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Regional Approaches to Maritime Security in the Horn of Africa

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About the author

Demessie Fantaye is an independent consultant and researcher, previously employed at the Department of Political Science and International relations, College of Social Sciences, Addis Ababa University. His research interests include the mechanisms of indigenous conflict resolution in pastoralist communities in Ethiopia, the nexus of security, development and conflict in Ethiopia in particular and the Horn of Africa region in general, and maritime security issues in the Horn of Africa region. Demessie Fantaye has published several book reviews, articles and reports focusing on the developmental policies of the Federal Democratic Republic of Ethiopia and on maritime security issues.

Contents

1. Objectives and Methodology of the Study

This study, commissioned by the Friedrich-Ebert-Stiftung (FES), seeks to unravel the dynamics and impact of maritime security in the Horn of Africa region. It also has the objective of assessing the strengths and weaknesses, synergies and contradictions of existing initiatives and programmes related to maritime security in the region. Ultimately, the study aims to identify the components of a distinctly African and specifically regional approach to maritime security issues.

Methodologically, the study is based on a review and analysis of the literature. Furthermore, the author carried out a series of interviews with officials of the Inter-Governmental Authority on Development, IGAD Security Sector Programme (IGAD, IGAD-ISSP) and the Ethiopian Shipping Lines (ESL). The author also relied on field notes and data gathered from research visits to Somalia (Puntland) to study Somali piracy in 2009 and 2010.

The study argues that efforts to improve maritime security in the Horn of Africa region have assumed a pattern in terms of which the concerns and perspectives of the developed world have tended to overshadow the agenda of the states in the region. This dichotomy is revealed, for instance, in the interpretation of the sources of maritime insecurity, the focus of initiatives and the informal division of tasks concerning maritime security that has emerged in the region. While as far as the international community is concerned the primary concern is maritime piracy, actors in the region have a more complex and structural view of maritime insecurity in the Horn of Africa. This has led to a situation in which immense resources and efforts have been directed to the fight against piracy, while other sources of maritime insecurity have been sidelined. The initiatives against maritime piracy have been characterized by duplication of effort and competition between different agencies and entities. While it is undeniable that the efforts against piracy have achieved impressive results, regional initiatives have received negligible support.

States in the region and the primary regional organization have sought repeatedly to articulate a distinct agenda and set of interests in the sphere of maritime security but they have also had to adapt to the circumstances. More specifically, the governments in the region have cooperated with international initiatives and in the process garnered resources and benefits derived from the global focus on piracy off the coast of Somalia.

2. Introduction

In this study the region will be defined in terms first elucidated comprehensively by Buzan (1983, 1991). He assumed that the use of the term "region" "means that a distinct and significant subsystem of security relations exists among a set of states whose fate is that they have been locked into geographical proximity with each other" (Buzan, 1991:188, quoted in Berouk 2009: 2). Accordingly, the assumption is that the states of a region are intertwined in terms of existing and emerging patterns of conflict and cooperation (ibid.).

Conventionally, the term "the Horn of Africa" (or simply "the Horn") refers to the north eastern part of Africa bounded by the Red Sea and the Indian Ocean and which in the west extends to the western borders of the Sudan. Usually it is understood that the states of Ethiopia, Eritrea, Somalia and Djibouti comprise the region known as the Horn, although currently it includes the states of Kenya and the Sudan. Some observers use the term "the greater Horn" and include Uganda and the region of the Great Lakes under this rubric.

For the purposes of this paper, the Horn of Africa is understood to include Sudan, Eritrea, Djibouti, Somalia, Kenya, South Sudan, Uganda and Ethiopia. These countries share a wide range of similarities, in terms of culture, languages, religions, social structures and economic patterns.

The Horn of Africa abuts one of the most important maritime routes in the world. Shipping lanes through the Red Sea, the Gulf of Aden and the Western Indian Ocean are critical to world trade and also as an important transit route for oil shipments.

The maritime domain is also central to the states of the region in socio-economic terms. The bulk of the import and export needs of the states in the region are serviced through the ports on the Red Sea, the Gulf of Aden (GOA) and Western Indian Ocean. The maritime domain is also a source of exports and nutrition for the population of the coastal states of the region.

Somalia (with a coastline of 3,025 km), Eritrea (2234 km), Sudan (853 km), Kenya (536 km) and Djibouti (314 km) are the coastal states of the region.[1] South Sudan,

Ethiopia and Uganda are landlocked (Figure 1).

The Horn of Africa is characterized by internecine intrastate and interstate conflict. These conflicts have their roots in the interlinked and mutually reinforcing dynamics of the history and pattern of state formation, the nature of the political systems, social structure and economic underdevelopment prevalent in the region. Conflicts have been endemic in the region. These conflicts, however, have generally been confined to dry land, with the maritime domain (the Red Sea, the Gulf of Aden and the Western Indian Ocean), remaining almost unaffected.

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[1] See: http://world.bymap.org/Coastlines.html

Figure 1: Map of the Horn of Africa

The major exception to the abovementioned trend was the brief Eritrean–Yemen conflict over the Hanish Islands in December 1995, which was resolved by arbitration. This conflict exposed the potential tensions and rifts in the region, with major Arab states voicing diplomatic support for Yemen, while Ethiopia lent practical aid to Eritrea (Lefebvre 1998: 376–380). This conflict also exemplified the importance of economic issues and resource needs as key drivers in this short-lived war (ibid.: 372–376). Lefebvre points out that Eritrea and Yemen had been granting mineral and oil

exploration rights to Western corporations and had also signed tourism development agreements focusing on the islands and waters of the Red Sea prior to the outbreak of outright conflict (ibid.).

Since the late 1990s, however, maritime insecurity has emerged as a critical and attention-grabbing issue in the region. Major efforts and resources have been expended and policy initiatives launched on maritime security in the Horn of Africa. While conventionally the most glaring manifestation of maritime insecurity in the region is assumed to be piracy, which affects the waters of the Somali coast, the Gulf of Aden and the Western Indian Ocean, other threats and issues – such as chemical and toxic waste dumping, illegal, unreported and unregulated fishing that depletes fishing resources, the illegal trade in small arms and light weapons and illegal migration and human trafficking that occur in the waters off the Somali coast and the Gulf of Aden – also deserve to be mentioned.

3. Conceptualizing Maritime Security

The concept of maritime security, while commonly understood to be self-evident, requires elucidation because the meaning of the term has shifted over time and, needless to say, is also context-specific.

Customarily, maritime security is understood in the narrow sense of ensuring the safety of maritime traffic from threats. More specifically, at the national level, the concept of maritime security is predicated on the centrality of the protection of maritime traffic in territorial and contiguous waters and preventing threats to the landmass of the state from the maritime domain in times of war and peace. Therefore, the traditional conception of maritime security is linked inextricably to the projection of naval-military power over the sea. Over time, the protection of maritime traffic from pirates also became bound up with the concept of maritime security and has been subsumed into international law. Maritime security has more recently come to include the exclusivity and protection of economic investments in so-called exclusive economic zones (EEZ).

In the second half of the twentieth century, the concept of maritime security has evolved constantly. These shifts have coincided with decolonization and the desire of a large number of Asian and African states to assert control over their coastal waters and economic zones. Newly emerging threats such as "terrorism on the high seas" (as exemplified by the Achille Lauro incident), the prospect of exploiting mineral and oil resources on the sea bed, fears of the contamination of the oceans by oil tankers and the dumping of chemical waste have also affected the notion of maritime security. The United Nations Convention on the Law of the Seas (UNCLOS III) took on board many of these shifts, such as the recognition of exclusive economic zones extending from the limit of the territorial sea up to a maximum of 200 nautical miles (nm) from the coastal base line.

In the contemporary period, more expansive conceptions of maritime security are the norm, transcending the narrow, traditional, state-centric view, with its sole emphasis on military-naval threats, to include economic,

environmental and livelihood concerns viewed in a global framework.

An apt example of the expansive contemporary definitions of maritime security is the definition put forward by Onuoha (2009: 32). He writes that "maritime security incorporates unhindered oceanic trade, safe navigation, the safeguarding of coastal communities and their livelihoods, protecting the food chain and preserving the oceanic contribution to the health of the planet". He further conceptualizes maritime security as incorporating two dimensions, the intrinsic and extrinsic (ibid.: 33). The intrinsic dimension for Onuoha incorporates the biological and environmental safety of the oceans, their ecological processes and life forms, while the extrinsic dimension incorporates the "foreign objects existing in or making use of the maritime domain", such as people, vessels, infrastructure and human utilization of water sources.

A related definition that is more African-centred is the definition developed by the Brenthurst Foundation in collaboration with the African Union Commission and the African Centre for Strategic Studies (Brenthurst Foundation, African Union Commission and the African Centre for Strategic Studies, 2010). This is a holistic and comprehensive definition of maritime security in that it encompasses the criticality of the economic and commercial utilization of waters (seas, oceans, lakes, rivers and so on), their environmental safety, their importance as a source of nutrition and livelihood and also their safety or protection from illegal or criminal activities (ibid.: 10–12). This paper also conceptualizes the threats to Africa's maritime security in terms of two categories: security and non-security,

which are measured and understood primarily in terms of the challenge they pose to Africa's economic prospects.

In this regard, conceptualizations of maritime security that are framed in relation to the West and to the idea that the end of the Cold War meant an end to ideological and/or systematic challenges to the system of global capitalism and liberal democracy, also deserve mention. The views of Professor Geoffrey Till are important in this context. Till argues that the West has entered a "post-modern" and "post-Mahanian" (reference to US naval strategist and historian Alfred Thayer Mahan) era of sea power, in which previous notions of naval power and threats emerging from other states are no longer relevant (Till 2007, cited in Holmes 2010: 164). Till postulates that in future naval power and maritime security will be geared primarily to ensuring good order at sea and that maritime traffic and usage are not endangered by threats such as piracy and terrorism (ibid.). However, the recently increasing tensions in the Pacific and the South China Sea due to the competing claims of Asian states over maritime delimitation and the naval arms race between these countries seem to postulate a future which may not tally with Till's vision.

This paper is based on an expansive definition of maritime security that is context-specific and also incorporates the economic, environmental and livelihood aspects of the maritime domain, in line with the conceptualizations of maritime security developed by Ononuha (2009) and the Brenthurst Foundation (2010), as outlined above. It also relies on an anthropocentric notion of the causes and manifestations of maritime security.

4. Sources and Manifestations of Maritime Insecurity in the Horn of Africa

As mentioned in the Introduction, the issue of maritime insecurity in the Horn of Africa has been acquiring greater prominence and has increasingly sidelined other issues and concerns. Conventionally, the most glaring manifestation of maritime insecurity in the region is piracy.

But the existence of other forms of maritime insecurity in the region should not be discounted. These threats – such as illegal, unreported and unregulated fishing, dumping of chemical and toxic waste in the waters off the Somali coast, illegal migration and human trafficking over Somali waters and the Gulf of Aden and the illegal trade or trafficking in small arms and light weapons – are equally critical and may even pose greater, long-term dangers to the states in the region.

Several qualifications are important in this context. The first point that must be borne in mind is that the manifestations of maritime insecurity reflect or are the outcome of deeper, underlying structural dynamics. A second qualification is the need to understand that the manifestations and sources of maritime insecurity in the region are mutually related and reinforcing. Finally, it should be understood that making a strict delineation between the causes and manifestations of maritime insecurity is problematic.

4.1 Sources

4.1.1 State Failure in Somalia

The main causal dynamic that gives rise to maritime insecurity in the region is state failure in Somalia. This has led to a situation in which individuals and groups operating from bases on the Somali coast attack international shipping and are able to capture and hold vessels, cargos and crews hostage in relative impunity. State failure – in other words, the absence of a working criminal justice system and the inability to exert control over the maritime domain – has allowed other forms of maritime insecurity (such as illegal, unreported and unregulated fishing, chemical and waste dumping, trafficking in small arms and light weapons and illegal migration and human trafficking) to proliferate in the waters off the Somali coast.

The Transitional Federal Government in Somalia, although internationally recognized, is still too weak to effectively project its power and authority across large stretches of Somalia, although it is being assisted by the AMISOM (African Union Mission to Somalia), Kenyan and Ethiopian troops and has recently achieved successes against the Harakat-Al Shabaab-Mujahideen (HASM) Islamist insurgency. Somalia also has weak regional authorities, such as the entities of Puntland and Somaliland. According to most sources, the Somaliland coastline does not host pirate activity but the Puntland coast is a major centre and jumping-off point for pirate activity.

To summarize, the absence of a functioning state apparatus across large parts of Somalia, the absence of a security apparatus and a working criminal justice system, coupled

with Somalia's long coastline, have been conducive to the emergence and continued existence of piracy.

Moreover, the potential high returns from piracy and the extreme unlikelihood of proceeds from piracy being targeted by law enforcement and banking supervision, either in Somalia or the region, create further inducements to engage in piracy.

To conclude, as Homan and Kamerling (2010: 68–71) so fittingly put it, at present, Somalia presents a set of conditions that make it an ideal incubating ground for piracy. However, conditions in Somalia also create a conducive environment for other threats to maritime security.

4.1.2 Weak Maritime Governance and Maritime Security Apparatus in the Region

Another factor that has, directly or indirectly, allowed piracy and other forms of maritime insecurity to flourish, has its roots in the weak maritime governance and maritime security apparatus of the coastal states of the region.

The states in the region and the IGAD have not developed the necessary maritime governance system and regulatory framework to police and govern interactions in their maritime domains.

The coastal states also lack a body to assess the extent and range of maritime resources (biological and mineral) available in their maritime domain. This means that the exploitation and utilisation of maritime resources is also occurring in a context ungoverned by any rules or normative principles, which creates the potential for

disputes between maritime states in the region.

The closest equivalent to an institution that monitors and studies marine ecological conditions in the waters of the region is the Regional Organization for the Conservation of the Red Sea and the Gulf of Aden (PERSGA). PERSGA is a regional intergovernmental organisation based on the Jeddah Convention and the later Cairo Declaration of September 1995. PERSGA's central objective is to conserve the marine and coastal environments of the Red Sea, the Gulf of Aden, the Gulf of Suez and the Gulf of Aqaba. Three of the states of the region – Sudan, Djibouti and Somalia – are members of PERSGA, while the remaining four members are Egypt, Jordan, the Kingdom of Saudi Arabia and Yemen.

PERSGA holds regular meetings and also conducts training and capacity building for marine conservation personnel and scientists of member states. Member states have also signed several protocols on conserving marine biological diversity and marine pollution. However, PERSGA has yet to carry out a comprehensive study of marine ecological conditions in regional waters. Another possible weakness of PERSGA may be the range of its membership and therefore its mandate. Moreover, Eritrea and Kenya are not members.

The absence of a maritime regulatory framework and system in the region may be due to a shortage of capacities and resources (human and material).

The coastal states of the region have a negligible ability to project power and exert control over their maritime domains. The weak and small coastguards and navies of

the coastal states constrain their ability to prevent or stop illegal activities in their own territorial waters, contiguous zones and EEZs.

These states also lack the ability to utilize their ports efficiently (in terms of efficiency and capacity) and to exploit their maritime resources (fishing, hydrocarbons and mineral wealth).

The cumulative effect of these processes has led to the emergence of a maritime vacuum, which in turn has allowed the proliferation of illegal activities.

4.2 Manifestations

4.2.1 Piracy

Piracy off the coast of Somalia, in this context, refers to individuals and groups operating from havens along the long Somali coastline that target shipping (mainly foreign) in the waters off the Somali coast, the Red Sea, the Gulf of Aden and the Western Indian Ocean. Somali pirates attack ships and vessels in these waters and hold crews, cargos and vessels hostage until the payment of a ransom. The first reported attacks occurred in the 1990s and over the years the number of attacks and ships targeted has increased. The size of the ransoms being demanded has also increased.

Over the years, Somali pirates have demonstrated an ability to adapt to and counter the measures taken to defend against their attacks. One example of this adaptability is the growing range and scope of pirate attacks, using larger ships – often referred to as "mother ships" in the

literature – that allow them to range further in search of likely targets. An apt instance in this context is the attack on the Greek ship Navios Appolon in December 2009, which was captured by pirates 200 nautical miles (nm) east of the Seychelles, approximately 700 nm from Somalia. As Figure 2 shows, the range at which Somali pirates operate has been increasing.
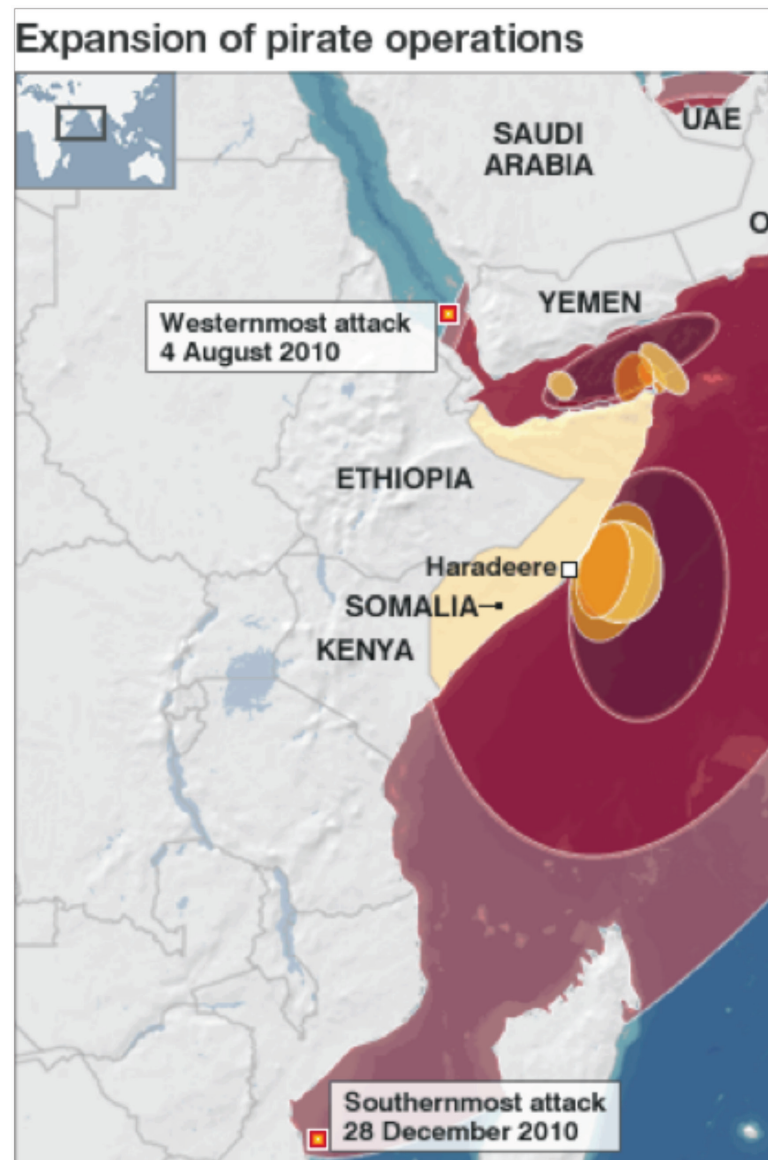

Figure 2: Expansion of Pirate Operations

The economic and commercial conseque-nces of Somali piracy are immense and have a global impact through the implicit and explicit threat posed to shipping that transits through the Gulf of Aden and the Suez Canal.

There is a growing literature on the causal dynamics, political and socio-economic consequences and ramifications of Somali

piracy, as well as the international response (see Abdullahi Rashid 2009; David Anderson et Al. 2009; Bibi Van Ginkel and Frans-Paul van der Putten 2010; Mohamed Samantar and David Leonard 2010). There is an emerging debate and a range of perspectives on the phenomenon of piracy in the region. While an exhaustive summary of the literature is beyond the scope of this study, it should be pointed out that there is a central divide in the literature between those who emphasise the economic and sociological aspects and roots of Somali piracy and those who view piracy primarily from a securitized, law and order perspective.

4.2.2 Chemical and Toxic Waste Dumping

The PERSGA website states that the central threats to the marine environment and re-sources of its member states (which include the Sudan, Djibouti and Somalia) include "habitat destruction; non-sustainable use of living marine resources; navigation risks and risks from petroleum production and trans-port; urban and industrial hotspots; and rapid expansion of coastal tourism" (PERS-GA). Chemical and toxic waste dumping is viewed as a less likely threat (ibid.).

An earlier study released by the United Nations Economic Commission for Africa, which discusses marine pollution problems in Africa, including Eritrea and Kenya, saw the sources of marine pollution in a more nuanced manner (Njenga 1995/1996: 6–7, 20–24). In the case of Eritrea the study argued that the coastal and territorial waters of Eritrea and marine biology were in pristine condition due to their under-exploited status and that the most important potential danger lay in pollution from oil spills (ibid.: 7). However, the report

MAN

Northernmost attack
15 January 2011

Easternmost attack
5 December 2010

■ 2005 – 165 nm Off Coast
■ 2006 – 200 nm Off Coast
■ 2007 – 200 nm Off Coast
■ 2008 – 445 nm Off Coast
■ 2009 – 1,000 nm Off Coast
■ 2010 – 1,300 nm Off Coast
■ 2011 – 1,300 nm Off Coast
Source: EUNAVFOR/IMB

0   500km
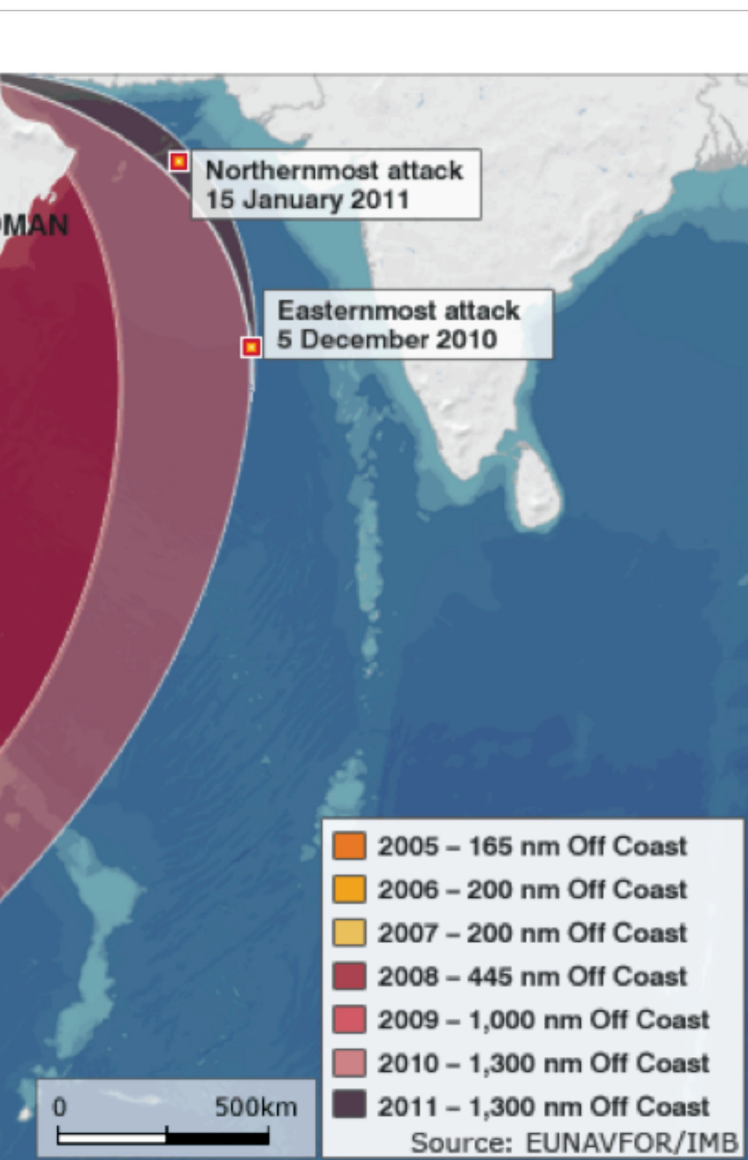
described Kenya's coastal and territorial waters and marine biological resources as already threatened by pollution from inland sources, such as sewage from ports and towns on the coast and industrial waste (ibid.: 22–24). It is striking that neither study views oil spills and chemical and waste dumping as major environmental concerns in the region. However, in the absence of a comprehensive bio-chemical assessment of the maritime domain, it would be difficult to draw definitive conclusions about the scale and extent of marine pollution in the region.

Nevertheless, the waters off the Somali coast have long been described as a dumping ground for chemical and toxic waste. Ever since the collapse of the Somali state, there have been persistent reports of the dumping of industrial and other wastes in Somali territory and waters. The first reports emerged in the 1990s and allegations persisted into the early years of the new century (Green Peace Italy 1992; UNEP 2005; Bashir Mohammed Hussein 2010). These reports suggest that inland waste dumping in Somalia occurs with the connivance of local actors (warlords and political figures who either received financial payoffs or arms and ammunition consignments in payment).

Waste dumping is also alleged to have occurred in the waters off the Somali coast, reportedly with adverse consequences for the health and livelihoods of coastal fishing communities. Some suggest that this is one of the factors that pushes individuals and groups in coastal communities to engage in piracy (IGAD 2009, 2011; Bashir Mohammed Hussein 2010).

However, it should also be pointed out that these reports are often anecdotal and that no marine-biological analyses of the waters off the Somali coast have been carried out, which could prove these accusations valid.

Ultimately, the expansion of Somali piracy has led to shipping avoiding the Somali coast and opting for much more distant routes, which can be assumed to have led to a concomitant drop if not the disappearance of waste dumping in the waters off the Somali coast.

4.2.3 Illegal, Unreported and Unregulated Fishing

While illegal, unreported and unregulated fishing is regarded as a severe problem with immense implications for the human security of coastal states in Africa, there have been few studies and little reliable data that allow one to draw conclusions regarding the scope of such fishing in the maritime domain of the Horn of Africa. Illegal, unreported and unregulated fishing is widely assumed to deplete fishing stocks and may imperil the ecological balance, even leading to the extinction of certain species. The livelihoods of coastal communities depending on fishing may also be threatened by illegal, unreported and unregulated fishing.

One recent study on such fishing in the Southern Africa Development Community (SADC) region estimates that the global value of the trade in fish and fishery products derived from illegal, unreported and unregulated fishing may amount to US$ 4–14 billion annually and that US$ 1 billion of this trade may derive from such fishing in African waters (DFID 2008: 6). A related study underlines the multifaceted challenges posed by illegal, unreported and unregulated fishing and the necessity for a

comprehensive approach to the problem (HSTF 2006: 18–39).

Both studies postulate a direct correlation between the capacity of the maritime security apparatus of coastal states and the scope of illegal, unreported and unregulated fishing in coastal waters and EEZs.

As pointed out earlier, studies to assess the scope and extent of illegal, unreported and unregulated fishing in the maritime domain of the Horn of Africa states have not been conducted. Anecdotal evidence and media reports suggest that such fishing may be pervasive in waters off the Somali coast. It should be pointed out that, objectively, the situation in Somalia, coupled with the weak maritime security and enforcement capabilities of the coastal states in the region, creates a conducive environment for illegal fishing.

The earliest reports of illegal, unreported and unregulated fishing in Somali waters date from the aftermath of the collapse of the Somali state. The main alleged culprits are fishing boats and vessels from certain EU member states and Asia (Dershowitz and Paul 2012).

When it was rife, illegal, unreported and unregulated fishing supposedly led to the depletion of certain fish stocks and endangered the livelihoods of coastal communities in Somalia. Reports from the Puntland region indicate instances in which vessels engaged in illegal, unreported and unregulated fishing damaged the fishing equipment and boats of local communities (IGAD 2009, 2011). There have also been unverified reports of violent confrontations between ships involved in illegal, unreported and unregulated fishing and local fishermen,

which led to loss of life. Pirate groupings in Somalia have cited illegal, unreported and unregulated fishing in Somali waters and the need to discourage it as one of the motivations for their attacks and hijackings on international shipping.

However, similar to waste dumping, all indications are that illegal, unreported and unregulated fishing has been curtailed largely due to the indirect effects of pirate activity in the waters off the Somali coast.

4.2.4 Trafficking in Small Arms and Light Weapons

The Gulf of Aden and the waters off the Somali coast also function as a transport lane for different types of small arms and light weapons for warring groups in Somalia, but also satisfy demand in parts of Ethiopia, Djibouti and northern Kenya, which further exacerbates different types of conflicts at the level of the grassroots and other conflicts in these states. These weapons are shipped from Yemen and transported in small boats and dhows to areas along the Somali coast. Precise figures regarding the quantity and monetary value of the trafficked small arms and light weapons are lacking, but weapon ownership is widespread in Somalia. For instance one European Commission study cited by Lionel Cliffe (2005: 8) estimates that 64 per cent of adult Somalis possess one or more weapons.

The trafficking in small arms and light weapons generates profits and also plays a role in exacerbating existing conflicts. However, a cause and effect relationship between the illegal trade in small arms and light weapons and conflict is questionable (Ibid: 10).

4.2.5 Illegal Migration and Human Trafficking

The sea lanes in the Gulf of Aden and adjacent high seas are also an important corridor for illegal migration and human trafficking. Migrants from Somalia and parts of south-eastern Ethiopia are transported from jumping-off points along the Somali coast to the Yemeni and Saudi Arabian coastlines. It is another form of transnational criminal activity in the maritime domain, but has received negligible attention.

Illegal migration and human trafficking give rise to extensive violations of the basic human rights of the people who are being trafficked and in turn may generate social tensions in the receiving countries.

4.2.6 Maritime Delimitation and Competition over Maritime Resources

Maritime delimitation issues and competition over maritime resources are a potential source of tension between the coastal states of the region. While at present these tensions are dormant due to the relevant countries' weak maritime force projection capabilities and their inability to exploit maritime resources, in future, with increasing maritime force capabilities and due to conflicting claims over the delimitation of EEZs, these tensions may well lead to conflicts.

As can be seen from Table 1, several states in the region have maritime jurisdictional claims that subsume EEZs and continental shelves. The governments of Kenya and Somalia have formally submitted competing claims for instance regarding delimitation of the continental shelf (see "Law of the Sea", Bulletin No. 70, UN, 2009: 52).

The importance of the maritime domain to the coastal states cannot be underestimated. The overwhelming bulk of their export and import trade is through their ports and across the seas. The coastal areas and the seas are also potentially – and in the case of Kenya already – an important source of revenue and economic activity generated from tourism. The economic importance of the maritime domain of the coastal states also includes fisheries and the potential oil and mineral resources to be explored and exploited from the seabed.

The fishing industry of many of the coastal states in the region is backward and reliant almost exclusively on artisanal fishing (Teweldemedhin 2008; Hassan and Tako: 1998).[2] Exporting the catch to generate foreign exchange and the processing of fishery products are almost non-existent or at a rudimentary stage of development (ibid.).

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[2] See: http://fao.org/fishery/countrysector/FI_DJ/en

Table 1: Claims of Maritime Jurisdiction of IGAD coastal states

States	Territorial sea	Contiguous zone	Exclusive economic zone	Continental shelf
Sudan	12 nm	18 nm	–	200 nm
Eritrea	12 nm	24 nm	*	
Djibouti	12 nm	24 nm	200 nm	
Somalia	200 nm	–	–	
Kenya	12 nomination	–	200 nm	

Note: * Precise limits of Eritrea's EEZ are based on the phase 2 arbitration award of Yemen-Eritrea Arbitral Tribunal (for details see Michael Reisman 2000). Source: Data compiled from "Law of the Sea", Bulletin No. 63, 2007, Division for Ocean Affairs and the Law of the Sea, Office of Legal Affairs, New York: United Nations.

Kenya is the exception to this rule: the fishing sector there is more developed and generates export revenue, under the management of the Ministry of Fisheries Development.

Currently, excluding Eritrea, fishing stocks and rights have not yet emerged as a source of tension between coastal states in the region, which may be taken as another indicator of the predominantly artisanal and backward fishing sector of the region.

In the past, several coastal states have granted offshore oil exploration rights to companies and the prospects of potential oil and mineral deposits may raise maritime tensions between coastal states. To date, Eritrea and Kenya have granted offshore oil exploration rights to foreign corporations. At this point, none of the coastal states of the region are exploiting or deriving revenue from the exploitation of off-shore mineral and oil resources.

4.2.7 Landlocked States

Three of the member states of the Inter-Governmental Authority on Development (IGAD) – South Sudan, Ethiopia and Uganda – are landlocked and thus depend on their neighbouring coastal states for access to the sea and for their import and export needs.

Landlocked states depend on coastal states for access to the outside world and therefore need to maintain good relations. Tensions could lead to the coastal state denying the landlocked state access or right of transit, which occurred during the 1998–2000 Ethiopian–Eritrean war. The coastal state can also use its control over the landlocked state's access to the sea to apply political pressure. Landlocked states can also be affected by internal political problems in coastal states, which was the case during the violence after the 2007 elections in Kenya (which affected Uganda).

Access to the sea can be negotiated between landlocked and coastal states, but such access is never absolute or totally secure. International law, for example, recognizes the "right of access" of landlocked states but this right is to be based on a bilateral agreement between a landlocked and a coastal state and is always subordinate to the doctrine of sovereignty, which means that it is not absolute and also cannot be imposed on a coastal state. For example, Appendix 3 of the United Nations Convention of the Seas, Article 125, sub article 1, states that landlocked states *"have the right of access to and from the sea",* but the following sub articles, particularly sub article 3, state that transit/coastal states *"have the right ... to ensure that the rights and facilities provided for in this Part for land-locked states shall in no way infringe their legitimate interests".* Thus Article 125, sub article 3 of Appendix 3 of the UNCLOS (1982) subordinates the right of access to the sea of landlocked states to the decisions and interests of the coastal/transit state.

But there are encouraging indications with regard to cooperation between landlocked and coastal states. The recent joint project between Ethiopia, Kenya and South Sudan to build an oil pipeline, road and railway linking South Sudan and Ethiopia with Lamu port in Kenya (Lamu-Southern Sudan-Ethiopia Transport [LAPSSET] Corridor project, exemplifies this trend of cooperation between the two types of state in the region.

5. International Response to Maritime Insecurity in the Region

Since 2008, there has been an increasing international focus and emphasis on maritime security issues in the Horn of Africa. The international community has expended resources and launched a host of initiatives on maritime issues in the region.

However, the efforts and initiatives of the international community have concentrated on one manifestation of maritime insecurity to the exclusion of others, namely Somali piracy.

Certain features of Somali piracy have determined the scope and nature of the international reaction to it. Somali piracy targets shipping in some of the most important shipping lanes in the world. Somali pirates also attack and hijack ships in international waters, which simplifies one of the key jurisdictional hurdles to the prosecution of those accused of piracy. Coupled with the fact of state failure in Somalia, which means that there is no functioning government capable of exercising control and jurisdiction, the incentives and ease of entry for international actors are higher. The economic and commercial costs of Somali piracy are also immense: ransom payments have reached several million US dollars, euros and pounds. The economic and commercial costs of Somali piracy also include the higher insurance costs for cargo and crew that shipping operators incur when transiting these waters. Higher costs are also incurred by shipping companies and operators who take longer, more circuitous routes to avoid pirate attacks. Ultimately, the media coverage and high profile of Somali piracy can

also be seen as another determinant of the international reaction.

Another aspect that needs to be mentioned here and has a bearing on the international reaction to Somali piracy centres on the incidence of pirate attacks in the waters of the Red Sea, the Gulf of Aden, the Arabian Gulf and the Indian Ocean. The increasing range of the Somali pirates is also important. Beginning in the late 1990s, the frequency of successful and unsuccessful attacks perpetrated by Somali pirates has been on the rise (Potgieter 2012: 6–8). Somali pirates have also been ranging farther out onto the high seas in search of viable targets, sometimes as far as 1,000 nm from the Somali coast.

To understand the international community's response to Somali piracy, it is best to conceptualize it on several levels. Objectively, the international community's response should be framed in relation to the Convention and provisions of international law, the initiatives and programmes of the United Nations and its agencies and the bilateral and multilateral initiatives of states and non-state actors.

5.1 International Law

The key international legal instrument dealing with piracy is the United Nations Convention on the Law of the Seas (UNCLOS) and the Geneva Convention of 1958.

Both Conventions recognize piracy as a crime of universal jurisdiction, which means that the forces of any state can take action against, prosecute and imprison pirates. However, this universal jurisdiction is limited to the high seas or international waters and

only allows "hot pursuit" of pirates with the consent of the coastal state.

Article 107 of UNCLOS and Article 15 of the 1958 Geneva Convention define piracy as:

(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).

However, critics allege that UNCLOS is not comprehensive and has gaps. The UNCLOS Convention supposedly has a narrow definition of piracy. More specifically, in the present context, its greatest weakness is supposed to be that it does not cover so-called »preparatory acts« and does not apply to territorial waters. The provisions within the Convention also constrain international or multilateral efforts to fight piracy.

Therefore, to facilitate the fight against piracy in the Gulf of Aden, the UN and some governments take the view that other Conventions would better serve the purpose. The consensus is that the following Conventions, due to their breadth and scope, would better serve the objective of combating piracy: the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation 1988, revised in 2005 (also known as the SUA Convention), the Convention on the Facilitation of International Maritime Traffic 1965, the Hostage Taking Convention and, finally, the UN Convention against Transnational Organized Crime and its protocols.

5.2 United Nations Security Council (UNSC) Resolutions and Related UN Initiatives

Since 2008, with the escalation of pirate attacks in the Red Sea and Gulf of Aden area, and the consequent threat to shipping lanes and traffic, the United Nations has passed several resolutions on piracy in these waters. In effect, the successive UN resolutions have created a framework that allows states and multilateral actors to undertake a host of measures against piracy.

It is important to underline that the tenor and substantive content of the UNSC resolutions since 2008 have been consistent in certain respects. While the resolutions have increasingly raised the issue of capacity building and state reconstruction in Somalia, centred on the Transitional Federal Government and the regional authorities, these objectives are viewed in an instrumental manner, as merely a means to an end, namely combating Somali piracy. Although these UNSC resolutions have drawn attention to the problems of illegal, unreported and unregulated fishing and waste dumping in Somali waters, the UNSC resolutions have not granted international naval forces operating in the area a mandate to target vessels engaged in these activities in Somali waters. Successive

UNSC resolutions have not shifted from a securitized, law and order punitive approach to Somali piracy. Finally, an important point that emerges from a perusal of these resolutions is the plethora of UN agencies and bodies addressing the issue of Somali piracy, such as the UNDP, UNODC, the IMO and UNPOS.

Table 2: UNSC Resolutions on Piracy off the Somali Coast

UNSC Resolution	Date	Intent
Resolution 1816	2 June 2008	Authorizes naval operations in Somali territorial waters for a period of 6 months by foreign naval forces based on prior consent from the Transitional Federal Government
Resolution 1838	7 October 2008	Calls on member states to utilize naval and aerial assets to combat piracy with its source in Somalia
Resolution 1846	2 December 2008	Authorizes naval operations in Somali territorial waters for a period of 12 months by foreign naval forces based on prior consent from the Transitional Federal Government
Resolution 1851	16 December 2008	Authorizes land-based operations against pirates operating from Somali territory; calls on countries to facilitate "ship rider arrangements"
Resolution 1897	30 November 2009	Calls on member states to extend support to building up the capacity of the Transitional Federal Government and regional authorities to combat piracy
Resolution 1918	27 April 2010	Calls on member states and states in the region to criminalize piracy and urges implementation of the Djibouti Code of Conduct
Resolution 1950	23 November 2010	Renewed attention to and emphasis on capacity building in Somalia and the importance of a comprehensive approach to tackle Somali piracy. It urges member states to strictly enforce arms embargos. Calls on member states to renew naval and aerial efforts against piracy. It underlines the coordination role of the CGPCS. Mentions the importance of targeting financial proceeds and the organizers and financiers of acts of piracy
Resolution 1976	11 April 2011	Raises issues of capacity building in Somalia in terms of the CJS and requests the secretary general to render a report on the problems of illegal, unreported and unregulated fishing and waste dumping in Somali waters. Identifies UNPOS as UN focal point for counter-piracy efforts
Resolution 2015	24 October 2011	Emphasizes establishment and strengthening of anti-piracy legislation and provisions criminalizing piracy in Somalia and the general region
Resolution 2020	22 November 2011	Emphasizes the importance of extending the inclusion of provisions criminalizing piracy in legislation and legal codes of countries in the region

The United Nations Political Office for Somalia or UNPOS was identified as the focal point for UN anti-piracy efforts in UN Security Council Resolution 1976 (2011). UNPOS, through its programmes, plays a central role in the capacity building of the security apparatus of the Transitional Federal Government and in facilitating political stabilization in Somalia.

The United Nations Office on Drugs and Organized Crime (UNODC) and the United Nations Development Programme (UNDP) are extensively involved in capacity building and training with regard to the criminal justice system in Somalia. These UN agencies are involved in prison construction and expansion, training programmes for judges and legal professionals and working on the inclusion of provisions criminalizing piracy in the legal codes of the Transitional Federal Government and various regional authorities in Somalia. The UN Joint Programme on Local Governance and Decentralized Service Delivery and the Somalia Reconstruction and Development Programme focus on decentralized service delivery in relation to the Transitional Federal Government and regional authorities in Somalia (Homan and Kamerling 2010: 97).

The International Maritime Organization (IMO) is also closely involved in creating a framework for regional and multilateral efforts against piracy. The IMO has organized a series of sub-regional meetings to facilitate regional efforts in the fight against piracy and armed robbery against ships in the region. The IMO has also assisted in the formulation of security procedures and codes to be followed by ships and ports in the region to counter piracy.

5.3 Other Multilateral and Bilateral Initiatives to combat Piracy

5.3.1 Multilateral Initiatives

Contact Group on Piracy off the Coast of Somalia (CGPCS)

The CGPCS was established on the basis of UNSC Resolution 1851 (2008). The CGPCS is an international mechanism which acts as a contact to facilitate efforts in the struggle against piracy. The CGPCS is composed of representatives of states, regional organizations and observer members. The CGPCS has several objectives, among which support for operational and informational needs, acting as a coordination centre, strengthening judicial frameworks and increasing safety capabilities of commercial ships and their operators are the most important. To achieve these objectives, the CGPCS acts through four working groups which meet frequently. The CGPCS also has a trust fund at its disposal through which it disburses funds to states for legal reforms and strengthens their criminal justice systems.

The International Criminal Police Organization (Interpol)

Interpol is also involved in the efforts against piracy; it established a Maritime Piracy Task Force in January 2010. The Task Force focuses on improving evidence collection, facilitating information exchange and increasing the capacities of police investigation units and personnel deployed against pirates (Interpol 2012). Interpol has developed a global database on maritime piracy that includes details of pirates, financiers and leaders of pirate networks, including their financial assets. Interpol is

actively involved in training and upgrading police capacities in the region.

5.3.2 Naval-Military Initiatives

EU (Operation Atalanta)

The EU (European Union) launched the EU Naval Force Somalia – Operation Atalanta (EU NAVFOR – Atalanta) in December 2008. Since then its mandate – "to deter, prevent and intervene in order to bring an end to acts of piracy and armed robbery" – has been renewed several times. Several EU member states take part in EU NAVFOR operations, which have foiled many pirate attacks and led to the capture of many pirates. The EU also took the lead in establishing and maintaining the Internationally Recommended Transit Corridor (IRTC), in which maritime traffic is safe from pirate attacks. EU NAVFOR is the largest single group among the naval units and forces operating in the region.

EU CAP Nestor

EU CAP Nestor is a training and capacity-building programme – with its headquarters in Djibouti – launched by the EU to improve the counter-piracy and maritime governance capabilities of states in the region. While initially the programme was supposed to work with five states in the region (Djibouti, Somalia, Kenya, the Seychelles and Tanzania), only Djibouti and the Seychelles have availed themselves of the opportunities provided by it (Bueger 2013).

NATO: Operations Allied Provider, Allied Protector and Ocean Shield

The North Atlantic Treaty Organization deployed Standing NATO Maritime Group 1 (SNMG1) to protect humanitarian aid shipments from pirate activities in 2008. Later, operations Allied Protector and Ocean Shield were launched consecutively with a more specific anti-piracy focus. NATO naval operations in the region also comprise crew, air elements and ships, from different NATO states.

Combined Maritime Task Forces (CMF): Combined Task Force 150 and 151

The United States Navy deployed Combined Task Force 151 (CTF-151) to counter piracy in the GOA and Western Indian Ocean, succeeding CTF 150. While CTF 151 is under the operational command of the United States Naval Forces Central Command (NAVCENT) headquartered in Bahrain, it is also a multinational operation comprising personnel and vessels from several states (NATO member states and naval forces from governments closely tied to the United States).

Other Naval Forces in the Region

Countries such as Russia, the People's Republic of China and India have also deployed elements of their navy in the Gulf of Aden and Western Indian Ocean, with the mandate to combat piracy.

Japan, South Korea and Malaysia have also deployed single vessels in the waters of the region, while states such as Yemen and the Kingdom of Saudi Arabia have occasionally

deployed vessels as part of the earlier mentioned multilateral initiatives.

Shared Awareness and Deconfliction (SHADE)

Overall coordination and information sharing regarding the naval-military efforts to combat Somali piracy is conducted through the meetings of the Shared Awareness and Deconfliction group, based in Bahrain. These meetings bring together officers from the multilateral naval initiatives and countries with naval forces operating in the region, the UN, Interpol and representatives of shipping interests (Bueger 2013: 85).

5.3.3 Non-State Actors

Private Security Firms

Private security firms constitute another important set of actors participating in the struggle against Somali piracy. Such firms offer a range of services to protect shipping from pirate attacks, ranging from armed escort ships to armed so-called "vessel protection detachments" (VPDs).

Private security firms are also hired by shipping interests to negotiate the release of hijacked crews, ships and cargo and to handle ransom payments with Somali pirates. These firms have also carved out a role for themselves in training and equipping police and military personnel of the different regional authorities in Somalia, ostensibly for combating piracy, although there are indications that they have not been particularly successful in this role.

The role of private security firms in the fight against piracy brings up a host of legal and political issues. While the US government and its representatives envisage a role for these firms in the fight against piracy, the attitudes of the UN and several European states is markedly different. The legal issues range from provisions in the laws of particular states regarding the presence of VPDs registered under their flags to the problem of potential impunity in relation to the violence perpetrated by VPDs. Legal difficulties may also arise in case of the capture of pirates by VPDs in terms of the legality of the arrests and the evidence that may be submitted.

Non-Governmental Organizations (NGOs)

In Somalia, several NGOs are involved in programmes and activities to rehabilitate former pirates and reintegrate them into society. There are also NGOs that have participated in consciousness-raising and awareness campaigns against piracy and the toleration of pirate activities.

To cite one example, Norwegian Church Aid (NCA) in Puntland carried out a training and vocational programme that targets vulnerable young people and former pirates to give them training in skills in demand in urban areas (IGAD 2011: 32). Hundreds of young people have benefited.

The activities of these NGOs diverge from the securitized approach characteristic of other multilateral agencies and organisations confronting piracy off the coast of Somalia.

6. Regional Approaches to Maritime Insecurity in the Region

Discussion of the regional response to issues of maritime insecurity needs to be framed in relation to continental debates and the frameworks and declarations of the African Union (AU).

One of the earliest and most important documents related to maritime issues and Africa is the African Maritime Transport Charter and Plan of Action, formulated in 1994 and later updated.

The African Maritime Transport Charter covers a broad range of issues and has an economic focus. It raises the importance of promoting the growth and development of Africa's merchant fleets, promoting the efficiency and capabilities of Africa's ports and encouraging states to devote resources to their maritime sectors. The Charter also underlines the importance of harmonizing laws and regulations regarding the maritime sector of Africa. The Charter also raised issues with a more securitized aspect, such as piracy. However, it does mention issues such as illegal, unreported and unregulated fishing in African waters.

The Charter was a milestone, envisaging actions at the continental, regional and state level to achieve its objectives (Baker 2011: 44). It called for the formation of new institutions and mechanisms or called on existing institutions to take on the task of achieving the objectives set out.

The plan of action was also detailed in defining its objectives and the actions necessary to achieve them.

Later in October 2009, an AU ministerial conference held in Durban endorsed both the African Maritime Transport Charter and the Plan of Action, which had been updated since 1994. The conference is also important because it issued the Durban Resolution on Maritime Safety, Maritime Security and Protection of the Marine Environment. The Durban Resolution primarily addressed maritime transport, marine economic resources and their utilization. The Durban resolution also raised concerns about piracy and the protection of the marine environment as central to Africa.

The Fourteenth African Union Summit of Heads of State, held in 2010, endorsed all three documents mentioned here.

The AU also commissioned a study on a draft African maritime security strategy in collaboration with the Brenthurst Foundation and the African Centre for Strategic Studies. The document, mentioned earlier – "Maritime Development in Africa: An Independent Specialists Framework" (2010) – develops a comprehensive vision for an African maritime security strategy. At the same time, it envisages that bilateral and multilateral arrangements with non-African partners are key to ensuring Africa's maritime security needs (ibid.: 8).

The AU has also formulated a Common African Defence and Security Policy, although it pays little attention to maritime security (AU 2004).

Finally, in January 2014, at the Twenty-Second Summit of Heads of State and Government, the AU adopted the 2050 Africa's Integrated Maritime Strategy (2050 AIM Strategy). This strategy is based on a holistic and comprehensive approach to

maritime security that encompasses the economic, human security, environmental and securitized dimensions. This strategy envisages actions and initiatives across a wide spectrum and also outlines a variety of implementation mechanisms. It also specifies a wide range of objectives.

The recent adoption of an Africa-centred and holistic vision of maritime security for the continent is an undeniable achievement. However, past experiences suggest that it remains to be seen whether this strategy will ever be implemented. For example, the declarations, resolutions, charters and plans of actions produced by the Organization of African Unity (OAU) and later by the AU, while ambitious and full of good intentions, have never been implemented. While it cannot be denied that, at the continental level, a consciousness of the holistic and intertwined nature of maritime security exists, this knowledge and consciousness has not been translated into actual actions and programmes.

Several factors may explain this state of affairs, but lack of resources and capacities seems to be the most obvious reason for the AU's failure to develop a comprehensive maritime regulatory framework. The AU lacks the wherewithal and manpower to translate commitments into action. At the level of the member states, the lack of the requisite technical capacity coupled with weak maritime force projection capabilities seem to be the most important factors preventing coastal states from asserting a more assertive maritime presence and exerting control over their maritime domains. Weak port management and inefficiency in utilising port facilities, coupled with small merchant and fishing fleets and inability to exploit maritime resources stop

member states from benefiting from their maritime resources.

As regards the structural dynamics and manifestations of maritime insecurity in the Red Sea, the Gulf of Aden and the Western Indian Ocean, it is clear that the states in the region have been unable to cope with the variety of problems that have emerged.

The traditional threats to the security of these states have previously tended to emerge from the land and not the seas (unless one includes colonialism). Economic underdevelopment and lack of resources and capacities have constrained states in the region from articulating a comprehensive position on maritime issues and from projecting any degree of control over their maritime domains. The cumulative effect of all these factors is a prevalent underestimation of the importance of the maritime domain and its implications for the economic prospects and security needs of the region in general and the coastal states in particular.

The states in the region and the region as an entity have not developed a comprehensive maritime security strategy. An objective appraisal reveals that the approach to the complex issue of maritime security is ad hoc and reactive.

Despite the abovementioned realities and weaknesses, the states in the region and IGAD have attempted to tackle the issue of piracy, launching policy initiatives and programmes. Ultimately, they are in the process of defining a distinct and regional perspective in response to the challenges posed by maritime insecurity.

The following discussion will outline the initiatives and programmes that have been formulated and the actions being taken on maritime insecurity in the region. The discussion will first touch on regional initiatives and then discuss initiatives and actions at the state level.

6.1 Regional Initiatives

The states in the region and regional organizations have formulated a host of initiatives in response to Somali and other piracy. While ostensibly these are regional initiatives, the role of external actors, such as the donor community, should not be underestimated.

6.1.1 Djibouti Code of Conduct

The Djibouti Code of Conduct arose from a conference sponsored by the International Maritime Organization in Djibouti in January 2009. The conference saw extensive participation from across the region and also included Western states, as well as Yemen and Saudi Arabia. The central focus was to encourage the states in the region, especially coastal states, to include provisions in their legislation and legal codes criminalizing piracy and also to accept »ship rider« arrangements (IGAD 2009: 20–12). It also envisaged the establishment of national focal points for piracy and armed robbery against ships and the sharing of information on reported incidents. Piracy information exchange centres were also to be established with external assistance in Dar es Salaam, Mombasa, Sana'a and a maritime training centre in Djibouti. Five states in the region signed the Djibouti Code of Conduct. However, only Kenya has adhered to the provisions of the code by

incorporating provisions criminalizing piracy, implementing ship rider arrangements and concluding memorandums of understanding (MOUs) with multilateral actors and states that allow for the prosecution and imprisonment of Somali pirates in Kenya (Baker 2011: 47).

6.1.2 IGAD Somalia Inland Strategy and Action Plan to Prevent and Counter Piracy

IGAD has addressed the issue of Somali piracy and the wider complex of maritime security in the region repeatedly, in various statements and communiqués. The IGAD Peace and Security Strategy (IPSS), while including a maritime component, does not address the maritime focus in adequate detail (Interview CTA). However, the IPSS does represent the beginnings of a comprehensive approach to maritime security in that it raises marine environmental issues, marine resources and the needs of landlocked states, if in abbreviated form (interview CTA). Specifically, the IPSS identifies four strategic priority areas and maritime security issues fall under priority area three, which subsumes emerging common peace and security threats, including piracy (Kasaija Phillip Apuuli 2011: 364). Priority area four includes "trans-boundary water resources management, energy resources management and environmental management", which can also be viewed as overlapping issues in terms of maritime security (ibid.: 365).

The ISSP also possesses a maritime security component, although it is in its early stages and has yet to register tangible progress.

In 2009, the IGAD Capacity Building Programme against Terrorism (IGAD-ICPAT) also initiated a study on Somali piracy, the

Report on the Impact of Piracy on the IGAD Region.

In 2011, the IGAD Security Sector Programme (IGAD-ISSP) prepared an IGAD Somalia Inland Strategy and Action Plan to Prevent and Counter Piracy. This is a detailed and comprehensive approach to the scourge of Somali piracy. The emphasis is on actions and initiatives with an onshore focus. It envisages a wide range of measures based on a programmatic and gradual approach. One of the advantages of the IGAD strategy and action plan is that it departs from the conventional securitized and punitive approach to Somali piracy and takes into account the broader political, social and economic dynamics that led to the emergence of Somali piracy. Above all, the strategy and action plan are premised on the assumption that the root cause of Somali piracy and the exacerbation of the other manifestations of maritime insecurity in the region is the collapse of the Somali state and therefore argues for an emphasis on state reconstruction in Somalia.

However, IGAD's lack of resources and capacities, coupled with the reluctance of the donor community to commit resources to such a broad undertaking, has meant that the strategy and action plan have not been implemented.

6.1.3 Regional Strategy against Piracy and for Maritime Security in Eastern and Southern Africa and the Indian Ocean

In October 2010, a group of ministers from East Africa, Southern Africa and Indian Ocean (EAS-IOC) states met to address maritime security issues, specifically Somali piracy. The meeting also included representatives from the EU, the United States and various international organizations. The meeting developed a comprehensive and broad strategy and also a Regional Plan of Action.

The EAS-IOC strategy seeks to promote a three-pronged approach to maritime security: incorporating IGAD's Somalia Inland Strategy and Action Plan to Prevent and Counter Piracy, encouraging states in the region to accelerate the prosecution of pirates in their court systems and emphasizing the importance of the international community in strengthening regional maritime capabilities.

6.1.4 Kampala Process

The Kampala Process is another regional mechanism focusing on maritime security. The Process is a coordinating mechanism that links the TFG, different regional authorities in Somalia, UN agencies and representatives of Western states. The activities and meetings of the Kampala Process have focused on efforts to combat piracy in the waters off the Somali coast. Its mandate also includes following up Somalia's claims related to its EEZ and addressing issues concerning its territorial waters.

6.2 National Level Initiatives and Programmes

6.2.1 Accession to Relevant International Conventions

In terms of accession to the relevant international conventions on maritime security progress is uneven across the region. Such accession is critical because

it facilitates the criminalization of forms of activity that lead to maritime insecurity.

In the region, Eritrea – a coastal state – is not a signatory of the UNCLOS Convention. Somalia, Djibouti and Ethiopia have signed but not ratified the Convention and related agreements. Kenya and Uganda are the only countries that have signed and ratified all. With regard to the SUA Convention of 1988, Sudan, Djibouti, Kenya and Uganda are signatories, while Eritrea, Somalia and Ethiopia are not.

6.2.2 Incorporation of Provisions Criminalizing Piracy into Legislation and the Legal Code

As already pointed out, the UN and Western states have been encouraging states in the region to criminalize piracy and thus facilitate the prosecution and imprisonment of captured pirates. The UN and the West have offered incentives in the form of capacity building of the criminal justice system, development funds and assistance to expand the maritime capabilities of coastal states.

Western states are reluctant to prosecute Somali pirates based on the fear that they might apply for asylum once they complete their prison terms. This has led Western governments to seek to "subcontract" their legal responsibilities to third states.

The Transitional Federal Government (TFG) and its successor, the current Somalia Federal Government (SFG), as well as regional authorities in Puntland and Somaliland and the government of Kenya have made the greatest progress in this regard. The other states in the region have lagged behind in terms of criminalizing piracy.

Since 2009 the Kenyan government has signed MOUs with the EU and the United States to accept captured pirates, prosecute them and then imprison them if they are found guilty (Obuah 2012: 49). In return, Kenya has received assistance and funds. In fact, Kenya holds the largest number of imprisoned Somali pirates outside Somalia.

6.2.3 Military and Naval Actions against Piracy

In terms of military and naval actions against Somali piracy, the regional authorities in Somalia, especially the authorities of Puntland, have launched several onshore attacks against Somali pirates, capturing some of them and, in some cases, freeing hijacked crews, cargos and vessels (IGAD 2009: 27–31, IGAD 2011).

As already pointed out, the international community is providing extensive assistance to the SFG and regional authorities in Somalia to upgrade their military, naval and law enforcement capabilities, primarily against pirates and, in the case of the SFG, also against the HASM insurgents. These projects are ongoing. The states in the region, such as Djibouti, Ethiopia, Kenya and Uganda, have also been involved in efforts to strengthen the military capabilities of the SFG and regional authorities through training programmes.

The navies and coastguards of Kenya and Djibouti have also received international assistance to strengthen their maritime capabilities. However, this assistance seems to be awarded not with the idea that in the future these forces will play a more expansive role in the fight against Somali piracy, but more as a reward for supporting

the international community's naval and other efforts.

7. Complementarities between Regional Efforts and the International Community's Initiatives in the Sphere of Maritime Security

The international community's (United States, EU and other major powers) actions and initiatives concerning maritime security are framed in terms of a perception that views piracy off the coast of Somalia as the primary manifestation or source of maritime insecurity in the region. Other manifestations of maritime insecurity are disregarded.

Secondly, the international community's envisaged resolution of the problems posed by piracy foregrounds military-naval options, but also sees it as a legal and criminal problem. Therefore the policies, initiatives and efforts of the international community in relation to maritime security in the region, have been developed to ensure that actions by other states (including in the region) support these initiatives, either directly or indirectly.

Due to the imbalances and inequalities of the international system and also the resource constraints and lack of capacity characteristic of the states in the region, the agenda and premises of the international community regarding maritime security have defined what policies and actions are feasible.

Within this framework an informal division of tasks between international actors and regional states has emerged. The UN, the United States and the EU define the parameters of actions and initiatives to combat piracy. These powers conduct and, in a manner of speaking, "monopolise" naval-military actions on the high seas and in the territorial waters of Somalia. On the other hand, the states in the region are expected to reform their legal systems so that they can prosecute and imprison captured pirates handed over by international naval forces.

However, despite the imbalances and problems posed by the lopsided nature of the "cooperation" between the states in the region and the international community, it is undeniable that efforts against Somali piracy are bearing fruit. Hundreds of individuals accused of piracy have been tried in Somalia and also in courts in Kenya, the Seychelles and Yemen, and those found guilty have been imprisoned. Today hundreds of Somali pirates are either awaiting trial or completing their prison terms. The deterrent effect of such a policy cannot be underestimated.

Many attacks have been foiled and, in some cases, hijacked ships with their crews and cargos have been freed. Due to the protection afforded by international naval forces in the region, maritime traffic is safer. More specifically the IRTC initiative is another indicator of the success of the current approach.

As recent reports indicate, since their heyday in the period 2008–2010, Somali pirate attacks have shown a sharp decline (see, for instance, Stratfor November 2012, also http://www.icc-ccs.org/news/747-six-month-drop-in-world-piracy-imb-report and http://www.icc-ccs.org/news/811-imb-

reports-drop-insomali-piracy-but-warns-against-complacency). As Table 3 shows, the frequency of Somali pirate attacks and successful hijackings has fallen: it seems that the presence and actions of the international naval forces have had an appreciable effect in increasing the costs and reducing the incentives for piracy.

Table 3: Frequency of Somali pirate attacks

	2009	2010	2011	2012	2013
Total number of attacks	163	174	176	35	9
Attacks foiled	114	65	28	15	9
Ships hijacked	46	47	25	5	0

Sources: Adapted from "Source: EU NAVFOR Video Material: TV-Newsroom of the Council of the European Union", 20 December 2012 and PAWW (Piracy Analysis and Warning Weekly), http://www.oni.navy.mil/Intelligence_Community/piracy,htm

The assistance rendered by the international community is also strengthening the criminal justice systems of the region. International assistance is also incrementally improving the maritime force projection capabilities of the coastal states.

Finally, international assistance in stabilizing the situation in Somalia and assisting the Somali Federal Government is also of critical importance.

8. Problems and Differences between Regional Efforts and International Community Initiatives in the Sphere of Maritime Security

It seems clear that the international community, acting both bi- and multilaterally, is fully committed to the effort against piracy. It is also clear, however, that the multiplicity of programmes and activities being deployed against piracy creates problems in terms of coordination and duplication of efforts. For instance the UNDP, UNODC and UNPOS are all, to varying degrees, engaged in capacity building of the security sector in Somalia. UNODC and UNDP-ROLS are also engaged in strengthening the criminal justice system. Various EU member states and states in the region are also involved. The EU CAP Nestor programme also focuses on capacity building and in many respects overlaps with ongoing activities and initiatives of other multilateral and bilateral actors (Bueger 2013). While the security sector and the criminal justice system in Somalia certainly deserve attention, duplication of efforts and the consequent waste of resources is a valid concern.

The multiple initiatives formulated by different multilateral actors are so similar that the question arises of whether many of these initiatives could be combined. The situation seems to reflect competition between multilateral actors to carve out a role for themselves.

The current state of the struggle against piracy also reveals important divergences between the region and the larger international community in relation to

maritime security issues in the region, Somali piracy in particular.

The perspective of the states in the region and also IGAD is that the root cause of Somali piracy is the collapse of the Somali state and that a long-term solution to it and the other manifestations of maritime insecurity in the region depends on the stabilization of Somalia and the resurrection of the Somali state (interview CAM). For these states and IGAD, initiatives and actions should thus have an onshore focus. They also take the view – as gleaned from policy statements and documents – that efforts should be comprehensive and go beyond a securitized, punitive approach to the problem (interview CAM).

The broader international community has also been lukewarm in terms of its support for proposed regional initiatives, seemingly regarding them as too ambitious and expensive.[3]

On the other hand, the views of the international community are at odds with the current realities on the ground and are

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[3] One example of this is the author's experience as a consultant for the IGAD-ISSP during the validation workshop (22–23 February 2011), when the "IGAD Somalia Inland Strategy to Prevent and Counter Piracy 2010–2015" was presented to an audience comprising representatives of member states, donor governments, regional and multilateral actors, such as the EU, NATO and various UN agencies. During the deliberations, representatives of several UN agencies raised doubts about the capabilities of IGAD and member states to implement the strategy and action plan. They also pointed out that the UN agencies they represented were involved in the same spheres that the strategy and action plan were targeting and suggested that IGAD should direct its resources and efforts in other areas. Some representatives of donor governments expressed similar misgivings.

more geared to a quick fix and immediate results. For the international community, multilateral naval action is necessitated by state failure in Somalia and the weak maritime capabilities of the states in the region. This dictates the division of tasks that has emerged between regional states and the international community. The Western perspective on Somali piracy also tends to discount the contribution of illegal, unreported and unregulated fishing and waste dumping to piracy.

The states in the region and some in Somalia also view the presence of international naval forces in regional waters with trepidation and suspicion. The fact that international naval forces are not mandated to take actions against vessels engaging in illegal, unreported and unregulated fishing and waste dumping is also viewed as unfair. A related perception sees the costs associated with the international naval presence as expensive (for the international community) and assumes that these resources could have been better allocated to strengthen the capabilities of the TFG and the maritime capabilities of the coastal states in the region, which would make it possible to achieve the same objectives at a cheaper price. There are also concerns that the waters abutting the region could become an arena of naval and geopolitical rivalries between the major powers (see Holmes 2010).

Pragmatism and the possibility of immediate practical benefits dictates behavioural patterns in the region (states and IGAD) in relation to maritime security. Regional governments, while cognisant of the divide between themselves and the broader international community regarding maritime security issues, have chosen to focus on practical benefits to be derived

from collaboration with the agenda of the developed world. These benefits range from financial support, capacity building of the criminal justice system and maritime force projection capabilities (training and equipment for coastguard units and personnel) and the establishment of training facilities. On several occasions states in the region have collaborated with broader international initiatives dictated by these incentives.[4]

The different forms of cooperation between the states in the region and the international community are not free of tensions. For instance, as already mentioned, Kenya has cooperated with the international community by introducing legal provisions criminalizing piracy and also concluded several MOUs with the United States and the EU. These MOUs made it possible to try Somali pirates captured by international naval forces in international waters committing attacks or preparatory to committing attacks against third country ships in Kenyan courts and to imprison them in Kenyan prisons. However, since October 2010 Kenya has terminated these MOUs (Obuah 2012: 54). There were concerns in Kenya that these agreements

were lopsided and that the counterparties had not provided the promised funds and support for the Kenyan criminal justice system.

Another critical gap in the maritime security efforts is the negligible contribution and role of coastal communities and civil society. This is partly explained by the nature of the political regimes in the Horn of Africa – authoritarian, illiberal or semi-democracies, lack of transparency and accountability – and the tendency for maritime issues to be regarded as "high politics". The situation is not uniform, however. The SFG and regional authorities in Puntland have consulted and involved communities and their leaders – religious figures, clan and sub-clan elders – in campaigns to raise community awareness of pirates and piracy. These efforts have played a critical role in shifting narratives and public opinion across Somalia, so much so that the hitherto dominant narrative of piracy as a reaction to illegal, unreported and unregulated fishing and waste dumping has lost considerable support. NGOs in Puntland have also done substantial work in changing perceptions and rehabilitating former pirates. Representatives of international naval forces operating off the Somali coast have also held consultations with leaders of coastal communities in Puntland. Nevertheless, the fact remains that maritime issues receive little attention from the general public in the region and this must be addressed.

9. Conclusion

The primary objective of this study is to examine the dynamics and scope of maritime security in the region. The Horn

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[4] Several instances might corroborate this impression. For instance during the meeting (26–29 January 2009) that led to the signing of the Djibouti Code of Conduct, the key concern of the representatives of the states of the region and other African states was the establishment of training facilities and offices in their respective countries, to the exclusion of other critical issues. The delegates, in terms of both their composition and their participation in the proceedings, seemed to be inadequately prepared for and aware of the multifaceted legal and other implications of the proposed code of conduct. The author was present at the conference as a consultant for the IGAD-ICPAT.

of Africa region is characterized by inter- and intra-state conflicts rooted in state formation in the region, relations between state and society, underdevelopment and a host of other factors. Maritime insecurity has not traditionally been an issue here, but that is changing.

The sources and manifestations of maritime insecurity in the region are complex and intertwined; maritime issues may also become a source of rising tensions between states.

At present, it is piracy that has drawn the attention and resources of the international community and the region. While it is indeed a serious threat, we have argued that exclusive emphasis on piracy off the coast of Somalia obscures the deeper dynamics of the problems afflicting the Horn of Africa and also the broader aspects of maritime insecurity in the region.

The paper argues that the regional states and the main regional organization, IGAD, have yet to formulate a comprehensive regional maritime security strategy. At the same time, the region is in the process of formulating its own position on maritime security. This has been accelerated by the international focus and attention on piracy off the Somali coast. However, the international community's – especially the Western states' – exclusive focus on piracy and the securitized punitive approach adopted towards it conflict with the emerging regional consensus on regional maritime security issues.

While synergies and complementarities exist in the current efforts against piracy, the contradictions and tensions are also critical and deserve attention. It is clear that, despite these contradictions and

tensions, the struggle against piracy is making progress. However, this could be imperilled if the contradictions and tensions are not resolved.

The experiences of the region so far are also important in terms of the lessons learned and provide a useful template for successes and failures in the sphere of maritime security. More specifically, the experiences and competing narratives also provide critical insights into the issues and realities facing the developing world and governments in terms of collaboration and cooperation with the developed world on issues of maritime security. It could be argued that other regions in Africa and indeed the rest of the developing world could derive useful lessons from the experiences of the Horn of Africa.

10. Recommendations and Entry Points

From the above overview, a number of general recommendations and entry points can be put forward with a view to facilitating the emergence of a distinct regional approach to maritime security in the Horn of Africa and, in the process, expanding the complementarities and synergies between this emerging regional approach and the broader international (bilateral and multilateral) reaction to certain manifestations of maritime insecurity in the region.

It is clear that in the Horn of Africa region maritime security is inextricably linked to mainland dynamics and processes. Therefore, in the long run, democratization, good governance, economic growth, socio-eco-

nomic transformation and improvements in the lives of the peoples in the Horn will play a central role in ensuring a safer and more secure maritime domain. The history of inter- and intra-state conflict in the region has also had spillover effects on the maritime domain.

IGAD and its member states should therefore play a more proactive role in creating and facilitating democracy, good governance and economic growth in the Horn of Africa. More specifically, they should strive to transcend previous patterns of conflict. Urgent efforts should also be made to reintegrate Eritrea (as a key coastal state in the region) into IGAD and the broader international system and to end its isolation.

The absence of a functioning state apparatus in Somalia and the continuous civil war have had a marked impact on maritime security in the region. Therefore, the stabilisation of Somalia and the strengthening of the SFG should provide the framework and starting point in all efforts to improve the maritime security situation. This comprehensive approach to the crisis in Somalia and its links to maritime security in the region is exemplified by the IGAD Somalia Inland Strategy and Action Plan to Prevent and Counter Piracy. In this context, it is clear that the IGAD Strategy and Action Plan deserves greater international support and assistance.

The region and the broader international community should strive to develop a consensus that would facilitate a shift from the current exclusive focus on piracy and a securitized, law and order punitive approach to a broader and more comprehensive approach that takes into account the multifaceted and complex

nature of the maritime insecurity challenges in the region. This would necessarily be a long-term process. In this context, further research and dialogue on maritime security issues in the region are critical and should be supported.

The following should be viewed as entry points in the effort to develop a regional maritime security approach:

- The need to develop a more efficient and effective mechanism for coordination between the multiple and overlapping initiatives to combat Somali piracy. This would help to keep costs down and enable more efficient and effective deployment of resources.

- Oversight, coordination and enforcement of initiatives and programmes related to maritime insecurity in the region should be based on subsidiarity. Local institutions and actors should take on a more proactive role.

- The creation and strengthening of a maritime governance and security system in the region. The starting point in this process is the IGAD-ISSP and its maritime security component. The latter should receive resources and support from the international community and could play a key role.

- Assessment of marine resources (fisheries, minerals, oil and tourism) and constant environmental assessment of the maritime domain require urgent attention.

- At present, to prevent the duplication of efforts and waste of resources, PERSGA should be viewed as the ideal institution

in the region to undertake such activities. Coastal states such as Eritrea and Kenya should join PERSGA. PERSGA should also receive support and resources that would allow it to map the region's marine resources and also periodically conduct environmental assessments.

- Political stabilisation and reconstruction of the Somali state should be prioritised.

- International efforts to support capacity building and strengthen the SFG and regional authorities in Somalia should be intensified.

- International naval forces operating off the Somali coast should receive an expanded mandate that would also allow them to target ships and boats allegedly engaged in illegal, unreported and unregulated fishing and chemical and toxic waste dumping.

- Awareness raising and changing public opinion in Somalia regarding some of the key manifestations of maritime insecurity, such as piracy, trafficking in small arms and light weapons and illegal migration should be an urgent priority. NGOs can play a key role here.

- Coastal states in the region should receive support and resources to strengthen their maritime force projection capabilities. Bearing in mind the nature and scope of the main forms of maritime insecurity in the region, coastguard units deserve immediate attention and support.

- States in the region should sign and ratify the key international conventions relating to the maritime domain.

- States and governments in the region should revise their legislation and incorporate into their legal codes provisions that criminalize some of the key manifestations of maritime insecurity in the region, such as piracy, trafficking in small arms and light weapons, illegal migration and human trafficking. In this context, provisions that criminalize laundering of the proceeds of such criminal activities and tighter banking regulations can play a very important role in combating maritime insecurity.

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Interviews

Interviewee BM
Interviewee CAM
Interviewee CTA

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About this study

This study argues that efforts to improve maritime security in the Horn of Africa region have assumed a certain pattern whereby the concerns and perspective of the developed world have tended to overshadow the agenda of the states in the region. This dichotomy between the above mentioned actors reveals itself for instance in the interpretation of sources of maritime insecurity, the focus of initiatives and the informal "division of tasks" in the sphere of maritime security that has emerged in the region.

The study argues that for the international community the primary concern and threat is piracy. On the other hand, states and non-state actors in the region have a more complex and structural view of the nature of maritime insecurity in the Horn of Africa. The study shows that this has led to a situation where immense resources and efforts have been directed to the fight against piracy while other sources of maritime insecurity have been sidelined. The efforts and initiatives against piracy have been characterized by a duplication of efforts and competition between different agencies and entities. While the efforts against piracy have achieved impressive results, this has been achieved in a context where regional interests and initiatives have been sidelined.

States in the region and the primary regional organization, the IGAD, have repeatedly tried to articulate a distinct agenda and set of interests in the sphere of maritime security but practically speaking they have also had to adapt to the circumstances. This study shows that the governments in the region have cooperated with international initiatives and in the process garner resources and benefits derived from the global focus on piracy off the coast of Somalia.

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