

Maritime Piracy in Somalia: developing new situational prevention techniques

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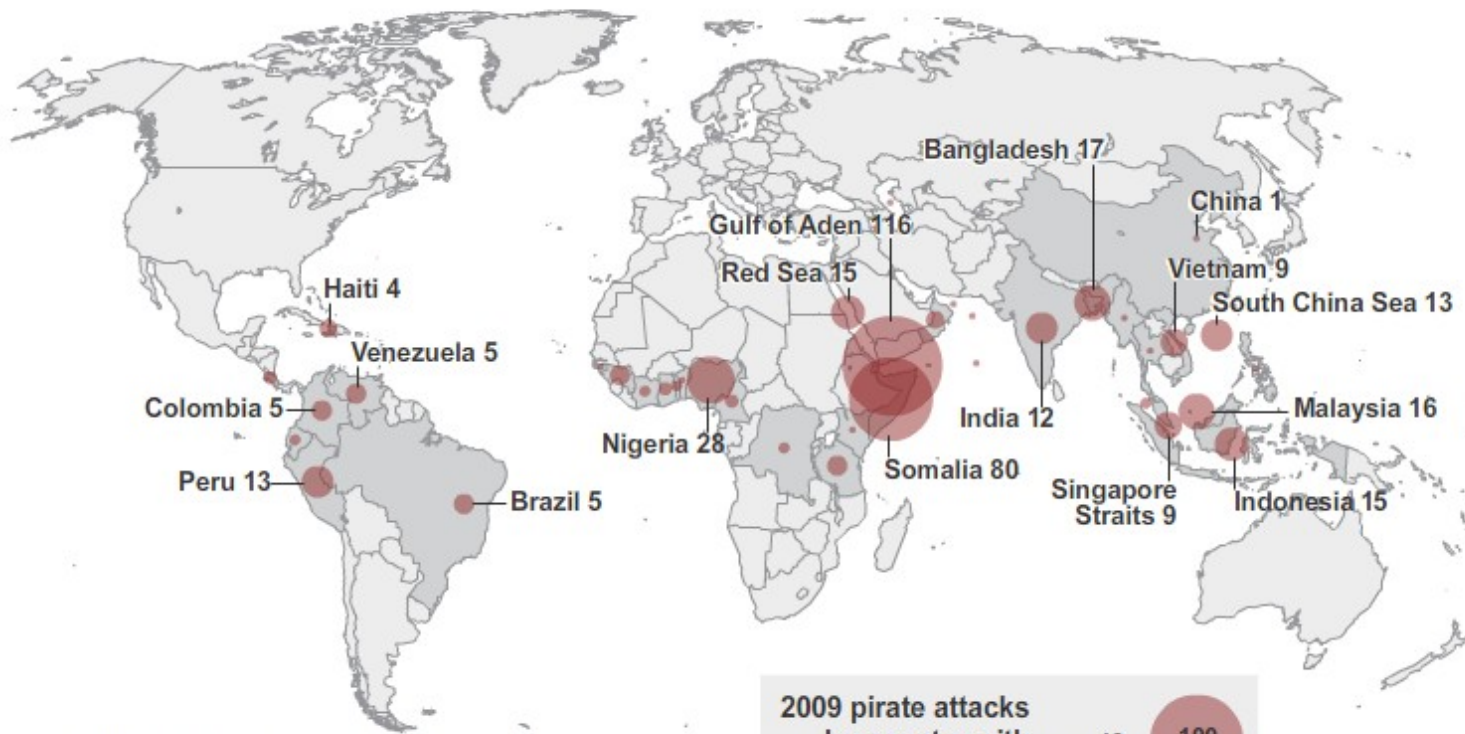


Maritime piracy: Lawlessness at sea

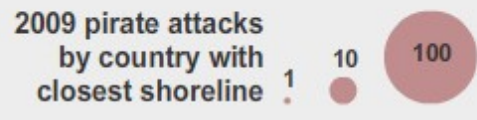
GULF OF ADEN

HOW ATTACKS HAPPEN

GLOBAL PIRACY



NOTE: All attacks in the Gulf of Aden, Red Sea, Arabian Sea and Indian Ocean are attributed to Somali pirates.



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Introduction

Over 438 seafarers and passengers and 20 ships held by pirates as of 4 November 2010 – an increase of almost 100 kidnapped victims in less than a month (Source: IMO International Maritime Organization)

Increasing concern in the international community

This paper analyses and explains the existing opportunities that drive pirates and discusses present and future remedies with a focus on situational prevention techniques

Where

Concentration in a few favourable areas:

Criminal opportunities related to geographical (e.g. narrow seas), socio-economic and legal factors

'Hot' areas:

Southeast Asia, Bay of Bengal, Somalia, Tanzania, the Western African Coast, parts of South America

Existing data sources

Generally provided by international organizations

- ▶ International Maritime Organization (IMO)
Data gathered from member governments and international organizations
- ▶ ICC International Maritime Bureau (IMB)
Data on incidents reported directly from attacked or targeted vessels to the Piracy Report Centre in Kuala Lumpur
- ▶ Information Sharing Centre of the Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP ISC)
Data on piracy submitted by the ReCAAP Focal Points and other organizations
- ▶ UK Defence Intelligence Staff (DIS)
- ▶ US Office of Naval Intelligence (ONI)

Which data?

Available information on attacks:

- ▶ Date
- ▶ Time
- ▶ Status of the vessel (e.g. steaming, anchored, ...)
- ▶ Type (e.g. hijacking, boarding, ...)
- ▶ Ship (name, type, flag)
- ▶ Position
- ▶ *Modus operandi* of attack
- ▶ Consequences for crew, ship, cargo
- ▶ Action(s) taken by crew members
- ▶ Report of the incident to coastal authorities

Trends – Somalia (1)

Increase of pirate attacks, especially since 2006, with a peak in 2008

One exception in the 2nd half of 2006:

Presence of the Islamic Courts Union in Mogadishu

From 2008 onward, no linear trend:

- ▶ Increase of attacks in 2009, but decrease of successful hijackings
- ▶ Decrease of attacks in the first months of 2010, but higher number of successful hijackings

Trends – Somalia (2)

Change of location:

- ▶ From the Mogadishu port area to the Gulf of Aden in 2008
- ▶ Along the east coast of Somalia in 2009

Trends probably connected to contingent factors (e.g. risk for pirates of being caught, preventive measures taken by vessels) rather than an increase of pirates operating in the area

Trends – Asia

Slight increase of attacks in Singapore, Malaysia and Bangladesh in the last three years

Constant decline of incidents in Indonesia and the Malacca Straits:

- ▶ Precautionary measures taken by shipping companies
- ▶ Increased patrols
- ▶ Security measures introduced between 2004 and 2007
- ▶ 2001 bilateral accord between Indonesia and Singapore

Opportunities

Mainly financial motives of attacks

Criminal opportunities primarily connected to ransoms:

High probability of gaining huge sums because of shipping firms' and governments' willingness to pay

Criminal opportunities can come from:

- ▶ Legal and jurisdictional difficulties
- ▶ State failure

Vulnerabilities

Factors increasing ships' vulnerability:

- ▶ Low deck

Small ships with low freeboard easier to board

- ▶ Low speed

Slow ships less likely to evade attacks

- ▶ Low crew size

Inadequate watch-keeping and effective defensive/evasive measures

Law enforcement risk

1. State failure

Reduction of law enforcement risk in prosecution and of conviction risk

2. Difficulties in jurisdiction

Usually vessels under different flags, with crew members of different nationalities, sailing territorial waters of foreign countries and being attacked by pirates coming from neighbouring States

2. Weakness of the International Legal Framework

Problem of State sovereignty, not entirely solved by the 1992 Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (SUA)

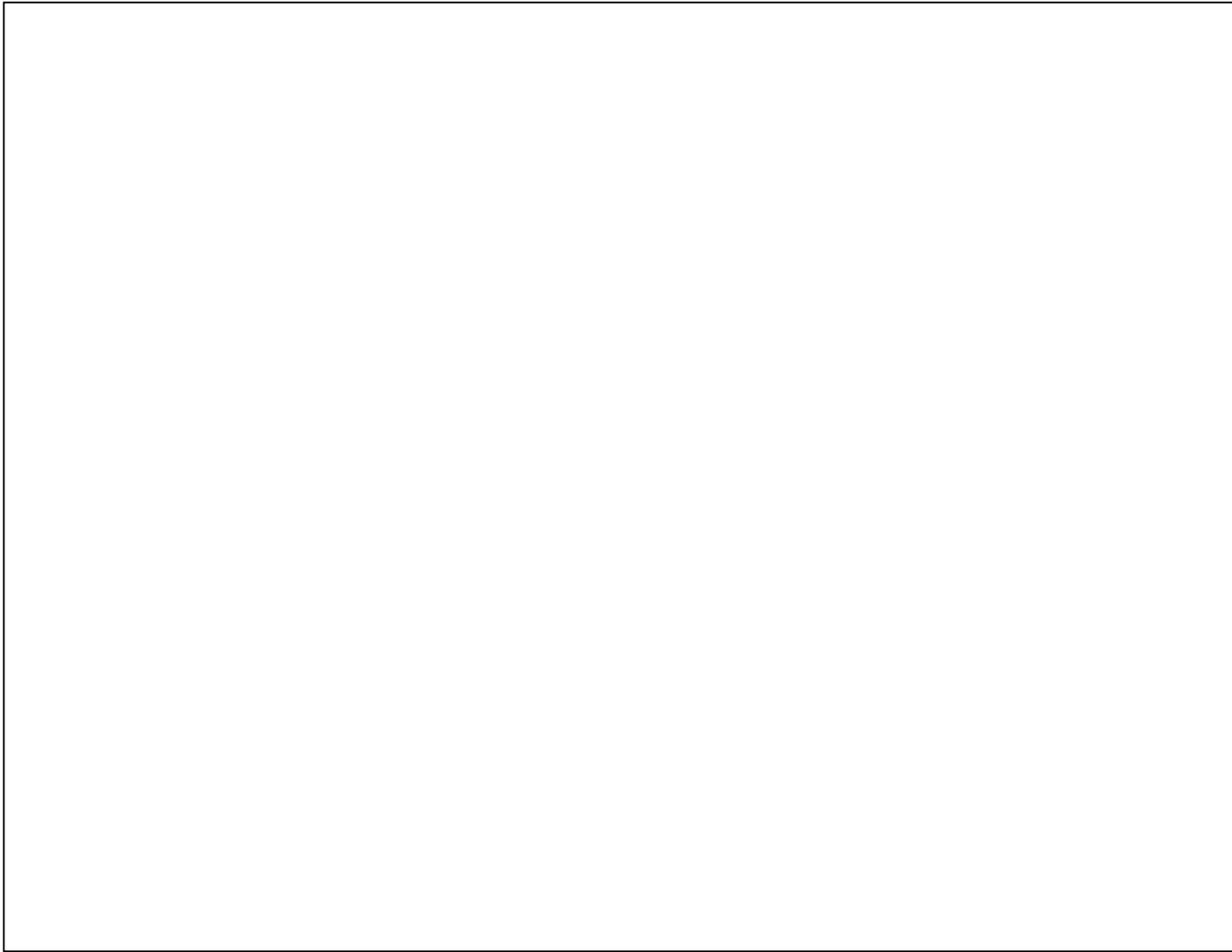
Modus operandi (1)

Distinction between:

- ▶ Boarding of stationary ships berthed in ports (*port crimes*)
- ▶ Attacks of vessels under way

Methods of attack of vessels under way:

- ▶ One or more small skiffs with powerful engines
 - ▶ Manoeuvrability
 - ▶ Speed
- ▶ 'Mother ships'
 - ▶ Long range for pickings
- ▶ Time of the day: night or early morning
- ▶ Approach from either the quarter or the stern



Source: Associated Press

Modus operandi (2)

High seas vs territorial waters:

- ▶ Attacks in high seas along the east coast of Africa and the Gulf of Aden
- ▶ Attacks in territorial waters off West Africa coast (especially Nigeria)

Recent improvements:

- ▶ GPS systems and satellite phones
- ▶ International network for exchanging information

Remedies at international level

Long list of activities taken against the phenomenon,
primarily focused on:

- ▶ Improving the legal framework
- ▶ Assisting Somalia and other neighbouring countries to put into practice investigation, prosecution, judiciary and conviction procedures
- ▶ Developing best practices to reduce vessels' vulnerabilities

Uncertain legislation (1)

Multiple nations may be involved in a single piracy case:

- ▶ Crews of merchant vessels often multinational
- ▶ Vessels flagged, owned by and operating in different countries
- ▶ Pirates and the navy patrolling ships from countries other than the State willing to investigate and prosecute the case.

Information-sharing and coordination between the military, law enforcement and judicial bodies is crucial

Uncertain legislation (2)

Security Council, resolution 1918 (2010):

- ▶ Many States lacking provisions criminalizing piracy and/or procedural provisions for effective criminal prosecution of suspected pirates
- ▶ All States, including the ones in the region, called on to criminalize piracy under their domestic laws and favourably consider the prosecution of suspected, and imprisonment of convicted, pirates apprehended off the coast of Somalia, consistent with applicable international human rights law

Recent adoption of new legislation on piracy by
Belgium, Japan and Seychelles

Uncertain legislation (3)

Assistance to States in the region in reviewing and updating of their counter-piracy legislation by:

- ▶ The United Nations Office on Drugs and Crime (UNODC)
- ▶ Other United Nations entities, including IMO and UNDP

E.g. Collaboration of UNDP with the Office in reviewing counter-piracy legislation in Somalia (drafts currently awaiting approval by the respective competent authorities)

Uncertain prosecution (1)

Prosecution of acts of piracy conducted in 10 States:

France, Germany, Kenya, Maldives, the Netherlands, Seychelles, Somalia (in the “Somaliland” and “Puntland” regions), Spain, the United States of America and Yemen

But also incidents in which suspected pirates have been released without having been brought to justice

Uncertain prosecution (2)

International navies often acting as the initial crime scene investigator

But great difficulty to collect evidence due to the maritime environment

The piracy-related data collected by these naval forces can help increase the likelihood of successful future prosecution, especially of the leaders and networks financing and profiting from such pirate attacks

Uncertain conviction

Beyond the uncertain jurisdiction, unwillingness of African countries to keep pirates in their prisons

Support of the prison systems of many African Countries by UNODC, by asking for their co-operation in incarcerating pirates

Practical remedies at international level

Increase of patrol activities by warships, especially with helicopters and aircraft, for quicker responses

Interruption of ransom payments

- ▶ But possibility that pirates change their tactics and start capturing ships
- ▶ And higher risks for crew members

Best practices (1)

Precautions usually taken by crew members:

- ▶ Extra watches
- ▶ Fire hoses
- ▶ Door locks
- ▶ Electronic tracking devices
- ▶ High-voltage fences

Recommendations of the UKMTO, based on past experiences

Best practices (2)

Need for a deep understanding of the applicability and effectiveness of these measures, especially in the long run

Non linear trend of recorded piracy incidents:

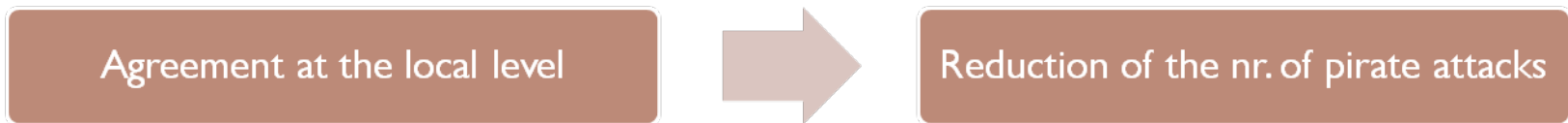
- ▶ Disorientation of pirates in the early period after the implementation of preventive measures
- ▶ Subsequent adaptation and successful attacks

Are situational prevention techniques applicable? What we have now

Increase the effort	Increase the risks	Reduce the rewards	Reduce provocations	Remove excuses
Door locks	Extra watches			
High-voltage fences; fire hoses; anti-climb paint				
	Installation of CCTVs			
	Electronic tracking devices			

What we can do beyond a new legal framework

Suggestion from the experience of Indonesia :



This is a success against the **failure of a State**

Enlarging situational prevention measures :

“The best defence is definitely ships which are hard to board, which do not have these easy ways to get on board” (Lord Malloch-Brown, hearing at UK

parliament, 19.11.09 [h](#)

<http://www.publications.parliament.uk/pa/ld200809/ldselect>
)

Present measures consist mainly in increasing the effort and the risks

Positive experiences when vessels have implemented the best practices suggested, such as:

- ▶ Extra watches;
- ▶ Fire hoses;
- ▶ Door locks;
- ▶ Electronic tracking devices;
- ▶ High-voltage fences;
- ▶ Contacts with naval organizations, reporting position, course, speed and destination;
- ▶ Additional lookouts for watches;
- ▶ CCTVs to monitor the attack;
- ▶ Alarms to inform crew members about an attack

Increasing the effort and the risk

- ▶ Use of the navigation light only before the attack and lighting of additional lights (especially upper deck lights) after the attack
- ▶ Identification of vulnerable areas of the ship and construction of physical barriers (e.g. razor wire, anti-climb paint, electrified barriers)
- ▶ Use of water spray and foam monitors
- ▶ Establishment of a safe muster station

Other effective measures: reducing rewards. Not much has been done

Forbidding the payment of ransoms? Avoiding insurance on ransoms?

“The payment of ransoms to free hostages and ships has also created an incentive for Somalis to engage in piracy or to profit from the resulting piracy economy that exists in some places along the Somali coast. There is no official estimate of the sum of the ransom payments made over the reporting period, but experts assume it to be in the tens, if not hundreds, of millions of dollars. Of note is the fact that ship owners can take out private insurance that covers negotiation assistance and ransom payments in the event of a kidnap for ransom” (UN Secretary General’s Report of 27.10.10)

Reducing rewards

What about the laundering of the proceeds from piracy?

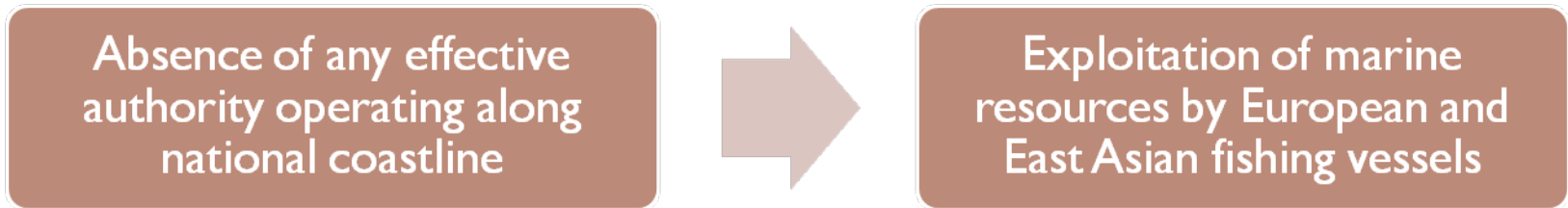
- ▶ Inclusion of piracy as a designated category of offences for money laundering by FATF
- ▶ Focus on future typology research on Organized maritime piracy (e.g. Dutch report)
- ▶ Consideration of the topic by the joint experts meeting of FATF and the Egmont group of financial intelligence units on 22.11.2010
- ▶ Evidence of piracy money invested in Kenya and other African surrounding countries

What about investments outside Africa?

- ▶ More should be done to prevent the use and the investment of money coming from ransoms

Removing excuses

Much Somali piracy appears to have its roots in fishing disputes:



Armed groups formed by fishermen – subsequently becoming pirate gangs – is the main source of piracy in the region

E.g. the Somalis captured by the US Navy ship USS *Gonzalez* in March 2006 apparently claimed to be defending local fishermen by ‘taxing’ illicit foreign trawlers

Conclusions

- ▶ Attraction of international attention by maritime piracy for its threat and costs
- ▶ In Somalia, concentration of the phenomenon and government failure to develop effective controls
- ▶ Progress in the harmonisation of criminal laws, procedures and sanctions, necessary but rarely effective (as for other organised crime activities)
- ▶ Effectiveness of situational prevention techniques – if well implemented – in reducing the incidents