

Dangerous waters: Maritime piracy off the coast of Somalia

*An analysis of the complex and multifaceted problem of
Somali-based piracy and its possible solutions*



By Saskia C. Roodenburg

20067349

3ES3F

Final paper supervisor: Mr. P.G. Nixon

May 19, 2010

The Hague School of European Studies

The Hague University of Applied Science



-The problem of maritime piracy in the failed state Somalia-

Executive Summary

Piracy off the Horn of Africa has become an increasingly salient international issue, but turning Somalia from being a rogue state to a state welcomed back by the international community is a daunting task. The phenomenon of piracy has been forbidden by (international) law since centuries and has taken different forms throughout history. Nowadays piracy is still present in every corner of the world, especially in poor, politically weak regions such as Somalia.

The instability and lawlessness in Somalia has created perfect circumstances for piracy to develop into an extremely lucrative business, while at the same time a large part of the population face starvation and death. Root causes of the problem lie in the absence of an effective central government in Somalia, while additional conditions aggravate the problem and facilitate the piracy. The huge humanitarian and political crisis in Somalia and the wide range of consequences and dangers for the international world highlight the need for additional and a more focused attention of the world community. (Somali) piracy is dealt with in several international conventions and in many UN resolutions, all aiming at addressing the issue of maritime (Somali-based) piracy. Pitfalls in international law related to Somali piracy can be found in the narrow definition of piracy and the difficulties concerning the prosecution of suspected pirates. The attempts of the global community have not yet resulted in significant successes as the world is focusing on fighting the symptoms of piracy. Nevertheless, some small positive developments are apparent, mainly by strengthening a coordinated and uniform approach.

The Somali piracy cannot be solved without solving its land-based root causes. A first step would be to end the chaos on land and ensure stability. This can only be achieved by continuation of both maritime and land-based operations. But also, by developing alternative means of living for the pirates, by stimulating (economic) opportunity and reviving the coastal industry. To have any chance of success, an urgent change of Western attitude towards the Somali people and government is needed. But also internally, ordinary Somalis should change their attitude, realizing their pirates are involved in criminal acts. A plan for Somalia's future has to be designed. If not, initiated solutions and missions are doomed to failure. Although not considered as sustainable solutions to piracy, other (superficial) solutions require consideration such as the toleration or legalization of piracy, the use of private security forces (clear rules for the use of arms are necessary), the prohibition of ransom payments and changes in international and national law related to the prosecution of pirates.

The recently signed deal by Somalia's Deputy Prime Minister and the spiritual leader of the Ahlu Sunna WaJamaa's provides a major step forward. Power is being shared with the Sufi religious group, stipulating that the two sides now join forces to fight the radical Islamist group al-Shabaab. The deal presents real hope for a future of stability and security and for the retention of a more effective functioning government of Somali. But it would be naive to think this agreement only will bring about

a miracle in Somalia.

Currently, the focus of the international world is mainly on Afghanistan and Iraq and we have to ask ourselves whether we do enough for Somalia. Nevertheless it is never too late to do the impossible and create stability and prosperity in a failed, abandoned state. There are several encouraging examples and peace and security in Somalia is possible. Only then, piracy at sea will be an issue of the past.

Table of Contents

Executive Summary	i
Preface.....	v
List of Abbreviations.....	vi
Introduction	1
<i>Introduction to the topic</i>	1
<i>Aim and research question</i>	1
<i>Material and methodology</i>	2
<i>Preview of chapters</i>	3
Chapter 1. Maritime piracy, what is it?	4
1.1 <i>The definition of piracy</i>	4
1.2 <i>Piracy in its early years</i>	6
1.3 <i>Modern piracy in a globalized world</i>	9
1.4 <i>Chapter conclusion</i>	14
Chapter 2. Background information of Somalia and its pirates	15
2.1 <i>Political and humanitarian situation in Somalia before 1991</i>	15
2.2 <i>Political and humanitarian situation after 1991</i>	16
2.3 <i>Pirate attacks by Somali pirates</i>	20
2.4 <i>Chapter conclusion</i>	26
Chapter 3. The problem of Somali piracy	27
3.1 <i>Causes of Somali piracy</i>	27
3.2 <i>Consequences and dangers of Somalia's piracy</i>	33
3.3 <i>Chapter conclusion</i>	38
Chapter 4. Piracy and international law	40
4.1 <i>UNCLOS</i>	40
4.2. <i>UN SUA Convention</i>	42
4.3 <i>UN Resolutions</i>	42
4.4 <i>Difficulties in international law related to piracy</i>	47

4.5 Chapter conclusion.....	50
Chapter 5. The international response to Somalia's piracy	51
5.1 Anti-piracy initiatives	51
5.1.1 Maritime initiatives	52
5.1.2 Coordination mechanisms	56
5.1.3 Land-based initiatives in Somalia	58
5.2 Assessment of the success of anti-piracy measures	62
5.3 Chapter conclusion.....	65
Chapter 6. How to solve Somali piracy?	66
6.1 Superficial solutions	66
6.2 Focus on the root cause	68
6.3 Somalia's future	71
6.4 Chapter conclusion.....	74
Conclusions	76
Reference List	79
List of Appendices	1

Preface

As a little girl I grew up in the muggy, adventurous and beautiful West African country Gabon. This African experience is the basis for my current interest in this often forgotten and tumultuous continent. Recent years have seen many African regions involved in ongoing wars and both internal and external conflicts. The topic of this dissertation, the Somali piracy phenomenon, is one of the most recent problems in Africa and has evolved from a rather regional problem into an almost uncontrollable worldwide scourge, affecting many innocent people and many countries and businesses. The limited progress and absence of real signs of a final solution is frustrating. It seems as if there is no vision of a sustainable and prosperous future for Somalia.

Scores of newspaper articles and new research papers are published on the subject and consequently made the process of writing this dissertation both interesting and a true challenge. On a daily basis new information on the topic is published and this requires the need to update the factual evidence. Writing about the issue of piracy off the Horn of Africa is like trying to hit a moving target. Also the opportunity to listen to personal accounts of respected people returning from the region after a tour of duty and experts in the field of maritime security has made writing on the topic of maritime piracy problem off the Horn of Africa an exciting process.

The research paper *'Dangerous waters: Maritime piracy off the coast of Somalia. An analysis of the complex and multifaceted problem of Somali piracy and its possible solutions'* was the final hurdle I had to take in order to receive a Bachelor degree in European Studies at The Hague University. The completion of this dissertation was made possible through the support and guidance of certain individuals. I would like to thank Mr. Homan, who took the time to answer my questions posed in an interview held at the Clingendael Institute on 10 December 2009. In addition, I would like to express special thanks to my supervisor Mr. Nixon, who provided appropriate guidance and useful input. Finally I would like to express my gratitude to my beloved parents. I am greatly thankful for their encouragement through what seemed to be a never-ending process.

Thank you!

List of Abbreviations

AMISOM	African Union Mission in Somalia
ASWJ	Ahlu Sunna WalJamaa (Sufi religious group)
AU	African Union
CMF	Combined Maritime Forces
CSDP	European Union Common Security and Defence Policy
CTF 150 / CTF 151	Combined Task Force 150 / 151
EU	European Union
EUTM Somalia /	European Union Training Mission in Somalia
EUTRA Somalia	European Union Training Mission in Somalia
GDP	Gross Domestic Product
GNI	Gross National Income
ICC	International Chamber of Commerce
ICGPCS	International Contact Group on Piracy off the Coast of Somalia
IGO	Intergovernmental Organization
IMB	International Maritime Bureau
IMO	International Maritime Organization
IRTC	Internationally Recommended Transit Corridor
NATO	North Atlantic Treaty Organization
NGO	Non-governmental Organization
PRC	IMB Piracy Reporting Centre
SHADE	Shared Awareness and Deconfliction
SU	Soviet Union
SUA	Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation
TFG	Somali Transitional Federal Government
UK	United Kingdom
UN	United Nations
UNCLOS	United Nations Convention on the Law of the Sea
UNOSOM	United Nations Operation in Somalia
UNSC / SC	Security Council of the United Nations
US	United States
WFP	UN World Food Program

Introduction

Introduction to the topic

At the end of 2008, the hijacks of the Ukrainian cargo ship MV Faina and the Saudi oil super-tanker MV Sirius Star caused a worldwide stir. The MV Faina was hijacked along with its 21 crew members and cargo of soviet tanks, ammunition and heavy arms, while the MV Sirius Star carried a quarter of Saudi Arabia's daily oil production – two million barrels of oil, worth over 100 million US dollars – and is the biggest vessel ever hijacked by pirates. Numerous hijacks of massive cargo ships and oil tankers followed. These matters, combined with the escalating ransom payments for the cargo and crew, generated a great deal of worldwide media attention. Somali pirates and the humanitarian crisis regained the spotlight after years of ignorance by the international community and media. The last few years show a significant surge in the number of Somali-based pirate attacks off the coast of Somalia and in the Gulf of Aden. Somali piracy has evolved from a rather small-scaled, regional issue, into a complex problem affecting localities, the region and the international community.

The Somali piracy is more than the attacks occurring at sea; the problem is intertwined with several other issues and causes difficulties and disruptions in other areas besides world trade and maritime security. To put differently, the Somali piracy is a complex and multifaceted problem and involves geopolitical, regional, operative and legal challenges. Reviewing the newspapers, articles and the many reports, one can only conclude that the international community is struggling with the piracy problem and the rogue state of Somalia. Despite the numerous efforts of the global actors, success is very limited and appears far away.

Aim and research question

This dissertation gives an insight into the background of (Somali) piracy and tries to unravel the constituent components and related issues. Further, possible solutions to the Somali piracy problem are presented. In more detail, attention is given to the definition of piracy, the background of early and modern (Somali) piracy, the causes, consequences and dangers of the Somali piracy. In addition the dissertation discusses the question of piracy in areas of international law, Somali politics and humanitarian situation, the international response to the problem and seeks to identify possible solutions to the complex and multifaceted problem.

The main objective of this dissertation is to provide a thorough understanding of the problem of Somali piracy and to present possible solutions to the Somali piracy problem. This main object is

translated into a central research question: *“What exactly is the Somali-based maritime piracy problem and how could this problem be solved?”*

In order to give comprehensive answers to the central research question, the following relevant sub-questions have been addressed:

- 1) *What is maritime piracy?* – Definition of piracy and background of early and modern piracy.
- 2) *What is the political and humanitarian situation in Somalia and what role do Somalia's pirates play?* – Background information of Somalia and Somali pirates.
- 3) *What are the causes, consequences and dangers of Somali piracy?*
- 4) *In what way are international law and Somali piracy related to each other and what are considered legal constraints in the matter?*
- 5) *What is the international community's response to the Somali piracy?*
- 6) *What are possible solutions to the problem of Somali piracy?*

Material and methodology

The main objective of this dissertation is to provide a thorough insight into the complex and multifaceted problem of Somali piracy and to present possible solutions. In order to successfully fulfill the defined objective, this descriptive research on the Somali piracy and its possible solutions is based on desk-research. Additionally a wide range of literature sources, mainly secondary literature, has been reviewed. These sources include research reports of organizations, blog posts, books, annual reports, official (UN) documents, websites, online journals, articles in magazines, and in 'quality' newspapers and other media. In addition to the written documents, alternative ways were pursued. In order to get a fascinating, first hand understanding of the problem, an interview was conducted with Major Kees Homan, employed at Clingendael, Netherlands Institute of International Relations in the Security and Conflict Programme CSCP on 10 December 2009. His suggestions and remarks are acknowledged and were gratefully included in this dissertation. Also, information was gathered during the briefing 'Fighting piracy: European military cooperation off the Somali coast' by ex-EU Force Commander commodore Pieter Bindt, organized by the JASON Institute of peace- and security issues, which I attended on 17 February 2010. Due to the importance of using up-to-date information and the dynamic character of the topic, the use of the very latest information is necessary, incorporating the most recent reports, updated news items, numbers and other information published more or less on a daily basis. The literature utilized in this investigation has been updated continuously and includes information up to 23 March 2010.

Preview of chapters

The *first chapter* will concentrate on the various definitions of the criminal act of maritime piracy. Thorough background information is given on the phenomenon of piracy in its early years as well as modern piracy in a globalized world. The part on early piracy will cast a light on piracy in the Classical Antiquity, the Barbary Corsairs, Vikings and the pirates of the Caribbean. The part on modern day piracy will provide an insight into the statistics of modern piracy, the equipment used, the targets and the piracy prone areas in the world.

In the *second chapter*, the research will be narrowed down to the Somali-based piracy instead of global maritime piracy. The political and humanitarian situation in Somalia before 1991, as well as from 1991 to present time will be examined. In addition, some figures of Somali-based piracy will be presented. Relevant background information on the Somali pirates, their working methods and the important mainspring of the Somali piracy, high ransom payments, is given.

Chapter three seeks to explain the causes, consequences and dangers of piracy off the Horn of Africa. The section on causes of the Somali piracy contains matters such as the absence of an effective central government, legal and jurisdictional weaknesses, the favorable geography of Somalia, the practice of illegal fishing and waste dumping and other matters that can be seen as contributors to the problem of Somali piracy. The section on consequences and dangers of Somali piracy shows the impact and severity of the problem. This chapter is important as it serves as a basis for finding possible solutions to the problem.

The *fourth chapter* will analyze relevant legislation related to the Somali piracy. The important legal documents of UNCLOS, SUA Convention and UNSC Resolutions form the basis for this analysis. Furthermore, this chapter elaborates on the difficulties in international law concerning Somali piracy, such as the issue of the correct definition of piracy and the issue related to prosecution.

Chapter five is an examination of the international community's response to the Somali piracy problem. This chapter will focus on maritime initiatives by the US, EU, NATO, China and other countries, the established coordination mechanisms SHADE, Djibouti Code of Conduct, and land based initiatives such as AMISOM and EUTM. At the end of the chapter, comments will be given on the success rate of these anti-piracy measures.

Lastly, *chapter six* will offer possible solutions that may result in a prosperous future for the Somali people and may put an end to the Somali piracy epiphenomenon.

Chapter 1. Maritime piracy, what is it?

Piracy has been a scourge of the seas for millennia and is still present in modern books, movies, myths and even in real life. As a more introductory chapter of this dissertation on the Somali piracy problem, this chapter aims to answer the question 'what is the phenomenon of piracy?' and focuses on the history of piracy, as well as modern-day piracy in today's globalized world.

"Life's pretty good, and why wouldn't it be? I'm a pirate, after all" – Captain Jack Sparrow (J. Depp)
(Brainy Quote, n.d., "Pirate Quotes" section, para. 6)

1.1 The definition of piracy

It has already happened to many people onboard of cruise ships, private boats and commercial cargo vessels somewhere on the earth's seas. What seems to be a relaxing cruise or a routine job turns into a nightmare with real-life pirates in the leading role. The pirates take over the command, the passengers and crew members become hostages. Sometimes ransom money is asked in return for the passengers' lives. In the worst case scenario the pirates kill the passengers and take all the valuables on the ship. Some people might think that the phenomenon of piracy is something from the past when pirates terrorized the major naval powers such as Britain and Holland on the high seas. However, the recent pirate attacks off the coast of Somalia and the Gulf of Aden show us that piracy has never become extinct. Piracy is still alive and it seems as if it has never been as vivid as it is nowadays. So piracy is something from the past, the present and most probably will extend into the future. But what exactly is piracy?

Piracy is a well-known phenomenon. Hollywood blockbusters (Pirates of the Caribbean I, II and III), Disney movies (Peter Pan) and children's books and bedtime stories are based on pirates and the often imaginary world they live in. In these stories pirates have eye patches, a parrot on their shoulder and sometimes a hook instead of a hand. But "it is not the accessories which make a person into a pirate but rather the actions of the person which are defined as piracy by national and international laws" (LawInfo, "Piracy Without the Plank: The Modern Definition of Piracy", para. 1). In international law prosecution can only take place if an act, in this case piracy, is made punishable in official documents created by for example, UN Conventions, treaties and courts. In other words criminal acts, in this case piracy, always need a legal basis for prosecution. In international law the act of piracy is made punishable in the 'United Nations Convention on the Law of the Sea' (UNCLOS). This convention came into force on 16 November 1994, but was already concluded in 1982. In article 101 of the Convention the definition of maritime piracy is stated as follows:

Piracy consists of any of the following acts:

- (a) any illegal acts of violence or detention, or any act of depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft, and directed:
 - (i) on the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft;
 - (ii) against a ship, aircraft, persons or property in a place outside the jurisdiction of any State;
- (b) any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft;
- (c) any act of inciting or of intentionally facilitating an act described in subparagraph (a) or (b) (United Nations, 1982, p. p 54-55).

This definition of piracy is used in international law. However, the ICC International Maritime Bureau (IMB) adds another definition to the words 'piracy' and 'armed robbery'. The IMB is a specialized division of the International Chamber of Commerce (ICC). As a non-profit organization, the IMB acts as the centerpiece in the fight against maritime crimes and offenses. Due to a rise of piracy, the IMB Piracy Reporting Centre (PRC) was created and located in Kuala Lumpur in 1992. One of the main tasks of the IMB is to suppress piracy, for example by watching trade routes at sea, by reporting pirate attacks or attempts to attack and by warning ships about pirate hotspots in the area (ICC International Crime Services, "International Maritime Bureau" section, para.1 & 6).

In the much broader definition of piracy and armed robbery used by the IMB, 'piracy' and 'armed robbery' is "an act of boarding or attempting to board any ship with the apparent intent to commit theft or any other crime and with the apparent intent or capability to use force in the furtherance of that act" (ICC International Maritime Bureau, 2009, p. 4). The reason for the IMB to utilize a broader definition than the definition stated in the UN Convention on the Law of the Sea has to do with point (a) (i) and (ii) of article 101 of this Convention. According to this article, acts of piracy should take place on the high seas or outside the jurisdiction of any State in order to be punishable as piracy. The reality shows that acts of piracy also occur within territorial waters (inside the jurisdiction of states) and in ports. The definition adopted by the IMB includes "actual or attempted attacks whether the ship is berthed, at anchor or at sea" (ICC International Maritime Bureau, 2009, p. 4).

Like the IMB, the International Maritime Organization noticed the same problem concerning the definition of piracy in the UNCLOS. The IMO is a specialized agency of the UN and was established in 1948. The organization covers matters related to safety, maritime security, legal matters, technical co-operation, environmental concerns and the efficiency of shipping (International Maritime Organization, n.d., "Introduction to IMO" section, para. 3). In the IMO's draft 'Code of Practice for the Investigation of the Crimes of Piracy and Armed Robbery against Ships' another definition is presented, only slightly different than IMB's definition of piracy and armed robbery. In the draft, concluded in December 2000, 'piracy' means "unlawful acts as defined in Article 101 of the 1982

United Nations Convention on the Law of the Sea (UNCLOS)”. ‘Armed robbery against ships’ means “any unlawful act of violence or detention or any act of depredation, or threat thereof, other than an act of ‘piracy’, directed against a ship or against persons or property on board such a ship, within a State’s jurisdiction over such offences” (International Maritime Organization, 2000, p. 3).

So in the cases of IMB and IMO, the organizations share the opinion that in some situations the definition of the UNCLOS is limited. Therefore both organizations came up with an additional or different definition of ‘piracy’ and ‘armed robbery’. Obviously, it is the definition stated in article 101 of the UN Convention on the Law of the Sea that is used in international law for the prosecution of piracy. According to this specific definition piracy is punishable. The wider definitions of the IMB and IMO are useful for other purposes, i.e. for statistical purposes. However, these definitions cannot be used in international law.

1.2 Piracy in its early years

In order to know more about the phenomenon piracy nowadays, one should take a look at the history of piracy. Throughout the centuries pirates have terrorized the seas. The pirates of the past were feared for their actions and many saw them as ‘the enemy of the human race’ (Barea, P., 2008, “Piracy Laws” section, para. 1). The early pirates lived in many different areas in the world; from the Caribbean to the European seas, piracy was and still is nearly everywhere.

Ancient pirates

It is said that piracy is as old as ships and since people have sailed the oceans. The first recorded incident of a pirate attack was inscribed on a clay tablet. The tablet was traced back to the year 1359 B.C., during the reign of Pharaoh Akhenaton. The Ancient Greeks incorporated the word ‘pirate’ into their language first. According to scholars, this was around 140 B.C. However, the ancient Greek word for pirate, namely ‘peirato’, has a different meaning than one may think; ‘peirato’ refers to “mercenaries who allied themselves with one political faction or city state against another faction or city state” (Vallar, C., 2009, “Ancient Piracy” section, para. 2). According to the Romans, pirates were seen as enemies because they were a threat to the Roman Empire. Therefore the Latin meaning of pirate is more associated with ‘enemy’ rather than ‘bandits’ or ‘criminals’. But for a long time the word ‘pirate’ as it is known today was not used (Vallar, C., 2009, “Ancient Piracy” section, para. 4).

During the Classical Antiquity the trade of the Phoenicians, ancient Greek and ancient Romans took place on and around the Mediterranean Sea. Products and valuable goods such as precious metals were transported by boats and these vessels often became an easy target for pirates. In some cases the pirate attacks became extra lucrative; not only the valuables onboard were captured, but also the crew members of the attacked ships were held hostage for ransom money or they were

sold on slave markets. The merchant ships and their crew were not the only victims of the pirates. Sometimes weak coastal towns were forced to collaborate with the pirates; after the payment of a tribute the cities and ports were safe from pirate attacks. Even a young Julius Caesar became a victim of pirates. After payment of the ransom Caesar was a free man again (Fowler, R., 2007, "Pirates of the Mediterranean: Pillaging and Plundering in Ancient Times" section, para. 1, 3, 5 & 7). Examples of bases from where pirates operated are in the Lipari Islands, Istria and Crete. Another pirate haven in ancient times was Cilicia, situated on the south coast of present day Turkey, and housed one of the largest pirate enclaves in history. Rome was not focused on protecting their provinces against piracy. By neglecting the problem Rome gave the pirates the opportunity to grow and flourish. In the high days of the pirate hotspot Cilicia, the pirates were capable of destroying the Roman Empire and they almost did (The Way of the Pirates, 2009, "Greek and Roman pirates" section, para. 2, 3, 4 & 7). So even in ancient times piracy was a serious problem. Sometimes the piracy could be suppressed. In general, however, piracy was a persistent plague that eventually would resurface after a period of suppression (Elder the, 2009, "Pirates of the Greco-Roman Mediterranean Sea" section, para. 5 & 6).

Barbary Corsairs

In the Middle Ages the Mediterranean Sea continued to be a popular place for pirates to dominate at sea and to commit piratical crimes. The famous holy crusades were held by European Christians in order to restore Christian control over the Holy Land. Both on land and at sea battles between Muslims and Christians were fought. At sea these battles were fought by pirates and so called 'privateers', also known as the 'Barbary Corsairs' (Muslim pirates and privateers). Privateers are not similar to pirates. According to writer Angus Konstam, a privateer was a man or ship under contract to a government, allowing it to attack enemy ships during wartime. The contract, called a 'letter of marque' meant that the government got a share of the profits (2008, p. 8). During the Middle Ages the Barbary Corsairs and Christians fought several battles at sea, fed by religious motives. These pirates and privateers were based along the coast of North Africa, also known as the Barbary Coast. It contains the coasts of present Morocco, Algeria, Tunisia and Libya. The Muslim pirates and privateers attacked and plundered ships and used the often Christian crew for selling them on slave markets. In some cases the enslaved men were used as oarsmen on the Corsairs' vessels (Vallar, C. "The Barbary Corsairs" section, para. 1, 2 & 4).

Vikings

Not only the Mediterranean Sea was an area full of pirates and tyranny in the (early) Middle Ages. In this period it was the northern and western part of Europe that had to suffer from piracy too, namely from the famous Vikings. Vikings originate from the countries Norway, Sweden and Denmark and raided, explored, traded and settled themselves in many places in Europe and the North Atlantic in the period of Scandinavian expansion called the Viking Age (750-1100). The sea warriors belonged to

the upper class and explored the rest of Europe, the Mediterranean, North Africa and even Constantinople and Asia while other Scandinavians stayed at home (Lovgren, S., 2004, "Exaggerating Atrocities" section, para. 3 & 4). Vikings are often seen as a group of barbarian, extremely violent men. One cannot ignore the fact that these men indeed have shed much blood, raped women, stole valuables, set whole villages on fire and ruled towns after successful attacks. Nevertheless research has shown that Vikings were more than ordinary slaughtermen. Besides sea warriors the Vikings developed themselves as explorers, artists, farmers, shipbuilders, innovators and excellent traders (Lovgren, S., 2004, "Vikings' Barbaric Bad Rep Beginning to Fade" section, para. 6). The Scandinavians had a highly developed legal system in which all free men had the right to speak up in open meetings and where women had actual powers such as the right to own land, inherit and to get a divorce (Lovgren, S., 2004, "Dualism" section, para. 6 & 7). Taken all this into account, it seems as if the Scandinavians were ahead of their time and were not as simple and barbaric as many people may think. It is not proven what exactly ended the Viking Age. The new religion Christianity may have played a role but more likely is the assimilation with other tribes that caused the end of the Vikings.

If one again takes a look at the definition of piracy in chapter 1, section 1.1, one might argue that the Vikings were not pirates. Most of the Vikings did not commit crimes such as robberies on the (high) seas, but usually raided the coastal towns of mostly North and West Europe. Despite this difference between 'normal' pirates and Vikings, there are many similarities between the two. Examples are their ships as means of transport, the scale of their operations and of course their committed crimes (Konstam, A., 2008, p. 23). Due to these similarities and the fact that the Vikings are considered the most successful sea raiders in the dark ages, the Vikings are worth to elaborate on in this chapter.

Piracy in the Caribbean

The discovery of the 'New World' (late 15th century), with its gold, silver and other valuables, can be seen as a starting point for the emergence of piracy in this area. In this period the major world powers of the time (European states) sent explorers on missions in order to discover new land, to establish new trade relations and trade routes and eventually to expand their power in as many as possible places in the world. From the moment the 'New World' was discovered, England, France and The Netherlands used privateers in their fight to obtain control in the Caribbean; the area where the Spaniards dominated, also called the Spanish Main (History.com, n.d., "History of Piracy" section, para. 2). Spanish ships loaded with gold, silver but also food, drinking water and other necessities became victims of privateers and pirates. The period named the 'Golden Age of piracy' in the Caribbean showed the greatest increase of piracy in history, dated from the late 17th century to early 18th century. The reason for this sudden rise of piracy is related to international politics. Many wars were ended and a lack of naval employment caused a high unemployment rate among privateers and sailors. In order to avoid extreme poverty, many of these former sailors and privateers resorted to

piracy. As a result of a lack of strong government in the Caribbean and colonies in the area piracy was able to become overwhelming and influential.

Not only the Caribbean was a hot spot for pirates in the Golden Age. The Atlantic coast, West Coast of Africa, Indian Ocean and the South China Sea had to deal with piracy too (The way of the pirates, 2009, "Golden Age of Piracy" section, para. 1,2 & 3). The pirates from the Golden Age of piracy are the pirates we are most familiar with. Pirates with parrots, wooden legs and eye patches, digging up treasures on tropical islands while drinking rum represent the type of pirate active on the Caribbean Sea. These (famous) pirates such as Black Beard, Bartholomew Roberts and Mary Reed (female!) are used as an inspiration for movies, books and stories.

Like all golden ages at one point will end, the Golden Age of Piracy came to an end around the 1720s. Reasons for the end of piracy in the Caribbean can be found in the development of international law concerning anti-piracy and the increased military presence of the European superpowers in the Caribbean (The way of the pirates, 2009, "Golden Age of Piracy" section, para. 4). Just like the piracy in the Caribbean, in general piracy had to face a decline too. Throughout the late 18th century and early 19th century the growth of British and American navies and the development of steam engines seemed to be the successful key factors in the fight against piracy (History.com, n.d., "History of Piracy" section, para. 7). Despite this, piracy has never extinct and it is one of the major concerns of the international community at this moment.

1.3 Modern piracy in a globalized world

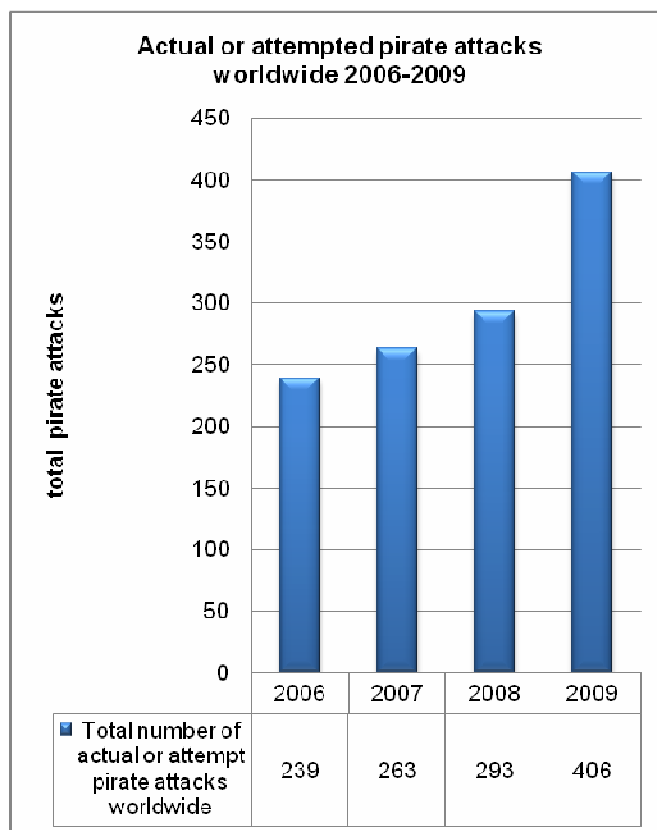
Figures of global modern piracy

As already mentioned earlier in this thesis, piracy was never fully exterminated and in times of poor government piracy always seems to experience an upswing. Piratical activity can be seen as a classic by-product of trading activities. In present day (world) trade is the driving force behind developed economies. Therefore piracy cannot be far away in this modern world of globalization where a high percentage of world trade is transported by sea.

It is estimated that between 2003 and the end of 2009 in total 2,251 actual or attempt pirate attacks took place somewhere in the world (ICC International Maritime Bureau, 2009, p. 6) (ICC International Maritime Bureau, 2010, p. 6). It is assumed that the exact number of pirate attacks is higher than is stated in the annual reports written by the IMB. Not every attack is reported to the IMB Piracy Reporting Centre as shipping companies fear higher insurance costs and a lower amount of clients. In 2006, 239 pirate attacks and armed robberies took place worldwide. The total number of pirate attacks and armed robbery in 2008 came to a dead stop at 293 actual or attempt attacks. Compared to 2007, with the total number of 263 attacks, this is an increase of more than 11%. 2009 saw an even greater increase. The number of pirate attacks rocketed to the total of 406. Causes for this

rise can be found in the enormous rise of piratical attacks in the Gulf of Aden and off the coast of Somalia. In order to elucidate the differences between the years 2006 to 2009, a graph is reproduced.

Figure 1. Total number of actual or attempted pirate attacks worldwide 2006-2009



(ICC International Maritime Bureau, 2010, p. 6)

For a complete overview of the locations and numbers of actual and attempted attacks between January and December 2003 – 2009 please refer to Appendix 1.

The total number of pirate attacks is not the only important figure. The number of hijacks, hostages and even deaths is out too. For the year 2007, the IMB reported 14 hijacked vessels, 292 hostages, 14 cases where pirates fired upon vessels. Furthermore, 35 people were injured, 5 people killed and 3 people missing due to pirate attacks. The year 2008 showed 49 hijacks, 889 crew members were held hostages and 46 vessels reported being fired upon. Moreover 32 crew members were injured, 11 killed and 21 missing who are presumed to be dead as well (ICC International Maritime Bureau, 2010, p. 12). Again, the statistics of year 2009 demonstrate that piracy has no limits. The number of hijacked vessels equals the number of 2008. The total of crew members taken hostage stopped at 1052. 120 vessels were fired upon, 68 crew members got injured by pirates, 8 got killed and 8 crew members are still missing. For the purpose of clarification the following table is created.

Table 1. Type of attacks and type of violence to crew, 2007-2009

	2007	2008	2009
Type of attacks			
Hijack	14	49	49
Fired upon	14	46	120
Type of violence to crew			
Hostage	292	889	1052
Injured	35	32	68
Killed	5	11	8
Missing	3	21	8

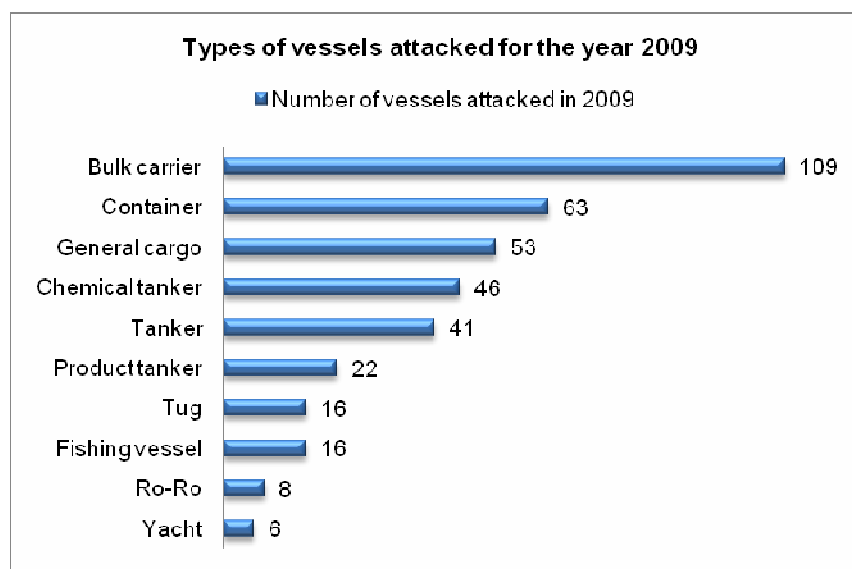
(ICC International Maritime Bureau, 2010, p. 12)

From these results the following conclusion can be drawn that since 2007 the piratical activity in the world has increased. In the last two years, especially in 2009, the trend of even bolder and aggressive attacks emerged. The high number of attacks involving shootings, hostages, wounded crew members and even death in 2009 function as the evidence.

Equipment and targets

Despite the fact that piracy is indeed still active in today's globalized world, piracy has moved with the times. Nowadays the seas are full of gigantic tankers and container ships. But not only the types of transportation by sea and the scope of the shipping industry have changed through history. Also the different types of weapons used by the pirates went through great development. Pirates in the past used weapons such as cutlasses, flintlock pistols, daggers (small knives), granado shells (predecessor of the hand grenade) and cannons and sailed the high seas without 100 hp engines. In present day, modern pirates use high-tech weapons. Examples are AK 47s, machineguns, machetes, mortars, grenade launchers and assault rifles. Modern pirates are not afraid to really use these weapons. It appears that pirates are prepared to assault and injure the crew; in 2008 the total incidents in which pirates have used guns are 139. In 2007 the total number was 'only' 72 (ICC International Maritime Bureau, 2009, p. 26). In order to attack vessels by surprise and to flee into shallow waters if necessary, the modern pirates use small motorboats equipped with modern weapons and GPS systems. Usually larger vessels are also used to supply the smaller attack or boarding vessels.

Although almost every type of vessels is of pirates' interest, bulk carriers (109), container (63), general cargo (53), chemical tankers (46) and tankers (41) are the top 5 of most popular types of vessels for the pirates to attack in 2009. In Figure 2. the most popular types of vessels among pirates to attack in the year 2009 are listed.

Figure 2. Types of vessels attacked and numbers of attacks for the year 2009

(ICC International Maritime Bureau, 2010, p. 15).

In most cases the pirates are not interested in the cargo itself but more in the personal belongings of the crew and the contents of the safe onboard. But hijacks of cargo vessel and the crew makes modern piracy extra lucrative as ransoms must be paid to release the vessels and its crew. Pirates active off the Horn of Africa in particular are focused on this rather 'new' form of piracy. Ridiculous high ransom money is asked for the hostages and the cargo. States are willing to pay the ransom which only makes modern piracy more popular among the poor on earth. They will do whatever it takes and will take every risk in order to earn at least some money. Chapter 2, section 2.3 and chapter 3, section 3.1 of this dissertation elaborate on the issue of ransom money.

So maybe the methods of attacking vessels have changed over the years. However the main objective of both pirates from the past and the present stays the same; to try to obtain money and other valuables by hijacking ships at sea or ships anchored in ports.

Areas of modern piracy

It is said that "piracy is a moveable crime. New hot spots emerge all the time while other locations return to relative peace. When organised crime groups meet resistance they seek new markets" (Fouché, H., 2007, p. 36). Although professor Fouché notes that new hotspots emerge all the time, it seems as if pirates need lawlessness on land in order to exist and to flourish. Unfortunately, nowadays countries with enormous internal (political and humanitarian) problems and lawlessness still exist. In general these countries are developing countries, situated near the equator. It is therefore not surprising to see the presence of piracy in these developing countries or near the coast of these countries. The busy shipping lanes near the developing countries also make these poor countries a

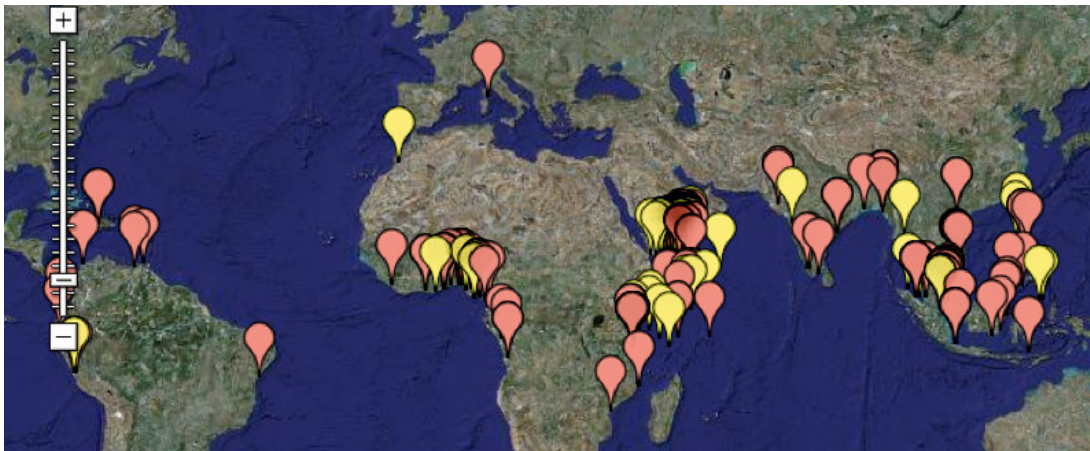
perfect location for pirates to operate from.

According to the Live Piracy Map accessible on the ICC International Maritime Bureau Website and the annual reports made by the same bureau, in 2008 the following areas were piracy prone areas:

- In South East Asia and Indian Sub continent: Bangladesh, Indonesia, Malacca Straits, Malaysia, Philippines, Singapore Straits and Vietnam.
- In Africa and Gulf of Aden: Tanzania, Ghana, Nigeria, Somalia and the Gulf of Aden. Piracy in Somalia and the Gulf of Aden will be discussed in more detail further on in this dissertation.
- In South and Central America and the Caribbean Waters: Brazil (although the number of reported attacks has dropped in Santos, ships are advised to continue to be vigilant).
- In the rest of the world: Arabian Sea.

Piracy attacks have occurred in more areas than mentioned above but these areas such as Venezuela Colombia and Haiti (see Figure 3.) are not considered to be piracy prone areas. The map in Figure 3. shows every piracy and armed robbery incident reported to the Piracy Reporting Centre of the IMB during 2008. The red dots show successful attacks and the yellow dots show unsuccessful attempts. The detailed map makes it almost impossible to overlook the piracy prone areas of 2008.

Figure 3. Live Piracy Map 2008



(John, 2009, "2008 Piracy Mapped" section, para. 1)

If one compares the IMB live piracy maps from 2005 till 2008, the conclusion can be drawn that the piracy prone areas mentioned in the IMB's annual report of 2008 were already piracy hot spots in previous years. The IMB live piracy map of 2009 does not show many differences in the location of piracy prone areas. One remarkable development is the increasing number of attacks in the

Gulf of Aden. The Straits of Malacca has also been a popular spot for pirate attacks since many years. Due to financial matters, practically all vessels use narrow canals and straits such as the Suez Canal, Panama Canal and Malacca Straits in order to shorten the shipping routes as time costs money. Pirates take advantage of this and while vessels have to reduce speed in these narrow waters for navigation and traffic control, pirates can attack in small motor boats from the coasts nearby.

1.4 Chapter conclusion

Maritime piracy is a centuries old universal crime under international law. The act of piracy is defined in the UNCLOS, but both IMB and IMO utilize a broader definition for statistical purposes due to the rather limited definition of piracy stated in UNCLOS. Throughout history, piracy has occurred in various forms and areas in the world. Examples are the pirates of the Classical Antiquity in the Mediterranean Sea, the Barbary Corsairs in that same region during the Middle Ages, the Scandinavian Vikings, the pirates of the Caribbean and the modern pirates based near maritime chokepoints. The annual reports of the IMB Piracy Reporting Centre give an insight in modern piratical activity worldwide. Statistics show an increase of pirate activity in the world, especially off the Horn of Africa. In contrast to the early pirates, 21st century pirates have access to modern equipment, weapons and speedboats. In addition, modern pirates have a larger number of possible targets to choose from due to the high volume of global trade at sea. In most cases, the main purpose of pirates is to board a ship and steal the cash and valuables aboard, after which the pirates abandon the ship. However, the Somali pirates have developed a new form of piracy, involving hijacks of supertankers, the cargo and crew for ransom. Piracy hot spots can be found all over the world, often in developing countries where crisis, poverty and conflict prevail. Examples of piracy prone areas are the Malacca Straits, Bangladesh, Somalia and the Gulf of Aden.

Chapter 2. Background information of Somalia and its pirates

The purpose of this chapter is to provide an overview of the political and humanitarian situation in Somalia in the past and present time. Due to great changes after 1991, this chapter will mainly focus on the political and humanitarian situation in Somalia after 1991, rather than the situation before 1991. Furthermore, the chapter elaborates on the modern maritime piracy off Horn of Africa and gives an insight of this unique form of modern piracy.

“What if you are born with an opportunity, but not born in such a fortunate place? There are no opportunities in Somalia. It is a poor place” – Muhamed Muhammed

(Quotesea, 2009, “Somalia Quotes” section, para. 8)

2.1 Political and humanitarian situation in Somalia before 1991

In general when people think of Somalia they picture a country with only dust, violence, desert and people dying of starvation. Unfortunately this picture comes real close to reality. Years of civil war, power struggles, malnutrition, diseases and other humanitarian and political problems have made Somalia a shattered country and have already cost the lives of many Somali people. It is therefore not a surprise that Somalia has been listed the number one failed state in the world for the second time in a row, according to the magazine Foreign Policy (Foreign Policy, 2009, “The rankings” section, para. 1). In case one is not familiar with the African country Somalia, Appendix 2 and Appendix 3 can be consulted. Appendix 2 contains a map of Somali regions, national and regional capitals, boundaries and (rail) roads. Appendix 3 provides a map of Somalia which shows the precise location of the country within Africa, and the location of the breakaway regions Somaliland and Puntland.

Western involvement in Somalia

The present chaos and lawlessness did not occur overnight and the Western countries in a way played their part in the creation of such as shattered country Somalia is nowadays. Somalis are ethnically homogeneous but colonial boundaries divided the people into five jurisdictions: British Somaliland, Italian Somaliland, Ethiopia (in the Ogaden), Kenya and Djibouti. In July 1960 the nation Somalia was formed after the unification of British and Italian Somaliland. After the independence the institutions with power became corrupt and incompetent and as a result Major General Mohamed Siad Barre executed a bloodless coup d'état on 21 October 1969. With Mohamed Siad Barre as the new

president of Somalia political institutions were transformed into institutions based on socialism. From 1970 to 1977 the country received support from the former Soviet Union (Ayittey, G. B. N., 1994, "The Reign of Terror in Somalia" section, para. 1 & 2). Due to Somalia's war with Ethiopia (also supported by the SU) the Soviet Union cut all ties and Somalia turned to the United States for support. In the next years the United States and other Western countries and institutions injected billions of dollars into Somalia, however the expected major improvements did not occur and corruption increased even more (Ayittey, G.B.N., 1994, "The West Compounds Somalia's Problems" section, para. 1, 3, 4 & 7).

The era of anarchy

As the military regime of Mohamed Siad Barre became more corrupted, the regime became also more unpopular. Afraid of strong opposition and in order to maintain political power, the regime tortured, pillaged, killed and imprisoned hundreds of thousands innocent Somali people. The human rights organization 'African Watch' charged Barre's regime in March 1990 with "the responsibility for the deaths of 50,000 to 60,000 civilians since hostilities broke out between the government and rebels from the Somali National Movement" (as cited in Ayittey, G.B.N., 1994, "Barre's Brutality" section, para. 3). The Somali National Movement and United Somali Congress were the two clan-based rebel movements that played a role in the overthrow of dictator Mohamed Siad Barre in 1991. After the former president of Somalia fled the country, the struggle for power between several clan-based warlords began. This caused the country to fall into decades of sustained anarchy where clan warfare, carnage and famine were the order of the day (Draper, R., 2009, p. 76). The year 1991 saw great changes in Somalia.

2.2 Political and humanitarian situation after 1991

Since 1991 the country lacks a central government and lawlessness dominates. By 1992 the country was already ruined; the country lacked government, police forces and even public services. Almost 4.5 million people (> 50% of the total number of Somalia's inhabitants) faced starvation, severe malnutrition and related diseases. Drought and the carnages, caused by plundering and murderous armed warlords fighting for control of the capital Mogadishu, have cost the lives of more than 300,000 Somalis (Department of Public Information United Nations, 1997, "Background text" section, para. 1). The extreme famine and the high number of deaths made the United Nations decide to take action.

United Nations in Somalia

In April 1992 the United Nations Operation in Somali I, the UNOSOM I, was launched with the objective to “monitor the cease-fire in Mogadishu, the capital of Somalia, and to provide protection and security for United Nations personnel, equipment and supplies at the seaports and airports in Mogadishu and escort deliveries of humanitarian supplies from there to distribution centres in the city and its immediate environs” (Department of Public Information United Nations, 1997, “Mission Backgrounder” section, para. 1). Despite the ambitious objectives of UNOSOM I, the operation failed in its tasks and as the civil war was running towards a total escalation an immense humanitarian crisis spread through the country. To gain control over this crisis, the United States led a UN-mandated coalition force called UNITAF. This force was deployed in December 1992 and had to create a secure environment for relief operations. The UNITAF succeeded in securing main relief centres in starvation areas but the force did not attempt to disarm the Somali clan militias or the warlords who were still fighting for power (The National Archives, 2007, “History” section, para. 4). In May 1993 the UNITAF was replaced by UNOSOM II and due to a high number of deaths of both Somalis and UN peacekeepers, the last UNOSOM II troops withdrew in 1995 (Department of Public Information United Nations, 1997, “Somalia – UNOSOM I. United Nations Operation in Somalia I” section, para. 1).

Somalia's current political situation

Currently, Somalia is divided into three areas: Somaliland in the north-west, Puntland in the north-east and southern Somalia. In 1998 the leaders of the region Puntland declared the region an autonomous state. The north-western region of Somalia, Somaliland (former British Protectorate of Somaliland) declared its independence as the ‘Republic of Somaliland’ in May 1991. As opposed to Somaliland, Puntland does not seek for independency from Somalia or for recognition by the international world as a separate nation, but sees itself as a federal state. Both regions have created a government, elected a president and are managing their own affairs. However, Somaliland and Puntland are not internationally recognized. Both regions are not totally free of crisis and violence. But compared to the rest of Somalia, Puntland and Somaliland are seen as the more stable, safe havens in a shattered, violent and failed state. The areas located in central and southern Somalia are the areas where violence rules. A continuous battle for power between several groups takes place in Mogadishu and surrounding regions.

After 15 failed attempts to form a government, 2004 was the year the Transnational Federal Government (TFG) was established during a conference in Kenya. Although yet another government was created, catastrophe and disaster was not far away and in 2006 Somalia was again subject to a power struggle. The Islamic Courts Union (ICU), supported by the small, well-trained militia called al-Shabaab, gained control over all of Mogadishu by June 2006, and successfully continued to extend

its control over big parts of south and central Somalia. The ICU was able to provide the Somali people with law and order and basic services in the areas controlled by the Union. ICU gained support of a significant part of Somalia's population, for the reason that the Union created hope for a future without state collapses, warlordism and criminal violence (Menkhaus, K., 2009, pp. 7-8). According to Kees Homan¹, the piracy in Somalia at that time showed a downfall due to the relatively peaceful and stable situation the ICU created, as well as the condemnation by the ICU of piratical acts (K. Homan, personal interview, December 10, 2009). However, even with relative peace and stability, Somalia was not safe for another flow of violence and crisis. At the end of December 2006 Ethiopian troops, supported by the US, invaded Somalia for the purpose of removing the ICU from power. The Ethiopian troops succeeded in this aim but ironically it resulted in the rise of an armed insurgency led by al-Shabaab. It was the start of a continuous struggle for power between TFG troops and several militias (Menkhaus, K., 2009, pp. 7-8). Nowadays less than 50% of the Somali population supports the government and fights between troops supporting the government and the Islamist militias al-Shabaab and Hizbul Islam take place almost on a daily basis (Homan, K. & Kamerling, S., 2009, p. 455). It is said that these Islamist militias have links with terrorist groups such as al-Qaeda and fight for the establishment of an Islamic state. One of the emirs for al-Shabaab announced that "until our last daughter is no longer alive, we'll continue fighting. We don't want democracy. If they leave it to our dignity, we can rule Somalia" (Draper, R., 2009, p. 87). So it seems as if this struggle for power will not end, at least not in the near future. The Ethiopian forces pulled out in January 2009, but the battle for power still continues.

One can argue that food is power in Somalia. It is like a vicious circle; the militias have regularly visited the cultivated land of farmers in central Somalia during harvest and claimed the crops for themselves. Besides drought and a devalued currency the militia roadblocks increased food prices. The increase of food prices makes it even harder for Somali families to buy food if it is available and they become (more) dependent on food aid. People thirst for money to purchase food and other basic needs. And due to the poverty and food crisis it is easy to recruit young Somalis for the militias of al-Shabaab and Hizbul Islam. "In a place gone to hell, al Shabaab is the best employer in town and offers direction amid daily uncertainty" (Draper, R., 2009, p. 87). But by joining the extremist organizations, the often young Somalis help the militias to continue to exist and the crisis continues or even deteriorates. New actions by the militias would probably cause even higher food prices, the problems stay and the youngsters will possibly join the militias out of desperation. So by the actions of the militias, many Somalis see the joining of such groups as the only opportunity to escape the crisis. And this will only fuel the conflict and crisis in Somalia.

¹ Major General Kees Homan is a part-time employee in the CSCP (Clingendael Security and Conflict Program) department of Clingendael, Netherlands Institute of International Relations in The Hague, The Netherlands. For the complete interview with Mr. Homan, please refer to Appendix 4.

Humanitarian situation: Crisis

According to Graham Harmer, the head of the UN Food and Agricultural Organization, the current humanitarian crisis in Somalia is the worst humanitarian crisis in Somalia in the last 18 years since dictator Siad Barre's government collapsed in 1991. Half the population of Somalia, equal to 3.76 million people, is in desperate need of aid as the security in the country deteriorates (African Press International, 2009, "SOMALIA: Humanitarian situation 'worst in 18 years' " section, para. 1 & 2). As a result of this insecurity, providing aid to those in need of help is extra difficult. It appears that 75% of the 3.76 million people in need are concentrated in the south and central part of Somalia. These are exactly the areas where the fighting is greatest and are most inaccessible to humanitarian operations (African Press International, 2009, "SOMALIA: Humanitarian situation 'worst in 18 years'" section, para. 8). Especially the capital Mogadishu is transformed into a battlefield where government and militia groups fight for power. Somalia is named the most dangerous country in the world for aid workers to operate; in 2008 a total of 34 aid workers have lost their lives while helping Somali citizens (United Nations Nation Unies, 2009, "Somalia Humanitarian Overview", p. 1). Logically, these attacks on aid workers make it even more difficult to combat the humanitarian crisis in Somalia. Besides the worsening security situation, constrained humanitarian access makes it an almost impossible mission for international and national aid organizations to operate in South Central Somalia. Fortunately, organizations also succeed in distributing aid. The international community, organizations and institutions are at least aware of the crisis in Somalia. This shows in the flows of money and food intended for aid. But despite the (financial) help of the international community and the UN operations in Somali, the crisis is still part of the daily life of almost every Somali.

The civil war and crisis in Somalia have caused one of the biggest refugee flows of the last decades. It was estimated that at the end of 2002 a total of 425,000 Somali refugees have fled to 24 different countries (Stichting INLIA, 2002, p. 3). However due to the rise of violence in recent years this number must be much higher at the moment. A third of the total population is dependent on food aid provided by other countries (BBC NEWS, 2009, "At a glance" section, para. 1). Many Somali try to escape the starvation and the daily violence. The often overcrowded refugee camps in neighboring countries Kenya and Yemen and Somaliland are places the Somalis try to reach. But violence, drought and hunger make it often an exhausting and sometimes impossible journey. The lucky ones migrate outside the conflict zone and are able to experience relative 'peace' again after a long time of dictatorship and crisis. The less fortunate Somali refugees, more than one million, have ended up in camps for internally displaced persons. Although some Somali succeed in migrating to safer places, it is sad to notice that people take every risk in order to escape the crisis. For example in 2008 50,000 Somalis risked their lives in crossing the Gulf of Aden to get to Yemen. Compared to 2007 this is an increase of 70% and it shows the increased levels of desperation in Somalia (United Nations Nation Unies, 2009, "Somalia Humanitarian Overview", pp. 3-4). But leaving home is difficult for many

people and so many Somalis choose to stay in the dangerous capital Mogadishu or other cities they live in. One of Somalia's inhabitants, Mohammed (18), said: "We don't want to flee our own country. I don't want to be a refugee. We're ready to die here" (Draper, R., 2009, p. 77 & 78).

If one takes into account the worsened political and humanitarian situation and the numerous problems that come with it, it almost seems as if piracy is a legitimate way of escaping the problems in the country. It is not a surprise people will do anything just to flee the horrible situation in Somalia; even selling their soul to the devil. And as the world can see in the news, selling your soul to piracy is becoming a popular way for Somalis to escape poverty and misery.

2.3 Pirate attacks by Somali pirates

Figures of Somali piracy

Despite Somalia's political and humanitarian crisis, causing the death of many people, it was not the terrible situation that brought Somalia back in the political spotlights. The piratical attacks by Somali pirates on mostly merchant vessels have again forced the international community to focus on the problems in the forgotten continent called Africa. It is not only the region itself that is affected by this problem but nearly the whole world. As explained in chapter 1, section 1.3, the reason for the overall increased number of attacks in 2008 and 2009 compared to previous years was the exponentially growth in pirate attacks by Somali pirates in the Gulf of Aden. In 2007 the total number of actual and attempted pirate attacks in the Gulf of Aden/Red Sea² was 'only' 13, whereas the number of attacks in 2008 had increased to an unbelievable high total of 92. The number of attacks in Somalia decreased from 31 attacks in 2007 to 19 in 2008; the probability exists that this decrease is the result of a shift in 'preferred spots for piratical attacks' from the coast of Somalia to the Gulf of Aden. So in 2008 the Somali pirates were responsible for 111 attacks in total in Somalia and the Gulf of Aden. In 2007 this number was 51 (ICC International Maritime Bureau, 2009, pp. 5-6).

As was already feared, the year 2009 broke all records. In the Gulf of Aden, the total number of actual and attempted attacks reached 116 (92 in 2008, 13 in 2007). An unprecedented expansion of pirate activity took place along the coast of Somalia; the number of pirate attacks rocketed to the total of 80 (19 in 2008, 31 in 2007). The total number of attempt and attacks in 2009 worldwide has nearly doubled compared to 2008; 406 against 293 in 2008. The Somali pirates are held responsible for the total of 217 attacks executed in 2009, including 21 attacks in the Arabian Sea, Indian Ocean, Red Sea and off the coast of Oman. For a clear and complete overview of the numbers of Somali-based pirate attacks from 2003 to 2009 and the relevant regions where these attacks have occurred, the table

² All pirate attacks in the Gulf of Aden/Red Sea were carried out by Somali pirates. In the Red Sea no piratical attacks had occurred.

displayed below can be consulted. The table indicates that in the period 2003 to 2009 the Somali pirates are responsible for a total of 480 attacks.

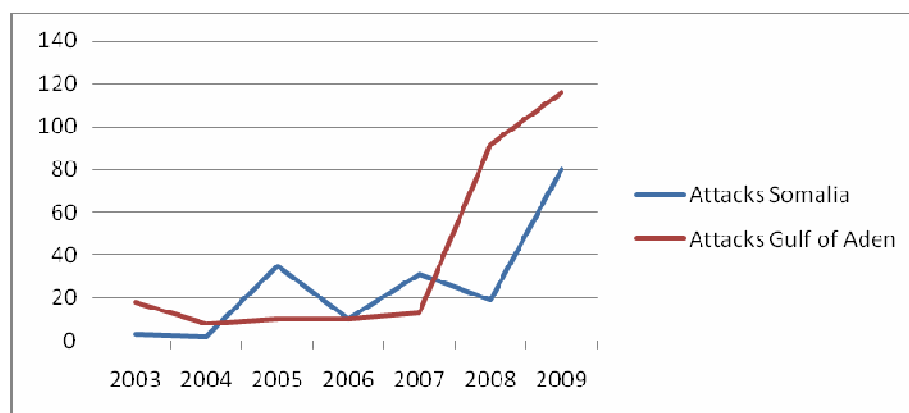
Table 2. Number of pirate attacks executed by Somali pirates per region, 2003-2009

Areas of pirate attacks → Year of attacks ↓	Somalia	Gulf of Aden	Red Sea	Arabian Sea	Indian Ocean	Oman	Total attacks per year
2003	3	18	-	-	-	-	21
2004	2	8	-	-	-	-	10
2005	35	10	-	2	1	-	48
2006	10	10	-	2	-	-	22
2007	31	13	-	4	-	3	51
2008	19	92	-	-	-	-	111
2009	80	116	15	1	1	4	217
Total attacks per region, 2003-2009	180	267	15	9	2	7	480

(ICC International Maritime Bureau, 2009, pp. 5-6) and (ICC International Maritime Bureau, 2010, pp. 5-6).

The development and rapid increase of Somali-based pirate activity off the Coast of Somalia and in the Gulf of Aden is significant and becomes clear in Figure 4. Especially the surge in attacks in the Gulf of Aden from 2007 to 2009 and the increased number of attacks off the coast of Somalia from 2008 to 2009 are disturbing facts.

Figure 4. Development of pirate attacks off the coast of Somalia and in Gulf of Aden, 2003-2009



(ICC International Maritime Bureau, 2009, pp. 5-6) and (ICC International Maritime Bureau, 2010, pp. 5-6).

The numbers of pirate attacks divided per region from 2003 to 2009 used in Table 2. and Figure 4. can be found in Appendix 1. The Appendix contains a table with worldwide locations of actual and attempted attacks from January – December 2003 to 2009.

Other important numbers of Somali piracy are related to the ratio of actual and attempted attacks. These numbers are important for the assessment of the successes of counter-piracy operations executed by the international community. Chapter 5, section 5.2 elaborates on this matter. In 2008 the number of actual attacks committed by Somali pirates was 44; on 2 occasions ships were boarded and 42 times ships the attacks resulted in a successful hijack. The number of attempted attacks in the same year reached a total of 67; 39 times pirates fired upon vessels, in 28 cases the pirates attempted boarding. 2009 shows a rather different ratio of actual and attempted attacks. In total 48 actual attacks were successfully carried out; 1 ship was boarded, 47 ships got hijacked. The number of attempted attacks is far higher. In total 167 attempted attacks were reported in the Gulf of Aden, Red Sea, Somalia, Oman, Arabian Sea and Indian Ocean, including 114 vessels being fire upon by pirates and 55 attempted boardings. The difference in numbers between 2008 and 2009 becomes visible in Table 3.

Table 3. Actual and attempted Somali pirate attacks by location, 2008-2009

2008					2009			
	ACTUAL ATTACKS		ATTEMPTED ATTACKS		ACTUAL ATTACKS		ATTEMPTED ATTACKS	
Location	Boarded	Hijacked	Fired upon	Attempted boarding	Boarded	Hijacked	Fired upon	Attempted boarding
Gulf of Aden	2	32	31	27	-	20	64	32
Somalia	-	10	8	1	1	26	45	8
Red Sea	-	-	-	-	-	-	3	12
Oman	-	-	-	-	-	1	2	1
Arabian Sea	-	-	-	-	-	-	-	1
Indian Ocean	-	-	-	-	-	-	-	1
Total	2	42	39	28	1	47	114	55
	44		67		48		169	
	111				217			

(ICC International Maritime Bureau, 2010, p. 8)

In his report of 16 July 2008, Secretary-General of the United Nations Ban Ki-moon claimed that due to continuous piracy in the area, the Somali waters are considered one of the most dangerous places in

the world for shipping (Leurdijk, D., 2009, p. 217). The increased numbers of actual and attempted attacks by Somali pirates in 2009 show present Somalia is still struggling with this bad reputation.

Different groups of Somali pirates

According to Andrew Mwangura³ a division between different types of pirates can be made within the bigger group of Somali pirates. This division is based on the tactics and capabilities of the Somali pirates. There are four main groups, each with a unique structure but the groups share the same objectives: making profit. (1) The most sophisticated group is the group of Somali Marines. This group operates from Central Somalia and uses the 'mother ship' model to attack cargo ships. The mother ship is a large fishing boat loaded with smaller and faster skiffs. In this way cargo vessels sailing far away from the Somali coasts can be reached easily. A mother ship brings the pirates to the vessel and the skiffs will be used to approach and board the targets. Due to the creation of this model, many vessels sailing in deep waters far away from the dangerous Somali coasts out of precaution can still be reached by the pirates. It is estimated that more than 80% of the piracy in Somali is carried out by the Somali Marines and has to do with their ability to sail long distances. The other three pirate groups are: (2) the Puntland pirates operating from Bossaso (north Somalia), (3) scattered factions based in Marka and the (4) National Volunteer Coast Guard who operated mainly from Kismayo. Both Marka and Kismayo are cities located in the southern coastal region of Somalia. Different than the Somali Marines, these groups use modified and often stolen fishing boats with mounted weapons to carry out piracy and armed sea robbery (Ross, S. & Ben-David, J., 2009, "Who are Somalia's Pirates?" section, para. 1). But there are more coastal towns from where the pirates operate, such as Eyl (Puntland), Harardheere (Central Somalia), Bargaal (Puntland), and many more. In some cases the different pirate groups overlap and help each other for example by providing important information or they work together in other ways. Generally, the pirate gangs are facilitated by warlords with whom the pirates share the profits.

The pirates in Somalia have created a sophisticated operational model that over time made it possible to attack a bigger number of vessels. Their operation consists of a team of three types of groups: (1) ex-fishermen with knowledge of the sea, (2) ex-militiamen with manpower, strength and skills and (3) technical experts who can operate high tech equipment (GPS systems and military hardware) to assist with the navigation and the detection of potential shipping targets. But it goes further. The pirates also have an intelligence network used for receiving information on potential targets and threats. Other groups of people involved in the operation include corrupt officials, accountants, negotiators and even local pirate restaurants to prepare food for crew and hostages. So it is not only the core group of men who hijack the ships that is involved in the piracy in Somalia, but a whole network of people supporting the pirates in several ways has emerged (Ross, S. & Ben-David,

³ Andrew Mwangura is the program coordinator for the Seafarers' Assistance Program in Kenya.

J., 2009, "Who are Somalia's Pirates?" section, para. 2). So piracy in Somalia has become a well-organized crime. The fact that over the years Somali piracy has developed into such a well-organized, multifaceted phenomenon does not come as a surprise. Taking into account the highly lucrative character of piracy and the extreme poverty in the country, the development of piracy in this way may be seen as a logical outcome of the many years of crisis in Somalia.

Somali piracy: a lucrative business

"All you need is three guys and a little boat, and the next day you are millionaires" (Ross, S. & Ben-David, J., 2009, "Piracy as a Lucrative Business" section, para. 1). The lucrative character of Somali piracy makes it for Somalis highly difficult to resist exchanging their poor, dangerous life for the luxury, 'safe' life of a Somali pirate (Homan, K. & Kamerling, S., 2009, p. 456). It can be argued that as long as the extreme differences in income of a 'normal' Somali person (GNI per capita⁴ in 2008 was 140 US Dollars) and a Somali pirate (6,000 US Dollars to 10,000 US Dollars for a 1,000,000 US Dollar ransom) exist, piracy will survive (Unicef, n.d., "Basic indicator" section, para. 1) (Huijgevoort, S., 2009, "Up to \$10.000 ransom" section, para. 1).

Obviously, the reason behind the Somali piracy as an extreme lucrative business is the ransom money paid for hijacked vessels and their crew. Different from other piracy, the Somali piracy took advantage of the fact that shipping companies did not arm their vessels and that they tend to have a strong preference for paying ransom money if necessary, rather than put them in more danger by executing military action against the pirates. The piracy in Somalia is therefore a new and different sort of piracy. The Somali piracy is, and remains, solely a business to secure ransoms. Money is the only thing that counts; so far the Somali pirates have made no real political demands, have not sought to reflag ships, have not intentionally harmed crew members and have no significant links to al-Shabaab or al-Qaeda (Menkhaus, K., 2009, p. 9). However the latest hijacks seem to show a new tendency of demands and negotiations becoming more complex than before. According to Roger Middleton, a piracy expert at the think tank Chatham House, the pirates "still want the money but they have also asked for the release of imprisoned comrades. That demand is an extra bargaining tool they can use to add extra layers to their negotiating position" (Malkhadir, M. M., 2009, "Somali pirates hijack oil tanker headed to New Orleans" section, para. 16-17).

The Somali piracy has become a successful business model. In this model, the payment of occasional ransom money was less costly to shipping companies than any other alternative. It is estimated that in 2008 the total ransoms paid covered 40 million US dollars. Although this amount of money was just little more than a 'nuisance tax' for the shipping companies and their insurers, for a country of Somalia where the annual income does not exceed 650 US dollars, the same amount is incredibly high (Menkhaus, K., 2009, p. 9). The Saudi oil tanker MV *Sirius Star* (worth 3 million US

⁴ GNI per capita is the GNI (the dollar value of a country's final income in a year) divided by the number of the country's population. This reflects the average income of a citizen of a particular country.

dollars of ransom money), the Ukrainian-flagged ship MV *Faina* (ransom money: 3.2 million US dollars) and the recently hijacked Greece-flagged oil tanker *Maran Centaurus*⁵ (ransom money: 9 (!) million US dollars) are just a few examples of vessels hijacked by Somali pirates. Negotiations about the ransom money usually can take a couple of months and after the payment - in cash - the ships are released. In the beginning of December 2009 a total of a dozen ships and more than 250 crew were held in Somalia, waiting for someone to pay the ransom money (McConnell, T., 2009, "Super tanker and its \$20m cargo seized by gang of Somali pirates" section, para. 2, 4, 11-12, 14, 22).

Clearly, the ransom money is divided among several involved parties. In the beginning of 2009 a pirate from Puntland explained the New York Times how the ransom money is divided in his pirate group. The pirates themselves keep 30% of the total ransom money, 20% is for their bosses, 30% goes to corrupt officials and the last 20% is for reinvestment, e.g. to buy new weapons, fuel for the boats and high tech equipment (Schenkel, M., 2009, "Schepen kapen is gewoon handel" section, para. 5). These percentages cannot be seen as an indicator of the division of ransom money for other pirate groups; percentages and/or the parties receiving money may differ from one group to another. However it seems as if in many pirate groups the money is indeed divided among the several parties mentioned above.

Kees Homan of the Institute Clingendael shares the opinion that the payment of ransom is inevitable in life-threatening circumstances. However, authorities of several countries have refused to meet ransom demands, for example the British government in the case of the hostage-taking of a British couple who were seized from their yacht on 23 October 2009 and have not been released yet (23 March 2010). There are signals that the couple will be released soon (Jones, D., 2010, "British couple held by Somali pirates 'could be freed in days' " section, para. 1). Besides the UK, the US and European officials insist they do not pay ransoms to pirates as this only fuels piracy. Countries like the US and UK have policies related to the condemnation of substantive concessions to hostage-takers, including the payment of ransom money. In contrast to authorities, shipping and insurance companies are willing to pay ransoms of millions of dollars because the demanded ransoms are much lower than the value of both vessel and cargo (Walt, V., 2009, "Why the Somali Pirates Keep Getting Their Ransoms" section, para. 1). Of course, some governments pay ransom without admitting this. According to Antonia Maria Costa, executive director of the United Nations Office on Drugs and Crime in Vienna, "governments do not want to make this public because it violates international standards and signals to bandits and pirates that crime pays" (Walt, V., 2009, "Why the Somali Pirates Keep Getting Their Ransoms" section, para. 9). By paying a ransom the hostages can be saved. Nevertheless, the practice of paying a ransom only encourages piracy and it is likely that new hijacks will ask for increased amounts of money (K. Homan, personal interview, December 10, 2009). In general, the payment of ransoms is not illegal, as pirates are seen as criminals, rather than terrorists. It

⁵ The *Maran Centaurus* was hijacked on 29 November 2009 and released around 18 January 2010.

has been suggested that pirates are being linked to terrorism and terrorist organizations, however the existence of a link between piracy and terrorism has not been proved. Recently a UK High Court has confirmed that payment of ransom to pirates is not illegal or contrary to public policy. However, the US is expected to push the UN Security Council to prohibit the practice of ransom payments (Chamber of Shipping, 2010, "Other News" section, para. 3). In other words, the legitimacy of ransom payments to the Somali pirates is under serious discussion.

2.4 Chapter conclusion

Somalia is a rogue state. Root causes for the country's current situation can be found in the tumultuous past of Somalia. Italy and Britain (protectorates), as well as the US and SU (Cold War) have had an interest in Somalia. In 1960, the country of Somalia was founded. The year 1969 was the year of Major Siad Barre's coupe d'état. During Barre's dictatorship, many opponents of Barre's regime were killed. Rebel movements overthrew Siad Barre in 1991. After 1991, rival clans struggled for power, resulting in lawlessness, the lack of effective government and a humanitarian as well as a political crisis ever since. Peace operations such as UNISOM and UNITAF have not brought stability and peace. At present the TFG (supported by AU troops) is implicated in a power struggle with ICU and its militia al-Shabaab. Somalia is facing a humanitarian crisis, with approximately 3.76 million Somalis dependent on foreign aid.

Somali piracy is one of the by-products of the lawlessness and crisis in Somalia. The period from 2007 to 2009 show extreme high numbers of pirate attacks in Somalia and the Gulf of Aden. These Somali pirates operate within certain pirate gangs throughout the country, usually using mother-ships, high tech equipment and a wide network of people involved in the operation, both at sea (the actual pirates) and on land (negotiators, corrupt officials etc.). Rather new is the element of hijacks and enormous ransom payments, resulting in the construction of an entire new business. Most countries refuse to pay the demanded ransom money, while for shipping and insurance companies the amount ransom money equals only a tiny proportion of their total revenue and the value of the hijacked vessel and its cargo. The ransom payments can serve as a catalyst for more hijacks and even higher ransom. The practice of paying ransoms to pirates is considered not illegal yet but this may be subject to change in the future.

Chapter 3. The problem of Somali piracy

This chapter focuses on the factors contributing to the emergence of piracy off the coast of Somalia and the Horn of Africa. Understanding the reasons behind the problem can serve as a basis for possible solutions to this complex and multifaceted phenomenon. In addition, the increasing impact of the piracy problem for the global community and Somalia itself are addressed. The consequences and dangers show the scope of the Somali piracy problem and explain the desperate need of the global community to solve the piracy problem as soon as possible.

“The piracy in Somalia is a symptom of serious underlying constraints that have been afflicting the country and the countries in the Horn of Africa for a long time”

(Horn of Africa Peace and Development Center, n.d., p. 2)

3.1 Causes of Somali piracy

Piracy is a problem that has surfaced and disappeared repeatedly over many centuries, in many areas in the world. According to Martin N. Murphy⁶, seven key factors need to be in place for piracy to develop. These factors are:

- **Under-funded law enforcement/inadequate security;**
- **Permissive political environments;**
- **Conflict and disorder;**
- **Legal and jurisdictional weaknesses;**
- **Favorable geography;**
- **Cultural acceptability; and**
- **Promise of reward** (2007, p. 13).

⁶ Martin N. Murphy is a PhD student who wrote his PhD thesis on maritime irregular warfare at the University of Reading. He has written on maritime security issues for journals including *Armed Forces Journal*, *Contemporary Security Policy*, *Jane's Intelligence Review* and *Maritime Studies*.

All these factors are applicable to explain the emergence of piracy in Somalia. Under-funded law enforcement/inadequate security, permissive political environments, conflict and disorder, and legal and jurisdictional weaknesses will be discussed in the broader sense of governmental weaknesses, in other words the absence of an effective central government. Because legal and jurisdictional weaknesses will be analyzed in chapter 4, this will only be mentioned briefly .

Although not seen as root causes, the additional factors mentioned below also play a role to understand emergence of piracy in Somalia. These are:

- **The practice of illegally fishing and waste dumping in Somalia's waters;**
- **Technology in shipping industry and cost-cutting measure;**
- **Proliferation of (small) arms;** and most importantly
- **Lack of economic opportunity.**

Even though all the above causes and factors are important to consider in the context of piracy in Somalia, it is less straightforward to assess the individual contribution of these to the problem. Nevertheless, in my view, the absence of an effective central government combined with the lack of economic opportunities is the main cause of the problems in Somalia related to piracy. Fight for political power, conflict, disorder and piracy are the simple consequences of the power vacuum. Other factors are important and are complicating and deepening the problem, but are considered secondary in importance.

Governmental and legal/jurisdictional weaknesses

Conflict and disorder – Piracy, and criminality at sea can, in general, thrive when coastal regions are troubled by war or civil disturbance, or their aftermath, as the absence of law-enforcing authorities and desperate circumstances combine to draw people towards criminality (Murphy, M., 2007, p. 15). Even the Somali Minister of Defense, Mohamed Abdi Mohamed, admits that the most important cause for the problem of piracy can be found on land in the absence of an effective government controlling the entire area (as cited in Homan, K. & Kamerling, S., 2009, p. 455). In Somalia's situation, the country has been lawless for more than two decades. The poor political and humanitarian situation can be seen as probably one of the main reasons for Somalia's inhabitants to become involved in piratical activities. People in desperate need of their daily basic necessities are willing to do almost anything, even to join pirate gangs. Many of Somalia's inhabitants have never lived in peace and grew up with starvation, diseases, violence and death around them. It is clear that conflict and disorder, and in the case of Somalia, the ineffective government and lawlessness, is highly linked with the problem of piracy. According to Murphy, "the sundering of Somalia into warring fiefdoms following the collapse of the Siad Barre dictatorship in January 1991 appears to have triggered the country's piracy problem" (2007, p. 15).

Under-funded law enforcement/inadequate security – Inadequate state funding and training of police, coast guards and navy allow pirates the freedom to operate (Murphy, M., 2007, p. 15). Again, in the case of Somalia, it is the political situation and lawlessness that gives piracy the opportunity to emerge and flourish as law enforcement agencies are simply absent. If police, navy and coast guards were present, Somalia's poor, struggling government would not be able to fund these agencies sufficiently. Under-funded law enforcement and inadequate security is a direct result of the absence of a government and can result large scale corruption. Without an effective police, navy and coast guard, pirate gangs have virtual free-run of the area and can engage in piratical activities without anyone to stop them. In Puntland, regional authorities have tried to establish some sort of basic coast guard. However, it is said that this small coast guard force is under-funded; it lacks required equipment, adequate staff, training, boats and capabilities (Ploch, Blanchard, O'Rourke, Manson, & King, 2009, p. 10). Without equipment skilled staff and capabilities, it is impossible to suppress piracy effectively. Even in countries where government, police, navy and coast guard are present, effective and well-funded, law enforcement at sea is extremely expensive as most modern technology is required and there are huge sea areas to protect. In other words, even if Somalia was not a failed state, still a chance exists the country would not be able to deal with piracy.

Permissive political environment – Related to the factor of conflict and disorder and under-funded law enforcement is the factor of permissive political environment. To flourish, piracy requires lax, as well as under-resourced, law enforcement (as cited in Murphy, M., 2007, p. 16). The semi-autonomous region Puntland has a fairly effective government, but appears to be the base for the most active and capable pirate networks in Somalia. Corruption on every level is the order of the day. Despite some recent efforts to suppress corruption linked to piracy, it is claimed that regional and local (high) government officials in Puntland continuously facilitate and profit from piracy in the area (Ploch, et al., 2009, p. 10). According to the Special Representative of the UN Security-General for Somalia, Ahmedour Ould-Abdallah, "ransom money has been used to fund the 2009 presidential elections in Puntland" (as cited in Ross, S. & Ben-David, J., 2009, "Piracy as a Lucrative Business" section, para. 2). It seems that even in this semi stable region with a rather effective government, piracy still stands strong as government officials turn a blind eye to piracy. In the rest of Somalia the absence of an effective central government, the permissive political environment is equally evident and pirates can operate freely.

Legal and jurisdictional weaknesses – Difficulties that law enforcement agencies face reduce the risk run for pirates (as cited in Murphy, M., 2007, p. 13). National law on piracy differs from country to country. In order to approach the problem of piracy in a uniform, comprehensive and effective way, attempts to develop international anti-piracy legislation were made. The Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (SUA) is one of the first examples of such a uniform approach to piracy. However, international law on piracy in the form of the SUA or the United Nations Convention on the law of the Sea (UNCLOS) has significant

limitations and is not always successful in its approach to piracy (Murphy, M., 2007, p. 14). As a result, it seems that pirates in Somalia hold all the cards and they can act with impunity. In chapter 4, section 4.4 the legal and jurisdictional weakness, especially problems concerning the definition of piracy and prosecution, is discussed in more detail.

Lack of economic opportunity and promise of reward

Lack of economic opportunity – Due to the lack of government oversight or availability of statistics, in combination with the complex political situation and the ongoing war, it is virtually impossible to provide reliable information on the economic situation of the country. Some have suggested that the country has, despite the instability, developed a healthy informal local economy largely based on livestock, remittance/money transfer companies and telecommunications (Central Intelligence Agency, 2010, “Economy – Overview” section, para. 1). But overall, the country is among the poorest economies of the world. The few statistics available show the abnormal low level of Somalia's gross domestic product and gross national income. Economic opportunity is lacking due to the country's instability and absence of an effective government, the latter being the one to stimulate economic activity in the country. Piracy has shown to be a rather easy way to receive an extremely high amount of money in a relatively short amount of time. The combination of extreme large differences in income between a Somali pirate (more than 6,000 US Dollars per vessel, depending on the ransom) and the ‘normal’ Somali (approximately 140 US Dollars per year), the poor economic situation, and the high reward-low risk characteristic of Somali piracy has drawn many Somalis into the piracy business. To the Somalis, the lure of the black flag is intoxicating and piracy is seen as a viable alternative means of employment.

The promise of reward – Sums that might appear paltry in the developed world make piracy well worth the risk to those involved (Murphy, M., 2007, p. 17). As already stated in chapter 2, section 2.3, piracy in Somalia has become a lucrative business as ships are held hostage and ransom money is asked in return for the freedom of the crew and the cargo onboard. The payment of multi-million dollar ransoms is common. For pirates to risk their lives, an extremely good price should be rewarded as a fair compensation. For many pirate gangs, the prospect of windfall profits such as with the *Sirius Star* and the *Maran Centaurus* outweighs any risk of being caught or otherwise confronted by naval and coast guard patrol boats (Chalk, P. 2009, p. 3). Governments and shipping firms are still paying ransoms since these sums are relatively small compared with the value of a ship and the life of crew members. The payment of ransoms stimulates pirates to continue their activities. It is debatable what might happen when shipping firms and governments refuse to pay ransom money. One can only speculate if this will help suppressing piracy and if hostages will get harmed. It is the combination of high rewards and low risks which have made piracy in Somalia an extremely successful formula.

Illegal fishing and waste dumping

The practice of illegal fishing and waste dumping in Somali waters is used as a justification by pirates to engage in piracy. Since the outbreak of the civil war in 1991, Somalia's sea has been plundered by foreign vessels. According to a UN report dated from 2006, the Somali waters have become the site of an international 'free for all', with fishing fleets from around the world illegally plundering Somali stocks and freezing out the country's own fishermen. Another UN report stated that an estimated 300 million US dollars worth of seafood is stolen from the country's coastline each year (Tharoor, I., 2009, "How Somalia's fishermen became pirates" section, para. 2). The already small-scale fishing industry in Somalia has collapsed and fishermen were forced to look for other ways to earn money.

Another serious accusation made by the Somali pirates is the practice of dumping toxic and nuclear waste by foreign vessels in Somalia's seas. A UN Environmental Program report of 2005 mentioned dumping of uranium radioactive and other hazardous deposits leading to (skin) diseases among inhabitants of villages near the coast. Without doubt, it is cheaper for countries to dump these materials off the Horn of Africa than to dispose of them properly in their own country (Tharoor, I., 2009, "How Somalia's fishermen became pirates" section, para. 6).

Due to the previous mentioned practices of foreign ships, many pirates claimed to be 'protectors' of Somalia's natural resources and of local communities. They argue that the foreign vessels should pay a legitimate taxation in the form of ransom money. As stated by members of the pirate group 'Somali Coast Guard', the members of this group do not consider themselves as sea bandits. "We consider sea bandits [as] those who illegally fish in our seas and dump waste in our seas and carry weapons on our seas. We are simply patrolling our seas", says a Somali Coast Guard (as cited in Ross, S. & Ben-David, J., 2009, "Who are Somalia's Pirates" section, para. 2). Obviously, the Somali pirates view the illegal fishing and waste dumping by foreign vessels as a legitimate reason for their piratical activities. From the foreign countries' point of view it is argued that many of the present pirates are not former fishermen concerned with the fishing industry and Somalia's maritime environment. Many of them are just poor Somalis trying to seek their fortune and win the jackpot.

Other conditions effecting piracy

Favorable geography – Piracy is only sustainable in places that offer a combination of rewarding hunting grounds, moderate levels of risk and proximate safe havens (as cited in Murphy, M., 2007, p. 14). The Gulf of Aden is one of the chokepoints for maritime commerce, as approximately 20,000 vessels per year pass the Gulf of Aden, heading to and from the Suez Canal. The Suez Canal and the Gulf serve as a shortcut to Asia and Europe. The Gulf of Aden provides many possible targets for the pirates. Due to the large amount of vessels in a relatively small area, it is the Gulf of Aden where most of the pirate attacks take place. Vessels are forced to slow their speed as

they have to navigate through the narrow strait and have to watch other vessels carefully. This creates the perfect opportunity for pirates to attack from the shores, since it is easier to board a ship moving slowly than a ship at full speed. However, pirates have developed new tactics to attack cargo vessels navigating at full speed on the high seas showing the extended capabilities of the pirates. A great majority of the pirates are based in Puntland (North Somalia, near the Gulf of Aden) and operate from these shores. This all said, it is the perfect location of Somalia that, among other factors, contributes to the strong presence of piracy off the Horn of Africa.

Cultural acceptability – Piracy thrives where it is culturally acceptable (Murphy, M., 2007, p. 17). In Somalia, pirates are seen by many as true heroes. The pirates obtained a certain level of prestige; they are rich, live in enormous houses, marry the most beautiful girls and have the newest cars and guns. Ransom money has lined the pockets of Somalis and an extravagant lifestyle is the new trend. "Piracy in many ways is socially acceptable. They have become fashionable" (as cited in Ross, S. & Ben-David, J., 2009, "Piracy as a Lucrative Business" section, para. 1). Many inhabitants of coastal (pirate) towns such as Eyl and Hobyo sympathize with the pirates. A Somali girl says: "I do not accept a 'no', I will marry a pirate because then I will live in a big house and be rich" (NRC Handelsblad, 2008, "Piraten in Somalië krijgen de mooiste meisjes" section, para. 2). In general, wealth brings respectability and the means used to obtain this wealth are easily overlooked. In the case of political and humanitarian crisis it seems as if anything is acceptable to survive these severe circumstances, in Somalia even piracy. According to Murphy, piracy frequently operates on a clan or family basis (2007, p. 17). In families where fathers, sons and brothers are directly involved in piracy, automatically all members of the family will be drawn into this practice. The family helps to prepare for attacks and accept this criminal job as it provides the family with money. They support their (pirate) family members unconditionally. By doing so, it makes the practice of piracy culturally acceptable and approved. Distancing themselves is almost impossible as it might mean social, as well as economic isolation.

Technology in shipping industry and cost-cutting measures – Another factor that facilitates piracy in Somalia is the relative ease of capturing a ship because of small number of sailors on board. This is due to the technological improvement in the shipping industry, in combination with the aim of low cost production and transportation. There has been a growing trend toward the use of so called 'skeleton crews'. Money and the advanced navigation technology seem to be the motivating factors for this practice. In this globalized world where low-cost production often means a higher gross revenue, commercial enterprises and industries have to cut costs to compete with other players in the field. Consumers demand low cost products and transportation is one of the areas where cost-cutting measures can be taken. Since only few sailors are needed to navigate modern vessels from the starting point to its final destination, shipping firms make use of small crews. Although this seems like a logical decision from the shipping firms' point of view, the smaller number of sailors onboard has reduced the options for concerted anti-piracy watches. It has made the task of gaining control of ships

rather easy for pirates and it has stimulated pirates to carry out attacks on vessels (Chalk, P., 2009, p. 2).

Proliferation of (small) arms – It can also be argued that the presence of weaponry in the country may have fed the upsurge of piracy. The global proliferation of small arms has supplied criminal gangs, including pirates and terrorists, with an enhanced means to operate on a more destructive and sophisticated level (Chalk, P., 2009, p. 3). Arms are imported from several corners of the world. Weapons, as rather easily accessible instruments, are argued to be an important contributing factor in the growing level of violence in the world. The small arms are easy to handle, relatively low in price and are durable (Chalk, P., 2009, p. 3). Besides these characteristics the acquisition of these small arms is often not a problem, especially in the situation of continuous conflict in respect of one or more countries. Due to the several invasions and the domination of foreign (super) powers, the civil wars, the existence of various militias and the ongoing violence in the country, Somalia is overflowed by weapons. The Somali population has easily access to weapons as they appear to be sold and bought on the free market. Again, the absence of an effective government makes this practice possible. In this way it is extremely easy for pirates to acquire the necessities for the attacks off the Horn of Africa.

3.2 Consequences and dangers of Somalia's piracy

The immediate economic consequences of piracy and the potential of loss of life underpin the sense of urgency to solve the Somali piracy. Numerous and often unforeseen problems occur as a result of piracy and significant potential dangers are created in various ways. As one of the most important and basic dangers of piracy, a pirate attack poses a direct threat to the lives and welfare of individuals onboard of attacked and hijacked vessels. Death, injury and mental trauma can be the result of a pirate attack. Other possible dangers and consequences are discussed below.

Rising costs and disruption of shipping industry

One of the consequences of piracy off the Horn of Africa is the rising costs and major disruptions in the international shipping industry. The Gulf of Aden absorbs a high volume of traffic; 12% of the global maritime trade and 30% of the world's crude oil shipment (as cited in Ross, S. & Ben-David, J., 2009, "Rise in Piracy" section, para. 4). These shipments transit world's most piracy-infested waters, as they navigate through the Gulf of Aden and the strait of Bab el-Mandeb, the Red Sea and Suez Canal. Ships usually take this route as it is the shortest sea-link between Asia and Europe. Due to the increased risks of this route, insurance premiums have risen rapidly. The alternative route, though vessels using this route can still become targets of pirates, is around the Cape of Good Hope (South Africa). Compared to the shorter route via the Gulf of Aden and Suez Canal, this route prolongs the passage by twelve to fifteen days (Holzer, G-S., 2008, "Somalia: piracy and

politics" section, para. 10). Costs rise substantially when ships use this alternative route. It takes longer and more fuel is needed, but it is clearly a safer route.

Despite presence of piracy, some shipping firms are not deterred by piracy off the Horn of Africa. Ships decide to take the risks as time costs money and for some types of cargo (e.g. consumables) it is simply essential to reach their final destination in the shortest time possible. Ships often try to reduce the chance of pirate attacks by traveling at full speed where possible; higher fuel costs is the result. So it seems higher costs in the shipping industry are inevitable. In the end, the rise of costs due to higher insurance premiums, alternative, longer and safer routes and traveling at full speed to shake off pirates will pass on the charges to the customers.

Cooperation international community

Another direct consequence of the piracy problem in Somalia is the forced cooperation between several external actors. A number of governments and international institutions are committed to function as prosecuting countries. Others are involved in safeguarding the maritime corridors in the Gulf of Aden and act in the chasing and disarming of the pirates. Governments and institutions cooperate in different ways and have initiated several actions against piracy. An effective and well-oiled cooperation between the several participants is necessary. However, according to Kees Homan, the collaboration leaves much to be desired. The lack of cooperation between the NATO and the EU serves as a prime example for this statement. Homan stated that although NATO's and EU's operational headquarters are both located in Northwood (UK), they are not allowed to talk to each other. This seems to be absurd as 21 member states of the European Union are also members of NATO. The cooperation between NATO and EU is problematic as Turkey is a member state of NATO and Cyprus is a member of the EU. This is an important obstacle hampering the normally intensive cooperation between the two institutions. The EU operates on its own account, as well as NATO and the US. An adequate coordination of the cooperation between the players is apparently absent (K. Homan, personal interview, December 10, 2009). Chapter 5 of this dissertation elaborates on the cooperation and actions initiated by the global community.

Somali piracy as an example

Due to the effectiveness and lucrative character, the Somali piracy can serve as a good example for other pirate gangs in other areas in the world. Somali pirates have developed a more sophisticated method of operation, e.g. the use of 'mother ships' and the demand for ransom money. These methods can spill over to pirate gangs in the region or in other parts of the world. The visible struggle of the international community with the problem of Somali piracy might also stimulate pirate gangs to continue their criminal activities or to become involved in piracy. As a result, piracy (in its new form) can spread at a rapid pace and new pirate hot spots and networks can emerge swiftly; piracy can become an even more serious epidemic problem than it already is at this moment.

Environmental disasters

Due to the rather new trend of pirates to hijack gigantic supertankers loaded with millions of barrels of (crude) oil, the Somali piracy has the potential to trigger a major environmental disaster. Evidently, the chance of such a catastrophe increases in busy waterways such as the Gulf of Aden. If a heavily-laden oil tanker is out of control and collides with other steaming vessels due to a pirate attack, it creates an extreme danger – for example an explosion with unforeseen consequences – placed upon the crew and passengers on board of the ship and other ships nearby. In addition, as a result oil can leak and drift towards shore. This poses a serious threat on fertile coastal lowlands, off-shore (fish) resources and other maritime life. In the worst case scenario, the environment in the region will be damaged irrevocably. Many (poor) states rely on maritime resources for internal (food for domestic consumption) and external markets (export). An environmental disaster would have very serious consequences for the region (Chalk, P., 2009, p. 4).

An additional problem resulting from an environmental disaster in one of the world's maritime commercial chokepoints is the possible blockage of the busy sea lane. This poses a severe threat on the global economy as oil prices will rocket, the costs of shipping will increase due to the use of alternative routes, congestion in the sea-lanes and ports will emerge and already expensive maritime insurance premiums will further rise. More accidents can occur in the over-crowded shipping lanes, with subsequent environmental disasters as a likely consequence.

Pirates and terrorist groups

It is argued by some experts, but uncertainty remains, as to whether or not the Somali pirates cooperate with terrorist groups. Murphy (2007, p. 40) believes that “despite perpetual speculation about connections between pirates and terrorists, there is no clear evidence of any links”. The Somali Islamic insurgent organization al-Shabaab has been declared a terrorist organization by the US. It is assumed these insurgents have connections with al-Qa’ida. Bruno Schiemsy, a Somali analyst based in Kenya, holds the view that al-Shabaab has joined forces with the pirates, offering combat training in return for lessons on hijacking ships at sea (as cited in Ross, S. & Ben-David, J., 2009, “Fueling the Insurgency” section, para. 1). According to a report by Jane’s Terrorism and Security Monitor (October 2005) pirates and Somali Islamists cooperate in three areas: arms trafficking, training and investment in piracy. The cooperation between the two groups is based on mutual benefits. Both parties need weapons for either attacks on vessels or in the fight against Somalia’s government and militia (Ross, S. & Ben-David, J., 2009, “Fueling the Insurgency” section, para. 2). Experience and knowledge related to military operations on sea as well as on land can be exchanged. In terms of investment, “pirate groups are shipping arms to the insurgents, who are also supplying some pirates with weapons and training in return for a share of their ransoms” (as cited in Ross, S. & Ben-David, J., 2009, “Fueling the Insurgency” section, para. 2). Despite the operational cooperation between the two

groups, it should be noticed that the initial aim of both groups is different. The insurgents' long-term aim is a complete destruction of trade, markets and in the worst case the society as a whole, whereas the aim of pirates is based on simply making profit.

The discussion on whether or not and to what extend the Islamic insurgents and Somali pirates cooperate is not important. Critical is the understanding of possible consequences, assuming there is some form of cooperation between the two groups. The increased dangers emerged from such a cooperation may be significant. When pirates and terrorists combine their knowledge, skills and strengths, these violent packs become more powerful and disastrous than they are today. According to J. Peter Pham, there is "incredible intelligence that...al-Shabaab...is trying to create a small naval force of its own" (as cited in Ross, S. & Ben-David, J., 2009, "Fueling the Insurgency" section, para. 2). Undoubtedly, if this is true, it would seriously threaten the already unstable security situation in Somalia. And if this is not enough, this severe threat can spill over to neighboring countries or to the entire region.

Difficulties in distribution of food aid

As the result of conflict, displacement and drought, a substantial part of Somalia's civilians are highly dependent on food aid. The World Food Program aims to provide food assistance to approximately 3.5 million Somalis (World Food Programme, n.d., "Somalia" section, para. 1). More than 90% of the WFP food aid is distributed by sea, as transportation via land and air routes is even more dangerous and expensive (World Food Programme, 2009, "Questions about Mombasa" section, para.4). Somalia is extremely dependent on the WFP food aid distributed by sea and despite the efforts of the WFP and other aid organizations, the piracy has a negative effect on the distribution of food aid and therefore also on the ongoing famine in the country.

Besides merchant vessels, oil tankers and private yachts, WFP vessels or contracted vessels loaded with food aid have become subject of piratical attacks. Obviously, the hijacks of vessels with WFP food aid have far reaching consequences. The food aid for Somalia, transported by these hijacked vessels, cannot be delivered as the pirates wait for the ransoms to be paid. This procedure can take months and as a result, the already starving population of Somalia has to survive with even less food aid than before. The UN asked the global community for naval escorts and subsequently, several countries have provided naval assistance for vessels with WFP food and other aid. Since the escort system started in November 2007, no escorted WFP vessel has been hijacked by pirates. However, in 2008, the *Maersk Alabama* was loaded with more than 100 (of the 200) containers of WFP food aid when it was hijacked by Somali pirates on its way to Kenya. This vessel was not escorted as the destination for the food aid was Kenya and not Somalia. According to Roger Middleton⁷, "if you wanted to start escorting every aid ship going anywhere near Somalia, you'd need a massive increase

⁷ Roger Middleton is a piracy expert at London's think tank Chatham House. He is already mentioned in chapter 2.3 of this dissertation.

in the naval presence” (Nyakairu, F., 2009, “Limited options to protect aid shipments” section, para. 5). Notwithstanding the successful naval escorts for vessels with WFP food aid, the Somali piracy still threatens food aid deliveries. It is a constant concern for the WFP and other aid agencies active in the area. The naval escorts might have prevented vessels from pirate attacks, but the risk of attacks still exists.

Although it may appear the pirates solely are responsible for the difficulties in the distribution of food aid in Somalia, it is of course the unsafe and violent situation in general that has a share too. As stated by the WFP in April 2009 “it now costs hundred of millions of dollars more to feed the same number of people compared with a year ago because of the problems in shipping aid and high food prices” (Nyakairu, F., 2009, “Limited options to protect aid shipments” section, para. 11). As a result of the ongoing conflict in Somalia, four WFP staff members were killed between August 2008 and January 2009 (WFP, n.d., “Overview” section, para. 2). In January 2010 the WFP announced that due to rising threats and attacks on humanitarian operations, as all as the imposition of a string of unacceptable demands from armed groups, it has become almost impossible for the WFP to continue their help to one million people in south Somalia. The humanitarian food distribution in this region is partially suspended (WFP, 2010, “WFP facing growing humanitarian challenge in Somalia” section, para. 1 & 2). This all said, it is the combination of piratical activity off the coast of Somalia and the critical situation on land that share responsibility for the difficulties related to the distribution of food aid in the country where food aid has become a vital lifeline for many people.

Somalia in the spotlights

With certainty one can claim the Somali pirates and their attacks on foreign vessels forced the international community to end the act of ignorance towards the shattered country Somalia. After several unsuccessful attempts to restore peace and security in the country, it seemed the global community closed their eyes towards the critical situation in Somalia. The crisis in this African country may not have had direct, major effects on the many actors in the global world, especially the Western countries. Somalia and its piracy became front page news, as piracy in the area grew rapidly and the number of pirate attacks on foreign vessels escalated. Again, the global community was dragged into Somalia due to the worldwide impact of the country's problems. The problem of piracy developed from a rather small-scaled, internal problem into an international dilemma, concerning several countries in the world. The pirate attacks on foreign vessels played an important role in the renewed international attention on Somalia.

Optimists may argue that the piracy has at least one positive outcome, namely the attention of the global community on Somalia and the continuous crisis. With the help of the global community, Somalia has a better chance to overcome its problems of piracy, humanitarian crisis and other internal troubles. However, other people are rather skeptical about the benefits of the international attention for the Somali people. It is feared by some that “as the world focuses on the piracy issue at sea, there is a

risk of shifting focus away from the plight of hungry people inside Somalia" (Nyakairu, F., 2009, "Tackling piracy on land" section, para. 6). Another concern is that the effort to crack down piracy could deteriorate the already critical situation as "an international effort to fight piracy may result in a backlash for aid agencies which are helping desperate people inside Somalia" (Nyakairu, F., 2009, "Tackling piracy on land" section, para. 7 & 8).

The benefits of international interference for Somalia's long-suffering people are open for debate. In this chapter, it is more important to mention the renewed international attention as one of the consequences of piracy in Somalia, rather than to discuss the actual benefits of the international attention for Somalia. The fact stays that the Somali pirates – by their attacks on foreign vessels – have brought the failed state Somalia back into the international spotlights.

3.3 Chapter conclusion

The Somali piracy is persistent and is a symptom of underlying constraints affecting not only Somalia itself but the entire Horn of Africa. The most important factors causing piracy in Somalia are the absence of an effective central government, the lack of economic opportunity and the promise for reward for the Somali people. Other contributing factors are the favorable location of Somalia with respect to the shipping routes, the fact that piracy is seen as culturally acceptable, the improvement of technology in shipping industry and cost-cutting measures and the proliferation of (small) arms and the easy access to weapons. The practice of illegal fishing and waste dumping by foreign countries is used as a justification by pirates to engage in piracy.

In general, piracy flourishes when coastal regions are affected by conflict and instability. The absence of law-enforcing authorities and desperate conditions make people willing to engage in criminal activities. Without sufficient state funding and training of police forces, coast guards and navy, Somali pirates are able to operate with total impunity. This impunity is strengthened by legal and jurisdictional difficulties which Somalia and the international community are facing. The favorable location of Somalia in the world – near one of the economic 'chokepoints' in the world with numerous vessels passing by every day – also contributes to the emergence of piracy in the area. The Somali piracy is culturally acceptable due to the enormous sums of money earned, the lavish lifestyle of many pirates and the sharing of the spoils with other clan members. The payment of sky-high ransoms makes piracy well worth the risk to poor Somalis. The practice of illegal fishing and waste dumping in Somali waters by foreign countries serves as a legitimate reason for Somali pirates to attack and hijack vessels as a way of redeeming debts. The use of 'skeleton' crews on board of enormous ships makes it rather easy for the pirates to successfully attack and hijack a vessel.

Consequences and dangers of Somali piracy can be found in the rising costs and disruption of the shipping industry, the cooperation of the international community to deter and suppress the piracy,

the probability of the Somali piracy serving as an example pirates in other parts of the world, the chance of environmental disasters, cooperation between pirates and terrorist groups, difficulties in the distribution of food aid for Somalia and the renewed global attention for Somalia.

Chapter 4. Piracy and international law

This chapter centers on the act of piracy as covered by international law. The Law of the Sea Convention, the UN Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigations and particular UN Security Council resolutions are important topics in this chapter. In addition, the chapter discusses the recent problems concerning piracy and international law, specifically the problem of the prosecution of pirates.

“Pirata non est ex perdullium numero definitus, sed communis hostis omnium – Piracy is not a crime directed against a definite number of persons, but rather aggression against the community as a whole” – Cicero

(as cited in Burgess, D., 2003, p. 31)

4.1 UNCLOS

Already for centuries, piracy is regarded as a criminal act and as the first crime of international concern. Famous philosophers, lawyers and writers such as Cicero, Hugo Grotius (Hugo de Groot) and Aristotle mentioned piracy as a criminal act in their writings. Cicero and Hugo Grotius considered these crimes as being committed by ‘*Hostis Humani Generis*’, enemies of all mankind (Barea, P., 2008, “Piracy Laws” section, para. 1). In present customary international law, the act of piracy is thought to be the basis of universal jurisdiction, because it is one of the few examples of ‘*jus cogens*’ crimes. Rules of *jus cogens* are fundamental rules of customary international law and cannot be contradicted, not even by a treaty. Other examples of *jus cogens* rules, apart from piracy, are the customary prohibition of the use of aggressive force and the prohibition of genocide (Dixon, M., 2007, p. 36). These fundamental laws must be followed by all countries in the world. So piracy is a crime over which there is a recognized universal jurisdiction in international law.

As mentioned in chapter 1, section 1.1 of this dissertation, piracy as a criminal act is dealt with in the 1982 Convention on the Law of the Sea. Before this Convention came into force, various aspects of the law of the sea were covered in four multilateral conventions; 1) the 1958 Geneva Conventions on The Territorial Sea and Contiguous Zone, 2) the Convention on The Continental Shelf, 3) the Convention on The High Seas and 4) the Convention on The Fishing and Conservation of Living Resources of the High Seas. The 1958 Geneva Conventions are still operative, however in many aspects the conventions have been replaced by the Convention on the Law of the Sea of 1982 (Dixon, M., 2007, p. 208).

The subject of piracy is covered in Part VII High Seas Section I of the UN Convention on the

Law of the Sea. The articles on piracy start with *Article 100 Duty to cooperate in the repression of piracy*. This article states that “all states shall cooperate to the fullest possible extent in the repression of piracy on the high seas or in any other place outside the jurisdiction of any State” (United Nations, 1982, p. 54). The next article, *Article 101 Definition of piracy*, is referred to in chapter 1, section 1.1 of this dissertation. Other articles under Part VII High Seas cover matters concerning piracy by a warship, by a government ship or by a government aircraft whose crew has mutinied. These articles provide definitions of a pirate ship or aircraft, retention or loss of the nationality of a pirate ship or aircraft, liability of seizure without adequate grounds, ships and aircraft which are entitled to seize on account of piracy.

An interesting article relevant to the problems in Somalia is *Article 105 Seizure of a pirate ship or aircraft*. The article states the following:

“On the high seas, or in any other place outside the jurisdiction of any State, every state may seize a pirate ship or aircraft, or a pirate ship or aircraft taken by piracy and under the control of pirates, and arrest the persons and seize the property on board. The courts of the State which carried out the seizure may decide upon the penalties to be imposed, and may also determine the action to be taken with regard to the ships, aircraft or property, subject to the rights of third parties acting in good faith” (United Nations, 1982, p. 55).

In other words, states sailing under any national flag are given permission to capture pirates, though only outside of the jurisdiction of any State. Obviously, the acts executed by the suspects of piratical acts must meet the requirements as stated in Art. 101 on the definition of piracy before a seizure may take place. So a ship must catch the pirates red-handed before the ship is allowed to carry out the next step: capturing the pirates. If ships do not catch pirates in the act of executing piracy, even if it concerns ships obviously preparing for an attack, the ships may only send the suspected pirate ships back to shore. This has happened several times in the case of Somalia. And even after the seizure of a pirate ship, it is not clear whether the pirates will actually be sentenced. In chapter 4, section 4.4 of this dissertation the problem of prosecution will be dealt with in more detail.

In the light of chapter 4, section 4.3 on the resolutions of the UN Security Council it is interesting to take a look at *Article 111 Right of hot pursuit*⁸. This article points out that “a foreign navy or coastal guard or maritime police vessels is prohibited from pursuing a suspected pirate vessel into another State’s territorial waters. The pirates, on the other hand, recognize no such ban on their movement and will use any country’s territorial water to elude pursuers” (Dillon, D., 2005, p. 160). Obviously, this article makes it rather difficult to capture pirates. Taking this into account, the concept of hot pursuit is one of the key elements of international law that required an urgent change by the UN

⁸ See Appendix 5 for the complete *Article 111 Right of hot pursuit*.

resolutions in order to combat the piracy in Somalia more effectively. Chapter 4, section 4.3 elaborates on these resolutions.

4.2. UN SUA Convention

Another UN document that is regarded as a framework that deals with piracy as a criminal act is the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, the SUA Convention. The SUA Convention was concluded on 10 March 1998 and came into force in March 1992. The SUA Convention was a result of the terrorist hijack of the cruiseship *Achille Lauro* and the murder of the American citizen Leon Klinghoffer off the coast of Egypt in 1985. Rear Admiral Baumgartner of the United States Coast Guard has recently described the agreement as “designed to ensure that appropriate action is taken against persons committing unlawful acts against ships, including, among other acts, the seizure of ships by force; acts of violence against persons onboard ships; and the placing of devices on board a ship which are likely to destroy or damage it” (United States Coast Guard, 2009, “International Piracy on the High Seas” section, para. 28). Though this Convention was focused on the problem of maritime terrorism rather than piracy, it covers both areas of maritime terrorism and piracy. “The SUA Convention establishes a framework whereby masters of ships may deliver suspected offenders to a coastal State that is party to the SUA Convention. The coastal State is then obliged under the SUA Convention, with few exceptions, to accept custody and either extradite the suspected offender or submit the case for the purpose of prosecution” (United States Coast Guard, 2009, “International Piracy on the High Seas” section, para. 29). In the light of the increased piratical attacks off the Horn of Africa in the last decade, the SUA Convention with its agreements on the prosecution and extradition of suspected offenders is of great importance. However, the Convention has not been ratified by all its signatories, and obviously this may cause some difficulties, as will be explained in more detail in chapter 4, section 4.4.

4.3 UN Resolutions

On account of the increased piratical attacks off the Horn of Africa, the international community experienced some problems related to existing law in their attempt to tackle the piracy in the region. As a result of this, the UN Security Council has adopted several resolutions over the past years. However, even before the recent upsurge of piratical activity off the coast of Somalia and in the Gulf of Aden, and thus before the latest UN resolutions related to the problem, piracy was a topic of several other resolutions. In this dissertation, the UN Security Council resolutions from 2007 onwards are reviewed. The more general resolutions on piracy before the escalation of piracy in Somalia will

not be part of this dissertation. Nevertheless, some resolutions prior to the resolutions of 2007 are mentioned briefly.

Already by the late 1990s, the problem of piracy had been mentioned in UN resolutions. General Assembly Resolution 53/32 of 1999, sections 22 and 23 cover the topic of piracy in which it states that the UN:

“22. Urges all States, in particular coastal States in affected regions, to take all necessary and appropriate measures to prevent and combat incidents of piracy and armed robbery at sea and to investigate or cooperate in the investigation of such incidents wherever they occur and bring the alleged perpetrators to justice, in accordance with international law;

23. Calls upon States to cooperate fully with the International Maritime Organization to combat piracy and armed robbery against ships, including by submitting reports or incidents to that organization” (United Nations General Assembly, 1999, p. 5).

More resolutions, such as UN General Assembly Resolution 54/31 dated from 18 January 2000, were initiated over the years. These resolutions often did not contain major changes compared to previous resolutions, and did not serve as a reaction to a specific piracy problem area. In UN Security Council Resolution 1676, S/RES/1676 (2006) of 10 May 2006, the Security Council showed their concern about “the increasing incidents of piracy and armed robbery against ships in waters off the coast of Somalia, and its impact on security in Somalia” (United Nations Security Council, 2006, p. 1). As a reaction to the Somali piracy epidemic, from 2007 onwards, two developments took place. Firstly, the Somali piracy problem became a popular news item and the media coverage on this problem was enormous. And secondly, a major security response was generated (Menkhaus, K., 2009, p. 9). In Resolution 1772, S/RES/1772 (2007) of 20 August 2007, the Security Council:

18. Encourages Member States whose naval vessels and military aircraft operate in international waters and airspace adjacent to the coast of Somalia to be vigilant to any incident of piracy therein and to take appropriate action to protect merchant shipping, in particular the transportation of humanitarian aid, against any such act, in line with relevant international law” (United Nations Security Council, 2007, p. 5).

Though this resolution was another attempt to fight the piracy problem in Somalia, the exact meaning of ‘appropriate action’ was not defined and the resolution did not enforce member states to take ‘appropriate action’; the member states were only encouraged to do so. Even the World Food Program ships, aiming to provide the Somali people with food aid as a result of the crisis on land, have been attacked by the pirates. In following resolutions the UN member states and regional organizations were called upon to take action to secure (1) the international shipping providing the transportation and delivery of the WFP food aid for Somalia and (2) other activities authorized by the UN (Leurdijk,

D., 2009, p. 216). In 2008, the UN Security Council adopted five separate resolutions⁹ concerning the piracy in Somalia's waters. Chapter VII of the UN Charter served as a basis for all five resolutions. All resolutions are based on chapter VII of the UN Charter 'Action with Respect to Threats to the Peace, Breaches of the Peace and Acts of Aggression' and are therefore legally binding. This particular chapter allows the Council to "determine the existence of any threat to the peace, breach of the peace, or act of aggression" (Art. 39) and to take military (Art. 42) as well as non-military action (Art. 41) to "restore international peace and security" (Art. 39) (United Nations, 1945, "Chapter VII: Action with Respect to Threats to the Peace, Breaches of the Peace, and Acts of Aggression" section, para. 1, 3-4). In other words, chapter VII allows the UNSC to give authorization for the use of force. In 2008, no other topic has passed the Security Council with more resolution than the topic of piracy in Somalia.

Resolution 1816 S/RES/1816 (2008) of the 2nd of June 2008 was the first Security Council resolution focusing solely on piracy and armed robbery at sea. This resolution was seen by many as the first critical step forward in the process of solving the Somali piracy. For the first time, the UNSC declared the act of piracy off the coast of Somalia and in Somali waters to be a deterioration of the situation in Somalia; the UNSC regarded the situation of Somalia as a serious threat for the international peace and security (Leurdijk, D., 2009, p. 216). Before this resolution it was not legal to capture pirates within Somalia's territorial waters. Practice showed that pirates made use of this law and fled into territorial waters when being chased by foreign warships. Resolution 1816 was the first resolution permitting ships to enter the territorial waters of Somalia for the purpose of capturing pirates. Section 1 of the resolution states that the Security Council "condemns and deplores all acts of piracy and armed robbery against vessels in territorial waters and the high seas off the coast of Somalia" (United Nations Security Council, 2008 June, p. 2). In section 7 of the resolution, the Security Council:

"7. Decides that for a period of six months from the date of this resolution, States cooperating with the TFG in the fight against piracy and armed robbery at sea off the coast of Somalia, for which advance notification has been provided by the TFG to the Secretary-General, may:

- a) Enter the territorial waters of Somalia for the purpose of repressing acts of piracy and armed robbery at sea, in a manner consistent with such action permitted on the high seas with respect to piracy under relevant international law; and
- b) Use, within the territorial waters of Somalia, in a manner consistent with action permitted on the high seas with respect to piracy under relevant international law, all necessary means to repress acts of piracy and armed robbery" (United Nations Security Council, 2008, p. 3)

⁹ SC Res. 1816 (June 2, 2008), SC Res. 1838 (Oct. 7, 2008), SC Res. 1844 (Nov. 20, 2008), SC Res. 1846 (Dec. 2, 2008), and SC Res. 1851 (Dec. 16, 2008).

Again, the UNSC urges for cooperation with member states, the IMO and regional organizations (section 3). In particular the UNSC encourages “states interested in the use of commercial maritime routes off the coast of Somalia, to increase and coordinate their efforts to deter acts of piracy and armed robbery at sea in cooperation with the TFG” (section 2) (United Nations Security Council, 2008 June, p. 2). Another interesting section of this resolution is section 11, in which the UNSC:

“11. Calls upon all States, and in particular flag, port and coastal States, States of the nationality of victims and perpetrators of piracy and armed robbery, and other States with relevant jurisdiction under international law and national legislation, to cooperate in determining jurisdiction, and in the investigation and prosecution of persons responsible for acts of piracy and armed robbery off the coast of Somalia, consistent with applicable international law including international human rights law, and to render assistance by, among other actions, providing disposition and logistics assistance with respect to persons under their jurisdiction and control, such victims and witnesses and persons detained as a result of operations conducted under this resolution” (United Nations Security Council, 2008 June, p. 3).

Here the member states are asked to play an active role in the prosecution of pirates. Although it can be said that this resolution is a violation of the sovereignty of the state of Somalia, the resolution was approved by the TFG, which lacks the capacity “to interdict pirates or patrol and secure either the international sea lanes off the coast of Somalia or Somalia’s territorial waters” (United Nations Security Council, 2008 June, p. 1).

Resolution 1838 of the UNSC on 7 October 2008 was the next resolution. According to this resolution, the Security Council called on member states “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” (section 2) (United Nations Security Council, 2008 October, p. 2). Section five urges all member states as well as regional organizations to “continue to take action to protect the World Food Programme maritime convoys, which is vital to bring humanitarian assistance to the affected populations in Somalia” (United Nations Security Council, 2008 October, pp. 2-3).

Resolution 1844 (20 November 2008) mainly covers the situation in Somalia in general. On the topic of piracy in Somalia, the resolution expresses the UNSC’s “grave concern over the recent increase in acts of piracy and armed robbery at sea against vessels off the coast of Somalia”, and notes “the role piracy may play in financing embargo violations by armed groups” (United Nations Security Council, 2008 November, p. 1).

Moreover, **Resolution 1846** of 2 December 2008 extended for a total of 12 months the period that states and regional organizations are permitted to enter the territorial waters of Somalia for the purpose of repressing piracy (section 10). Section 2 of the resolutions contains the UNSC’s concern on escalating ransom payments and as a result of this, a boost to the growth of piracy off the coast of Somalia. In the field of prosecution, the resolution urges the states signatories to the SUA Convention

to “fully implement their obligations under said Convention and cooperate with the Secretary-General and the IMO to build judicial capacity for the successful prosecution of persons suspected of piracy and armed robbery at sea off the coast of Somalia” (United Nations Security Council, 2008 December 2, pp. 4-5). In other words, the UNSC insists the use of the SUA Convention in the prosecution of offenders.

Resolution 1851, the last resolution of 2008 on Somalia's piracy problem, was adopted on 16 December. This resolution welcomed the first maritime action of the EU (*'Atalanta'*¹⁰) in the international fight against the Somali piracy. In contrast to the previous five resolutions concerning piracy in Somalia, this resolution stresses the urgent need for the repression of piracy in Somalia by using criminal law. Section 3 of the resolution notes that the UNSC:

“Invites all States and regional organizations fighting piracy off the coast of Somalia to conclude special agreements or arrangements with countries willing to take custody of pirates in order to embark law enforcement officials (“shipriders”) from the latter countries, in particular countries in the region, to facilitate the investigation and prosecution of persons detained as a result of operations conducted under this resolution for acts of piracy and armed robbery at sea off the coast of Somalia, provided that the advance consent of the TFG is obtained for the exercise of third state jurisdiction by shipriders in Somali territorial waters and that such agreements or arrangements do not prejudice the effective implementation of the SUA Convention” (United Nations Security Council, 2008 December 18, pp. 2-3).

To put differently, states with ships actively participating in the fight against Somali piracy can either capture, arrest and prosecute the pirates in accordance with the state's national law on piracy, or the states could choose to place the pirates into the hands of third states for the prosecution of the offenders. The latter option could be useful for states without national legislation to prosecute pirates. The so-called ‘shipriders’ in the resolution can be seen as special police forces from prosecuting nations on board of ships traveling at sea off the coast of Somalia and the Gulf of Aden. These shipriders are engaged in the investigation and prosecution of persons suspected of piratical acts. For a period of one year – perpetuation is possible – resolution 1851 gives the opportunity “to undertake all necessary measures that are appropriate in Somalia, for the purpose of suppressing acts of piracy and armed robbery at sea” (Section 6) (United Nations Security Council, 2008 December 18, p. 3). This measure is unprecedented for the Security Council, as never before the Council has given authority to execute military actions within a sovereign state against a certain group of people.

¹⁰ ‘Mission Atalanta’ of the European Union will be discussed in more depth in chapter 5 of this dissertation.

4.4 Difficulties in international law related to piracy

The use of international criminal law in fighting the problem of piracy does not come without complications. Definitions, matters and law may be recorded and legally binding in conventions and resolutions, however in real practice problems related to piracy in international law are visible. These problems and the vagueness in international law make it even more difficult to combat piracy successfully. The two problems discussed in this part of chapter 4 are the difficulties related to the definition of piracy and the prosecution of piracy. The former difficulty is in the view of this dissertation on piracy in Somalia less important than the latter difficulty, as the problem on the definition of piracy is more applicable in the case of piracy in Southeast Asia¹¹. Yet, it is important to show that even definitions stated in conventions and other legally binding agreements could become subject to debate whether or not the specific definition is suitable and includes every aspect in any possible situation.

Definition of piracy

As one has seen in chapter 1, section 1.1, the definition of piracy stated in the UNCLOS is rather narrow as the definition excludes piratical acts committed in internal waters¹², the territorial seas¹³ and exclusive economic zone (EEZ)¹⁴. In other words, piratical acts within the jurisdiction of sovereign states would not be considered piracy per se. Due to this limitation almost half of all acts of piracy against ships underway are left out of statistics. In 2003, there were 210 reported attacks attempted or committed against ships while underway, 88 (equal to 42%) of which occurred in some country's territorial waters (Dillon, D., 2005, p. 160). Some experts and analysts such as Dana Dillon advocate a reformulation of the definition of piracy, as "the current definition of piracy is completely inadequate as a tool for policymakers. Most acts cited are not classic boarding and hijacking of merchant vessels on the high seas" (Dillon, D., 2005, p. 155). A broader definition of piracy might help in combating piracy. The reformulation and extension of such a definition is somewhat problematic though. By extending the definition of piracy to the territorial sea, internal waters and the economic exclusive zone, national sovereignty over crimes committed in these waters is in this way damaged. It is said that especially developed maritime countries would not accept a broader definition of piracy as these countries fear this broader definition would allow foreign navies to search for pirate

¹¹ In Southeast Asia piracy often occurs in territorial and internal waters, so within the jurisdiction of sovereign states.

¹² Internal waters: Article 8 of the UNCLOS defines internal waters as waters on the landward side of the baseline of the territorial sea including rivers and lakes within the territory (United Nations, 1982, p. 22).

¹³ Territorial seas: The sovereignty of a coastal State extends, beyond its land territory and internal waters and, in the case of an archipelagic State, its archipelagic waters, to an adjacent belt of sea, described as the territorial sea (Article 2 UNCLOS) (United Nations, 1982, p. 21).

¹⁴ Exclusive economic zone (EEZ): Article 55 of the UNCLOS defines the exclusive economic zone as an area beyond and adjacent to the territorial sea (United Nations, 1982, p. 37).

vessels in their waters. So a broader definition of piracy probably would not be accepted by every state as it jeopardizes the sovereignty of states.

Another problem the international community faces at sea is that in order to capture and prosecute suspected pirates, pirates should be caught in the middle of executing a pirate attack. Suspected boats with armed Somali men can only be disarmed and send back to shore from where they can plan a new attack.

Prosecution of pirates

An even greater problem is the problem of the prosecution of pirates. It is not uncommon that captured pirates are released. For example, the Dutch news paper 'Telegraaf' stated on 17 December 2009 that the Dutch Navy has released 13 Somali pirates picked up two weeks earlier in an unsuccessful hijack of a merchant ship in the Arabian Sea. That happened on the order of the European Union that could not find a country in the region to prosecute the pirates (Telegraaf, 2009, "Evertsen laat opgepakte piraten vrij" section, para. 1). This is one of the numerous examples of a ship forced to release captured Somali pirates. Although the increase in pirate attacks also showed an increase in initiatives by the global community in order to curb the piratical activities, the law has been slow to adapt to cope with the growing problem of piracy. Normally, in the case of the Somali pirates it would be Somalia who would be responsible for the prosecution of the pirates. But as chapter 2 already showed, Somalia is a failed state without effective government and without a judicial system. The country is not capable of putting the pirates on trial and therefore the responsibility of the prosecution of pirates moves to other countries (Dalton, T., 2009, "Unclos" section, para. 2).

Article 105 Seizure of a pirate ship or aircraft of the UNCLOS states that "...every State may seize a pirate ship or aircraft, or a ship or aircraft taken by piracy and under the control of pirates, and arrest the persons and seize the property on board. The courts of the State which carried out the seizure may decide upon the penalties to be imposed..." (United Nations, 1982, p. 55). In other words, the UNCLOS allows countries to prosecute pirates according to their national law. It seems as a solid and good rule, even in the case of Somalia. However the national law of countries makes the prosecution of pirates a rather difficult and complicated task, because many countries have strict rules for the prosecution. The rules differ from country to country. For example, Denmark and Germany can prosecute pirates only if they have threatened national interests or citizens. Other countries and courts such as the U.S. courts are reluctant to exercise jurisdiction, unless the vessel involved sailed under its national flag. Most courts prefer that pirates be tried near where they are apprehended or in their home country (Dalton, T., 2009, "Unclos" section, para. 3). Other countries do not want to get closely involved in the piracy and Somalia problems, or fear they would violate aspects of human rights when taking the pirates into custody. Countries may be reluctant to bring pirates into their own countries as their jurisdiction lacks the capability to do so. Another fear of many Western governments is that the Somali pirates tried in their countries might try to claim asylum. The following example illustrates

this. According to the Dutch lawyer Willem-Jan Ausma, his client Asuf (a 24 year old Somali pirate) for the first time in his life could sit on a normal toilet, and for the first time in his life he was in a truly safe environment. After his release he wants to attend school and wants to transfer his family to The Netherlands. He thinks he cannot be deported. He loves The Netherlands (Schenkel, M., 2009, "Zeerovers veilig in een Nederlandse cel" section, para. 1). Due to the unsafe situation in Somalia, it is said there is a small chance the pirates would be sent back to their country. However, this could serve as a stimulation for pirates to deliberately get apprehended for the purpose of getting asylum in Western countries.

As shown in the example of the Dutch lawyer and his Somali pirate client, The Netherlands (besides France and Kenya) is one of the countries where pirates are standing trial. Most countries prefer that pirates be tried near where they are apprehended or in their home country. Therefore, the US and EU concluded transfer agreements with Kenya, Somalia's neighboring country, to handover captured pirates for detention and trial. The Seychelles is another country that prosecutes the pirates captured by other states. However, it seems that both Kenya and Seychelles have difficulties with prosecuting the large amount of pirates. In December 2009 it was said that already 150 pirates were waiting in prisons in Kenya for their trial. Kenya has called on the countries in the region to help in the fight against piracy and the prosecution of pirates (NRC Handelsblad, 2009, "Marine moet 13 piraten van EU vrijlaten" section, para. 4). So far other countries in the region such as Tanzania, Yemen and Djibouti are reluctant to take too much responsibility in the prosecution of pirates and have refused to do so.

Besides the act of handing over captured pirates to countries in the region, an alternative option could be the establishment of an international or ad hoc tribunal for pirates. Foreign Minister of The Netherlands, Mr. Verhagen, called for an international pirate tribunal. In response to the announcement of one of the tried pirates in The Netherlands, that he wants to claim asylum, Minister Verhagen stated that "prosecution should deter pirates, not encourage them with the prospect of starting a new life in the country that prosecutes them" (as cited in EL4A, 2009, "Call for an UN Piracy Tribunal" section, para. 2). Verhagen has suggested the establishment of a regional tribunal under the umbrella of the United Nations. According to Verhagen, "convicted pirates should than serve their sentence in the region" (as cited in EL4A, 2009, "Call for an UN Piracy Tribunal" section, para. 2). So far only The Netherlands, Russia, Germany and the UK support the idea of an anti-piracy tribunal.

This all said it is obvious that the prosecution of the pirates off the coast of Somalia and the Horn of Africa is a difficult issue. Many states, both in the region as outside the region, are reluctant to become responsible for the prosecution of pirates. Some countries want to contribute in a modest way by chasing and disarming the pirates. But due to judicial vagueness, enforcement problems or maybe even financial interests, pirates are released and sent back to shore where they can continue their piratical activities. The vagueness in international law concerning the prosecution of pirates makes it

even harder for the global community to fulfill the obligation and desire to suppress piracy off the coast of the Horn of Africa than it already is.

4.5 Chapter conclusion

Piracy is a crime over which there is a recognized universal jurisdiction in international law. The UNCLOS and SUA Convention are two legal documents dealing with the criminal act of piracy. Important aspects of legislation concerning piracy is that a ship must catch the pirates red-handed before the ship is allowed to capture the pirates, and that a foreign navy, coastal guard or maritime police vessels are prohibited from pursuing a suspected pirate vessel into another State's territorial waters. Since the upsurge of pirate activity off the Horn of Africa, the UN Security Council adopted several resolutions on the topic of Somali piracy in order to eliminate the Somali piracy. These resolutions called upon states to protect WFP food aid vessels for Somalia, to cooperate in jurisdiction, investigation and prosecution of pirates and to actively take part in the fight against piracy and armed robbery. The UNSC allowed states to enter the territorial waters of Somalia for the purpose of repressing piracy. Resolution 1851 allowed states to undertake all necessary measures that are appropriate, for the purpose of suppressing acts of piracy and armed robbery at sea. But legal problems and vagueness concerning the Somali piracy still exist. Legal problems related to the Somali are the rather narrow definition of piracy in UNCLOS and the prosecution of pirates. The definition of piracy excludes the territorial waters, in which many piratical acts are committed. An even bigger problem is linked to the prosecution of pirates. Many pirates have been released because of the absence of an effective central government in Somalia, the limited or lacking jurisdiction on piracy of other states, the fear of pirates claiming asylum in the prosecuting state, and the fact that countries do not want to get involved in the problems of a failed state.

Chapter 5. The international response to Somalia's piracy

Chapter 5 is an account of the many anti-piracy actions off the Horn of Africa, initiated by the multiple players in the international arena. Several maritime initiatives of international organizations and countries such as the EU and NATO and the US and China will be reviewed in detail. In addition, the regional and international cooperation and coordination mechanisms will be described in this chapter, as well as the land based initiatives that play a role in the restoration of peace and stability in Somalia. Finally, the results of these multilateral initiatives will be assessed.

"We may have all come on different ships, but we're in the same boat now" – Martin Luther King Jr.

(Proverbia.net, 2009, "Cooperation" section, para. 1)

5.1 Anti-piracy initiatives

The impact of Somali piracy on safety at sea and global economies has grown at an alarming pace and it has been recognised that action and cooperation by the global community is urgently required. The action and need for cooperation finds its motivation mainly in self-interest, rather than on philanthropic grounds. However, the piracy problem brings states and organizations together to define and take the necessary actions and initiate anti-piracy measures. According to Harnit Kaur Kang¹⁵, piracy "usually takes the collective effort of nations states to crack down on what is essentially a trans-national criminal activity" (Kang, H., 2009, p. 1). As a response to the escalation of piratical activity off the Horn of Africa, counter-piracy action by various (international) parties was set in motion. The year 2008 marked the first multinational missions deployed as a response to the UN call for support in the fight against Somalia's piracy.

UNSC Resolutions

Starting in 2007 and 2008, the United Nation expressed its concern about the deteriorating situation in Somalia and the increased number of vessels attacked by Somali pirates. The escalated piracy problem resulted in numerous UN Resolutions, as put forward in chapter 4 of this dissertation. The UN addressed the problem by calling up its member states to participate in the quelling of the Somali pirate epidemic. The Security Council's call for international assistance was heard by a number of international actors.

¹⁵ Harnit Kaur Kang is a research officer at Southeast Asia Research Programme (SEARP), Institute of Peace and Conflict Studies in New Delhi, India.

5.1.1 Maritime initiatives

At first glance, it may seem common sense to counteract and suppress the problem of Somali piracy at sea; this is the scene of action, this is where the pirate attacks take place. With this idea in mind, several maritime initiatives have been initiated and executed by nation states suffering from piracy in the region.

CMF – CTF 150/151

CMF (Combined Maritime Forces) is one of the multinational coalition naval task forces actively involved in the repression of Somali piracy. Established in 2001, the coalition consists of 23 nations headed by the US and conducts counter terrorism narcotics and smuggling operations. The primary mission of CMF is to counter violent extremists and terrorist networks and work with regional and coalition partners to improve overall maritime security and stability. CMF comprises four principal tasks forces, namely CTF 150, CTF 151, CTF 152 and CTF IM. The former two task forces are or have been involved in the fight against the Somali piracy. Combined Task Force 150 is mainly tasked with anti-terrorism operations to assist in the 'war on terrorism' and operates in the Gulf of Aden, Gulf of Oman, Arabian Sea, Red Sea and the Indian Ocean. But as a result of the increased focus on piracy in the region, the tasks of CTF 150 were rapidly redefined and extended with counter-piracy operations. It has been acknowledged that ships participating in CTF 150 have actually helped deter pirate attacks in the Gulf of Aden by tracking down suspicious vessels, capturing and disarming Somali pirates, destroying their skiffs and handing over the suspected pirates to the prosecuting states (Middleton, R., 2008, pp. 7-8). In January 2009 CMF initiated a new mission based taskforce, CTF 151, with a specific antipiracy mission to actively deter, disrupt and suppress piracy. The duty of this new force is to patrol and monitor the defined maritime security areas (corridors). It has deployed a dozen ships to the region and received support from another 20 states in the process (Hulbert, M, 2009, p 2).

NATO

NATO is one of the multinational organizations that conduct anti-piracy operations in the Gulf of Aden. The maritime presence of the NATO alliance in this area started in October 2008 when *Operation Allied Provider* was kicked off. This operation was set in motion after the request of UN Secretary-General Ban Ki-moon to protect WFP shipments destined for Somalis in need by providing naval escorts on a temporary basis. For a period of three months (October to December 2008), the NATO escorted these WFP vessels and patrolled the dangerous waters near the coast of Somalia (NATO, n.d., "Operation Allied Provider" section, para. 1). This task was then passed on to the European Union after the organization stepped forward with a mission based on long-term protection

for WFP ships carrying life-saving assistance. After an absence of three months, the NATO initiated a new operation: *Operation Allied Protector*. From March to August 2009 this operation was tasked with counter-piracy actions in order to deter, defend against and disrupt piratical activities off the Horn of Africa and in the Gulf of Aden (NATO, n.d., “Operation Allied Protector” section, para. 1). The two mentioned operations were temporary operations and both have terminated at this point. NATO is presently fulfilling anti-piracy duties under *Operation Ocean Shield*. This operation differs from the former two operations. Operation Ocean Shield’s aim not only attempts to stop and disrupt piracy, but it also comprises the element of knowledge sharing. The operation provides interested states in the piracy prone area off the Horn of Africa / Gulf of Aden with assistance in developing their own capacity to combat piratical activities by means of training (NATO, n.d., “Operation Shield - ongoing” section, para. 3).

EU

The European Union is another multinational organization present in the Gulf of Aden and off the Horn of Africa. Together with the UN and NATO, this organization is recognized as an important player in world politics and thus could not stay behind. On 8 December 2008 the EU established its first ever maritime operation, named *EUNAVFOR Somalia*¹⁶ – *Operation Atalanta*. One of its tasks is to safeguard WFP shipping, previously conducted by the NATO. Additional tasks include the protection of other vulnerable shipping (e.g. ships hired by AMISOM, ships within the IRTC¹⁷) and to contribute to the deterrence, prevention and repression of piracy in the area. The latter task is relatively broad and ambitious. However, the EU tries to fulfill this task for example by seizing the equipment of suspected pirates, through agreements made with Kenya and the Seychelles to hand over captured pirates, by monitoring and coordinating the IRTC and so on (P.J. Bindt, lecture ‘Fighting piracy: European military cooperation off the Somali coast’, February 17, 2010). More than 20 vessels and aircraft participate in EUNAVFOR, but only eight of the EU member states make a permanent operational contribution to the operation. These include Italy, Germany, France, Spain, Belgium, Luxemburg, Greece and the Netherlands (EUNAVFOR Somalia, n.d., “Aim and Mandate section”, para. 6). From August to December 2009 it was the Dutch EU Force Commander commodore Pieter Bindt, on behalf of the Netherlands, who commanded the EU-mission *Atalanta*. Italy, with Rear Admiral Giovanni Gumiero as the new EU Force Commander, has since taken over control of *EUNAVFOR Somalia* – *Operation Atalanta*. The current mandate of the operation runs to 12 December 2010.

¹⁶ EUNAVFOR Somalia is the abbreviation of European Union Naval Force Somalia.

¹⁷ The Internationally Recommended Transit Corridor is a stretch of sea along the coast of Somalia designed as a security shipping lane for vessels navigating between the Gulf of Aden and the Indian Ocean.

Other countries active in counter-piracy action

Besides the US and some of the member states of the UN, NATO and EU, many other individual states have decided to deploy warships to the Gulf of Aden, mainly for the protection of national merchant vessels. At this moment, as many as 30 ships from about 14 national navies navigate in the area near Somalia. Among them are navies from Russia, Australia, Canada, India, Japan, Malaysia, Singapore, Saudi Arabia, Iran, South Korea and China. Especially the participation of China is noteworthy as this act breaks with the previous Chinese foreign policy; to maintain a rather low key profile international policy, keeping intact the doctrine of non-interference in other nation's affairs. The reasons for China to become a player in the 'war on piracy' in the Gulf of Aden and off the Horn of Africa are related to the country's commercial interests, the protection of Chinese vessels in the region (Chinese ships have been attacked), China's – not proclaimed – ambition to extend its naval reach, and the fact that all major (naval) powers are already participants of anti-piracy missions. According to Wu Ray-kuo¹⁸, "China is now a regional power, and in the economic domain has become a major player with rising economic strength". "There is also responsibility that comes with it, responsibility not only in the area of financial matters but also in other areas like politics and security" (Blanchard, B. & Reynolds, I., 2008, "Growing influence" section, para. 5 & 6). Thus the contribution of China to the counter-piracy action by the global community can be seen as an opportunity for the country to take a greater role in international security matters and to prove its value as a global (naval) actor. The surprising involvement of China at least illustrates a new world power in the making.

Anti-pirate league by Arab states

So far, in this chapter only the states outside the region have been mentioned as important players in the fight against the Somali piracy. Earlier, the role of the Seychelles and Kenya in the prosecution of captured pirates has been discussed in chapter 4, section 4.4 of this dissertation. Not surprisingly, more states located near the Gulf of Aden and Somalia have assessed the importance of their participation in anti-piracy operations. For the Arab states in the region, it is above all the safe transportation of oil through the Gulf of Aden that is considered of high importance. The hijacks of giant oil tankers such as the Saudi-owned *Sirius Star*, with a surge in crude oil prices as a consequence, have moved the oil producers of the Middle East to take action. In July 2009 Arab states announced to have set up a joint anti-piracy naval force to "deflect the growing threat Somali-led piracy poses on Arab shipping routes, namely oil and gas exports which pass through the Gulf of Aden and Red Sea to the Suez Canal on the way to the Mediterranean Sea" (Media Line News Agency, 2009, "Arab states set up an anti-piracy league" section, para. 2). This all-Arab Navy Task Force will consist of maritime units from Bahrain, Djibouti, Egypt, Jordan, Kuwait, Oman, Qatar, Sudan, the

¹⁸ Wu Ray-kuo is managing director of political risk at Taipei's Fu-Jen University.

United Arab Emirates and Yemen and will be led by Saudi Arabia (Media Line News Agency, 2009, "Arab states set up an anti-piracy league" section, para. 4).

Private armed security units

Private Military Companies or Private Security Companies are a reality in 21st century conflicts all around the globe. Often mistaken with their ancient predecessors (the so-called mercenaries), the companies offer their protection/defensive services to both private and public clients, including NGOs, United Nations, aid agencies and governments. So it was not surprising that in September 2008, the CMF Commander, US Vice Admiral Bill Gortney, advised the shipping industry to hire private security teams for the protection of their vessels. Gortney stated that "the coalition does not have the resources to provide 24-hour protection for the vast number of merchant vessels in the region. The shipping companies must take measures to defend their vessels and their crews." (Commander, Combined Maritime Forces Public Affairs, 2008, "Combined Task Force 150 Thwarts Criminal Activities but Threats in the Region Persist" section, para. 8). The birth of private armed security escorts became a fact and private security companies benefit from the huge new market created by Somali piracy.

However, the use of private security companies is subject to serious debate. Not every state allow shipping companies to participate in this practice and the IMB and other organizations and individuals are concerned the use of private armed security units on board "will only escalate the potential for violence" (as cited Cullen, P. 2008, "The skeptics" section, para. 2). The use of weapons on board also generates rather complex legal questions about the accountability of private armed security units, because, as Cyrus Mody of the IMB stated, "if an armed security team, exchanges fire with pirates and some one was killed, who would be held accountable? Would it be the ship master, or ship owner, or the private security team? What jurisdiction would be involved?" (as cited in Cullen, P. 2008, "The skeptics" section, para. 4). A clear answer to these questions has not been given yet.

What most opponents of the use of private security teams feared happened for the first time on 23 March 2010. The private security guards on board of the Panamanian-flagged MV Almezaan shot dead a suspected pirate in their attempt to protect the vessel (BBC NEWS, 2010, "'Pirate' dies as ship's guards repel attack off Somalia" section, para. 1). It is now feared this shooting accident will fuel the increased violence off the Horn of Africa and that it might convince the pirates to implement more violent tactics. The use of private security companies in the past has created many issues and complex situations, e.g. in Iraq with significant numbers of security companies involved and some disastrous results such as the killing of innocent civilians by the infamous private security company formerly known as 'Blackwater'.

It is important to note that the use of private security is a short term measure to protect merchant vessels. "The use of armed private security on board commercial vessels would not stop piracy, it would simply displace it to other unprotected vessels" (Cullen, P., 2008, "Skeptics" section,

para. 6), as it is likely not every shipping firm has the financial means to hire on-board security teams or simply refuses to make use of these private security services.

5.1.2 Coordination mechanisms

A large number of states have become actively involved in the fight against the Somali piracy, not only at sea but on land as well. In order to avoid pitfalls such as duplication, miscommunication and chaos off the Horn of Africa, so called coordination mechanisms are of great importance for the smooth collaboration between the global actors and the coordination of the operations. Several coordination mechanisms and informative meetings have been initiated and are functioning.

SHADE

The coordination of the several maritime operations and activity in the Gulf of Aden and off Somalia's coast is discussed in Shared Awareness and Deconfliction (SHADE) meetings. This voluntary international coordination mechanism was established in December 2008 and is now co-chaired by the EU and CMF. It serves as a platform for discussions and deconfliction of maritime activity of the countries and organizations involved in the military anti-piracy operations off the Horn of Africa. SHADE assembles the CMF, EU and NATO with individual states such as China, Russia, Seychelles, Japan, India and more. In total 26 nations, 3 coalitions and even representatives from industry participate in SHADE. By means of monthly meetings, the coalition focuses on information sharing (EUNAVFOR Public Affairs Office, 2009, "8th SHADE meeting sees largest international participation so far" section, para. 1 & 2). Topics of discussion in SHADE range from presence, deterrence and surveillance of piracy activity, to providing warning to commercial shipping of potential pirate locations, boarding suspected pirate vessels, the detention of pirates, group transit plan for commercial shipping and so on (Alastair, C., 2009, p. 5). As stated by Royal Navy Commodore Tim Lowe on the SHADE meetings, "these efforts streamline and maximize the effectiveness of naval forces to conduct counter-piracy operations in the region". "By synchronizing and deconflicting our efforts, Combined Task Force 151, EU, NATO and other international forces are making a difference" (US Navy, 2009, "Naval Leaders Meet to Coordinate Counterpiracy Efforts" section, para. 3).

Djibouti Conference and Code of Conduct

In addition to the SHADE meetings, the Djibouti conference was initiated as a platform for discussion on the problem of piracy and armed robbery against ships off the coast of Somalia and the Gulf of Aden. This regional meeting was convened by the IMO and held in Djibouti from 26 to 29 January 2009. Many states that are most affected by Somali piracy in the region have attended the conference, including Ministers, Ambassadors, legal experts and senior officials from Egypt, Djibouti,

Somalia, Sudan, Oman, Saudi Arabia, Kenya and many more; in total 17 states. Other persons present were representatives of regional IGO's and NGO's and observers from IMO member states, UN specialized agencies and bodies. The move by the regional states to actually attend and participate in the meeting shows the high level of concern of the states in the region, as well as the high level of commitment to crack down on piracy in the area. The Djibouti Conference resulted in four resolutions 1) on the adoption of a code of conduct, 2) on technical cooperation, 3) on enhancing training in the region and 4) on expressions of appreciation.

As icing on the cake, a General Code of Conduct was adopted at the Djibouti conference: The Djibouti Code of Conduct. By signing this Code, the regional states declare their intention to fully cooperate to tackle piracy and armed robbery against ships. This collaboration is expected to have a significant impact on the arrest, investigation and prosecution of (suspected) persons who have committed piracy, the seizure of (suspected) piracy vessels and equipment onboard, the operations to rescue ships, individuals and property prone to piratical activity. The process of sharing and reporting relevant information on piracy matters is also an important component of the Code's aspiration to successfully cooperate and coordinate in the region. In total 21 states in the region have the opportunity to sign the Code of Conduct and are strongly encouraged to do so. On the occasion of the conference, a group of nine states signed the Code of Conduct, including Tanzania, Kenya, Madagascar, Ethiopia, Maldives, Seychelles, Yemen, Somalia and host country of the conference, Djibouti (IMO, 2009, "High-level meeting in Djibouti adopts a Code of Conduct to repress acts of piracy and armed robbery against ships" section, para. 2, 3, 4 & 9). More recently, Comoros, Egypt, Sudan and Saudi-Arabia have joined the group. The Djibouti Code of Conduct is unique in the way that it is the first regional agreement between Arab and African states against acts of piracy and armed robbery against vessels in the Gulf of Aden, Indian Ocean and the Red Sea.

CGPCS

The last coordination mechanism to be discussed is the Contact Group on Piracy off the Coast of Somalia (CGPCS). As a consequence of the Security Council's urgent call to foster collective action against armed maritime violence off the Horn of Africa, presented in UNSC Resolution 1851, this multinational contact group was established on 14 January 2009. The main aim of this contact group is to discuss a coherent international response to the multifaceted complex issue 'Somali piracy' and to serve as a contact point and forum for states, regional and international organizations. Participants of the meeting in January were mostly states and organizations who also join other cooperation mechanisms and task forces. For example: China, Kenya, Somalia (TFG), The Netherlands, EU, NATO, IMO, US, UK and Djibouti (Bureau of Political-Military Affairs, 2009, "Contact Group on piracy off the Coast of Somalia" section, para. 1).

In order to realize the joint ambition to suppress piracy, the CGPCS has set certain goals. These goals are "improving operational information support to counter-piracy operations, establishing

coordination mechanism, the prosecution and detention of pirates, strengthening judicial framework for arrest, strengthening commercial shipping self-awareness and other capabilities, pursuing improved diplomatic and public information efforts and tracking financial flows related to piracy” (Bureau of Political-Military Affairs, 2009, “Contact Group on piracy off the Coast of Somalia” section, para. 11). The Contact Group has established four Working Groups that approach diverging objectives in an effective and successful way. Each Working Group is focused on one specific area such as legal issues, promotion of effective military coordination, issues related to human factors and seafarer welfare and diplomatic and public information efforts. In this way the CGPCS contributes to the collective action to root out piracy.

It must be noted that the existence of these coordination and cooperation mechanism is extremely important to allow full effectiveness of the international presence in the waters off the Horn of Africa and improving the chance of resolving the issue of Somali piracy. Without the existence of these forums and contact groups, the Gulf of Aden would be a congested region characterized by utter chaos, rivalry and inefficiency. These mechanisms are essential when a large number of global actors, share the same ultimate goal and are situated in one specific area.

5.1.3 Land-based initiatives in Somalia

The wide range of maritime initiatives and the strong international presence on sea show that the world's attention is for the most part fixed on the sea, the place where the actual pirate attacks take place. It is a positive development that the Gulf of Aden is currently patrolled by one of the largest anti-piracy flotillas in modern history. However, the question remains if maritime measures are able to root out all piratical activity off the coast of Somalia. The right answer to this question is simply NO; in the long-term the ongoing effort will not be sufficient and sustainable. Even the best efforts of the task forces, contact groups and navies will probably not solve the curse called Somali piracy. By recalling the rampant sociopolitical instability in Somalia, discussed in chapter 2 of this dissertation, it is clear that the problem of Somali piracy – visible at sea – cannot be addressed without returning to the root causes of the problem; the ongoing crisis of Somali “statelessness” ashore. Chapter 6 will elaborate on possible land based initiatives versus maritime initiatives and describe and qualify the various options to solve the Somali piracy problem. To recapitulate, the presence and ongoing conducted operations at sea are only part of the solution and need to be complemented with other measures. The international community should try to find a solution to the problem on Somalia's soil.

Need for stability on land

As already discussed earlier in this paper, numerous attempts have been made by the international community to restore peace and stability in Somalia. Despite these well-meant initiatives

and efforts, most peacekeeping missions in Somali turned out to be ineffective and not sustainable in the long-term, rather than the success story which was hoped for. This is a sobering conclusion after having developed an understanding of the current – and also former – situation in Somalia. Still at this moment, the country is a war-torn, unsafe, unstable, scattered, failed nation, regardless of help and intervention of the global community.

At this point, many countries and organizations have acknowledged the importance of a stable Somalia in the fight against the Somali piracy. But despite this shared opinion not much has been done to create stability and security, apart from the failed peacekeeping missions in the past. With other ongoing (military) missions and operations in Afghanistan, Iraq and other conflict areas, and with the earlier failed missions in Somalia in mind, the hesitancy of the global community to again become involved in the severe internal problems of the failed state Somalia is to a certain extend comprehensible. On the other hand, the country is in dire need of international help and with the enormous amount of people suffering from the situation, a country like Somalia simply cannot be neglected.

AU peacekeeping mission

The AU's peacekeeping mission in Somalia – AMISOM – is the only peacekeeping mission currently operating on land in Somalia. This regional Peace Support Operation was deployed in February 2007 and mandated for an initial period of six months. The reason for this initiation was the call for the withdrawal of Ethiopian troops in Somalia by the international community. A replacement for the Ethiopian troops was considered to be necessary to re-establish the TFG authority over the entire Somali territory and to consolidate TFG's fragile position. Without new forces in Somalia supporting the TFG, a power vacuum could have occurred and consequently a state of total anarchy. It must be noted that in the beginning of 2007, the TFG controlled more areas than it does at this moment. AMISOM was deployed to stabilize the security situation and to create a safe and secure environment in preparation for the transition to the UN with a period of six months (as quoted in Hull, C. & Svensson, E., 2008, p. 20 & p. 27). The peacekeeping force consists of less than 5,000 AU troops from the African states Burundi, Uganda and Djibouti, despite the mandate's call for 8,000 peacekeepers.

Al-Shabaab and its Islamic militias consider the AU peacekeeping force as an occupation force who has invaded the country, comparable to the Ethiopian forces (Horseed Media, 2010, "Somalia: AU extends AMISOM mandate" section, para. 5). This provides an extremely violent situation in which the understaffed and undersupplied AU troops (and the TFG army) have become targets of the Somali opposition and the ongoing outrages committed by the militias. Due to the ongoing violence and powerful resistance of the rebellions in combination with the undermanned and undersupplied forces of AMISOM, the deployment of additional peacekeepers by (African) countries is of great significance. So far, countries have been reluctant to get involved with the continuous

problems in Somalia. International organizations and states such as UN, NATO, EU, China, Kenya, Italy and the League of Arab Nations have supported both the AU mission and the Somali TFG army and police only by means of financial donations, funds, technical aid but not with manpower (Hull, C. & Svensson, E., 2008, p. 31). Despite the understanding of the AU that the mission would turn into a 'blue-hatted' UN peacekeeping mission after six months, the UN has not taken over the mission yet. The deployment of a UN peacekeeping force is still a subject to debate. The question of such a peacekeeping mission remains on the table, but for the moment the decision to deploy UN peacekeepers has not been made yet and the AU forces continue to be operative for another six months.

WFP aid

Through the provision of (food) aid by WFP and financial contribution by countries, the international community is making a significant contribution to the people of Somalia. Countries such as the US, UK and other states contribute to WFP with financial means, as well as through the protection of WFP shipments. Indirectly the aid might serve as a way to curb piracy. Piracy is lucrative and Somalis are drawn into this criminal activity due to the lack of financial means for food, shelter and other daily necessities. By the distribution of food and other aid, it is likely that less people, or at least a smaller group, will turn to piracy. Food and other daily necessities that the Somalis cannot provide for themselves, are covered by WFP and thus one of the factors driving piracy – the need for money for daily necessities and luxuries – is taken away. However, it is inevitable that a certain group of individuals will still join pirate gangs, even with the provided aid. These Somalis will be blinded by the luxurious lives pirates live. Nevertheless, the UN agency continues to provide assistance to as many poor Somalis as possible. Unfortunately, WFP was forced to suspend their operations in large parts of southern Somalia, where al-Shabaab exerts power. The decision to halt the food assistance in these areas is due to unprecedented and inhumane attacks and threats and demands by the Islamist militias (Rice, X., 2010, "WFP halts food aid in south Somalia" section, para. 1). The agency was accused by al-Shabaab of giving out-of-date food, destroying local economies, and secretly backing foreign forces. WFP continued to distribute food aid in the north and around the capital Mogadishu where the TFG still controls some areas. WFP has announced in February 2010 to continue the distribution of aid to Somalia, notwithstanding al-Shabaab's orders to cease all humanitarian operations of WFP in the country (Sapa, 2010, "WFP to continue food aid to Somalia" section, para. 1, 2 & 4).

Additional plans on land

Regardless of the fact that almost every individual shares the same opinion – the root causes of the Somali piracy are to be found on land – recent (military) involvement of the global community on Somalia's soil has been insignificant. The AU peacekeeping mission has not yet completely failed but

both TFG army and the peacekeepers face great difficulties with the quelling of the militias. The distribution of WFP's humanitarian aid is impeded by pirates as well as al-Shabaab. As a consequence, a large number of people dependent on aid are left to their fate. Despite the few land-based, counter-piracy initiatives of the global community, the focus remains on missions at sea. Only slowly, the international actors involved in the piracy problem start to realize that the long-term solution to the problem is to be found on land, rather than at sea.

Limited progress towards the creation of possible new initiatives on Somalia's land has been made. According to several news stations, the US is currently actively involved in the preparation of an enormous offensive in Somalia against the Islamic al-Shabaab militia allied with al-Qaeda. Washington has promised air support and teams of Special Forces to restore TFG's power in the capital, Mogadishu (NOS Nieuws, 2010, "VS actief betrokken bij groot offensief Somalië" section, para. 1).

In addition, on 4 February 2010, the Council of the EU adopted a decision to launch the so called 'European Union Trainings Mission' (EUTM or EUTRA) in Somalia (Council of the European Union, n.d., "EU Training Mission for Somalia" section, para. 1). The main purpose of this mission is to contribute to the strengthening of the TFG's National Security Forces through the provision of specific military training of 2000 Somali soldiers including trainers. The mission will take place in Uganda where other Somali troops are already being trained. The mission is scheduled to start in spring 2010 and will end in 2011 after two successive training periods of both six months (EU Council Secretariat, 2010, pp. 1-2). Compared to other possible initiatives, the plan of the EUTM is already developed to such an extent that it can be considered firm. The move by other countries to support this training mission can be seen as a welcome development.

Moreover, the signatories of the Djibouti Code of Conduct, in cooperation with the IMO, have agreed on the establishment and operation of three information-sharing centres in Sana'a in Yemen, Dar es Salaam in Tanzania and Mombasa in Kenya. In addition, a training center located in Djibouti will be set up in the near future, as a means to train anti-piracy units and key personnel of the region. Other projects to be carried out are workshops to train national focal points and staff of the information-sharing centres and the training of coast guard and other personnel entrusted with law enforcement roles. The mentioned projects are currently in progress (ICC International Maritime Bureau, 2010, "Notes" section, para. 3-4).

The last possible plan of action in Somalia to discuss is the establishment of a Somali (or Horn of Africa) coastguard. Several reports, foreign countries, security analysts, contact groups and even the Transitional Federal Government of Somalia, have stated the need for an anti-piracy coastguard to boost regional involvement in the fight against Somali pirates. Currently, the EU considers initiating a new mission to develop a regional coastguard in which countries located around and in the Horn of Africa will participate. This means the coastguard would be a cooperative effort of Arab and African

states to root out piracy in Somalia, as well as to conduct fishery inspections, environmental protection and sea rescue. "The plan under consideration would involve a civilian mission to develop the coast guard forces of Yemen, Djibouti and Kenya as well as Somalia" (Ames, P., 2010, "New EU mission to develop Horn of Africa coastguard" section, para. 1). The coast guard capacity proposal will be discussed in more depth and possibly adopted in the near future.

5.2 Assessment of the success of anti-piracy measures

It is hard to say to what extent the anti-piracy measures have been successful in the suppression of the Somali piracy scourge. However, despite slow progress and some disappointing results, it is still possible to notice some positive development since the global community has started its fight against Somali-based piracy off the Horn of Africa

Critical figures of Somali piracy 2008-2009

One of the apparently positive developments visible is the stagnated increase of pirate attacks in the Gulf of Aden in 2009, compared to the number of attacks in 2008. The year 2009 showed only 24 more attacks in the Gulf of Aden than 2008; 116 (2009) against 92 attacks (2008) (ICC International Maritime Bureau, 2010, p. 5). It can be concluded that this stagnation is related to the increased maritime presence of international actors in the Gulf of Aden since 2007. However, an opposite development has occurred in the same period off the coast of Somalia. In 2008, a total of 19 attacks have occurred, while a year later this number rocketed to 80 attacks in total (ICC international Maritime Bureau, 2010, p. 5). In other words, the number of attacks in the Gulf of Aden has somewhat stabilized, whereas off the coast of Somalia an exponential growth of attacks by Somali pirates took place. It is most likely the Somali pirates have shifted their piratical activities from the tightly patrolled Gulf of Aden to other places in the area such as the Indian Ocean. This view is supported by the marked increase in numbers of Somali pirate attacks in the Red Sea, Arabian Sea, Indian Ocean and Oman¹⁹. Due to the counter-piracy operations in the Gulf of Aden, Somali pirates evade the naval firepower and focus on possible targets outside the reach of the naval forces.

Although optimists would share the opinion that the anti-piracy measures by the international community have already proved beneficial according to the stagnation of attacks in the Gulf of Aden, one cannot neglect the apparent geographic shift of pirate activity and the continuous high number of attacks by Somali-based pirates. On land, the civil war and consequent humanitarian crisis are still the order of the day and a stable, peaceful Somalia seems a utopia rather than a plausible vision of the

¹⁹ See Table 2. *Number of pirate attacks execute by Somali pirates per region, 2003-2009* (p. 21) for an overview of the attacks carried out solely by Somali pirates between 2003 and 2009.

future. To put differently, it appears both maritime and land-based actions have not made any significant difference yet. However, one should keep in mind major visible improvements do not come over night, especially not with a complex and multifaceted problem such as Somali-based piracy.

Successes

Despite the critical view of the successes of counter-piracy actions, the first steps have been made towards the control of piratical activity off the Horn of Africa. For example, several contact groups and platforms have been set up to improve cooperation and the coordination of maritime operations and to discuss possible solutions. Furthermore, the 'Internationally Recommended Transit Corridor' has been fully established for the protection of vessels transiting the Gulf of Aden. Though it is highly recommended to use this security corridor, still some ships ignore the warnings of the maritime forces and contact groups and do not navigate within the protected corridor. Moreover, innovative military communication systems have developed, as well as several guides on how to avoid pirate attacks and the procedures to be followed by vessels when an actual attack occurs. In addition, one successful action is the protection of ships loaded with WFP aid by the EU. "Since escorts began in late 2007, not a single ship carrying WFP food to ports in Somalia has been attacked by pirates" (EU NAVFOR Somalia, n.d., "World Food Programme", para. 1). However the question remains as to what extent the WFP humanitarian aid plays a decisive role in the suppression of the Somali piracy. Despite this point of debate, the successful protection of WFP vessels is a positive sign.

Besides the mentioned initiated actions and the successes, it is said the several maritime forces have played a role in the continued reduction in the rate of successful pirate attacks. The CGPCS has stated in their fifth meeting that "the combined military presence has been a key contribution in significantly reducing the number of successful attacks in the Gulf of Aden with only two attacks in the last six months resulting in vessels being hijacked (U.S. Department of State, 2010, "Fifth plenary meeting of the Contact Group on Piracy off the Coast of Somalia" section, para. 6). In 2007, the percentage of successful attacks hit the 63. In 2008, 34 percent of the pirate attacks ended in successful seizures of ships. And in 2009 the success rate dropped to 25 percent (Porth, J.S., 2010, "Regaining control" section, para. 6). It means the international community is successfully protecting the vessels, and this positive development provides Somalia and the rest of the world hope that Somali piracy can be eliminated. On the other hand, the continuous high numbers of attacks proves that the presence of the maritime task forces does not prevent pirates from hijacking as many merchant vessels as possible.

Additional successes in the fight against Somali-based piracy can also be seen in the increased number of countries willing to participate in the eradication of piracy and in the actual attempts of the global community to solve this problem. At least the world has renewed its focus on shattered and failed Somalia.

Challenges in the future

Regardless of the successes mentioned in the previous section, still many challenges lie ahead for the international community to overcome. One important challenge for the international community is related to the financial support for the operating maritime missions. Deployment of modern warships is particularly expensive and thus the maritime presence of anti-piracy task forces off the Horn of Africa involves extremely high levels of expenditures by the international community. And with the current worldwide recession such high expenses are not sustainable and can become a serious burden to the nations concerned. To put it bluntly, it remains to be seen how committed the nations are to finance the counter-piracy operations. The lack of success and increased impact of the Somali piracy on economies and safety at sea, slowly develop into something that countries desperately try to avoid and fear the most; the need for a long-term commitment and semi-permanent costly maritime presence in the Horn of Africa. The EU Commission has extended the maritime mission 'Atalanta' until December 2010 and other organizations and countries will follow at best (EU NAVFOR Somalia, n.d., "Aim and Mandate" section, para. 5). The question is how long the maritime forces of the international community have to stay in the area for the Somali piracy problem to be entirely eradicated.

Furthermore, the area terrorized by pirates is enormous. Recent attacks have occurred at distance of over 1000 nautical miles (1852 kilometer). In order to protect all possible piracy targets and to successfully deter piracy, an extreme large area – covering almost entire Europe - need to be policed. Patrolling an area this size is unrealistic both practically and financially as this asks for double or even triple number of deployed warships in the area, resulting in even higher national expenditures. So the international community appears to be constrained in its actions due to the high expenses of maritime anti-piracy missions and the extended area to be patrolled.

Other challenges for the international community can be found in the cooperation between countries, specifically between competitive world powers or between countries with a problematic relationship based on mutual distrust. Moreover, the continuous need for WFP food aid and the safe distribution of this aid are important issues faced by the global actors which cannot be solved in a short period of time. And as one has read in chapter 4 of this dissertation, several challenges in juridical spheres are also still waiting to be addressed, for example the issue of prosecution.

And finally, possibly the most important challenge can be found onshore. Although many players involved share the opinion that land-based piracy operations are extremely important in the fight against the Somali piracy, still the international community has not yet created a carefully thought-out plan on a model of how Somalia should look like in the future. It seems as if the global community is struggling to find a suitable model for the failed and shattered state of Somalia. The situation in Somalia is complex and requires a well-considered solution. Without a detailed plan for Somalia's future, it is hard to see how the journey toward the eradication of Somali-based piracy will

evolve. Obviously, the international community has its hands full with Somalia and its piracy problems.

5.3 Chapter conclusion

As a result of the escalating piracy problem off the Horn of Africa, combined with the enormous media coverage of the problem, the international community started to take anti-piracy measures. UN resolutions urged the support and cooperation of the international community to eliminate piracy off the coast of Somalia. As a result, the US, UN, NATO, EU, other individual states and the private sector are all contributing to the fight against piracy by means of the protection of (national) commercial vessels, WFP aid vessels, by tracking down and capturing of pirates etc. The international community cooperates in the coordination of the operations and discusses the problem in the established coordination mechanisms and forums such as SHADE, the Djibouti Conference (only Arab and African states) and the CGPC.

Indirectly, land-based missions will help deter and suppress piracy at sea. At this moment, AU peacekeepers fight together with the TFG to maintain power, but cannot make a difference due to the limited number of peacekeepers and the lack of international commitment and support. The distribution of WFP aid can also serve as a way to curb piracy, as the lack of food and other daily necessities in Somalia is seen as one of the main reasons for Somalis to participate in piratical acts. Additional plans on land that might help eliminate piracy include a possible offensive against al-Shabaab, involving the US.

Despite the international community's response, statistics of Somali piracy over the last two years do not show the hoped and expected downfall of pirate activity. The situation on land has not improved either. However, the response of the international community has resulted in some successes. Maritime operations have resulted in the downfall of the number of *successful* attacks. Several contact groups and forums are set up, the IRTC is established, innovative military communication systems are developed and since the escorts of WFP food aid vessels started no escort protected vessel has been attacked. Challenges for the international community are related to the financial support of the costly counter-piracy operations, the enormous size of area that has to be patrolled by the deployed task forces, the cooperation between competitive world powers and other countries, the continuous need of (food) aid, the persistent violence and humanitarian crisis in Somalia and the design of a detailed plan for Somalia's future.

Chapter 6. How to solve Somali piracy?

Chapter 6 will present possible solutions and recommendations to the Somali-based piracy problem and serves as a concluding chapter of this dissertation.

“Taking a wasps’ nest... is more effective than catching wasps one by one” – Lord Palmerston²⁰

(Reynolds, P., 2009, “Could 19th-Century plan stop piracy?” section, para. 3)

The Somali piracy is a multifaceted and complex problem and should be tackled with a multifaceted approach. A combination of initiatives in several areas is needed in order to solve this crisis. Easy solutions to the problem of Somali lawlessness at sea and on land are not available and if there are any, it will probably take years before any significant improvement is visible. However, the examined current response of the international community proves that in some areas possible solutions to the piracy problem are to be found. Both possible, superficial solutions as well as the solutions regarding the root causes of Somali piracy are listed below.

6.1 Superficial solutions

Tolerate or legalize piracy

A way to ‘solve’ the Somali piracy problem is to simply accept the fact that piracy is as a part of everyday life and that a long-term, effective solution to the piracy problem rests in a solution to Somalia’s internal problems. The number of hijacked vessels is relatively low compared to the large number of commercial vessels passing through the Gulf of Aden and navigating off the coast of Somalia and ransoms are considered to be minor compared to the annual turnovers of shipping firms. The legalization of piracy is another ‘solution’ to the Somali piracy problem. In this way piracy is considered not a criminal act and in theory, the Somali piracy problem does not exist. But it is unlikely and unrealistic that the international community will accept or legalize piracy, as it has been an international criminal act for centuries. In addition, the toleration and legalization of piracy would mean a loss of face and the deterioration of the reputation and reliability of the global community. Although the toleration and legalization of piracy would be an easy way out for the international

²⁰ With this passage, Lord Palmerston – British Foreign Secretary in the 19th century – referred to the attacks and destruction by British maritime forces of slave quarters owned by the Spanish on the coast of West Africa (Reynolds, P., 2009, “Could 19th-Century plan stop piracy?” section, para. 5).

community, the attacks, hijacks and other manifestations of piracy will remain a severe headache for countries in the region, the shipping industry and other parties interested.

Use of private security firms

Despite the fact that the use of private security armed forces on board of commercial vessels is subject to debate, the private sector might play a role in the fight against piracy. The armed forces can protect the vessels, however first legal and regulatory issues surrounding the use of armed contractors should be clarified in an initiated international conference. All parties involved, e.g. states, organizations and industries, should attend the initiated meetings where the topic of the use of the private sector in the fight against Somali piracy is discussed. All countries engaged in the Somali piracy problem are member states of the UN and therefore it should be the UN to lead this conference. Rules for the use of force should be set so that accountability and legal issues are clarified. It should be understood that the use of arms is only the last option in case of emergencies. However, the international community should explore the use of the private sector for training and briefings of the crew members and captains of commercial vessels. Private security personnel can offer useful advice to ship captains and can train crew members how deal with pirate attacks. Other means to prevent the vessels from pirate attacks, besides the controversial way of using weapons, are the use of greasing or electrifying hand rails, barbed wire around the freeboard (the lowest area of the deck) and high-pressure fire hoses directed at vulnerable areas of a ship.

Prohibition ransom payments

The acceptability of ransom payments is currently a subject to debate. The payment of ransom feeds the criminal business and will only stimulate the piracy problem. As ransom payments make pirates richer, they are able to buy better equipment, allowing them to enlarge their operational range and to strike further from coast-lines patrolled by international naval forces. In this case it becomes more difficult for the maritime forces to track down and stop pirates. It is therefore important to outlaw the practice of ransom payments to Somali pirates by means of a UN Resolution. The only downside is that the refusal of the payment of ransoms poses a serious threat on the crew of the hijacked vessels. On the other hand, ships have the choice to navigate around the piracy prone area. If ships prefer the dangerous, shorter route through the Gulf of Aden or near Somalia's coast over the safer and longer route around the Cape of Good Hope in South Africa, vessels should face the consequences of their decision. The prohibition of the payment of ransoms may stop the enormous cash flows destined for the pirates and piratical activities.

Prosecution of pirates

There are many legal issues related to the prosecution of pirates. Pirates have been traced, disarmed and sent back to Somalia's shore from where they can prepare for another attack. The trial of suspected pirates is important as in this way pirates would be convicted for their committed crimes. The verdicts will send a clear message to other pirates that piracy will be punished. It is to be hoped that this will prevent pirates from participating in piratical activity and will keep a large part of the pirates on shore. In order to achieve this, the issues related to the prosecution should be solved first. In my opinion especially the countries in the region that suffer from piracy should be responsible for the prosecution of the pirates. By doing so, the problem of pirates demanding asylum in Europe and other Western countries after they have served their sentence will not be an issue anymore as pirates will only be convicted in Arab and African states, according to national or international law. In case states in the region cannot prosecute pirates according to their national laws, changes in national law are necessary. A situation should be avoided where the prosecution of pirates rests only on one or two states in the region as this creates an enormous burden upon these prosecuting states. The Somali piracy problem is a concern of all countries in the region and therefore every single state should be actively involved in the fight against piracy and all its aspects, including the prosecution of suspected pirates. The Western countries should play a significant role in the establishment of an international pirate tribunal in the region or in supporting national courts with financial means and training and in providing prison facilities for capacity extension and other assistance.

The question as to whether or not these possible solutions are the right answers to the Somali piracy problem will not be discussed in this dissertation. Nevertheless, it is important to realize that the above mentioned solutions are superficial. The solutions solely address the piracy problem at sea. Some solutions seem to be rather unsustainable solutions and achieving a significant reduction of pirate attempts by means of these solutions is a challenge. The solutions can play a role in solving Somalia's piracy, but they do not take away the root causes of piracy.

6.2 Focus on the root cause

As a continuous thread that runs through this dissertation; the Somali piracy cannot be solved without solving its land-based root causes. A first step would be to end the chaos on land and ensure stability. This can only be achieved by the continuation of both maritime and land-based operations, but also by developing alternative means of living for the pirates and Somali people and in this way reviving the coastal industry. To have any chance of success, an urgent change of Western attitude towards the Somali people and government is needed. But also internally, ordinary Somalis should change their attitude, realizing the pirates are involved in criminal acts.

Create stability on land

The instability in Somalia and piracy is tightly connected. The international community has slowly developed a common understanding that counter-piracy operations should extend to land in order to eradicate Somali piracy. An effective central government should be able to address a problem such as piracy and without a central authority, an operative judicial system, and a police and coastguard, pirates can act with impunity. With the presence of an operative government, economic opportunity, safety, stability and justice could be provided and Somalis could be prevented from resorting to piracy.

So a stable country, containing an effective central government is necessary in order to eradicate Somali piracy. The question is how to create stability in the failed, shattered country of Somalia where Islamic insurgents fight for power? To this crucial question the international community has not found an adequate answer yet. Experience have taught that the practice by the Western world to impose its brand of political system, Western ideals and values on non-Western states has seldom led to desired results. Important is to design a plan for Somalia's future on how the state should look like in political, economic and social areas. States and international organizations involved in Somali piracy counter-actions should discuss Somalia's future in a conference, before initiating any other land-based operation in Somalia. Chances are high that operating without a detailed design of the 'new' Somalia would in the end result in a disappointment or even a total fiasco. Piracy is an element of the larger challenge of fixing shattered Somalia and it should be remembered that it takes several years, if not decades, to transform into a stable country with an effective central government. And as President Sheikh Sharif Sheikh Ahmed of Somalia stated, "fixing Somalia is the hardest job in the world" (Perry, A., 2009, "Somalia's Crisis: Not Piracy, but Its People's Plight " section, para. 8).

Continue maritime and land-based operations

Maritime operations against piratical activity off the Horn of Africa should continue. First of all, current maritime operations have been responsible for the significant reduction of successful pirate attacks. Despite the fact that the presence of the international escorting vessels has not resulted in a complete end of pirate attacks, the first steps have been made. Piracy should be fought in places where it occurs; at sea. By means of the maritime operations, pirates cannot act with impunity anymore as they are tracked down and chased by international warships on a daily basis. It makes the execution of pirate attacks much harder and more risky. It is obvious that an extension of the number of vessels and states participating in the several contact groups, multinational maritime forces etc. would give an extra boost to the fight against the Somali piracy. Moneywise, this might not be possible. The international community should investigate the added value of the deployment of extra maritime forces and the financial possibilities. If the provision of extra vessels is not possible due to lack of

financial means, the international community should at least keep the number of vessels active off the Horn of Africa at stable levels. A reduction would give the wrong signals. By counter-piracy actions at sea, the international community is responding to a symptom. However it is a necessary response. The Somali pirates should not be given the opportunity to flourish and grow bigger again.

The active land-based operations, such as the AU peacekeeping mission and trainings of AU troops, should also continue. At the moment, the fights between the weak TFG and AU troops on the one side and al-Shabaab on the other side are continuing, and the latter already controls many parts of Somalia and of the capitol Mogadishu. The peacekeeping forces of the African Union are in desperate need of fresh and more manpower. Without extra military forces it will only be a matter of time before the extremist al-Shabaab will take over the last regions in Somalia controlled by the TFG and AU forces. The extra manpower must be recruited from other (stable) African countries. Military forces of Western countries are probably more likely to be seen as the occupying powers, rather than the African peacekeepers. The Western countries should restrict their land-based involvement to providing TFG and AU with additional military training, assistance of government personnel, and to the sharing of intelligence and knowledge on good governance. And finally, humanitarian aid should be intensified, including material and finances.

Provide opportunity

The Somali president can do the impossible and suggest something that is highly unusual, for instance by generating alternative opportunities in the first place to the pirates as well as the Somali people in general. With assistance of the international world, the President of Somalia, Sheikh Sharif Sheikh Ahmed, should be given the means and the funding to develop and train Somali police forces and coastguards. The fishing industry should be modernized and new vessels should be built. And finally a Somali navy can be set up. This all will result in clear economic benefits, stability and peace. Critical is that the thousands of vacancies in police force, coastguards, fishing industry and navy are filled by pirates. The advantages are obvious. It will greatly increase the credibility of the Somali president and his government, not only to the Somali people but also to the world. The coastguard, fishing industry and navy would provide the missing economic opportunity for the Somali people and stimulate coastal industry. The practice of illegal fishing and waste dumping in Somali waters by foreign countries was serving as a reason for Somali pirates to attack and hijack vessels as a way of redeeming debts. In case of the effective stimulation of coastal industry, the pirates and other Somalis can supply themselves and their hungry fellow countrymen with their own, effective fishing fleet. With an operating coastguard they can protect their own waters. And their navy can contribute to stop any illegal fishing and waste dumping in Somali waters and can even protect WFP food aid vessels for Somalia against the last pockets of pirate resistance. After this, economic opportunity and its positive effects should trickle down to other Somali people and the rest of the economy.

Change the attitudes

A less important but also worth mentioning factor that might contribute to the solution of the Somali piracy problem can be found in a change of Western attitude towards the Somali people and Somalia's government. A blind eye has been turned to Somalia and its rampant humanitarian crisis for decades. After the first hijacks and ransom payments, the global community witnessed a deterioration of maritime security which resulted in the presence of international warships in the region. So while the severe humanitarian crisis that involves millions of people desperate for help received almost no attention, the piracy problem instigated by Somali pirates that involves millions of dollars did receive enormous media coverage and commitment by the international community. Unfortunately the international community has not interfered in an earlier stage, and failed to prevent the escalation of the problem. The international community cannot flee from her inevitable duty that comes with being a developed state. Western countries should acknowledge their participation in the fight against pirates as a moral obligation to redeem themselves for decades of colonialism. International players are rather slowly becoming involved in the problems of the forgotten continent Africa. Somalia should serve as the first step to show that its attitudes towards Africa has changed and not only because their own interests are at stake.

Not only the attitude of the international community should change; the change of attitude of the Somali people towards pirates is also important. At this moment, there is plenty of support for the Somali pirates by ordinary Somalis who do not fully realize that the pirates are involved in criminal activities. An attitude change should be created in which piracy is considered to be a true sin. Religious leaders and clan elders could play a significant role in creating this change and in showing the Somali people that piracy is not a sustainable and legal livelihood and that it can severely damage Somalia's future. Throughout the country, piracy should be viewed as a criminal act again and this can only be accomplished after the return of stability, law and justice and economic opportunity in Somalia.

6.3 Somalia's future**Holding onto hope in Somalia**

On the OXFAM website Jamila (not her real name), 83 years old and a grandmother staying with her son's family in Afgooye, shares her story. Afgooye is a 15km stretch of road outside of Mogadishu where in 2008 more than 350,000 Somalis lived who have been forced to leave their homes. On a question how she thinks her family can overcome the problems she answers: "We don't want to be dependent on someone to feed us. We need peace and security and this war to stop. I think my family could easily recover if the conflict ends and we return to our homes as result of the

improvement in security. I have confidence that my son would get a proper job and that his wife would stand by him. Somalis need peace, and peace provides prosperity to all.” (Oxfam, 2008, “How do you think your family can overcome the problems you face?” section, para. 1). And on her hopes for the near future she replies: “I hope that the fighting that drove us out of our home will soon end. This will happen if all Somalis equally and positively work for the well-being of our nation. I wish that my people, particularly the young generation, will realize that fighting will claim their lives but never bring them back. Allah bless my people and my country” (Oxfam, 2008, “What do you hope for in the near future?” section, para. 1). Jamila’s story clearly reflects the desperation of many Somali people and the need for peace and stability.

Recently, some interesting and encouraging developments have taken place. The head of the Somali government and President of Somalia, Sheikh Sharif Sheikh Ahmed, visited Britain in March 2010 for talks with Prime Minister Gordon Brown at No.10 Downing Street. During a news conference, Mr. Ahmed said his government was trying to find a “peaceful resolution” to the hostage situation of a British couple (BBC NEWS, 2010, “Somali leader ‘hopeful’ of pirate couple release” section, para. 3). During the visit Mr. Brown gave his backing to the president and his government. Somalia’s president accused the militant groups such as the warlords and Islamist extremist groups who play an important role in the atrocious, ongoing civil war, particularly al-Shabaab, of being in league with the pirates and helping them with security. He said: “First of all, I am sorry about the fact that the Chandlers are being held captive, as I am about the other ships that are captured on the coast of Somalia. “These young men are not thinking about what is right. Piracy is part of a larger problem that we face in Somalia and the government is actively working on finding a peaceful resolution to this issue” (BBC NEWS, 2010, “Not in danger” section, para. 5-7, 9-10).

And indeed new developments come fast. In the beginning of March 2010, the press reported that a deal was signed by Somalia's Deputy Prime Minister and Finance Minister Sharif Hassan Sheikh Aden and the Ahlu Sunna WalJamaa's (ASWJ) spiritual leader Sheikh Yussuf Mohammed Heefaw. In this deal, the TFG is committed to share a significant amount of power with the Sufi religious group in five ministries, as well as other senior positions (Tamene, B., n.d., “New hope for Somalia” section, para. 1). The power-sharing agreement between the TFG and an Islamic group can be described as historic. This agreement stipulates that the two sides join forces so they can fight the radical Islamist group al-Shabaab and other extremist elements. “This agreement is a victory for peace and a crushing defeat for extremist groups” it was said at the signing ceremony. “This day will go into history as the day of peace for the Somali people and the region as a whole” (Tamene, B., n.d., “New hope for Somalia” section, para. 2).

The cooperation between TFG and the ASWJ has resulted in a multifold of positive reactions. The AU views the agreement as positive development and the Ethiopian Minister of Foreign Affairs Seyoum Mesfin stated that the agreement would strengthen the capacity of those whose objective is peace, stability and genuine national reconciliation. At the signing ceremony in Addis Ababa, the

capitol of Ethiopia, Seyoum noted that “this one presents a real hope for a future of stability and security and for the retention of a more effective functioning government of Somali. But it would be naive to think this agreement only will bring about a miracle in Somalia” (Tamene, B., n.d., “New hope for Somalia” section, para. 2). “Though the extremists are unpopular in the region, they do not lack outside support” said Seyoum, “that's why it's so critical that we all redouble our effort to support with greater vigor the TFG and the integration of ASWJ into the structures of the government and its newly-broadened institutions” (Tamene, B., n.d., “New hope for Somalia” section para. 2). It seems as if the Somali people have something small to hold on to.

Is a prosperous future for Somalia possible?

The transfer of Somalia from being the region's most desperate state to become a model for others is far away but I believe it is possible. Encouraging examples are Iraq, Afghanistan and less obvious, the northern Indian state of Bihar. Bihar (like Somalia) was first devastated by colonial policies, then mismanaged by a succession of Indian governments, and finally destroyed when caste and class conflicts grew into a small scale civil war in the 1970s (Overdorf, J., 2010, “From worst to near first” section, para. 1). With incompetent and corrupt governments, public services ground to a halt, highways disintegrated, bridges crumbled, and criminals took seats in the state legislative assembly. Kidnapping for ransom was the state's only growth industry. The so-called Republic of Bihar was a failed state. In January 2010, however, Bihar presented some spectacular statistics. It proved that Chief Minister Kumar has done the impossible since he became chief minister in 2005. Bihar is now the second-hottest major economy in the world, right after China. Numbers of crimes, kidnappings for ransom and so on dropped significantly. The total number of foreign tourists rocketed from 95,000 to 356,000 over the last two year (Overdorf, J., 2010, “From worst to near first” section, para. 2).

Kumar's success is more than just the light at the end of the tunnel for a failed state. It could be a guide for Somalia that is struggling with many of the same problems (Overdorf, J., 2010, “From worst to near first” section, para. 4). Kumar changed the rules. He reversed Bihar's chaos by doing something that was highly unusual. He broke the long trend of overcentralising state powers, and handed over more financial and administrative powers to officials in the field. Among many things, he redefined the basic functions of institutions, stopped the transfer of easy bureaucratic posts to the highest bidder. He filled thousands of vacancies in the police force by using already trained staff from among the state's ex-soldiers. Kumar publicly supported the police after they made high profile arrests of criminals, who had previously enjoyed political protection (Overdorf, J., 2010, “From worst to near first” section, para. 7). Rebuilding the police and courts has resulted in clear economic benefits. This has also resulted in more teachers and doctors and staff working at rural health centres. People can now expect that the doctors show up for work (Overdorf, J., 2010, “From worst to near first” section, para. 8).

By improving law and order, stimulating industry and cracking down on corruption, Kumar has won an unprecedented third term. The common thread is that political leaders are realizing they can win re-elections by delivering economic development and ousting the corrupt or the incompetent. Somalia, I hope, can also make a similar progress against crime and corruption, if only it can spread out the recent progress of the President of Somalia, Sheikh Sharif Sheikh Ahmed and (ASWJ) spiritual leader Sheikh Yussuf Mohammed Heefaw. The state of Bihar shows that there is still hope for Somalia. The TFG, in cooperation with the international community, should be able to eradicate the Somali piracy problem and its root causes on land. The international community plays an extremely important role; without ongoing support and assistance by the international actors, Somalia would continue being the number one failed state in the world and the piracy problem would remain a global problem.

Currently, the focus of the international world is mainly on Afghanistan and Iraq and we have to ask ourselves whether we do enough for Somalia. Somalia is a rogue state, although some say that there are no rogue states, just rogue leaders. They argue, as long as there are cohorts to support them, there will be no end of them (Gonzalez, O., 2010, "Letters: February 8, 2010" section, para. 1). So how can our support for moderate Muslim leaders and the TFG deter small bands of extremists and pirates? I argue that piracy in Somalia can only be stopped by addressing the root causes, by replacing rulers who routinely breach the UN Charter's principles of freedom, equality, and non-violence. But turning Somalia from being a rogue state to a state welcomed back by the international community is a daunting task. The international community must urgently focus on policies that address the humanitarian crisis first but also show a commitment to enforcing existing international laws by holding accountable all those committing atrocities inside Somalia. The Somali people and the global community should hold on to hope. The northern state of India, Bihar, has shown the world that it is never too late to do the impossible; to create stability and prosperity in a failed, abandoned state. We have an obligation to Jamila and many others. There is hope. Peace and security in Somalia is possible. Only then, piracy at sea will be an issue of the past.

6.4 Chapter conclusion

Finding suitable solutions to the complex problem of Somali piracy is a difficult task. A number of solutions have been presented in the last chapter of this dissertation. These solutions include the legalization and toleration of piracy, the use of private security firms in combination with clear rules, the prohibition of ransom payments and an extension of the number of prosecuting states in the region. These 'solutions' can be seen as possible, rather superficial solutions, which can play a role in solving the problem. However, without addressing the root causes of the piracy problem, that is the instability of Somalia and the absence of a central effective government, the superficial solutions

will not make any difference. Most important is to focus on the root cause of Somali piracy. Stability on land and a stable effective government must be established. Taking into account Somalia's history of war and instability, it is obvious this is a rather difficult mission. It is essential to design a plan for Somalia's future by all parties involved in the problems of Somalia. In addition, maritime and land-based operations should continue for the reason to prevent pirates and al-Shabaab from gaining more power in Somalia. Moreover, alternative (economic) opportunities should be provided to the pirates and to the rest of the Somali people. Finally, the change of attitude by the international community, as well as the Somali people towards Somali piracy is necessary to take a step forward in solving the Somali piracy problem. Somalia and its people need the help of the international community. The example of India's failed state Bihar shows that nothing is impossible. Even shattered and failed Somalia should be able to experience an exceptional transformation into a stable and peaceful state, with the ongoing support of the global community. Until then the people of Somalia should hold onto hope.

Conclusions

The main objective of this dissertation is to review Somalia's piracy problem and describe possible options for a sustainable solution. To answer the central question '*what is Somali-based maritime piracy problem and how could this problem be solved?*' several sub-questions have been formulated. Firstly, literature research was done on historic records of maritime piracy. The answer to the question '*what is maritime piracy?*' focuses on maritime piracy in general and explains piracy from a historical perspective. The definition of maritime piracy and its legal components can be found in article 101 of the UNCLOS. The IMB and IMO handle a broader definition of piracy for statistical purposes. Maritime piracy is a century old international criminal act and has emerged in every corner of the world in different forms. Pirates in the Classical Antiquity, the Barbary Corsairs and Vikings in the Middle Ages and the pirates of the Caribbean (16th and 17th century) have terrorized the seas. Piracy is also a plague of modern times and piratical acts have dramatically increased over the last two years. Using modern equipment and with a wider choice of targets, modern pirates are active in several areas around the world.

The subsequent chapters focuses on Somali-based piracy and attempts to answer the question '*what is the political and humanitarian situation in Somalia and what role do Somalia's pirates play?*'. Somali piracy and the political and humanitarian situation in Somalia are indissolubly connected. Somalia is a shattered, failed or rogue state and pirates take full advantage of that. Somalia's independence of 1960 ended the colonial involvement of Britain, Italy, the SU and the US. In 1991, dictator Siad Barre was overthrown, being responsible for many killings and a huge humanitarian crisis. As of that year, the country lacks an effective central government. Lawlessness, violence and a destructive power struggle between the current TFG and militias describe the current situation in Somalia. Somali pirates have taken a prominent position in Somalia's daily life, as the circumstances in Somalia have created an environment in which pirates can act with impunity. The last three years have witnessed an upsurge in piratical activity off the Horn of Africa, resulting in a renewed attention of the world. The pirates have developed a lucrative business (the main profitable economic activity in Somalia), involving different layers of Somalia's society; corrupt officials, accountants, negotiators, local communities and so on.

'What are the causes, consequences and dangers of Somali piracy?'. Several root causes are identified. These are the absence of an effective central government, including under-funded law enforcement, inadequate security, a permissive political environment, conflict and disorder and several legal and jurisdictional weaknesses. The second important factor contributing to the Somali piracy problem is the lack of any economic opportunity. The practice of illegally fishing and waste dumping in Somalia's waters by foreign states is a contributing factor according to the pirates. Other aspects that play a role are the favorable geography of Somalia close to shipping lanes, the cultural

acceptability, improved technology in the shipping industry and the proliferation of (small) arms. The danger and consequences of piracy are significant and are related to rising costs and the disruption for shipping industry, the chance of pirate copycats in other parts of the world, the chance of environmental disasters, the cooperation between pirates and terrorist groups, difficulties in the distribution of food aid and the renewed attention for Somalia and its problems.

Piracy is considered a criminal act, forbidden by international and national law. The sub-question '*in what way are international law and Somali piracy related to each other and what are legal constraints in the matter?*' is explained by describing the relation between Somali piracy and international law, elaborating on legal difficulties the international world is facing. As an international crime against the world community, piracy is dealt with in UN Conventions such as UNCLOS and the SUA Convention. After the disturbing rise of piratical activity off the Horn of Africa, the UN Security Council responded to the Somali piracy problem with the adoption of several resolutions. Slowly, the intentional community was granted extensive powers to tackle Somali piracy. Somalia is the only case in which the Security Council has given the authority to execute military actions within a sovereign state against a certain group of people. The legal pitfalls in the Somali piracy matter can be found in the rather narrow definition of piracy, which excludes some piratical acts, and the more important problem of the prosecution of pirates. The responsibility for the prosecution of the suspected Somali pirates rests with the international community, but few countries are willing or able to put the pirates on trial. Matters concerning strict national laws, money and asylum requests are also important factors.

The Somali piracy has created a global threat. The sub-question '*what is the international community's response to the Somali piracy?*' is answered by describing a rather ineffective international reaction to the escalating problem. By means of the deployment of numerous warships and task forces by multinational organizations and individual countries, the international community got engaged in the Somali piracy problem. All important players in the international field are involved in both maritime and land-based operations; the EU, UN, NATO, AU, US, China and other individual states and even the private sector. Resolutions related to the Somali piracy have been adopted, the WFP aid vessels are protected, the defined maritime security areas are patrolled and pirates are tracked down, captured and disarmed. Expertise and knowledge are shared and coordination and discussion take place in the established coordination mechanisms. Conferences are held and contact groups and peacekeeping forces are set up. Maritime operations and the presence of warships have caused a decrease in the number of successful pirate attacks; however the number of attacks is still high. The peacekeeping forces are paralyzed in their help to create stability in Somalia and to support the TFG. It seems as if the future challenges of the international community lie on Somalia's soil, rather than at sea. The launched operations and missions have led to some successes, but a sustainable and comprehensive solution to the Somali piracy problem has not been found yet.

An answer to the sub-question '*what are possible solutions to the problem of Somali piracy?*' is a challenging task. Somali piracy is a complex problem and requires a combination of solutions in

different areas. The toleration or legalization of piracy, the use of private security forces (clear rules for the use of arms are necessary), the prohibition of ransom payments and changes in international and national law related to the prosecution of pirates are possible options, although superficial and expected not to result in a sustainable solution. A long-term solution to the problem can only be found when addressing the root causes. Pirates can act with immunity due to lawlessness and instability in the country. Stability on land is a pre-requisite, and all key stakeholders should be involved in designing a plan for the future of Somalia. With stability and a functioning central government, specific problems can be addressed. In the mean time, maritime and land-based operations should continue in order to prevent the pirates and al-Shabaab from enlarging their powerbase. Critical is that economic opportunity should be provided to the pirates. Vacancies in coastguard, police and the fishing industry should be filled with former pirates. A change of economic environment should be underpinned by a change in attitude of the international community and of Somali citizens. It is obvious Somalia and its people need help. The world should provide Somalia with ongoing support in order to tackle the country's internal problems. The problem of Somali piracy is a problem which will require more time, more resources, courage and multifaceted solutions. The complex problem can only be solved in international context. It requires patience and commitment but it can be done. Iraq, Afghanistan and particularly the Indian state of Bihar show that a disconsolate and hopeless situation can always transform into something positive. I am hopeful this can be achieved also in Somalia.

Reference List

- African Press International. (2009, August 26). *SOMALIA: Humanitarian crisis 'worst in 18 years'*. Retrieved December 3, 2009, from the African Press International Web site: <http://africanpress.wordpress.com/2009/08/26/somalia-humanitarian-situation-worst-in-18-years/>
- Alastair, C. (2009, June 4). Combined Maritime Forces (CMF) Operations. Counter Piracy Operations, Challenges, Shortfalls and Lessons Learned. Retrieved February 27, 2010, from the NATO Web site: <http://www.nato.int/structur/AC/141/pdf/PSM/Combined%20Maritime%20Forces%20Ops.pdf>
- Ames, P. (2010, January 13). *New EU mission to develop Horn of Africa coastguard*. Retrieved March 11, 2010, from the EUROPOLITICS, the European affairs daily Web site: <http://www.europolitics.info/sectorial-policies/new-eu-mission-to-develop-horn-of-africa-coast-guard-art259777-13.html>
- Ayittey, G. B. N. (1994, March 24). *The Somali Crisis: Time for an African Solution*. Retrieved December 2, 2009, from the CATO Institute Web site: <http://www.cato.org/pubs/pas/pa-205.html>
- Baldauf, S. (2010, March 24). *Commercial ship strikes back in deadly shootout with Somali pirates*. Retrieved March 27, 2010, from The Christian Science Monitor Web site: <http://www.csmonitor.com/World/Africa/2010/0324/Commercial-ship-strikes-back-in-deadly-shootout-with-Somali-pirates>
- Barea, P. (2008, October 15). *Old Piracy Laws Created Universal Jurisdiction. Modern International Criminal Law Learned from Ancient Problem*. Retrieved December 23, 2009, from the Suite101.com Web site: http://war-crimes.suite101.com/article.cfm/piracy_forced_creation_of_universal_jurisdiction
- BBC NEWS. (2009, October 5). *Country profile: Somalia*. Retrieved December 2, 2009 from the BBC NEWS Web site: http://news.bbc.co.uk/2/hi/africa/country_profiles/1072592.stm
- BBC NEWS. (2010, March 9). *Somali leader 'hopeful' of pirate couple release*. Retrieved April 5, 2010, from the BBC NEWS Web site: http://news.bbc.co.uk/2/hi/uk_news/england/kent/8557865.stm

- BBC NEWS. (2010, March 23). *'Pirate' dies as ship's guards repel attack off Somalia*. Retrieved March 27, 2010 from the BBC NEWS Web site: <http://news.bbc.co.uk/2/hi/africa/8584604.stm>
- Blanchard, B. & Reynolds, I. (2008, December 26). *Chinese ships head to Somalia*. Retrieved February 20, 2010, from the Reuters Website: <http://www.reuters.com/article/idUSTRE4BO0Q820081226>
- Brainy Quotes. (n.d.). *Pirate Quotes*. Retrieved February 13, 2010, from the Brainy Quotes Web site: <http://www.brainyquote.com/quotes/keywords/pirate.html>
- Burgess, D., (2003, August). *Hostis humani generis: piracy, terrorism and a new international law*. Retrieved February 13, 2010, from the Circle UBC's Information Repository Web site: <http://circle.ubc.ca/handle/2429/14412?show=full>
- Central Intelligence Agency. (2010, March 3). *Africa: Somalia*. Retrieved March 22, 2010, from the CIA Web site: <https://www.cia.gov/library/publications/the-world-factbook/geos/so.html>
- Chalk, P. (2009, February 4). *Maritime Piracy. Reasons, Dangers and Solutions*. Retrieved December 9, 2009, from the RAND Corporation Web site: http://www.rand.org/pubs/testimonies/2009/RAND_CT317.pdf
- Chamber of Shipping. (2010, February 26). *COS Weekly News – 26 February 2010*. Retrieved March 23, 2010, from the Chamber of Shipping Web site: http://www.chamber-of-shipping.com/index.php?option=com_content&view=article&id=577:cos-weekly-news-26-february-2010&catid=94:cos-weekly-news-archive&Itemid=74
- Commander, Combined Maritime Forces Public Affairs. (2008, September 22). *Combined Task Force 150 Thwarts Criminal Activities but Threats in the Region Persist*. Retrieved March 27, 2010, from the Commander, U.S. Naval Forces Central Command, U.S. Fifth Fleet, Combined Maritime Forces Web site: <http://www.cusnc.navy.mil/articles/2008/115.html>
- Council of the European Union. (n.d.). *EU Training Mission for Somalia*. Retrieved March 11, 2010, from the Council of the European Union Web site: <http://consilium.europa.eu/showPage.aspx?id=1870&lang=en>
- Dalton, T. (2009, December 19). *What to Do With Pirates?* Retrieved January 19, 2010, from the Duhaime.org: law-legal information-justice Web site: <http://duhaime.org/LawMag/LawArticle-1133/What-to-Do-With-Pirates.aspx>

- Department of Public Information United Nations. (1997, March 21). *Somalia – UNOSOM I. United Nations Operation in Somalia I*. Retrieved December 1, 2009, from the United Nations Web site: <http://www.un.org/Depts/DPKO/Missions/unosomi.htm>
- Dillon, D. (2005). Maritime Piracy: Defining the Problem. *SAIS Review*, 25(1), 155-165. Retrieved 14 December, 2009, from the South China Sea Web site: <http://www.southchinasea.org/docs/Maritime%20Piracy.pdf>
- Dixon, M. (2007). *Textbook on International Law*. Oxford: Oxford University Press
- Draper, R. (2009, September). Shattered Somalia. *National Geographic*, pp.70-99
- El4a. (2009, May 19). *Call for an UN Piracy Tribunal*. [Peace Palace Library]. Retrieved January 20, 2010, from El4a at the Peace Palace Library Web site: <http://peacepalacelibrary-weekly.blogspot.com/2009/05/call-for-un-piracy-tribunal.html>
- Elder the, H. (2009, June 25). *Pirates of the Greco-Roman Mediterranean Sea*. Retrieved November 22, 2009, from the Amsco Extra! Web site: <http://amscoextra.blogspot.com/2009/06/pirates-of-graeco-roman-mediterranean.html>
- EU Council Secretariat. (2010, January). *EU military mission to contribute to the training of the Somali Security Forces*. Retrieved March 11, 2010, from the Council of the European Union Web site: http://consilium.europa.eu/uedocs/cms_data/docs/missionPress/files/100129%20Background%20EUTRA%20-%20version%202%20_EN01.pdf
- EUNAVFOR Somalia. (2009). *8th SHADE meeting sees largest international participation so far*. Retrieved February 27, 2010, from the EU NAVFOR Web site: <http://www.eunavfor.eu/2009/10/8th-shade-meeting-sees-largest-international-participation-so-far/>
- EUNAVFOR Somalia. (n.d.). *European Union Naval Operation Against Piracy*. Retrieved February 19, 2010, from the EU NAVFOR Somalia Website: <http://www.eunavfor.eu/about-us/mission/>
- Foreign Policy. 2009. *The Failed State Index 2009*. Retrieved December 2, 2009, from the Foreign Policy Web site: http://www.foreignpolicy.com/articles/2009/06/22/2009_failed_states_index_interactive_map_and_rankings

- Fowler, R. (2007, May 21). *Pirates of the Mediterranean: Pillaging and Plundering in Ancient Times*. Retrieved November 22, 2009, from the Suite101.com Web site: http://ancient-culture.suite101.com/article.cfm/pirates_of_the_mediterranean
- Fouché, H. (2007, November 25). *The Manifestation and challenges to combating piracy on the east coast of Africa*. Retrieved November 29, 2009, from the Institute for Security Studies Web site: http://www.iss.co.za/dynamic/administration/file_manager/file_links/4.FOUCHE.PDF?link_id=29&slink_id=5408&link_type=12&slink_type=13&tmpl_id=3
- Global Security.org. (n.d.). *CIA Map of Somalia*. Retrieved February 15, 2010, from the Global Security.org Web site: <http://www.globalsecurity.org/military/world/somalia/maps.htm>
- Gonzalez, O. (2010, February 8). *Letters: February 8, 2010*. Retrieved April 5, 2010, from the NEWSWEEK Web site: <http://www.newsweek.com/id/233434>
- History.com. (n.d.). *History of Piracy*. Retrieved November 24, 2009, from the History.com Web site: <http://www.history.com/content/pirates/history-of-the-caribbean-pirates>
- Horn of Africa Peace and Development Center. (n.d.). *Somali Piracy: A comprehensive solution*. Retrieved February 15, 2010, from the Horn of Africa Peace and Development Center Web site: http://www.hafrica.com/docs/Piracy_in_Somalia_042309.pdf
- Horseed Media. (2010, January 10). *Somalia: AU extends AMISOM mandate*. Retrieved March 6, 2010, from the Horseed Media. The Free voice of Somalia Web site: <http://horseedmedia.net/2010/01/somalia-au-extends-amisom-mandate/>
- Huijgevoort, S. (2009, July 1). Piracy: coast guards become pirates. Retrieved March 21, 2010, from the Radio Netherlands worldwide Web site: <http://www.rnw.nl/international-justice/article/piracy-coast-guards-become-pirates>
- Hulbert, M. (2009, June). *Making waves: Piracy floods the Horn of Africa*. Retrieved February 15, 2010, from the Center for Security Studies Web site: <http://www.isn.ethz.ch/isn/Digital-Library/Publications/Detail/?lng=en&id=100351>
- Hull, C. & Svensson, E. (2008, October). *African Union Mission in Somalia (AMISOM). Exemplifying African Union Peacekeeping Challenges*. Retrieved March 6, 2010, from the FOI, Swedish Defence Research Agency Web site: <http://www.foi.se/upload/projects/Africa/FOI-R--2596--SE.pdf>

Human Rights House Network. (2010, January 6). *CPJ concerned about deteriorating press freedom in Puntland, Somalia*. Retrieved February 15, 2010, from the Human Rights House Network Web site: <http://humanrightshouse.org/Articles/13038.html>

ICC International Crime Services. (n.d.). *International Maritime Bureau*. Retrieved November 9, 2009, from the ICC international Crime Services Web site: http://www.icc-ccs.org/index.php?option=com_content&view=article&id=27:welcome-to-the-international-maritime-bureau&catid=25:home&Itemid=16

ICC International Maritime Bureau. (2009, April 21). *Piracy attacks almost doubled in 2009 first quart*. Retrieved November 29, 2009, from the ICC Maritime Bureau Web site: http://www.icc-ccs.org/index.php?option=com_content&view=article&id=350:piracy-attacks-almost-doubled-in-2009-first-quarter&catid=60:news&Itemid=51

ICC International Maritime Bureau. (2009, January). *Piracy and Armed Robbery against Ships*. (Annual report 1 January – 31 December 2008).

ICC International Maritime Bureau. (2009, October). *Piracy and Armed Robbery against Ships*. (Report for the period 1 January – 30 September 2009).

ICC International Maritime Bureau. (2010, January). *Piracy and Armed Robbery against Ships*. (Annual report 1 January – 31 December 2009).

ICC International Maritime Bureau. (2010, March 10). *Saudi Arabia signs Djibouti anti-piracy Code*. Retrieved March 14, 2010, from the ICC Maritime Bureau Web site: http://www.imo.org/Newsroom/mainframe.asp?topic_id=1859&doc_id=12603

International Maritime Organization. (2000, December 20). *Draft Code of Practice for the Investigation of the Crimes of Piracy and Armed Robbery Against Ships*. (Draft, Ref. T1/13.01, MSC/Circ.984, 20 December 2000). Retrieved November 9, 2009, from the International Maritime Organization Web site: http://www.imo.org/includes/blastData.asp/doc_id=877/984.pdf

International Maritime Organization. (2009, January 3). *High-level meeting in Djibouti adopts a Code of Conduct to repress acts of piracy and armed robbery against ships*. Retrieved February 19, 2010, from the IMO International Maritime Organization Web site: http://www.imo.org/newsroom/mainframe.asp?topic_id=1773&doc_id=10933

International Maritime Organization. (n.d.). *Introduction to IMO*. Retrieved November 11, 2009, from the International Maritime Organization Web site: <http://www.imo.org/>

- John. (2009, January 11). *2008 Piracy Mapped*. [Need & Opportunity – The Sparks That Ignite Piracy]. Retrieved March 19, 2010, from John's at the gCaptain Web site:
<http://gcaptain.com/maritime/blog/need-opportunity-the-sparks-that-ignite-piracy/>
- Jones, D. (2010, March 3). British couple held by Somali pirates 'could be freed in days'. Retrieved March 23, 2010, from the Mail Online Web site:
<http://www.dailymail.co.uk/news/worldnews/article-1255205/British-couple-Paul-Rachel-Chandler-held-Somali-pirates-freed-days.html>
- Kang, H. (2009, December). *Gulf of Aden vs Malacca Strait Piracy and Counter-piracy efforts*. Retrieved February 14, 2010, from the IPCS Institute of Peace and Conflict Studies Web site:
http://ipcs.org/pdf_file/issue/IB135-SEARP-Harnit1.pdf
- Konstan, A. (2008). *Piracy: The complete history*. Oxford : Osprey Publishing
- LawInfo. (2009, May). *Piracy Without the Plank: The Modern Definition of Piracy*. Retrieved November 8, 2009, from LawInfo Web site:
<http://resources.lawinfo.com/en/Articles/Admiralty-Maritime/Federal/piracy-without-the-plank-the-modern-definition.html>
- Leurdijk, D. (2009, April). Strijd tegen piraterij voor de kust van Somalië in nieuw vaarwater. *Internationale Spectator*, 63 (4), 216-218. Retrieved December 9, 2009, from the Internationale Spectator Web site: http://www.internationalespectator.nl/2009/20090400_is_art_leurdijk.pdf
- Lovgren, S. (2004, February 17). *Vikings' Barbaric Bad Rep Beginning to Fade*. Retrieved November 23, 2009, from the National Geographic Web site:
http://news.nationalgeographic.com/news/2004/02/0217_040217_vikings.html
- Malkhadir, M.M. (2009, November 30). *Somali pirates hijack oil tanker headed to New Orleans*. Retrieved December 20, 2009, from the New Orleans Business News Web site:
http://www.nola.com/business/index.ssf/2009/11/somali_pirates_hijack_oil_tank.html
- McConnell. (2009, December 1). Super tanker and its \$20m cargo seized by gang of Somali pirates. *The Times*. Retrieved December 20, 2009, from the Timesonline Web site:
<http://www.timesonline.co.uk/tol/news/world/africa/article6937787.ece>
- Media Line News Agency. (2009, July 6). *Arab states set up anti-piracy league*. Retrieved February 21, 2010, from the American Chronicle Web site:
<http://www.americanchronicle.com/articles/view/108867>
- Menkhaus, K. (2009, August). Somalia. What went wrong? *The Rusi Journal*, 154 (4), 6-12.

- Middleton, R. (2008, October). *Piracy in Somalia. Threatening global trade, feeding local wars*. Retrieved February 15, 2010, from the Chatham House Web site: <http://www.chathamhouse.org/publications/papers/view/-/id/665/>
- Murphy, M.N. (2007). *Contemporary Piracy and Maritime Terrorism*. London : Routledge
- NATO. (n.d.). *Counter-piracy operations*. Retrieved February 19, 2010, from the NATO Web site: http://www.nato.int/cps/en/natolive/topics_48815.htm
- NOS Nieuws. (2010, March 8). *VS actief betrokken bij groot offensief Somalië*. Retrieved March 10, 2010, from the NOS Nieuws Web site: <http://nos.nl/video/142432-vs-actief-betrokken-bij-groot-offensief-somalie.html>
- NRC Handelsblad. (2008, November 18). Piraten in Somalië krijgen de mooiste meisjes. *NRC Handelsblad*. Retrieved January 24, 2010, from the NRC Handelsblad Web site: http://www.nrc.nl/buitenland/article2065067.ece/Piraten_in_Somalie_krijgen_de_mooiste_meisjes
- NRC Handelsblad. (2009, December 18). Marine moet 13 piraten van EU vrijlaten. *NRC Handelsblad*. Retrieved January 19, 2010, from the NRC Handelsblad Web site: http://www.nrc.nl/binnenland/article2440853.ece/Marine_moet_13_piraten_van_EU_vrijlaten
- Nyakairu, F. (2009, April 17). *Aid groups face tough battle against Somali pirates*. Retrieved February 7, 2009, from the Thomson Reuters Foundation Web site: http://www.alertnet.org/db/an_art/55866/2009/03/17-162605-1.htm
- Overdorf, J. (2010, February 12). *From worst to near first*. Retrieved April 5, 2010, from the NEWSWEEK Web site: <http://www.newsweek.com/id/233502>
- Oxfam International. (2008, February). *Holding into hope in Somalia: Jamila's story*. Retrieved April 1, 2010, from the Oxfam International Web site: <http://www.oxfam.org/en/emergencies/somalia-conflict/jamila>
- Perry, A. (2009, February). A brief trip to Pirate Island. An inside look at the rise of modern-day swashbucklers. *National Geographic Adventure*, pp. 50-55
- Perry, A. (2009, June 6). *Somalia's Crisis: Not Piracy but Its People's Plight*. Retrieved April 5, 2010, from the TIME Web site: <http://www.time.com/time/world/article/0,8599,1902866,00.html>
- Ploch, L., Blanchard, C.M., O'Rourke, R., Manson, R.C. & King, R.O. (2009, September 28). Piracy off the Horn of Africa. Retrieved January 27, 2010, from the Federation of American Scientists Web site: <http://www.fas.org/sgp/crs/row/R40528.pdf>

- Porth, J.S. (2010, February 19). *International Navies Coordinate to Deter Somali Pirates. Prosecution of pirates proceed in Africa and the United States*. Retrieved March 29, 2010, from the America.gov Web site: <http://www.america.gov/st/peacesec-english/2010/February/20100219174011SJhtr0P0.8000299.html>
- Proverbial.net. (2009). *Cooperation*. Retrieved February 12, 2010, from the Proverbial.net Web site: <http://en.proverbial.net/citastema.asp?tematica=258&page=1>
- Quotesea. (2009). *Somalia Quotes*. Retrieved December 1, 2009, from the Quotesea Web site: <http://www.quotesea.com/Quotes.aspx?with=Somalia&page=2>
- Reynolds, P. (2009, April 12). *Could 19th-Century plan stop piracy?* Retrieved March 22, 2010, from the BBC News Web site: <http://news.bbc.co.uk/2/hi/africa/7991512.stm>
- Rice, X. (2010, January 5). *WFP halts food aid in south Somalia*. Retrieved March 6, 2010, from the The Guardian Web site: <http://www.guardian.co.uk/world/2010/jan/05/somalia-food-aid-suspended>
- Ross, S. & Ben-David, J. (2009, August 20). *Somali Piracy: An Escalating Security Dilemma*. Retrieved December 6, 2009, from the ICT International Institute for Counter-Terrorism Web site: <http://www.ict.org.il/Articles/tabid/66/Articleid/745/currentpage/1/Default.aspx>
- Sapa. (2010, March 1). *WFP to continue food aid to Somalia*. Retrieved March 6, 2010, from the Times LIVE Web site: <http://www.timeslive.co.za/africa/article331686.ece>
- Schenkel, M. (2009, April 15). *Schepen kapen is gewoon handel. Somalische zeerovers opereren in internationale vertakte netwerken. NRC Handelsblad*. Retrieved December 20, 2009, from the NRC Handelsblad Web site: http://www.nrc.nl/nieuwsthema/piraterij/article2213505.ece/Schepen_kapen_is_gewoon_handel
- Schenkel, M. (2009, Mei 18). *Zeerovers veilig in een Nederlandse cel. NRC Handelsblad*. Retrieved January 19, 2010 from the NRC Handelsblad Web site: http://www.nrc.nl/nieuwsthema/piraterij/article2243185.ece/Zeeovers_veilig_in_een_Nederlandse_cel
- Stichting INLIA. (2002, March 8). *Beknopt overzicht van de problematiek van terugkeer naar Somalië*. Retrieved November 30, 2009, from the Stichting INLIA Web site: <http://www.inlia.nl/pdf/somalie.pdf>

- Tamene, B. (n.d.). *New hope for Somalia*. Retrieved April 5, 2010, from the Capital Web site:
http://www.capitalethiopia.com/index.php?view=article&id=12522%3Anew-hope-for-somalia&option=com_content&Itemid=4
- Telegraaf. (2009, December 17). Evertsen laat opgepakte piraten vrij. *Telegraaf*. Retrieved January 19, 2009, from the Telegraaf Web site:
http://www.telegraaf.nl/binnenland/5596451/___Evertsen_laat_piraten_vrij_.html
- Tharoor, I. (2009, April 18). *How Somalia's fishermen became pirates*. Retrieved January 24, 2010, from the TIME Web site: <http://www.time.com/time/world/article/0,8599,1892376,00.html>
- The National Archives. (2007, March 2). *Country Profile: Somalia*. Retrieved December 1, 2009, from The National Archives Web site:
<http://collections.europarchive.org/tna/20080205132101/www.fco.gov.uk/servlet/Front/TextOnly%3Fpagename=OpenMarket/Xcelerate/ShowPage&c=Page&cid=1007029394365&to=true&a=KCountryProfile&aid=1019744993170>
- The Way of the Pirates. (2009). *Golden Age of Piracy*. Retrieved November 23, 2009, from The Way of the Pirates Web site: <http://www.thewayofthepirates.com/history-of-piracy/golde-age-of-piracy.php>
- The Way of the Pirates. (2009). *Greek and Roman Pirates*. Retrieved November 11, 2009, from The Way of the Pirates Web site: <http://www.thewayofthepirates.com/history-of-piracy/ancient-piracy.php>
- Unicef. (n.d.). *Statistics*. Retrieved March 21, 2010, from the Unicef Web site:
http://www.unicef.org/infobycountry/somalia_statistics.html
- United Nations. (1945). *Chapter VII: Action with Respect to Threats to the Peace, Breaches of the Peace, and Acts of Aggression*. Retrieved December 27, 2009, from the United Nations Web site: <http://www.un.org/en/documents/charter/chapter7.shtml>
- United Nations. (1982). *United Nations Convention on the Law of the Sea*. Retrieved November 8, 2009, from the UN Oceans and Law of the Sea. Division for Ocean Affairs and the Law of the Sea Web site: http://www.un.org/Depts/los/convention_agreements/texts/unclos/unclos_e.pdf
- United Nations Security Council. (2006, May 10). *Resolution 1676 (2006). Adopted by the Security Council at its 5435th meeting, on 10 May 2006. (S/RES/1676 (2006))*. Retrieved December 26, 2009, from the UN Security Council Resolutions Web site: <http://www.un-somalia.org/docs/Resolution1676-2006.pdf>

- United Nations Security Council. (2007, August 20). *Resolution 1772 (2007). Adopted by the Security Council at its 5732nd meeting, on 20 August 2007*. Retrieved December 26, 2009, from the UN Security Council Resolutions Web site: <http://www.un-somalia.org/docs/Resolution1772%2020.8.07.pdf>
- United Nations Security Council. (2008, December 2). *Resolution 1846 (2008). Adopted by the Security Council at its 6026th meeting, on 2 December 2008*. (S/RES/1846 (2008)). Retrieved December 27, 2009, from the Council of the European Union Web site: <http://www.consilium.europa.eu/uedocs/cmsUpload/N0863029.pdf>
- United Nations Security Council. (2008, December 18). *Resolution 1851 (2008). Adopted by the Security Council at its 6046th meeting, on 18 December 2008*. (S/RES/1851 (2008)). Retrieved December 27, 2009, from the UN Security Council Resolutions Web site: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N08/655/01/PDF/N0865501.pdf?OpenElement>
- United Nations Security Council. (2008, June 2). *Resolution 1816 (2008). Adopted by the Security Council at its 5902nd meeting, on 2 August 2008*. (S/RES/1816 (2008)). Retrieved December 27, 2009, from the UN Security Council Resolutions Web site: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N08/361/77/PDF/N0836177.pdf?OpenElement>
- United Nations Security Council. (2008, November 20). *Resolution 1844 (2008). Adopted by the Security Council at its 6029th meeting, on 20 November 2008*. (S/RES/1844 (2008)). Retrieved December 27, 2009, from the UN Security Council Resolutions Web site: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N08/611/31/PDF/N0861131.pdf?OpenElement>
- United Nations Security Council (2008, October 7). *Resolution 1838 (2008). Adopted by the Security Council at its 5987th meeting, on 7 October 2008*. (S/RES/1838 (2008)). Retrieved December 27, 2009, from the UN Security Council Resolutions Web site: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N08/538/84/PDF/N0853884.pdf?OpenElement>
- United Nations General Assembly. (1999, January 6). *Resolution Adopted by the General Assembly*. (A/RES/53/32, 53/32. Oceans and the law of the sea). Retrieved December 25, 2009, from the United Nations Documentation: Research Guide Web site: http://www.un.org/Depts/los/general_assembly/general_assembly_resolutions.htm
- United Nations General Assembly. (2000, January 18). *Resolution Adopted by the General Assembly*. (A/RES/54/31, 54/31. Oceans and the law of the sea). Retrieved December 25, 2009, from the United Nations Documentation: Research Guide Web site: http://www.un.org/Depts/los/general_assembly/general_assembly_resolutions.htm

- United Nations Nation Unies. (2008, December 15). Somalia Humanitarian Overview. *United Nations Nation Unies*, 2 (1), pp. 1-4. Retrieved December 6, 2009, from the Web site:
<http://ochaonline.un.org/OchaLinkClick.aspx?link=ocha&docId=1102435>
- United States Coast Guard. (2009, February 5). *International Piracy on the High Seas*. Retrieved December 24, 2009, from the USCG Web site:
<http://www.uscg.mil/cgjournal/message.asp?Id=118>
- Unmuseum. (1998). *The Golden Age of Piracy*. Retrieved November 23, 2009, from the Unmuseum Web site: <http://www.unmuseum.org/pirate.htm>
- U.S. Department of State. (2009, January 15). *Contact Group on Piracy off the Coast of Somalia*. Retrieved February 27, 2010, from the U.S. Department of State Web site:
<http://www.state.gov/t/pm/rls/othr/misc/121054.htm>
- U.S. Department of State. (2010, January 29). *Fifth plenary meeting of the Contact Group on Piracy off the Coast of Somalia*. Retrieved March 14, 2010, from the U.S. Department of State Web site: <http://www.state.gov/r/pa/prs/ps/2010/01/136263.htm>
- U.S. Navy. (2009, May 29). *Naval leaders Meet to Coordinate Counterpiracy Efforts*. Retrieved March 1, 2010, from the Defence Talk Global Defence & Military Portal Web site:
<http://www.defencetalk.com/naval-leaders-meet-to-coordinate-counterpiracy-efforts-19310/>
- Vallar, C. (2009). *Ancient Piracy*. Retrieved November 21, 2009, from the Pirates and Privateers, The history of Maritime Piracy Web site: <http://www.cindyvallar.com/ancientpirates.html>
- Vallar, C. (2004, July 1). *The Barbary Corsairs*. Retrieved November 23, 2009, from the Pirates and Privateers, The history of Maritime Piracy Web site:
<http://www.cindyvallar.com/barbarycorsairs.html>
- Walt, V. (2009, April 20). Why the Somali Pirates Keep Getting Their Ransoms. Retrieved March 23, 2010, from the TIME Web site:
<http://www.time.com/time/world/article/0,8599,1892366,00.html>
- World Food Programme. (2009, April 15). *Two New Piracy Incidents Underline Threat to WFP Shipments*. Retrieved March 23, 2010, from the World Food Programme Web site:
<http://www.wfp.org/stories/two-new-piracy-incidents-underline-threat-wfp-shipments>
- World Food Programme. (2010, January 5). *WFP facing growing humanitarian challenge in Somalia*. Retrieved February 7, 2010, from the World Food Programme Web site:
<http://www.wfp.org/stories/wfp-facing-growing-humanitarian-challenge-somalia>

World Food Programme. (n.d.). *Operations and Resourcing Update*. Retrieved March 23, 2010, from the World Food Programme Web site: <http://www.wfp.org/operations/resourcing>

World Food Programme. (n.d.). *Somalia*. Retrieved February 7, 2010, from the World Food Programme Web site: <http://www.wfp.org/countries/Somalia>

List of Appendices

Appendix 1 Chapter 1: Locations of actual and attempted attacks January – December
2003 - 2009

Appendix 2 Chapter 2: Map 1 of Somalia

Appendix 3 Chapter 2: Map 2 of Somalia (Puntland and Somaliland)

Appendix 4 Chapter 2: Interview Mr. Homan (10 December 2009)

Appendix 5 Chapter 4: Complete article 111 Right of hot pursuit

Appendix 6: Pirate Cartoons

Appendix 1

Chapter 1 Locations of actual and attempted attacks
January – December 2003 – 2009

Locations	2003	2004	2005	2006	2007	2008	2009
S E Asia							
Indonesia	121	94	79	50	43	28	15
Malacca Straits	28	38	12	11	7	2	2
Malaysia	5	9	3	10	9	10	16
Myanmar (Burma)		1				1	1
Philippines	12	4		6	6	7	1
Singapore Straits	2	8	7	5	3	6	9
Thailand / Gulf of Thailand	2	4	1	1	2		1
Far East							
China / HK / Macau	1	3	4	1			1
Papua New Guinea					1		
Solomon Islands					1		
South China Sea	2	8	6	1	3		13
Taiwan	1						
Vietnam	15	4	10	3	5	11	9
Indian Sub Continent							
Bangladesh	58	17	21	47	15	12	17
India	27	15	15	5	11	10	12
Sri Lanka	2			1	4	1	
South America							
Argentina				1			
Brazil	7	7	2	7	4	1	5
Caribbean	4						
Colombia	10	5	2	2		1	5
Costa Rica							3
Cuba	4						
Dominican Republic	6	2	1				
Ecuador	2	1		1		2	2
Guyana	6	2	1	1	5		
Haiti	1	6	2		2	2	4
Honduras	1	1					
Jamaica	5	7	8	3	1		
Martinique	1						
Panama	2						
Peru	7	5	6	9	6	5	13
Salvador			1				
Suriname					2		
Trinidad & Tobago	2	1		1			
USA	1	1					

	Venezuela	13	7	2	4	1	3	5
Africa	Angola	3			4	1	2	
	Benin	1						1
	Cameroon	2	4	2	1		2	3
	Congo						1	
	Dem. Congo Republic				3	4	1	2
	Egypt					2		
	Equatorial Guinea						1	
	Eritrea		1			1		
	Ghana	3	5	3	3	1	7	3
	Guinea	4	5	1	4	2		5
	Guinea Bissau							1
	Gulf of Aden*	18	8	10	10	13	92	116
	Ivory Coast	2	4	3	1		3	2
	Kenya	1	1			4	2	1
	Liberia	1	2			1	1	
	Madagascar		1	1		1		
	Mauritania		2	1	1			
	Morocco			1		1	1	
	Mozambique	1				3	2	
	Nigeria	39	28	16	12	42	40	28
	Red Sea**							15
	Senegal	8	5					
	Sierra Leone		3		2	2		
	Somalia	3	2	35	10	31	19	80
	South Africa	1						
	Tanzania	5	2	7	9	11	14	5
	Togo	1			1		1	2
Rest of world	Arabian Sea***		2	2	2	4		1
	Arabian Gulf	1						
	Belgium				1			
	Bulgaria	1						
	Caspian Sea							1
	France						1	
	Gulf of Oman							1
	Indian Ocean****			1				1
	Iran	2		2	2			
	Iraq		1	10	2	2		
	Oman*****					3		4
	Pacific Ocean		1					
	Saudi Arabia				1			
	Seychelles						1	

UAE		2					
United Kingdom					1		
Total at year end	445	329	276	239	263	293	

*Gulf of Aden

**Red Sea

***Arabian Sea

****Indian Ocean

*****Oman

All of the above attacks are attributed to Somali pirates

(ICC International Maritime Bureau, 2009, pp. 5-6) (ICC International Maritime Bureau, 2010, pp. 5-6)

Appendix 2

Chapter 2 Map 1 of Somalia



(Global Security.org, n.d., "Somalia - Maps" section, para. 1)

Appendix 3

Chapter 2 Map 2 of Somalia (Puntland and Somaliland)



(Human Rights House Network, 2010, “CPJ concerned about deteriorating press freedom in Puntland, Somalia” section, para. 1)

Appendix 4

Chapter 2 Interview Mr. Homan (10 December 2009)

Interview Kees Homan**Instituut Clingendael Den Haag, 10-12-2009**

Saskia: Het is vandaag 10 December 2009 en ik ga een interview houden met meneer Homan van het Instituut Clingendael. Het onderwerp van dit interview zal zijn de moderne maritime piraterij in het algemeen en de Somalische piraterij.

Saskia: Ik heb dus zelf een aantal vragen bedacht maar tijdens het gesprek zullen er vast nog meer vragen komen aan de hand van wat u gaat zeggen. Ik zou u willen vragen om eerst kort over uzelf te vertellen, wat u precies hier doet bij Instituut Clingendael.

Homan: Ik heb een militaire achtergrond, ik ben in 1998 met wat men noemt met functioneel leeftijdontslag gegaan. Een soort pensioen eigenlijk. En sindsdien ben ik hier parttime want ik heb bijvoorbeeld gisteren in Noordwijk aan Zee een rollenspel geleid, eergister heb ik bij de Universiteit van Amsterdam een lezing gegeven. De dag daarvoor de Universiteit van Utrecht. Dit is een beetje mijn thuisbasis, parttime. Ik doe ook een aantal andere activiteiten, een beetje in het kader van Vrede en Veiligheid in het algemeen omdat dat altijd al mijn interesse heeft gehad en naast mijn militaire opleiding heb ik doctoraal Nederlands Recht gedaan en doctoraal Politieke Wetenschappen in Leiden. Dus ik heb ook uit die hoek wat kennis mogen opdoen.

Saskia: U bent dus al lange tijd bezig met, of gefocused op Somalische piraterij?

Homan: Ik heb toevallig een paar jaar geleden, en toen speelde Somalië volgens mij nog helemaal niet. Ik heb een hoofdstuk geschreven, maar toen ging het nog voornamelijk over de Straat van Malacca. Dus dat is 4 jaar geleden ongeveer. (Homan pakt het boek). Dit is het. Dit is zo'n afscheidsboek voor een hoogleraar en daarin heb ik over hoofdstuk 7 over Maritime Terrorisme geschreven. Dus dit is in 2005 geweest, dus 4 jaar geleden speelde Somalië nhelemaal nog niet. En de Straat van Malacca was ook een hele andere vorm van piraterij. Daar gaat het echt om het aan boord klimmen en alle kostbaarheden weg kapen, kluisjes leegroven en dergelijken en dan gaan ze van boord af. En dit is een nieuwe tak van sport, het kapen van een schip en dan via onderhandelingen een grote losprijs vragen. Dus het is een hele andere soort piraterij.

Saskia: Ja precies, volgens mij heb ik daar ook nog een vraag over. Dus nu weten we wat u precies doet. Wat u net al zei, 4 jaar geleden speelde Somalië nog eigenlijk helemaal niet. Kunt u nou precies aangeven wat de redenen zijn geweest dat het nu opeens wel zo'n big issue is en dat de piraterij zo'n enorme groei heeft genomen en dat het eigenlijk bijna niet meer te stoppen is, zo lijkt het. Dus wat daar achter zit.

Homan: Piraterij is natuurlijk sinds president Barre verdreven is altijd al een fenomeen geweest. In die omvang van de laatste jaren. Toen is het geescaleerd en er zijn verschillende redenen belangrijk, zoals wordt aangevoerd dat buitenlanders alle vis vingen waardoor die vissers aardig tot beeldstaf raakten en daarnaast is natuurlijk ook heel belangrijk dat Somalie een falende staat is. Want als je geen falende staat hebt dan heb je controle. Er was even een val toen het Islamitische bewind er was en dat de piraterij omlaag ging. Ik heb hier een aantal redenen, in het eerste hoofdstuk van mijn boek. Even kijken. Er zijn in de literatuur een paar redenen of voorwaarden min of meer die piraten kunnen bedrijven. Een hele goede bron is Adelhi Paper van Murphy. Ik weet niet of je dat al bent tegen gekomen?

Saskia: Ik ben het volgens mij nog niet tegen gekomen.

Homan: Dat is echt een goed stuk.

Saskia: Hoe heet het want dan schrijf ik het op.

Homan: Hij heet Murphy de auteur: M-u-r-p-h-y. En hij heeft het uitgewerkt tot een dik boek wat vorig jaar is verschenen. Even kijken hoor. Ja, geografische ligging, er is geen sprake van law enforcement, niets dat het kan tegenhouden en ook als er in de staat zelf wanorde is de orde niet effectief kan worden gehandhaafd. Dit zijn van die condities die het mogelijk maken dat piraterij wordt bedreven. Maar dat kan je ook zien in dat boek van meneer Murphy.

Saskia: Ja want ik kwam er ook achter op internet. Er was bijvoorbeeld iemand die zei dat na 11 september natuurlijk iedereen heel erg gefocused was op binnenlandse security en dat het op zee juist afnam, de veiligheid. En dat de mensen, tenminste de regeringen heel erg gefocused waren op terrorisme in het land.

Homan: Je hebt een aanslag gehad op het franse schip Limburg. En bij de Filipijnen is een veerboot toen tot zinken gebracht. En die werden beschouwd als terroristische daden. Maar verder, ik ben op een conferentie geweest in Afrika en daar zeggen ze ook de impact van een aanslag op zee is niet zo erg. En als je echt impact wilt hebben als terrorist moet je daden op land plegen. En dat gaat veel verder .. effect vanuit. als waar je ergens op zee een schip door terroristen wordt gekaapt.

Saskia: In hoeverre zijn de Somalië piraten terroristen?

Homan: Voor hun is gewoon hun broodwinning. Er is totaal geen bron van inkomsten daar op het Somalische vasteland. Je ziet ook dat het grotendeel van het land afhankelijk is van voedseltransport van het WFP. Dat wordt dan allemaal geëxporteerd. Op dit moment door de Europese Unie en werd het door de NAVO gedaan en dat is wel succesvol maar ... thuishaven naar Mogadishu. Dat is wel heel wat om met 30 miljoen schepen en nu is er een of andere grote Griekse tanker. Gisteren, die 13 lui die

ze gevangen hebben genomen die zaten gisteren nog steeds aan boord want men wist niet precies wat men daar nou mee aan moest. Dat is ook weer een groot probleem. Er is wel een overeenkomst met Kenya dat ze daar vervolgd worden maar de NAVO die daar ook rondvaart heeft niet zo'n overeenkomst. Nu weer de Seychellen. Qua vervolging is het nog wel een versnipperd beeld en te weinig eenheid in optreden. Schepen van India, Japan en China houden zich voornamelijk bezig met het uitsluiten van alleen schepen van eigen nationaliteit escorteren. De EU heeft die lange corridor waar je je moet aanmelden en dan wordt je aardig in de gaten gehouden. De hele coordinatie is lastig om te laten groeien. De Chinezen hebben zich nu zelfs opgeworpen om dat SHADE te doen, ik weet niet of je dat kent, dat is dat mechanismevan de golfstaten komen bijeen om daar toch een beetje elkaar te informeren wat men aan het doen is. Zodat in ieder geval er geen misverstanden gaan ontstaan en de Chinezen hebben zich opgeworpen om daar gedurende enige tijd leiding aan te geven. Dat is een hele doorbraak want tot op heden hielden de Chinezen zich volstrekt afzijdig van wat de NAVO en Europese Unie en Amerikanen deden.

Saskia: Doen ze dat dan alleen maar voor eigen belang, de Chinese tankers beschermen?

Homan: De Chinezen willen een rol spelen. Toen op de conferentie speelde is dat tussen China en India een maritieme rivaliteit is ontstaan. India beschouwde de Indische Oceaan als zijn domein en zijn invloedsfeer de Chinezen die betwisten dat die willen daar ook zeker invloed op uitoefenen. Je ziet dat er rivaliteit ontstaan in het kader van die piraterij tussen India en China die hebben dus de piraterij als een voorwensel gebruikt om zich daar nu ook maritiem te presenteren.

Saskia: Maar in ieder geval is het wel goed dat ze proberen die rol op zich te nemen.

Homan: Jazeker.

Saskia: U heeft het net al gezegd maar wat is dan hetgene wat de Somalische piraterij zo bijzonder maakt of anders dan andere piraterij? De methodes?

Homan: Ja, van die losprijzen. En wat een hele doorbraak is want dat is bij de vorige piraterij nooit het geval geweest, niet echt nodig geweest, is dat de marine schepen ook in territoriale wateren mogen komen. Achtervolgingen en eventueel acties op land. Maar daar zijn ook speciale resoluties van de VN Veiligheidsraad voor gekomen. Een paar jaar geleden was het nog zo dat .. de commandant aan boord van de 7 Provinciën heeft het aan mij laten zien, voer hij daar rond in het kader van TaskForce 150. Die vloot vaart al een aantal jaren. En toen gaf op een gegeven moment een Zuid-Koreaans schip noodsignalen af dat ze aangevallen werden door piraten. Toen is de 7 Provinciën, dat schip is er op af gegaan en schoten voor de boeg gelost. Maar toen gaven de piraten te kennen dat als ze nog meer schoten zouden lossen dan gaan ze de bemanning een kop kleiner maken. Hij heeft ook foto's laten zien die hele bemanning van 25 man zitten naast elkaar en die worden gewoon onder schot gehouden.

Dat schip is gewoon territoriale wateren in gevaren en de thuishaven en de 7 Provincien kon verder niets doen want die mochten niet in de territoriale wateren komen. Dat is dus nu verleden tijd, nu mag dat dus wel.

Saskia: Ja, dat zijn dus die resoluties die aangenomen werden om in ieder geval te proberen om het op te lossen of er iets aan te doen. En wat zijn nou de echt consequenties van piraterij voor zowel de internationale gemeenschap als Somalie zelf. Want Somalie zelf wordt natuurlijk ook daardoor beïnvloed.

Homan: Nouja kijk, een enorm deel van de wereldhandel gaat door de Golf van Aden en door de Indische Oceaan. En die koopvaardij moet op een of andere manier kunnen rondvaren. Het is gewoon ook van economisch belang. We zagen vorig jaar dat zo'n Sadoedi-Arabische supertanker werd gekaapt en toen zag je gelijk, het had enorm veel olie aan boord, de volgende dag gingen de olieprijsen omhoog. Volgens mij heeft die Griekse tanker ook olie aan boord. Dus laten we zeggen dat op volle zee moet je gewoon kunnen rondvaren en niet voortdurend door piraten worden belaagd. Het is gewoon een misdrijf dat wordt gepleegd. En het zeerechtverdrag heeft ook de mogelijkheid om daar tegen op te treden op zee. Een van de grote problemen is dat je de alleen maar de piraten kunt vervolgen in beginsel als je ze dus betrapt op het moment dat ze een daad van piraterij plegen. Al ze onderweg zijn kun je niets doen. Je kan wel zien, dat gebeurt vaak, dat een schip wordt dan aangehouden en al ze wapens aan boord hebben worden ze gewoon weer terug gestuurd naar de kust. Maar je kunt ze niet arresteren want ze zijn op weg, maar er is geen hard bewijs dat ze iets gaan doen.

Saskia: Dus dat maakt het extra moeilijk.

Homan: Ja dan zie je ook elke keer weer zoals ik al zei, zoals de 13 aan boord van de Evertsen en justitie moet uiteindelijk beslissen. Het is een politietaak, het is geen oorlog ofzo en het valt gewoon onder het strafrecht. Het is een politietaak die de marine vervult waarbij justitie dus beslist wat er moet gebeuren.

Saskia: En ik hoorde ook dat de piraterij ook zorgt dat de kosten voor zeevracht en verzekeringen omhoog gaat, daar heeft het allemaal mee te maken.

Homan: Vroeger ook vaak gevallen van piraterij die worden door rederijen niet gemeld omdat dan hun verzekeringspremie omhoog ging. Dus dat wilde ze voorkomen. Maar dat is hier niet het geval. Je ziet trouwens als gevolg van de piraterij, toen ik in Kaapstad was vertelde daar de commandant van de marine, dat toch veel meer schepen rond Kaap de Goede Hoop varen dan vroeger was. Omdat ze anders door dat gevaarlijke gebied moeten. Maarja het kost wel extra dagen en dat kost natuurlijk ook extra geld. Dan wordt er gewoon een soort kosten baten analyse gemaakt en op grond daarvan maken

we een beslissing: we gaan daar door de Golf van Aden die op dit moment wordt beveiligd of langs Kaap de Goede Hoop.

Saskia: Het wordt natuurlijk wel beveiligd maar er worden er alsnog schepen gekaapt.

Homan: Ja, als je ziet hoe groot dat gebied is dat is niet van domme huize. (Homan pakt een powerpoint erbij). Ik kan hem even niet vinden. Maar goed in tijdschriften zie je ook de kaart waar het om gaat.

Saskia: Nog heel even over de consequenties van piraterij. Want voor Somalie zelf is het natuurlijk niet positief, maar Somalie zelf wordt wel weer op de politieke agenda gezet.

Homan: Maar de situatie wordt alleen maar slechter als je ziet dat de oppositie steeds meer controle krijgt en de regering die heeft alleen maar controle over bepaalde delen van Mogadishu. Er zijn volgens mij vorige week nog 3 ministers vermoord. Hij staat op 1 op de lijst van falende staten. En dan zie je dus dat Puntland en Somaliland tot op zekere hoogte autonoom zijn maar dat is toch hoe je het wendt of keert het grote probleem van die falende staat. En niemand wil daar zijn handen aan branden. Nu met die Afrikaanse vredesmacht die kan ook weinig uirichten en het Westen willen zich er ook niet tegenaan gooien in de zin van acties met militairen op de grond. Met alle onvoorzienbare gevolgen die het kan hebben. Er is nu wel al een ideeetje om kustwachten op de richten. De EU heeft verschillende plannen. Maar gezien de grote mate van onveiligheid in Somalië. Nederland is ook verzocht om bij te dragen, en dat moeten we nog zien.

Saskia: Denkt u dat de kans groot is dat Nederland een bijdrage gaat leveren?

Homan: Ik denk dat het parlement dan toch wel terughoudend zal zijn. Want het is echt een grote anarchie daar op de grond. De EU en de NAVO zijn wel bezig. Ik hoorde van de NAVO commandant die had gesproken met de regering van Puntland, die dan informatie doorgeven aan piraten op het land vertrekken. Maar het is niet in staat om effectief op te treden.

Saskia: We hadden het er net al over dat er verschillende dingen ondernomen worden om iets tegen de piraterij te doen daar, en het probleem. Kunt u mij misschien vertellen wat de nieuwste ontwikkelingen of initiatieven zijn op het gebied van die piraterij bestrijding? Je hebt natuurlijk dat fregat wat onder leiding van Nederland staat die patrouilleerd.

Homan: Ja, dat is van de Europese Unie. Die is vooral gericht op die corridor die in de Golf van Aden is. Je hebt zo'n maritiem centrum in Northwood en koopvaardij schepen kunnen zich dan aanmelden en dan kunnen ze door die corridor waar dan om de 30 mijl een schip is van de Europese Unie. De hele corridor is in blokken verdeeld en elk blok is voor de verantwoordelijkheid van elk van die schepen van de EU Taskforce heet het dan. Dat schijnt langzamerhand wel aardig te werken maar je ziet: die

piraten zien dat ook en gaan hun acties verleggen en er zijn bijvoorbeeld op de Seychellen al schepen gekaapt en het is onmogelijk om met 30 schepen dat gebied te bestrijken. En de piraten die leren natuurlijk ook en die zien de activiteiten zodanig dat ze naar een ander gebied verplaatsen waar geen marine schepen op dat moment rondvaren. Maar goed hier met de conferentie zei ook vice admiraal Vedette, net als een van de commandanten die zei: het is gewoon symptoom-bestrijding van de marine schepen. Want de roots van het probleem liggen op land en daarvoor moet een oplossing komen. Maar dat roept iedereen. Iedereen beaamt dat maar niemand die is echt bereidt om daar een hand voor in het vuur te steken. Maar natuurlijk ligt uiteindelijk daar de oplossing.

Saskia: En u had het net al over die nationale kustwacht waar men over spreekt.

Homan: Er zijn ideeën om daar een regionale kustwacht op te richten. Er worden nu wat mensen in Puntland opgericht. Verhage heeft ook een pleidooi gehouden voor een regionale kustwacht maar er gebeurt bijzonder weinig moet ik zeggen.

Saskia: Er zijn wel ideeën.

Homan: Maar tot uitvoering is het nog niet echt komen. De Amerikanen leveren ook wel wat hulp aan land. Maar het is ook erg versnipperd. De Europese Unie is bezig, de NAVO is bezig, de Amerikanen zijn bezig. Het is zelfs zo dat het hoofdkwartier van de EU zit in Northwood, en op dezelfde locatie zit ook het hoofdkwartier van de NAVO voor deze operatie. En vervolgens mogen ze niet met elkaar praten, en dat is van de zotte want 21 lidstaten van de Europese Unie zijn ook lid van de NAVO. De samenwerking tussen de NAVO en de EU loopt erg moeizaam vanwege Turkije in de NAVO en Cyprus in de Europese Unie die dat blokkeert. Daar ligt dus ook een belangrijk obstakel wat betreft meer intensieve samenwerking.

Saskia: Ja, en dat wordt dan op die manier tegen gewerkt. En ik weet niet of dat überhaupt mogelijk is, maar er zijn geen plannen om een overkoepelde iets te maken om die samenwerking te verbeteren?

Homan: Dat is dat SHADE. (Homan pakt het eerste hoofdstuk van zijn nieuwe boek erbij). SHADE dat gaat over de coordinatie. Je hebt natuurlijk die contactgroep on Piracy on . dat is een mechanisme om toch te proberen de activiteiten op elkaar af te stemmen. Die Djiboeti Code of Conduct heb je ook nog. Er zijn ook... waar de operatie wordt..... De Shared Awareness and Deconfliction in Bahrein. Het is een groep van staffofficieren die elkaar regelmatig ontmoet om te kijken hoe alle activiteiten toch zo veel mogelijk op elkaar worden afgestemd. Er zitten daar aan tafel dan vrij frequente... , vertegenwoordigers van de Europese Unie, de EK?.. , de NAVO. En dan los de landen die met nationale titel daar rondvaren. Dat coordinatie mechanisme zou ik als ik jou was wel meenemen in je scriptie. En dan via google kan je wel aan informatie komen. Maar het zijn eigenlijk de belangrijkste

middelen om te proberen de activiteiten wat op elkaar af te stemmen. Dus de Djiboeti Code of Conduct, dat is die contactgroep en SHADE-mechanisme. S-H-A-D-E.

Saskia: En zou je nou kunnen zeggen dat al die maatregelen, er zijn allemaal maatregelen gelanceerd, of die echt succesvol zijn?

Homan: Nouja je ziet wel dat het aantal, althans geslaagde, aanvallen neemt af. Maarja soms is het ook te laat want er is een vuistregel dat wanneer een schip belaagd wordt door piraten dan moeten ze 20 minuten in staat zijn om dat te weerstaan en na die 20 minuten is de bedoeling dat er een marineschip ter plekke is om te assisteren maarja in de praktijk, gezien dat enorm grote gebied, lukt dat niet altijd. Dan duurt het toch langer dan 20 minuten want die schepen moeten ook 28 mijl varen en als het heel ver weg is is een marineschip toch te laat om daadwerkelijk te assisteren.

Saskia: En als je het nou echt hebt over het oplossen van het probleem. U zij net dat men bezig is om de symptomen te bestrijden. Maar verder wordt er niets gedaan?

Homan: Nee, men is wel bezig. De EU ontplooit initiatieven, de NAVO doet het door hulp te verlenen op land maar dan ook vaak door omringende landen. Ideeën van de kustwacht. Maar dat is allemaal nog erg marginaal moet ik zeggen. En voor zover we dat dan doen wordt het ook niet echt gecoördineerd. De EU is op zijn houtje bezig, de NAVO, de Amerikanen. Dat wordt niet goed gecoördineerd. Op zee zie je dus wel dat door deze 3 mechanismen dat er wat meer gecoördineerd gaat worden maar voor activiteiten op land is dat eigenlijk minimaal.

Saskia: En over de losgelden, omdat dat natuurlijk specifiek voor de Somalische piraterij is. Wat is uw mening daarover? Je moet natuurlijk wel.. Want als men het betaald dan zul je zien dat er nooit een einde komt aan piraterij.

Homan: Ja dat is natuurlijk het grote dilemma, want als je het niet doet dan worden heren en dames die gekaapt zijn een kopje kleiner gemaakt. Dezelfde discussie heb je bij ontvoeringen. Moet je wel of geen losgeld betalen. Dat had je ook met die Artsen zonder Grenzen arts in de Kaukassus en daar is via de Nederlandse ambassade in Moskou ook losgeld betaald. Maar dat lokt ook weer nieuwe ontvoeringen uit. Maar als iemand anders om zeep wordt geholpen dan is het moeilijk om te zeggen: ik betaal niet.

Saskia: Dan hebben landen ook geen andere mogelijkheid.

Homan: Nee. Maar landen ontkennen het meestal wel hoor als ze hebben betaald. Tot een paar jaar geleden in Colombia met die ontvoeringen door de Farq. Maar als die iemand gevangen namen konden ze op een laptop zien bij Loyd, die verzekeringmaatschappij, voor hoeveel geld degene die ontvoerd was was verzekerd.

Saskia: En wat is dan de reden dat landen dat niet openbaar maken?

Homan: Dat stimuleert de anderen. Het is een soort katalysator als men het betaald. Men probeert het zo geheim te houden want het lokt alleen maar nieuwe activiteiten uit op het gebied van ontvoering.

Saskia: Maar in principe als zo'n boot dan weer gaat varen weet je automatisch natuurlijk dat het losgeld is betaald.

Homan: Ik heb het er laatst nog over gehad, dat een paar jaar geleden een schip die dus de territoriale wateren in gingen, dat was volgens mij in April en toen was ik in September, dat was Diedong (?) volgens mij, dat op de website van de BBC, dat hij voor 10.000 dollar was vrijgelaten de bemanning. Het zijn maandenlange processen die onderhandelingen. Dat kan heel lang duren. Maar het een paar miljoen wordt tegenwoordig ook al betaald.

Saskia: En denkt u dan dat de Somalische piraterij ervoor zorgt dat in andere landen waar nu misschien wel al piraterij is dat zij ook dit soort methodes gaan toepassen en dat het eigenlijk nog een groter probleem wordt? Het laat natuurlijk wel zien dat het een ontzettend lucratieve business is.

Homan: Ja, wat ik eerder zei bij de Straat van Malacca daar was vroeger de meeste piraterij. Maar dat is opgelost omdat omringende kuststaten daar nu rondvaren en met gezamenlijke marine patrouilles. EN dat schijnt toch wel af te schrikken want daar zie je dus heel duidelijk dat sinds de corrorderende patrouilles het aantal piraterij in de Straat van Malacca aanzienlijk is gedaald. Maarja dat is ook een veel kleiner gebied. Dat is veel beter te controleren, de Straat van Malacc, dan het geval is in de Indische Oceaan.

Saskia: En dan over het juridische aspect van de hele piraterij. Want er zijn heel veel discussies over wat er veranderd zou moeten worden in het internationaal recht en zelfs over de definitie van piraterij wat daar veranderd zou moeten worden, en al die andere dingen.

Homan: De meeste gevallen van piraterij mag ook niet zo genoemd worden in het internationaal zee recht want dat die vinden plaats in de kustwateren en in territoriale wateren en in havens. Het overgrote deel vindt daar plaats. Maar het wordt gewoon beschouwd als diefstal. Of het uitoefenen van geweld als dat van pas komt. En het valt onder het nationale strafrecht van de kuststaat als het in de territoriale wateren of in de haven geschiedt. Vandaar ook, dan zal je ook wel gezien hebben, dat het IMO de definitie van piraterij heeft uitgebreid. Maar belangrijk is dat het niet valt onder het VN Zeeverdrag, voor activiteiten op zee.

Saskia: Maar die resoluties hebben ervoor gezorgd dat nu wel schepen binnen territoriale wateren mogen komen.

Homan: Jawel, maar toch op volle zee, als iemand aangehouden wordt richting Somalië, dan kan hij achtervolgd worden in de territoriale wateren.

Saskia: En dat geldt dan alleen voor Somalië zelf? Het is een uitzondering toch?

Homan: Ja, de territoriale wateren van Somalië. In totaal zijn er volgens mij 4 resoluties aangenomen die dat allemaal in samenhang met elkaar mogelijk maken.

Saskia: Maar voor de rest, qua internationaal recht moeten er voor de rest nog dingen veranderd worden? Want ik heb gelezen dat er zoveel discussies zijn of dat dat veranderd moet worden en ook over de vervolging van piraten, hoe dat dan moet want dat ik volgens mij ook een beetje een zootje?

Homan: Ja als je dus een land zou dwingen om te vervolgen dan zijn er veel landen die zeggen: daar waag ik mij niet aan want zo kwam ik tegen dat de Somalische piraten die hier in Nederland worden vervolgd worden, dat een Somalische piraat tegen zijn advocaat zei: ik zit hier heerlijk, griefelijk met tv en alles enzo en straks als ik vrij kom dan vraag ik asiel en ga ik medicijnen studeren. Dus een heleboel vinden het prachtig om hier te zitten. Nou dat wil Verhage voorkomen dus daarom ook eigenlijk dat voorstel om te komen tot een regionaal gerechtshof tegen piraterij en als dat komt zal dat ongetwijfeld in Kenia zijn waar ze zo'n tijdelijke rechtbank hebben.

Saskia: En de kans is groot dat er zo'n internationaal tribunaal komt?

Homan: Ik sluit het niet uit. Wij betalen ook Kenia. Ik denk wel, wij het Westen het moeten gaan betalen. Het is niet alleen Verhage maar ook de Duitse minister van Buitenlandse Zaken heeft het voorgesteld. Dan kan je de zwarte piet mooi aan Kenia geven wat betreft de vervolging want geen ander land wilt de vervolging op eigen grondgebied hebben met alle gevolgen van dien.

Saskia: Wat dus iedereen al zegt er is geen oplossing voor dit probleem, alleen symptomen bestrijden. Maar het probleem ligt op land. Zijn er voor de rest nog andere manieren om het te bestrijden? Als het niet zit in Somalië dan maakt het niet uit hoe hard het probeerd om de piraten aan te pakken overal. Dan zal het altijd ergens wel weer opduiken?

Homan: Nou kijk, de gewone piraterij gaat overal gewoon door. Maar dat is een tipje van de ijsberg want een heel groot deel, wordt dus nieteens aangemeld bij het IMO. Omdat wat ik al zei dat dan de verzekeringpremies omhoog gaan van de reden. Die gaat dan dus een afweging nemen van als ik het aangeef moet ik meer gaan betalen. (Homan pakt een boek erbij). Er zijn diverse redenen voor het niet rapporteren van zeeroverij: zeescheeps zijn terughoudend om zeeroverij te rapporteren. Maar dat gaat dan niet over de piraterij wat losgeld betreft. De kapitein probeert alles zoveel mogelijk binnen kamers te houden. Roofovervallen op zee kunnen immers van invloed zijn op verzekeringspremie of verzorgt de berichtgeving voor onrust in de media. Bovendien bestaat bij de rederij de angst dat de

aangifteprocedure bij de autoriteiten die tot vertraging leidt. Invoerrechten, dat geldt vooral voor Azië, met de georganiseerde misdaad enzo die dan corrupt zijn. Dus dat zijn een aantal redenen dat wat de IMO rapporteert slechts hetgene is wat er gerapporteerd is. Hier is een schatting dat zo'n 40 tot 60% van alle gevallen van zeeroverij niet gemeld wordt. Maar nogmaals dat is de Straat van Malacca die de geldkluis leegmaken.

Saskia: Maar is dat ook bij de Somalische piraterij dat er heel veel niet wordt gemeld of kan dat niet meer?

Homan: Nee dat kan niet meer, dat speelt zich allemaal af in de open baan, zeker nu de marine schepen er rond varen. Nee dat kan je niet geheim houden en je ziet ook dat die reders onmiddellijk contact zoeken met de piraten en via onderhandelingen tot een schikking te komen.

Saskia: En als u nou zou moeten zeggen van dit moet gedaan worden om het te verhelpen het probleem, gewoon heel algemeen? Gewoon doorgaan met de deze maritime dingen?

Homan: Op een gegeven moment zie je dat de wil van landen om dan toch door te gaan op een gegeven moment toch minder gaat worden, want het is toch kostbaar rondvaren met de marineschepen. Net als in Iraq, dat naarmate mensen er langer zitten dat ze zeggen het is welletjes geweest. Ik zie niet in hoe je daar op land echt een effectieve regering kunt krijgen.

Saskia: Dus in principe is het dus een probleem met symptomen dat eigenlijk nooit echt opgelost kan worden zolang er geen stabiliteit in het land zelf is.

Homan: Ja.

Saskia: Dus eigenlijk is het gewoon heel troosteloos.

Homan: Ik heb ook in dat hoofdstuk aangegeven hoe je dan een militaire operatie zou moeten uitvoeren. Ik denk a) dat de Veiligheidsraad, de permanente leden daar nooit het groenlicht voor geven. En dat ook teveel landen het een te hachelijke zaak vinden om daar mensen naartoe te sturen met de nodige slachtoffers die dat dan tot gevolg heeft.

Saskia: Dus in principe is er geen oplossing.

Homan: Wat ik al zei, ze zijn nu mondjes maat bezig met actieve steun op land, de NAVO doet het, Amerika doet het, maar het is niet gecoördineerd en tot heden je ziet alleen maar de laatste tijd in de berichtgeving over Somalië, het radicaliseerd alleen maar en de regering is ook totaal niet in staat om te regeren. De hoofdstad hebben ze nieteens onder controle.

Saskia: En stel, die islamitische groep, welke was het ook alweer?

Homan: Al-shabaab volgens mij.

Saskia: Maar stel dat die de macht over heel het land zouden kunnen krijgen, zou dat niet betekenen dat er meer stabiliteit is en daardoor minder piraterij?

Homan: Dan krijg je dus de situatie die al eerder was, toen het Islamitische bewind er was en hun religie verzet zich tegen dit soort activiteiten. Maar aan de andere kant zijn we ook niet gelukkig met zo'n heel radicaal regime wat waarschijnlijk ook een soort vrijhaven zal worden voor terroristische activiteiten. Want de Amerikanen hebben al een aantal keer met launches wat leiders een kopje kleiner gemaakt, dus met zo'n heel radicaal regime zijn we ook niet heel gelukkig. Wat op de piraterij kan het wel zo zijn effecten hebben.

En als u bijvoorbeeld kijkt in de toekomst, over 5 tot 10 jaar, hoe denkt u dan dat het ervoor staat?

Homan: Ik vind dat erg moeilijk om te zeggen. Het is natuurlijk een Afrikaans probleem, de Afrikaanse Unie zou meer moeten gaan optreden maar dat is ook een organisatie die nog niet echt volwassen is op militair gebied en heel weinig voorstelt. Ze leiden nu die UNISOM en die slaan ook geen deuk in een pakje boter.

Saskia: Dus eigenlijk is het gewoon heel troosteloos.

Homan: Ik ben erg pessimistisch hoor ten aanzien van dit probleem. Maar dat is ook een beetje het teneur van de conferenties die we hier hebben gehad. Jij hebt ook behalve de policy paper ook de inleiding gezien?

Saskia: Volgens mij dat niet.

Homan: Want volgens mij staat het op de website, althans een aantal. (Homan kijkt op de computer). Maar aan de andere kant er zijn al zoveel bladen over geschreven. De discussie paper die heb je dus al begrip ik, maar hier staan ook nog andere dingen. Het zijn samenvattingen min of meer. Een speech van Verhage. En er is ook nog een samenvatting gemaakt van 7 bladzijden van het congres.

Saskia: Oke dat is goed die heb ik inderdaad gemist denk ik. Ik heb zelf eigenlijk helemaal geen vragen meer maar is er nog iets waarvan u denkt: dit hebben we helemaal gemist in het interview qua informatie of dat u denkt: dit is wel interessant om te gebruiken. U heeft al een aantal dingen aangekaart die ik kan gebruiken.

Homan: Hier heb ik: Somalia, what went wrong, een tijdschrift. Over Somalië is dit een hele goede. Ik al ze wel even voor je uitprinten, dat gaat wat makkelijker.

Saskia: Als u dat zou kunnen doen, dat zou heel fijn zijn. Meneer Homan, bedankt dat u de tijd en moeite heeft genomen voor dit interview.

Appendix 5

Chapter 4 Complete article 111 Right of hot pursuit

*Article 111**Right of hot pursuit*

1. The hot pursuit of a foreign ship may be undertaken when the competent authorities of the coastal State have good reason to believe that the ship has violated the laws and regulations of that State. Such pursuit must be commenced when the foreign ship or one of its boats is within the internal waters, the archipelagic waters, the territorial sea or the contiguous zone of the pursuing State, and may only be continued outside the territorial sea or the contiguous zone if the pursuit has not been interrupted. It is not necessary that, at the time when the foreign ship within the territorial sea or the contiguous zone receives the order to stop, the ship giving the order should likewise be within the territorial sea or the contiguous zone. If the foreign ship is within a contiguous zone, as defined in article 33, the pursuit may only be undertaken if there has been a violation of the rights for the protection of which the zone was established.

2. The right of hot pursuit shall apply *mutatis mutandis* to violations in the exclusive economic zone or on the continental shelf, including safety zones around continental shelf installations, of the laws and regulations of the coastal State applicable in accordance with this Convention to the exclusive economic zone or the continental shelf, including such safety zones.

3. The right of hot pursuit ceases as soon as the ship pursued enters the territorial sea of its own State or of a third State.

4. Hot pursuit is not deemed to have begun unless the pursuing ship has satisfied itself by such practicable means as may be available that the ship pursued or one of its boats or other craft working as a team and using the ship pursued as a mother ship is within the limits of the territorial sea, or, as the case may be, within the contiguous zone or the exclusive economic zone or above the continental shelf. The pursuit may only be commenced after a visual or auditory signal to stop has been given at a distance which enables it to be seen or heard by the foreign ship.

5. The right of hot pursuit may be exercised only by warships or military aircraft, or other ships or aircraft clearly marked and identifiable as being on government service and authorized to that effect.

6. Where hot pursuit is effected by an aircraft:

(a) the provisions of paragraphs 1 to 4 shall apply *mutatis mutandis*;

(b) the aircraft giving the order to stop must itself actively pursue the ship until a ship or another aircraft of the coastal State, summoned by the aircraft, arrives to take over the pursuit, unless the aircraft is itself able to arrest the ship. It does not suffice to justify an arrest outside the territorial sea that the ship was merely sighted by the aircraft as an

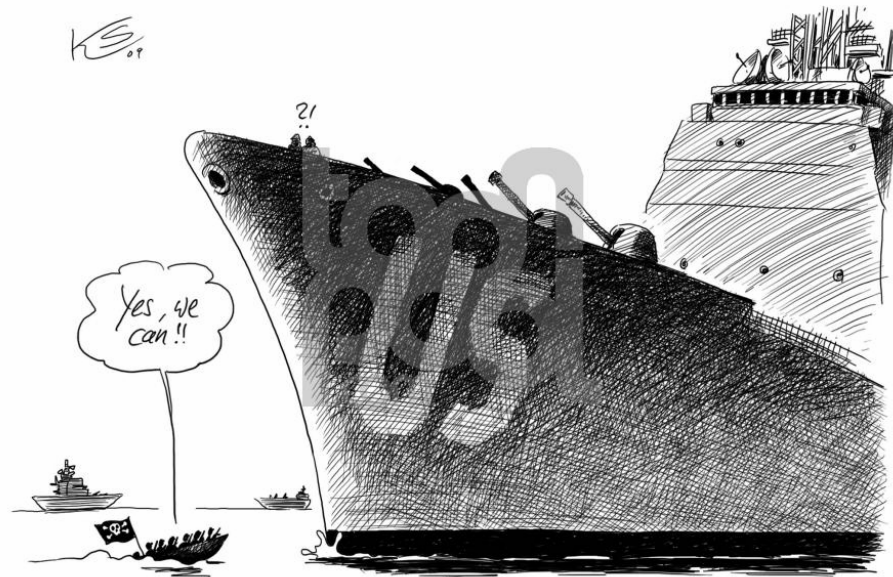
offender or suspected offender, if it was not both ordered to stop and pursued by the aircraft itself or other aircraft or ships which continue the pursuit without interruption.

7. The release of a ship arrested within the jurisdiction of a State and escorted to a port of that State for the purposes of an inquiry before the competent authorities may not be claimed solely on the ground that the ship, in the course of its voyage, was escorted across a portion of the exclusive economic zone or the high seas, if the circumstances rendered this necessary.

8. Where a ship has been stopped or arrested outside the territorial sea in circumstances which do not justify the exercise of the right of hot pursuit, it shall be compensated for any loss or damage that may have been thereby sustained.

(United Nations, 1982, p. 57)

Appendix 6: Pirate cartoons



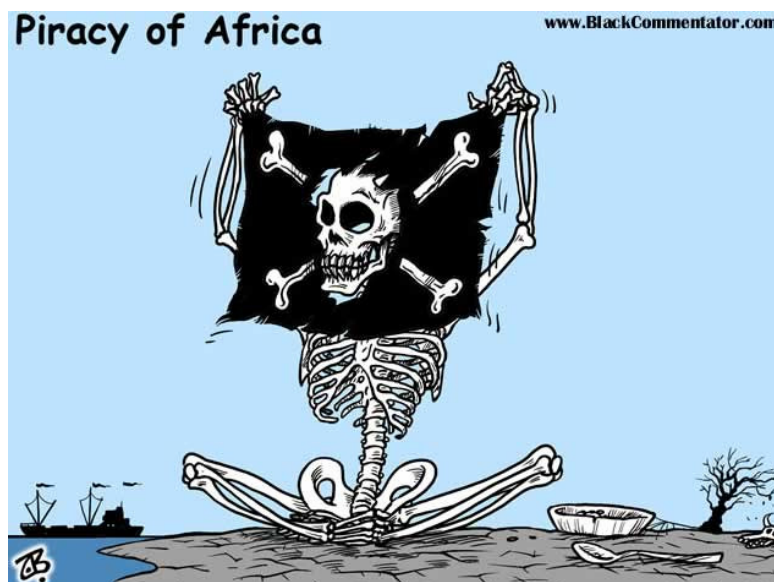
-Opportunists-



-Ransom money-



-Corruption-



-Humanitarian situation in Somalia-



-Somali piracy in popular culture: South Park (season 13, episode 7)-



-Somali piracy; an organized crime-