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Pirates not of the Caribbean

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Pirates not of the Caribbean

Abstract

The seizure of the very large crude carrier (VLCC) Sirius Star (see previous article) unfortunately represents only the latest, though certainly the most high-profile, incidence of "piracy" in the Horn of Africa region. Indeed, as this article was going to press, numerous fresh incidents were being reported daily - notably the 30 November attack on the luxury cruise liner the M/S Nautica, carrying 656 passengers and 399 crew members. While the Nautica got away, largely by piling on speed and in effect outrunning the pirates (who reportedly got within 300m of the vessel and fired eight shots at it), the brazen nature of the attack emphasizes that virtual no civilian vessel is immune from attack.

While there has been a surge in piratical attacks in this region in recent months, the issue of armed attacks against shipping in these waters is of long-standing. Indeed, there were more than 700 piracy-style attacks recorded in the region in the 1993-2005 period. The seizure of such a large and modern vessel with such apparent ease and impunity has, however, seized the public imagination. At 330 metres long, the 318,000 dead weight tons Sirius Star is around the same length as an aircraft carrier. The ship cost around US\$150 million to build and was only launched in April of this year. Even the (unsuccessful) 2005 attack on the luxury liner Seabourn Spirit, seizure of vessels carrying humanitarian aid and, more recently, the hijacking of a Ukrainian (though Belize registered) freighter, the MV Faina, carrying 33 Russian-made T-72 tanks in October this year, dramatic as these events were, did not make such an impression. This is despite the fact that, with regard to the latter incident, controversy arose over the actual destination of this arms shipment in question (whilst it was stated that the arms were destined for the Kenyan Army, there were allegations that they were actually meant for the government of independence-seeking South Sudan - a charge strenuously denied by the Kenyan government).

It is clear that there has been a significant surge in piracy attacks in recent weeks and months. According to the IMB's Piracy Reporting Centre, as of 22 November 2008, 92 attacks on vessels had taken place thus far in 2008 in the Gulf of Aden and off the east coast of Somalia - 36 of which had resulted in vessel hijackings. On the same date pirates were holding 14 vessels and 268 crew hostage. The IMB noted that between 10 and 16 November alone there had been 11 attacks in the region with three vessels hijacked and a further four fired upon with the Director of the IMB observing, with some understatement, that "this criminal phenomenon is getting out of control." Citizens from many countries are involved: the crew of Sirius Star included Britons, Croats, Filipinos, Poles, and Saudis.

How do these pirates operate and what are the factors behind these attacks?

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Pirates *Not* of the Caribbean

by Dr. Clive Schofield

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Understanding the Somali Pirates Phenomenon

The modus operandi of a modern pirate

The piratical practices of the Somali pirates are distinct from those elsewhere in the world. Whilst pirates elsewhere tend to operate by night and focus on 'hit-and-run' style attacks with the objective of robbing the ship's safe and relieving the crew of their valuables, Somali pirates are considerably bolder. Attacks are often blatant - taking

place in broad daylight. The characteristic modus operandi of Somali pirates has been to engage in "KnRs" - kidnap and ransom activities. The objective is to take control of ships, take the crew hostage and then engage in negotiations with the ship owners over a ransom in exchange for the release of both vessel and crew.

In order to achieve these aims, Somali pirates use small, fast boats, which are generally equipped with high-powered engines - nicknamed 'Volvos' in consequence. The pirates have access to high-tech equipment such as satellite phones and navigation gear (global positioning systems, GPS) and are generally armed with Kalashnikov automatic rifles and rocket-propelled grenades (RPGs). A common tactic is to open fire in order to try and make vessels slow or heave-to. Often multiple boats are used in 'swarm' or decoy type tactics. Somali pirates have also been known to use of fake distress calls as a ruse to lure unwary ships within range. The difficulty here is that many Somalis seek to flee the country by boat, either using people smugglers or as refugees. The vessels involved, usually in crossings of the Gulf of Aden to Yemen are all too frequently dilapidated and overloaded, leading to many cases of genuine distress. Alternatively, pirates have posed as distressed fishermen in need of water supplies. This may lead to genuine fishermen being mistaken for pirates. A further tactic of note relates to the use of 'mother ships' (a larger vessel used as a base by smaller craft) in order to extend pirates' range of operations. The hijacking of the *Sirus Star*, 450 nautical miles offshore, may well represent a striking example of this practice. As Admiral Mike Mullen, Chairman of the United States Joint Chiefs of Staff commented on 18 November: "I'm stunned by the range of it".

On the following day both the more robust attitude being adopted to tackle the piracy menace and the difficulties of clearly distinguishing targets were illustrated through an incident involving a 'pirate' vessel and an Indian Navy frigate. On 19 November it was reported that the *INS Tabar*, had sunk a "pirate mother ship", having come under fire from it. It later emerged that the vessel in question was, in fact, a Thai fishing trawler, *Ekawat Nava 5*, that was itself apparently in the midst of being hijacked by pirates.

Key Causes

The fundamental cause of the Somali piracy phenomenon is the poverty, suffering and profound dislocation caused by the civil strife witnessed in Somalia over the vast majority of the past two decades. Clearly the security situation on land has a direct impact on the security situation offshore. Conventional wisdom suggests that, since the fall of the Siad Barre dictatorship in 1991, Somalia has been effectively 'ungoverned'. Whilst it is true that Somalia's central government effectively collapsed, it is an oversimplification to suggest that Somalia is entirely ungoverned. Of particular note here is the independence-seeking territory of 'Somaliland' in the northwest of the country which boasts its own elected parliament, reasonably effective government, judiciary and security forces, including, of particular interest for the present discussion, coastguards. In the northeast of Somalia (at the tip of the Horn of Africa) there is another semi-autonomous region, 'Puntland'. It is in Puntland where many of the pirate groups currently operating reside, though it should be noted that the picture here is complex and Puntland authorities reportedly stormed a pirated vessel in October. Elsewhere in the country, especially in the south, the stereotype of 'ungoverned space' more closely fits the reality, although even here local tribes, religious groups and warlords do exert control. In contrast, the Transitional Federal Government (TFG), created under UN auspices in August 2000 and backed by intervening Ethiopian troops and African Union

peacekeepers, holds relatively little sway.

In this context one of the many ironies of the Somali piracy issue relates to the West's opposition to the one force that restrained piracy in recent times - the Union of Islamic Courts (UIC). The UIC, a loose coalition of both moderate and radical Islamic forces, largely backed by the large but politically marginalised Hawiye clan, succeeded in taking control over much of the southern part of Somalia in the latter half of 2006. Although there has been a tendency in the relevant literature and in the media to conflate piracy with maritime terrorism, the evidence supporting such a conclusion is scant and the linkages between the two are far from clear. In the case of the UIC, rather than seeking to ally themselves with the pirate groups or simply tolerating them, the Islamic Courts Movement instead 'declared war' on piracy on the basis that such acts are contrary to Islamic law. Consequently, piracy declined dramatically. Indeed, no attacks were reported from mid-2006, when the UIC came to prominence, until November, when a cargo vessel, the MV Veesham I, was hijacked. Forces affiliated to the UIC pursued the pirates holding the ship and, following a firefight, the vessel was recovered and returned to its owners.

However, on the basis of their alleged links to radical Islamic groups, the West, notably the US, backed a military intervention by Ethiopia in support of the TFG, which topped the UIC at the end of 2006. Subsequently the pirates returned to business as usual.

As noted, Somali pirates have ready access to arms - the UN estimates that there are over two million small arms in Mogadishu alone. Somalia, with a coastline of around 3,300km, has a long maritime tradition so small boats and the maritime experience and expertise to handle them are also at hand. A further contributing, though often under-reported, factor is the fact that foreign fishing vessels routinely engage in illegal fishing in Somalia's waters (in the absence of a central government, no legitimate fishing licences have been issued so these activities are necessarily illegal). Thanks to the presence of the Somalia Current marine ecosystem and its associated periodic but intense upwelling of nutrient-rich cold waters, Somali offshore areas are viewed as especially productive and attractive for foreign poachers.

The United Nations' Food and Agriculture Organization (FAO) estimates there are "700 foreign-owned vessels fully engaged in unlicensed fishing in Somali waters." These foreign fishing vessels reportedly hail from within the immediate region, including Kenya, Pakistan, Saudi Arabia, Sri Lanka and Yemen and from further afield, including Belize, France, Honduras, Japan, South Korea, Spain and Taiwan. There have been reports that foreign fishers have engaged in destructive fishing practices, endangering Somalia fishing stocks and have also aggressively sought to chase local fishermen away from productive fishing grounds - using high-pressure or boiling water hoses and even firearms for the purpose. It has been estimated that the value of these illegal catches from Somalia's maritime jurisdiction vary from in excess of US\$90m to US\$300m per year. The counterpoint to this is the tragically ironic fact that it has also been estimated that foreign fishing vessels are taking considerably more protein out of Somalia's waters than they are supplying to Somalia in the form of humanitarian food aid.

This situation has led some pirates to seek to justify their actions on the basis of illegal foreign fishing activities - styling themselves "coastguards" and characterizing ransom demands as "fines". Indeed, it seems likely that many of the pirates themselves started

out as fishermen. Whilst foreign poaching of Somali fish in no way justifies violent acts of piracy or armed robbery at sea, the systematic plundering of Somalia's resources by foreign fishing fleets remains an important potent underlying and motivating factor in the Somali piracy phenomenon. Without condoning acts of violence at sea, it can be observed that the desperate Somalis who hijack shipping off their coast are in fact not the only 'pirates' operating in these waters. It is especially ironic that many of the nations that are presently contributing warships to the anti-piracy flotillas patrolling, or set to patrol, the waters off the Horn of Africa, are themselves directly linked to the foreign fishing vessels that are busily plundering Somalia's offshore resources.

Having said that, removing the illegal fishing problem would not, in all likelihood, in itself lead to a resolution of the piracy problem as it is the case that the lucrative nature of the piracy 'business' has now led to the development not only of what can be termed "subsistence pirates" but to organised criminal syndicates. The pickings from piracy have proved too rich with an October 2008 report estimating ransoms paid to that date in 2008 at US\$30 million. The 'going rate' for the release of a ship and crew was put at \$500,000 to \$2 million. The hijackers of the Sirius Star initially demanded US\$25 million for the ship and crew's release but were subsequently reportedly to have dropped this demand to US\$15 million.

International Responses

The primary international response to piracy off Somalia appears to be a military one. The Somali piracy problem tends to be viewed almost exclusively through a maritime security lens to be addressed either through an enhanced naval presence and increased patrols or through preventative measures on the part of mariners (see below). Naval vessels from the United States, a number of European states (notably Britain, Germany, France and Spain), Russia, India, Canada, Turkey, Malaysia and South Korea are now active, or will soon reach, the waters off the Horn of Africa. NATO's Standing Maritime Group 2, operating in the region, has been providing escorts to UN ships delivering aid to Somalia. A European Union naval flotilla is set to take over from this NATO force. Operation Atalanta, which will include warships from ten countries, will be fully operational from mid-December.

These naval operations are set against the backdrop of a series of UN Security Council resolutions under Chapter VII of the UN Charter, notably Resolution 1816 (of 2 June 2008) which authorises states cooperating with the Somali TFG to enter the territorial waters of Somalia and use "all necessary means" to repress acts of piracy and armed robbery at sea, though in a manner "consistent with the relevant provisions of international law." Security Council Resolution 1838 (of 7 October 2008) reinforces the earlier Resolution and "calls upon all states interested in the security of maritime activities to take part actively in the fight against piracy on the high seas off the coast of Somalia, in particular by deploying naval vessels and military aircraft."

A key difficulty for the commanders of the naval vessels involved is how to tell with certainty who the pirates are. As noted above, pirates often masquerade as innocent (albeit heavily armed) fishermen. The mere possession of arms is not proof of piratical intent or guilt. The challenge facing the navies now patrolling the waters off the Horn of Africa is therefore to catch pirates in the act - an extremely difficult task. Indeed, given the reach of the pirates, the scale of the challenge is staggering. Even with more warships operating off the Horn, patrols cannot be everywhere. The naval forces in the

region have sought ways around the problem by either organising convoys and escorting ships, notably vessels chartered by the UN's World Food Programme delivering vital humanitarian aid supplies to Somalia on which around a third of the 10 million strong population depends and establishing a narrow but secure 'corridor' for commercial shipping through the affected area.

Once the pirates are in control of a vessel and have hostages at their disposal, the problem becomes significantly more complicated. France has taken a particularly robust attitude when its citizens have been held hostage. In September 2008 French special forces conducted a daring helicopter raid to rescue the 30 strong crew of the luxury yacht *Le Ponant* who had been seized. It is notable, however, that the French only acted once the hostages were on dry land - storming a pirate-controlled ship with hostages on board represents a far more perilous enterprise. A further example of the potentially bloody nature of talking pirates at sea came on 12 November when British and Russian naval forces foiled a pirate attack on a dhow in the Gulf of Aden, but only following a firefight during which two pirates were killed, did the pirates surrender.

If pirates are captured the question then becomes one of what to do with them. As there is no functioning central government operating in Somalia, there is no authority to hand captured pirates over to. Although they can be tried under the capturing state's laws (such as the individuals captured in the course of the French action above), if they are to be imprisoned in the capturing state this actually represents a considerable burden to that state. Moreover, even when such individuals have served their time, it may be difficult to return them to Somalia on human rights grounds as there is a legitimate concern that they may be subject to torture or execution on their return. All of these factors serve as and disincentives to action. The Russian proposal is more radical - strikes on Somali territory in order to "eradicate the bases of pirates on the ground."

Practical Responses - What can the Mariner do?

Perhaps the most obvious advice is still the best: don't go! The IMB recommends that all vessels "keep as far away as possible from the Somali coast, ideally more than 250 nautical miles" offshore. If the IMB's advice is followed, shipping will be well out of very high frequency (VHF) radio range of land and, therefore, less likely to be detected by vigilant pirate groups on shore. However, a glance at the map suggests that this is easier said than done. The coastal geography of the Horn of Africa and proximity of Somalia to the constricted approaches to the Bab al-Mandab (the evocatively named Gate of Tears) choke point at the southern end of the Red Sea - through which an estimated three million barrels of oil pass daily - makes staying 250 miles distant from the Somali coast an impossibility. This provides the pirates with a target rich environment to operate in. Although shipping has tended to stay as far as possible from the Somali coastline, the pirates do not confine themselves to Somali waters. Thus, in recent months attacks have been concentrated in the northern part of the Gulf of Aden. This means that many attacks actually take place in Yemeni rather than Somali waters. It is also the case that the shipping industry is notoriously cost-conscious and pressure exists for vessels to opt for the most direct route to save time and money - potentially a seriously false economy given the severe risks of a pirate attack off the Horn of Africa.

The alternative way of steering clear of the Somali pirates is to avoid the Suez Canal route entirely and opt for the significantly longer, and thus considerably more expensive (though additional costs will, no doubt, be passed on to consumers), route by way of the

Cape of Good Hope which entails navigating round the southern tip of the African continent (an alarming prospect for Egypt given its incomes from use of the Suez Canal). Certainly some major shipping companies, including Svitzer and Maersk have made this decision, no doubt motivated in part by the fact that shipping insurance rates for vessels passing through the Gulf of Aden have increased ten-fold of late. As noted, however, that through the use of mother ships, pirates have a remarkably reach. The Sirius Star, for instance, was hijacked 450 nautical miles offshore whilst taking precisely this option - en route from the Persian Gulf to the USA by way of the Cape of Good Hope.

Ordinarily, a large vessel such as the Sirius Star, when under way, represents a formidable target for pirates seeking to board from small boats. When moving slowly and when full-laden, however, such vessels become easy prey. With a full load of oil on board the freeboard (that is, the distance from the surface of the water to the deck of the ship) on such vessels is sometimes only 3-4 metres - a distance easily overcome with a grapnel and line.

The IMB therefore also advises vessels traversing pirate-threatened waters to maintain a strict 24 hours radar and anti piracy watch (something that is difficult to achieve given the scale of some vessels and the small crews on board) and, in particular, to watch for "small suspicious boats converging on vessel". Vigilance and early detection enables the Master of the threatened vessel maximum opportunity to increase speed, engage in evasive manoeuvres and mobilize anti-piracy responses. Such responses may involve the use of high-pressure water hoses and foam. Additionally, new technologies are increasingly being introduced such as electric fencing for shipping (though this is not suitable in all cases as electricity and flammable vapour makes for an explosive mix) and the use of 'sonic weapons' such as long-range acoustic devices (LRAD) - devices which generate noises at painful, but non-lethal decibel levels with the aim of disorienting and deterring potential pirates.

Indeed, the failure of the attack on the Seabourn Spirit, a cruise liner carrying 302 passengers and crew at the time of the attack on the morning of 5 November 2005, has been attributed in part to countermeasures by the ship's crew. The captain headed for the open sea and increased speed (in a manner analogous to that of the M/S Nautica just a few days ago) to outmaneuver and outrun their attackers. As the pirates gave chase, high-pressure water hoses and LRAD were deployed to prevent boarding. The Seabourn Spirit escaped without being boarded and with no serious casualties. Nonetheless, one rocket-propelled grenade round did penetrate the hull, while another reportedly bounced off the ship's stern, illustrating the potential risk. The option of arming non-military vessels has, however, not generally been greeted with much enthusiasm from authorities or mariners alike.

Addressing the roots of the problem

Military responses in the shape of naval flotillas and convoys do not begin to address the roots of the Somali piracy problem - how pirates are able to operate from secure safe havens on land and why individuals are driven to become pirates in the first place. Indeed, it is likely that naval actions are likely to, at most, result in only ephemeral victories. Similarly, even the Russian proposal to take the fight to the pirates in their bases on land, represents only a partial and probably temporary measure (as well as being fraught with difficulties in practical terms). These military responses may result in some short-term successes but do not go to the roots of the problem. Driven by poverty

and the blatant theft of Somali offshore resources, in the absence of governmental control on land to restrain criminal activities and allied to ready access to maritime skills and military hardware plus proximity to busy shipping lanes replete with tempting targets, it is little wonder that piracy has flourished off Somalia. Until peace, security and stability are brought to Somalia itself, something that unfortunately seems to be far over the horizon, piracy seems set to continue off the Horn of Africa. In essence, the answer to Somalia's piracy problem lies ashore.