

SIDMUN XVII

Disarmament and International Security Committee

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Lee Marcus Invitational



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Position Paper Guidelines

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The Question of Maritime Piracy

Introduction

Piracy has been present in Somalia since the early 1900's. What started out as foreigners fishing in the Somali waters without permits has now turned into dangerous warfare on the high seas. Although the problem began with the Somalia Civil War, it wasn't until 2005 that international organizations intervened. Then, in August 2008, the Combined Task Force 150 was created to patrol the area in the Gulf of Aden. Other nations, such as India and Russia, have since sent out warships to protect their own trading vessels as they pass through surrounding areas. These vessels are fully equipped for combat. Germany did not offer ships, but did instead send 1,400 troops to help the cause. The United Nations created Resolution 1838 on October 7, 2008 to support necessary air and naval force on piracy in the region. Recent estimates state that at all times, Somali pirates are holding at least a dozen ships for ransom. Somalia has an unstable government, enabling rampant piracy in the area.

From the advent of maritime trade, the question of piracy has long plagued the seven seas. Recently, it has become a modern-day threat faced by numerous crewmen on a daily basis. Today's pirates have evolved from fabled one-eyed bandits to dangerous terrorists, determined to wreak havoc on crewmembers and exploit innocent lives in exchange for a ransom.

Case Studies

One case in point, covered a great deal by most media outlets, was the takeover of a shipping vessel off the Gulf of Aden. The Maersk Alabama was hijacked on April 8th, 2009. The



four pirates quickly boarded the 780 foot vessel, containing 17,000 tons of cargo, and held the crew hostage. After a series of captures and recaptures of the vessel, the pirates took the captain and boarded the Maersk Alabama's life boat. At this point, the USS Bainbridge was en route to the coast of Somalia. As it approached, the US Navy cautiously escorted the boat closer and closer to the coastline. Eventually, a group of Navy SEAL snipers dealt with the pirates simultaneously, thus ending the nightmare at sea.

A second example of oversea piracy was the hijacking of the MV Faina. The MV Faina was sailing to Mombasa, Kenya with a cargo of over thirty million dollars worth of weapons, artillery, ammunition and tanks. Over 50 pirates boarded the Faina and held its crew and cargo captive for a ransom. Numerous warships from the US, UK, Russia and Ukraine attempted to blockade and recapture the ship. The entire ordeal sparked international outcry for a solution to this piracy issue. The Security Council then passed resolution 1838, which urged "all states interested in the security of maritime activities" to "use the necessary means, in conformity with international law ... for the repression of acts of piracy." After five months of captivity, the pirates surrendered the remaining hostages for a sum of approximately 3.2 million USD, paid by the undisclosed owners.¹

Oversea piracy has become a lucrative business in the unguarded stretches of sea off the coast of Africa and abroad. In addition to the tens of millions of dollars paid in ransom money each year, it has also become a political impediment. Because most attacks occur in international water, the question arises as to who should protect the ships as they sail to their destinations.



Somalia

In the past year, Somalia has seen the greatest increase in pirate attacks in its waters. Last year alone, 42 ships were hijacked and 815 individuals were taken hostage off the coast of Somalia. In November of 2008, the Sirius Star, a Saudi-owned oil tanker carrying \$100 million worth of crude oil was hijacked by pirates. It was the largest ship ever captured by pirates, and was enough to earn them a \$3.5 million ransom. This hijacking was particularly shocking, as it occurred hundreds of miles out at sea and took place on a large ship, indicating that the Somali pirates were becoming bolder and more advanced in their tactics. Shortly after the attack on the Sirius Star, the Somali government announced approval of Indian forces to enter its territorial waters in order to combat piracy. With this, India joins the United States and France in having official Somali approval to fight Somali pirates. The strengthening government of Somalia has also expressed a strong desire to combat piracy, with the newly elected president vowing to gain international support in bolstering Somalia's army in order to fight the pirates on land.

Malacca Strait

Though piracy in the waters around Somalia worsened this past year, the Malacca Strait saw a sharp decrease in pirate activity. The combined forces of Indonesia, Malaysia, India, and Singapore have proven highly effective in combating piracy in the region. Though the Malacca Strait has been relatively safe in the past year, experts warn that only the continued vigilance and aggressive patrols of the coalition navies will prevent an escalation of pirate activity. The United States has also taken an active role in combating piracy in the Strait of Malacca through its provision to Indonesia of 15 high-speed boats.



Russia

In September of 2008, Russia pledged to join the fight against Somali pirates. Though Russia is not one of the nations approved by Somalia to fight piracy in its territorial waters, Russia can still conduct operations in the international waters in which many pirate attacks take place, like that on the Sirius Star. Though Russia has similar goals as the other nations fighting Somali pirates, it has decided to conduct its operations independently and not collaborate with other forces in the area.

Past Resolutions

Many recent actions involved specific intervention in the Somalia region. Under the 2006 Islamic Courts Union, Somali piracy was halted. However, sovereignty has restricted other nations from attacking inland pirate infrastructure. Past resolutions “encouraged UN member States with naval vessels and military aircraft operating in international water and airspace adjacent to the coast of Somalia to be vigilant against pirate attacks and to take action to protect merchant shipping, especially vessels transporting humanitarian aid.” In 2007, the International Maritime Organization strengthened its ties with the WFP (World Food Programme) and the West Indian Navies in order to aid merchant ships. The Security Council released resolutions which “promoted enhanced counter-piracy collaboration among nations, strengthening operational capabilities, removal of piracy sanctuaries in Somalia and support for increased criminal prosecution.”

In 2008, the UN released resolutions 1816, 1838, 1846, and 1851 allowing “Member



States to intervene in the territorial waters of Somalia in order to combat piracy as they would have done in the high seas [or land], thanks to patrols in dangerous areas or, if need be, by intervening directly against pirates” whilst cooperating under Somalia’s Transitional Federal Government. It also called upon states to determine jurisdiction in the investigation and prosecution of pirates and cooperate with the Transitional Federal Government of Somalia in deterring piracy. Resolution 1838 “called upon states to take part in actively fighting piracy by deploying naval vessels and aircrafts to the Gulf of Aden and surrounding water.”

None of the resolutions passed in 2008 “force a state to accept suspected pirates,” but a framework for prosecution was briefly discussed. According to reports, “this clause, based on the 1988 UN Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, obliges coastal states who signed the convention to accept pirates for prosecution unless they can explain why the convention does not apply.”

Some ships have gone great lengths to ward off pirates by installing fire hoses, deck patrols, convoy protection, carpet tacks and a nonlethal electric screens called Long-Range Acoustic Devices (LRAD) (loudspeaker systems that produce so painful a sound, they can easily prevent pirates from coming within close proximity of ships). Other tools used by ships include the Active Denial System (ADS), capable of emitting an unbearable sensation on the skin, as well as navigable methods like evasive rudder steering. Some ships have employed private security guards, yet their credibility is questionable. Despite some private security contractors, such as *Blackwater*, which provides ships for external ships through the Gulf of Aden, few shipping companies have used them.



In January 2009, countries including Russia, France, the United Kingdom, India, China and the United States sent warships to areas like the Gulf of Aden to eradicate piracy. France, as well as multiple other members of the 2009 international contact group, sought to improve management between the States and organizations struggling to defeat piracy, including the EU, USA, NATO, China, India, Russia and South Korea. The French Foreign Ministry proposed a Defense Ministry for the implementation of a high-seas fleet of humanitarian aid for Somalia. The European Union sent naval forces to the Gulf of Aden in order to conduct patrols. China sent two attack ships and Japan sent a patrol force under the Japanese Maritime Self-Defense Force (JMSDF). Three multinational anti-piracy patrol organizations created were the European Union's military operation (EU NAVFOR), the Combined Task Force 150 and the United States' newest task force, CTF-151, which "allows the US to seek a non-Western approach to counter-piracy by partnering with Eastern navies" to conduct functions in the Gulf of Aden, Arabian Sea, Indian Ocean and Red Sea. The Contact Group on Piracy off the Coast of Somalia was formed to "authorize nations and regional security organization to take 'all necessary measure appropriate' in Somali territory to interdict those planning and conducting piracy on the high seas." The Combined Maritime Forces (CMF) also sent out a multinational counter-piracy naval force. Over 16 nations have deployed naval vessels and military aircrafts off the coast of Somalia to suppress pirate attacks. Nevertheless, a strong international coalition is needed, to help suppress the ongoing problem.

Proposed Solutions

You must come up with a solution which brings the international community together in order to restore rule of law in Somalia and other regions infiltrated by piracy; this will enable



successful political dialogue and reinforce their ability to implement effective legislation for protection of ships. According to World Policy journalists James Kraska and Brian Wilson, “major shipping nations and regional states [should] develop agreements ‘to enable real-time coordination for dealing with detainees, sorting out where they will be temporarily detained and the venue for prosecution.’” Such agreements have already been established such as the United States’ maritime operational threat response plan and maritime narco-trafficking agreements of the Caribbean. An international maritime operational threat response (MOTR) should be established that ensures 24-hour communications among the states offshore as well as a better maritime security capacity-building for the Horn of Africa.

Decide on whether military intervention is necessary for the protection of seafarers, passengers, ships and cargo. Pirates can often return to their domestic territorial waters after being pursued by foreign nations. Some combat mechanisms being used by ships include onboard defense systems, naval deployments and preemptive strike. Nevertheless, analysts agree “the complexities of international maritime law make it difficult to prosecute pirates once they are caught.” Stricter policies are a “legal cap on ransom money that can be paid” that of which might possibly discourage pirates. A reduction in legally permitted ransom payments could leave pirates desperate for financial support and remove their technological advantage. Creating enormous risks for pirates can cause pirates to simply give up, ultimately reducing the level of piracy.

Additionally, your resolutions should include a new definition of piracy in accordance with the piracy-terrorism link as well as recognizing unstable regions like Puntland and Somaliland. One analyst states “recognizing those areas will strengthen them, bring law and



order to those areas, and drive the pirates further south...thereby making it easier for coalition forces to focus on them” through the UN. One might want to come up with a resolution in which East African and Middle Eastern nations can work in tangent to patrol the coast of Somalia and Gulf of Aden as well as a bilateral agreement between nations over the prosecution of pirates. Western nations can also contribute by providing technical support to secondhand ships within the regions. You may also use the organization CPCC to help create comprehensive “command, control and communications” of all nations/organizations in the regions. Nevertheless, understand that some Western powers often don’t wish to instill military engagement in areas which don’t directly strike their interests; give these nations incentives for being involved. Alternative routes are a possibility, but understand that it would cost an additional \$1 million per transit for nations and companies unwilling to pay the extra fee.

In January 2009, the UN suggested the establishment for a regional counter-piracy coordination center. Some analysts support the establishment of an international coast guard for Somalia managed by the African Union or the United Nations. However, keep in mind it’s quite difficult finding qualified coast guards and financial support to fund this navy and how and when to give the constituent over to the unstable Somali government. Some analysts believe it should “be funded by the shipping industry ‘under UN mandate as a more honorable cost of doing business than ransom.’” Keep in mind that actions have already been performed violating national sovereignty and the Law of the Sea Convention. Long-term agreements and an anti-piracy task force should be strongly considered. Encouraging States to cooperate with organizations, like the IMO, can definitely create more immediate actions. You may also want to use the UN Convention against Transnational Organized Crime and the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation which aims to



“enhance the legal regime for effective arrests at sea through the elaboration of ship rider agreements with willing countries in the region.” Be aware that action must include the creation of updated ship security plans and regional counter-piracy coordination centers.

A multilateral approach is needed; domestic laws for afflicted nations must be enhanced, international cooperation is needed, and prosecutorial and judicial capacity must be developed. States should develop stand laws of arrest, detention and criminal prosecution of pirates. Some of your main goals include but are not limited to “deterrence of piracy through maritime force presence, merchant ship vulnerability assessments, holding pirates accountable through criminal prosecution, preservation of freedom of the seas and a renewed commitment to work with other nations.”

Questions for the Position Paper:

1. Should it be the responsibility of the international community or the territorial government to ensure maritime safety?
2. Who should respond to an emergency attack of a ship in international seas?
3. Should we hold nations responsible for harboring international pirates?
4. What technologies can be implanted to prevent piracy?
5. How should we address the problems of armed weaponry in the hands of pirates?
6. What is your country’s position/policy and what are past actions have the taken?

Questions a Resolution must answer:



1. Is military intervention necessary for the protection of civilians?
2. What is your nation's definition of piracy?
3. What mechanisms does your nation believe are necessary to ensure the protection of ships against piracy?
4. What can the international community do to ensure cohesive communication and support in the fight against piracy?
5. What preexisting programs and organizations will your resolution include or reject?
6. What short term tools will nations use in ensuring the protection of civilians? Long term?

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