is worth noting that the Djibouti Code of Conduct for combating piracy in Somalia used this joint initiative against piracy in Southeast Asia (Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia, ReCAAP) as a model.[49] One of the key principles for the member states of the Association of Southeast Asian Nations (ASEAN) was the non-involvement of foreign forces in their territorial waters.[50] This principle is also reflected in the articles of the Djibouti Code. Article 4 (paragraph 5)[51] stresses the right of sovereignty of each individual member state when it comes to pursuing pirates. It seems that potential compromises of territorial sovereignty are somehow considered a hindrance to effectively combating piracy by those countries involved. International maritime forces, for instance, are not allowed to pursue Somali pirates into Yemeni territorial waters, according to information from the Maritime Security Center – Horn of Africa (MSCHOA).[52] It is for this reason that many coastal states have not been able to bring

One of the key principles for the member states of ASEAN was the non-involvement of foreign forces in their territorial waters. This principle is also reflected in the Djibouti Code.

---

47 | Catherine Zara Raymond, "Piracy and Armed Robbery in the Malacca Strait. A problem solved?", in: *Piracy and Maritime Crime*, Naval War College Newport Papers, No. 35, 2010, http://www.usnwc.edu/Publications/Naval-War-College-Press/ Newport-Papers/Documents/35.aspx (accessed December 9, 2010).
48 | *ICC Annual Report*, n. 2.
49 | Nakamura, n. 11.
50 | Mel Cabarello-Anthony, *Regional Security in Southeast Asia. Beyond the ASEAN way*, Singapore, ISEAS-Publishing, 2006.
51 | Further information on the Djibouti Code of Conduct, "Advance Copy", http://www2.mfa.gr/softlib/Κώδικας%20του%20Τζιμ πουτί.pdf (accessed November 30, 2011).
52 | Maritime Security Center – Horn of Africa (MSCHOA), "Best Management Practice 3. Piracy off the Coast of Somalia and Arabian Sea Area", No. 2, 2010, http://secure-marine.com/ bmp3/bpm3_pdf.pdf (accessed November 30, 2011).

themselves to sign a progressive agreement on better ways of combating piracy, the Convention For The Suppression Of Unlawful Acts Of Violence Against The Safety Of Maritime Navigation (SUA).

Adam Young, an expert on maritime affairs, stresses how important it is for those countries that sign the agreement to accept the pursuit of pirates by foreign naval forces in their territorial waters as a matter of urgency.[53] In this respect, countries that are badly affected by pirate attacks, such as Indonesia and Malaysia, need to ask

Countries badly affected by pirate attacks need to ask themselves whether they really want to put territorial sovereignty before combating piracy.

themselves whether they really want to put territorial sovereignty before combating piracy. Because of disputes between Jakarta and Kuala Lumpur over individual island groups, neither country has so far been prepared to carry out joint patrols in order to combat the problem of piracy.[54]

There are similar problems in the Horn of Africa because of Article 4 of the Code. In order to implement the Code effectively to safeguard free merchant shipping, it would be advisable to put territorial issues to one side. The approach adopted by the Malacca Strait Patrol (MSP) could also be adopted in the Gulf of Aden between Nairobi, Sanaa and Djibouti. However, it should be pointed out that the military and economic capacity of the East African states cannot be compared to that of the ASEAN member states.[55] The use of a GHASP on its own is still a long way off and would need the support of the international community, because the majority of the potential players in the region are still battling with internal political problems.

As Somalia has no control over its own territory, the success of a GHASP could only be guaranteed if regional coastguards were allowed to pursue pirates into Somali

53 | Adam J. Young, *Contemporary Maritime Piracy in Southeast Asia in Southeast Asia*, Singapore, ISEAS-Publishing, 2008.
54 | Prabhakaran Paleri, "The capacities of coastguards to deal with maritime challenges in Southeast Asia", RSIS Working Papers, No. 178, 2009, http://www.isn.ethz.ch/isn/Digital-Library/Publications/Detail/?ots591=0c54e3b3-1e9c-be1e-2c24-a6a8c7060233&lng=en&id=100184 (accessed November 30, 2011).
55 | Anton Kruger, "Illegal fishing and the rising threat of piracy", October 20, 2010, http://www.iss.co.za/iss_today.php?ID=1048 (accessed November 30, 2011).

territorial waters. This particular legal problem really needs to be addressed the next time the countries of the region meet, even though it is a thorny political issue. If there were closer cooperation, for instance between Yemeni and Kenyan coastguards, then illegal arms and human trafficking from and to Somalia might also be more successfully tackled.

At first sight it appears highly unlikely that Arab and East African countries will be able to achieve something that international naval forces are only able to achieve with a great amount of effort. In addition to the lack of commitment on the part of some African countries, experts at the ISS also believe that, with the exception of those from South Africa, there just are not enough naval forces available in Sub-Saharan Africa to combat the well-equipped Somali pirates.[56] However, the government in Pretoria is more interested in the multilateral deployment of naval forces off the coasts of the member states of the South African Development Community (SADC).[57] It is absolutely essential for the coastguards of those states neighbouring Somalia to be comprehensively modernised in a similar way to Yemen's coastguard, and to be merged into some kind of joint force. One of the main advantages of having such a regional coastguard would be their local knowledge of the very complex region around the Horn.

Anti-pirate monitoring centres are planned for Yemen, Kenya and Tanzania to support the international troops in the Gulf with additional information.

Even if the signatories to the Code have so far been unable to resolve the sovereignty issue, some fundamental steps have at least been made towards regional cooperation. Anti-pirate monitoring centres are planned for Yemen, Kenya and Tanzania. The signatory countries also want to send 'focal points', that is to say experienced local actors[58], to support the international troops in the Gulf with additional information. However, the setting up of a GHASP along the lines of the MSP has so far not been envisaged as part of the agreement.

56 | Ibid.
57 | Ibid.
58 | Robin Geiß and Anna Petrig, "UN-mandatierte Piraterie-Bekämpfung im Golf von Aden", *Zeitschrift für die Vereinten Nationen und ihre Sonderorganisationen*, January 2010, 3-8.

OPPORTUNITIES AND WEAKNESSES IN
THE SOMALI APPROACH TO COMBATING PIRACY

Somalia basically lacks a functioning state apparatus capable of tackling the problem off its coast. However, in an article for the Konrad-Adenauer-Stiftung on the issue of maritime security, Marius Kahl suggests that there are local Somali structures in place that international and regional anti-piracy forces could build upon.[59] The Puntland Coastguard stationed in northern Somalia has existed for some time now and supports the international maritime forces from the self-declared autonomous region of Puntland. Although these troops should in theory form a part of Somalia's response to the pirates, the UN Security Council admits that this coastguard, set up in the year 2000 with the help of a British security firm and with an estimated 300 employees, may well itself be somehow connected to the pirate network.[60] If this is true, then it is not clear whether the coastguard is actually working for or against the pirates. Stirle Hansen, an expert on Norwegian maritime affairs, talks of corrupt Puntland authorities, who have apparently accepted bribes from Puntland's own pirates.[61]

The Puntland Coastguard stationed in northern Somalia has existed for some time now and supports the international maritime forces from the self-declared autonomous region of Puntland.

The Somali Transitional Federal Government (TFG) under Sheikh Sharif Ahmad is seen as a supporter, if not initiator, of the international efforts to combat piracy[62], even though the interests of local fishermen in relation to illegal fishing and environmental pollution are also part of the agenda. However, the TFG itself is also reliant on military support from the African Union Mission (AMISOM) in the capital Mogadishu and is hardly in a position to conduct a campaign on the high seas.[63] According to a report by the news agency Al Jazeera, AMISOM troops have also recently been

---

59 | Marius Kahl, n. 25.
60 | Kumalo, n. 16.
61 | Hansen, n. 36.
62 | United Nations Security Council, "Resolution 1814 (2008). The situation in Somalia", http://un.org/Docs/sc/unsc_resolutions 08.htm (accessed December 9, 2011).
63 | Ken Menkhaus, John Prendergast and Colin Jensen, "Beyond Piracy. Next steps to stabilize Somalia", Strategy Papers, 2009, http://enoughproject.com/publications/beyond-piracy-next-steps-stabilize-somalia (accessed November 30, 2011).

caught in the crossfire from Al Shabaab.[64] The well-known Somalia expert Ken Menkhaus also makes the point that a state Somali coastguard based in Mogadishu is not going to be particularly helpful in combating piracy, because of the distance to the actual problem areas.[65] In addition to making accusations against the government in Puntland, critics also suggest that there may be cooperation between functionaries within the Somali Transitional Federal Government and individual pirate groups.[66]

While regions such as Puntland and southern Somalia seem mostly unable to deal with the pirate problem, the Somaliland region appears to be something of an exception. Despite having a stretch of coastline that is similar in length to that of neighbouring Puntland, this northern stretch of land appears to be free of pirate strongholds. Experts believe that this is down to the relatively stable government and strict legal system in Hargeisa.[67] Regional and international powers should take the efforts and successes of the Somaliland government into account when planning their anti-piracy measures. The knowledge gained by the authorities there could help to bring about the long-term destruction of large-scale pirate networks, even in those regions neighbouring the failed state.

PREVENTIVE MEASURES AGAINST SOMALI PIRATES

The responsibility borne by international enterprises and shipping companies is often ignored when it comes to the question of how to reduce the risk of pirate attacks.

The global press mainly concentrates its attention on the countermeasures being taken by international naval forces. But the responsibility borne by international enterprises and shipping companies is often ignored when it comes to the question of how to reduce the risk of pirate attacks. If we are to create a more effective regional cooperation, then

64 | *Al Jazeera*, "Al-Shabab claims peacekeepers' killings", October 21, 2011, http://english.aljazeera.net/news/africa/2011/10/2011102141422988953.html (accessed November 30, 2011).
65 | Ibid.
66 | Mulugeta Kidist and Mesfin Berouk, "Piracy off the Somali coast", 2009, http://interafricagroup.org/pdf/Human%20Security%20Program/Briefing13%20on%20Piracy%20off%20the%20Socali%20coast.pdf (accessed November 30, 2011).
67 | Ulf Terlinden, "Somalia, Geschichte des Konflikts", October 4, 2011, http://bpb.de/themen/SMLQ7U,1,0,Somalia.html (accessed 30, 2011).

it is absolutely essential to work more closely with international shipping lines and adhere strictly to the Best Management Practice (BMP 3) that has been specially developed for shipping companies by MSCHOA.[68] The BMP 3 stipulates that ships should maintain a recommended speed of 18 knots and sail through a specific corridor.

The shipping lines and companies often complain about the lack of international interest in maritime safety compared to the high levels of interest in air safety. In a statement on behalf of several shipping companies, whose fleets cross the Gulf of Aden, the Chairman of the International Chamber of Shipping, Spyros M. Polemis, described the dangers posed to seafarers and their ships in the area of the Horn as unacceptable.[69] However, critics attribute part of the blame for some of the pirate attacks to the shipping lines themselves. The expert view is that some ships do not follow the rules set by the international maritime organisations. In order to save on fuel, they put themselves in danger by sailing too slowly in the affected area and take short cuts outside the protected transit corridor (IRTC). In an article published by the Geneva Conference on Disarmament (UNCOD), Sam Bateman particularly takes to task those shipping companies that use old, slow, badly-maintained craft in order to save money, and whose poorly-paid and under-trained crews are often unprepared to deal with attacks.[70] In contrast, it is much more difficult for Somali pirates to stop a modern container ship sailing at normal speed. In this respect, experts point to the incident with the Saudi tanker Sirius Star that for still-unexplained reasons was sailing very slowly at the time of the attack and, it seems, even stopped for a short time.[71] In this way it made itself easy prey for the well-equipped pirates.

Critics attribute part of the blame for some of the pirate attacks to the shipping lines themselves as their ships put themselves in danger by sailing too slowly in the affected area.

68 | MSCHOA, n. 52.
69 | International Chamber of Shipping (ICS), "Somali Piracy – Governments must do more", 2010, http://www.marisec.org/pressreleases.html#18/1/10 (accessed November 30, 2011).
70 | Sam Bateman, "Sea piracy – some inconvenient truth", 2010, http://unidir.org/pdf/articles/pdf-art2960.pdf (accessed November 30, 2011).
71 | Ibid.

If maritime safety in the Horn of Africa is to be improved, then these criticisms must be looked at in detail and carefully thought through as part of the new regional cooperation. Contact between the shipping lines and the maritime centres in Sanaa, Dar es Salaam and Mombasa must also be improved. One possibility in this respect would be to set up a regionally controlled Vessel Traffic Service (VTS) to monitor the number of vessels passing through the area, similar to the service that operates in the Straits of Malacca.[72]

A report on illegal and unregulated fishing in developing countries highlighted Somalia as a region that was particularly badly affected.

Another contentious issue in relation to certain members of the shipping industry is the accusation that they are engaging in illegal fishing and dumping toxic waste off the coast of Somalia.[73] A report by the Britain's Marine Resource Assessment Group Ltd. (MRAG) on illegal and unregulated fishing in developing countries highlighted Somalia as a region that was particularly badly affected. According to MRAG, in 2005 alone, more than 300 non-registered vessels entered the Somali Exclusive Economic Zone (EEZ) to fish, mainly for shrimp, lobster and tuna. A subsequent attempt to list these ships showed that – along with Taiwanese fishing vessels – Spanish and Italian companies had also been illegally helping themselves to Somalia's fish stocks.[74]

In political terms, these illegal international machinations are playing into the hands of the pirates, as it means they can justify their attacks on merchant shipping as self-defence against illegal fishing. One of the pirate groups actually calls itself the National Volunteer Coastguard (NVCG).[75] But while protecting Somali waters against illegal fishing and the dumping of toxic waste may have been the initial reason for attacking international shipping,

72 | Abdul Zubir Karim, "The Strategic Significance of the Straits of Malacca", *Australian Defence Journal*, No. 172, 2007, http://www.adfjournal.adc.edu.au/UserFiles/issues/172%20 2007%20Mar_Apr.pdf (accessed November 30, 2011).

73 | Kahl, n. 25.

74 | Marine Resource Assessment Group Ltd. (MRAG) "Review of Impacts of Illegal, Unreported and Unregulated Fishing on Developing Countries", *Synthesis Report*, 2005, http://imcsnet.org/imcs/docs/iuu_fishing_synthesis_report_ mrag.pdf (accessed November 30, 2011).

75 | Møller, n. 19.

it is a fact that nowadays it is mainly huge tankers and transporters that are attacked, which demonstrates how the Somali pirates are now motivated by profits. These attacks can certainly no longer be viewed as political actions to help poor fishermen.

AN ARAB-AFRICAN PACT AGAINST CRIMINALS?

A glance at the Live Piracy Report from Kuala Lumpur shows that there is still no end to piracy in sight, despite improvements being made in certain areas of maritime safety, the deployment of expensive international naval forces and the establishment of a corridor for vessels. And no one really knows whether the UN mandate on the international fight against piracy, in particular resolutions 1814, 1816, 1838 and 1846 of 2008, can really be upheld. Although the resolution of September 30, 2011[76] mainly focused on the current disastrous famine in Somalia, it also highlighted concerns about the ongoing threat of Somali piracy.

At judicial level, special agreements have been made between the EU, Kenya and the Seychelles, which were endorsed by EU High Representative Catherine Ashton during her visit to the region.[77] The two African countries have made it possible for the international naval forces to prosecute captured pirates in independent courts in the local area. However, Kenya has terminated the agreement, so the Seychelles is now the only country where they can be prosecuted. But the island state has limited capacity, so Ashton is currently looking for alternatives and holding discussions with Mauritius and South Africa. So far, it has been impossible to convict pirates in Somalia itself.

Kenya and the Seychelles have made it possible for the international naval forces to prosecute captured pirates in independent courts in the local area.

From a financial point of view, the extensive anti-piracy operation has been very expensive, with the EU ATALANTA mission alone costing an estimated 450 million Euro.[78]

76 | UNSC, n. 62.
77 | European Union (EU), "High Representative Catherine Ashton to visit Kenya, Tanzania and the Republic of Seychelles", 2010, http://consilium.europa.eu/uedocs/cms_Data/docs/pressdata/EN/foraff/114482.pdf (accessed November 30, 2011).
78 | Raymond Gilpin, "Counting the Costs of Somali piracy", http://www.usip.org/files/resources/1_0.pdf (accessed November 30, 2011).

In light of this fact, the United States Institute of Peace (USIP) has criticised the EU's low levels of development aid to Somalia between 2008 and 2012, amounting to just 212 million Euros.[79] If these figures are accurate, then the financial priority of the international community seems to be more focused on protecting trading routes than on assisting the long-term development of Somalia.

According to the 1982 UN Convention on the Law of the Sea (UNCLOS), it is the responsibility of each country to safeguard their territorial waters. In the case of Somalia, this should at least be handled on a regional basis by their Arab and African neighbours. But the Asian example of the MSP in the Strait of Malacca shows that this is not possible. Here, the neighbouring states' coastguard services have had to be built up and the larger navies have had to train the regional forces. A coordinated force of coastguards from Indonesia, Singapore and Malaysia would not have been possible without the support of countries such as Japan, the USA and Australia.

In the longer term, extensive regional engagement holds the promise of lasting security, and a chance to nip in the bud copy-cat activities on the part of Yemen or other neighbouring countries.

There have been multinational initiatives to fight pirates off the Somali coast, such as the SOMCAN project, a kind of Somali coastguard set up with Canadian assistance.[80] In the longer term, extensive regional engagement holds the promise of lasting security, and a chance to nip in the bud copy-cat activities on the part of Yemen or other neighbouring countries. Smaller ports that are difficult for international maritime organisations to monitor could also be made unattractive to illegal traders and pirates by improving Port State Control. Better intelligence sharing between neighbouring states could also have a positive effect not only on the problem of piracy but also on other elements of organised crime, such as terrorism or the illegal arms trade.

The Arab world could take on a greater role in these regional initiatives. Countries such as Bahrain and Saudi Arabia already make up a significant proportion of the Combined Maritime Forces (CMF)[81], but they could take

79 | Ibid.
80 | Struwe, n. 44.
81 | Clark, n. 9.

control of maritime safety around the Horn of Africa by strengthening their own forces. None of the countries of East Africa and the Arab world can afford to let organised crime on their own doorsteps lead to more serious financial losses, as can be clearly seen with the current reaction from Kenya.

None of the countries of East Africa and the Arab world can afford to let organised crime on their own doorsteps lead to more serious financial losses.

In the long run, if the international community wants to really address the problem of piracy, it also needs to tackle the humanitarian situation, the fragility of the state and the dangers posed by terrorism on the Somali mainland. Improved regional cooperation is not enough to hide or eliminate the dreadful events playing out in Somalia and its coastal waters. The country is not totally to blame for the terrible situation it finds itself in. The effects of the 2004 tsunami were felt particularly badly by Somali fishermen[82], and the country has also been beset by constant drought. It is thus necessary to engage at local and regional level in order to offer Somali fishermen, some of whom are involved in piracy, alternatives and opportunities for the future and to work with them to make Somalia's waterways safer. If we are to believe certain experts, some pirate groups are trying to improve the lives of people in their fishing villages by initiating small but effective infrastructure projects that should really have been undertaken by the local govern-ment.[83] When pirates take on political responsibilities in their poverty-stricken heartlands, in certain cases this can enhance their credibility in the eyes of the population and in the long run could make the fight against piracy at local and regional level even more difficult. And a gradual withdrawal from the area by the large naval forces should and must not release the international community from its obligations. Quite the contrary, it is now time to support the neighbouring countries in their operations.

The 2009 meeting and signing of the Djibouti Code of Conduct represent a first milestone in a successful cooper-ation between the African and Arab states. But adjacent countries also need to take further steps on the high seas to come to the aid of their helpless neighbours. The

82 | Møller, n. 19.
83 | Young, n. 53.

invasion of southern Somalia by Kenyan troops shows the country's readiness to defend its territory against terrorists and pirates. But experts are warning that it also puts it at risk of reprisals, something which Somalia's neighbours need to face together.[84] A joint regional strategy and expansion of the Djibouti Code of Conduct are now needed as soon as possible in order to stem the tide of piracy and terrorism in a lasting way and ease the suffering of the Somali people.

LIST OF ABBREVIATIONS

AMISOM	African Union Mission to Somalia
ARS	Alliance for the Re-liberation of Somalia
ASEAN	Association of Southeast Asian Nations
AU	African Union
EEZ	Exclusive Economic Zone
BIMCO	Baltic and International Maritime Council
BMP 3	Best Management Practice
CMF	Combined Maritime Force
GHASP	Greater Horn of Africa Sea Patrol
GRC	Gulf Research Center
ICU	Islamic Courts Union
IGAD	Intergovernmental Authority on Development
IMB	International Maritime Bureau
IRTC	International Recommended Transit Corridor in the Gulf of Aden
ISEAS	Institute of Southeast Asian Studies
ISS	Institute for Security Studies
MRAG	Marine Resource Assessment Group Ltd.
MSCHOA	Maritime Security Centre – Horn of Africa
MSP	Malacca Strait Patrol
NVCG	National Volunteer Coastguard
PRC	Piracy Reporting Center
SADC	Southern African Development Community headquartered in Gaborone
SHADE	Shared Awareness and Deconfliction Meeting
SUA	Convention For The Suppression Of Unlawful Acts Of Violence Against The Safety Of Maritime Navigation
TFG	Transitional Federal Government of the Republic of Somalia
TOC	Transnational Organised Crime
UNCLOS	United Nations Convention on the Law of the Sea, concluded in 1982
UNCOD	Conference for the Reduction and Limitation of Armaments of 1932-34
USIP	United States Institute of Peace
VTS	Vessel Traffic Service
WFP	World Food Program

84 | Atta-Asamoah and Kisiangani, n. 41.