



## 2.2 Piracy

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### **Piracy on the coast of Somalia as a Security Policy Challenge**



The waters on the Horn of Africa have, for years, been considered the least safe ocean areas of the world. Nowhere else does today's maritime trade flow traverse a more hostile and dangerous terrain, nowhere else does the globalization of trade and economic interests collide so violently with the consequences of local state failures. The UN Security Council has taken on the issue. Many of the trading nations have sent warships. The long-term success of such an action must still be proven – the far-reaching origins lie not in the ocean but on land.

*„Somalia“: The long-forgotten crisis*

Somalia is commonly discussed in the literature under the accepted catch-phrase of a *failed state*. Even in the time of the dictator Siad Barre, the political situation in the country was anything but unproblematic. Since his overthrow in 1991, the situation in Somalia has gotten worse in many respects. There is war, violence, destruction, hunger and poverty. The loyalty of the people is to clan structures and radical Islam is gaining strength. The internationally recognized government has little influence. There is no one in sight who might be able to stabilize the country from within. The earlier state of Somalia is today, de facto, a *non-state* whose geo-strategic position makes it something special: Its failure spreads out, not only on land, but also seawards and only due to the consequences of piracy has the international community awakened from its lethargy vis-à-vis the Somalia crisis.

After the *Transitional Federal Government* (TFG) was formed in 2004, following negotiations between some of the hostile groups – with the exclusion of the Islamists – far too little happened for a long time to support this body. The TFG is considered to be weak, corrupt and internally at odds. Its influence and its control are considered remote and fragile at best. It does not have at its disposal the means to fill the power vacuum. In particular, it was not capable of holding its own in the conflict against the Islamist powers of the *Union of Islamic Courts* (UIC), which began to surge from the south to central Somalia, only to soon control the former capital Mogadishu and broad parts of the surrounding heartland.

The piracy off Somalia's coast is a product of the hopeless situation on land. The “peace processes” have not pacified the country. Even after the integration of the moderate UIC forces, the situation in Somalia remains tense. The al-Shabaab militias attempt, from their base in the south, to expand the area they control. They were successful in 2007 and 2008, in, among other places, areas south of Puntland Province, which was until recently, still considered to be “close to the government”. Together with Puntland in the Northeast, which borders on autonomous Somaliland, these regions are Somalia's “pirate area”. However the Islamists have, until now, acted more as adversaries than as allies of the pirates. Piracy, in principle, violates Islamic belief and Islamic law.<sup>1</sup>

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1 Among the ironies of the developments is the fact that the UIC's increase in power and influence before 2006 was connected with a decrease in piracy off the coast of Somalia. Only after the UIC was militarily defeated and its “authority” was repelled, did the potential for guidance of Islamic law lose significance and piracy in the regional waters increased once more.



### *Piracy off Somalia: Influencing Factors*

The spread of piracy off Somalia is not solely attributable to inner-Somali factors. It is true that there are problems of considerable dimensions directly connected with the situation in Somalia, but in addition to the local consequences of the crisis there, mistakes of the international community can be spotlighted.

First: *Criminal acts, such as today's piracy, spread where a state is not willing or able to fulfill its control, order and security functions internally and externally.* Looking not only at Somalia, it quickly becomes clear that piracy is concentrated in the southern part of the world.<sup>2</sup> Many of the sea areas affected border on weak states. Somalia is the *worst case* of state precariousness. Unlike the Southeast Asian states, for instance, Somalia does not have any functioning state institutions. Consequently, diplomatic pressure and/or the strengthening of the maritime order presence do not generate any realistic options for action in the short-term. While the states of Southeast Asia have largely succeeded today in strengthening their maritime law enforcement powers and in coordinating their actions, it is clear looking at Somalia that nothing similar can be found in that country – there is no foundation for intensifying protection and monitoring of local sea routes. The Somali “state” does not have at its command a coastguard. It is also not possible for the weak government to act against piracy from land. “Criminal prosecution” – not only of pirates – is less a practice than a goal to aim for in the far future.

Second: *Piracy is, first and foremost, a crime that aims at personal enrichment.* What at first evolved as “casual piracy” out of primarily individual plights, quickly became, in the face of the on-going poverty and impunity, a form of organized violent crime at sea. Piracy off the coast of Somalia has long since transcended its early state. It is structured over borders if not over continents. The backers and the clients remain carefully under cover. “Soldiers of fortune” are recruited for the dirty work at sea. The left-over “proceeds” on the ground ensure loyalty. This consists of only a part of the violently extorted “profits”. Bases are thus created and spaces to withdraw are established. Moreover, the corruption of the local leaders ensures that, in all probability, they will not intervene in the goings-on.

In addition to the absence of state institutions, the disastrous economic situation in the country is, therefore, also a factor which can be pointed to as significant for the expansion of piracy off the Somali coast. Transparency International speaks of Somalia as one of the poorest and most corrupt regions of the world. The economy of the country has lain in ruins for many years and is widely supposed to be subordinated to the logic of contemporary “civil war economies.” At the same time, the humanitarian need, also intensified by drought, has reached a catastrophic level in many areas of Somalia.

Third: *The international community has contributed to provoking the expansion of piracy at its origins and, through its behavior, created a basis for many Somali coastal residents having a self-perception of piracy as a justifiable act of self-defense and self-protection against the external violations of their rights.* In its early phase, around the middle of the 1990s, piracy was not least a reflex response to what was criticized, with some justification, as “decades of (...) illegal fishing and dumping of toxic waste in Somali waters.” (Cit. EU Observer: 21.04.2009). Above all, European fishing fleets have enriched themselves for years on the tuna fish stocks and fished away the livelihoods of the Somali coastal residents. The fact that industrialized countries have, in addition, disposed of hazardous waste on a large scale in Somali waters, intensified the feeling of being treated unjustly. There has been no lack of protests, but nothing has happened – which is why, though piracy on the Somali coast is certainly different today, the justification has, however, remained the same.

The pirate attacks scarcely target the trawlers any more. They have, meanwhile, moved on to other sea areas. Instead, luxury yachts, general and bulk cargo freighters, container ships, oil and gas

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<sup>2</sup> Above all, off Africa, the Indian sub-continent and South East Asia; individual incidents have been and continue to be registered for the Caribbean and South America as well. (cf. IMB 2007, 2008, 2009).



tankers are attacked and cruise ships too, which cross the Gulf of Aden repeatedly, come under attack by pirate bands which no longer simply steal what the opportunity affords them but hijack ships and crews for the purpose of ransom. Thereby, segments of the piracy trade present themselves as the *Somali National Volunteer Coast Guard*. They complain that the international community still measures with a double standard. They maintain that this is about compensation for damages which the combination of predatory fishing and the disposal of toxic waste within the exclusive economic zone of Somalia have caused local fishermen and coastal residents.

And fourth: *The focus of the international community on the threat of terrorism since 2001 at the latest, has led to seeing the increase of piracy in the regional waters as a secondary challenge.* Measures of international actors, insofar as they are even undertaken, aim, first and foremost, at combating terrorism, whereby even the administration of the US President Bill Clinton, had recognized the south of Somalia as an area of retreat for the al-Qaeda operators behind the attacks on the US Embassy buildings in Kenya and Tanzania in 1998. After “9/11” this perception was perpetuated. It was the basis for the behavior of the US administration of George W. Bush. In 2007 the Islamic positions in the southern provinces of Somalia repeatedly came under massive US missile attacks.

However, the western world community, under the leadership of the USA, was also militarily active against terrorism at sea. Within the framework of *Operation Enduring Freedom* (OEF), decided upon after „9/11“, the regional waters were patrolled by warships, whose mandate was to seriously weaken the logistics of terrorism and to act as a deterrent against attacks on maritime trade.

Even though OEF ships have patrolled the sea area since then, it has developed into the major area of activity for piracy. A mandate to combat this was consciously avoided for a long while and only discussed as the situation on the coast of Somalia became successively worse and finally spiraled out of control in 2008.

### *Escalation and Reactions*

Since around 2005 the perilous situation off Africa has taken on new proportions: Somalia became a *hot spot* on the East African coast – Nigeria became its West African counterpart.<sup>3</sup> In 2005 Somali pirates for weeks held a freighter which was on its way to Somalia with relief supplies on behalf of the United Nations’ *World Food Program* (WFP). In the same year a cruise ship was attacked. The *Seaborne Spirit* went far afield of the coast and escaped under fire. These examples show that no later than 2005 one had to – and has to – reckon with further intensification in respect to Somalia. In 2006 there were “only” six; already in 2007 there were a dozen; in 2008 there were 42 and in 2009 – despite military security missions – 49 ships were hijacked. 46 hijackings alone took place in the Gulf of Aden and in Somali waters in 2009. Altogether, Somali pirates carried out 196 reported attacks in 2009. If in 2007 there were only 44 attacks, the number in 2008 had already climbed considerably to 111. Above all, in the Gulf of Aden, the situation had worsened dramatically. After “only” 13 attacks in 2007, 92 cases were noted in 2008 and the number of attacks climbed in 2009 to 116 cases.<sup>4</sup> First and foremost, it was the maritime trade ships that were affected. But WFP ships repeatedly came under fire.

The interest in the international community increased significantly. The UN Security Council had, in various resolutions, called for doing everything possible for the protection of the sea routes off Somalia and for the security of humanitarian aid deliveries. With Resolutions 1814, 1816, 1838 and 1846, the highest security body of the international community laid the basis for the threat and use

3 If the explosiveness of the situation off Somalia resulted from the significance of the Gulf of Aden for the global trading system, the oil industry and its promotional interests were primarily affected in Nigeria (and West Africa as a whole). Here too a worsening (including the first kidnappings) can be noted in past years. Beyond this, individual attacks and acts of sabotage were carried out against oil platforms near the coast.

4 Numbers from: ICC International Maritime Bureau: *Piracy and armed robbery against ships – annual report: 1 January - 31, December 2009.*



of military force. Even in 2007 the United Nations system, above all the *International Maritime Organization* (IMO) had addressed the problem. In 2008 it found its way to the highest UN hierarchies: The lethargy was at an end. “Somalia” obtained a place in the media and the political arena. Consequently many countries sent maritime law enforcement officers. Among them were China, India, Malaysia, Japan and Russia. The USA increased the number of its warships in the region. NATO is participating with *Operation Allied Protector*<sup>5</sup>; the EU is active with *Operation Atalanta*.<sup>6</sup>

### *Effects and Game Plan*

The successes of military engagements remain selective: pirate ships are sunk, attackers can be deterred, perpetrators are arrested and their weapons are seized. However, at the end of the day, one thing is clear: Somalia remains a source of ever-new attacks and assaults on ships, despite the short-term successes of military operations off the coast. Observers put forward various reasons for this. They mention the vastness of the area and the scarcity of available means, the multiplicity of goals and the necessity of intervening speedily.<sup>7</sup> If pirates have captured the targeted ship, almost any action is moot if one does not want to risk life and limb of the crew. Moreover the pirates themselves are extremely flexible in their actions: technically well kitted out, mostly they know exactly where the warships of the other side are to be found and, accordingly evade them by moving to other areas of operations. Their tactics have also been adapted and refined. Mother ships sail out with smaller attack boats. Satellite navigation helps them locate the target ships. Shots are fired more quickly and more frequently – and this goes for both sides. The incidents of conflict get worse. The combat zone is expanding. At the end of April 2009, 17 ships found themselves in the hands of pirates. A further level of escalation was reached in the same month: the case of the *Maersk Alabama*, the freeing of Captain Phillips, the deployment of sharpshooters and, in a countermove, the announcement by the pirates of revenge actions.<sup>8</sup> A militarization of the conflict settlement looms – and with it the plans for intensifying the action of the world community against piracy off the coast of Somalia progressively take shape.

To the degree to which piracy off the coast of Somalia demonstrates to the naval forces the limits of their effectiveness, the debates on more resolute action increase and the planners themselves do not stop at the possibility of deployment on land. Should more robust action at sea not lead to the desired stabilization of the security situation, it would be necessary to engage the pirates in their hideouts and intervene directly in the convoluted situation on the ground, using military means. Eyl or Harardhere, Hobyo and some other places off whose coasts the ships hijacked by pirates lie at anchor today, are considered possible attack goals. It seems as though the respective game plans are gaining relevancy. First suggested primarily by Presidents Bush and Medvedev<sup>9</sup>, now the Obama administration is also entertaining the possibility of acting with all conceivable means against the bases on land – including the use of military force.<sup>10</sup>

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5 *Operation Allied Protector* has been present off Somali since March 2009. This follows its predecessor *Operation Allied Provider* (October to December 2008). The latter was relieved by the EU mission.

6 *Atalanta* was decided upon in November 2008 by the European Council and in December of the same year was sent to its theatre of operations as the first maritime mission within the framework of the CSDP. Before, a *Naval Coordination Cell* (NAVCO) had coordinated the contribution of the EU member states.

7 The responsible US Vice-Admiral William Gortney, for instance, complained that the multinational consortium was, by no means, well enough equipped for sufficient protection of maritime trade off Somalia (cf. FAZ-Net 13.04.2009). Winfried Nachtwei (Bündnis 90/Die Grünen), who referred to the problem of reaction times, expressed himself similarly (cf. Nachtwei 2008).

8 On the question of the consequences of the violent freeing of hostages by the USA, Vice-Admiral William Gortney, commented that there was no doubt that such steps can contribute to a worsening of the situation (cf. ZEIT Online 13.04.2009).

9 The joint recommendation of the Presidents of the USA and Russia worked out at the APEC Summit in Lima in November 2008, forms the basis for UN Security Council Resolution 1851 (2008).

10 At the same time, Obama declared that Somalia must be responsible for its own ocean security and it was his intention to support the TFG in this.



### *Risk scenarios*

When one thinks of the complexity of the inner-Somali crisis, the risks and dangers of implementing the respective game plans are obvious.

First: *Any land intervention – and perhaps also the intensification of military actions against the pirates at sea – carries the risk of worsening the situation of the some 300 hostages currently on the hijacked ships – which, up to now, has been described as relatively good and stable.*

Second: *To date, radical Islam and piracy have been viewed as two different risk situations in Somalia. It cannot be ruled out that this separation will be successively blurred by the plans being considered and that both will be more open than they have been up to now, to cooperating with each other in the defense against the “invaders”.*<sup>11</sup>

Third: *Accelerated by the expected “collateral damage”, the intervening powers run the risk of once again finding themselves entangled in complications that none of them are capable of managing or controlling.*

And finally, fourth: *There is a real danger of further worsening the security situation on the seas and maneuvering both the warships as well as maritime trade into a totally new hazard level.*

### *What can be done?*

The solution to the problem does not, indeed, lie in the waters; however, land interventions are an extremely dangerous way. What alternatives does the international community have to effectively stabilize the situation off the coast of Somalia?

*Longer-term orientation:* An initial step would involve adjusting the time and expectation framework so that one would no longer calculate with mere short-term successes but rather with longer-term obligations. It is true, that the consequence for maritime trade of such a step would be that it would have to continue to reckon with violent disturbances. However, this does not seem to be much different from the current conditions. The question is whether one is prepared to live with piracy off the coast of Somalia or whether one wants to risk a state of “piracy plus”?

*Development of a political strategy:* In the time gained in this way, strategies could be developed, which would allow the international community to fundamentally change its course of action and to combine more strongly than heretofore what has, up to now, been a primarily military approach with a political perspective. The solution of the problem lies in the country – it is political. It lies in effectively stabilizing the “state” of Somalia.

*Dealing with the central problems:* Only on the basis of such a new orientation of international policy towards Somalia will it be possible to deal with those central problems which have already plagued Somalia and its people for so many years and under which piracy flourishes there. A comprehensive concept and considerable effort are necessary for this. Paramount for this are development policy measures but also measures for the development of a Somali security sector. The development of Somali security institutions will fail, however, if there is no legitimate center of power and the humanitarian situation of the people is not visibly improved.

*Strengthening and Ensuring Legitimacy:* Comprehensive action is urgently needed – and not only from a security policy perspective. It would also enhance the credibility of the external actors, who, up to now, have only acted in their own short-term interests against piracy off Somalia’s coast. The question of credibility is in no way insignificant. This is about effectively legitimizing one’s own actions. In Somalia as well, “winning hearts and minds” applies. Only in this way can dependable

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<sup>11</sup> Today there are already initial signs of cooperation “between the pirates who operate across clan boundaries and the militant Islamists of al-Shabaab“. Their reliability cannot actually be unequivocally verified, however it is said to involve protection money, weapons deliveries from Eritrea and military training for the pirates (cf. FAZ-Net 02.05.2009). At the same time reports are increasing, according to which the Islamists are hailing the success of the pirates and are showing solidarity with them – at least at a verbal level (cf. ZEIT Online 13.04.2009).



progress on the reduction of piracy be achieved in the medium-term. The first point of criticism relates to the condition that while the international community was, broadly speaking, relatively quick to act militarily against piracy on the coast of Somalia, there have never, however, been even rudimentarily comparable initiatives to reduce the humanitarian need and the widespread poverty as well as the lack of perspectives in the country. A second point of criticism points, in essence, in this same direction: The international community applies different standards. It castigates piracy against global maritime trade – but ignorance about its external dimensions also reigns! Thus it happens, that states whose deep sea fishing fleets have, until very recently, fished illegally off the coast of Somalia, now have sent warships – mandated by the UN Security Council – to patrol the sea space there. Consequently the Somali coastal dwellers rightly have a considerable degree of scepticism with respect to the international community and understand their actions as an expression of a lack of moral awareness of the Somali challenges. Piracy has support along the coast. After all, it brings in some money to a forgotten part of the world which needs to be better off economically without piracy than with it.

### *Conclusion*

There is no short-term solution for „Somalia“. Order and stability should be understood as long-term goals. Whoever rushes apparent solutions, based on short-term expectations, runs the risk of losing themselves in the realities of the state failure and, through their actions, provoking a further, perhaps momentous, worsening of the situation in and off the coast of Somalia. But those who want to plan for longer periods should understand: longer-term means “over a constantly expanding period”. Such action will, in all probability involve set-backs. *Is the international community prepared to muster the necessary funds and patience for a long-term involvement?* Otherwise a new failure is preprogrammed.

Dealing with piracy has been shown to be a dilemma. It seesaws between *short and long-term approaches*. Business and the international public demand short-term success. But truly sustainable progress needs time. Promising strategies are complex, their effects are not predicable and they are expensive. Even small misjudgments can lead to serious reversals. State- and institution- building must be consistent with local needs. Ignorance, reservations or distorted perceptual patterns should not hamper either the readiness of the international community to negotiate or the choice of their negotiation partner. What is needed is a long-term, pragmatic approach to the solution. Dogmatic and short-sighted actions are constraints on the way to a political, legitimate and also ultimately a sustainable solution for the Somali maritime security problem.