



Somalia: Piracy, Failed State Status, and the Impact on Global Trade

In any discussion of “failed states”, Somalia can be relied upon to be near to the head the list. For many observers of the international system it is the epitome of an ungovernable territory, made worse by the UN’s declaration that it constitutes a famine zone in July 2011. Somalia is still deeply divided by twenty years of unresolved civil war and armed conflict that began in 1991 with the overthrow of President Siad Barre’s government, and the unilateral declaration of independence for Somaliland. Somalia is divided into armed political and religious factions, and it now constitutes one of the bulkheads in the war against Islamic extremism. The continued fighting in Somalia has had a large impact on the local population – with the imposition of competing rules of law, and the challenges of resource competition – and on regional stability. For the EU and US, Somalia would not be a cause for active concern were it not for the growth of the piracy industry, which is having a substantial impact on shipping traffic moving through the Gulf of Aden and the Indian Ocean near Somalia.

Around 95% of the volume of EU trade is transported by sea, with the Gulf of Aden being one of the main arterial routes.¹ To combat the problem of pirates intercepting consumer goods and oil destined for the EU, in 2008 the EU created a naval task force (EUNAVFOR Somalia – Operation ATALANTA), which was the EU’s first joint naval mission.² The goal of this effort is to safeguard merchant, fishing and World Food Program vessels destined for Somalia through this strategic location in the Horn of Africa (south of the Red Sea, Gulf of Aden, and parts of the Indian Ocean). Originally scheduled to last for a year from February 2009, the program was initially extended to December 2010 and again until December 2012, because the security situation has not improved.³

The European Union, along with other international partners, has made improving the security in and around Somalia an important task for its foreign policy. The EU’s concern about Somalia is partly based on humanitarian grounds, but the EU’s strategic and economic interests lie in the waterways of the Horn of Africa and provide stronger incentives for EU action. This brief maps out the situation in Somalia and its impact on global trade and regional stability. The brief also assesses the way the European Union and its partners have tried to contribute to a solution to this crisis, and how this plays out in combination and in contrast with other international actors, such as the US and the African Union.

Somalia in Conflict: Context

The current armed insurrections in Somalia have their antecedents in the 1991 overthrow of the established government and the unilateral secession of Somaliland, which remains

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internationally unrecognized. Since then widespread armed conflict and lawlessness have ruled Somalia, with an estimated 1.5 million people having been displaced, with 700,000 of them living in camps outside of Somalia and 330,000 of these based in camps in Kenya.

International attempts to reconcile the differences between western-backed political factions and radical Islamist groups, as well as between rival clans, have repeatedly failed. Since 2008 the security environment has deteriorated further, and there is now greater adherence to clan loyalty than there is to these political movements. Further complicating this situation is the history of colonization (by Italy and the United Kingdom, who interestingly are at the fore of the EUNAVFOR command structure), which means that any foreign intervention in Somalia is instinctively seen as a colonial throw-back by all sides; the internationally sponsored Egyptian intervention in 2006 was seen in this light and was widely opposed. More recently, the UN conference on the future of Somalia, held in Nairobi, Kenya on April 12, 2011, was opposed by a number of Somalis who protested in towns across Somalia a week earlier. The UN's special envoy, Augustine Mahiga, faced this opposition firsthand in the town of Bahodle, where he had travelled to address concerns and was met with placards which rejected "interference from foreigners".⁴ The pollution of historical fishing waters by international trading vessels throughout the 1990s and 2000s has further compounded the view of common Somalis that foreign powers are profoundly unhelpful to their daily existences. Unfortunately, the official coalition government, headed by Sharif Ahmed – a former leading light in the Islamic Courts Union and whose party is officially called "The Alliance for the Re-liberation of Somalia" – is seen by a large number of Somalis as a western proxy. His acceptance of the post of President was seen as a betrayal by the clan leaders who had previously backed him and the youth movement of the Islamic Courts Union, causing armed instability in the central region of Somalia. The perception of Ahmed's administration as a western proxy is well-founded, given that his rule is only sustained by western funding and western supplies of military equipment, while his militant Islamist opponents (Al-Shabab) soak up some popular support by providing basic social services in the absence of the government provision of the same.

Militant Islamists are engaged in battle with the government's under-trained and under-paid forces (who, while also being Muslim, are of the Sufi persuasion) and 8000 Burundian and Ugandan, African Union forces (who, in reality, are leading the offensive). This fight was re-energized in February 2011 with the government's concerted attempts to break Al-Shabab's hold on the majority of Somalia's central and southern regions, which would allow aid to be transited through to those most in need. And Mark Bowden, who has responsibility in the UN for humanitarian efforts for Somalia, has said that the failure of the October-December 2010 rain season has left 2.4 million Somalis in need of urgent food and water aid.

In 2009-10, the EU naval mission enabled more than 296,000 tons of food to be delivered to Somalia. While EUNAVFOR can continue to guarantee the safety of World Food Program ships, the ground security in Somalia has become so poor that the World Food

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Program is no longer able to operate there effectively. The government reported in mid-March that they had broken through the Islamists' defensive line and had retaken some positions in Mogadishu – a significant achievement since they had become penned into just a few blocks of the capital city.⁵ The rest of Mogadishu had become subject to arbitrary Sharia law, backed by summary Sharia courts and public punishments, including executions. Many of these developments are a retrograde step for western powers, who have been engaged in lengthy and expensive military operations in Afghanistan and Iraq (as well as hostile diplomatic engagements with Iran) to try to roll back and prevent the imposition of this kind of governance and legal code. With the situation getting ever more violent and desperate, groups inspired by Al-Qaeda have rightly identified Somalia as a fertile ground for training camps and radicalization – a place to nurture and export Islamic terrorism. Al-Shabab, although thought to be considered wary of *any* international involvement in Somalia – be it from western powers, the African Union or even from the wider international elements of Al-Qaeda – has reached some kind of accommodation with Al-Qaeda in the Islamic Maghreb (AQIM), which has provided the Somali militants with military equipment and willing fighters.

Piracy

The civil war in Somalia has done little in the way of creating headlines in the mainstream western media (apart from the famous “Black Hawk Down” engagement in 1993), but since 2005 the spiraling problem of Somali piracy has created significant problems for global industries, merchant shipping, and insurance risk. In 2005, Somali pirates mounted just 35 attacks on merchant shipping (in 2011, between January and March 8 there had already been 35 attacks), with a meager success rate of 20%. In 2010, however, there were 219 attacks on merchant shipping with the average length of captivity for the captured crews of 213 days, to which the increase in ransom levels from a per vessel average of \$150,000 in 2005 to an average of \$5.4 million in 2010 is tied, and which has obviously resulted in lengthier negotiations. The other explanation for the length of captivity for hijacked crews is that the pirates operate a hub and spoke approach at sea, so each new captured large ship becomes a temporary hub for attacks on other shipping traffic in the area. Such activity is clearly having a large economic impact (the UN estimates that it costs \$5-7 billion per annum in its global economic impact), particularly for insurers and operators paying out these large ransoms, but also for the ships' crews. In 2010, 1181 crewmen were taken hostage, and an estimated 760 of them remained in captivity in April 2011.

Despite the efforts of the international community, the UN's advisor on piracy described the Somali pirates in January 2011 as having “mastered” the Indian Ocean. If he is correct, then the international community might have to choose between dealing with the pirates militarily (both at sea and on land) or expensively routing commercial ships away from the Indian Ocean. Arming commercial vessels to try and repel attacks will only see an escalation in the level of violence from the pirates, and will also result in improvements to the sorts of weaponry they carry with them on raids. The techniques and

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technology deployed by the pirates have already improved, allowing them to operate further out into the open seas, thereby diminishing the effectiveness of the international response. Levels of violence against the pirates have increased. One example of this came on April 4, 2011, when a Dutch naval vessel killed two pirates and apprehended 16 while attempting to free a captured fishing vessel in the Gulf of Aden.⁶ But while this sort of example looks like a ringing success for the European seamen, it is marred by the substantial chance that the captured pirates will not be brought to justice once they are handed over to authorities in Africa for prosecution, as over 90% are released without judicial process.

The political turmoil and disagreements in Somalia demonstrate the lack of judicial capacity to try and imprison pirates there, with the international community instead relying upon a relatively untested agreement with the Kenyan and Seychelles government to process these criminals. The EU-sponsored naval forces have a mandate to arrest pirates, but to the strict letter of international law those arrested should be tried in the country to which the attacked vessel belongs. The problem here arises from the widespread shipping convention of “flags of convenience”, which exists almost solely to help shipping firms avoid higher safety compliance costs, but which in this case means that European navies are not permitted to hand over the pirates to countries that carry the death penalty for these classes of crimes. Therefore, the EU has tried to utilize an agreement it signed with Kenya in March 2009, in which the Kenyan government agreed to take and prosecute any pirates delivered to them by the EU mission. A similar agreement was struck with the Seychelles, and in March 2011, a pirate attempt to capture a fishing vessel off the Seychelles resulted in a Spanish naval vessel interceding and the captured pirates being tried in the Seychelles, under that jurisdiction.⁷ To try and aid prosecution in Somalia, the British government announced on March 22, 2011 that it was committing a further £6 million (\$8.5 million) to increase the prison capacity in Somalia and for additional surveillance of pirate activity. Militarily, it would be simple for the European navies to open fire on and eliminate pirates, but this option has been eschewed thus far because of the absence of UN sanctions to do so, and because the escalation of violence from both sides would result in a higher body count. Up until now the majority of those hijacked by the pirates have been released (on receipt of ransom payments), albeit more and more slowly, as noted previously. But there have been some fatalities, caused by mistreatment by pirate captors or in the case of the four Americans killed in February 2011, by execution just prior to US military personnel boarding their captured boat to rescue them.⁸

The political turmoil in mainland Somalia has contributed to the intractability of the piracy problem. The absence of a state security structure in Somalia has given the pirates a free hand to operate out of the harbors in the north of the country, and particularly from their semi-autonomous state, Puntland. Without a functioning government security and judicial apparatus, the pirates are able to operate with impunity and do not fear arrest or imprisonment on the mainland, seeing themselves as businessmen like any other.⁹ If the conditions on mainland Somalia became less conducive for the pirates, then their effectiveness at sea would also be impaired. Some of the ways of addressing the pirates

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on the mainland echo the techniques used by US enforcement agencies to contain and roll back major drug traffickers: identifying and eliminating those individuals who finance, run and control the lower ranking pirates would disrupt the organization of Somali piracy. Similarly, other strategies that would go a long way toward undermining Somali piracy from its roots include: reducing the need for locals to engage in criminality by helping restore legal and economic certainty, rebuilding local infrastructure that is not dependent on the goodwill of criminal leaders, and reviving the indigenous fishing industry that once was a dominant feature of Puntland. Finding the pirates alternative sources of income is one of the strands of the EU's approach to Somalia, with this kind of economic regeneration as one of the tasks the €15 million development fund earmarked for Somalia for the 2008-2013 period. Tackling the pirates' operating of Puntland would also go some way toward addressing the problem of money flowing to Al-Qaeda and helping to fund the export of terrorism.

The British Foreign Office estimates that the African branch of Al-Qaeda (Al-Qaeda in the Islamic Maghreb) has generated \$21 million from kidnap ransoms, often paid by Western governments (notably Italy, Switzerland, Austria and Spain), including those funds generated by taking a percentage from Somali pirates as a form of taxation.¹⁰ News that Al-Qaeda affiliates have training camps in Somalia brought it higher up the priority list for the US and its allies, along with the fellow areas of concern from Islamists such as Yemen (of a serious magnitude), Egypt (potentially serious in the transition period from Mubarak), and Libya (which is now of a serious magnitude, given the power vacuum). While profit-driven piracy and politically motivated terrorism have been rather different problems, they are becoming linked up across the whole of North Africa. This is making a large area of the globe dangerous for Europeans and Americans to visit and difficult to trade with directly, while pushing up the risk-based transaction costs of doing so.

The EU's Efforts

Somalia is yet another testing ground for the EU as a foreign policy actor, and it will be an important test for the EU's commitment to a comprehensive approach to security. The €15 million invested in the 2008-2013 period (in addition to €13 million to assist refugees, €2 million to assist the domestic Somali policing, €60 million to support African Union military operations, and €8 million annually on the naval operations) is a substantial effort, but the history of anti-piracy efforts (namely in the Malacca Straights) demonstrates that it is crucial to couple economic regeneration, with the restoration of a stable system of criminal, civil and economic codes, along with adequately provisioned enforcement agencies.

To fail to have an effect in Somalia would have poor consequences for the EU and the rest of the western world, and it is notable that some of the EU's pledges of aid remain unfunded because individual member states remain skeptical about financial institutions, regulation and governance of Somali banks. To allow the trade in consumer goods and oil to continue to be adversely affected by piracy is clearly undesirable, particularly in the midst of a pan-European recession, but losing Somalia to militant Islamists would be very

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unhelpful to the western counterterrorism effort, tying up valuable resources in yet another theatre of operations. The EU's support for Ahmed's "Transitional Government" (along with support from the US and African Union) has yielded very little positive influence amongst the Somali people, and tying economic assistance to this regime will continue to have negative effects. Meanwhile, the EU set its goals for Somalia as encouraging reconciliation, democracy and the development of governance structures at all levels, to be delivered through a new Somali constitution (to be adopted by a referendum), and the creation of democratically elected institutions by the end of the transitional period in 2009.¹¹ These objectives were not met, and to achieve the more useful goals of security and stability, the EU should focus on restoring legal certainty and economic opportunities, and wait until circumstances are more conducive before trying to force the local population into democratic governance structures. It could also try to decouple its development-led goals from the US' emphasis on combating militant Islam. More usefully though, it could reorient its goals to match those of the US, and work towards complementing these efforts.

The EU's efforts towards Somalia have been reasonably well coordinated, while mostly centered on the naval measures. In November 2009, the EU Council approved a contribution to the training of the government ground forces in Somalia, but as noted above, the government forces remain under-funded, poorly trained and organized. It is the naval effort, run out of the United Kingdom's Northolt facility (a former headquarters for NATO), that is the larger EU success. Currently, 26 vessels (with accompanying aircraft) take part in EUNAVFOR, with over 2000 personnel deployed to the mission. Participation across the EU has been good, with 22 EU states having provided support to the mission, and four non-EU states have also participated. Set up within the framework of ESDP, the maritime operation is headed by the Major General Buster Howes (UK), while the Deputy and Force Commanders are Italian and Spanish naval representatives. Also worthy of note is the creation of a Maritime Security Centre for the Horn of Africa. It provides 24-hour monitoring of the Gulf of Aden, while an interactive website enables communication with industry and shipping companies that register their movements.¹²

The EU is but one of many international actors concerned about the free passage of international trade through the Gulf of Aden. For example, the US Navy leads its own multinational anti-piracy Combined Task Force, "CTF 151". Having its roots in previous operations, this particular task force was formed in January 2009 and is based in the now-troubled Bahrain, which in recent years has become an important multinational coordination hub under the auspices of the US. If the Bahraini regime is overturned by the popular uprising in March/April 2011, it may no longer serve as a hub for the US military. Also present in the region with their own missions and warships are NATO, Russia, India, Japan and China, who are all attempting to secure the passage of merchant shipping connected to their interests, or who use the area for military exercises. Some coordination exists between the EU, NATO and American led-CTF groupings and at the "Shared Awareness and Deconfliction Meetings (SHADE)" in Bahrain, and representatives from China, India, Japan and Russia have also been present, usefully engaging with intelligence and advice on best practices. There is a wide-ranging set of

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common practices and agreements covering the international community's anti-piracy efforts in this area, but while the extent of this collaboration can be celebrated, there are still an ever-growing number of piracy attempts on ships transiting through the Gulf of Aden and the Indian Ocean by Somali pirates.

Conclusion

The problems associated with the collapse of normal governance structures and the presence of a large number of enthusiastic and technically able pirates operating out of Somalia create a large and ongoing challenge to the EU (as well as all western governments and western commerce). The increasing number of attacks against commercial shipping in the Gulf of Aden and the Indian Ocean, coupled with larger ransoms and lengthier spells of captivity for those taken hostage by the pirates, is driving a piracy premium to the cost of shipping goods to the West. Similarly, the military successes of militant Islamists in the central and southern parts of Somalia, and their connection now to Al-Qaeda in the Islamic Maghreb, will ensure that Somalia remains a fertile breeding ground for dangerous and well-trained terrorists who are able to export their terrorism to Europe and America. The attempts that have been made to counter these threats by the EU have theoretically been very strong, with a credible amount of humanitarian aid and finance delivered to Somalia, the support for the official government's armed forces, and, of course, the naval effort (EUNAVFOR). What cannot be escaped, however, is the bottom line that an increasingly large number of Somalis reject the official government precisely because it is in receipt of a great deal of European and American assistance, and that in turn is improving the situation for the militant Islamists who control a large part of the country. The agreement between the Al-Qaeda affiliates and the militant Islamists is generating a great deal of money for Al-Qaeda through the receipt of ransom payments, and moreover in the stream of willing fighters it is developing in Somalia. This can only spell more trouble for western interests in northern Africa and across the EU. But ultimately, the failures within Somalia reinforce each other and make its problems look more intractable. As traditional industries die out in Somalia and poverty becomes entrenched, the gang-masters who run the piracy operations look more and more like saviors from poverty. As their trade becomes more lucrative, these gang-masters are able to invest more in the community, and appear more respectable as local and regional leaders. The international effort (not just the EU's) needs to address this central and incontrovertible problem: how to break the incentives structures not only for piracy, but for militant Islam. And the answers to these problems may well be financially expensive – but not as expensive as many terrorist attacks on western soil, nor the continued disruption to the valuable trade links that the Gulf of Aden and Indian Ocean provide.

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¹ EU figures quoted at the web page of Maritime Security Centre - Horn of Africa, which is part of EUNAVFOR, <http://www.mschoa.org/Pages/About.aspx> <http://www.eunavfor.eu/>

² For the first year, joint funding of the operation amounted to €8.3 million, and this has continued in subsequent years. This joint funding is shared between the member states based on their respective GDPs. However, the costs for supplying material and manpower to the mission are at the account of the contributing countries. <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2008:301:0033:0037:EN:PDF>

³ EUNAVFOR, Mission Statement, <http://www.eunavfor.eu/about-us/mission/>

⁴ Abdalle Ahmed (April 6, 2011), Augustine Mahiga “irrespectively” replies to Somalia prime minister’s call, RBC Radio (Somalia)

⁵ Katherine Houreld (April 6, 2011), Somali PM: We’ll push Islamist insurgents out of the capital within a year, Associated Press.

⁶ BBC News (April 4, 2011) Dutch marines kill Somali pirates, Iranian boat freed, <http://www.bbc.co.uk/news/world-africa-12962900>

⁷ EUNAVFOR (March 2011) EUNAVFOR Spanish Warship Disrupts Suspected Pirates North West of Seychelles, <http://www.eunavfor.eu/2011/03/eunavfor-spanish-warship-disrupts-suspected-pirates-north-west-of-seychelles/>

⁸ David Cloud (February 22, 2011), Somali Pirates Kill 4 American Boaters, Chicago Tribune.

⁹ The Economist (December 27, 2010), Pirate copy: What managers can learn from Somali pirates, The Economist: London.

¹⁰ Duncan Gardham (March 15, 2011) Al-Qaeda a “money-making machine”, The Daily Telegraph: London

¹¹ EU Council Secretariat (2009) Fact sheet: EU engagement in Somalia, http://www.consilium.europa.eu/uedocs/cms_data/docs/missionPress/files/091117%20FACTSHEET%20EU%20ENGAGEMENT%20SOMALIA%20-%20version%206_EN01.pdf

¹² Please see the mission’s internet site: <http://www.mschoa.org/Pages/default.aspx> (accessed April 4, 2011).