

MAKING WAVES: PIRACY FLOODS THE HORN OF AFRICA

As the recent spike of attacks in the Gulf of Aden attests, piracy is becoming a major concern for regional security and trade. Incidents are becoming more frequent, violent, sophisticated, and organized as the pirates extend their reach into the India Ocean. If this mould is to be broken, the international community needs a more nuanced approach to tackling both the causes and effects of piracy by addressing economic dislocation and state fragility on the one hand and international maritime cooperation on the other. Nowhere will this be more challenging than in the Horn of Africa.



Proliferation of crisis management actors at the Gulf of Aden

Piracy is once again becoming a major international problem. The International Maritime Bureau (IMB) recorded a total of 200 attacks and a further 93 attempted attacks in 2008, with lethality and success ratios of incidents vastly increasing. In 2009, things are getting worse. The attacks in the first quarter have doubled compared to the corresponding picture in 2008, with a total of 102 reports registered, in keeping with the 20 per cent increase over the reports for the last quarter of 2008. Somalia and the Gulf of Aden are now at the epicenter of maritime insecurity, accounting for 61 incidents. One in eight attacks resulted in a hijacking over this first quarter.

The fact that the Gulf of Aden has rapidly become the primary location for pirate attacks is due to the factors that drive piracy elsewhere as well, namely a lack of

state authority and law enforcement, low risks for high financial rewards, favorable geographical factors, and ongoing political and economic instability, allowing pirates to become increasingly organized and operationally sophisticated. Wherever these problems persist, piracy is likely to grow, and with it the consequences for the safety of crews, the free passage of trade, financial costs for shippers, regional economic development, and the political functioning of regimes as corruption takes hold. Environmental catastrophe and secondary linkages to terrorism cannot be entirely discounted either, nor can illegal trafficking of goods and adverse humanitarian impacts as the costs inflicted by piracy continue to add up. The UN has put it more bluntly: piracy in the Gulf of Aden now constitutes a threat to international peace and security.

Yet at this stage, the world has yet to even reach a settled definition of piracy, let alone agree any kind of concerted strategy to stem its effects. Greater coordination of counter-piracy measures and legal clarity will become all the more critical in future, not least because the number of powers taking an interest in the safe passage of international trade and natural resources has grown. The Gulf of Aden provides the perfect example; it links the Mediterranean Sea, the Suez Canal, and the Red Sea to the Indian Ocean as a key trading route. Countering organized piracy with force and greater naval patrols has not been without success elsewhere such as the Malacca Straits. However, the Gulf of Aden and the western Indian Ocean encompass vast expanses of water, and the regional states involved lack the political cohesion or maritime capabilities to shift the strategic landscape. The role of the international community will thus be critical if piracy is to be reduced in the Horn of Africa.

Proliferation of attacks

The number of piracy attacks has starkly increased recently. A total of 39 vessels have been boarded, 29 fired upon, and nine vessels hijacked in the first quarter of 2009 alone. Modes of attack have also become increasingly violent, with a total of 178 crew members taken hostage, nine injured, five kidnapped, and two killed. This tallies with a 244 per cent increase in hijacks from 2004–8 and a 212 per cent increase in hostage-taking over the same period. A broad variety of weapons ranging from rocket-propelled grenades and assault rifles down to small knives have all been used in attacks. And whereas most attacks used to

take place when ships were berthed or at anchor, in 2008, the number of attacks on moving ships accounted for nearly half (44 per cent) of incidents, underlining the pirates' increased sophistication and capabilities. The days of low-level opportunistic activities in ports are by no means over, but organized piracy is increasingly looking for more lucrative returns at sea.

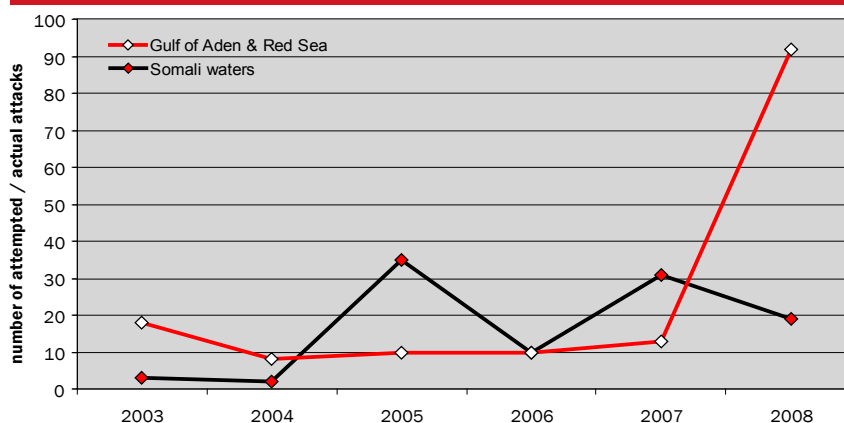
Although methods of attack continue to evolve, the trouble spots remain familiar. The core "spread" runs across Southeast Asia spanning Bangladesh's Chittagong Anchorage, Indonesian islands, the Philippines, and somewhat more infamously (if now vastly reduced), the Malacca and Singapore Straits. In Latin America, low-level attacks persist in Brazil, Venezuela, and Peru. But by far the greatest concerns are related to East and West Africa, which together witnessed over 60 per cent of attacks worldwide in 2008. Nigeria remains a clear concern, but the political and economic dynamics in play still remain predominantly local problems that require local solutions in the Niger Delta.

The Gulf of Aden as a strategic priority

Not so the Gulf of Aden, where attacks have taken an international turn. Piracy has long been a problem in the Horn of Africa, particularly since the fall of Siad Barre's government in Somalia in 1991. By 2000, the Red Sea-Aden-Somalia region had notched up over 20 attacks per annum, accounting for one-third of all piratical incidents in Africa, but the key difference was that even up to 2007, attacks were still predominantly focused in Southern Somalia and Mogadishu, without encroaching too far upon international waters. A combination of increased lawlessness onshore following the removal of the Union of Islamic Courts in 2006 (which had done much to reduce the levels of piratical attacks by declaring the practice un-Islamic and cutting its finance base), and the increased use of offshore "mother ships" to orchestrate far-reaching strikes has dramatically changed this dynamic. Thirty-one attacks were recorded in the immediate waters around Somalia in 2007, compared to 13 in the Gulf of Aden, whereas in 2008, Somalia saw 19 incidents close to shore compared to 92 attacks in the Gulf of Aden and the Red Sea. Local issues have thus evolved into international concerns in the Horn of Africa, presenting serious piratical risks for the 20,000 ships that traverse these waters each year.

The "problem" of course for Somali pirates is that just as the Malacca Straits became

Somali Pirates Go International



a strategic priority from the 1990s onwards given it carries 40 per cent of world trade, the Gulf of Aden has now taken over this mantle. The hijacking of the Saudi supertanker *Sirius Star* in November 2008 was a good wakeup call for the implications of Middle East oil flows, while recent attacks on US ships have helped to strengthen Washington's resolve. India and China also have a vested interest in keeping waterways clear – not only in the Gulf of Aden, but elsewhere in the region, to ensure that natural resources flow east from the Middle East and Africa just as readily as Asian goods flow west. The Gulf of Aden already accounts for a third of all Chinese maritime trade. No less than 12 per cent of world oil supplies pass through the Gulf of Aden, accounting for a similarly high percentage of world trade, as the recent drop of US\$35 million in revenues through the Suez Canal attests.

Proliferation of actors

The last six months have thus seen a proliferation of state interests and international mandates, all with different aims, objectives and rules of engaged falling under UN blessing to use "all necessary means to repress acts of piracy". The US has revamped its anti-terrorism measures under Combined Task Force 150 to cover an anti-piracy remit under CTF 151, deploying a dozen ships to the region and garnering support from another 20 states in the process. From a European perspective, NATO and the EU have both been keen to display their newfound maritime credentials in the region. The EU launched Operation *Atalanta* in December 2008 as the first ESDP-flagged naval operation (EU NAVFOR), alongside initial NATO operations to safeguard World Food Programme deliveries in October 2008. NATO has since passed on this task to the EU, re-coining its own activities to "deter, defend against and disrupt pirate activities" in the Horn of Africa as part of Operation *Allied Protector*.

The upshot is that over 20 countries now have ships or personnel working in the Horn of Africa, including Chinese, Indian, Russian, Malaysian, Japanese, Iranian, Saudi, and Pakistani contributions. New Zealand and Australia have even joined the effort, underlining the significance of the Gulf of Aden to the South Pacific. Somewhat closer to home, the multinational Contact Group on Somali Piracy (CGSP) was rapidly established under SC Resolution 1851, and the regional Djibouti Code of Conduct to Combat Acts of Piracy has been signed off to establish greater maritime cooperation between African and Arab states. Bilateral accords have also been signed with key states such as Kenya to improve the prospects of legal prosecution once pirates are apprehended, with "ship rider" agreements slowly being put in place to facilitate more expeditious arrests.

But while the roll call of states engaging in "out of area" operations and maritime co-operation continues to grow, the continued rate and success of attacks in the area shows that the problem of Somali piracy cannot be resolved exclusively with enlarged fleets, but requires far greater maritime co-ordination and concerted political engagement on an international and regional basis.

Hitting the rocks: Why Somali pirates will remain a problem

On the most fundamental level, even as the number of ships sent to the region increases, Somali pirates now operate up to 800 miles offshore, effectively making it unfeasible to monitor the entire expanse of water. Rough estimates suggest it would take up to 140 craft to properly patrol the Gulf of Aden and several times more that number to cover the 2.8 million square km of waters around Somalia's eastern coast. Even if success is achieved in the Horn of Africa, the western Indian Ocean is now firmly within the reach of pirates from Somalia to the Seychelles, in what is essentially a displacement problem.

Somali pirates are still holding around 300 hostages and 15 to 20 ships, and are becoming increasingly technologically adept at selecting and tracking far-reaching targets via GPS and onshore intelligence hubs.

This is not to say that patrols have not had some success in thwarting attacks. The EU claims that since *Atalanta* was launched, incidents have been more frequent, but less successful. But even now, the number of attacks remains unacceptably high, and the number of captured vessels has crept back up peak levels, suggesting that dips in successful attacks may have been due to seasonal weather conditions just as much as an increased international presence.

Either way, analysts need to be careful to differentiate political salience from strategic clout in terms of deployments made. China still only has two destroyers in the region, mirroring the modest Indian, Japanese, and Malaysian contributions designed to keep their geopolitical toes in the water, while Operation *Atalanta* has only mustered nine European ships with a very restrictive budget. The duration of NATO's mandate beyond June 2009 remains unclear, as does any increase in naval commitments beyond the five ships NATO currently has in play.

What resources are available remain poorly aligned. Although there is sufficient legal scope for robust anti-piracy measures, the question of whether this is ultimately a police mission under the UN Convention on Law of the Sea (UNCLOS) or a more tangible Chapter VII mandate from New York continues to vex political leaders. This strategic indecision is not only hampering deterrence, but also the prosecution of hijackers. French commandos have used force to free hostages, but can only hold pirates until a judicial authority can formally arrest them. Some states make arrests only if their own nationals or ships are attacked, while others, such as the British Royal Navy, usually require clear evidence of an actual attack before taking action. India has wasted little time in sinking suspected mother ships, while Portugal, Canada, and a number of other states have all boarded vessels with ample evidence of piratical attacks, but then merely returned pirates to home shores rather than sealing prosecutions, due to domestic legal constraints. Despite its own "Global Train and Equip" program, Washington has not been impressed with some of the "softer" responses, even as Germany continues to ponder constitutional difficulties associated with the use of force and the overlap of policing measures in a piratical context.

The EU has, however, brokered agreements with Kenya that have facilitated the hand-over of around 40 captured pirates for prosecution to date, but NATO does not explain why vessels under the alliance's command can only "protect and deter". France and the Netherlands have bypassed Mombassa by trying pirates directly, while the UK and the US prefer to work through the Kenyan courts. There has been grandiose talk of developing a new international court for pirates, but that is ultimately a distraction from building sufficient regional judicial capacity to take up some of the excess slack from Kenyan courts. Finding time to drop pirates off for prosecution rather than patrolling the seas also brings with it an "opportunity cost", while naval forces also have to ensure the consent of the Transitional Federal Government when operating in Somalia waters under SC Resolution 1851, even though no such authority really exists in the semi-autonomous region and piracy hotbed of Puntland. The mixed advice from governments as to what measures merchant ships should take to protect themselves from piracy and how to approach hostage demands underlines the disjointed nature of the international response.

Unfortunately, these legal and logistical problems are neither trivial nor instantly remedied by political bravado. Jurisdictional questions will inevitably persist, depending on the location of attacks, the international naval intervention involved, the nationalities of crews, and the country of registration of a seized vessel, even before local capacity to prosecute criminals and provide maritime security can be considered. Stemming piracy in the Gulf of Aden will inevitably entail much greater international co-ordination of maritime resources offshore, but also the need to start thinking seriously about what kind of onshore measures should be taken for those willing to cross the "Mogadishu line" into Somalia once more.

Crossing the "Mogadishu line"

Continuing to build regional cooperation, maritime capacity, and judicial processes remains critical for the longer term in the Horn of Africa, but the international community is currently massively underestimating the amount of aid and political impetus required to achieve such ends. The additional pledge of a mere 213 million dollars in April 2009 to support the feeble African Union peacekeeping force in Somalia (AMISON) underlines the degree to which security is being left to chance. For as long as chronic instability persists in Somalia, the international community will need to maintain a

strong and costly naval presence in the Gulf of Aden as a prophylactic measure to ensure the smooth flow of trade.

Most fundamentally, efforts to combat piracy must also be carefully designed in order not to backfire onshore, but to be seen as part of long-term constructive engagement in Somalia. While SC Resolution 1851 offers the prospect of combating piracy on land as well as sea, rather than launching any prospective attacks on pirates on Somali soil, a far better way to cross the Mogadishu line would be to massively increase the amount of development aid to Somalia in order to pave the way for longer-term political and economic reconstruction. This remains the only long term antidote to piratical activity.

Not only would this start to help Somalia to build up indigenous coastal defenses, so that some kind of division of labor between coastal and international patrols could be made, but it would help to take the sting out of anti-piracy measures by putting Mogadishu in the driving seat. Admittedly, few if any governments engaged in Somalia have a long-term interest in returning the Union of the Islamic Courts (UIC) to power as a way of gaining greater maritime stability, but neither do they want to jeopardize the political prospects of newly elected president Sheikh Ahmed, who has tried to unite Somalia's clan divisions through reinstalling Sharia law to diminish the support base of the al-Shabaab (as the successor to the UIC) and exploit their internal divisions.

If a strategy of force was adopted at sea and on land, the result likely would fan Somali nationalism and deliver more support to the al-Shabaab. It would also come at the considerable cost of exacerbating onshore instability while only offering chimerical solutions for maritime security. Combating piracy on the cheap is no longer possible, but it is more likely that sustainable solutions can be found onshore by addressing Somalia's extreme poverty and political fragility than by supporting vast international flotillas to combat piracy at sea. Alas, in the Horn of Africa, this path will not be quick or easy.

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