

## COMMENTARY

## Combating Piracy

### Challenges and Opportunities for Regional and Private-Sector Involvement

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#### INTRODUCTION

Over the past several years, piracy has emerged as a significant threat to maritime interests in the Arabian Sea; in 2011 alone, pirate activity in this region cost the maritime industry between \$6.6 billion and \$6.9 billion.<sup>1</sup> While piracy is especially prevalent in the Gulf of Aden, pirate operations have expanded since 2008, with the high-risk area—as defined by Lloyd’s Joint War Committee—currently extending from the Red Sea to the North Indian Ocean, an area more than four times the size of Texas.<sup>2</sup> Piracy peaked in 2011 with attacks against 544 ships, an increase of 11 percent from the previous year.<sup>3</sup> While there were fewer successful attacks in 2011 than 2010,<sup>4</sup> the area remains dangerous, evidenced by the May 2012 hijacking of a Greek-owned oil tanker, in which almost 1 million barrels of crude oil and 15 crew members were seized.<sup>5</sup>

The vast majority of piracy in this region originates in Somalia, where the lack of a strong central government has created a safe haven where pirates can plan and support operations with little fear of interference from authorities. The long coastline of Somalia and its largely unguarded ports create ample opportunities for pirates to operate in the Arabian Sea, while the nation’s unpatrolled territorial waters provide pirates space to hold hostages and hijacked ships. Furthermore, a lack of economic opportunity and development, combined with devastating famines, has boosted the allure of piracy for many Somalis. While the yearly income for the average Somali is just over \$200,<sup>6</sup> the average ransom gained from a successful hijacking is \$4 million, and, in 2011, the total amount of ransoms paid was \$135 million.<sup>7</sup> With few other opportunities or sources of income for Somalis besides selling the drug khat, piracy has become embedded in Somali society to the point that it is a significant driver of local economies.<sup>8</sup> Additionally, there is little chance of those engaged in piracy being caught and punished, creating few disincentives.

#### STATE RESPONSES AND LIMITATIONS

Recognizing the threat posed by piracy in the Arabian Sea, a number of international coalitions have moved to address the issue. The United Nations established the Contact Group on Piracy off the Coast of Somalia in 2009 under UN Security Council Resolution 1851, which includes more than 66 state participants. In addition, the United Nations Development Programme–Somalia and the UN Political Office for Somalia collaborate on counter-piracy measures. Furthermore, there are three maritime forces that patrol the waters off Somalia: the European Union Naval Force’s Operation Atalanta; NATO’s Operation Ocean Shield; and the Combined Task Force 151. Many states also have unilaterally or multilaterally worked on counter-piracy efforts in this area.

Most of these counter-piracy efforts have come in the form of maritime operations in the Gulf of Aden and Arabian Sea. Throughout the course of 2011, more than 30 countries have deployed naval vessels in this area, performing routine patrols for pirates and responding to distress calls.<sup>9</sup> While these naval operations have so far been the primary means of combating piracy in the Arabian Sea, there has long been a consensus that these operations alone are not enough to fully address the threat. Somali pirates now operate in an area that is too large for naval vessels to effectively patrol; the high-risk area includes more than 1.1 million square nautical miles of ocean.<sup>10</sup> Given that this vast area is patrolled by approximately 25 naval vessels,<sup>11</sup> each vessel is faced with the daunting task of patrolling, on average, 44,000 square nautical miles. And when naval forces are present in an area, pirates frequently shift their operations to unpatrolled waters. Given the limited number of naval vessels and vast distances involved, a maritime-focused effort will likely be insufficient to fully eradicate piracy in the region.

A number of other counter-piracy initiatives, include the use of unmanned aerial vehicles (UAVs), financial tracking and analysis, and the detention and punishment of convicted pirates,

have been put forward as potential supplements to naval action. UAVs deployed from naval vessels have allowed pilots to remotely examine potential pirate skiffs while simultaneously expanding the area than can be patrolled. Some have suggested that the tracking of financial transactions related to piracy, as well as the prosecution of those investing in pirate operations, could serve to undermine piracy's financial foundation. In addition, a number of states are working to facilitate the prosecution, detention, and punishment of pirates in the hopes that such actions will serve as a deterrent.<sup>12</sup> Yet while each of these initiatives holds the potential to hinder pirate operations, none represents a comprehensive solution to Somali piracy.

Noticeably absent from current counter-piracy policy is a coherent onshore program. Land bases are vital for pirate operations; pirates exploit the safe haven of Somalia in order to plan operations, solicit donors, and recruit new members. Historically, programs targeting pirates on land have proven markedly effective. For example, the countries along the Strait of Malacca, which was subject to high levels of piracy in 2004 and 2005, utilized a combination of coordinated sea patrols, surveillance flights, and targeted onshore military action to lower levels of piracy.<sup>13</sup> This military action served as a deterrent for pirates, leading them to largely abandon operations in the strait. Yet since the “Black Hawk Down” incident of 1993, Western nations are understandably hesitant to involve themselves militarily on the ground in Somalia.<sup>14</sup> At the same time, many Somalis are averse to perceived intrusion by foreign forces, especially those of Western origin.<sup>15</sup> While the European Union's Operation Atalanta expanded its mission in May 2012 to include striking pirates onshore, they have so far utilized only combat helicopters for this task and are vehement that no troops have been deployed on Somali soil.<sup>16</sup> Further, while it is within the African Union Mission in Somalia's (AMISOM) mandate to operate against destabilizing forces in Somalia,<sup>17</sup> this force of Ugandan, Kenyan, and Burundian peacekeepers is largely focused on combating the terrorist group al Shabaab in southern Somalia, far from most pirate activity. Yet without an organized, ground-based effort that can bring consistent and precise pressure to bear against the bases and networks pirates rely upon, Somalia is likely to continue to serve as a safe haven for pirates.

## LOCAL AND REGIONAL INVOLVEMENT

While international actors are reluctant to involve themselves onshore, local and regional actors are more than willing to pursue pirates on land. Both the governments of Puntland and Somaliland have established counter-piracy forces in an effort to intercept and detain pirates. The Puntland Maritime Police Force (PMPF) in particular was created to combat piracy from the land. In June 2012, the PMPF carried out a series of successful attacks on pirate bases, including an aerial assault on the home of a renowned pirate<sup>18</sup> and raids against the pirate-controlled towns of Bargal, Eyl, Hafun, and Hul-Anod.<sup>19</sup> The PMPF and the government of Puntland are also working to bring stability to those areas from which pirates have historically operated.<sup>20</sup>

These local initiatives to combat piracy onshore align with the expressed interests of the international community found in numerous United Nations resolutions. In Resolution 1976 (2011), the United Nations Security Council consistently recognizes the vital importance of local and regional actors in any effort to combat piracy and encourages the current central government in Somalia, the Transitional Federal Government (TFG), to emulate the counter-piracy actions of regional governments. The UN has specifically advocated “supporting the development of land-based coastal monitoring” and “investigat[ing] and prosecut[ing] those who illicitly finance, plan, organize, or unlawfully profit from pirate attacks.”<sup>21</sup> Resolution 2015 (2011) again highlights the importance of regional governments, emphasizing “the primary role of the TFG and the relevant Somali regional authorities in eradicating piracy off the coast of Somalia” and encouraging regional authorities to actively contribute to counter-piracy strategies.<sup>22</sup> Resolution 2020 (2011) further emphasizes the need “to tackle piracy and its underlying causes—including the ongoing instability in Somalia—in a comprehensive response.”<sup>23</sup> In light of these Resolutions, the creation of local counter-piracy forces within Somalia corresponds closely to the wishes of the United Nations and a host of international actors.

Despite the PMPF's recent successes, Puntland and other local actors are still constrained by limited resources and difficulties gaining access to the supplies they need to improve governance, infrastructure, stability, law enforcement, and judicial capabilities. Recently, a number of regional partners have moved to assist Puntland in these efforts. The United Arab Emirates initially sponsored the creation of the Puntland Maritime Police Force,<sup>24</sup> while Mauritius has agreed to accept convicted pirates, holding them for prosecution and trial when Puntland is not able to detain them.<sup>25</sup> Similarly, the Seychelles signed an agreement with Somalia under which pirates are prosecuted and convicted in the Seychelles and then transferred back to Somalia.<sup>26</sup> Despite this progress, local counter-piracy forces such as the PMPF remain undertrained, under-equipped, and undersupported. Without significant outside assistance, these local, on-the-ground efforts, considered vital to countering the threat of piracy by the UN and others, are unlikely to succeed.

## OPPORTUNITIES AND CHALLENGES FOR PRIVATE-SECTOR ROLES

While the international community is supportive of the idea of assisting local Somali forces in combating piracy, the reticence of many nations to operate in Somalia means that few states are willing to send their own troops to advise, train, or equip local counter-piracy forces. However, private industry may represent an opportunity to fill this vacuum by assisting local governments in building their law enforcement capacities. The private sector is already involved in combating piracy at sea and has met with a degree of success in filling counter-piracy roles that traditional forces have been unwilling or unable to take on. In recent years, the deployment of private security forces—referred to as

Privately Contracted Armed Security Personnel (PCASP)—on board ships traveling through high-risk areas has been greatly expanded. These armed teams serve as both a deterrent as well as an active defense against pirates and have met with praise from the U.S. Department of State as effective and professional.<sup>27</sup> As of March 2012, no ship employing PCASP has been successfully hijacked.<sup>28</sup>

While the use of private security on ships has become commonplace, the role of private industry in combating piracy on land has not been widely discussed. While few have called for the active employment of private forces against pirates on land, some have suggested that there is room for private entities to provide advice and assistance to Somali counter-piracy forces. In this role, private groups serve to build the capacity of local law enforcement to target and dismantle pirate bases and networks operating within their territory. While such capacity-building roles have historically been the domain of nations, private forces conducting such activities have grown increasingly common over the past decade.

However, while there is the potential for private industry to contribute meaningfully to onshore counter-piracy efforts, a number of questions remain unaddressed that involve whom these private forces should report to, what laws govern them, the scope of their operations, and when they can and should use deadly force, among others. Currently, the activities of private security forces in this arena are somewhat opaque. Yet looming over these is the larger question of whether efforts to train, advise, and equip local forces, an initiative supported in theory by the United Nations, can be reconciled with existing UN restrictions on military activities in Somalia. Specifically, the United Nations Arms Embargo on Somalia, Resolution 733 (1992) and 1844 (2008), prohibits not only the delivery of weapons to Somalia, but the provision of technical assistance or training of a military nature without UN approval.<sup>29</sup> Thus far, the embargo has not succeeded in preventing illegal arms use in Somalia; the nation is awash in illegal weapons, and the estimated percentage of pirates using firearms has risen from approximately 25 percent in 2002 to almost 75 percent in 2011.<sup>30</sup> However, the embargo effectively prohibits private security firms from operating within the country. The UN has declared private forces operating in Somalia in “egregious violation of the arms embargo” and has stated that “the activities of private security companies represent an accelerating and often disturbing trend with respect to the general and complete arms embargo on Somalia.”<sup>31</sup> The dissonance between the UN’s support for strengthening local counter-piracy forces and its stance against private groups attempting to advise and assist these forces has caused delays in Puntland’s requests for weapons training and assistance and made it difficult for Puntland to request other states’ assistance in security matters. The issue of the UN Arms Embargo, as well as questions regarding private security companies, will require addressing if onshore efforts to counter Somali piracy are to succeed.

## RECOMMENDATIONS AND CONCLUSIONS

Multilateral cooperation, especially through joint naval operations, has been successful in lowering the number of successful pirate attacks, yet more can and should be done to counter this threat. In particular, states should increasingly engage with local and regional actors in the area, such as Puntland. This engagement holds the potential to reinvigorate counter-piracy operations, stabilize local actors, and bolster law enforcement. These efforts should focus not only on countering existing pirate operations, but on shattering the appeal of piracy for future generations of Somalis. Local forces are vital to this effort; as the first and potentially most effective line of defense against piracy, they require the full support of the international community in their efforts to counter piracy within Somalia. Furthermore, international support for Somalia will be especially important in the coming months, as August 2012 marks the end of the Transitional Federal Government’s mandate. Faced with the daunting task of creating a constitution and holding elections, there is the possibility that, without significant assistance, the central government and the fragile peace it has brought to parts of the country could collapse. A return to complete anarchy in Somalia would have a significant negative impact on counter-piracy operations.

There is also space for the private sector in counter-piracy efforts. The private sector has already demonstrated its utility in addressing the piracy at sea through the establishment of Best Management Practices, collaboration with law enforcement and military, the deployment of private security teams, and the creation of guidelines for these private security teams. Such innovation has been crucial in the continued fight against piracy. Yet it has also been constrained by international policy. If private industry presents an opportunity to address challenges in areas that the international community is reluctant to operate in, policy barriers to this investment should be reevaluated.

At the same time, it is incumbent on private industry as well as local and regional partners to work together to bring transparency and order to counter-piracy efforts. Clear guidelines, rules, and regulations for activities on land should be established, and a substantive oversight and accountability system created. In these efforts, the international community has an opportunity to be proactive, rather than reactive, in its interaction with industry.

Curtailing the threat of piracy will not be the result of a single solution, but will necessitate the involvement and cooperation of multiple actors across multiple fronts. The international community, regional and local actors, and private industry have an opportunity to counter piracy through a variety of efforts, both at sea and on land. However, this cooperation requires the commitment of each party to a multilateral solution. Only by working together, whether on the high seas or on the ground in Somalia, can those affected by piracy hope to bring about its end.

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## ENDNOTES

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