4. Operational Challenges to Counterpiracy Operations off the Coast of Somalia[1]

Kees Homan and Susanne Kamerling

Piracy has a long history and is one of the oldest of all professions.[2] Currently maritime piracy is experiencing a renaissance and has regained a prominence not seen since the period of the Barbary pirates that ended almost two hundred years ago. But why should one be surprised that the twenty-first century still has common criminals and muggers? In fact, piracy is nothing but a high-seas equivalent of street crime. In ancient Greece, piracy was widespread and it was regarded as an entirely honourable way of making a living. Even during the Roman Empire parts of the Mediterranean were infested with pirates. This provoked several naval and amphibious campaigns to suppress them. With the fall of the Roman Empire the incidence of piracy rose again and continued throughout the European Middle Ages. Well into the early modern and modern period, states would occasionally find it advantageous to align themselves with pirates for raids against their respective adversaries. The distinctions between pirates as criminals and privateers enjoying some authorisation by recognised states were fuzzy, to say the least. Privateers or corsairs used similar

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2   Donald J. Puchala, 'Of Pirates and Terrorists: What Experience and History Teach', *Contemporary Security Policy*, 26(1), 2005, pp.1-24.

methods to pirates, but acted while in possession of a commission or lettres de marque from a government or monarch authorizing the capture of merchant ships belonging to an enemy nation.

During the 'golden age' of piracy in the early modern period, pirates were often provided with lettres de marque by European governments when they were at war with each other, in an attempt to damage the enemy's maritime interests. This formally transformed them from pirates into privateers, although when the wars ended the privateers usually returned to being pirates. In England more than one pirate-turned-privateer was knighted by the crown, most famously Sir Francis Drake.[3] Drake captured the *San Felipe* on 18 June 1587. Laden with spices, silks, and ivory, it was one of the richest prizes ever seized. A well-known Dutch privateer was Admiral Piet Hein. In 1628 he sailed out to capture a Spanish treasure fleet loaded with silver from the American colonies and the Philippines. Sixteen Spanish ships were intercepted; one galleon was taken after a surprise encounter during the night, nine smaller merchant vessels were talked into surrendering, two small ships were taken at sea while attempting to flee, and four galleons were trapped on the Cuban coast in the Bay of Matanzas. After some musket volleys from Dutch sloops their crews also surrendered and Hein captured 11,509,524 guilders worth of booty in gold, silver and other expensive trade goods, such as indigo and cochineal, without any bloodshed. That is more than any Somali piracy hijack in the Gulf of Aden and Western Indian Ocean has yielded so far. Hein returned to the Netherlands in 1629, where he was hailed as a hero. An old Dutch verse memorialises him: *Piet Hein, Piet Hein; Your name will always shine; In your little ships so neat; You beat the silver fleet; The mighty silver fleet from Spain.*

Although evidently the definition of what piracy is has changed, the comparison with Somalia can be easily made, as

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3   Cindy Vallar, 'The Spanish Galleons', *Pirates and Privateers – The History of Maritime Piracy*, Keller, TX, 2003.

from an operational perspective things have not changed so dramatically. The act of piracy remains the same and even the instruments with which pirates operate have not changed that much, apart from more modern means of communication and some newer weapons. But ladders and grappling hooks are still indispensable, and it is what distinguishes the pirates from everyday fisherman and regional traders who are also present in the operational area in large numbers. What makes Somali piracy different from both historical and more recent piracy manifestations are the local conditions and the broader geopolitical context. Typical for Somali piracy is also that kidnap-and-ransom activities have figured very prominently, although another form of piracy – the theft of petty cash or cargo - also occurs in the same region.[4]

The aim of this chapter is to explore which operational challenges confront the international maritime actors that operate off the Somali coast. The chapter argues that Somali piracy is difficult to combat because of specific local conditions, on the one hand, and the geopolitical context on the other. Local factors that pose problems include the sheer size of the operational area, the characteristics that are specific to Somali piracy, and the lack of an (effective) Somali central government to deal with. At the same time, what is also important is that Somali piracy has become a pretext for various countries to become involved in the geopolitical power play that is currently manifesting itself in the Indian Ocean. As the title implies, in this chapter the operational, and to a lesser extent, the tactical challenges to counterpiracy operations off the Somali coast will be examined. 'Operational' refers to the level at which the maritime activities are planned and conducted, while 'tactical' entails the level at which those activities actually take place.

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4   This does not however affect global interests and trade, and is underrepresented in the statistics.

4.1   Local Conditions

Piracy is a crime that is defined by geography and requires the presence of other factors, such as legal and jurisdictional weakness, under-funded law enforcement that enhances inadequate security, a permissive political environment, cultural acceptability, and the opportunity for reward, in order to flourish.[5] In their absence, piracy would probably be unsustainable. Since the end of World War II such combinations have occurred in only relatively few places in the world, not only near Somalia but also elsewhere: around parts of Southeast Asia and in the Bay of Bengal; off East and West Africa; and in a few ports off some stretches of coastline around South America. Most of the factors that encourage and sustain piracy are enduring in these specific places. Mueller and Adler offer as their recipe for flourishing crime at sea:

- Take a maritime geography, which favours local outlaws and disfavours distant law enforcers
- Add the chance of enormous profit and little risk
- Mix it generously with strife, internal and external
- Avoid maritime law enforcement capacity, and do not add common law!
- Corruption helps for spicing! Make it hot. [6]

All these conditions are met off the Somali coast. But there are more specific local conditions that contribute to the existence of Somali piracy, and that constitute challenges in the operational sphere. The first and most important factor is the immense size of the operational area in which Somali piracy occurs, and of which the scope is still increasing. The Gulf of

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5   Martin N. Murphy, 'Contemporary Piracy and Maritime Terrorism', *Adelphi Paper* 388, Abingdon: Routledge, July 2007, pp.12-19.
6   Donald J. Puchala, 'Of Pirates and Terrorists: What Experience and History Teach', *Contemporary Security Policy*, 26(1), 2005, p.5.

Aden alone is the size of France or the State of California in the United States. But combined with the Somali Basin and parts of the Western Indian Ocean in which piracy attacks also take place, the size of the area amounts to over 2 million square nautical miles (the size of Western Europe). From an operational perspective this is problematic to say the least. An illustrative example is the Greek-owned freighter, *Navios Apollon*, that was captured by Somalis on 28 December 2009, fully 200 nautical miles (nm) east of the Seychelles, which is more than 700 nm from Somalia. It means that the international maritime efforts cannot cover the whole operational area and have to be restricted to only parts of it. Pirates will always look for niches that remain uncovered, especially as long as no country or organization is willing (or able) to disrupt piracy activities ashore.

Secondly, the distinction between fishermen, tradesmen, smugglers and pirates is a grey area. A patrolling navy vessel cannot easily distinguish between them: they all sail through the area by the same kind of skiff or dhow, they are all armed, and are generally (very) young men brought up during the past 20 years in an environment of lawlessness and violence. Only the possession of either fishing nets, on the one hand, or ladders and grappling hooks, on the other, distinguish the groups, which means that a patrolling helicopter, unmanned aerial vehicle (UAV) or vessel has to be very close to be able to tell if it is a pirate skiff one is dealing with or another vessel. Hiding between fishermen or smugglers and making use of 'mother vessels' from which pirates are able to operate further offshore complicates the operational picture, which is part of the modus operandi of the Somali pirates.

Thirdly, the characteristics of the way in which piracy manifests itself off the coast of Somalia are different than piracy in other areas. Somali piracy has clearly transformed into professional high-level piracy. But although the piracy near Somalia is generally known to be less violent than other kinds of piracy like in the Strait of Malacca a few years ago where whole crews are known to have been killed or thrown overboard,

Somali piracy is also far from being non-violent. Somali pirates are not afraid to use violence, are under the influence of that and are therefore generally less predictable, and have professional weapons like rocket-propelled grenades (RPGs) and machine guns (AK47s). The operational challenge of this type of piracy is that the risk of escalation into higher levels of violence is surely present and has to be taken into account by the missions in place.

The fourth local factor is of a political nature and is related to the situation in onshore Somalia that is described in the contribution to this book by J. Peter Pham. From an operational perspective it suffices to say that the lack of possibilities for dealing with the authorities on land mainly hinders counterpiracy operations when dealing with the prosecution and further judicial processes of pirates who are captured. Local authorities in Puntland and Somaliland are proclaiming to be active in searching for, disrupting and prosecuting pirates in their territories. They have pleaded to the international community and naval actors in place to hand over captured pirates, but the EU, NATO and most other nations consider the human rights situation in these areas insufficient. Only France and Spain have occasionally handed over pirates to the Puntland and Somaliland authorities and the TFG.[7] However, international navies still mostly rely on other countries in the region or their home country for prosecution possibilities. In 2009 the EU, for example, concluded memoranda of understanding with Kenya and the Seychelles for the handing over of suspected pirates for prosecution.

A fifth local hindrance is the use by pirates of the entire 3,000-kilometre Somali coast from which to initiate piracy activities. Somalia has the longest coastline of any African state. Pirates use several villages mostly in Puntland and Somaliland but also in south Somalia to host their activities, but they also make use of camps for logistics from the north of Puntland

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7   Interview by the authors with a senior naval commander with experience
     in the area, January 2010.

down to the Kenyan border that are often temporary and replaceable. Maritime actors have a hard time anticipating the expected routes the pirates take from land into the Gulf of Aden, Somali Basin and Western Indian Ocean. This makes the fight against piracy more complex, as its bases are dispersed over a vast area of Somalia's coastline.

The last local element that differentiates Somali piracy from other areas is that the degree of organizational networks supporting piracy in the Gulf of Aden and Western Indian Ocean is very high. From sharing intelligence and other information between the clans and criminal elites that direct piracy acts to fine-tuning ransom negotiations and supposedly setting up a stock market for raising funds and investors with regard to pirate activities.[8] This increases the pressure on pirates at the executive level vis-à-vis their investors to succeed in bringing in large amounts of money out of their activities.

The operational consequences and implications of these local social, political and geographical conditions of Somali piracy will be discussed later on. First, it is of importance to examine the international maritime presence in the area and to look into the ways in which they currently operate.

4.2   International Counterpiracy Operations

In July 2005, for the first time in the history of the UN World Food Programme (WFP) a ship carrying emergency relief for Somalia was hijacked. The ship was carrying food aid for 28,000 survivors of the December tsunami and the food would have fed them for two months. The UN World Food Programme suspended all shipments of humanitarian assistance to Somalia off Somali waters along Africa's east coast until security would improve. International counterpiracy operations therefore started with a naval escort system in November 2007, when

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8   ANP, 'Piraten zetten "beurs" op', 7 December 2009.

France decided to send an individual mission to escort WFP ships, followed by missions by Denmark, Canada and the Netherlands. Since then not a single ship loaded with WFP food heading to a port in Somalia has been attacked.

However, 2008 saw a surge in piracy attacks on commercial shipping, which prompted the UN to request the international community to step up to this increased threat.[9] Multilateral organizations including the EU and NATO are since then represented, while the US-led multinational Combined Maritime Forces (CMF) has set up the purpose-made Combined Task Force 151 following Combined Task Force 150 to specifically combat piracy.[10] Moreover, countries from the Middle East region like Iran and Saudi Arabia have sent ships to the region, and a group of eleven Arab countries has also announced the establishment of an anti-piracy naval task force to prevent piracy from spreading into the Red Sea and Suez Canal.[11]

The piracy problem in Somali waters has accelerated geopolitical developments, as the USA, China, Russia, India, South Korea, Singapore, Malaysia, Japan, and numerous European countries have all deployed warships to the western Indian Ocean.[12] Moreover, private security firms hired by shipowners and vessel protection detachments allocated by some governments complicate the operational picture even more.

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9   UN resolutions 1814, 1816, 1836, 1848, 1851, all issued in 2008.
10 CTF-150 was originally set up to combat terrorism in the region, but some coalition members believed that fighting piracy was out of the mandate and distracted too much from this original goal of fighting terrorism. Especially the United States is a strong believer in the importance of fighting terrorism in the region and sees counterpiracy missions as secondary to this goal.
11 Bibi van Ginkel, Jort Hemmer, Susanne Kamerling, Frans-Paul van der Putten, 'Pioneering for Solutions to Somali Piracy – Facing the Challenge, Seizing the Opportunity', *Clingendael Security and Conflict Policy Brief*, 3 August 2009, p.2.
12 Ibid.

4.2.1   EU: Operation Atalanta

The European Union – under the presidency of France – launched the EU Naval Force Somalia – operation Atalanta (EUNAVFOR Atalanta) in December 2008 as a follow-up to the individual missions of countries to protect WFP ships. It was its first naval operation under the framework of the Common Security and Defence Policy (CSDP)13 that President Sarkozy of France was eager to advance under his presidency. Forces participating in Operation Atalanta have been tasked with providing vessels of the United Nations World Food Programme (WFP) and the African Union's Military Mission in Somalia (AMISOM) - considered as vulnerable shipping - with protection as well as fishing and merchant vessels. They are authorized to 'employ the necessary means, including the use of force, to deter, prevent and intervene in order to bring to an end acts of piracy and armed robbery which may be committed in the areas where they are present'.14 The European Council has extended the mandate for Operation Atalanta for one year from its original deadline in 2009 to December 2010.

The Political and Security Committee (PSC) exercises the daily political control and strategic direction of the EU military operation, under the responsibility of the Council of the European Union. For its part, the European Union Military Committee (EUMC) monitors the correct execution of the operation conducted under the responsibility of the Operation Commander, who commands the operation from the Operational Headquarters (OHQ) at Northwood, United Kingdom. It is there that the operation – as directed by the authorities of the European Union – is planned and conducted at the operational level. From April 2010 onwards the Swedish Rear Admiral Jan Törnqvist presently commands the European

13 The European Security and Defence Policy (ESDP) has become the Common Security and Defence Policy (CDSP) under the Treaty of Lisbon.

14 European Union Council Secretariat, Fact Sheet: EU naval operations against piracy (EU NAVFOR Somalia – Operation ATALANTA), EU NAVFOR/04, March 2009.

naval force from the Force Headquarters (FHQ), on board of HMS Carlskrona. The operational commander reports directly to the PSC.

EUNAVFOR was the first to establish an online centre for transiting ships through the Gulf of Aden known as the Maritime Security Centre - Horn of Africa (MSC-HOA) that was a follow-up to an anti-piracy shipping coordination cell in Brussels (EUNAVCO). The MSC-HOA was set up for recording all movements, applications for assistance and receiving and issuing updated threat information and advice. MSC-HOA coordinates all requests for assistance that come in from shipping companies and for which the capacities of the Combined Task Force 151 (CTF151), EU and NATO are being used to assist merchant vessels through the Internationally Recommended Transit Corridor (IRTC). The IRTC was an initiative by the EU with the aim being 'to deconflict commercial transit traffic with Yemeni fishermen, provide a measure of traffic separation, and allow maritime forces to conduct deterrent operations in the Gulf of Aden with a greater degree of flexibility'.[15] The IRTC has provided increased security for the vessels that pass through it, although hijacks have occurred occasionally within the IRTC since its inception. Since the monsoon season of 2009 there is relative safety within the corridor, the last vessel that was hijacked in the IRTC was the vessel *Horizon* 1 on 8 July 2009. According to EUNAVFOR liaison officer Commander Lintern, the ships that follow the advice of MSC-HOA are at considerably less risk of being attacked. Without the web-based information provided to ships that go through the Gulf of Aden a ship has a 1 in 14,000 chance of being attacked and captured, with the mission's advice this number drops to 1 in 70,000.[16] MSC-HOA has over

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15 US Department of Transportation, Maritime Administration Advisory # 2009-07, Gulf of Aden, Red Sea, and Indian Ocean Transit, 9 September 2009.
16 SDA Roundtable Report, 'Re-thinking Europe's naval power', Brussels, 16 March 2009.

6,000 registered users and has seen over 300,000 visits by185 countries since its establishment at the end of 2008.[17] Similar services are provided by the UK Maritime Trade Operations (UKMTO) in Dubai and the US Navy's Maritime Liaison Office (MARLO) in Bahrain, which currently redirect the majority of the applications to MSC-HOA.

EUNAVFOR has also provided the necessary resources to protect ships aimed at sustaining the AMISOM or deploying its reinforcements. The EU and its member states also financially support AMISOM in terms of planning and capacity building in order to increase, in particular, the efficiency of the Somali police force and to combat the abuse and violation of human rights. Although the effectiveness of this mission and its very presence is widely debated, the EU (and the UN) has spoken out in favour of prolonging this mission.

Among the EU member states which take part in EUNAVFOR are Greece, France, Spain, Germany, Belgium, the United Kingdom, Luxembourg, Sweden, Italy and the Netherlands. From the end of August 2009 until mid-January 2010, the non-EU member Norway has also participated with a frigate in Atalanta. Croatia and Montenegro have, moreover, been accepted by the PSC to join the EU-led maritime forces after vowing to respect the 'human rights' of pirates. Malta, Cyprus, Finland, Romania, Croatia and Switzerland have supplied staff officers. A proposal for medical aid from Switzerland did not pass Parliament. This is the first time such broad interest has been expressed by non-EU member states in taking part in an EU mission.[18] The European Union itself has also invited South Africa, Australia and New Zealand to become involved in counterpiracy operations off the Somali coast.[19]

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17 Commodore Pieter Bindt, lecture on 17/02/2010, in The Hague, the Netherlands.
18 *EU/ Somalia Bulletin Quotidien Europe*, no. 10, 09/03/2010.
19 'Kamerbrief inzake verlenging van de Nederlandse bijdrage aan de EU-operatie Atalanta ter bestrijding van piraterij voor kust van Somalië', 13 November 2009.

The EU currently has an MoU for handing over suspected pirates with Kenya and the Seychelles, although this has not always led to satisfactory results. The Dutch frigate HNLMS Evertsen that took part in Atalanta was forced to release 13 suspected pirates in December 2009 because neither Kenya or the Seychelles nor any other countries in the region were willing to take them. Kenya moreover decided in April 2010 to denounce the agreement with the EU (for which it receives some 1.7 million euro under the Peace Facility in addition to the development aid programme).[20]

Several European countries operating in Atalanta, like France, the United Kingdom, Denmark and the Netherlands, are able to prosecute pirates under their national legislation, but are hesitant to do so out of fear for possible asylum requests by (former) pirates once they are prosecuted in European countries.[21] However, in principle all countries have the possibility to prosecute pirates under the UNCLOS.

4.2.2   NATO: Operation Allied Protector and Operation Ocean Shield

At the request of the UN Secretary-General Ban-Ki Moon the North Atlantic Treaty Organization (NATO) deployed Standing NATO Maritime Group 1 (SNMG1) to conduct anti-piracy operations in the Horn of Africa Region in late 2008. NATO provided escorts to UN World Food Programme (WFP) vessels transiting through the Gulf of Aden and the Horn of Africa (mostly from Mombassa to Mogadishu) under Operation Allied Provider. NATO ended Operation Allied Provider in December 2008 and transitioned WFP protection responsibilities to the EU Operation Atalanta.

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20   *Europe Diplomacy and Defence*, 311, 20 April 2010.
21   'Somali pirates embrace capture as route to Europe', The Telegraph, 19 May 2009; 'Piraten keren nooit meer terug', Algemeen Dagblad, 18 May 2009.

However, NATO launched a new anti-piracy mission: Operation Allied Protector, under the command of SNMG1 in March 2009.[22] The forces participating in Operation Allied Protector acted to 'deter, defend against and disrupt pirate activities'. On 17 August 2009, after the North Atlantic Council approved the mission, NATO replaced Operation Allied Protector with a new anti-piracy mission, Operation Ocean Shield, for which Standing NATO maritime Group 1 and 2 (SNMG1 & 2) was used.[23] Like its predecessor missions, Operation Ocean Shield has a primary responsibility to deter and respond to piracy. Operation Shield comes under the overall responsibility of Joint Command Lisbon, Portugal, and the day-to-day operational control of the operation is under the Allied Maritime Component Command (CC-Mar), Northwood, United Kingdom.

Both missions were initially not set up as counterpiracy missions. They were already planned out-of-area operations to Asia that were turned into counterpiracy missions for the occasion of being in the maritime theatre of the Gulf of Aden, at the instigation of the former Secretary General of NATO Jaap de Hoop Scheffer who stated that it is not acceptable that NATO is present in the region without doing anything to fight piracy.[24] NATO so far lacks any MoUs with countries in the region to hand over suspected pirates for prosecution. This has led to incidents where pirates who had been captured were brought back ashore because of a lack of prosecution capabilities; a practice indicated in the literature as the 'catch

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22 The forces participating in SNMG 1 are the United States, Canada, the United Kingdom, Germany, the Netherlands, Belgium, Denmark, Norway, Poland, Portugal and Spain. During the mission Allied Protector SNMG1 consisted of the United States, Canada, Spain, Portugal and the Netherlands.

23 Forces participating in SNMG 2 are the United States, the United Kingdom, Germany, Greece, Italy, the Netherlands, Spain, Turkey, and occasionally other NATO members. The Force Generation Conference did not yield any offers other than the use of the SNMGs.

24 Interview by one of the authors with NATO officials, Brussels, 18 February 2009.

and let go' principle. NATO is – in terms of operational convenience – less well off than the European Union that has designed its missions especially for the maritime theatre of Somalia. The EU, NATO and CMF release most of the pirates when there is insufficient proof of them being connected to an attack or hijack. However, in those cases the suspected pirates are disarmed, and skiffs, engines and communication equipment are confiscated.

4.2.3   Combined Maritime Forces (CMF): Combined Task Force 150 and 151

In January 2009 the United States Naval Forces Central Command (NAVCENT), which is subordinate to the United States Central Command, Tampa, Florida, United States, established Combined Task Force 151 (CTF-151) with its operational headquarters (OHQ) in Bahrain. Its sole mission is to conduct counterpiracy operations in the Gulf of Aden and the waters off the Somali coast in the Indian Ocean. That role had temporarily been filled by CTF-150, that was set up to fight terrorism and other maritime security operations in the region as it had since 2001-2002 as part of the Combined Maritime Force (CMF) of the US 5th Fleet. Counterpiracy missions were believed by some coalition members (especially the United States itself) to divert too much from its original goal of counterterrorism, which was the reason for setting up the separate task force CTF-151.[25]

The list of countries participating in CMF is fluid and consists of approximately two dozen ships and personnel from the United States, the United Kingdom, Canada, Australia, Denmark, France, Germany, Greece, Italy, the Netherlands, Pakistan, Saudi Arabia, Singapore, Spain, South Korea, Turkey and Yemen, among others. Furthermore, CTF-151 deploys between 2 and 5 ships for counterpiracy missions, while NATO

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25   Interview by the authors with a senior naval commander with experience in the area, January 2010.

and the EU generally have much larger deployments; between 3-7 and 3-14 respectively, excluding air capacity. CTF-151 does not have any memorandum of understanding (MoU) with countries in the region with regard to prosecuting pirates.

4.2.4   Other Naval Actors Involved in Counterpiracy Operations

In addition to the established forces, other countries, most notably Russia, China, and India, have independently contributed to the international counterpiracy efforts by monitoring the operational theatre and conducting 'national escort' operations. The Indian and Chinese forces are best known as 'green water', or littoral forces that operate close to shore and do not routinely operate in a 'blue water' environment on the high seas.[26] Before, these two navies only left their regular operating areas to conduct humanitarian assistance, crisis response, escort missions, training exercises and routine port visits. This is India's and China's first extended transcontinental naval operational deployment and this consequently poses operational challenges. Conducting patrols on the high seas, away from shore-based aviation and communications, creates new logistic challenges, including navigation through the exclusive economic zone of coastal states; conducting visit, board, search and seizure operations in unfamiliar areas and maintaining the sustainability of the operation (ship, crew, logistics, etc).

But also other Asian countries like Japan, South Korea, and Malaysia have contributed in one way or another. Several countries in the region, like Iran and Saudi Arabia, have occasionally deployed warships to the Western Indian Ocean and Red Sea in reaction to piracy activities in their direct neighbourhood. Moreover, a consortium of Arab countries (Saudi Arabia, Bahrain, Djibouti, Egypt, Jordan, Kuwait,

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26 Brian Wilson and James Kraska, 'Anti-Piracy Patrols Presage Rising Naval Powers', YaleGlobal online, 13 January 2009, p.2.

Oman, Qatar, Sudan, UAE and Yemen) have announced in
June 2009 that they are to set up a anti-piracy naval force to
prevent the spread of piracy from the Gulf of Aden to the Red
Sea and Suez Canal. This potentially constructive initiative is,
however, not yet operational. These multiple efforts by various
countries – of which some are new players – have made the
operational picture more complex than ever before.

4.2.5   *Private Security Firms and Vessel Protection Detachments (VPDs)*

Another possibility for the shipping industry is to hire private
security companies or to ask for vessel protection detachments
(VPDs), military teams allocated by the government of the
country in question for escorts through high-risk waters and
other services. Fishing vessels of France and Spain, for example,
operate private vessel protection detachments, for which they
have an agreement with the Seychelles for weapon and
ammunition handling. Parleying with pirates, and then paying
the ransom, are tasks that shipowners also regularly contract out
to private firms or ´risk consultants´.

Private security firms – some with a reputation for being
trigger-happy in Iraq – are joining the battle against pirates
plaguing shipping lanes off the coast of Somalia. Business
protecting ships off east Africa has tripled in the past year.
Armed escort ships, offering protection for a price, are
becoming a lot more common off East Africa.[27]

The growing interest among merchant fleets in hiring their
own firepower is encouraged by the United States and
represents a new and potentially lucrative market for security
firms scaling back operations in Iraq. 'This is a great trend', said
Lieutenant Nate Christensen, a spokesman for the Bahrain-
based US 5th Fleet. 'We would encourage shipping companies

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27 ´Splashing, and clashing, in murky waters´, in: *the Economist*, 20 August
2009.

to take proactive measures to help ensure their own safety'.[28] As Admiral Mark P. Fitzgerald, Commander of U.S. naval forces in Europe and Africa and of NATO's Allied Joint Task Force Command in Naples put it: 'Because we cannot offer 100-percent guarantees of protection as the ships go through, commercial ships should take appropriate protections and arm themselves'.[29]

The stance of the United States in this matter is not shared by many European countries that are a lot more hesitant in encouraging shipping companies to hire private security firms. Most European countries are also rather reserved when it comes to equipping merchant vessels with VPDs.

The private military security contractor Xe Services LLC (the former Blackwater Worldwide Company) has made available the services of a security escort ship to commercial shippers in the Gulf of Aden since mid-October 2008. The MV *McArthur* includes a helicopter, as an organic naval aviation capability is essential for ships to conduct effective maritime security operations. Although the vessel will not be armed, it will carry armed security personnel who can operate from rigid hull inflatable boats.[30] The services that these private companies provide to shipowners can be divided into:

- Shipboard security: small teams, usually three to six people, which are deployed to vessels for the duration of transits. Some board and disembark from Yemen ports, while others work longer transits, from Suez, Mombasa, Dar-es-Salaam, Durban, the UAE and Galle, Sri Lanka. This gives more time to become familiar with the ship, its crew and routines, and work out to secure it. It is however quite costly, the Gulf

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28 'Security firms to fight Somali pirates', The Associated Press, 26 October 2008
    (http://www.msnbc.msn.com/id/27390087/print/1/displaymode/1098/).
29 Defence talk; global defence and military portal, 'Admiral urges arming of vessels to combat piracy', April 20, 2010.
30 James Kraska and Brian Wilson, 'Fighting Pirates: The Pen and the Sword', *World Policy Journal*, Winter 2008/09, p.42.

of Aden Group Transits company charges 35,000 US$ for a transit merely through Yemen waters.

- Escorts through high-risk waters: Protection Vessels International Ltd has its own escort vessel, which is crewed by former Royal Marines. Maritime Asset Security & Training is a British-based company which advertises that it can charter ex-military patrol craft to escort super yachts.
- Information and advice: companies provide shipowners and masters with voyage risk assessments and intelligence updates, advice on route planning and onboard security, crew training, and 24-hour monitoring during transits. Drum Cussac, a British firm based in Jersey for instance, will monitor a ship's progress and advise the master on changing threat levels. [31]

However, employing private firms may also be problematic, as the legality of some security operations may be questionable. For example, the state flags under which ships are registered differ over whether employing contractors on their vessels is permissible. Some states explicitly prohibit it, some say they do not support it, and others remain neutral. While private industry can in theory and sometimes in practice prove more cost-effective, such efficiency is not guaranteed.[32] Moreover, the force used by these private security companies is not investigated as the use of force of military units would be. An argument also put forward is that the presence of private armed teams on commercial ships can result in an escalation of violence. Anecdotal evidence suggests that often victims of violence by private actors are kept quiet. A 'free for all' attitude in international waters would surely make it a lawless place, which contradicts trying to increase security in certain areas like the Gulf of Aden, for example by combating piracy.

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31 'Private firms may have anti-piracy role', *Oxford Analytica – Global Strategic Analysis*, 4 December 2008.
32 Claude Berube, 'Marine corps – Private security companies and Piracy', *Jane's Intelligence Review*, March 2009, p.36.

4.3   Modus Operandi in Maritime Counterpiracy Operations

Since the international community has quite aptly responded to the appeal of the United Nations to deploy maritime units to the Gulf of Aden, various naval forces have initiated escorted convoys and group transits in the region. Initially, the coordination between the three multinational alliances of CMF, NATO, EUNAVFOR and the other naval actors present was limited. It was only in September 2008 that the EU OHQ introduced the Internationally Recommended Transit Corridor (IRTC), that was accepted in a SHADE meeting (Shared Awareness and Deconfliction, see the next section) and thereafter by the International Maritime Organization (IMO). It has since then been guarded by CMF, NATO and EUNAVFOR.

4.3.1   The Internationally Recommended Transit Corridor
(IRTC) and Escorted Convoys

The corridor, which runs parallel to the south coast of Yemen, has been established to improve the security of the vessels that go through it, and to optimize the use of available maritime assets present in the region. Group transits through the IRTC are self-organizing, as the corridor is permanently covered, and all ships can attach themselves to a group transit. Ships that apply for assistance at the MSC-HOA, and that meet certain criteria, will be provided with an assisted individual transit through this corridor.

The IRTC is divided into a westbound and an eastbound lane separated by a 5-mile middle zone and divided into many boxes that are allocated to the CTF-151, NATO and EUNAVFOR Atalanta depending on unit capability, planning, the availability of other units and threat information. Six to eight naval vessels including air support permanently patrol each box and pass over group transits and vulnerable shipping to the next

box. At an average speed of 15 knots it takes about 48 hours to go through the IRTC. Within the IRTC there are three possibilities for vessels to be assisted:

i)   one-on-one escorts for slow, vulnerable or high-risk vessels;
ii)   group transits that are designed to pass through the highest threat area during night time guarded by the box system, and
iii) supported transits for vessels that are not vulnerable enough for one-on-one escorts but could not attach to a group transit.

The supported transits are monitored and handed over from box to box. Units position themselves so that they can reach a vessel under attack within the required response time of 15-20 minutes.[33] After applying at MSC-HOA, commercial ships receive advice on how they can pass through the corridor. Estimations are that 75-80% of commercial shipping actually apply to MSC-HOA. The criteria on which their assistance through the IRTC is decided upon are confidential, but at least the speed of the ship, its cargo, and the height of its board play a role.[34]

Japan, South Korea and India also pass through the IRTC and have the advantage of the protection guaranteed in the boxes, but they sail through with their own national escorts. Countries like Russia and China carry out 'escorted convoys' approximately five nautical miles north and south of the IRTC. These convoys are primarily set up for vessels of their own national flag or for nationals sailing under a third flag state, but they are often also open to whoever applies for assistance. Naval vessels of the country in question assist the (group of) vessel(s) all the way through the Gulf of Aden. In the case of China it has

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33 Interview by the authors with Commander Henk Monderen RNlN and Commander Rob Kramer RNlN, DOPS, Dutch Ministry of Defence, The Hague, 19 November 2009; interview by the authors with a senior naval commander with experience in the area, January 2010.
34 Ibid.

been under discussion whether China will participate in the IRTC box system. As of yet, this has not been the case.

Coordination of all these operational activities takes place at sea between the force commanders of all naval assets three to six weeks ahead in planning.

4.3.2   Shared Awareness and Deconfliction (SHADE)

At the Shared Awareness and Deconfliction (SHADE) meetings in Bahrain all initiatives at sea are presented. It is a staff-level group of officers who meet regularly (approximately once every six weeks) to ensure that the naval forces conducting counterpiracy operations are effectively coordinating their efforts.[35] This activity involves multinational forces (EUNAVFOR, CMF, NATO) and the countries operating in the area, together with representatives from the UN, INTERPOL, UKMTO, MARLO, as well as representatives from the shipping world (Intertanko, Intercargo, BIMCO, IMB, IMO).

At these meetings tactical and operational coordination is discussed and agreements are made for a certain period of time with regard to the division of tasks, optimizing the use of available assets and coordination of the geographic presence. Moreover, action plans are made on how to move forward and improve the coordination in the operational theatre. The terms of reference for SHADE were signed by every participating actor except China although the country actively participates in SHADE. SHADE has also approved a concrete product, namely the IRTC Coordination Guide that sets out the principles and concrete workings of coordination and cooperation in the IRTC.

SHADE has moreover seen an increase in the naval authorities present at these coordination meetings, as naval officers from China, Russia, India, Japan, Saudi Arabia and

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35   Massimo Annati, 'Maritime Operations off the Horn of Africa: New and Permanent Task for our Navies?', *Naval Forces*, IV, 2009, p.38.

other countries (except Iran) have joined these meetings.[36] China even expressed its wish to play a leading role in counterpiracy efforts – alongside the EU and the US – and has requested in November 2009 to (co-)chair the SHADE meetings in Bahrain. In this context China is likely to take the rotating chair to be filled by individual nations that (will) operate in the IRTC. The EU, CMF and NATO will likely be taking the non-rotating co-chairs. Here also, the piracy problem reveals that there are other interests at stake, to be found more on a geopolitical level. SHADE aims at keeping the meetings focussed on the tactical and operational level, and tries to keep the more political-strategic spheres out of their scope.[37] However, it is increasingly becoming a political forum.

4.3.3   Other Operations

There are more naval assets present – currently about 30 vessels of different countries excluding air capacity – than just the ones guarding the IRTC or executing escorted convoys. For the navies present, there are several operations possible in the operational theatre. CMF, NATO and EUNAVFOR execute the following:

- *Escort, supported transits, group transits*: in the operating area in general and the IRTC more specifically.
- *Assistance*: the assistance of WFP ships, AMISOM, ISAF, released hostages and other actors that can request assistance outside the IRTC.[38] The ships are assisted and – if

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36 Interview by the authors with Captain Ruud Raemakers RNlN, Commanding officer of HNLMS *Zeven Provinciën* that took part in SNMG1 in the NATO mission Allied Protector, Den Helder, 16 November 2009.

37 Interview by the authors with Commander Henk Monderen RNlN and Commander Rob Kramer, RNlN, DOPS, Dutch Ministry of Defence, The Hague, 19 November 2009.

38 Interview by the authors with Captain Ruud Raemakers RNlN, Commanding officer of HNLMS *Zeven Provinciën* that took part in SNMG1 in the NATO mission Allied Protector, Den Helder, 16

needed – handed over to AMISOM teams in Mogadishu, to the Somaliland Coast Guard in Berbera, to the Puntland Coast Guard in Boosaaso, or countries in the region. On some occasions there is a boarding team of the assisting navy on board of the ship that is being escorted.

- *Baseline operations*: the goal of these operations is to patrol the area, reassure the actors present, and to assist commercial shipping. This is mostly done in or near the IRTC. During these operations naval teams visit local fishermen at sea. By using Somali linguists they explain the aim of the naval operations in the area and the fishermen are given information on how to reach naval authorities.

- *Focused operations*: aimed at gaining intelligence and/or deterrence by showing a presence in areas where intelligence has provided information of an upcoming event. NATO calls this a 'layered defence approach'.[39] The objective is to interdict the pirates before they get into a position to conduct an act of piracy. These operations are mostly executed in the Somali Basin or near the coastline.

4.3.4   Means of Communication and Maritime Situational Awareness (MSA)

There are civilian as well as military systems through which commercial ships and the naval authorities currently communicate. Two civilian systems that are widely being used are the Automatic Identification System (AIS), and Global Maritime Distress System (GMDS), the latter being imposed on

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November 2009 and interview by the authors with Commander Henk Monderen RNlN and Commander Rob Kramer RNlN, DOPS, Dutch Ministry of Defence, The Hague, 19 November 2009.

39   Depending on the broader operational picture, some maritime units stay close to the land to deter pirates from setting sail, while the remainder wait closer to the merchant shipping lanes in the hope of disrupting attacks.[39] Pirates are only arrested if they are caught attacking or attempting to board a ship. Special forces teams will simply dispose of their grappling ladders, weaponry and excess fuel.

the shipping industry by the IMO. They are very high frequency (VHF)-based systems that while short in range, provide data on merchant ships, including identification, position, course, and speed. These systems are also used as a means to communicate with ships and receive and react to emergency calls. With the (civil) information of these systems the naval forces present in the region set up a recognised maritime picture (RMP) which enlarges the maritime situational awareness (MSA).

This overall operational picture is disseminated via classified military systems (MCCIS, Link11, NSAWAN and CENTRIXS) and is accessible only to most countries participating in CMF, NATO, or EUNAVFOR plus Japan and South Korea (because of their cooperation with the United States). Mercury, an EU-introduced web-based system is used to communicate with all naval forces and relevant shore-based organizations that do not have access to a classified RMP of the established naval forces – like Russia, China, the Seychelles, India, and UKMTO. Navies and shore-based organizations have to apply and be admitted. Currently all naval actors except Iran have joined this forum with possibilities for chat, file exchange and an unclassified RMP, to exchange information.[40] Currently, work is in progress to implement a near real-time unclassified operational picture in Mercury. The CMF, NATO and EU are interoperable which makes the cooperation and coordination among the participating countries in these alliances much easier than with third forces of Russia, China and India to name but a few.

The MSA of the Gulf of Aden is currently quite sophisticated because of the presence of naval forces in the

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40 Interview by the authors with Captain Ruud Raemakers RNlN, Commanding officer of HNLMS Zeven Provinciën that took part in SNMG1 in the NATO mission Allied Protector, Den Helder, 16 November 2009, interview by the authors with Commander Henk Monderen RNlN and Commander Rob Kramer RNlN, DOPS, Dutch Ministry of Defence, The Hague, 19 November 2009 and interview by the authors with a senior naval commander with experience in the area, January 2010.

IRTC and the escorted convoys. However, creating MSA in the Somali Basin and Western Indian Ocean is still a challenge because of the size of the area and the limited presence of naval ships and especially aircraft. Ideally, one common operational picture or MSA is created of the whole area where pirates are active; however, technical, operational as well as political obstacles are still in the way.

4.4   The Pirates' Response

How do Somali pirates operate and respond to these international activities in the region? Piracy operations near Somalia unfold in seven phases:
1. reconnaissance and information gathering;
2. coordinated pursuit;
3. boarding and takeover;
4. steaming to a safe area;
5. negotiations;
6. ransom payment; and
7. disembarkation and safe passage.[41]

    The pirates seem to know what they are doing and how to foil some of the best navies currently operating. The 'focused operations' or 'joint patrols' by NATO, the EU and individual nations on a bilateral basis have had some effect, but the pirates have responded by raising their game and adapting their tactics and operating area. The pirates are now working hundreds of miles out in the ocean – which is rather the west coast of India or off Madagascar than the east coast of Somalia – where they operate from mother ships with a wider operational reach, sometimes using wooden skiffs for reconnaissance patrols. Because they are wood, they give no response to tracking radar.

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41 Raymond Gilpin, 'Counting the Costs of Somali Piracy', Center for Sustainable Economies, United States Institute of Peace, Washington DC, 22 June 2009, p.8.

Pirates are moreover generally aware of the rules of engagement of the navies present, their locations and activities. They also have knowledge of all of the negotiations that take place and the level of the ransoms that are paid by the different shipowners.[42] The possibility exists that pirates will (temporarily) shift their activities to other criminal spheres where profits are high, like human trafficking, and arms and drugs smuggling. The international community will be less focussed on these kinds of activities as there are less direct interests at stake.[43]

In this, they show one of the key elements of the practice of 'asymmetric tactics' in warfare. They are in some cases operating below the 'threshold of sophistication' of the best-equipped military forces. They work outside the scope of modern weapons systems. Surface-sweeping radars from ships, aircraft and satellites barely pick up the skiffs at a distance. If they do, it is almost impossible to differentiate them from the innocent fishery and commercial shipping.

Navies of the world have to change their operational thinking to meet the piracy problem. Till suggests that presently naval planners face two conceptual naval tasks: the state-centred 'modern' and the system-centred 'postmodern' mentioned earlier.[44] The former reflects the preoccupation of navies with state-to-state conflict and balancing naval power. The latter is the more novel, postmodern set of naval tasks that derive from the necessity of defending the global sea-based trading system. One of the tasks of postmodern navies is maintaining good order at sea. The anti-piracy operations off the Somali coast reveal

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42   See the chapter by Per Gullestrup and May-Britt Stumbaum; interview by the authors with Captain Ruud Raemakers RNlN, Commanding officer of HNLMS *Zeven Provinciën* that took part in SNMG1 in the NATO mission Allied Protector, Den Helder, 16 November 2009.

43   Interview by the authors with Commander Henk Monderen RNlN and Commander Rob Kramer RNlN, DOPS, Dutch Ministry of Defence, The Hague, 19 November 2009.

44   Geoffry Till, 'Making waves, Naval power evolves for the 21st century', *Jane's Intelligence Review*, December 2009, p.29.

many of the challenges that face maintaining good order at sea. Naval tasks should be directed more towards the necessity of defending the global sea-based trading system on which all else depends rather than defending their nation state.[45] The established navies will need to build fast patrol ships – advanced versions of the Second World War corvettes – and be further equipped with helicopters and small or inflatable boats for patrolling vulnerable choke points such as the Red Sea, Gulf of Aden, Strait of Malacca, Strait of Hormuz and even parts of the Mediterranean. These kinds of operations also require a structured and balanced sufficiency of frigates, light and relatively cheap corvettes, ocean and offshore patrol vessels, helicopters, unmanned aerial vehicles (UAVs) and even submarines to intercept targets and enforce jurisdiction. Navies should invest more in ships that could handle coastal operations. The US Navy, for example, has ordered new littoral combat vessels that – although capable of operating in robust warfare operations as well – are also effective in these kinds of 'policing' operations. India also has corvettes equipped with helicopters and inflatable boats that are suitable for constabulary tasks. The Dutch Navy has ordered ocean-going patrol ships. However, new naval actors in Asia like China and India are still predominantly focussed on capabilities that are less adequate in system-based operations – like counterpiracy missions – but are rather focused on state-centred missions.[46]

4.5   Onshore Regional Capacity Building

Not only offshore (military) counterpiracy missions are being undertaken. There are also several important initiatives to combat the piracy threat not only by sending warships, but also by working on more durable solutions that can build up capacity in the region so that counterpiracy missions will not be

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45   Ibid.
46   Ibid.

necessary in the future, or can be conducted by countries in the region itself.

4.5.1   The Contact Group on Piracy off the Coast of Somalia
Resolution 1851 'encourages all States and regional organizations fighting piracy and armed robbery at sea off the coast of Somalia to establish an international cooperation mechanism to act as a common point of contact between and among states, regional and international Organizations on all aspects of combating piracy and armed robbery at sea off Somalia's coast.' Based on this resolution, the United States Bush Administration initiated the formation of a multilateral Contact Group on Piracy off the Coast of Somalia (CGPCS, Contact Group) that was established as an international cooperation mechanism to act as a common point of contact between and among states and regional and international Organizations on all aspects of combating piracy.[47] It was initially made up of 24 member governments and five regional and international Organizations, but by September 2009 the membership of the CGPSC had grown to 45 member governments, seven regional Organizations, and two observers.[48] The Contact Group held its inaugural meeting in January 2009 and identified six tasks:
1. improving operational and information support to counterpiracy operations;
2. establishing a counterpiracy coordination mechanism;
3. strengthening judicial frameworks for arrest, prosecution and detention of pirates;
4. strengthening commercial shipping self-awareness and other capabilities;

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47 Report of the Secretary-General pursuant to Security Council resolution 1846 (2008), 13 November, 2009/590, p.2.
48 US State Department Bureau of Political-Military Affairs, 'Contact Group on Piracy off the Coast of Somalia: List of Participants, Fourth Plenary Meeting', New York, September 10, 2009.

5. pursuing improved diplomatic and public information efforts; and
6. tracking financial flows related to piracy.[49]

   Although very ambitious in their set-up, mainly the first four goals are actively pursued by means of working groups that come together once every few months. The second goal has largely been achieved through SHADE, and has therefore been broadened to the building up of regional capability, mainly focussing on the maritime aspect of capacity building. The last goal – tracking financial flows related to piracy – is, although important, not yet (openly) pursued. The United States is willing to investigate this issue, but not in the context of an CGPCS working group.[50] INTERPOL is also working on tracing money trails – in cooperation with the US and UK – by supporting law enforcement in the region, sharing information through the INTERPOL I-24/7 global secure communications network, and holding regional workshops for investigators that can help create effective police networks.[51]

   The Contact Group has sent two assessment missions to Somalia, and countries in the region, that will form the basis of all initiatives. The activities of the CGPSC will be funded by its own international trust fund that was set up to support all initiatives. Somalia itself is also participating in the CGPSC, but characteristically, with three delegations: one from the TFG (Transitional Federal Government) of Somalia, one from Somaliland, and one from Puntland.[52] The international community does not recognise the self-declared entities of

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49 Statement of Contact Group on Piracy off the Coast of Somalia, New York, 14 January 2009.
50 Interview by the authors with Commander Henk Monderen RNlN and Commander Rob Kramer RNlN, DOPS, Dutch Ministry of Defence, The Hague, 19 November 2009.
51 Report of the Secretary-General pursuant to Security Council resolution 1846 (2008), 13 November, 2009/590, p. 11.
52 Interview by the authors with Commander Henk Monderen RNlN and Commander Rob Kramer RNlN, DOPS, Dutch Ministry of Defence, The Hague, 19 November 2009.

Puntland and Somaliland as such, also because it does not want to encourage the breaking up of Somalia. Recently the TFG has signed an agreement with Puntland – the Gaalkacyo Agreement – in which in return for the support of Puntland for the TFG, it allows Puntland to enter into contact and agreements with the international community and the maritime missions in the region.[53] However, this situation still makes the cooperation with Somalia difficult, for, on the one hand, the international community does not formally recognise the different authorities of Somalia, but, on the other hand, to be somewhat effective in any initiative with regard to capacity building in the region it should work with all three sub-regional authorities – and not just the TFG.

4.5.2   The Djibouti Code of Conduct

The International Maritime Organization (IMO) began sponsoring consultation meetings on piracy for the Horn of Africa region in 2005, which finally led to the development of a draft cooperative framework in early 2008. Representatives of 17 regional governments met at an IMO-sponsored meeting in Djibouti in January 2009, and adopted this 'Code of Conduct concerning the Repression of Piracy and Armed Robbery against ships in the Western Indian Ocean and the Gulf of Aden'. Nine countries agreed to cooperate on anti-piracy security and capability development and signed the Code: Djibouti, Ethiopia, Kenya, Madagascar, the Maldives, the Seychelles, Somalia, Tanzania and Yemen. Egypt signed on 1 October 2009, more signatures by regional countries – 21 possible signatories in total – are expected. This Code of Conduct is a central instrument in the development of onshore regional capacity building for the purpose of combating piracy

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53   The importance, impact and status of the Gaalkayo Agreement are as yet unclear.

in the region.[54] A training and information centre has been established in Djibouti, where the French armed forces are training Somali security forces. Djibouti itself agreed to train 200 members of Somalia's coastguard, who will go on to teach their colleagues. IMO will also assist in the creation of a national Somali coastguard.

IMO will also set up a project cell for the implementation of the Action Plan that has been agreed upon, and already a multi-donor trust fund has been established to collect money for these efforts. Japan is one of the largest donors to this fund. Short and longer-term projects will be funded from this, supported by the international community, and coordinated by the IMO. Piracy information exchange is agreed to be coordinated and communicated from national focal points in the region, to be situated in the maritime rescue coordination centre in Mombassa, Kenya and the sub-regional coordination centre in Dar-es-Salaam, Tanzania respectively. A centre in Yemen will be established in the regional maritime information centre in Sana'a.[55] Especially the latter may be somewhat ambitious at this stage.

4.5.3 Other Multinational Initiatives
As the roots of Somali piracy are on land, everyone agrees that naval power is not enough and that also land-based initiatives should be taken.

The EU and NATO are currently developing a more comprehensive approach to counterpiracy efforts. A new component of the missions is participation in capacity building efforts with regional governments. For NATO for example, under 'Operation Patch', Cornwall, as NATO's lead vessel, has been working with the authorities in the semi-autonomous

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54 Report of the Secretary-General pursuant to Security Council resolution 1846 (2008), 13 November, 2009/590.
55 Record of the meeting that took place in Djibouti from 26-29 January 2009, and in which the Code of Conduct was adopted, p. 10.

Somali region of Puntland – home of the worst pirate dens.
Cornwall's leadership is investigating the potential for helping to
train the 600-strong Puntland Coastguard. Staff officers of both
the EU and NATO have conducted frequent meetings,
interviews and initial low-level cooperation with both the
Puntland and Somaliland Coast Guard and fishery authorities.
The information and intelligence flows that are established with
these authorities have been of practical operational benefit to the
EU, NATO and also CMF. Contact with the TFG has
paradoxically proved more difficult.[56] Sorties along the coast
have advanced more quickly thanks to information from the
ministers, who have also given the EU and NATO valuable
intelligence on pirate camps that would otherwise have
remained undiscovered. The EU and NATO are hopeful that
the men who helped them so far, and with whom they have built
up productive relationships, will remain in power long enough
to continue the process, according to the media liaison officer,
Lieutenant Commander Graham Bennet.[57]

    EU governments agreed, on 17 November 2009, on a
crisis management concept for a possible Common Security and
Defence Policy[58] mission to contribute to the training of security
forces for the transitional federal government (TFG) of Somalia.
The mission would be part of an overall EU approach to
addressing the problem of lawlessness in the area. The crisis
management concept will be developed into a more specific
operational plan. There are expected to be between 100 and
200 EU trainers. France is already training around 1000 Somali
soldiers in a military base in Djibouti, northwest of Somalia.
However, other European countries like the Netherlands are
hesitant to train Somali security forces because of the lack of an
institutionalised security sector. There is no guarantee that

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56 Interview by the authors with a senior naval commander with experience
    in the area, January 2010.
57 Report of the Secretary-General pursuant to Security Council resolution
    1846 (2008), 13 November, 2009/590, p. 24
58 The European Security and Defence Policy was renamed the Common
    Security and Defence Policy under the Treaty of Lisbon.

trained forces will remain loyal to the TFG and the counter-piracy cause.

The United Nations already had a multitude of initiatives in place before the conception of the Contact Group that are also aimed at improving the situation in onshore Somalia. The Somalia Monitoring Group watches weapon deliveries to Somalia, the UN Office on Drugs and Crime provides technical support to Somalia, the United Nations Development Programme (UNDP) is working – among other things – to improve the prison system (also in Kenya and the Seychelles), the UN Joint Programme on Local Governance and Decentralized Service Delivery and the Somalia Reconstruction and Development Programme are focussed on decentralized service delivery and contributing to the Millennium Development Goals in Puntland, Somaliland, south and central Somalia, and the UN Support Office is supporting AMISOM. The UN country team has developed a transition plan for all UN agencies, funds and programmes in Somalia for 2008-2010, in which a strong role is laid down for strengthening the federal institutions of Somaliland and Puntland. An Integrated Task Force for Somalia finally has the aim of bringing together all UN entities – including IMO and INTERPOL – and coordinating the approach of the various counterpiracy initiatives in Somalia and the region.[59]

Overlap and duplication is quite likely in this jungle of initiatives of the UN, NATO, and the EU, not to mention all the initiatives taken bilaterally or by nations individually. Especially because not all necessary information is shared completely and in good time, and the initiatives are not geared toward another.

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59 Report of the Secretary-General pursuant to Security Council resolution 1846 (2008), 13 November, 2009/590.

4.6   Operational Challenges

Multinational maritime operations are generally not problematic, and ships of many different navies both within and outside the EU, NATO and CMF have worked together successfully for many years. Language is not a problem, provided key personnel in a ship's company can speak English, the common language of the sea. There are familiar international rules and Organizations, like the United Nations Convention on the Law of the Sea (UNCLOS), and the International Maritime Organization (IMO).

Nevertheless, the operational consequences of these specific circumstances in which Somali piracy flourishes and international navies operate are multiple. Various local conditions such as the immense size of the operational area, the lack of a complete maritime situational awareness, the long coast line from which piracy activities are initiated, the high-level professionalism of Somali piracy, the modus operandi of the Somali pirates, and the unstable political situation on land and therefore the lack of an (effective) authority to deal with have proven to be major operational challenges to say the least. This should have consequences for the Organizational structure, mandate, and maritime capabilities and assets of the missions in the operational theatre, but first and foremost it should have an impact on the ambitions that are being formulated by nation states as well as multinational forces. It is an illusion to think that even with all the efforts in place, piracy in such a large maritime theatre and with these specific local and regional characteristics can be completely eradicated as long as the politically unstable situation onshore remains the same. From an operational perspective, protecting WFP shipping aimed at emergency aid for Somalia and merchant shipping aimed at fuelling the global trade and economy (and of course with that the seafarers themselves) from attacks or hijacks by Somali pirates would be an achievement in itself. For the dire situation in Somalia this might not be enough, but greater ambitions are not feasible when considering this operational theatre. As

Admiral Mark P. Fitzgerald, Commander of US naval forces in Europe and Africa and of NATO's Allied Joint Task Force Command Naples put it: 'We could put a World War II fleet of ships out there, and we still wouldn't be able to cover the whole ocean'.[60]

Next to the local conditions, the fact that so many actors – including private security firms – with sometimes different tasks and goals are operating in the Gulf of Aden, also creates many challenges. The main challenge is the successful coordination of all counterpiracy activities. There are several mechanisms for coordination in place, but political as well as technical obstacles remain in the way. These vary from building a common operational picture, intelligence sharing and data exchange to the deconfliction of tasks and different Rules of Engagement. The advantage of the presence of all these actors is that there is one common goal: fighting piracy. However, for some, counterpiracy may only prove to be a pretext to be present in the strategically vital area of the Indian Ocean and gain experience, information and intelligence on the other actors that are present in the area. This seems especially true for the United States and Iran, and newcomers China and India. Performing out-of-area operations is also an important aspect for the new naval powers China and India which by their counterpiracy efforts will gain experience in independent as well as coalition operations and coordination, including exercising communications as well as bridge-to-bridge radio, satellite telephone, internet, radar, sonar and electro-optical sensors. It is probable that the newly emerging naval powers will develop new doctrines, policies, tactics, techniques and procedures to master extended deployments, and those skills will transfer to future missions. New ship and weapon platforms may not be far behind either. The nations of China and India now join traditional maritime powers – the United States, the United Kingdom, France and Russia – as naval forces with possible

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60 Defence talk; global defence and military portal, 'Admiral urges arming of vessels to combat piracy', April 20, 2010.

future worldwide reach. Whether the expansion of blue water capability will be a positive force, and not a source of friction, largely depends on the ability of this diverse group to coordinate and share the increasingly crowded littorals.

A final challenge in this context is ensuring effective communication on the high seas. Effective high seas missions require, among other things, robust communication capabilities, coordination among warships and an ability to identify, classify and, if necessary, respond to maritime threats. As more warships converge on the Horn of Africa, there is an increased imperative for all operating forces to have a common operational picture. Work is in progress to achieve just that, but information and intelligence sharing will in the end remain (politically) constrained.

4.7   Conclusions

Counterpiracy operations are in essence relatively simple 'good order at sea' operations. Somali piracy is difficult to fight because of specific local conditions, on the one hand, and the geopolitical context on the other. The presence of so many warships, maritime patrol aircraft, and private security firms operating either within multinational coalitions or under national command, creates several challenges, as we have seen. From a tactical and operational perspective, the most effective and efficient coordination and optimum utilisation of scarce resources would be that all ships in the maritime theatre are deployed under a unified command structure and centralised coordination, as for land-based UN peacekeeping operations. However, such an arrangement is politically not acceptable, as all actors that are presently deploying their naval ships off the coast of Somalia have their own interests and want to show their own flag.

For example, from a political as well as a military perspective Operation Atalanta is very relevant for the EU. The warships taking part in this operation are deployed from

Western European states which, by participating in NATO Standing Naval Forces for many years, are accustomed to naval frigate operations. Still, this is the first time the countries are integrating into a maritime force under EU command. Operation Atalanta demonstrates for member states of the EU and the rest of the world that Europe is capable of projecting unified power across vast distances. The strength, interoperability and adaptability of the EU maritime operation will persist beyond the piracy crisis, influencing how Europe approaches future global naval missions. Unified command would make the EU less visible as an independent actor. Moreover, newly emerging naval actors like China and India are hesitant to operate under a foreign, unified flag.

There are coordination mechanisms and shared communication systems for cooperation between all these actors in place, but further interoperability is not something many will aspire to. However, if the countries and Organizations involved in combating piracy off Somalia's coast are able to manage the different operations involved somewhat effectively, naval diplomacy off the coast of Somalia could well prove to be an opportunity to peacefully incorporate rising (naval) powers in the international order. Getting to know each other at sea could boost multilateral cooperation in (military) operations in the future. From a purely operational perspective, however, geopolitics obscure (political) interoperability and effective command and control of the international naval assets in the operational theatre.

One could then at least hope that such a large fleet should intimidate and sweep away any possible pirate, ensuring full command of the sea. The reality, however, is very different. The area affected by the criminal activities is so vast and the situation on land so dire and lawless that it is really impossible to ensure a constant coverage. Pirates in the area continue to adapt their techniques and procedures in order to achieve success in capturing vessels, both in the Gulf of Aden as well as in the Somali Basin and Western Indian Ocean. Naval vessels patrolling the area provide a measure of deterrence through

their presence, but this is limited due to the vast area of the Gulf of Aden and is even less effective in the open waters east of Somalia. Given the high volume of shipping in the region, the safety of all ships cannot be guaranteed due to the often long response times due to the considerable distances involved.[61] Fully eliminating piracy is not possible and should not be the goal. Much like crime on land, the primary aim should be to reduce and contain piracy. Ensuring that there is good order at sea and that sea lanes are protected is an imperative in a just-in-time based global economy. A sustained reduction in piracy will ultimately require persistent political and economic commitments, enhanced judicial capability as well as military assets and partnering in the region in question.

Supporting offshore and onshore regional capacity building as is currently being undertaken by the Contact Group on Piracy off the Coast of Somalia and the International Maritime Organization under the Djibouti Code of Conduct is therefore also desirable from an operational perspective. 'Anti-piracy efforts', as UN Secretary-General Ban Ki-Moon noted in December 2008, 'must be placed within the context of a comprehensive approach which fosters an inclusive peace process in Somalia and assists the parties to rebuild security, governance capacity, address human-rights issues and harness economic opportunities throughout the country'.[62] On the international as well as regional and national level, many initiatives promoting comprehensive approaches have been taken, but the coordination is still very weak. There is a risk that all actors advocate an overall comprehensive approach, but in reality, stick to their own – internally focussed – comprehensive approach that is not nestled among the approaches of other actors.

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61 US Department of Transportation Maritime Administration Advisory #: 2009-07, Gulf of Aden, Red Sea and Indian Ocean Transit, 9 September 2009.
62 Cited in 'Combating piracy off Somalia, Swift naval response is only part of the solution', *Strategic Comments*, 15(1), 2009.

In short, counterpiracy operations are relatively simple to undertake and navies worldwide are happy to be able to display their relevance. However, merely conducting maritime operations does not tackle the root causes, as any naval commander in the Gulf of Aden will probably admit. Moreover, the presence of maritime operations and naval assets off the coast of Somalia is dependent on political will, in the end constrained in numbers as well as time and therefore not necessarily sustainable. Contributing to regional capacity building is therefore a precondition for a long-term solution. Let us hope that the Contact Group, the Djibouti Code of Conduct and the comprehensive approaches of the UN, NATO and the EU – through cooperation with the Somali authorities – will go a long way to achieving just that.