



PIRACY OFF SOMALIA AND ITS CHALLENGES TO MARITIME SECURITY: PROBLEMS AND SOLUTIONS

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Abstract:

The recent surge of piracy off the Horn of Africa has raised the alarms among the International Community. New methods and sophisticated weapons have enabled pirates to jeopardise the flow of merchandises through that region and have created a new security problem. Limits to the provisions of existing International Law and the incapacity of many states to put them into practice have brought the Security Council to issue a series of Resolutions to involve concerned countries in repression: the response has been an unprecedented deployment of foreign navies in different multilateral or unilateral initiatives in order to curb piracy and the row of hijackings that occurred so far. But the dismal state of Somalia, a paradigm of failed state, is the key to understand the chances of putting an end to the scourge: as long as Somalia lacks a real government, any naval initiative against piracy will be but a mere patch to the real problem. Foreign intervention in Somalia needs understanding the real situation and having the tools to put into practice any long-term solution.

Keywords: Piracy, Somalia, International Law, foreign intervention.

Resumen:

El reciente incremento de la piratería en las costas del Cuerno de África ha puesto en alerta a la Comunidad Internacional. Los nuevos métodos y un armamento más sofisticado han permitido a los piratas dañar al libre comercio de mercancías creando así un nuevo problema de seguridad. Los límites en el Derecho Internacional existente y la incapacidad de muchos países de poner en práctica sus disposiciones han llevado al Consejo de Seguridad a emitir una serie de Resoluciones para involucrar a todos los países afectados en labores de represión: La respuesta ha sido un despliegue sin precedentes por parte de diversas armadas extranjeras a través de iniciativas unilaterales y multilaterales para poner fin a la piratería y a la serie de secuestros que han tenido lugar. Sin embargo el desastroso estado en el que se encuentra Somalia, paradigma de estado fallido, es clave para vislumbrar las posibilidades de éxito de cualquier iniciativa naval: Hasta que Somalia no tenga un verdadero gobierno, no se tratará más que de parches sobre el problema real. Intervenir en Somalia requerirá una clara comprensión de la situación real y la posesión de las herramientas para poner en práctica una solución a largo plazo.

Palabras Clave: Piratería, Somalia, Derecho Internacional, intervención extranjera.

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1. Introduction

Piracy is an old phenomenon dating back to ancient times and is a popular source too for adventure movies. But far from the romantic landscape of the Caribbean Seas and beyond the belief of piracy as something belonging to the old days, it is still nowadays a tangible reality that has suddenly come onto the international scene and caught the attention of public opinion because of the recent surge in one of the most critically important chokepoints of the planet: the region bordering the Red Sea and the Indian Ocean around the Strait of Bab Al Mandeb, lying between the Horn of Africa and the southernmost tip of the Arabian Peninsula. The strait is one of the critical gateways for most of the globe's trade and its disruption could jeopardise the free flow of merchandise from Asian workshops and oil imports from the Gulf Countries. Asian waters in the Philippines and Indonesia are known for being infested, but piracy there has not reached so far the same dimensions as in the Horn of Africa. The reason is quite simple, the existence of one of the best examples of a failed state: Somalia.

The first part of this article will review the evolution of piracy in the Horn of Africa in recent months and the responses from different actors, national, international or sub-national, along with the economic and political consequences. In addition to economic harm, piracy is dreaded as a potential financial and human source for terrorism, a cause of environmental catastrophes if oil-tankers were to be sunk and in the case of Somalia, a particular cause for humanitarian disaster if deliveries to the hunger-stricken country were to be stopped². The second part will focus on the origins of the problem by reviewing the political situation in Somalia. The third part will deal with the initiatives undertaken by the international community to tackle the problem and our own suggestions for finding a solution.

2. Piracy off the Horn of Africa

In October 2008 a briefing paper from Chatham House was published about the topic of piracy off the coast of Somalia³, becoming an authoritative document on a topic that has not been trodden very thoroughly in the academic world. The growing dimensions of the problem are feeding a concern that is finding its expression in the many press articles that are lately being devoted to this scourge.

2.1 Evolution

Until 2007 there were no hints about such a sudden surge of piracy. Indeed after a big dip in 2004, the number of attacks have been growing steadily, but as the aforementioned report shows with data from the ICC International Maritime Bureau (IMB), from 2007 to 2008, attacks more than doubled off Somalia and the Gulf of Aden⁴. The alarms about surging piracy which had appeared already in 2007 would surely have been bigger had such a rise been foreseen; misleadingly optimistic assessments by the IMB at the beginning of that year were mainly taking into account the positive trends in the Strait of Malacca⁵, at the time, the main threatened chokepoint. But the 2007 annual report already showed the scary trend: If the

² Middleton, Roger: "Piracy in Somalia, Threatening global trade, feeding local wars", *Chatham House*, Briefing Paper, Africa Programme (October 2008), p. 1.

³ *Ibid.*

⁴ *Ibid.*, p. 3.

⁵ Nizza, Mike: "After a Dip in Attacks, Pirates Mount a Comeback", *New York Times*, October 16, 2007, in <http://thelede.blogs.nytimes.com/2007/10/16/after-a-dip-in-attacks-pirates-mount-a-comeback/>.



biggest rise took place from 2004 to 2005, jumping from 2 cases to 35 cases, the takeover by the Islamists in 2006 drove figures down to 10 cases. As the Islamist government of the “Islamic Courts Council” was toppled by the Ethiopian intervention at the end of 2006, actively supported by the US⁶, chaos crept back to Somalia: 31 cases of pirate attacks were the main consequence, but as the same figures showed, the area of the Gulf of Aden and the Red Sea was not yet engulfed by piracy, as the 13 cases of 2007 compared well with the 18 that 2004 registered⁷. The big leap came in 2008 as pirates jumped from their bases in Somalia to the whole Gulf. The figures show an unprecedented surge: in the period corresponding from January to September 2007 only 10 attacks were reported in the Gulf of Aden, but the same period of last year suffered the appalling number of 51 attacks, roughly a 400% increase in attacks compared with the preceding year⁸. Then press reports counted as many as 92 attacks and 36 hijacked ships based on the latest reports by the International Maritime Organisation (IMO)⁹.

2.2. New Means Available to the Pirates

But what is the basis for such a worsening? Before going into the details of the general political and economic situation in Somalia that have laid the ground for such a development of piracy, it is necessary to take into account the technical improvements at hand to the pirates that enable them to wield greater power and embolden them to actions never thought of before. The main logistic and determining innovation is the use of “mother ships”. Instead of relying on skiffs whose range limits them to the coast and thus limits the scope of their attacks, since 2007 “mother ships” transport the skiffs to more fruitful distances where bigger catches trail through the Gulf of Aden, with the added advantage that these ships are confused with fishing ships, making spotting them the more difficult¹⁰.

In addition to the “mother ships” enabling an increase in their reach, pirates are fitted with increasingly sophisticated weapons. They do not just own MANPADS (Man Portable Air Defence Systems) but also grenade launchers (RPGs), far more effective weapons than the automatic arms that were used only when the victim was at short firing distance. But improved means are not limited to better ships and weapons, they also possess GPS systems that help them spot ships from a certain distance and they are also suspected to be linked to networks providing information from several ports in Asia, Europe and the Gulf Countries¹¹. Indeed a reinforced presence of warships in the region would put the range of action of pirates in jeopardy, as the speed of 25 knots the skiffs are supposed to reach thanks to their strong motors can be matched by the maximum speeds of many frigates and destroyers¹². As one Italian officer put it very graphically, the massive presence of a battleship chasing pirate skiffs

⁶ Stevenson, Jonathan: “A Fleeting Victory”, *New York Times*, 14 January 2007, in <http://www.nytimes.com/2007/01/08/opinion/08stevenson.html>.

⁷ “Piracy and Armed Robberies against Ships, Annual Report”, *ICC, International Maritime Bureau (IBM)* London, 1st January- 31 December 2007, p. 6.

⁸ “Piracy and Armed Robberies against Ships, Annual Report”, *IBM*, Report for the Period 1st January-30 September 2008, p. 7.

⁹ “La vigilancia internacional hace aguas ante los piratas de Somalia”, *El País*, 18 de noviembre de 2008, in http://www.elpais.com/articulo/internacional/vigilancia/internacional/hace/aguas/piratas/Somalia/elpepuint/2008/11/19/elpepuint_9/Tes?print=1.

¹⁰ Nizza, Mike: “Intensifying the Hunt Against Somali Pirates”, *New York Times*, 28 November 2007, in <http://thelede.blogs.nytimes.com/2007/11/29/intensifying-the-hunt-against-somali-pirates/>.

¹¹ Middleton, *op. cit.*, p. 6.

¹² French Surveillance Frigate “*Nivôse*” and “*Floréal*” active in the zone are limited to 20 knots, while *Premier Maître l’Her* comes close with 24 knots, but the “HMS Northumberland” for example, also present in the EUNAVFOR, has a maximum speed of 28 knots.



would be equal to the image of “going after someone on a bicycle with a truck”¹³. However, things are more complicated. Although battleships might be able to reach pirate skiffs, their manoeuvrability could give them an escape, while firing is limited by International Law as it would be allowed only in the case of self-defence¹⁴.

Finally we should also add that pirates have shown a great capacity of adapting to the more stringent measures taken against them. They have lately been devising new tactics, such as attacking in packs of up to 20 or even 30 skiffs¹⁵, surrounding the prey and making defence even more difficult. We can imagine that in such circumstances fleeing from any approaching gunned vessel makes escape more likely and significantly reduces the deterrent effect, even if international waters become more secure. But still even if efforts by concerned navies were to bring potential deterrence, a big hindrance to effective response are the provisions of International Law.

2.3. International Law and Piracy

Piracy is clearly defined by the UNCLOS (United Nations Convention on the Law of the Sea) in its VII Section relating to the High Seas, article 101¹⁶, while article 105 clearly states that any ship (only military ones according to article 107) is entitled to seize and occupy the possessions of any pirate ship, put its crew under arrest and try them under its national jurisdiction as long as the seizure takes place in the High Seas or any waters beyond the jurisdiction of any particular state. So far then, in abeyance to International Law no obstacle should exist to any effective response from countries fighting piracy, but one problem stems from the fact that although entitled to, few countries are willing to shoulder the cost of prosecuting pirates in their own countries¹⁷. We can then understand the reasons a pirate had, when quoted, for stating that the cost of being caught would not run further than being sent back home empty-handed¹⁸. The unlikelihood of seeing Somalia, a failed and barely existent country, prosecute pirates handed over by foreign navies, adds up to the dilemma: France handed over eight pirates to the authorities of semi-autonomous Puntland¹⁹ (a haven for piracy where many officials are also involved, possibly even the administration of former president Abdullah Yusuf²⁰), while Denmark still keeps five pirates accused of having carried out an

¹³ Gettleman, Jeffrey: “Pirates Outmanover Warships off Somalia”, *The New York Times*, 16 December 2008, in <http://www.nytimes.com/2008/12/16/world/africa/16pirate.html?sq=Piracy&st=cse&s>.

¹⁴ Rizzi, Andrea: “Obstáculos legales para combatir el fenómeno”, *El País*, 19 November 2008, in http://www.elpais.com/articulo/internacional/Obstaculos/legales/combatar/fenomeno/elpepiint/20081119elpepiint_2/Tes?print=1.

¹⁵ Jeffrey, *op. cit.*

¹⁶ Article reads as follows:

Definition of piracy

Piracy consists of any of the following acts:

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

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

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

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

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

¹⁷ Burgess Jr., Douglas R.: “Piracy is Terrorism”, *The New York Times*, 05 December 2008, in <http://www.nytimes.com/2008/12/05/opinion/05burgess.html?sq=Piracy&st=cse&scp>

¹⁸ Jeffrey, *op. cit.*

¹⁹ Hassan, Abdiqani: “France hands pirates to Somalia, more attacks foiled”, *Washington Post*, 02 January 2009, in <http://www.washingtonpost.com/wp-dyn/content/article/2009/01/02/AR20090102013>

²⁰ Middleton, *op. cit.*, p. 5.



attack on a ship from the Dutch Antilles until it is decided which country is to take care of their prosecution²¹. But with a worsening of the civil unrest that plagues Somalia on the horizon, as Ethiopia pulls its troops out of the country, the possibility of having a stable government able to try every pirate handed over becomes even more unlikely.

In addition to the problem of legal responsibility of any seized pirates, we cannot forget the limitations already mentioned of firing on any ship suspected of involvement in acts of piracy. In November of last year an Indian frigate managed to sink a “mother ship” only after it responded to the demand from the battleship to carry out an inspection (an act which is covered by the International Law)²² by firing at it. In December, the frigate Absalon of the Danish Navy sunk a suspected pirate ship after it rescued its members that had been drifting for several days, but such procedure was based on the standard action of sinking any abandoned boat (as it could not be towed) that could represent any danger for other ships²³. In both cases the battleship stayed short of staging any attack on suspected pirate ships (the case of the Absalon had actually nothing to do with chasing pirates). Unless a resolution of the Security Council approves such a procedure, such as at least allowing any battleship to open fire on any ship refusing inspection (fleeing from any approaching battleship might be suitably considered as a reason for attacking), the range of action for navies set to police the Gulf of Aden will be equally limited.

The possibility of equating piracy to terrorism based on the old consideration of pirates as “enemies of humankind” as some analysts have put forward²⁴, would equally require either permission from the Security Council of the United Nations or a deep reform of the UNCLOS. If that could be performed, it would enable many ships involved in anti-terrorist activities to fully participate in anti-piracy actions, avoiding problems such as that faced by the German frigate Emden, who could not intervene against pirates attacking a Japanese tanker²⁵. It could also open the door to handing over captured pirates to the International Court, thus freeing policing countries of the dilemma of handling prosecution by themselves²⁶. But so far such a possibility has not even been seriously considered and, although in the last year, the Security Council has expanded through several resolutions the range of action of navies pursuing pirates, as we will later see, many of the existing barriers still exist.

Finally it should be mentioned that an additional problem, unrelated to legal matters but that nevertheless incredibly limits the action of anti-piracy measures, is the fact that pirates off Somalia have been specializing in kidnapping ships and trading their liberation for substantial ransoms. Once a ship is under the hold of pirates, every attempt to liberate it through force would imperil the security of the hostages, thus reducing the deterrent role to a mere mission of vigilance; the case of the Ukrainian cargo *MV Faina*, hijacked with substantial weapons, is illustrative, as even skiffs heading for the ship had to be released by

²¹ “Denmark holds suspected pirates”, *Washington Post*, 03 January 2009, in <http://www.washingtonpost.com/wp-dyn/content/article/2009/01/03/AR2009010300959.html>.

²² Rojas, Ana Gabriela: “India asesta el primer golpe a los piratas”, *El País*, 20 November 2008, in http://www.elpais.com/articulo/internacional/India/asesta/primer/golpe/piratas/elpepiint/20081120elpepiint_2/Te s?print=1.

²³ “Danish navy sinks suspected pirate boat”, *International Business Times*, 05 December 2008, in <http://www.ibtimes.com/articles/20081205/danish-navy-sinks-suspected-pirate-boat.htm>.

²⁴ Burgess Jr., *op. cit.*

²⁵ *Ibid.*

²⁶ *Ibid.*



the American Navy when intercepted, as that might have represented a big danger for the hostages²⁷.

3. Situation in Somalia

The key to understanding the circumstances from which piracy in the Gulf of Aden originates is the situation of Somalia, particularly since 1991 when the country descended into mayhem as the end of Siyad Barre's regime ushered it into an endemic state of civil war. Since then the rare moments of peace and stability have not lasted long.

Somalia is a complex puzzle where tribes, clans, ethnic cleavages and religion overlap to form an explosive combination. Adding to this complexity, Somalia experienced, as most of the African countries, colonization, seeing its territory divided between France (Djibouti), the United Kingdom (Somaliland) and Italy (Somalia), leaving behind fault lines still existing today, as is the case in Somaliland, a territory keeping a de facto independence from the rest of the country. From the very beginning relations with the neighbouring countries have been tense, in particular with Ethiopia, whose territory encompasses the region of Ogaden, ethnically Somali.

When the Republic of Somalia was born in 1960, a short decade of parliamentary democracy and centralization seemed to endow the new country with a certain stability²⁸. But corruption and tensions between South and North started plaguing politics and favoured the welcome given to Siyad Barre's coup in 1969. Unfortunately Barre shoulders much of the blame for the chaos that would end up reigning in the 90s. His socialist project included an imperialist concept of Great Somalia, which led to disastrous wars with Ethiopia for the control of Ogaden once the communist revolution in Ethiopia led the USSR and its allies to switch support from Mogadishu to Addis Ababa. The support of the US propped up the regime, but nothing could help the dictator to make up for his disastrous management of the tribal problems. Having forbidden any parties, loyalties ended up gravitating around clans and ethnicity, while Barre only trusted his family and his own clan for government. This set the opportunity for Ethiopia to support the Somali National Movement (SNM), stemming from the disenchanted clan of the Ishaqs. The United Somali Congress (USC), grouping enemies of the regime, ganged up with the SNM and managed to oust Barre in 1991²⁹.

Since 1991, complete chaos has been common rule in Somalia. The region of Somaliland seceded in 1991 and has remained de facto independent since then, owning a Constitution since 2002. Puntland did not go that far, but under Egyptian and Libyan sponsorship, it emerged as an autonomous region in 1998. Both regions enjoy great stability (in particular Puntland) compared to the rest of the country, where in spite of all attempts to restore order, warlordism has engulfed the territory in mayhem, misrule and poverty. The most important attempt to impose order from abroad came at the inception of the war. In 1992 UNOSOM I sought to protect humanitarian aid systematically captured by warlords, but suffered the constant harassment of local militias. The next year, UNOSOM II came to assume the functions of an American task force, the United Task Force or UNITAF that had been already deployed before in December 1992 under the mission name of *Operation*

²⁷ Jeffrey, *op. cit.*

²⁸ Gutiérrez de Terán, Ignacio (2007): *Somalia, Clanes, Islam y Terrorismo Internacional*, Madrid, Catarata, pp. 26-29.

²⁹ *Ibid.*, pp. 32-43.



Restore Hope, and which managed to avert a crude humanitarian catastrophe³⁰. But both the American force now as a support operation to UNOSOM II, (*Operation Continue Hope*) and UNOSOM II itself had to withdraw in 1994³¹ and 1995 respectively after having suffered from military setbacks (The case of the downed helicopter *Black Hawk* is the most notorious one) and growing opposition from the population who came to see foreign troops as the main enemy. The goal of restoring the political situation never really succeeded under the aegis of the UN. In 1995 the two main factions, the Somali National Alliance (SNA) of Farah Aidid and the Somali Salvation Alliance (SSA) of Ali Mahdi signed a peace agreement (against the advice of the UN) and in 1997 the “Cairo Declaration” was signed by most of the factions, but these agreements did not establish a permanent and stable foundation for restoring the Republic, which remained split³².

The current decade has seen more substantial results with the creation of the Transitional National Government (TNG). The first TNG, the only internationally recognized government for a decade, was agreed to in Djibouti, but failed to extend its rule beyond Mogadishu given the opposition from most of the warlords and Ethiopia, eager to see Somalia split and worried about the emerging threat of Islamism. The second experiment of a TNG appeared in 2004 and suffered from the same problems as the former. But the takeover of most of the country by Islamist militias and the creation in mid-2006 of the government of the Islamic Courts, bringing stability to the country for six months, led to the support given by the US to an Ethiopian intervention to oust the new power and back the TNG led by president Abdullah Yusuf. The looming intervention brought back the spectre of war and humanitarian disaster³³, but actually the Islamist regime collapsed immediately under the Ethiopian push³⁴. However, the new situation brought back a TNG in the same position as before the Islamist takeover, namely a government restricted to the area of Mogadishu and far from having a grip on the rest of the country, not to mention Somaliland and Puntland. But even more important is the fact that the only government that could have brought stability to the country after 15 years of mayhem was ousted to leave Somalia in its former state; even worse it turned it into the ideal haven for piracy. The war against terrorism and the war against piracy excluded each other in the priorities of US foreign policy, the trade off seemed reasonable when the phenomenon had not reached its current dimensions and did not raise much concern. However, since last year, global trade has suffered the consequences of almost two decades of void and misrule in the Horn of Africa.

4. International Response

The international response has been gathering momentum with the recrudescence of piracy in the last year. The initiative has stemmed from both national and international actors. Meanwhile commercial actors have been forced to take additional protective measures to

³⁰ Global Security, in http://www.globalsecurity.org/military/ops/restore_hope.htm.

³¹ Global Security, in http://www.globalsecurity.org/military/ops/continue_hope.htm.

³² Global Security, in <http://www.globalsecurity.org/military/world/war/somalia-south.htm>.

³³ Gentleman, Jeffrey; Mazzetti, Mark, “Somalia’s Islamists and Ethiopia Gird for a War”, *The New York Times*, 14 December 2006, in

<http://www.nytimes.com/2006/12/14/world/africa/14somalia.html?sq=Somalia&st=cse&scp=27&pagewanted=print>.

³⁴ Stevenson, Jonathan, “A Fleeting Victory in Somalia”, *The New York Times*, 14 January 2007, in <http://www.nytimes.com/2007/01/08/opinion/08stevenson.html?sq=Somalia&st=cse&scp=28&pagewanted=print>.



confront the threat while effective measures from political actors are still in the process of formation and implementation.

4.1. Security Council

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 (article 100 of the UNCLOS establishes the repression of piracy as a collective duty for every state in non-jurisdictional waters) and has served as an actor that admonished them to assume responsibilities. It has also added new provisions such as allowing pursuit of pirates into Somali jurisdictional waters and lately into their own territory too.

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 TNG to enter Somalia's waters (paragraph 7(a)³⁵). Resolution 1834, while reiterating aspects already mentioned in the previous resolution, called states concerned by maritime security to deploy their navies and aircrafts to fight piracy (paragraph 2) and acknowledged the efforts undertaken to protect the World Food Program (WFP) deliveries to Somalia and the incipient measures by the EU in setting up an anti-piracy cell with the goal of preparing naval deployment³⁶. The next resolution, the 1846, added an important point in its paragraph 15, emphasizing the need for states to assume the legal prosecution of pirates pursuant to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA Convention) of 1988 and to cooperate with the International Maritime Organization (IMO) to that end³⁷, reflecting the deep dilemma existing for states unwilling to assume the costs of trial. Acknowledging the obstacles existing, paragraph 3 of Resolution 1851 invited countries to conclude special agreements with other countries from the region to enable prosecution, encouraged the creation of an international cooperation mechanism (paragraph 4), a centre for information sharing (paragraph 5), and decided that "for a period of twelve months from the date of 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* (emphasis of the author), for the purpose of suppressing acts of piracy and armed robbery at sea, pursuant to the request of the TFG" (paragraph 6)³⁸, thus opening the door to actions within the territory of Somalia.

The Security Council has remained active in this matter and has been 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 scourge 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.

³⁵ UN Security Council, S/RES/1816 (2008), 02 June 2008, in <http://www.un-somalia.org/docs/Resolution%201816%202.6.08.pdf>.

³⁶ UN Security Council, S/RES/1838 (2008), 07 October 2008, in <http://daccessdds.un.org/doc/UNDOC/GEN/N08/538/84/PDF/N0853884.pdf?OpenElement>.

³⁷ UN Security Council, S/RES/1846 (2008), 02 December 2008, in <http://daccessdds.un.org/doc/UNDOC/GEN/N08/630/29/PDF/N0863029.pdf?OpenElement>.

³⁸ UN Security Council, S/RES/1851 (2008), 16 December 2008, in <http://daccessdds.un.org/doc/UNDOC/GEN/N08/655/01/PDF/N0865501.pdf?OpenElement>.



4.2. Response of International Organisations

So far 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 Somalia. 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 people³⁹. Therefore, NATO destined four frigates from Italy, Greece, Turkey and the UK, part of the Standing NATO Maritime Group 2 (SNMG2), upon the request of the UN⁴⁰. The request was prompted by the need to provide security for deliveries before the EU could set up its projected naval force. From November 2007 France, Denmark, Holland and Canada had been providing escorts to deliveries to Somalia and as the WFP had to provide for substitution before their mission ended, NATO came in temporarily to fill the gap. The *Operation Allied Provider* lasted until December 2008 and managed to escort 30,000 tons of deliveries in eight operations⁴¹. The four frigates came to the region in the month of October upon completion of their scheduled trip to the Gulf within the framework of the *Istanbul Cooperation Initiative*⁴². The results of the mission were tangible, as no pirate attack could be performed, the same way previous escorts had been preventing since November 2007⁴³; actually since the beginning of the mission, NATO managed to frustrate at least two attempts by pirates to board ships thanks to the frigates “Cumberland” from the UK⁴⁴ and the Italian flagship destroyer “Luigi Durand de la Penne”⁴⁵.

But a far bigger effort is the naval force set up by the EU (EU NAVFOR) under the name of *Operation Atalanta*. The operation was set up in two steps. (1) First an anti-piracy coordinating cell (EU NAVCO) was set up on September 15th⁴⁶ through the Council Joint Action 2008/749/CFSP with the goal of exchanging information and coordinating anti-piracy naval operations⁴⁷; the initiative came from a meeting between the two ministers of defence of France and Spain in August⁴⁸. (2) The EU NAVCO was disbanded as soon as the decision to establish the naval force was taken on the 8th of December. The mission of the force was

³⁹ UN, in <http://www.un.org/apps/news/story.asp?NewsID=28896&Cr=somalia&Cr1=pirates>.

⁴⁰ NATO, *Operation Allied Provider Background and Factsheet*, in http://www.afsouth.nato.int/JFCN_Operations/allied_provider/background.html#FACTS.

⁴¹ NATO's news release, “Successful completion of Allied Provider”, 12 December 2008, in <http://www.nato.int/shape/news/2008/12/081212a.html>.

⁴² NATO's SNMG2 Fact Sheet, “Standing NATO Maritime Group transits Suez Canal en route to anti piracy duties”, 15 October 2008, in <http://www.jfcnaples.nato.int/FACTSHEETS/snmg2.htm>.

⁴³ “Successful...”

⁴⁴ NATO's news release, “UK ship confronts pirates in the Gulf of Aden”, 14 November 2008, in <http://www.nato.int/docu/update/2008/11-november/e1113d.html>.

⁴⁵ NATO's news release, “NATO ship prevents likely pirate attack”, 18 November 2008, in http://www.afsouth.nato.int/JFCN_Operations/allied_provider/news_release/NR_05_08.htm.

⁴⁶ EU's Fact Sheet, “European Union military coordination of action against piracy in Somalia (EU NAVCO)”, 19 September 2008, in http://www.consilium.europa.eu/uedocs/cmsUpload/080919factsheetEUNAVCO_EN22092008.pdf.

⁴⁷ “Un español dirigirá la célula contra la piratería en el Índico” *El País*, 12 September 2008, in http://www.elpais.com/articulo/espana/espanol/dirigira/celula/pirateria/Indico/elpepuesp/20080912elpepunac_16/Tes?print=1.

⁴⁸ M. de Rituerto, Ricardo, “La UE prepara una fuerza para combatir la piratería en Somalia”, *El País*, 02 October 2008, in http://www.elpais.com/articulo/internacional/UE/prepara/fuerza/combate/piratas/somalies/elpepiint/20081002elpepiint_5/Tes?print=1.



already stated in the Joint Action (Council Joint Action 2008/851/CFSP) approved on November 10th as consisting of: (a) escorting 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 Somali coast and (d) deterring and preventing acts of piracy off the coast of Somalia⁴⁹. The mission is headed by the Greek frigate HS Psara and was supposed to be composed initially of ships from France, Spain, Germany, the UK and Greece as well as maritime patrol aircrafts from France and Spain with the ideal goal of having as many as 20 ships available to serve under the aegis of the EU⁵⁰. The mission started, numbering at the beginning six battleships and three reconnaissance aircraft, while the rotation system is to ensure a permanent minimum presence of four ships (rotation would account for the scheduled number of 20 ships)⁵¹. The mission performed its first escorting mission to the WFP under the patrol of the UK's frigate "Northumberland" escorting the *MV Semlow* from Mombasa in mid-December⁵² and was engaged in its first successful encroachment against pirates some days later when the German frigate Karlsruhe assisting the Egyptian carrier *MV Wadi Al Arab* thwarted an attack by two skiffs with warning shots from its helicopter (pirates were seized, their weapons confiscated and later released, while a wounded sailor was taken for medical assistance)⁵³. On the 2nd January a French battleship thwarted another pirate attack⁵⁴.

But misgivings exist about its real effectiveness. Some voices were raised about the inconvenience of overlapping NATO's and the EU's role, thus creating duplication and harming coordination and effectiveness⁵⁵, but actually from our point of view the biggest shortcoming is the fact that *Operation Allied Provider* lasted only to the moment the EU NAVFOR could assume its duties. Given the fact that four ships meant for escorting the WFP shipments have been substituted by a force superior on one or two ships assuming far wider commitments, serious doubts deserve indeed to be entertained about the effectiveness. Political infighting between Europe-focused France and Atlantic-focused UK, such as might provide a reason for leaving the mission in the command of a British head as "compensation"⁵⁶, could plague its operative capacity in the next months, particularly when the euro-skeptical Czech Republic takes on the French Presidency. The coming months will clear all persisting doubts, but the main fact is that actually far more countries have taken the initiative of sending their naval forces to the region to deter and repress piracy around the Horn of Africa. Coordination with all these actors will be a determining factor in creating an effective deterrent naval force. The EU NAVCO foresaw coordination with international

⁴⁹ EU, "Military operation of the EU NAVFOR Somalia", November 2008 in http://consilium.europa.eu/uedocs/cmsUpload/081113%20Factsheet%20EU%20NAVFOR%20-%20version%201_EN.pdf.

⁵⁰ "Greek flagship heads EU's first naval force", *Jane's News*, 16 December 2008, in http://www.janes.com/news/defence/naval/jni/jni081216_1_n.shtml.

⁵¹ "EU to begin anti-piracy mission next week", *Herald Tribune*, 03 December 2008, in <http://www.iht.com/articles/ap/2008/12/03/europe/EU-NATO-EU-Piracy.php>; Rear-Admiral Philip Jones, head of the mission nevertheless pledged at the beginning a minimum presence of 5 to 6 ships ("Cinco o seis navíos militares patrullarán en aguas somalíes", *El País*, 10 December 2008 in http://www.elpais.com/articulo/internacional/navios/militares/patrullaran/aguas/somalies/elpepiint/20081210elpepiint_3/Tes?print=1.

⁵² EU's Press Release, "British Warship Completes 1st EU Naval Mission", 18 December 2008, in <http://consilium.europa.eu/uedocs/cmsUpload/081218BRITWARSHCOMPLISTEUNAVMISS.pdf>.

⁵³ EU's Press Release, "Operation Atalanta's First Pirate Engagement", 25 December 2008, in http://www.consilium.europa.eu/uedocs/cms_Data/docs/pressdata/en/esdp/105078.pdf.

⁵⁴ Galaud, Flore, "Piraterie: Bon point pour Paris", *LeJDD.fr*, in http://www.lejdd.fr/cmcc/international/200901/piraterie-bon-point-pour-paris_176149.html.

⁵⁵ See Farley, Robert; Gortzak, Yoav: "Europe vs. the Pirates", *Foreign Policy*, December 2008, in http://www.foreignpolicy.com/story/cms.php?story_id=4566.

⁵⁶ *Ibid.*



bodies like the WFP, the UN, the IMO, the African Union (AU) and shipbuilding associations; the challenge will be to extend this cooperation with all the navies present.

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 areas⁵⁷.

The International Maritime Organization (IMO) 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. Actually it was the IMO Secretary General Efthimios E. Mitropoulos who turned to the UN Secretary General Ban Ki-Moon on the 20th November, issuing a series of recommendations in the context of the Security Council's consideration of the latter's report. Its recommendations and warnings about the worsening situation in the Horn of Africa seem to have been determinant in pushing the international community into taking active measures to fight piracy⁵⁸.

Other initiatives stemming from international forums that deserve mentioning are: the creation by the anti-terrorist coalition through the command of Task Force 150 of a Maritime Security Patrol Area (MSPA) watched by the coalition navies present in the area⁵⁹; the holding of an International Conference on Piracy in Somalia on the 11th December in Nairobi organized by the UNDP and chaired by the host country Kenya and the former organization: the conference stressed the need to enhance maritime security and solve the core problem of instability in Somalia⁶⁰. We must also mention the East African Seafarers Association which has set up an Assistance Program, coordinated by Andrew Mwangura, who is one of the main analysts on the problem of piracy in the region and has frequently reported on the issue. The goal of this program, established in 1996, is to assist hijacked seafarers and help any other ships to report incidents.

4.3. Response by National Actors

In parallel with the multinational efforts and in most cases before their responses could be suitably put into practice, diverse states took on the initiative of fighting piracy with the means they had at hand. We already mentioned the escorts provided by France, Holland, Canada and Denmark from November 2007 to October 2008, but many other navies have mobilized unilaterally to counter the growing threat.

France, before joining international efforts such as the EU NAVFOR, performed on the 7th April the rescue of a French ship, "Le Ponant", that had been kidnapped by Somali

⁵⁷ IMB Piracy Reporting Center: http://www.icc-ccs.org/index.php?option=com_content&view=article&id=30&Itemid=12.

⁵⁸ IMO, "Piracy in waters off the coast of Somalia", in <http://www.imo.org/>.

⁵⁹ IMB News, "Coalition warships set up Maritime Security Patrol area in the Gulf of Aden", 26 August 2008, in http://www.icc-ccs.org/index.php?option=com_content&view=article&id=163:coalition-warships-set-up-maritime-security-patrol-area-in-the-gulf-of-aden&catid=60:news&Itemid=51.

⁶⁰ UNDP, "Final Communique International Conference on Piracy in Somalia", 11 December, in <http://www.so.undp.org/index.php/Download-document/54-International-Conference-on-Piracy-around-Somalia.html>.



pirates, in a highly successful operation⁶¹. Since then its navy has carried out several successful attempts to thwart piracy incidents. **Spain** was more unfortunate during that time. The Spanish fishing vessel “Playa de Bakio” remained under custody of its kidnappers for a week until the ship owner allegedly paid for its rescue⁶². Both countries, having been challenged so early by piracy and owing to their strong interests in protecting their fishing fleet, mobilized and were determinant in the effort of the the EU’s latter operation, NAVFOR. Spain provided a vigilance aircraft “Orion PC-3”, operative since September, based in Djibouti and currently integrated into the EU NAVFOR, to control the movements of suspect ships⁶³.

The **US** navy is present alongside other navies in an anti-terrorist coalition. When the carrier *MV Faina* was hijacked in September 2008, the American navy was mobilized to encircle the ship, which was trailed to the coast by its kidnappers. Among the three ships that have been surrounding the *MV Faina*, the American navy’s destroyer *Howard* kept vigilance. Unfortunately, as we mentioned earlier, this tight vigilance could not lead to any rescue operation given the risks involved for the hostages’ security and the chemical materials the ship transports⁶⁴. The **Russian** navy decided also to make an effort on anti-piracy measures as a consequence of this incident, sending its navy to the region. It sent first the frigate *Neustrashimy*⁶⁵ and later pledged more ships to the region.

There are other relevant navies that have appeared in the Horn of Africa. The **Malaysian** navy managed to thwart an attack a few days ago on an Indian petrol tanker by sending a helicopter⁶⁶. The **Indian** navy is also present and performed a successful attack on a “mother ship” when firing back at an inspection request that led to its sinking⁶⁷, though the irony was that the alleged “mother ship” was actually a Thai trawler in the hands of pirates⁶⁸. Still even more important is the intervention of the **Chinese** navy, unprecedented in its first deployment overseas. The fleet, consisting of two destroyers and one supply ship, left from Hainan on the 26th December and arrived at the beginning of January. Their first mission of escorting four Chinese merchant ships has been already performed⁶⁹ and 11 more wait to

⁶¹ De la Grange, Arnaud, “Le Ponant: l’ histoire secrete d’ une Liberation”, *Le Figaro*, 14 April 2008, in <http://www.lefigaro.fr/actualites/2008/04/14/01001-20080414ARTFIG00257-le-ponant-l-histoire-secrete-d-une-liberation.php> .

⁶² Sáenz-Díez, M.; Santos P., “El 'Playa de Bakio' es liberado en Somalia tras el pago de un rescate”, *El Periódico*, 27 April 2008, in http://www.elperiodico.com/default.asp?idpublicacio_PK=46&idioma=CAS&idnoticia_PK=504300&idseccio_PK=1008 .

⁶³ “Chacón cifra en ocho millones el despliegue en Somalia”, *El País*, 25 September 2008, in http://www.elpais.com/articulo/espana/Chacon/cifra/millones/despliegue/Somalia/elpepiesp/20080925elpepinac_18/Tes .

⁶⁴ “Barcos de guerra de EEUU y Rusia rodean a los piratas somalíes”, *El País*, 30 September 2008, in http://www.elpais.com/articulo/internacional/Barcos/guerra/EE/UU/Rusia/rodean/piratas/somalies/elpepiint/20080930elpepiint_10/Tes .

⁶⁵ “Neustrashimy Sets to Mission”, *Kommersant*, 28 October 2008, in http://www.kommersant.com/p-13455/r_500/Neustrashimy_frigate_Africa/ .

⁶⁶ Un helicóptero militar evita el secuestro de un petrolero por piratas somalíes”, *El País*, 01 January 2008, in http://www.elpais.com/articulo/internacional/helicoptero/militar/evita/secuestro/petrolero/piratas/somalies/elpepuint/20090101elpepuint_5/Tes .

⁶⁷ Rojas, Ana Gabriela: “India asesta el primer golpe a los piratas”, *El País*, 20 November 2008, in http://www.elpais.com/articulo/internacional/India/asesta/primer/golpe/piratas/elpepiint/20081120elpepiint_2/Te s?print=1 .

⁶⁸ Bowley, Graham: “Pirate “Mother Ship” or Thai Trawler?”, *The New York Times*, 25 November 2008, in <http://thelede.blogs.nytimes.com/2008/11/25/pirate-mother-ship-or-thai-trawler/#more-1901> .

⁶⁹ “Chinese naval fleet carries out first escorting mission”, *People’s Daily*, 06 January 2009, in <http://english.peopledaily.com.cn/90001/90776/90883/6568232.html> .



cruise under their protection⁷⁰. But apparently many other Asian nations are feeling the spur to intervene: recently **South Korea** approved sending its navy⁷¹. Some days later, **Japan** followed suit⁷² and even **Taiwan** is considering similar initiatives⁷³, as it feels uncomfortable with the protection its merchant fleet is already receiving from mainland China⁷⁴. It is clear that piracy is having wider repercussions as it is mobilizing different navies beyond their traditional range of action and forcing them into challenging geopolitical moves.

5. Prospects

It is too early to assess the impact that all these initiatives will have. So far *Atalanta* has started frustrating some attempts and is proving itself useful for the task it is committed to⁷⁵. Will it be enough? Its scope seems unfortunately too broad for the means it has been provided with, but useful coordination with all the navies already present could turn the international naval presence into a formidable force. The US recently announced their decision to lead a naval anti-piracy mission that could significantly add to the current efforts, maybe integrating some of the countries already deployed⁷⁶. Unfortunately, imagining a thaw in US-Iranian relations that could free naval resources (from the US and the Gulf countries) to be redeployed against piracy instead of being committed to deterrence, belongs yet to the realm of a political chimera. Meanwhile the groundbreaking Chinese involvement must be viewed as the most important step of a nation so far reluctant to deploy its navy beyond its territorial waters; the silent Sino-Indian competition for assuring a naval position in the Indian Ocean and securing protection of oil shipping lanes⁷⁷ (not to mention the presence of other Asian navies) could herald increased efforts to crack down on piracy in a race not to be dependent on the rival for SLOC (Sea Lanes Of Communication) security. The threat nevertheless remains that hijackings that cannot be frustrated will be requesting higher ransoms, thus making up for losses stemming from the number of successful attacks thwarted if the increased risk of capture is still not sufficient to fully deter pirates.

But the nightmare that torments many analysts is that piracy may turn into a weapon for terrorists: there is a precedent in the attack on the USS Cole in October 2000 in the Yemeni port of Aden by a speedboat loaded with bombs that was strong enough to damage its structure and claim the life of seventeen sailors when the ship was rammed into⁷⁸. More

⁷⁰ "Naval escort fleet to protect 15 Chinese merchant vessels from pirates", *People's Daily*, 07 January 2009 in <http://english.people.com.cn/90001/90776/90883/6568343.html>.

⁷¹ "S. Korean Cabinet OKs Naval Operations Off Somalia", *Korea Times*, 20 January 2009, in http://www.koreatimes.co.kr/www/news/nation/2009/01/113_38143.html.

⁷² "Japan Says It Will Send Anti-Piracy Force to Somalia's Coast", *The New York Times*, 29 January 2009, in <http://www.nytimes.com/2009/01/29/world/africa/29pirates.html?partner=rss&emc=rss>.

⁷³ "Taiwan considers sending naval force to Somali waters", *Gulf News*, 12 January 2009, in <http://archive.gulfnews.com/articles/09/01/08/10273476.html>.

⁷⁴ "Anti-Piracy Mission and Taiwan", *Korea Times*, 27 January 2009, in http://www.koreatimes.co.kr/www/news/opinion/2009/01/171_38473.html.

⁷⁵ De Rituerto M., Ricardo "La fuerza naval europea logra frenar la captura de barcos en Somalia", *El País*, 03 January 2009, in http://www.elpais.com/articulo/internacional/fuerza/naval/europea/logra/frenar/captura/barcos/Somalia/elpepiint/20090103elpepiint_8/Tes.

⁷⁶ Murphy, Brian, "New US-led Force to Combat Somali Pirates", *The Washington Post*, 08 January 2009.

⁷⁷ "Sino-Indian oil play in shipping lanes of Indian Ocean", *Indian Express*, 08 June 2008, in <http://www.indianexpress.com/news/Sino-Indian-oil-play-in-shipping-lanes-of-Indian-Ocean/320007/>.

⁷⁸ "Suicide bombers attack USS Cole", *BBC News*, 12 October 2000, in http://news.bbc.co.uk/onthisday/hi/dates/stories/october/12/newsid_4252000/4252400.stm.



realistic in the short run might be seeing pirates funding terrorist activities through their huge ransoms. So far there is no direct link between piracy and terrorism and analysts dispute whether piracy and terrorism are really given to working hand in hand: authors like Gal Luft and Anne Korin warned about the dangers of terrorism intertwining with piracy and staging attacks to disrupt global trade⁷⁹. On the contrary, a leading expert on piracy, Charles N. Dragonette, minimizes the threat of such a fateful link, stating that many of the assertions are inflated or based on barely realistic assumptions⁸⁰. Indeed in the case of Somalia, seeing pirates either financing or turning into terrorists does not seem very likely: the current surge comes after the Islamist regime which took over in Somalia in the second half of 2006 fought piracy. Unfortunately that rule could not last long enough to put an end to piracy; in that case anti-terrorism definitely clashed with anti-piracy as the regime of the Islamic Courts was ousted by the US backed Ethiopian intervention. Now that the Ethiopian troops are leaving the country and the radical remnant of the ousted regime of the Islamic Courts has big chances of claiming back power, some analysts, such as Jerry Franks from the *Lloyd's List*, predicted the possibility (and hailed the suitability) of Islamist rule fighting piracy, deeming it the only way of effectively curbing piracy⁸¹. Some reports have arisen about supposed reception of ransoms by Islamists from pirates⁸², but on the other hand, they warned pirates to release the petrol tanker *Sirius Star*, while the fear of Islamists taking weapons from the *MV Faina*⁸³ did not materialize⁸⁴. No substantial element seems to exist betraying any pattern of permanent collaboration with the networks of pirates. Nevertheless the fact is that large parts of Somali society rely by now too much on the pirate economy⁸⁵ as to forsake such a lucrative business, so cracking down on it might represent political suicide by any faction attempting to exert its rule. Anyway, Islamists so far, especially if members of the most radical faction "Al-Shahaab", are rather bent on curbing piracy in their endeavor to impose order wherever they can guarantee their control.

The political situation in Somalia seems geared up for the worst, as the TNG dwindles before the Islamist onslaught and loses its main guarantor, the Ethiopian army. The TNG of Abdullah Yusuf had already lost most of the territory to the ruthless Islamist faction "Al-Shahaab" by December, the most radical one that split from the former coalition of the Islamic Tribunals, its rule being confined to some parts of the capital Mogadishu⁸⁶. "Al-

⁷⁹ Luft, Gal; Korin, Anne: "Terrorism Goes to Sea", *Foreign Affairs*, vol. 83, n° 6 (Nov/Dec 2004)

⁸⁰ Dragonette, Charles N.: "Lost at Sea", *Foreign Affairs*, vol. 84, n° 2 (Mar/April 2005)

⁸¹ Frank, Jerry: "New Twist in Somalia Tale", *Lloyd's List Bulletin*, 04 December 2008. The author though acknowledges that as much of piracy comes from Puntland, hypothetical takeover of the semi-autonomous region would not come immediately, thus making his prediction less categorical.

⁸² Baldauf, Scott, "Who are Somalia's pirates?", *Christian Science Monitor*, 21 November 2008, in <http://www.csmonitor.com/2008/1120/p25s22-woaf.html> .

⁸³ Somali officials voiced such a concern (Gettleman, Jeffrey: "Tensions Rise Over Ship Hijacked Off Somalia", *New York Times*, 29 September 2008, in

<http://www.nytimes.com/2008/09/29/world/africa/29pirates.html?scp=53&sq=Somalia&st=cse>) But Pirates stated their refusal of selling any weapons, searching instead to get a ransom (Gettleman, Jeffrey: "Q. & A. With a Pirate: "We Just Want the Money", *New York Times*, 30 September 2008, in <http://thelede.blogs.nytimes.com/2008/09/30/q-a-with-a-pirate-we-just-want-the-money/?scp=4&sq=%22MV%20Faina%22&st=cse>) .

⁸⁴ Al-Shahaab did actually pressured the pirates to get some weapons ("Somali pirates: Islamist insurgents demand weapons from hijacked ship", *Telegraph*, 06 October 2008, in <http://www.telegraph.co.uk/news/worldnews/africaandindianocean/somalia/3140884/Somali-pirates-Islamist-insurgents-demand-weapons-from-hijacked-ship.html>) .

⁸⁵ Jeffrey, *op. cit.*,

⁸⁶ Gettleman, Jeffrey, "Situation in Somalia Seems About to Get Worse", *New York Times*, 07 December 2008, in http://www.nytimes.com/2008/12/07/world/africa/07somalia.html?_r=1&scp=1&sq=Situation%20in%20Somalia%20Seems%20About%20to%20Get%20Worse&st=cse .



Shahaab” had conquered key cities such as Merka, Kismayu, Bulo Marer, El Dheer and Qoryooley⁸⁷ by November and seemed poised to topple the government; as a symbol of the government’s impotence, the only time the Islamists could be fought back from North Mogadishu was when they faced an Ethiopian offensive two months ago in December 2008⁸⁸. In addition to announcing defeat, President Yusuf had to resign after Parliament opposed his move to fire Prime Minister Nur Hassan Hussein, which even prompted demonstrations in Mogadishu; he was widely accused of behaving as the former warlord he used to be, fostering corruption and even worse, hindering the Djibouti agreement of October 2008 that provided for a pact with moderate Islamists and set up a schedule for withdrawal of the hated Ethiopian troops⁸⁹. One of the crucial mistakes the US made was to back foreign intervention by using its proxy, Ethiopia, which actually fostered opposition, fuelling the advance of radical Islamists. The Islamic Courts included moderate elements⁹⁰, but if the collapse of the TNG makes the radical Al-Shahaab militia the true ruler of the country, the failure will reveal itself absolute. Still, their own radicalism has prompted the opposition of other moderate militias, such as the “Ahlu Sunna Waljamaca”, that managed to fight and push the radicals out of two important cities, Gelinsoor and Dusamareeb, at the end of December⁹¹. A moderate coalition based on the Djibouti Agreement could enforce stability, but if Islamism keeps splitting, a worse scenario of permanent factional infighting could also engulf the country; if protracted, we could not rule out the possibility of these different militias seeking funds from piracy. Yusuf and his allies, supposed to have already left for their homeland, Puntland, one of the main havens for pirates where officials are said to connive, could seek a closer relation with them, build up its forces, and fight back. The situation so far is yet too blurry as to guess which will be the final outcome. Time will surely show us in the next weeks and months to come, but nothing, so far at least, seems to announce signs of stabilisation nor hopes (on the contrary) of the abatement of piracy.

Intervention in Somalia would be too risky and counterproductive. Traumatic experiences in the 90s make such an alternative unadvisable. Foreign intervention, be it from Western countries or worse, from Ethiopia, are likely to weld together different factions for the sake of ousting the “invader” or boost support for any active faction bent on “liberating” the country, as seems to have happened with al-Shahaab in the face of the Ethiopian intervention. If the US or any other country wanted to use Ethiopia again as a proxy to bring order to the country, although unadvisable due to the likely negative reaction of the Somali population, thought should be given to solving the problem of Eritrea which so far concentrates most of the attention of Addis-Ababa and prevents any deep involvement in Somalia. So far the remaining troops of the African Union (AMISOM), numbering 2,600 and restricted to Mogadishu, will be of little help for the TNG once the Ethiopian troops withdraw. The US has been reportedly seeking a resolution authorizing the deployment of a

⁸⁷ Gettleman, Jeffrey: “Islamist Insurgents Take Somali Port City Without a Fight”, *New York Times*, 13 November 2008, in

<http://www.nytimes.com/2008/11/13/world/africa/13somalia.html?scp=1&sq=Islamist%20Insurgents%20Take%20Somali%20Port%20City%20Without%20a%20Fight&st=cse>.

⁸⁸ Montero, David: “Ethiopian troops launch major offensives against Islamist insurgents in Somalia”, *Christian Science Monitor*, 10 December 2008 in <http://www.csmonitor.com/2008/1210/p99s01-duts.html>.

⁸⁹ Gettleman, Jeffrey: “Somalia Makes Peace Deal with Islamist Militia”, *New York Times*, 27 October 2008 in <http://www.nytimes.com/2008/10/27/world/africa/27somalia.html?sq=Djibuti%20Agreement&st=cse&scp=3&pagewanted=print>.

⁹⁰ Lacey, Marc: “In Somalia, Islamic Militias Fight Culture Wars”, *New York Times*, 19 June 2006, in <http://www.nytimes.com/2006/06/19/world/africa/19somalia.html?scp=1&sq=In%20Somalia,%20Islamic%20Militias%20Fight%20Culture%20Wars&st=cse>.

⁹¹ Sheikh, Abdi: “Moderate Islamists Seize two Central Somali Towns”, *Washington Post*, 28 December 2008, in <http://www.washingtonpost.com/wp-dyn/content/article/2008/12/28/AR2008122800738.html>.



peace force⁹² and beefing up AMISOM to 8,000 troops⁹³, but besides the unwillingness of most African countries and the unsuitability of directly intervening in Somalia, the US, as stated by Defence Secretary Robert Gates, lack intelligence information to fight piracy ashore⁹⁴, as Resolution 1851 allows (in a vote on the 16th January, The Security Council agreed to upgrade the AMISOM to 8,000, but postponed the vote on an international force to June⁹⁵). That justifies scepticism about preparation for a more far-reaching peace force that besides repressing piracy would assume the stabilisation of the country. Some analysts, such as Peter Pham, columnist on the *World Defense Review*, suggest recognition of entities as Somaliland or Puntland and even any other regional or clan-based organisation⁹⁶ that would sprout from the chaotic magma of Somali lack of rule, based on the fact that Somaliland can claim an excellent record of peace and law enforcement; assisting it, the argument goes, could bring rewards in the international fight against piracy as it could help effective coast patrolling⁹⁷. Although it might be an insightful idea, extending recognition to any sub-state entity in Somalia could be seen as interference by any faction claiming Somali rule and make things worse.

The coming months will also show whether the naval deployment off the Horn of Africa is really effective, but if it does not, at least to a satisfactory extent, additional measures will have to be taken to minimize the effect of piracy on international trade. If piracy were still to thrive in the region, the merchant fleet would not have any other alternative than to reinforce the security measures to face the challenge. Resolution 1816, in its paragraph 4, already called for states to ensure every ship flying their flag was provided guidance and training on avoidance, evasion and defensive techniques; it was reiterated by Resolution 1851, paragraph 12. The existence of large contingents of private security guards, many of them already hired on merchant ships and concentrating in countries like Djibouti, Kenya or Oman after having served in Iraq or Afghanistan, could be more useful if countries did allow them to wear arms while on duty⁹⁸, but reticence prevents it and as the professor of national security affairs, Derek S. Reveron, points out, armed repulsion would endanger the security of future hostages and lead to escalation (be reminded that pirates carry lethal MANPADS and RPGs) and ultimately would lead to rises in insurance costs⁹⁹. Alternatives do exist, such as Long Range Acoustic Devices (LRAD), which send acoustic energy beams whose noise is strong enough to temporarily disable any attacker¹⁰⁰; actually a US cruise ship successfully managed to repel a pirate attack thanks to LRAD¹⁰¹. This device, widely used in

⁹² MacFarquart, Neil, "UN Council Shows Support for U.S. Plan Against Piracy", *The New York Times*, 17 December 2008, in

⁹³ Gettleman, Jeffrey, "Officials Still Arguing Over Leader for Somalia", *The New York Times*, 12 January 2009 in, <http://www.nytimes.com/2009/01/13/world/africa/13somalia.html?scp=4&sq=Somalia&st=cse>.

⁹⁴ "EEUU no cuenta con información de inteligencia para combatir a los piratas somalíes", *El País*, 13 December 2008.

⁹⁵ MacFarquart, Neil, "Security Council Hesitates on Somalia", *The New York Times*, 16 January 2009, in http://www.nytimes.com/2009/01/17/world/africa/17briefs-SECURITYCOUN_BRF.html?scp=2&sq=Somalia&st=cse.

⁹⁶ Pham, Peter J., "The Times They Are A' Changing", *World Defense Review*, 03 December 2008, in <http://worlddefensereview.com/pham120408.shtml>.

⁹⁷ Pham, Peter J., "As Somali Pirates Raise Stakes, Effective Measures Needed", 20 November 2008, in <http://worlddefensereview.com/pham112008.shtml>.

⁹⁸ Gettleman, "Pirates Outmanover...", *op. cit.*

⁹⁹ Reveron C., Derek, "Think Again: Pirates", *Foreign Affairs*, January 2009, in http://www.foreignpolicy.com/story/cms.php?story_id=4626.

¹⁰⁰ "Cruise Lines Turn to LRAD", *Spiegel*, 28 November 2005, in <http://www.spiegel.de/international/spiegel/0,1518,385048,00.html>.

¹⁰¹ Evers, Marco, "Sonic Canon Gives Pirates an Earful", *Spiegel*, 15 November 2005, in <http://www.spiegel.de/international/spiegel/0,1518,385048,00.html>.



Iraq by the coalition armies of the US and UK¹⁰², was first installed by the US Navy in 2007 (Shipboard Protection System or SPS) with the ultimate goal of fitting all warships with such non-lethal weapons¹⁰³. If private security companies, such as Blackwater, could deploy such devices on merchant ships, a big step could be taken to thwart most of the attacks attempted¹⁰⁴, but such weapons are neither widely available nor likely to be temporarily hired from states such as the US, who would not be keen on incurring the danger of ultimately losing such a precious tool. If any similar kind of agreement could eventually be reached, the current relations of the US with one of the leading companies. The aforementioned Blackwater, are so far from being good¹⁰⁵ that it does not bode well for an already unlikely possibility.

In any case, regarding the long-term evolution of the phenomenon, some elements must be taken into account: first, the “manpower” available for piracy does not just stem from the fact that piracy is much more lucrative than fishing, but mainly because fishing was made impossible due to the exploitation of resources by big foreign fishing ship factories; if piracy is ever to be suppressed, securing prosperity in Somali waters will be essential for giving a decent alternative to criminal businesses¹⁰⁶. Second, on the other side of the Strait of Bab al Mandeb lies a candidate to become a failed state: Yemen¹⁰⁷ (India arrested 23 pirates coming from both Somalia and Yemen on December 2008¹⁰⁸, a worrying “alliance” indeed). Taking care of its stability will be an essential task for every country concerned about the fateful possibility of seeing two “pirate” countries on both sides. But third and most important, stabilization of Somalia must be the chief goal for any attempt at thwarting the increase of the thriving scourge of piracy. Without this precondition, any alternative measures will be hardly anything more than patchwork. The International Community must be aware of the fact that any naval deployment will be only partially effective if no land operations are undertaken to crack down on the pirates’ lairs that thrive on their coasts. Unfortunately, given the current situation of political and military mayhem and the lack of solid intelligence information on Somalia, as stated by the US Defence Secretary Robert Gates, any intervention is bound for disaster. Prospects look bleak.

¹⁰² “Cruise Lines...”, *op. cit.*

¹⁰³ “Navy Installs First Onboard Ship Protection System to Thwart Terrorist Attacks”, in <http://www.marinelink.com/Story/Navy-Installs-First-Onboard-Ship-Protection-System-to-Thwart-Terrorist-Attacks-207314.html> .

¹⁰⁴ In the aforementioned article of Foreign Affairs, Reveron supports the use of non-lethal weapons.

¹⁰⁵ Belaza, Mónica C.: “EEUU estudia romper con los mercenarios de Blackwater”, *El País*, 18 December 2008 in, http://www.elpais.com/articulo/internacional/EE/UU/estudia/romper/mercenarios/Blackwater/elpepiint/20081218elpepiint_6/Tes .

¹⁰⁶ Stuhldreher, Katie, “To turn the tide on piracy in Somalia, bring justice to its fisheries”, *The Christian Science Monitor*, 20 November 2008 in <http://www.csmonitor.com/2008/1120/p09s01-coop.html> .

¹⁰⁷ See the report from *Chatham House*: Hill, Ginny: “Yemen: Fear of Failure”, *Middle East Program*, Chatham House, (November 2008) in, http://www.chathamhouse.org.uk/files/12576_bp1108yemen.pdf .

¹⁰⁸ “India apresa a 23 piratas en el Océano Índico”, *El País*, 13 December 2008, in http://www.elpais.com/articulo/internacional/India/apresa/23/piratas/oceano/Indico/elpepiint/20081213elpepiint_9/Tes .

