Involvement of International Community in Addressing the Piracy of Somalia

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Abstract: *Piracy is both an offence and a threat to nations and their citizens. One of the real threats posed by sea piracy to international community has been demonstrated in the Gulf of Aden and Indian Ocean off the Coast of Somalia. In the years following the collapse of government in Somalia during the late 1980s and early 1990s, Somalia has deteriorated in to a failed state causing a serious international concern and a regional crisis. The absence of central government and high unemployment has resulted in terrible consequences. One of the severe consequences of the fall of central authority of Somalia was the rise of lawlessness and the rise of piracy mainly in the Indian Ocean. This study examines the root causes, make-up, motivations, and structure of Somali pirate networks to understand how they organize and operate, and how the organizations might be disrupted. Due consideration is also given to current anti-piracy efforts and the reasons how they counter, prevent and deter the piracy in Somali waters and the Indian Ocean. This study attempts to describe the challenges and efforts of the international community in countering piracy and discusses how the international community combats piracy in Somalia from a maritime perspective.*

Keywords: Piracy, Somalia, Gulf of Aden, ReCAAP, Red Sea, CTF 151, Maritime Security Patrol Area

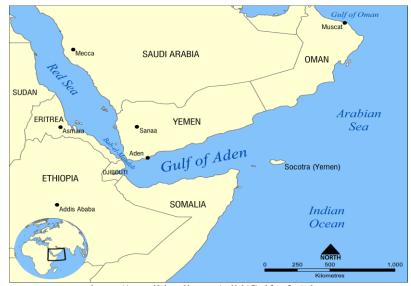## 1. Piracy off the Coast of Somalia: An Overview

Piracy of the Horn of Africa was a prominent international issue. Turning Somalia from being a failed state to a state welcomed back by the international community is an overwhelming task. The huge humanitarian and political crisis in Somalia and the wide range of consequences and dangers for the international world highlight the need for additional and a more focused attention of the world community.

The serious and wide ranging consequences of Somalia piracy are plenty. This is particularly the case for vessels containing aid shipments, which require security firms to protect them. Acts of piracy are making the delivery of aid to drought hunger stricken Somalia more difficult and costly. For example, in 2008, the World Food Program had to suspend food deliveries temporarily because of the threat of piracy, but now several countries have agreed to provide naval escorts.

It is, therefore, mandatory for the international community to effectively confront the issue of piracy in Somalia, whether through measures like naval patrols or through the use of international law. It is obvious that the danger of piracy in Somalia is almost curbed. Therefore this paper is an account of the many anti-piracy actions initiated by the multiple players in the international arena. Several maritime initiatives of international organizations and countries and other actors will be reviewed in detail. In addition, the regional and international cooperation and coordination mechanisms that play a substantial role in the restoration of Somalia sea piracy will be analyzed. At the end the challenges of Somalia sea piracy and its future condition will be assessed.

https://en.wikipedia.org/wiki/Gulf_of_Aden

Responses to the Degenerating Security Situation off the Coast of Somalia

The security threats posed by growing piracy and sea raiding along the Somalia coast and in the Gulf of Aden have attracted varying responses from various stakeholders. Responses and interventions had come from international organizations, multinational forces, regional networks and private security organizations. The nature and thrust of some of these responses are discussed briefly below.

Global Response

Threats emanating from the lack of maritime security will affect all states and, therefore, needed an international solution. Especially in Somalia in the absence of strong central government the burden of ensuring maritime security is mainly left for the international community. This, in turn, needs a collective effort from state actors and non-state actors involved in the maritime business, international organizations and the maritime industry.

Accordingly, the UN and other major international organizations such as the International Monetary Bureau (IMB) and the International Maritime Organization (IMO) passed resolutions, protocols and circulars in an effort to prevent and suppress piracy off the coast of Somalia. The IMO issued a firm guidance to deter incidents of piracy. The IMB provides a communication channel for ships under attack to seek assistance from naval forces patrolling the area (Mulugeta, 2011:76).

The UN Security Council also passed a series of resolutions in combating piracy off the Somalia coast. Resolution which was commonly adopted on 2 June, 2008, gives the right to enter Somalia's territorial water for foreign warships in order to fight piracy for a period of six months, in cooperation with the government of Somalia. The resolution affirmed that the authorization for action applies only with respect to the Somalia exceptional situation and should not be considered as establishing customary international law. It also requires states to coordinate their efforts. The resolution was renewed which extended the mandate for 12 months and gave permission for states to use all necessary means such as deploying naval vessels and military aircraft, as well as seizing and disposing of boats, vessels, arms and related equipment used for piracy. Another resolution calls upon all states interested in the security of maritime activities to take part actively in the fight against piracy on the high seas off the coast of Somalia, in particular by deploying naval vessels and military aircraft. Further resolution calls states combating piracy to conduct operations on land in Somalia for the period of one year (ibid).

As piracy becomes a concern off the Somalia coast, combined task force (CTF-150) received an expanded mandate to combat and deter it. As a result, it established a Maritime Security Patrol Area (MSPA), in August 2008 to protect ships passing through the Gulf of Aden. A force of coalition Navy warships and aircrafts from the US, United Kingdom, France, Denmark, Pakistan, Canada, Germany and Spain have been patrolling the MSPA. Pirates caught by CTF-150 and other states' naval forces were taken to court in Kenya and Yemen. In November 2008, a seven year prison sentence was passed by the Kenyan court on 10

Somalia pirates. Some other states like France and Denmark, however, choose to hold their own piracy related trials (ibid).

At the regional level, more recently, a sequence of meetings was initiated to promote regional action addressing piracy and armed robbery against ships in the wider context of maritime security. The first of these meetings was held in Yemen for states in the Red Sea and the Gulf of Aden areas. The combined antipiracy action is having a positive effect. It helped to deter an increasing number of pirate attacks. However, pirates still have targeted several vessels in the region, including vessels transiting within the MSPA. Therefore those and other supplementary points taken so as to trickle down the danger of Somalia sea piracy accomplished by different organizations will be discussed in detail below in this section.

International efforts to suppress piracy in the region have generally taken the form of supplying naval forces to detect and prohibit pirate attacks. However, the long term suppression of piracy in the region requires that governments take over responsibility for securing their own coastline and suppressing pirate activity in their territorial waters. Noting the dramatic reduction in pirate activity in Southeast Asia following the conclusion of the Regional Cooperation Agreement on Combating Piracy and Armed Robbery Against Ships (ReCAAP), governments in the region have begun to implement a similar system for coordinating anti-piracy efforts. However, the East Africa in general Somalia in particular that would be parties to such an agreement do not have the capacity to commensurate with the scope of the Somalia pirate threat. This Part will examine the effectiveness of international security fleets for the increased local involvement in the suppression and prosecution of piracy.

There were a number of international navies dedicated to combating piracy in the region. In January 2009, the United States Naval Forces Central Command established Combined Task Force 151 (CTF 151) to conduct anti-piracy missions off the Somalia coast. North Atlantic Treaty Organization (NATO) has also deployed fleets to the region to conduct anti-piracy operations. Operation Allied Provider was launched in October 2008 to provide security for World Food Program deliveries of food aid to Mogadishu.

These multinational fleets have engaged in a number of distinct anti-piracy missions. For example, CTF-151 has established a Maritime Security Patrol Area, a stretch of ocean in the Gulf of Aden patrolled by coalition warships. Although a useful service, this provides protection only in a small area. This idea might be extended by creating escorted convoys of merchant ships, but given the high volume of commercial traffic through the region, such a system may prove too costly to administer. Attempting to sanction against pirate attacks on the high seas is ineffective and inefficient solution. Because there is no central government to make end implement the embargo. There are also significant legal concerns inherent in the suppression of piracy in East Africa by foreign states. Acts of piracy have long been held subject to universal jurisdiction. However, while international law

provides a definition for piracy and provides states authority to control and seek pirates, the substantive aspects of prosecutions for piracy are generally conducted under the local law of the capturing state(Tennis, 2011).

The International Sea Organization
Somalia located in the horn of Africa sits along one of the world's busiest waterways. Over 21,000 ships use the Gulf of Aden to cross from the Mediterranean Sea to the Indian Ocean each year via the Suez Canal and Red Sea, and nearly 11% of the world's sea borne petroleum passes through this region as well. Only up to 32.1 km wide in some places, the Gulf of Aden has proven to be a perfect place to waylay cargo ships transporting valuable goods for the Somalia pirates, and this waterway has earned the nickname Pirate Alley. Under this area a lot of organizations participated and played their own role in curbing the dander of Somalia piracy. Accordingly the contribution of those organizations that had been engaged to handle the issue will be described below.

Actions Taken by the United Nations
Part VII of the Law of the Sea Convention deals with issues of piracy on the high seas. Article 100 states that repression of piracy is a collective duty for every state, even in their non-jurisdictional waters. Article 105 states that any military vessel has the right to seize a pirate ship and its property on board, arrest the crew, and put them on trial under their national jurisdiction, as long as such a seizure takes place on the high seas or in any waters outside the jurisdiction of that particular state.

Therefore, when piracy occurs in the territorial waters of a particular state, pirates are subject to that state's jurisdiction and capacity to prosecute. The narrow scope of the Law of the Sea Convention's piracy provisions severely limits the availability of international law to deal with piracy in places such as Somalia.

For instance in September 2012, a Danish warship captured 10 men suspected of being pirates cruising around the Gulf of Aden with rocket propelled grenades and a long ladder. But after holding the suspects for nearly a week, the Danes concluded that they did not have jurisdiction to prosecute, so they disembark the pirates on a beach, minus their guns. Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, relating to mutual legal assistance, assistance in prosecution and extradition, matters not addressed in the law of the sea.

The Security Council restates its condemnation of all acts of piracy and armed robbery against vessels in Somalia territorial waters and on the high seas off the coast of Somalia. It also called upon organizations to cooperate with the shipping industry and the IMO, and to operate consistently with the resolution and relevant international law by deploying naval vessels and military aircraft, and through seizure and disposition of boats, vessels, arms and other related equipment used in the commission of piracy and armed robbery off the coast of Somalia.

Similarly, Resolution 1851, adopted on December 16, 2008, invited states to make special agreements with other nations in the region to facilitate prosecution of pirates. It also encouraged the creation of an international cooperation system and a center for the sharing of information. It further held that for twelve months following the adoption of Resolution 1846, states and regional organizations cooperating in the fight against piracy and armed robbery at sea off the coast of Somalia for which advance notification has been provided by the TFG to the Secretary General may undertake all necessary measures that are appropriate in Somalia, for the purpose of suppressing acts of piracy and armed robbery at sea, pursuant to the request of the TFG.

These measures, however, must be undertaken in a manner consistent with applicable international humanitarian and human rights law. These resolutions were adopted after suggestions arose that hijackers could escape the Law of the Sea Convention's definition of pirates provide a legal basis to effect the rapid transit ashore of pirates captured at sea where both the flag State and the receiving State are States Parties to SUA. The receiving State Party to SUA is required to make an immediate inquiry into the facts, and to notify other State Parties that might have jurisdiction as to whether it intends to exercise its jurisdiction. The receiving State Party is required to extradite such offenders to another State Party with jurisdiction or to submit the case to its competent authorities for the purpose of prosecution (Ranee, 2010).

The Security Council
The Security Council has played an active role in fighting Somalia piracy. It is the main source for international legislation and it has been the main spur for other actors to assume an active role in fighting piracy. The Security Council has been relevant in clarifying and reminding states of the rights and obligations under International Law that pertain to every state in fighting piracy.

A series of resolutions have been dedicated to tackling Somalia piracy apart from Somalia's ongoing situation. The first resolution in 2008 dates from June; resolution 1816 recalled the provisions of the UNCLOS and urged, under paragraph 2, every battleship present in the region to take up responsibility in this regard, allowing every state in cooperation with the TFG to enter Somalia's waters. This resolution authorized states to act in cooperation with and with prior notification of the TFG to:

a) Enter the territorial waters of Somalia for the purpose of repressing acts of piracy and armed robbery at sea, in a manner consistent with such action permitted on the high seas with respect to piracy under relevant international law; and
b) Use, within the territorial waters of Somalia, in a manner consistent with action permitted on the high seas with respect to piracy under relevant international law, all necessary means to repress acts of piracy and armed robbery.

This was a proactive stance in fighting piracy. For the first time, a state warship can suppress acts of piracy and armed robbery not only on the international waters, but also in the territorial waters of Somalia. This only requires the permission of the Somalia Transitional Federal Government (TFG) and its notification of the UN Secretary General. The

absence of effective coast guards, police, and efficient judicial system in Somalia encouraged the Security Council to adopt such unprecedented resolution acting under Paper VII of the Charter of the United Nations. This resolution was passed with Somalia's consent.

However, this resolution is contrary to states obligations under the UN Convention on the Law of the Sea and High Seas Convention. That is why the resolution affirms that the authorization to enter the territorial water of a state applies only with respect to Somalia and shall not affect the right or obligations, or responsibilities of member states under international law and shall not be considered as establishing customary international law. Thus, the authorization was exceptional to the case of Somalia.

The latest Security Council Resolution concerning Somalia piracy was adopted in November 2009, renewing the authorization of states to enter Somalia territorial waters to fight piracy and armed robbery against ships with the permission of the TFG and the notification of the UN General Secretary. The authorization was renewed for another twelve months.

In the final analysis, the long series of resolutions adopted by the Security Council has focused at three levels;

The first is to develop a coordinated response among countries engaged in fighting piracy in Somalia. The UN succeeded in this respect with the formation of the Contact Group on Piracy off the Coast of Somalia (CGPCS).

The second is to encourage states to assist TFG to bring justice to pirates operating in their land.

The third is to support International Maritime Bureau (IMB) to continue to develop and implement avoidance, evasion, and defensive best practices and guidelines to follow when under attack or sailing in waters of the Coast of Somalia with coordination with shipping and insurance industries (W. Michael, 2011)

This implies that the Security Council becomes active in approving mandates adapting the legislation to changing circumstances, supporting and urging the implication of willing states, with the goal of putting an end to the curse of piracy in the Horn of Africa. Its resolutions represent an important legal base for the states that have been establishing new mechanisms or have been upgrading their presence in the region.

Combined Task Force (CTF)
Somalia pirates attracted the biggest modern anti-piracy military operation, given the number of the countries taking apart and the size of naval presence dedicated to counter Somalia pirates. In this regard, there are three coalitions of naval forces have been deployed on the Gulf of Aden operating under different umbrellas but unified on one goal to stop and deter Somalia pirate attacks. Besides, individual countries unilaterally sent their warships to protect vessels carrying their flags passing off Somalia waters. Thus, the area of the Gulf of Aden and surrounding Somalia waters experiencing extraordinary military presence.

Before the establishment of CTF-151, this area was under the charge of CTF-150 which has performed counter terrorism and maritime security operations since 2001. In August 2008, CTF-150 and partner forces established the Maritime Security Patrol Area (MSPA) in the Gulf of Aden to serve as a dedicated, more secure transit zone for merchant vessels. MSPA was effective in reducing Somalia pirates' attacks in the Gulf of Aden transit zone.

Currently Combined Task Force (CTF 150) conducts maritime security operations in the Gulf of Aden, Gulf of Oman, the Arabian Sea, Strait of Hormuz, Red Sea and the Indian Ocean. By the end of 2007 CTF 150 comprise of naval forces from Canada, France, Germany, Italy, Pakistan, the United Kingdom and the United States, while nations that have participated include Australia, Italy, Netherlands, New Zealand, Portugal, Spain, Turkey, Bahrain and Saudi Arabia.

CTF 150 was established in 2001 as the maritime adjunct of Operations enduring freedom, launched by the United States in response to the 9/11 attacks. Its key responsibilities are to monitor, inspect, board and stop suspect shipping, limit maritime crime and piracy and conduct operations to assist states in the region to combat terrorism and to enhance regional stability. According the official sources, CTF 150 will maintain a sustainable presence off the Horn of Africa for an indefinite period of time.

The involvement of European states in CTF 150 relates to their responsibilities within NATO and the EU. These countries are unlikely to get involved in Africa unilaterally and are usually careful to first consult with the AU and African nations. Although some of these navies (like the German Navy) are stretched for alternatives due to their involvement in other regions, like the Middle East, they will probably remain a part of CTF 150. A factor that limits CTF 150 is restrictions posed by international law and it would interesting to see if other countries will follow the French initiative to escort WFP ships between Mombasa to Mogadishu.

CTF 150 is without doubt an important role player in the Horn of Africa region. Through its forward presence it deters upright activity at sea, enhance the security of maritime communications, while also safeguarding energy installations and harbors in its area of operations. No single state has the capacity to conduct such extensive operations on its own, which makes the requirement for permanent coalitions force (Ahmed, 2011).

NATO
NATO and the EU have been the most active actors to limit or suppress piracy in the Gulf of Aden. NATO started as soon as in October 2008 to provide escorts to the food deliveries of the WFP due for hunger stricken Somalian people. As the report of Chatham House pointed out, the danger of humanitarian catastrophe is one of the biggest concerns with piracy. According to the WFP, disruption of supplies caused by piracy could starve 2 million people.

Therefore, NATO destined four frigates from Italy, Greece, Turkey and the UK, part of the Standing NATO Maritime Group, upon the request of the UN. The request was prompted by the need to provide security for deliveries before the EU could set up its projected naval force (Ahmed, 2011).

In addition to Combined Task Force 151, NATO deployed its own anti-piracy operation. In October 2008, the North Atlantic Treaty Organization (NATO) deployed its first anti-piracy operation, named Operation Allied Provider, to serve as a temporary protection force for World Food Program assistance shipments in the Horn of Africa (ibid).

This operation only lasted for two months, before NATO end it and reassigned the task of protecting WFP maritime cargos to the European Union's new naval operation. In March 2009, NATO initiated a new anti-piracy mission named Operation Allied Protector under the command of Standing NATO Maritime Group. The mission was to deter, defend against and disrupt pirate activities. In August 2009, NATO replaced Operation Allied Protector with a new antipiracy mission, named Operation Ocean Shield, under the command of Standing NATO Maritime Group. The new mission of Operation Ocean Shield is to fight piracy and contribute in capacity building efforts with regional governments. Warships form United Kingdom, Greece, Italy, Turkey, and US are taking part in Operation Ocean Shield.

Operation Atlanta

Far bigger effort is the naval force set up by the EU (EU NAVFOR) under the name of Operation Atlanta. The operation was set up in two steps. First an antipiracy coordinating cell (EU NAVCO) was set up on September 15th through the Council Joint Action with the goal of exchanging information and coordinating antipiracy naval operations; the initiative came from a meeting between the two ministers of defense of France and Spain in August. Second the EU NAVCO was disbanded as soon as the decision to establish the naval force was taken on the 8th of December (Ahmed, 2011).

The mission of the force was already stated in the Joint Action approved on November 10th as consisting of:
a) Accompanying ships mandated by the WFP to deliver food to Somalia,
b) Protecting the passage of merchant ships cruising through the area,
c) Keeping watch over areas off the Somalia coast and
d) Deterring and preventing acts of piracy off the coast of Somalia.

International Maritime Bureau (IMB)
Another international body that performs a vital mission in the region is the International Maritime Bureau (IMB), an organ belonging to the International Chamber of Commerce (ICC) and based in Kuala Lumpur. This body manages a Piracy Reporting Center and releases key reports accounting for the trends and incidents happening all through the year, very valuable information for analysts and shipping companies operating in hot areas. The Organization

was established in Geneva in 1949 and has its office operating in London. Apart from its responsibilities regarding legislation and other matters concerning maritime traffic, the IMO also handles the problem of piracy (Ahmed, 2011).

The objective of the IMB is to protect international trade from crime, fraud and malpractice. The IMB Piracy Reporting Centre commenced in 1992. The Centre is based in Kuala Lumpur and refers reports of piracy attacks to law enforcement agencies and issues warnings to shipping on areas of high risk of piracy. For IMB reporting purposes, it has been determined that the meaning of piracy as defined in the Convention is not sufficient for the industry which includes insurers and insured parties.

There are difficulties in States taking proceedings to prosecute the pirates they capture. Prosecutions are costly and difficult to mount logistically. There have been several trials in the United States, one in Holland and a number in Kenya, a neighboring State to Somalia, and there is concern that the prosecutions are only picking up foot soldiers and not the organizers and principal beneficiaries on shore. It is recognized that to reduce the incidence of piracy in the Gulf of Aden a principal task for the international community was rebuilding of the collapsed Somalia government (ibid).

International Maritime Organization (IMO)
The International Maritime Organization (IMO) is an agency of the United Nations Organization with the responsibility for the safety and security of shipping. It is the vehicle through which nations arrange consultations leading to treaties in this area. Examples of the work of the IMO are the Convention for the Safety of Life at Sea 1974, Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation 1988, and the ISPS Code (International Ship and Port Facilities Security Code 2002). IMO has not been required to take further steps with regard to piracy than is provided for in the Law of the Sea Convention, but it has undertaken initiatives aimed at fostering agreements between governments in piracy infested areas and a range of measures to counteract piracy (Ahmed, 2011). Since the degeneration of sea security in the Somalia waters, the International maritime Organization (IMO) has lead the way in pushing the crime of piracy for addressing the security challenges at international forum. The IMO is an autonomous body, operating within the UN network, whose main function is to regulate commercial shipping and tackle marine pollution. In line with its remit, the body has intensified efforts to bring the threats posed by growing piracy in Somalia waters to the attention of both the TFG in Somalia and the United Nations Security Council (UNSC) since 2005.

2. Summary and Concluding Remarks

Although international community showed remarkable responses to Somalia piracy, a lot people are not convinced and clear regarding the role of the international community. Even a lot of papers and books published so far were in favor of the weak side of the international community and international organizations. However as findings of this paper indicate, the role of the international community takes

a very substantial role in curbing the danger of Somalia piracy. Consequently the fact is that without the collaboration of the international community, which is described in detail under paper four, the situation of piracy in Somalia will not be like the present situation which is almost addressed. Eventually the reality is not like what is theoretically studied and orally talked but like what happened practically. However it does not mean that the international community and the international organizations do not have weaknesses. They just come across over a lot of challenges and eventually achieved curbing the danger of Somalia piracy.

Given these factors, Somalia piracy continues to pose a threat to the security and freedom of international maritime navigation. More seriously, the incident of piracy affects Somalia population, because maritime piracy impedes the delivery of relief aid necessary to sustain and feed a substantial part of the population. Somalia piracy also imposed direct costs on the immediate victims of the attacks, the ships and their cargoes, and the shipping companies.

In light of the issues highlighted in this paper, some concluding remarks can be advanced to make the future responses of the international community efficient and effective in preventing piracy and other transnational crimes more efficiently. Maritime law enforcement against pirates should conform to the basic principles of international humanitarian law and human rights. The main goal should be to adopt, together with the UN special envoy targeted development policies. International organizations engaged in should consider investing in capacity building, assisting the Somalia government in rebuilding an effective coast guard. The international community should commit itself in bringing about a comprehensive political settlement and in establishing a genuinely functional and broad-based government in Somalia.

This paper would like to conclude with a saying that transnational crimes are global problem and they seek global solution. Accordingly globalization could succeed and advance the interests of the world if it does not occur at the expense of, and to the detriment of any group or nation. Either we all pull together and succeed in tandem or we all falter and fail. Therefore the international community should strengthen its unity more than ever before in order to address common problems and to make collaboration with all countries of the world to prevent and eradicate such global issues as long as a problem shared is a problem halved.

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