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PRIVATISING THE FIGHT AGAINST SOMALI PIRATES

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INTRODUCTION

The recent audacious pirate attacks in the Gulf of Aden and off the horn of Africa have fuelled the debate about the privatisation of maritime security. Ship owners and maritime security experts, as well as representatives of industry organisations, have stated that private security companies may be able to ensure safe passage for vessels through these pirate infested waters, a task at which government agencies have failed, despite international efforts. In fact, with more than 35 hijacked vessels this year, the first hijacking of a super tanker, attacks on UN aid ships and the unprecedented payment of millions of US dollars ransom for kidnapped crew and hijacked vessels, the arguments for hiring PSCs are strong. However, the employment of PSCs in Iraq and other places around the world has clearly shown that there are problems associated with the services provided by PSCs and the regulation of such companies in conflict zones. This paper explores the risks and benefits of employing PSCs to secure shipping in the Gulf of Aden and the horn of Africa.

‘PERFECT CONDITIONS’

The Iraq war brought to world attention the involvement of PSCs in wars and post-war reconstruction efforts. PSCs—(sometimes also referred to as Private Military Companies, PMCs) are private businesses, offering a vast menu of military and security services ranging from logistics support, risk analysis, training of military units, and intelligence gathering, to the rescue of hostages and the protection of assets and people in conflict zones.

PSCs have emerged in the past 15-20 years, with the number of PSCs growing in the post-cold war environment. One of the major reasons for the growth of the privatised military industry was the changing nature of conflict after 1989. With the end of the Cold War, the number of internal and regional armed conflicts – formerly held in check by the USA and the USSR – increased. Many of these conflicts, predominantly in the developing world, were fought over control of natural resources and the wealth and power resulting from the exploitation of these resources. These conflicts were “[o]ften intermixed with ethnic, religious, and tribal antagonisms,”¹ and were characterised by the involvement of transnational crime syndicates, regional or local warlords, rebel groups, terrorists, and insurgents.² Furthermore, with the end of the Cold War, a global downsizing of major armies began, particularly in the former Soviet Union but also in the USA and the UK, leaving an abundance of well-trained and experienced soldiers available either to set up, or be employed by, PSCs. Also, the reduction in size of the military at a time when numerous conflicts in

different parts of the world were emerging led the US government to increase military outsourcing in order to be able to respond to these conflicts.³ The latest increase in demand for PSC services, fostering the establishment of even more PSCs, is linked to the War on Terrorism, including the US-led intervention in Iraq.⁴ Today PSCs are employed in war or post-conflict zones around the world and often offer their services in addition to security provided by states and international organisations, such as the United Nations (UN).

However, PSCs also operate in regions and countries that have not been involved in wars for prolonged periods of time. PSCs offering services in maritime Southeast Asia, for example, largely generate business from other social and political crises. Companies active in such places are often involved in the protection of foreign assets, such as oil platforms or mines. Protection of such assets is needed in places of social unrest or internal political conflict and in underdeveloped areas where poverty is widespread. PSCs offer their services in such places in addition to government provided security, which is often insufficient because of a lack of government resources and corruption within local authorities. The demand for such PSC services have in part come from the maritime sector, where PSCs are today involved in the protection of offshore oil and gas installations, merchant vessels, ports and fishing grounds.⁵

The situation in the waters off the coast of Somalia and neighbouring countries is highly conducive to the employment of PSCs. Somalia has often been described as a failed state, with no effective government in place since 1991. After the end of the Cold War, the country's central government collapsed and Somalia has been ruled by a succession of varying coalitions of politicians and local warlords. With weapons widely available, armed conflict and violence has been a constant component of 'politics' in Somalia. Famine and other natural and manmade disasters have been a further long-term burden for the country's population. International organisations, such as the UN, and various countries from within and beyond Africa have over the years been involved in Somali politics and conflicts and have provided limited humanitarian assistance.

Efforts were made by local and international governments and interest groups to stabilise the political situation in Somalia, with a succession of interim governments in place over time. In early 2006, with the fragile Transitional Federal Government (TFG) in power, fighting between the Union of Islamic Courts (UIC) and the US-supported Alliance for the Restoration of Peace and Counter Terrorism (ARPCT) erupted. The UIC gained control over Mogadishu and large parts of the south, and a ceasefire agreement was reached in June 2006.

While the UIC held power, pirate attacks, which had been a concern in Somalia, ceased as UIC fighters defeated armed groups involved in piracy and announced that pirates would be punished under Sharia law.⁶ However, the situation deteriorated again when US-backed Ethiopian troops entered the conflict in support of the TFG, gaining the upper hand in December. The defeat of the UIC did not, however, bring peace or stability, despite a UN Security Council authorised African Union peacekeeping mission, starting in February 2007. In fact, the continued presence of Ethiopian troops fuelled further unrest in a country plagued by clan-based politics, political rivalry and internal fighting. In early 2008, the security situation deteriorated once again with escalating armed conflict between Islamist insurgents, Ethiopian troops and other factions as well as US air strikes on Islamist bases to combat terrorism.⁷

The long internal conflict in Somalia combined with natural disasters, such as water shortages and severe droughts, have left the country devastated. Hundreds of thousands of people have lost their lives and an estimated 2.5 million are in urgent need of assistance. Since January 2006 alone, an estimated 1.1 million people have been displaced in Somalia, with many seeking refuge in neighbouring countries.⁸

The waters off the coast of Somalia have also not remained trouble free. Indeed, the world's most blatant pirate attacks are currently taking place off the country's coast. Over the past several months, pirates have hijacked merchant and fishing vessels, held crew hostage and collected millions of US dollars in ransom payments. Most attacks occurred in the Gulf of Aden and off the coast of Somalia, with pirate gangs using mother ships to conduct attacks too far from the coast for speedboats to reach. At present, pirates in the area hold up to 20 ships at a time while ransom negotiations between shipowners and pirates take place. The negotiation processes can take months, with the crew held hostage but generally treated well. While the actual amount of ransom paid to the pirates has remained confidential in most cases, it is clear that the perpetrators have received millions of US dollars in exchange for their hostages and stolen vessels. Once a ransom is paid, the crew and vessel are released and the pirates hijack a new vessel.

With their newfound wealth, the pirates are believed to buy additional boats and weapons for future attacks and have built houses and bought expensive cars. Shops catering to the pirates have sprung up along the coast in areas where hijacked ships are held, providing supplies for the pirates and hostages.⁹ Over the past several weeks some pirates have freely given interviews to the international media, explaining their motives and aims. Their

activities, they claim, started as a protective measure against illegal fishing in their waters, which depleted fish stocks in the area, robbing local fishers of their income and livelihood. Over time their activities changed and more and more international merchant vessels were targeted after substantial ransoms were paid. According to the pirates, their activities are driven by poverty, with some perpetrators expressing the hope that their attacks on international shipping will attract attention to the poverty and conflict in Somalia and the suffering of the local population. They stress, however, that they are interested in ransom payments only and have so far not voiced political demands in exchange for hijacked ships, except for the demand to release captured pirates.¹⁰

Among the vessels held by pirates at present are the Ukrainian freighter *La Faina*, carrying 33 combat tanks and other weaponry, which was hijacked on the 25 September, and the super tanker *Sirius Star*, taken in mid November. The *Sirius Star*, a new ship worth approximately US\$150 million, is the largest vessel ever taken by pirates and was carrying a cargo of crude oil with a value of US\$100 million at the time of attack. The hijacking of the super tanker clearly shows the capacity of the Somali sea-robbers to attack ships of any size and demonstrates that current efforts to combat piracy in the region are not sufficient to prevent major attacks – despite the involvement of naval forces from countries around the world.¹¹

Indeed, after attacks on vessels off the coast of Somalia became more frequent and serious in nature, and ransom payments increased, international concern about the safety of ships and crews passing the horn of Africa grew. As a result, nations from around the world have sent warships to the area in addition to those international vessels already present. Warships from the US, Britain and other countries have been patrolling the waters off the horn of Africa for the past eight years in an attempt to combat terrorism.¹² The additional vessels were sent in recent months mostly from those countries whose vessels have been targeted by pirates. Among the warships and personnel patrolling the area have been ships from the US, Canada, Britain, Germany, France, Russia, Malaysia and India. Both NATO and the EU have now also become involved in combating piracy in the Gulf of Aden. While NATO vessels are already patrolling pirate infested waters, EU efforts are underway, with both organisations placing particular emphasis on the protection of UN aid vessels.¹³

The international presence has prevented a number of hijackings, with naval forces from a variety of countries having engaged in shootouts with pirates to prevent attacks. British forces have, for example, recently killed two pirates in a shootout and an Indian

warship has reportedly sunk a pirate mother ship in a fire fight on the 18 November.¹⁴ France, which maintains a naval base in Djibouti, has also conducted successful operations against the pirates. In April 2008, French Special Forces arrested six pirates responsible for an attack on a French cruise yacht with 30 people onboard. After the hostages were released the pirates were captured in a daring helicopter attack on a Jeep carrying the perpetrators and part of the ransom money in the semiautonomous province of Puntland. In September, French Special Forces recaptured a hijacked yacht 300 miles off Somalia. The pirates had taken the yacht and a French couple hostage, demanding a ransom of Euro 1 million and the release of the pirates earlier arrested by French authorities. Soldiers from the underwater combat unit successfully boarded the yacht at sea, shot one pirate and arrested the other six perpetrators. The pirates arrested in both cases were brought to France for trial. French forces also arrested pirates during a raid near the Gulf of Aden in October but handed them over to Somali authorities.¹⁵ Furthermore, every two weeks, the French Navy organises an escort for ships passing through the pirate infested waters. Merchant vessels in the area at the time can join the group free of charge.¹⁶

Despite these success stories, for a variety of reasons, current efforts are clearly not solving the problem. First of all, the role and involvement of the international navies is restricted by national and international laws. To facilitate the involvement of warships from outside Somalia, the UN Security Council unanimously passed Resolution 1816 in June this year which:

Essentially, (...) authorizes countries to enter Somali territorial waters and use 'all necessary means to identify, deter, prevent and repress acts of piracy and armed robbery' by boarding, searching and seizing suspect vessels and arresting the perpetrators. The key conditions require states taking such action to cooperate with Somalia's interim government and to notify the UN Secretary General.¹⁷

In accordance with this resolution, international warships are able to patrol the affected waters and prevent attacks and have created a so-called Maritime Security Patrol Area, a safe corridor for ships to pass through the Gulf of Aden.¹⁸ Yet, even within this zone the operations of international forces are restricted.¹⁹ For example, as NATO spokesperson James Appathurai explained, NATO vessels are only allowed to patrol, deter and stop attacks but not to use force to recapture hijacked vessels or rescue crewmembers.²⁰ Second, despite the increased number of international vessels and the establishment of the Maritime Security Patrol Area, attacks still take place because the warships cannot cover the entire area in which pirates can operate. The attack on the *Sirius Star*, which took place hundreds of miles south of the Gulf of Aden, demonstrates that the pirates are flexible, and will attack in waters

outside the area protected by foreign navies. Third, even if allowed, recapturing hijacked vessels is not an easy task and such operations have so far only been successful when small vessels (predominantly yachts) were rescued. Operations to recapture merchant vessels, including tankers, are far more complicated. Indeed, not only has the life of the crew onboard to be considered but a failed attempt could damage the hijacked vessel, and could, for example, result in a major oil spill. There are other reasons why the presence and operations of the warships have not brought an end to piracy. The most important reason is, however, that these efforts only address the symptoms but not the root causes of the problem. Piracy in this region is a direct result of the conflict, poverty and instability of Somalia. The pirates can only operate so successfully because they find supporters and willing recruits among the impoverished local population. As a 36-year-old mother of five in Harardhere, close to where the super tanker is held, explains: “Regardless of how the money is coming in, legally or illegally, I can say it started a life in our town. (...) Our children are not worrying about food now, and they go to Islamic schools in the morning and play soccer in the afternoon. They are happy.”²¹ Other factors such as illegal fishing and the ineffectiveness and corruption of government officials also play a role, with some observers suggesting links between Somali pirates and warlords.²²

Given this lack of success of the multinational anti-piracy patrols and the serious nature of pirate attacks in the area, some maritime security specialists have suggested that shipping companies hire PSCs to protect their vessels while passing through this piracy hot-spot. In fact, even some American officials and members of the armed forces have supported the idea. Defense Department Press Secretary Geoff Morrell, for example, pointed out that shipping companies have to do more to secure their vessels and should increase pirate lookouts and hire armed guards for protection.²³ However, the employment and operations of PSCs in other parts of the world, such as Iraq, have been controversial and the question arises what kind of role PSCs can play to improve security in the waters off the horn of Africa.

PRIVATE MARITIME SECURITY: AN ALTERNATIVE?

PSC Anti-piracy Services

PSCs are today employed to secure the world’s oceans, or more precisely, commercial vessels, yachts, cruise ships, offshore energy installations, container terminals and ports. To address these security challenges, PSCs offer a wide range of services. These include risk and

vulnerability assessment and consulting for ship owners and port operators, training of naval and maritime security forces, insurance fraud and cargo crime investigation and protection of offshore oil platforms against rebel or terrorist attacks in politically volatile regions. Most companies active in the maritime sector also offer a range of anti-piracy services, ranging from risk consulting to the recovery of hijacked vessels. Not all companies, however, offer all anti-piracy services, with some solely providing risk consulting or vessel tracking. Yet most PSCs seem to offer many or most of the major anti-piracy services, namely:

- a) Risk Assessment and Consulting
- b) Training of Crews, Port Authority Personnel or Military and Law Enforcement Units, and Vessel Tracking
- c) Provision of (Armed) Guards onboard Vessels or Vessel Escorts
- d) Crisis Response, Investigation and Recovery of Hijacked Vessels and Cargoes, and the rescue of Kidnapped Crewmembers
- e) Fisheries Protection and Protection of Fishers against Poachers and Pirates

PSCs, therefore, offer preventive as well as post-attack services, addressing all types of pirate incidents on commercial vessels and pleasure crafts. For example, hit-and-run robberies, maybe even attacks by pirate syndicates, may be prevented through better training of the crew or the presence of guards onboard a vessel. Shipowners whose vessels have been hijacked can on the other hand rely on crisis management assistance during the event, or employ a company to relocate or recover the ship or stolen cargo.²⁴

Many PSCs offering anti-piracy and other maritime services are part of, or linked to, either larger PSCs or transnational corporations outside the security industry. Many of the larger companies that offer anti-piracy services are based in the US and Great Britain, with a number of them having offices around the world. Moreover, a number of smaller companies have been established in regions where demand for anti-piracy services is high, including Southeast Asia where piracy has been a concern over the past decade. In such pirate prone areas, PSCs have over the past several years been employed to combat piracy. Companies such as *Counter Terrorism International* (CTI) and *Background Asia* have, for example, provided armed protection for vessels passing through the Malacca Straits.²⁵ Other companies have provided security assessments and ISPS Code training, with some companies claiming that they have been involved in the recovery of hijacked vessels.

However, anti-piracy services in general and armed services in particular have so far not been a major business for PSCs, particularly when compared to the services provided in

Iraq. One of the most important reasons why PSCs have not done major business in this area is that pirate attacks have so far not occurred on a scale that would have - in the eyes of shipowners - justified the considerable extra expense of hiring PSCs. Indeed, while strategically important places such as the Malacca Straits have been considered piracy hot-spots in the past, pirate attacks in these areas have never threatened world trade and the costs and likelihood of attacks were considered by many not sufficient to hire PSCs. The situation in the waters off the horn of Africa is, however, clearly different. The risk of being targeted in these waters is at present perceived to be so high that some major shipping companies have even decided to reroute their vessels, which now have to sail past the Cape of Good Hope, adding an additional 12 to 20 days to the journey. This will incur significant extra costs for shipowners and, ultimately, consumers. Insurance rates for vessels passing the critical area are also increasing. Furthermore, the costs incurred in actual hijacking are unprecedented. Negotiations with pirates can take months and the amount of ransom paid for vessels is substantial, with pirates having collected an estimated US\$150 million this year alone with ransom payments for the hijacked super tanker still outstanding.²⁶ While the attacks may not threaten world shipping as such, the scale of the attacks may indeed make the extra costs for PSC services justifiable for ship and cargo owners. Additionally, arrangements have reportedly been made between insurance companies and at least one PSC, promising discounted premiums for those vessels protected by guards from the security company.²⁷ A further incentive to hire PSCs is the active encouragement from within the US administration and military to pay for protection services, admitting that the multinational patrols cannot effectively protect shipping.²⁸

Some shipowners have already hired PSCs to protect their vessels from pirates off the coast of Somalia. A German shipowner has, for example, employed the British based company *DRUM Resources* to provide ex-navy personnel to safe guard his vessels with non-lethal weapons, paying about US\$50,000 for the service. The company is reportedly protecting at least two vessels each week off the horn of Africa, sending between four to eight ex Royal Marines to watch over a vessel.²⁹ *Eos*, a British PSC that has also been active off the horn of Africa, also uses non-lethal weapons and deterrence methods to protect vessels, including the greasing or electrifying of hand rails and the installation of barbed wire in vulnerable parts of ships. Other companies, in contrast, advertise their ability to send armed guards and escort vessels to protect international shipping in the region. Among them is the US based company *Blackwater*, which announced it was hiring a vessel, carrying

helicopters and armed guards, to escort ships through pirate infested waters.³⁰ *Blackwater* has also been active in Iraq alongside other PSCs, with their operations at times controversial. The question now emerges whether the employment of PSCs off the coast of Somalia will result in similar controversies and problems.

PSC operations: problems and controversies

The involvement of PSCs in Iraq and other countries gave rise to a number of concerns about the nature of services provided by these companies. These concerns mostly centre on the lack of transparency and public oversight of operations and business practices of PSCs and whether the protection of national security and the provision of military services should remain within the domain of governments, rather than the profit motivated private sector. Furthermore, some observers have argued that the employment of PSCs allows Western governments “to pursue policies in tough corners of the world with the distance and comfort of plausible deniability.”³¹ These concerns have been fuelled by reports of scandals surrounding the work conducted by a number of PSCs. Allegations include overcharging, the prolonging of conflict in order to increase their own profits, the unnecessary and irresponsible use of violence and involvement in criminal activities.³²

The employment of PSCs in the maritime sector could lead to similar problems and concerns, which may emerge as a result of the internal set-up and structures of PSCs and the nature of services they provide, particularly the employment of armed PSC personnel.

Company structure and set-up

Many of the more crucial problems and controversies surrounding PSCs’ anti-piracy services stem from the organisation and characteristics of the company itself. In interviews with PSC employees, most commented on the large number of PSCs now offering maritime related services and questioned the ability of the majority of these companies to actually deliver what they promise. The rising number of PSCs offering maritime related services can be in part attributed to the fact that it is comparatively simple and inexpensive to set up such an enterprise. Many companies active in the maritime sphere only consist of a limited number of permanent staff, an office and, usually, an impressive presence on the Internet. These companies hire additional personnel and acquire necessary equipment on a case-by-case basis, once a contract with a client is signed, which allows the companies to run their business with limited expenses and capital. While this arrangement can be beneficial for a

client – as resources are bought and staff hired specifically for the client's needs – it also allows companies to rapidly dissolve and recreate themselves if need be.³³ It also allows the establishment of PSCs by a wide variety of players.

Similarly, information concerning the companies past and present activities, the company itself and the people they hire if required is usually sparse. The majority of PSCs operating in the maritime sector seem to be founded and staffed by ex-military or ex-law enforcement personnel, with the credentials and reputation of the company often linked to past military experiences of its founding members and employees. Therefore, most companies advertise to employ former members of elite Special Forces from around the globe, with 'vast experience'. Whether or not this experience is in the maritime sector or related to the services and tasks for which they are hired – including, for example, knowledge about the vulnerabilities of a ship – is often unclear. To bridge this information gap and to win a potential client's trust companies go to great length to stress the high moral standing of their employees. Descriptions such as 'of good character' or 'men with highly tested character' are often used.

Furthermore, to accomplish many of the services advertised, PSCs require good connections and relationships with government authorities in the regions they operate in, as well as a reliable network of informants. A certain level of diplomatic skill is also needed to maintain these relationships as well as knowledge of the maritime sector. While most of the companies emphasise their 'excellent relationships' with law enforcement agencies and government officials, these claims are difficult to assess due to the lack of information available.

PSCs often rely on an impressive presence on the internet to promote their services. Yet the lack of information about companies' track records and real experiences in the services they advertise is a characteristic common to all PSCs operating in the maritime sector. All stress on their web pages that the services and operations they conduct for a client remain confidential. While this is understandable in some cases, it offers companies the easy option of claiming to have conducted a wide range of services, as no one is able to verify the information given. One example that comes to mind is the vast number of companies claiming to be experienced in, or claiming to have recovered, hijacked vessels. While a vessel can be anything from a rubber dinghy to a super tanker, the number of hijacked vessels would be enormous if all these claims were true. Furthermore, the lack of information about PSCs track records is also an indicator for another, maybe more serious, problem. PSCs conduct

their operations for a specific client and are bound to follow their client's interests. If a hijacked vessel for example is recovered, information about the hijacking and the culprits is only given to local authorities with the client's consent.³⁴ Therefore, if the client has no interest in, or does not believe it fruitful to inform law enforcement agencies, the perpetrators are left untouched and are able to continue their line of business.

All these factors can certainly arouse suspicion in the wider maritime community and make it difficult for a potential customer to choose amongst these companies. The choice is particularly difficult because the problem of limited transparency is inherent in both large, well known (but sometimes controversial) companies such as *Blackwater*, and small, often unknown PSCs. The difficulty of choice for a reliable company is crucial in regard to PSCs, as the consequences of hiring an unreliable company can be problematic at best or disastrous at worst – not only for the client. A ship owner, for example, has to trust a company to have sufficient knowledge of the laws and regulations governing the company's operations and to choose the right kind of people to be employed as armed guards on one of his vessels in order to avoid accidents and excessive use of violence. Indeed, the operations of PSCs, involving violence or not, can be controversial.

PSC Services

The role played by PSCs in the maritime sphere is twofold, with some practical, ethical, technical and legal problems associated with both roles. First, statements, reports and risk assessments produced by PSCs regarding maritime security threats have increasing impact on decision-making processes of governments and businesses, as well as the formation of opinion in the public sector. PSC personnel, for example, are regularly interviewed by the mainstream media and PSC security assessments find their way into newspapers and other news reports. Employees of PSCs have, for instance, commented widely on piracy in the waters off Somalia and have suggested solutions to reduce the number of pirate attacks.³⁵ It has to be understood, however, that by relying on political risk analysis reports and comments from PSCs, one relies on information provided in many cases by the very companies that sell solutions to security threats. It is therefore important to keep in mind that PSCs are primarily commercial enterprises, aiming at producing financial profit for the company and its shareholders. The secrecy surrounding the work of PSCs and the methods of research they employ, resulting in difficulties for outsiders to verify the information presented in PSCs reports, are a further problem.³⁶

Second, and more importantly for this paper, a number of companies provide services that are in the realm of militaries and local law enforcement agencies. PSC employees conducting such work are often armed with firearms, making regulation and oversight of PSC operations an important issue. Oversight of PSCs off Somalia is especially important, to ensure that they operate within national and international law, that violence is not used excessively and that controversial ‘incidents’ involving PSCs comparable to those which occurred in Iraq, will be avoided.

The use of guns by PSC employees makes the risk of unnecessary or irresponsible use of firepower a possibility. In fact, weapons in the hands of guards on a commercial cargo vessels or a tanker can have devastating consequences if handled in a careless or inconsiderate, over-eager fashion. Representatives of the International Maritime Organisation (IMO) and various other maritime organisations have pointed out that armed escorts may in fact escalate an already volatile situation and that a shoot-out on an oil or chemical tanker could be disastrous.³⁷ Fishermen can also become targets of ‘trigger-happy’ guards, as their vessels are often difficult to distinguish from pirate vessels. Similar problems to those associated with PSC operations in Iraq are therefore a possibility. Proponents of the use of armed guards on board vessels, have, however, argued that the situation is fundamentally different in Iraq to Somalia with regard to PSC operations. For example, John Harris, CEO of *HollowPoint Protective Services*, a US based PSC, pointed out that:

Our purpose is singular in nature. We provide protection for vessels, their crews and cargo. Unlike the situation in Iraq where Blackwater is involved in both peacekeeping and protection activities, we only respond to attacks on the vessels we protect. Our agents are highly trained to repel attacks with the utmost regard for the safety and security of the vessels and crews.³⁸

However, not only do PSCs active in Iraq also claim to employ highly trained professionals but the work they conduct, such as the protection of convoys and people travelling through Iraq, is comparable. While the danger of killing innocent ‘bystanders’ may be less at sea (crewmembers or fishermen, for example, on the sea), the possible escalation of violence resulting in disastrous consequences (such as damage to a tanker), is a concern on land and at sea. Furthermore, a problem with the employment of PSCs has been that they are only, or mostly, concerned with the safety of people or assets they protect. As Harris explained, his employees will respond to attacks with “the utmost regard for the safety and security of the vessels and crews”. The use of excessive violence is, however, often the result of the single minded protection of PSC clients, with little consideration shown for those not paying for the company’s services.

One way of reducing the risk of excessive or irresponsible use of violence is the regulation of PSCs to ensure that they comply with national and international laws. This, however, is easier said than done, particularly in the maritime sphere, where operations often take place at sea. Clearly, reputable PSCs have to act within the legal boundaries set by the states they are operating in. This can be a difficult and complex task as a vessel does not only move between various states and jurisdictions, using the right of innocent passage, but also sails under the flag of yet another state. The question of whether or not ships are allowed to carry armed personnel therefore depends on where the ship is, in international or national waters. However, rules and regulations regarding the bearing and use of weapons by private companies vary from country to country and vessels not only have to comply with the laws of the country whose waters a vessel is transiting but also with those of the vessel's flag state. Furthermore, given that the involvement of PSCs in protecting vessels is a comparatively new phenomenon many countries do not have sufficient and effective regulations in place. In fact, examples from areas where armed PSC personnel have been employed to protect ships show that these companies often operate in a somewhat grey legal zone. When asked about their operations in the Malacca Straits, for example, PSC employees from various companies have stated in interviews with the author that in most cases the Indonesian and/or Malaysian authorities are informed about planned operations, either through a liaison officer or a personal contact. In the process money changes hands and the company receives 'permission' to conduct its work, even though not always in writing. These 'permissions' to operate in Indonesian or Malaysian waters are, however, not the same as official permits issued by governments.³⁹ PSC operations involving armed guards in the Malacca Straits have consequently been controversial, sparking outcries from Malaysian and Indonesian government representatives.

Similarly, the situation in the waters off Somalia is complicated in terms of regulations but also ultimately more dangerous. Indeed, even though newspapers have reported that officials in Puntland have welcomed the employment of PSCs in Somali waters, the question is how much weight these statements carry. What is needed are appropriate laws and regulations governing the use of foreign armed personnel in Somali waters. Such regulations need, for example, to clarify whether or not PSC personnel can be brought to justice and held responsible for their actions if they operate in an irresponsible manner. Furthermore, approval from officials from the semiautonomous region of Puntland, or even the central government, may not be sufficient to ensure that the presence of armed PSC personnel will not lead to more violence. The country's recent history clearly shows the lack of effective government

control over parts of Somalia and the divisions between the various warlords and armed groups engaged in ‘politics’ in the country. One Islamist group is at present getting actively involved in the response to pirate attacks and has reportedly moved armed men to the coast where the hijacked super tanker *Sirius Star* is held. While there are some uncertainties about the group’s motives, a spokesperson for the group explained that the hijacked ship is from a Muslim country and declared that his men would free the ship and capture the pirates.⁴⁰ Whether or not such armed groups and warlords look at the involvement of PSCs favourably is uncertain. Some may, however, oppose the idea that “Western” PSCs are getting involved in “their country” (or preventing them from getting funds/payoffs from pirate attacks). In a worst case scenario, the presence of PSC personnel could therefore trigger violence and armed clashes between such groups and PSC personnel.

CONCLUSION

To bring an end to the large scale pirate attacks in the Gulf of Aden and the waters off Somalia is a difficult task. The authorities in Somalia are certainly unable to secure shipping in their waters. Indeed, local authorities, as far as they exist and function, often have more pressing issues to address. Anti-piracy measures that have worked (at least to some extent) in other places are also difficult to implement in the Gulf of Aden and off the horn of Africa. In the Malacca Straits, for example, increased cooperation between the littoral states has reduced the number of pirate attacks. Given the current political situation in Somalia, such cooperation would be difficult – even if the necessary equipment was available to government forces. Warships from countries around the world patrolling the pirate infested waters off Somalia have also failed to successfully address the problem. Additional protection for merchant vessels from the private sector is consequently a viable option.

Some of the services provided by PSCs can indeed increase the safety of vessels and assist seafarers in responding to pirate attacks. These services include the preparation of vessels for attacks by, for example, creating a safe room for the crew to find shelter in case of a boarding by pirates, or the installation of strategically placed high powered fire hoses or other deterrent devices. Possibly an even more important priority is the training of the crew. Seafarers who know how to respond to pirates can often foil attacks and prevent perpetrators from boarding their vessel. Training crew how to act and respond in a hostage situation can also be valuable, as it may help seafarers cope psychologically with such an event.⁴¹

However, there are a number of problems and controversial issues inherent in the private maritime security industry. As discussed above, potential clients should choose the PSC they wish to employ carefully, and a certain dose of scepticism may be appropriate for clients and the public when relying on information published by PSCs. Most controversial, however, is the employment of armed PSC personnel either onboard merchant vessels or on escort ships. While the presence of such armed personnel may prevent attacks, it could also escalate already volatile situations. With few exceptions, the pirate attacks have not yet resulted in deaths or major physical injuries of crew members. The perpetrators have until now treated their hostages comparatively well and have released their victims once ransoms were paid. The employment of armed guards could enhance the likelihood of armed conflict or spark an arms race between the two sides, increasing the risk for seafarers.⁴² However, given that the employment of armed guards is already a reality, improved regulation and oversight of companies operating in the waters off Somalia and other water areas is needed.

In regard to piracy, it is important to keep in mind that while PSCs may assist in preventing individual pirate attacks and help victims in dealing with the aftermath of such events, they do not address the underlying root causes of modern day piracy itself. The same is true for some of the current responses from the international community. In fact, combating piracy is a difficult and complex task, requiring more than the patrolling of piracy-prone waters. In order to be successful, responses to piracy have to address its root causes, which include illegal and over-fishing, lax (international) maritime regulations, ineffective government forces, armed conflict and widespread poverty.⁴³ Combating piracy can consequently not be achieved only by those states in which pirate attacks actually occur. Indeed, countries from around the world with an interest in maritime security, can, and need to, support these broader anti-piracy measures. This is clearly the case in Somalia, where international assistance is needed. Ironically, maybe the pirates' wish (real or not) will come true and the pirate attacks will achieve what the years of violence and human suffering in Somalia have largely failed to do – bring the plight of the Somali population to the world's attention.⁴⁴

¹ See: Michael T. Klare, *Resource Wars. The New Landscape of Global Conflict*, New York: Henry Holt and Company, 2001, p. ix.

² Peter Warren Singer, 'Corporate Warriors: The Rise of the Privatised Military Industry', Cornell: Cornell University Press, 2003, pp. 50-3.

³ Deborah Avant, 'Think Again: Mercenaries', *Foreign Policy*, July/August 2004, http://www.foreignpolicy.com/story/cms.php?story_id=2577, accessed 1 September 2004.

⁴ Isenberg, David (2004a) 'Corporate Mercenaries. Part 1: Profit comes with a Price', *AsiaTimes*, 19 May, 2004, http://atimes.com/atimes/Middle_East/FE19Ak01.html, accessed 1 September 2004.

⁵ See: Carolin Liss, 'Private Security Companies in the Fight against Piracy in Asia' 2005, Working Paper no. 120, Asia Research Centre, Murdoch University, <http://www.warc.murdoch.edu.au/wp/wp120.pdf>, 13 November 2005. Carolin Liss, 'The Privatisation of Maritime Security - Maritime Security in Southeast Asia: Between a rock and a hard place?', *Working Paper 141*, Asia Research Centre, Murdoch University, February 2007, <http://www.warc.murdoch.edu.au/wp/wp141.pdf>. Carolin Liss, 'Southeast Asia's Maritime Security Dilemma: State or Market?', *Japan Focus*, 8 June 2007, available at: <http://japanfocus.org/products/details/2444>.

⁶ Jason McLure, 'The Scourge of Somalia's Seas', *Newsweek*, 23 August 2008, <http://www.nesweek.com/ii/154930/output/print>, accessed 26 August 2008.

⁷ International Crisis Group, 'Conflict History: Somalia', updated September 2008, http://www.crisisgroup.org/home/index.cfm?action=conflict_search&l=1&t=1&c_country=98, accessed 20 November 2008.

⁸ Ibid. Alex Perry, 'The Suffering of Somalia', *Time Online*, 13 November 2008, <http://www.time.com/printout/0,8816,1858874,00.html>, accessed 20 November 2008. Daniela Krosiak and Andrew Stroehlein, 'Oh my Gosh, Pirates!', *International Herald Tribune*, 28 April 2008, <http://www.ihl.com/bin/printfriendly.php?id=12399900>, accessed 30 April 2008.

⁹ 'Pirates' luxury lifestyles on lawless coast', CNN, 19 November 2008, <http://www.cnn.com/2008/WORLD/africa/11/19/somalia.pirates.boomtown.ap/index.html>, accessed 20 November 2008.

¹⁰ 'Piraten Ueberfaelle: Seeraeuber haben 17 Schiffe in ihrer Gewalt', *Spiegel TV*, <http://www.spiegel.de/video/video-41016.html>, accessed 20 November 2008.

¹¹ 'Pirate boat destroyed after new raid', *Australian*, 20 November 2008.

¹² 'Terror at Sea', *Times*, 17 September 2008, p. 2.

¹³ Petra Sorge, 'Alliierte gehen ohne Deutschland auf Piratenjagd', *Spiegel Online*, 27 Oktober 2008, <http://www.spiegel.de/politik/ausland/0,1518,druck-584554,00.html>, accessed 28 October 2008.

¹⁴ 'India Claims Pirate Ship Sunk', CNN, 20 November 2008, <http://edition.cnn.com/2008/WORLD/africa/11/19/somalia.pirates/> accessed 20 November 2008

¹⁵ Charles Bremner, 'French Special Forces Seize Pirates in Operation to Free Yacht Hostages', *Times*, 17 September 2008, pp.28-29. Bruce Crumley and Tony Karon, 'Will NATO Navies Stop Somali Pirates?', *Time*, http://www.time.com/time/world/article/0,8599,1853690,00.html?iid=fb_share, accessed 20 November 2008.

¹⁶ Barbara Hans, 'Reeder ruesten gegen Piraten-Attacken', *Spiegel Online*, 18 November 2008, <http://www.spiegel.de/panorama/justiz/0,1518,druck-591243,00.html>.

¹⁷ Jane Chan and Sam Bateman, 'Security at Sea: Can Anything be done at the Somali Coast?', RSIS Commentaries, 107/2008, S. Rajaratnam School of International Studies, Nanyang Technical University, Singapore, 2008, p.1.

¹⁸ Ibid.

¹⁹ Bjoern Hengs and Katharina Peters, 'Verteidigungspolitiker fordern robustes Mandat fuer Marine', *Spiegel Online*, 20 November 2008, <http://www.spiegel.de/politik/ausland/0,1518,druck-591484,00.html>, accessed 20 November 2008.

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- ²⁰ 'Piraten Ueberfaelle: Seeraeuber haben 17 Schiffe in ihrer Gewalt'.
- ²¹ 'Pirates' luxury lifestyles on lawless coast'.
- ²² Crumley and Karon, 'Will NATO Navies Stop Somali Pirates?'.
- ²³ 'Pentagon Defends Military Efforts against Somali Pirate Attacks'. *Fox News*, 19 November 2008, <http://www.foxnews.com/politics/2008/11/19/pentagon-defends-military-efforts-somali-pirate-attacks/>, accessed 21 November 2001.
- ²⁴ Liss, 'Private Security Companies in the Fight against Piracy in Asia'.
- ²⁵ David Boey, "Ship Owners Using Hired Guns. Guards Provide Anti-Piracy Security for Vessels in Regional Waters," *Straits Times*, 8 April 2005, p. 3. Author's Interview with Mike Martino, Counter Terrorism International (CTI), Murdoch University, Perth, 16 September 2005.
- ²⁶ 'Piraten haben schon 150 Millionen Dollar erpresst', *Spiegel Online*, 21 November 2008, <http://www.spiegel.de/panorama/justiz/0,1518,druck-591992,00.html>, accessed 22 November 2008. Catherine Philp, 'Somali Pirates Seize Saudi Oil Supertanker', *Australian*, 18 November 2008, <http://www.theaustralian.news.com.au/story/0,25197,24668477-2703,00.html>, accessed 18 November 2008.
- ²⁷ 'Private Security Firms Join Battle against Somali Pirates', *Fox News*, 26 October 2008, http://www.foxnews.com/printer_freindly_story/0,3566,444103,00.html accessed 21 November 2008.
- ²⁸ Thom Shanker, 'U.S. Urges Merchant Ships to Try Steps to Foil Pirates', *New York Times*, 20 November 2008, <http://www.nytimes.com/2008/11/20/washington/20military.html>, accessed 21 November 2008.
- ²⁹ Barbara Hans, 'Reeder ruesten gegen Piraten-Attacken'. Barbara Hans, 'Experten setzen Schmierfett zur Piratenabwehr ein', *Spiegel Online*, 20 November 2008, <http://www.spiegel.de/panorama/justiz/0,1518,druck-591393,00.html>, accessed 21 November 2008.
- ³⁰ 'Private Security Firms Join Battle Against Somali Pirates'.
- ³¹ International Consortium of Investigative Journalists, 'Making a Killing. The Business of War', Center for Public Integrity, 2003, <http://www.publicintegrity.org/bow/>, accessed 24 November 2003. Chapter 1, p.1.
- ³² One of the better-known examples is the involvement of *DynCorp* employees in the trade and rape of woman and children in Bosnia and Kosovo in 2000. See: International Consortium of Investigative Journalists, 'Making a Killing. The Business of War'. Chapter 2, p. 10.
- ³³ This is also the case for PSCs offering non-maritime related services. See: Singer, *Corporate Warriors*, pp. 73-5.
- ³⁴ Author's Interview with Joe Corless, Operations Director, Gray Page Limited. Interview by author, BalticExchange, London, 23 June 2004.
- ³⁵ One example is: 'Private Security Firms Join Battle Against Somali Pirates'.
- ³⁶ For a more detailed discussion see: Liss, 'Private Security Companies in the Fight against Piracy in Asia'. Liss, 'The Privatisation of Maritime Security - Maritime Security in Southeast Asia: Between a rock and a hard place?'. Liss, 'Southeast Asia's Maritime Security Dilemma: State or Market?'.
- ³⁷ 'Armed Guards not the Answer to Pirate Threat: Expert' ABC News, 19 November 2008, <http://www.abc.net.au/news/stories/2008/11/19/2423600.htm>, accessed 21 November 2008. Malakunas, Karl (2005) 'Armed escorts in high demand on sea', *Peninsula*, <http://www.thepeninsulaqatar.com/features/featuredetail.asp?file=mayfeatures102005.xml>, accessed 13 May 2005.
- ³⁸ "'Ships Need Armed Guards,'" Says Security Firm Chief", *Maritime Global Net*, 20 October 2008, <http://www.mgn.com/news/dailystorydetails.cfm?storyid=9283>, accessed 23 November 2008.
- ³⁹ Liss, 'Southeast Asia's Maritime Security Dilemma: State or Market?'. Carolin Liss, 'The Role of Private Security Companies in Securing the Malacca Straits', *Maritime Studies*, 157, November/December 2007, pp. 14-22.
- ⁴⁰ "Islamisten bereiten Angriff auf Piraten vor", *Spiegel Online*, 22 November 2008, <http://www.spiegel.de/panorama/0,1518,592118,00.html>, accessed 23 November 2008.

⁴¹ Barbara Hans, 'Reeder ruesten gegen Piraten-Attacken'.

⁴² See: 'Private Security Firms Join Battle Against Somali Pirates'.

⁴³ See: Carolin Liss, '[The Roots of Piracy in Southeast Asia](http://www.globalcollab.org/Nautilus/australia/apsnet/policy-forum/2007/the-roots-of-piracy-in-southeast-asia/)', *Austral Policy Forum* 07-18A, 22 October 2007, <http://www.globalcollab.org/Nautilus/australia/apsnet/policy-forum/2007/the-roots-of-piracy-in-southeast-asia/>. Carolin Liss, '[The Challenges of Piracy in Southeast Asia and the Role of Australia](http://www.globalcollab.org/Nautilus/australia/apsnet/policy-forum/2007/the-challenges-of-piracy-in-southeast-asia-and-the-role-of-australia/)', *Austral Policy Forum* 07-19A, 25 October 2007, <http://www.globalcollab.org/Nautilus/australia/apsnet/policy-forum/2007/the-challenges-of-piracy-in-southeast-asia-and-the-role-of-australia/>

⁴⁴ See: Krosiak and Stroehlein, 'Oh my Gosh, Pirates!'.