



ODUMUNC 2011 Issue Brief for the Security Council

The Strengthening of Efforts to Eliminate Piracy

By: Stephanie Smith

Introduction

Maritime piracy has been a problem in the world since humans took to the waterways. Legal references have existed concerning piracy since as early as 69 B.C., when Pompey the Great was commissioned to subdue pirates. The Golden Age of Piracy, which started in the late 1600s, is what is often thought of when people think pirates. It is the swashbuckling, Jack Sparrow – type pirate. This age of piracy ended in the mid-1700s, but piracy has continued throughout history. Piracy has increased in frequency at different times, despite both international treaties and domestic laws outlawing piratical actions. Today's pirates are similar to historical piracy in that many are motivated by economic factors and encouraged by a lack of law enforcement. Today's piracy is just as violent but also involves the use of automatic weapons and rocket-propelled grenade launchers.

What is Piracy?

Maritime piracy is a growing concern virtually everywhere. Incidents have been reported in virtually every part of the world. In the early 2000s the problem was most severe in around the Indonesian Island of Sumatra and the narrow Strait of Malacca. More recently attention has been dominated by Somalia, especially in the Gulf of Aden and in the western Indian Ocean. This area of the Indian Ocean is seen in the following maps:

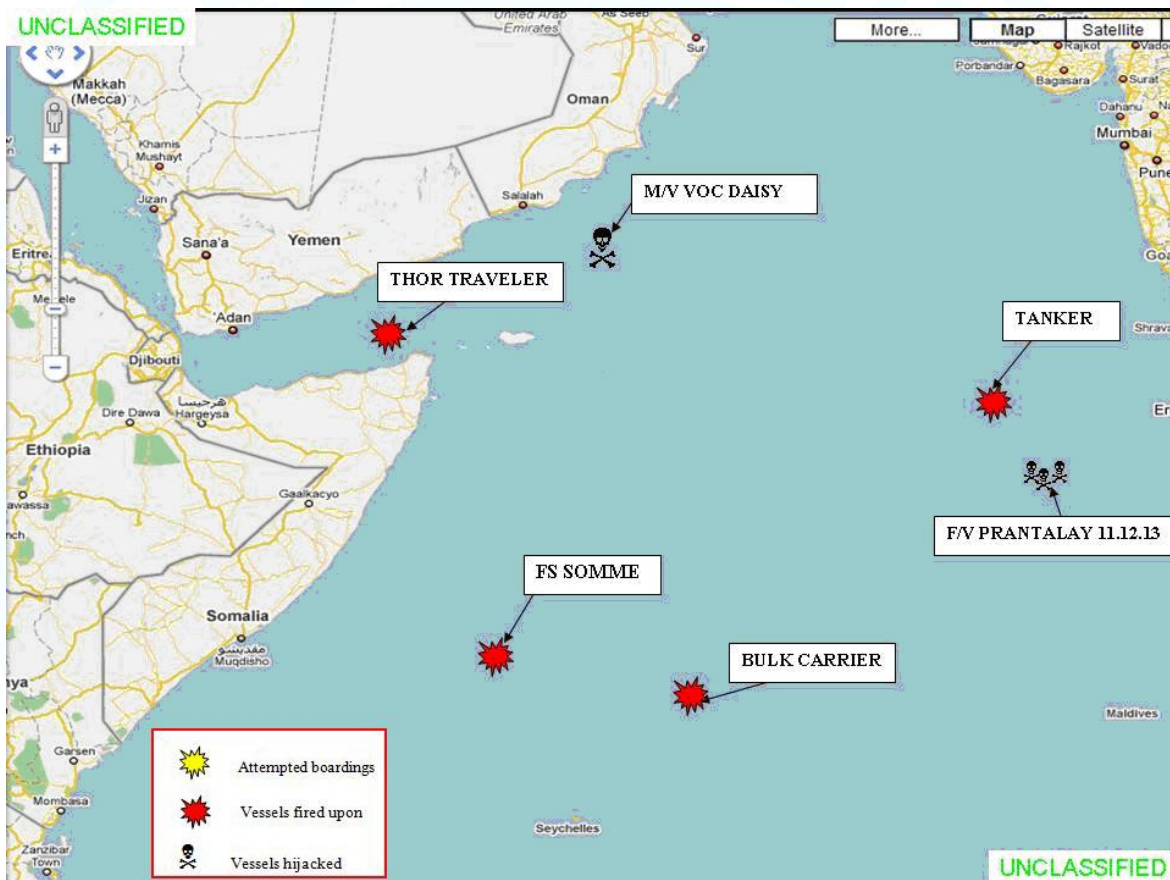




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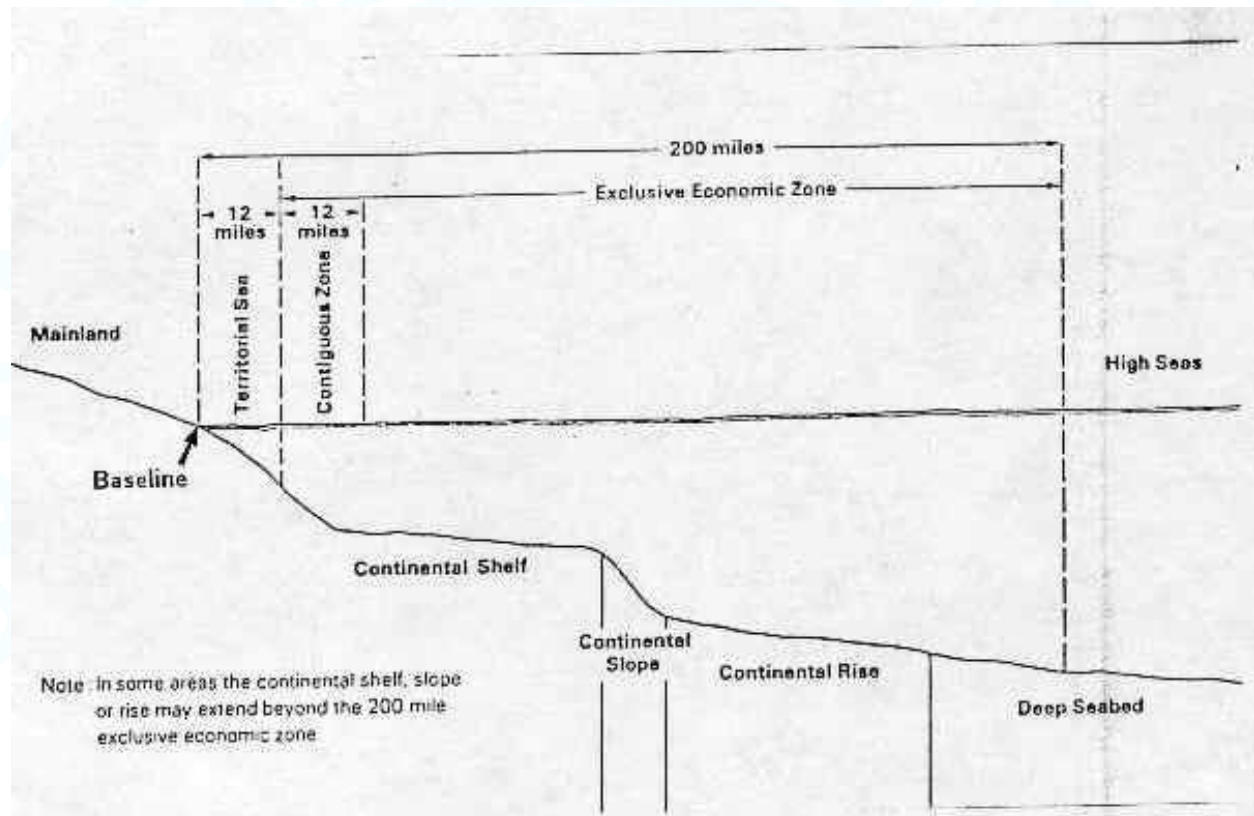
Piracy is defined in the United Nations Convention on the Law of the Sea (UNCLOS III) in Articles 100-107. According to this treaty, piracy is “any illegal act of violence or detention, or any other act of depredation, committed for private ends by the crew or the passengers of a private ship.” This includes individuals who board the ship for the purposes of committing a piratical act. The act of inciting or facilitating piratical acts are also considered piracy. These acts must take place on the high seas, thus outside the area of the sea that is under the territorial control of the country that borders the water. This division of territorial water and high seas is demonstrated in the following illustration.



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NOTE: United States: Uses the “cannon-shot” rule of 3 nautical miles for domestic issues and 12 nautical miles for international issues.

The definition of piracy that is used by the United Nations and most countries is this narrow definition; however, some organizations, such as the International Maritime Bureau, use a more inclusive definition that does not require that the piratical act take place on the high sea, but includes the boarding of a vessel with the intent of committing a crime and with the intent to use violence to further such illegal acts.

Currently, the most publicized type of piracy is the ransom attack. This is the type of piracy that is taking place in Somalia. Armed gangs come upon individual cargo ships on small speed boats that are sent from “mother ships.” The crew is over-powered and held for ransom from the shipping company or the flag state of the ship. The use of “mother ships” allows the pirates to expand the territory in which they can operate and attempt to capture ships. Somali pirates have been seen operating more than 1,200 miles from the Somali coast. In addition to problems in



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Somalia, significant pirate activity has been reported in almost all areas of the world, especially off the coast of South America, Indonesia, and the Gulf of Guinea.

Piracy causes a number of international commerce and international security problems. The problems to international commerce include an increase the costs of shipping due to increase in insurance costs and rerouting ships to more secure, but longer, routes. Another problem is the general interruption of commerce when goods are stopped in transit. International security problems include a decrease in safety and security of high seas and shipping/ transportation corridors. Other security problems are a decrease in resources for other missions or enforcement and a loss of control of munitions and weapons. Piracy also flows from the security problems on land, especially in Somalia, due to the lack of domestic stability, thus providing safe haven for pirates.

A number of problems exist concerning the enforcement of piracy laws. One problem with enforcement is that there are not always resources to capture pirates or to patrol the necessary areas. Another problem is that the doctrine of hot pursuit prevents foreign ships from chasing possible ships suspected of piracy into territorial waters of a country that has not provided specific permission. The lack of a will of prosecute also prevents enforcement of piracy laws. A significant increase in violence of piratical attacks has also decreased the will to attempt enforce the necessary laws. In some cases, collusion of law enforcement in piratical acts prevents the enforcement of piracy laws.

Current International Response

A number of international governmental organizations have been attempting to increase their activities against piracy in Somalia. The European Union (EU) has created *Operation Atalanta* and the North Atlantic Treaty Organization (NATO) has been suppressing piracy with *Operations Allied Protector* and *Ocean Shield*. These particular missions are ongoing, with the NATO operations extended until the end of 2012. The Republic of Kenya has been willing to prosecute suspected pirates and imprison persons found guilty. These prosecutions have been few and far between because of a lack of resources. The European Union has established an agreement with The Seychelles to prosecute suspected pirates, but the pirates must serve their sentences in other nations.

A number of Security Council resolutions have been passed since 2008 to deal specifically with piracy off the Coast of Somalia. In April 2010, the Security Council adopted Resolution 1918 to call for the criminalization of piracy domestically in all nations. This resolution also calls on



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nations to “consider the prosecution of suspected, and imprisonment of convicted, pirates apprehended off the coast of Somalia.” As recently as the end of August 2010, UN Secretary-General Ban Ki-moon spoke to the Security Council on the need to increase the cooperation among nations to establish a method of prosecution, while ensuring due process of suspects, and a host nation to provide the venue. Despite the ongoing military operations and Security Council resolutions, three main problems exist with the current international response.

- First, the needed resources do not exist to provide effective enforcement. In 2009, Australia, Canada, China, Denmark, France, Germany, Greece, India, Iran, Italy, Japan, South Korea, The Netherlands, Pakistan, Portugal, Saudi Arabia, Russia, Singapore, Spain, Sweden, Turkey, the United Kingdom, and the United States have all deployed naval forces to the Gulf of Aden. It is estimated that approximately \$200-350 million will be needed to sustain naval vessels in the Gulf of Aden annually and their effectiveness is still questionable.
- Second, the legal mechanisms required to arrest and imprison pirates often are lacking. The majority of times that individuals are captured, they have simply been released. Rules of jurisdiction and evidence pose serious problems. Proving a suspect is guilty of piracy is extremely difficult; suspects can reasonably claim to be innocent fisherman armed only for protection against pirates. This problem leads to an approach often derided as “catch and release”.
- Piracy is well regarded in the ungoverned parts of Somalia, especially the nominally independent region of Puntland. Pirates in Somalia are considered by many to be folk heroes, who have the support of the local communities in Somalia as they buy cars, houses and other goods. The President of Puntland, Amdirahman Mohamed Farole, joked, “that every young Somali boy now wants to be a pirate and every young girl wants to marry one.” The [Transitional Federal Government](#) in Mogadishu lacks any ability to deal with the problem. The Islamist [Shahab movement](#), trying to take over the country, also shows interest in suppressing the problem.

Conclusion

Overall, the problem of modern day piracy is noteworthy, especially in the Gulf of Aden and the western Indian Ocean. There exists a number of enforcement and prosecution problems, which diminishes the ability of the international community to fight the scourge of piracy. As summed up by General Mikolai Y. Makarov, the chief of Russia’s general staff, “It is much easier to catch



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pirates than to decide what to do with them.” The international community has dedicated a number of resources to solve this problem, and naval countries have shown great willingness to cooperate on the issue, coordinating piracy-suppression patrols at sea. But until the legality, prosecution and punishment issues are resolved, piracy will still continue, and most likely increase.

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