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International Cooperation in Combating Piracy and Safeguarding Maritime Security: An analysis of the Indian Ocean Rim States"

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Declaration

I, Rotich Victoria Chepkorir, hereby declare that this research project is my original work and has not been presented for a degree in any other University.

Signed...Date.......... 31/10/2011 ....

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This project has been submitted for examination with my approval as University Supervisor;

Signed...Date... 16.11.2011 ....

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Abstract

Maritime issues are an essential component of the current globalized economy and maritime security is vital for ensuring sustained economic development and national security for maritime nations. This project reveals that the Indian Ocean Rim Sates have tried to cooperate in trade and business but at the same time have overlooked the component of maritime security that is critical to enhanced relations. Developing ethics that that govern cooperative regional and international security partnerships and creating the organizational structure and functional relationships required to manage a regional security partnership are essential elements in establishing an not only effective regional maritime security but also a successful global maritime security environment.

Abbreviations

AERC	African Economic Research Consortium
AfDB	African Development Bank
AK47	Avtomat Kalashnikova model 1947
APEC	Asia Pacific Economic Cooperation
ARF	ASEAN Regional Forum
ASEAN	Association of Southeast Nations
ASSET	Accompany Sea Security Team
AU	African Union
BIMSTEC	Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation
CARAT	Cooperation and Readiness Afloat
CGPS	Contact Group on Piracy off Coast of Somalia
COMESA	Common Market for Eastern and Southern Africa
CTF 150	Combined Task Force 150
EAC	East African Community
EEZ	Exclusive Economic Zone
EMSA	European Maritime Safety Agency
ESDP	European Security Defence Policy
EU	European Union
EU NAVCO	European Union Naval Coordination Cell
EU NAVFOR	European Union Naval Forces
GCC	Gulf Cooperation

GDP	Growth Domestic Product
GPS	Global Positioning System
HIV/AIDS	Human Immunodeficiency Virus/Acquired Immunodeficiency Syndrome
ICU	Islamic Courts Union
IGAD	Intergovernmental Authority, on Development
IMB	International Maritime Bureau
IMB – PRC	Piracy Reporting Centre
IMO	International Maritime Organization
IOC	Indian Ocean Commission
IOM	International Organization for Migration
IOR	Indian Ocean Rim
IORAG	Indian Ocean Rim Academic Group
IOR-ARC	Indian Ocean Rim for Regional Cooperation
IORBF	Indian Ocean Rim Business Forum
IOZP	Indian Ocean Zone for Peace
ISPS	International Ship and Port Security
JAI	Joint Africa Institute
LTTE	Liberation Tigers of Tamil Eelim
MALSINDO	Malaysia Singapore Indonesia
MARPOL	Maritime Pollutions
MS	Malaccan Strait
MSPA	Maritime Security Patrol Area
MV	Motor Vessel

NATO	North Atlantic Trade Organization
NEPAD	New Partnership for Africa's Development
PRC	Piracy Reporting Centre
PERSICA	Association of Red Sea Nations comprising Jordan, Saudi Arabia, Yemen, Somalia, Sudan and Eritrea
ReCAAP	Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia
RPGs	Rocket Propelled Grenades
SAARC	South Asian Association for Regional Cooperation
SADC	South African Development Community
SLOCS	Sea Lines of Communication
SOLAS	Safety of Life at Sea
SCCs	Surveillance Coordination Centres
SUA	Safety of Maritime Navigation
TFG	Transitional Federal Government
UAE	United Arab Emirates
UN	United Nations
UNCLOS	United Nations Convention on the Law of the Sea
UNCTAD	United Nations Conference on Trade and Development
UNDP	United Nations Development Programme
UNECA	United Nations Economic Commission for Africa
UNPOS	United Nations Political Office for Somalia
UNSC	United Nations Security Council
UNSCR	United Nations Council Resolution

USA	United States of America
USSR	Union of Soviet Socialist Republics
WTO	World Trade Organization
$US	United States Dollar

Dedication

This project is dedicated to my parents Alex and Susan who have supported me since I began my education.

Also, it is dedicated to my brothers and sisters who have been a great source of motivation and inspiration.

Finally, this work is dedicated to all those who are interested in the field of international studies.

Acknowledgment

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CHAPTER I

Introduction

1.1 Problem Context

The last half of the twentieth century was characterized by a tremendous increase in regional organizations all over the world promoting regional integration. It is now widely accepted that the path to economic prosperity can no longer be an anomaly traveled alone. Globalization has further enhanced the need for regional groupings. Regionalism in its economic sense has been a dominant form of institutional cooperation built around the various regions developed and developing, in the post-Second World War era.

It is in this context that the Indian Ocean Rim –Association for Regional Cooperation (IOR-ARC), initially known as the Indian Ocean Rim initiative was established. The Indian Ocean Rim defines a distinctive area in international politics consisting of coastal states bordering the Indian Ocean. For many centuries, the countries, economies and peoples of the Indian Ocean have been bound in an informal cooperative economic community. Traders, seamen, fishermen and pilgrims traversed the Indian Ocean and its numerous ports, enabling a vibrant trading network to emerge. Maluki indicates that over the centuries, the Indian Ocean has been an international waterway and that consequently it has held the imagination of all sea-faring people both the orient and the occident. [0] The organization which exists to disseminate information on trade and investment regimes with a view to expand intra-regional trade has, since 1997 served as an important economic bridge between Africa, Asia and Australasia.

On the other hand, the security on the common resource has been wanting. Of the three

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0 Maluki P. Regionalism in the Indian Ocean Order Cooperation and Community. Master Thesis. Jawaharlal Nehru University. 1996. p 12

major oceans of the world, the Atlantic and the Pacific are serene. The Indian Ocean presents a plethora of security issues. The ocean has always had a major share of global pirate attacks and armed robbery in territorial waters due to frail maritime policing.

A huge proportion of the trade among member states is carried by sea. It raises the important question of what is the strategic response by the member states to ensure the safe and efficient carriage of these cargoes. Indeed, there are also countries outside the immediate region that are also dependent on secure shipping. Thus they too have a legitimate interest in fostering a regime of cooperation and calm. Some do not see military threats to this shipping because of the interdependence of all in the region on maritime trade. Reliance on such a notion however has obvious shortcomings. Rather than leave security management to chance it is axiomatic that it is in the interests of all to build a maritime security mechanism to promote an ocean wide orbit of confidence and serenity.

The IOR-ARC is confined to economic and social issues. It is important that the organization begins to see the importance of establishing a mechanism to oversee the security on the waters of the Indian Ocean which will ultimately ensure the security of economic interests of the member states.

1.2   Background

According to Campbell economic cooperation across the Indian Ocean has a long history. This is because unlike the Atlantic and Pacific oceans. the Indian Ocean benefits from the ·monsoons'. a singularly stable pattern of seasonal currents and winds; the south west monsoons blows from April to October and the north east from October to May, in theory enabling vessels to sail from one side to the other side of the Indian Ocean and back within twelve months.

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The advent of steamships and modern colonialism in the late nineteenth century deprived the region of its unique natural advantages but the movement of goods. technology and people in the Indian Ocean region persisted through the colonial era.[2]

From the late 1960s. as the former colonial powers became increasingly absorbed by the EU. regional ties to Europe began to be challenged. although it took the collapse of the USSR in the early 1990s to precipitate a radical change in the global balance of power that directly affected the geo-politics of the Indian Ocean region. The end of the USSR removed the buttress of ideological opposition to the capitalist world view and to that of its institutions. which in consequence stepped up the pressure for liberalization.

The concept of an IOR Economic Association was first expounded in 1993. In March 1995. seven countries termed as the "M7" South Africa. India. Australia. Mauritius. Kenya. Singapore, and Oman – initiated the first of a series of discussions that resulted in the formation of an IOR association to promote economic co-operation between member states.[3]

1.2.1 IOR-ARC Membership

At present. IOR-ARC consists of 18 member states: Australia. Bangladesh. India. Indonesia. Iran. Kenya. Madagascar. Malaysia. Mauritius. Mozambique. Oman. Singapore. South Africa. Sri Lanka. Tanzania. Thailand. United Arab Emirates and Yemen. Bangladesh. Iran. Seychelles.[4] Thailand and UAE were admitted at the Council of Ministers Meeting in

2   Campbell Gwyn. *The Indian Ocean Rim: Southern Africa and Regional Co-operation*. New York: Taylor & Francis 2003
     p.2
3   Ibid Campbell p 3
4   Seychelles withdrew as a member on 1 July 2003

Maputo, Mozambique, on 30-31 March 1999. There are also five dialogue partners of IOR-ARC: namely France, Japan, United Kingdom, Egypt and China. At present only the Indian Ocean Tourism Organization has the observer status. All the decisions including granting Dialogue Partner Status and admission of new members are taken by consensus. However, all sovereign states of the Indian Ocean Rim are eligible for membership. To become members, States must adhere to the principles and objectives enshrined in the Charter.

1.2.2 Objectives

The objectives of the IOR-Arc are:

- To promote sustainable growth and balanced development of the region and Member States;

- To focus on those areas of economic cooperation which provide maximum opportunities to develop shared interests and reap mutual benefits and

- To promote liberalization, remove impediments and lower barriers towards a freer and enhanced flow of goods, services, investment, and technology within the Indian Ocean Rim.[5]

1.2.3 Principles

The Charter declares that the IOR-ARC seeks to build and expand understanding and mutually beneficial co-operation through a consensus based, evolutionary and non-intrusive

[5] See the IOR Charter

approach. There are no laws and binding contracts. Compliance with consensus based decision remains without any rigid institutional structure to specify any rules and regulations.

Co-operation is based on principles of sovereignty. equality, territorial integrity. political independence. and non-interference in internal affairs. peaceful coexistence. and mutual benefit. Membership is open to all sovereign states of the Indian Ocean Rim willing to subscribe to the principles and objectives of the Charter. The IOR-ARC is firmly based on the principle of open regionalism. as encouraged by the World Trade Organization (WTO). Decisions on all matters and issues and at all levels. will be taken on the basis of consensus.[6]

1.2.4 Piracy: A Source of Insecurity on the Indian Ocean

The Indian Ocean and its contiguous waters have always had a major share of global pirate attacks and armed robbery in territorial waters due to dense shipping. frail maritime policing and favourable hide-to-vanish environs. According to the 2003 IMB Report. the Indonesian waters were declared the world's most dangerous. followed by Bangladesh. Nigeria and India.[8]

Khurana places piracy under the category of non-state acts that amount to maritime security threats in the Indian Ocean.[9] Maritime piracy is a crime in international law. The United Nations Convention on the Law of the Sea (UNCLOS) of 1982 defines "maritime piracy" as consisting of 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:

6   See Charter
7   Khurana. G S Maritime Security in the Indian Ocean: Convergence Plus Cooperation Equals Resonance in *Strategic Analysis*. Vol 28. No. 3. Jul-Sep 2004 p. 415
8   See. IMB Report. 2003
9   See the United Nations Convention on the Law of the Sea. 1982

on the high seas. against another ship or aircraft. or against persons or property on board such ship or aircraft and; against a ship, aircraft, persons or property in a place outside the jurisdiction of any State. Also it can be 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 or: any act of inciting or of intentionally facilitating an act described in the two previous acts. [10]

Lehr states that a new "pirate wind" came in the mid-1980s and was facilitated by globalization and liberalization. The two phenomena brought about a tremendous increase in international business and trade. especially so in sea trade. since the bulk of all goods transported goes by ship.[11] Lehr further explains that it is only human that illicit forms of international business and trade are accompanied by their illicit twin. which basically means various forms of business crime including organized crime and whether in an opportunistic or an organized crime syndicates maritime piracy. Therefore. from a global. macro-level perspective. this new wave of maritime piracy can be explained tentatively by two push-and-pull factors.

Globalization and liberalization brought about a vast increase in international trade at sea: and when more goods – and more of high value – are transported by sea. there are more (potential) targets for criminal activities. Parallel to that, the end of the Cold War and the demise of the USSR as the second superpower brought about a general withdrawal of warships. especially so in the Asia-Pacific and the Indian Ocean. A lower interest in maritime affairs and a lower number of warships on patrol means lower security for illicit forms of trade and higher security for illicit activities.[12]

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10. See the *1982 United Nations Convention on the Law of the Sea*
11 Lehr, Peter. *Violence at Sea: Piracy in the Age of Global Terrorism*. (New York Taylor & Francis Group. 2007) p.52
12 Ibid. p.60

According to the International Maritime Bureau reports, the ranking of the regions or countries most plagued by pirate attacks in 2000 were Indonesia, Malaysia, Bangladesh, India, Ecuador, Malacca Straits and Red Sea. In 2001, the ranking was nearly the same with Indonesia (72 reported attacks), Malaysia (11) and Bangladesh (11) being the three most affected countries by piracy attacks. In 2002, the reported attacks around Indonesian waters shot up to 103, followed by Bangladesh (32), India (18), Malacca Straits (16), Malaysia (14), Nigeria (14) and Vietnam (12). In the above three successive years, the reported piracy attacks around the Indian Ocean Rim countries and regions accounted respectively 64 per cent, 35 per cent and 55 per cent of the worldwide reported attacks. [13]

1.3   Problem Statement

The Indian Ocean, owing to its geo-strategic disposition, will continue to enjoy eminence in global calculations. However the complexion of security threats necessitates that states seek convergence to preserve the freedom of navigation. Though military pacts now seem redundant, multilateralism has acquired a fresh relevance in the form of security arrangements. Regional cooperation would also be fruitful to reduce inter-state tensions since it would be preceded by trust building, and naturally succeeded by creating common stakes in the maintenance of peace and stability.

A well-researched and co-ordinated strategy to safeguard the security in the Indian Ocean is highly essential if maximum benefits are to be drawn from intra-IOR exchanges. All

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13 International Maritime Bureau; *Statistics*; http://www.icc-ccs.org/news/116-imb-releases-latest-piracy-statistics last updated May 2011.

governments of the IOR states should actively participate in drawing up a comprehensive strategy of mitigating the ill effects of maritime insecurities and of instituting measures to prevent or suppress acts that amount to threats against the harmony of the common resource.

India and South Africa opposed Australia's desire to place security on the IOR agenda for fear that the Indo-Pakistani Conflict would overshadow the economic debate. Australia's argument and notably its wish that the concept of an Indian Ocean Zone of Peace (IOZP) although rejected was valid. However, economic interests of the grouping can not only be safeguarded by peace and stability on the superficial land, but is would be more importantly safeguarded by instituting measures against the threats emanating from the Indian Ocean waters.

This study will attempt to answer the following questions; what are the prospects and potential benefits in terms of economic prosperity in the region if cooperation in maritime security is considered? Also, how can the separate security policies of the member states be coordinated in order to come up with an effective regime that will safeguard maritime security?

1.4   Justification

Economic cooperation is the cornerstone of the interrelations between the member states of the IOR-ARC. The policy justification for this study is based on the primary fact that the regional organization does not give room for security objectives to govern its existence. Whereas it is a good thing, especially in the era of globalization for states to preoccupy themselves with economic concerns such as trade and investment. it would even be better if the states regarded their security with importance, as it is in no doubt a phenomenon that will safeguard their economic interests. The fact that the Indian Ocean which is the common natural resource for the

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sixteen coastal states is prone to be a playing ground for transnational crime is sufficient to justify why the IOR-ARC. should not limit its scope to economic matters but should instead expand it to cater for maritime security. This study will therefore bridge the gaps in the policy framework and will attempt to help policy and the decision makers of the organization in integrating security objectives in the charter of the IOR-ARC.

In the light of academic justification. it is noteworthy that few studies in the area of maritime security have been done with regard to the communality of the eighteen member states of the organization. The relationship between maritime and economic prosperity in the region needs to be appreciated as the two factors are greatly intertwined. The insights gained from this study will bridge the academic gap existing in the works on international cooperation between the member states of the IOR-ARC. which have mainly dwelt on economic and cooperation and particularly on trade and investment.

Ultimately. this paper will lay the groundwork for future research concerning international cooperation on maritime security in any other region sharing a water resource.

1.5   Objectives

The general objective of the study will be to demonstrate that maritime security is an important element of the interrelations of states and that international cooperation is necessary among the member states of the IOR-ARC and therefore there is need for their coordinated approach in safeguarding the security.

Specific objectives will seek to:

a) To find out how the threats in form of transnational crime affect the member states of the Indian Ocean Rim and to a greater extent, how this affects their interactions.

b) To explore the possibility of cooperation in matters of maritime security and come up with strategies and modalities for cooperation by the member states at the organizational level.

1.6   Literature Review

At the outset it is noteworthy that the charter of the IOR association does not even mention the issue of security. It only mentions one of the projects of the works program as being to examine the subject of development, upgrading and management of ports.[14]

The issue of maritime security being the concern of many states cannot be downplayed. For instance, the world's super-power, the United States considers that the creation and maintenance of security at sea is essential to mitigating threats short of war, including piracy, terrorism, weapons proliferation, drug trafficking, and other illicit activities. The argument is that countering these irregular and transnational threats protects the American homeland, enhances global stability, and secures freedom of navigation for the benefit of all nations. [15] Teich et al. indicate that maritime commerce is an essential component of the current globalized economy and as such defense of the maritime domain is critical for ensuring continued economic prosperity and national security for the world's maritime nations. As many states reduce their resource allocation for maritime security capabilities, a multi-lateral approach to maritime security must be adopted.[16]

Lehr notes that contrary to the Atlantic and the Pacific Oceans, the Indian Ocean has not so far developed an overarching security system that could meet the challenge of maritime

14. See. Charter of IOR - ARC
15. Teich B., et al. Building Partnerships: *Co-operative Maritime Security Operations in the 21ˢᵗ Century Warfare* October 2007
16. Ibid., Teich

security.[17] Ghosh indicates that challenges in the maritime sphere call for more effective law enforcement and the maintenance of maritime order saying that challenges on the Indian Ocean are essentially part constabulary, part economic and part human welfare. Maritime crime has increased, which has opened avenues for maritime security cooperation. Opportunities have yet to be realized; hence the problems continue, as do the challenges in maintaining maritime order.[18]

Australia's efforts to introduce a security agenda have not been successful; indeed, the organization has ignored issues of maritime cooperation. Consequently, maritime issues get ignored in the Indian Ocean Rim Business Forum (IORBF) and the Indian Ocean Rim Academic Group (IORAG). However, it is essential that the existing cold war military mindset of 'preparing for war in order to ensure peace' be revised to 'if you want peace prepare to cooperate' as a guideline for both military and non-military maritime interaction. It is only through cooperation that the challenges to the existing maritime order can be addressed. Therefore Ghosh recommends that while regional cooperation between navies and coast guards must take center stage in the emerging order, non-military maritime cooperation is equally important. Navies must reorient themselves from the existing mindset of 'preparing for war in order to ensure peace' to that of 'if you want peace and stability prepare to cooperate.'[19] Gosh also recommends that littoral states in the region should look toward regional power centers for assistance in maintaining maritime order and coping with natural disasters. Countries with enhanced maritime capabilities like the United States, India, South Africa, and Australia can

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17 op cit, Lehr, P 2007 p 68
18 Ghosh P K. Maritime Security Challenges in South Asia and the Indian Ocean Response Strategies Honolulu January 2004
19 Ibid

help by not only cooperating amongst themselves. but also by taking other littoral states on board as part of multilateral efforts towards maintenance of maritime order.[20]

Campbell admits that an area of immediate pertinence to the governments of the IOR is security. Governments should place utmost importance on the security of the region because Security and Commerce are mutually self-enhancing; peace and security are essential for trade and development, while regional economic co-operation involving increased intra-IOR exchange of goods. capital and services can help foster better political relations and reduce tension.[21] However. Vines is pessimistic about IOR's capability. arguing that the association is too desperate and a regional grouping based on economic integration without a political agenda or strong vision is difficult to sustain. The underlying problem he states is that IOR-ARC expanded its membership too quickly and embarked on sectoral projects that were of limited interest to the majority of its members and as the result is that cooperation among member countries of the IOR-ARC has comprised largely bilateral. rather than. regional arrangements.[22]

Security cooperation according to Carlsnaes et al. implies relying for an essential objective. national survival, on the resources. intentions and activities of other states. which is hard to reconcile with the notion of security being guaranteed exclusively by self-help. [23]

Richardson argues that the very nature and scale of the globalized trading system makes it vulnerable to terrorist attack. Seaborne trade and its land connections in the global supply chain have become increasingly open. They are liable to be targeted or exploited by terrorist groups

20. Ghosh P.K. Maritime Security Challenges in South Asia and the Indian Ocean: *Response Strategies* Honolulu January 2004:p35
21. Campbell *The Indian Ocean Rim: Southern Africa and Regional Co-operation.* New York: Taylor & Francis 2003: p 22
22. Vines. V and Oruleneka B. *India's Engagement with the African Indian Ocean Rim States* April 2008 pg 25-30
23. Carlsnaes et al. A *Handbook of International Relations* New Delhi. Sage Publications ltd 2002 p 1716 356

that have the capability to strike in different parts of the world and aim to cause as much fear and chaos as possible to advance their ends. [24]

As argued by Richardson, secure trade has benefits in that when effectively applied and extended on a more universal basis, could help streamline global commerce as well as give it greater protection.[25]

With regard to piracy itself, the 1982 UNCLOS Article 100 obliges "all states to cooperate to the fullest possible extent in the repression of piracy".[26] In addition to the convention, there have been a series of UN Security Council Resolutions giving certain authorities as follows: In Resolution *1814 of May 15th 2008* States and regional organizations are requested to take action to protect the World Food Programme maritime convoys. in resolution *1816 of June 2nd 2008 states that* for a period of six months States cooperating with the TFG are allowed to enter the territorial waters of Somalia and notification is provided by the TFG. In resolution *1838 of October 7th 2008*, States are urgently requested to take part actively in the fight against piracy off the coast of Somalia and. to this end. cooperate with the TFG. States and regional organizations are urgently requested to continue to protect the World Food Programme (WFP) maritime convoys and to coordinate their actions as provided by the TFG. Resolution *1846 of December 2nd 2008 calls for the* Extension of Resolution 1816 for 12 months and in resolution *1851 of December 21st 2008*, land intervention is authorized.[27]

However some observers remain skeptical in light of experience of factors that have

24 Richardson. M. A. Time bomb for Global Trade *Maritime Related Terrorism in an Age of Weapons of Mass Destruction* vol 15. May 2005.pp 6-7
25 Ibid. Richardson p 7
26 UNCLOS article 100
27 UN Resolutions 1814. 1816. 1838 1846. 1851

hampered the effectiveness of the UN Security Council Resolution 1816 relating to multilateral cooperation against piracy off the Horn of Africa. The concern is not strictly the sovereignty concerns that usually hamper international police action in the territorial waters of a given state. Indeed in a mutual recognition that the TFG remains unable to enforce its sovereign power to police its coastal and waters, UNSC 1816 provides for conclusion of bilateral agreements between the TFGs and other nations to authorize the latter to do so.

Pugh argues that an option open to the international community is to organize naval peacekeeping and enforcement on a regional basis. Regional organizations are poised to be more active in peacekeeping and related activities. It might also be thought that given the UN's lack of resources, the delegation of naval operations to a competent regional organization would be a rational enough policy.[28]

Young argues that the transnational nature of piracy has become the focus of much of the security dialogue on the subject. Indeed the mobility and fluidity with which pirates operate between national borders would suggest a multi-lateral cooperative approach in addressing the issue. However, the scholar states that unfortunately, international cooperation has focused on solutions that will only delay the next outbreak until conditions are again ripe. While joint co-operation is ultimately necessary to address transnational security issues like piracy, the first priority must be to establish domestic security regimes and capabilities that address the issue. Giving the example of Indonesia's and the Philippines' not being able to secure their own waters and to control the development of independent loci of power within their states and to offer their people a way out of poverty, Young indicates that transnational cooperation can be

[28] Pugh, M. Maritime Security and Peacekeeping (Framework for UN Operations) Vol. 10, June 2006, p. 115

problematic. [29] Regime analysis mirrors debate about the nature of sovereignty and the locus of power in the international system. A state-centric view regards regimes as merely arenas for sparing between competing national interests. Agendas are determined by hegemonic powers. [30] With regard to safety at sea, states are not necessarily the most powerful actors in maritime regulation.

Mushrooming private maritime security agencies now offer their services to shipping companies. Overseas trade is carried out predominantly through privately owned ships while security has been traditionally a function of the state. Rukhana argues that this has led to huge gaps being exploited by terrorists and pirates because the private sector lacks awareness of the dangers. Resorting to privatization of security has its demerits, more so in the context of national interests. Also, many shipping companies may not be willing to hire private security due to prohibitive cost that adds to their woes of increased insurance premium. [31]

Regionalism is essential today, based on each state's dependence on the other and optimum utilization of their resources and capacities. Rukhana admits that states need to pool their assets, efforts and intelligence to deter security threats through regional cooperation — a mix of regulations, inspections, technology and deterrence and complementing global arrangements in a comprehensive layered defence. For example, Surveillance Coordination Centres (SCCs) within a regional set up could use the latest technology such as long-range tracking of commercial ships to identify suspect vessels in their vicinity through real-time data link. [32]

Devare cites several instances of regional co-operation for the suppression of piracy. Using

[29] Young, A. Contemporary Maritime Piracy in South East Asia *History Causes and Remedies* Vol 3 April 2003 p 115-116
[30] op cit Pugh p 216
[31] op cit Rukhana p 121
[32] Ibid p 122

the case of ASEAN. for example. in 1999.the hijacking of the Japanese-owned ship (flying the Panama flag) *Alondra Rainbow* by pirates in the Indonesian Waters and its successful capture in the Arabian Sea by the Indian Coast Guard demonstrates how a coordinated action by the Indian navy. the coast guard and the Anti-Piracy Centre in Kuala Lumpur worked effectively. Issues of maritime security such as piracy can be items of agenda for regional organizations. This is the case of the ASEAN Regional Forum (ARF) agenda. At sub regional level. the multi-lateral grouping. BIMST-EC decided at its first summit in July 2004 to enlarge the scope of co-operation to include concerns such as piracy. terrorism and transnational crime. A regional effort to combat piracy is underway in the South China Sea. but due to limited budget. overlapping jurisdictions. and lack of effective procedures. the co-operation is not very effective.[33]

Young points out that one of the main roles of international co-operation should be to provide funding and training to develop national operational security capacities. and for structural development. Therefore a recommendation suggested in the scholars work is that extra-regional co-operation in the form of technical assistance and funding. has a role to play in addressing the piracy vice.[34]

1.7 Theoretical Framework

The issue of maritime security in the Indian Ocean Rim region and the need for international cooperation as a response will be approached from a disciplinary standpoint. The response will be analyzed vis-à-vis two prominent yet starkly different. international relations theories. *Realism* advocates unilateral state action to solve international problems while *International*

33 *op cit.* Devare Pp 103 – 105
34 *op cit.* Young. P 116

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Regime Theory argues for cooperation among states through legal and political frameworks, or regimes created by international institutions. This paper also hopes to establish which is the more relevant of the two in safeguarding maritime security and combating piracy on the waters of the Indian Ocean.

Realism prioritizes national interest and security. The theory believes in centrality of states and an anarchical world. The states seek to maximize their security or their power for whose pursuit they adopt instrumentally rational policies. Realists hold skeptics toward international laws, institutions, and ideals that attempt to transcend or replace nationalism. All realist scholars emphasize the egoistic passions and self interests in international politics. States are rational unitary actors each moving towards their own national interest, therefore there is a general distrust of long-term cooperation or alliance.

Regime theory is a theory derived from the liberal tradition that argues that international institutions or regimes affect the behavior of states (or other international actors). International regimes as defined by Krasner are principles, norms, rules, and decision-making procedures around which actor expectations converge in a given issue-area. [35] The theory assumes that cooperation is possible in the anarchic system of states, indeed, regimes are by definition, instances of international cooperation.

Young explains that regime effectiveness comprises two overlapping ideas. First, a regime is effective to the extent that its members abide by its norms and rules. Second, a regime is effective to the extent that it achieves certain objectives or fulfils certain purposes. The most

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35.*op cit.* Krasner. S., p. 1

fundamental of these purposes is the enhancement of the ability of states to cooperate in the issue-area because regimes are directed to the extent that they exert pressure on the members to act in conformity with some clear-cut social or collective goal. [37]

International Regime Theory will be more preferred because international relations in general are not anarchic. As explained by Carlsnaes et al. alliances tend to be problematic when international relations are perceived as anarchic yet conflict is principally possible between a pair of actors. [38]

Using the major tenets of the International regime theory. a need for cooperation in the context of a security regime is justified in order to safeguard the region from insecurities on the Indian Ocean. A security regime for the Indian Ocean Rim states which constitute a regional cooperation in trade and investments will bear crucial significance in protecting the economic interests of all the countries. The theory will also help in suggesting a series of measures that can be adopted by the community of the eighteen states, in order to strengthen maritime security and prevent or suppress acts of terrorism against shipping.

1.8   Hypotheses

1. Insecurity on the waters off the Indian Ocean Rim affects economic and other interests of economic nature of the member states of the IOR-ARC

2. Insecurity on the waters off the Indian Ocean Rim does not affect the economic interests and other interests of economic nature of the member states of the IOR-ARC.

37 *Op cit.* Young, pp 24-25
38 *Op cit.* Carlsnaes, p 42

1.9 Research Methodology

The study utilizes the case study method. The case under study is the Indian Ocean Rim – Association for Regional Cooperation, with regard to its policies in the area of security and with special emphasis on maritime security. The separate maritime security policies of the each of the eighteen constituting states will be analyzed. The research utilizes primary and even more, secondary data. Primary data will be obtained from government officials at Kenya Maritime Authority and Kenya Ports Authority as well as respondents from private shipping companies. The data will be collected through a combination of oral interviews and administered questionnaires of key informants. Secondary data will be obtained from journals, books and official statistics and reports of previous surveys and reports sourced from the relevant government institutions. The internet will also be an alternative source of secondary data.

The study will also make use of the purposive sampling method because the respondents will meet the criteria for the purposes of the study. Snow ball sampling will also be a possibility since it is expected that the knowledgeable respondents will suggests other possible people that can be considered for the interview.

The study will utilize the chronological analysis approach. In chapter three for instance, major maritime issues that have affected any or all of the member states of IOR-ARC will be analyzed in a chronological order. In addition. the study will use descriptive and prescriptive approaches. Chapter two will describe the theories pertaining to international security and chapter 5 the study will attempt to design areas of possible cooperation among the member states of IOR-ARC in combating safeguarding security on the Indian Ocean.

1.10   Chapter Outline

Chapter one introduces the study and gives a historical survey of the interstate relations and cooperation among the 18 Member States of the IOR-ARC. The chapter also gives an overview on both the national and regional interest on security in a theoretical perspective. It will give a problem statement, objectives. hypotheses. justification of the topic under study.

Chapter two goes into the details of the three prominent theories in international relations that will inform the study. The first one. *Realism* will explain why the states behave as rational unitary actors pursuing individualist national interests with security being at the top of the agenda. The second theory *Liberalism* will explain how the dynamics of international relations became important to the members of the IOR-ARC with the states seeing the need of cooperation in 'Low Politics', being economic cooperation. thereby leading to the formation of the organization. The ultimate theory will be the *International Regime* theory which will explore very useful assumptions towards the need for international cooperation in matters of transnational security.

Chapter three examines the latest experiences of any or all the member states of the organization, emanating from the insecurity on the waters of the Indian Ocean and the measures taken by the states to either mitigate or completely root out the insecurity problems.

Chapter four analyzes the strengths and weakness of the measures instituted by the member states in fighting maritime piracy. It also gives an analysis of the data collected.

Based on findings from the above chapters, the last chapter will be a proposal consisting of recommendations for cooperation by the member states of Indian Ocean Rim, taking cognizance of the fact that the existing cooperation is solely for economic goals, yet matters of regional security, especially on the common natural resource, the Indian Ocean, is very fundamental in their interrelations and should therefore not be ignored, nor overlooked.

CHAPTER 2

Historical Survey of Interstate Relations

2.1 Introduction

The modern history of the Indian Ocean is one of perennial regional conflicts – a struggle for power in the Persian Gulf, a bitter conflict in South Asia (the Indo-Pakistani wars), wars and unrest in Southeast Asia (e. g.. the so-called Konfrontasi[1] between Indonesia on the one side and Malaysia and Singapore on the other. and. nowadays. secession of East-Timor from Indonesia and communal clashes within Indonesia itself). seemingly endless war at the Horn of Africa and – until very recently – in Southern Africa. Because of the possibility of an interruption of the Sea Lines of Communication (SLOC's). these conflicts always have the potential to acquire an international dimension as well.

For the most part of modern history. the Indian Ocean has been a 'British Lake'. the security of which was guaranteed by ships of the Royal Navy until the termination of all security commitments 'East of Suez' in 1971[2]. From the mid-sixties onwards, a steady increase of superpower presence paralleling the decrease of British presence was noticeable. Although this power shift made a difference in the perception of several Indian Ocean Rim states since they felt the danger of being drawn into the superpower conflict. it did not make a difference in the overall security of the Indian Ocean itself: The possible power vacuum created by the British

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[1] The Indonesia-Malaysia confrontation was an undeclared war over the future of the island of Borneo between British backed Malaysia and Indonesia during 1962-1966. (Mackie. J A.C 1974. Konfrontasi the Indonesia-Malaysia Dispute 1963-1966 Kuala Lumpur Oxford University Press(for the Australian institute of international affairs)

[2] For more on British naval occupations check http://www.fbri.org/orbis/4902/black.postimperialroyalnavy.pdf last updated April 2011

was effectively filled even before it developed, so that naval ambitions of regional states had no chance to be put into reality – although they were formulated nevertheless.

The post-Cold War era has heralded a socio-politico-strategic shift in thought. Globalization, specifically economics, today dominates strategic considerations. This has led to enhanced maritime security concerns, since most regional trade is sea-borne. Despite "maritime bonding", this region has unfortunately not seen the emergence of a vibrant trans-oceanic community.

This may be rooted in regional countries' wide dissimilarities and divergent interests, which have prompted each country to pursue economic linkages with Europe or North America rather than with each other. This has inevitably limited the region's economic growth.

Although a maritime oceanic thread binds the littorals together, maritime cooperation and maritime issues have not attained the importance they deserve in this region. To begin with, there is considerable debate on the extent of the Indian Ocean rim itself. Differing definitions have been applied to the region, and the number of states included ranges from 29 to 35.[3] However the dissimilarities in state capabilities (both economic and military) are also considerable. India, Australia and South Africa each have a blue water naval capability and a booming economy, while the smaller island nations can hardly compare. Hence convergence of interests on security issues has not been readily forthcoming.

While IOR accounts for just eight percent of world GDP and 12 percent of world trade, there is room for considerable improvement. Meanwhile, Australia's efforts to introduce a security agenda have not been successful; indeed, the organization has ignored issues of maritime cooperation. The charter of the association does not even mention the issue, and only

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[3] References to countries on the Indian ocean http://maps.google.com

one of the projects of the works program examines the subject of development, upgrading and management of ports.[4] Asia has emerged as an important partner in Africa's trade and development. Africa's exports to Asia grew significantly in both relative and absolute terms during the 1990s. Of Africa's total export earnings. which are estimated at about US$130 billion per year (1999–2001 average). 16 percent derive from sales to Asia. The rate of increase in export values to Asia—10 percent per year—has been higher than the comparable rates for the EU or United States during the past decade. Over the same period. Asia's developing economies have increased their imports from African countries significantly. In fact. Asia's imports from Africa outpaced its imports from other regions. Countries such as India. China, and Taiwan have significantly increased the overall volume of their African imports.[5]

The economic development of a state is closely linked to its trade and energy supply. Since most of the trade of the Indian Ocean littorals and the South Asian states is seaborne. SLOCs form the lifeline of these countries. According to a World Bank estimate of 1999 the world seaborne trade was pegged at 21.480 billion ton-miles: it is expected to reach 35.000 billion ton-miles in 2010 and 41.800 billion ton-miles in 2014. The United Nations Conference on Trade and Development (UNCTAD) Report, "Review of Maritime Transport 2000", notes that world sea-based trade recorded its fourteenth consecutive annual increase. and Asia's share of imports and exports was 26.1% and 18.8 % respectively.[6] Thus the prospects for seaborne trade are set to rise dramatically. The estimate though was much affected by the credit crisis that caused a whole world recession and a decline in the world trade from the expected results.

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[4] See IOR-ARC charter

[5] World bank group Africa Region, Private sector unit, Patterns of Africa-Asia Trade and Investment potential for ownership and partnership, http://siteresources.worldbank.org/EXTAFRSUMAFTPS/Resources/ticad4.pdf October 2004

[6] Ibid.

On the economic sector, the Indian Ocean region is still to be called a community of weak states: Most Indian Ocean Rim states are quoted as least developing nations. The IOR encompasses a number of sub-regions in the world that include Southern and Eastern Africa, the Red Sea, South Asia, Southeast Asia, and Australasia. As with some other notable regional organizations such as APEC, the IOR-ARC is characterized by a significant degree of heterogeneity in terms of population size, income levels, rates of economic growth and degree of openness, which includes also social and political ideologies. The alliance is also one of the few to bring together economies from Asia, Mid East and Africa. This heterogeneity underscores the need for the grouping to be highly pluralistic in nature in order to accommodate the diversity among the member countries.

Iran and Afghanistan – even after the end of the Taliban regime are still being accused of exporting Islamic-fundamentalist terrorism into neighboring states, thus destabilizing both the internal order of these states as well as international relations. For the very same reasons, even Taliban-friendly Pakistan temporarily entered the list of possible "rogue states" in the aftermath of September 11 and the botched attack on the Indian Lok Sabha on December 19, 2001.

The four key components of the IOR-ARC roadmap include trade liberalization, trade and investment facilitation, economic and technical co-operation and initiating trade and investment dialogue. The association holds a Council of Ministers meeting every other year. Despite the potential of this diverse regional grouping, the association has remained dormant for a long time now. Part of the reason for the lack of noteworthy progress in the IOR-ARC is the absence of leadership by any of the larger countries like India or South Africa and Australia.

In order to ensure that its objectives are achieved then it is important that security in the region is managed and peace is attained among the IORARC states. However, as noted earlier the region has been a region of conflict most of which are South Asia many issues both political and religious. On the African stretch only Somalia brings a major issue since its coast lies on one of the major SLOAC's while the rest of the African countries face no immediate outbreak of war or political challenge since most of the issues are easily resolved. The end of apartheid regime in South Africa paved way for South Africa to be one of the larger economies of Africa, through the COMESA South Africa relates quite well with member states of the IOR-ARC in Africa, such as Kenya, Tanzania, and Mozambique. Much of the tension however in the IOR-ARC lies in the South Asia; this has been a region of tensions with countries either at war with itself or the neighboring country.

More recently, with the two traditional South Asian rivals-India and Pakistan 'going nuclear' in May 1998,[7] the geostrategic environment of the Indian Ocean region has acquired an unprecedented complexity. While the debate on the politics and economics of sanctions imposed by the USA, Japan and Germany, and the major IOR actor, Australia among others, is likely to continue for a while, the further nuclearisation of South Asia has dented the prospects of the Indian Ocean becoming a zone of peace and sustainability.

It is also not lame to state that, the relationship between IOR-ARC states has been as a result of foreign influence in the region especially with the various interests that lie in South Asia as well as the large amount of resources available in the Indian Ocean. For example China's growing strategic and economic interests in the IOR, including important defense ties with

[7] Anant Phadke. India and Pakistan going into nuclear. Preventing Nuclear Arms Race between India and Pakistan. A Practical Proposal *Economic and Political Weekly*. Vol 23. No 34 (Aug 20, 2005). pp. 1741-1743

Pakistan and Bangladesh, growing involvement in Africa, and bilateral marine cooperation with Kenya, Laos, Sri Lanka and Tanzania, have been perceived by some in India as part of China's maritime strategy to expand its influence far beyond the South and East China Seas. The Indian defense community is particularly concerned over the deepening Chinese relationship with Burma which now includes the supply of military aid to Yangon and the joint construction of communication networks. In these circumstances, the Indian security community feels that Chinese interests in Burma may also yet extend to the South Asian portion of the Indian Ocean in areas close to Indian islands such as the Andaman chain.

The improving relationship between China and Burma has been perceived by defense experts in India as 'fraught with grave implications for India. Strong appeals have been made in India to end the 'unnatural state of isolation' of the Indian Navy and to encourage greater interaction and joint naval exercises with regional and global powers. A closer relationship with the USA is considered vital by naval experts for maintaining the security and stability of the sea lanes through the ocean-from the Persian Gulf around India to Asia-Pacific. While concerns such as these could be explained from a strictly military security viewpoint, it is problematic to link environmental security and trade with military matters even though it has been proposed by some that many apolitical areas such as marine pollution, oceanography and drug-linked terrorism, among other areas, beckon and a preliminary interaction could be a bridge to greater cooperation between the navies of the Indian Ocean.

2.2 Regionalism and Integration

The prospects for the sustainable development of oceans have become a major topic of concern. The recent trends towards regionalism in the Indian Ocean region deserve some further elaboration because. as Derek McDougall[8] has shown, the history of sub regional cooperation in the southwest Indian Ocean goes back to the formation of the Indian Ocean Commission (IOC) by Madagascar. Mauritius and the Seychelles in 1982. This was further expanded in 1986 to include the Comoros and also France. which has a regional presence in the form of its overseas department of Reunion. While France was the most active member of the IOC. the organization failed to develop a strong sense of regional identity and diplomatic cooperation was not forthcoming.

However, this research is based on the most recently formed Indian Ocean Rim-Association for Regional Cooperation (IOR-ARC). yet to achieve its mandate with the various challenges that affects it. Piracy is a major concern to trade liberalization within its member states with current surge in piracy attacks since 1995. The challenge for the IOR-ARC is to provide a catalyst for improved cooperation and marine regionalism in the Indian Ocean which is sensitive to the needs of states. local communities and NGOS.

In order to consider IOR-ARC and its mandate and whether its possibility as an integrations. we need to discuss historical interstate relations and cooperation among the member states as a whole region and within its sub-regions. IOR-ARC as stated earlier encompasses a number of sub-regions with various interests as well ambitions.

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[8] Sanjay C., Geopolitics, Development, South Asia and the Indian Ocean Third World Quarterly, *Rethinking Geographies: North: South Development,* Vol. 19, No. 4, (1998 Taylor & Francis, Ltd).

It's to be noted that the alliance is also one of the few to bring together economies from Asia, Mid East and Africa. This heterogeneity underscores the need for the grouping to be highly pluralistic in nature in order to accommodate the diversity among the member countries.

2.3 SOUTH ASIA

South Asia is a region with long standing political and religious tensions, India vs. Pakistan over the Kashmir area. Indonesia Islam vs. Christians. in India Islam vs. Buddhist countries in this region have spent most of the years in war or in a verge of war. The countries in this region have had to act on their difference through violence. The long-standing antagonism between India and Pakistan. now both de facto nuclear weapon states. Sri Lanka's internal conflict is another unhealed sore. and Afghanistan looms in the north with its risk of descent into even greater chaos. In the past we have had Malaysia in problems with Indonesia[9].

However, the picture when seen from inside South Asia is more complex. The South Asian Association for Regional Cooperation (SAARC) has existed for more than two decades and has made gradual progress in the least contentious economic and social fields. The region is criss-crossed with the membership patterns of larger Asian groupings including two—the Association for South East Asian Nations (ASEAN) Regional Forum and the Shanghai Cooperation Organization that have explicit security agendas. For several years now, India and Pakistan have been developing a confidence-building program that has somewhat lowered tensions. notably over Kashmir: and perhaps most significant of all in the big picture. the USA

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[9] The Indonesia-Malaysia confrontation was an undeclared war of the future of the island of Borneo between British backed Malaysia and Indonesia during 1962-1966. (Mackie, J.A.C. 1974, Konfrontansi: the Indonesia-Malaysia Dispute 1963-1966. Kuala Lumpur. Oxford University Press(for the Australian institute of international affairs.)

and other Western actors now have a clear interest in reconciling, rather than polarizing, these two determinant local powers.

The discrepancy of size and power between India, a nation of over 1 billion people, and all its neighbors leads to natural concerns among the latter about India's dominance in the region and potential interference in their affairs. At different times this has been a significant strand in the policy thinking of states such as Bangladesh, Nepal and Sri Lanka and has led them to seek security assistance first and foremost from outside South Asia when they need it.

Sri Lanka also draws attention to the fact that the region is one still suffering from intra-state conflicts. Factors of ethnic identity, language, aspirations for local autonomy and competition over resources have helped to fuel the longstanding insurgency of the Tamil Eelam movement against the government in Colombo, which has hitherto defied all outside efforts at conclusive mediation and has claimed a total of at least 60 000 lives.[10]

Terrorism also comes into play as part of the internal security challenge (and a complication for any eventual settlement) in the disputed region of Kashmir, which is divided into de facto provinces under Chinese, Indian and Pakistani administration. Pakistan's north-western borderland with Afghanistan has long been a bridge for terrorist infiltration (spontaneous or state-sponsored) in both directions, and poses further challenges for the central authorities because of the lawlessness of local tribes.[11] All these features help to explain why military spending by the powers of South Asia has remained relatively high in spite of their relatively low

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[10] Vidyathi S. conflict in Sri Lanka, *countries profile*,
http://news.bbc.co.uk/2/hi/south_asia/country_profile/1168427.stm, October 2006
[11] Shanthie D' Souza, US-Pakistan counter-Terrorism cooperation: Dynamics and Challenges; *strategic Analysis*, Vol 30, No.3, (Jul-Sep 2006 © Institute for Defense studies and Analyses)

per capita wealth, and why arms build-ups notably between India and Pakistan continue to show a distinctly competitive dynamic.

Despite all this, South Asia has for some time had a formal framework for regional cooperation. The South Asian Association for Regional Cooperation (SAARC) was established in 1985 as a vehicle for political and economic cooperation. Today, it has Afghanistan, Bangladesh, Bhutan, India, the Maldives, Nepal, Pakistan and Sri Lanka as its members, and China and Japan as observers (it has also agreed in principle to admit South Korea, the USA and the EU as observers)[12]. Member states meet at annual summits while foreign ministers are supposed to meet at least twice annually; the secretariat is located in Kathmandu, Nepal. SAARC's general aims include promoting understanding and peaceful coexistence among its members, and the group has adopted conventions on some explicitly security related issues such as combating terrorism and drug trafficking, while a number of issues relating to broader 'human security'—such as the environment, HIV/AIDS and biotechnology—are close to the core of its agenda. SAARC's general progress has, however, been slow, and the organization is only now attempting to achieve the serious integrative goal of a regional free trade area. From the outset SAARC has been quite deliberately designed to eschew discussion of the bilateral and internal security problems that are key to regional dynamics.

Positive military cooperation among members, for general purposes of reform and modernization (and sometimes equipment collaboration) as well as for strengthening collective and intervention capacities, has in fact become a feature of virtually all regional organizations that do not limit themselves strictly to economics. An equally strong trend is for regional and sub-regional organizations to develop explicit policies for cooperation in other functional fields

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[12] see SAARC Charter available at http://www.saarc-sec.org/main.php?id=10 last accessed 15th June, 2010.

of security such as anti-terrorist, anti-crime, anti-piracy and anti-smuggling efforts; border security and migration control; accident and emergency handling and rescue services; environmental protection and handling of natural disasters and pollution; epidemic handling and positive work for public health; transport and infrastructure security, and so on

However, one cannot completely be optimistic for much progress has been achieved by most of the south Asian countries if not all. India and Pakistan now are heading to a lifetime peace, this may be viewed differently but individual steps handled by the governments are very convincing.

2.4 Africa

African sub-regional organizations such as the Economic and Monetary Community of Central African States, the Economic Community of West African States, the Intergovernmental Authority on Development and the Southern African Development Community have had peace-making and peacekeeping as one set of their activities and have carried out a number of multinational peace missions in their own neighborhoods a function now inherited primarily by the African Union (established in 2002) for the continent as a whole.

Africa is a continent with equal conflicts with the south Asia as many of African countries are with their own intra-conflicts. much of the difference with the south Asia is that most of the African integration have worked hard to ensure that many of such conflicts are work on through various peace talks to solve them. Resources are a major issue in any developing nation. Very few countries in Africa have fought against each other because of resource: internal conflicts are due to rebels opposed to the regime while some have been military coups over the past decade as well as today.

While African countries have had their own problems, it is important to note that the African countries lying along the Indian Ocean have been relatively peaceful over the years apart from Somalia which has been without a government for over two decades now. African countries lying on the Indian ocean coast line include Somalia, Kenya, Tanzania, Mozambique, and south Africa, Egypt's coast line is the Red Sea, as well as Eritrea, Ethiopia and Djibouti through the Gulf of Eden they join the Indian ocean.

African countries on the Indian Ocean Rim have been quite peaceful, which has been a key factor to their progression in integration. Most of these African countries have fared not to their capabilities but this decade has seen a lot in terms of trade with each other. Through their various sub regional integration it is notable on their trade relationship amongst each other to realize the objective of the IOR-ARC.

According to The Africa Economic Research Consortium (AERC) which hosted the third in the series of Workshops between January 31 – February 1. 2007; in Nairobi, Kenya in partnership with Africa's Development Bank (AFDB), Joint Africa Institute (JAI), United Nations Economic Commission for Africa (UNECA), New Economic Partnership for African Development (NEPAD) and the World Bank. it was noted that political vision exists. Heads of State in this Region have been very clear about their vision of intra-regional trade but, as delegates stressed, RECs need to build their capacities.

The Indian Ocean trade is important for Africa since 40% of the population and one-third of the economies are trapped in landlocked countries whose trade and development depend almost entirely on events that happen beyond their own borders. African countries in the Indian

ocean as noted earlier are very few but they open up to many of the land locked countries that borders them.

Trade for Africa with the east has increased substantially in this decade due to the cheap goods that come from the east especially China and India as well others like South Korea. Africa has basically been a continent with vast amounts of resources and rapid industrialization of India and China has led to increased interests of the two in the continent in their search for raw materials and their increased energy consumption Africa is their ambition. This has been a boom for the Indian Ocean rim regional trade.

Common Market for the Eastern and Southern Africa (COMESA) links Africa to Asia. COMESA has 19 member states with a population of 430 million (2008) and an annual import bill of around USD152 billion (2008) it forms a major market place for both internal and external trading. Is area is 12 million sq km.

Kenya, a member of the IOR-ARC is both a member of the COMESA and East African Community (EAC), where EAC is also a major market comprising of Kenya. Uganda, Tanzania, Rwanda, and Burundi. EAC has a population of 126.6 million and a GDP of $73 billion.

The instability of Somalia is what hinders Africa in the Indian Ocean rim. Somalia enjoys the coastline of the Indian Ocean both on Indian Ocean on the gulf of Eden. The stretch, Gulf of Aden links the west with the east it is through the red sea via the Suez Canal which is the shortest route to the east as well as eastern Africa. The conflict has created a shipping problem for trade. The AU has been of the fore front trying to find a solution for Somalia.

The Somali Republic (1960–1991) constituted the former Italian colonies of South-central Somalia and Puntland and the former British Protectorate of Somaliland. After the

collapse of the state in 1991, Somaliland unilaterally declared independence; however, it has not received recognition from the United Nations (U.N.). Somalia is a homogenous linguistically and is unilateral religiously (Islam), the conflict in Somalia is based on clans. The latest attempt to broker a peace and revive a central government in Somalia began in October 2002 and was undertaken by the Inter-Governmental Authority on Development (IGAD).with the Kenyan government hosting the effort and external partners such as the EU providing support.

The future of Somalia is debatable but if Somalia is to achieve a lifetime peace is subject to opinion. The current upsurge in piracy at the Gulf of Aden is a major concern of both the international community as well as the Indian Ocean Rim. The piracy in Somalia is basically due to poverty in the area and the crimes in the region. for a country that has had no stable government for decades provides a safe haven for terrorists. insurgents. and all forms of robbery. Somalia is a major concern to the Indian ocean rim as well as the international community since security is important especially in a globalized world where political affiliations is critical not as much as during the Cold War but equally sensitive. The bombing of the US embassies in Kenya and Tanzania on August 7, 1998 was as aresult of their relations with the United States of America. Al Qaeda is a global threat especially where the US and Europe are concerned and they destabilize peace via their terrorist networks. It is widely believed that Somalia is a safe haven for them.

In order to ensure that the mandate of the IOR-ARC is met the member states especially the African states have to ensure that Somalia is no longer in a state of anarchy but in a progressive peace in order to curb or control piracy in the Gulf of Aden and the Indian ocean as a whole.

2.5 Australia

Australia is very significant for the Indian Ocean Rim, it has also been on the fore front to increase the relations of states in the region. According to Australian chamber of commerce trade within the region has increased According to figures from the Australian Department of Foreign Affairs and Trade (DFAT), total intra-regional exports grew by more than 15 per cent per annum in the seven years to 1997/98, well in excess of the 4 per cent rate of growth of IORARC exports to the world over the same period. In the nine years to 1998/99, Australia's exports to the other 18 IORARC countries increased by more than 70 per cent to just over $US 9.1 billion annually. total intra-regional imports of IORARC members grew by more than 13 per cent per annum in the seven years to 1997/98, to some $US 103 billion annually – a rate of growth, like exports, well in excess of imports from the world, pointing to greater integration by IORARC countries into the global economy. Australia's import-trade with the other IORARC countries also increased, albeit at a slightly more moderate pace of 10 per cent in the five years to 2000.[13]

Australia being one of the developed nations in the region interests lie much in looking for markets as well as opportunities for investments

2.6 Conclusion

The interstate relations of the IOR-ARC is not that much as IOR-ARC is a region that comprises many sub-regions with different agendas and interest. However, globalization has created a common interest for the IOR-ARC member states. One can easily conclude that south Asia has been a problem for the Indian Ocean rim but the decade has seen much progress in the region to ensure peace.

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[13] Crane K., Australian chamber of commerce and industry, *ACCI Review*, No.91 (September 2002)

While commerce and industry, and governments around the Indian Ocean rim generally have a good appreciation of the nature of trade facilitation barriers which need actioning, there has been little concrete information on their incidence or impact on regional trade and investment.

CHAPTER 3

Maritime Security in a Dynamic World

3.1 The Experiences of the IOR-ARC Member States

The Indian Ocean is home to many choke points, such as the Straits of Hormuz, Straits of Malacca. Lombok and the Sunda Straits. Any disruption in traffic flow through these points can have disastrous consequences. The disruption of energy flows in particular is a considerable security concern for littoral states. as a majority of their energy lifelines are sea-based. Since energy is critical in influencing the geo-political strategies of a nation. any turbulence in its supply has serious security consequences.

Seaborne piracy against transport vessels remains a significant issue(with estimated worldwide losses of US $ 13 to 16 billion per year)[14] particularly in waters between the Red sea and the Indian ocean off the Somali coast and also in the straits of Malacca and Singapore which are used by over 50,000 commercial ships a year.[15]

A recent surge in pirates of the Somali coast spurred a multi-national effort led by the US to patrol the waters near the Horn of Africa. Modern pirates favor small boats and taking advantages of the small number of crew members on modern cargo vessels. They also use large vessels to supply smaller attack/boarding vessels. Modern pirates can be successful because a large amount of international commerce occurs via shipping. Major shipping routes take cargo ships through narrow bodies of water (such as the Gulf of Aden and the straits of Malacca) making them vulnerable to be overtaken and boarded by small speedboats. Other active areas

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[14] International Maritime Bureau; *Statistics*; http://www.icc-ccs.org/news/116-imb-releases-latest-piracy-statistics last updated May 2011.
[15] Ibid, International Maritime bureau: p.15

include the South China Sea. As usage increase. many of these ships have to lower cruising speed to allow for navigation and traffic control. making them prime targets for piracy.

The International Maritime Bureau (IMB) maintains statistics regarding pirate attacks dating back to 1995. Their records indicate hostage taking overwhelmingly dominates the types of violence against seafarers.

In some cases modern pirates are not interested in the cargo and are mainly interested in taking the personal belongings of the crew and the contents of the ship's safe. which might contain large amounts of cash needed for payroll and in other cases, the pirates force the crew off the ship and the sail it to a port to be repainted and given a new identity through false papers often purchased from corrupt or compliant officials. In Somali coast ships hijacked are sailed to port of Eyl where the pirates contact the shipping company or country for ransom which are usually in exorbitant amounts. In 2008 a Ukrainian ship. the MV Faina. containing an arms consignment for Kenya, including tanks and other heavy weapons. which was possibly heading towards an area of Somalia controlled by the Islamic Courts Union (ICU) was hijacked by pirates before anchoring off the Somali coast. The Somali pirates—in a standoff with US missile destroyer the *USS* Howard—asked for a $20 million ransom.[16]

Modern piracy can also take place in conditions of political unrest. For example following the US withdrawal from Vietnam. the piracy was aimed at the many Vietnamese who took to boats to escape. Further, the disintegration of the government of Somalia warlords in the region have attacked ships delivering food aid by the World Food Program (WFP).

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[16]Aljazeera news network, Conflict systems in the Greater Horn of Africa,
http://english.aljazeera.net/news/africa/2008/09/2008927113600552.html. September 2008

Many nations forbid armed ships to enter their territorial waters or ports if the crew of the ships is armed. In an effort to restrict possible piracy shipping companies hire private armed security guards which would result in high transporting costs.

Modern definition of piracy include boarding, extortion, hostage taking, kidnapping of people for ransom, murder, robbery, sabotage resulting in the ship subsequently sinking, seize of items of the ship, ship wrecking done intentionally to a ship.

Modern pirates also use a great deal of technology. It has been reported that crimes of piracy have involved the use of mobile phones, satellite phones, Global Positioning System (GPS), Sonar systems, modern speedboats, machetes, combat knifes, assault rifles, shot pistols, mounted machine guns and even rocket propelled grenades and grenade launchers.

Contrary to the Atlantic and the Pacific Oceans, the Indian Ocean has not so far developed an overarching security system that could meet the challenge of maritime security. With approximately 74 million square kilometers and roughly 20 per cent of the global ocean, the Indian Ocean is the third largest ocean after the Pacific and the Atlantic. Geographically, it is situated between the two bigger ones, thus serving as a natural "transit lounge" for most of the traffic from the Atlantic to the Pacific and vice versa. Two key characteristics distinguish the Indian Ocean from the Atlantic and the Pacific: First, only one fifth of the total trade is conducted among the countries of the Indian Ocean themselves. 80 per cent of the trade is extra-regional (for example, crude oil to Europe, the USA and Japan). In the Atlantic and the Pacific, the proportion is exactly vice versa. Second, contrary to the Atlantic and the Pacific as "open" oceans, the Indian Ocean can only be accessed through several choke points: From the West via Cape of Good Hope and the Straits of Madagascar, from the North via the Bab el-Mandeb at the

end of the Red Sea and the Straits of Hormuz at the exit of the Persian Gulf, from the East via the Straits of Malacca, the Sunda and Lombok-Straits and the Ombai-Wetar-Straits. Since most of these choke points exist in conflict regions or near conflicting regions, most of which these countries face, they have created hotspots of piracy for example are: first, the Bay of Bengal, the Straits of Malacca and the South China Sea, and second, the Gulf of Eden off the Somali coast. No collective security regime has been created in the Indian Ocean that could have been able to ameliorate such conflicts. Unfortunately, the newly established Indian Ocean Rim Association for Regional Cooperation (IOR-ARC) does not include a military security dimension, just some rather fuzzy provisions for comprehensive security. This creates a big challenge for the IOR-ARC member states both in trade and attaining its objectives with the rate of increase in piracy in the region.

The IOR-ARC member states have each been affected by the piracy activities in the Indian Ocean, most recently being the rise in piracy attacks of the Somali coast. These kind of pirates activities have lead to increase in cargo shipping since goods either have to go round the Cape of Good Hope or hire private security men, this has also increased insurance premiums translating to increase in cargo transportation and hence high prices of the goods transported. This affects the consumers of the goods in the destination countries.

The percentage of attacks in which the criminals carried fire arms or used radios to coordinate their operations has been increasing, while the use of heavier weapons such as machine guns, grenade launchers, and rocket launchers has been spreading. A resultant trend has been that in waters where the rates have dropped the most, much of the remaining pirate activity has been executed by more sophisticated criminals. Exemplifying such incidents was a July 2006

Strait of Malacca raid on two United Nations chartered vessels delivering food supplies to Indonesia's Aceh Province by pirates armed with automatic weapons and grenade launchers.

This heavy infestation of piracy has a lot to do with the geography of the area, but economic conditions and the mindset of the coastal people in the hundreds of minor islands that lace the Malacca Straits and South China Sea are also a significant factor. Poverty is one of the major issues that results in people engaging in crime acts, it has been noted that people around these coastal region believe that the inequality in share of wealth is what makes them justify piracy. That they are taking what belongs to them.[17]

There also seems to be a distinct change in the type of piracy that is occurring. Earlier acts were of the type termed 'Asian Piracy' that often involved mere stealing of valuables from ships with a negligible amount of associated violence, this was even given a name by the pirates, they termed it as 'shopping'. However, recent cases in the region have displayed a dramatic increase in brazen violence, and the methodology has made them akin to the South American or West African type of piracy. A case of this is the pirate attacks off the Somali coast they are considered to be heavily armed, they attack using sophisticated weapons such as AK47s and Rocket propelled grenades (RPGs). For example, On April 8, 2009, Somali pirates briefly captured the MV Maersk Alabama, a 17,000-ton cargo ship containing emergency relief supplies destined for Kenya. It was the latest in a week-long series of attacks along the Somali coast, and the first of these attacks to target a U.S.-flagged vessel. The crew took back control of the ship although the Captain was taken by the escaping pirates to a lifeboat. On Sunday, April 12, 2009, Capt. Richard Phillips was rescued, reportedly in good condition, from his pirate captors who

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[17] Ross Kemph, Interview with a pirate in Ross Kemph on gangs, *Sky News*, http://www.skynews/rosskemphongangs/priates August 2010.

were shot and killed by US Navy SEAL snipers. Vice Admiral William E. Gortney reported the rescue began when Commander Frank Castellano. captain of the *Bainbridge*, determined that Phillips' life was in imminent danger and ordered the action.[18]

As a result of global economic integration and the economic rise of Asia, volumes of trade in Indian Ocean have increased greatly in recent years, particularly westbound container traffic and eastbound tanker carriage. The size of merchant ships being constructed and deployed has also increased greatly. The latter gives rise not only to the need to physically accommodate ships that test the size of channels, berths and other elements of ports, but also concerns about insufficient capacity to handle loading and unloading of the increase in volume of cargo, and the prospect of bottlenecks in trade.

Much coastal piracy originated as seaborne "muggings" conducted by relatively impoverished and crudely equipped coastal communities. Both in the Malacca Straits/South China Sea and off the Horn of Africa. it originated partly in conflicts with outside commercial fishers and partly in the decline of livelihoods that forced boats offshore to engage in petty crime. This has metamorphosed in some cases into highly capitalized and technically sophisticated piracy capable of taking large sea-going vessels. The smaller scale coastal piracy has declined relative to the importance of the latter. Either type of piracy requires a relatively secure and un-policed base of operation on land.

It is to be noted that instability of a state as a result of internal conflict is one of the many reasons why piracy occurs since while the government in place is concerned with other issues to handle pirates have their way into crime seeking funds to facilitate their criminal activity as well

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[18] Cable News Network, Piracy on the upsurge,
http://www.cnn.com/2009/WORLD/africa/04/12/somalia.pirates/index.html last accessed June 27,2010

as act on common crime due to poverty. With great amount of goods transported via the sea piracy is a lucrative venture for these organized crime.

Peace and stability is crucial to maritime security. With increase in intraregional conflicts within regions escalation of piracy is prudent.

3.2 Measures Taken by States to Mitigate Piracy

Many nations rely on the common resources of the oceans for boosting up their economic power. As such, the access to the ocean is free and allows the States to enjoy the facilities, which can be derived from the ocean. According to the United Nation Convention of the Law of the Sea, 1982 (UNCLOS III), the nation state is responsible for the proper control of its Exclusive Economic Zone. The oceans provide sea-lanes that represent a big importance for their development and prosperity. More than 80 percent of the world's trade travel through the water and this provide a global linkage. This method of transportation is a very cost effective medium for cargo transportation. Therefore, shipping is vital for global economy.

Naval supremacy can be said to be the new pathway towards economic gain. It is not necessary that such supremacy be linked to territorial protection only but to keep own maritime route safe from illegal activities and unwarranted navigation through the territory of the state for carrying out activities which would be prejudicial to the economic development. With the world shrinking to a "global village" no state can be said to be effectively protected as the state's weaknesses can easily be known through the media and rapid communication technology.

There are several measures. which have been taken by the countries to ensure maritime safety and security, and also the International Maritime Organisation (IMO) has reinforced

measures after the 11th September attacks in USA. Therefore Maritime security has been classified as one of the top priority. It ensures free flow of trade and protect against all maritime related crimes, which can eventually have an impact on the land also. The question that arises is that whether a state can protect its maritime zone alone. Thus, it can be said that Maritime security cooperation is important.

. In the ASEAN Regional Forum (ARF) it has been stated that no single country can handle maritime security alone. Thus, cooperation based on international laws and conventions is a must so as to manage the maritime security effectively[19].

During the closing decades of the twentieth century. Southeast Asia's maritime piracy rates were the world's highest, with violent maritime crime growing both more common and more egregious. Reported cases of the most alarming types of piracy. those involving the hijacking of entire vessels and the kidnapping of crew members. steadily became more frequent as pirates grew better equipped and more tactically proficient. However, there are indications that in recent years law enforcement efforts in Southeast Asia may have reversed this trend and turned a corner in the campaign against maritime lawlessness. While piracy remains a dangerous scourge in the region, many observers have noted that reported rates of piracy are down and the tide of violence seems to be reduced slowly.

A significant trend that is emerging in the responses of governments and societies to piracy is the interest taken by nations with high numbers of their nationals who are victimized by piracy. This includes both the nations with flag vessels that are vulnerable and nations whose

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[19] Asean Regional Forum, *Workshop on Maritime Security Co-chair's Report* from www.aseanregionalforum.org/linkchick.arpx?Filec.ticket=k. (September2004). Retrieved December 09, 2008

nationals constitute significant proportions of crews of victimized vessels, such as the Philippines and India. The Indian navy's forward-leaning willingness to patrol the Horn of Africa largely reflects the fact that many Indian crew have been among those held hostage by Somali pirates. Ships owners and masters have now begun to recognize that there are limits to ship-based measures against piracy, and have begun to seek a wider conversation with sectors and interests addressing the land based threats to security and stability that have provided the enabling environment for piracy.

The discussion of governance frameworks for addressing maritime challenges considered how policy is made at the national and regional level, models and prospects of cooperation among governments, cooperation among non-official actors, and prospects for addressing the connections between distinct sectors and issues such as environmental concerns, fisheries and shipping. It also took note of the complex legal frameworks that govern the maritime realm. Although the ocean is a single entity, with unified if complex ecologies, distinct legal regimes and the enforcement capacities govern territorial seas, Exclusive Economic Zones (EEZ) and the high seas.

It is clear that awareness of the importance of maritime issues to national interests varies among the nations of the region. In some case, nations evince selective focus on one or another dimension, such as the security or the economic.

Although recent trends show that there is room for optimism regarding Southeast Asian piracy, the nature of these gains, and causes of the change, must be fully understood so that policy makers can meet the challenges ahead and clearly turn the tides against piracy in Southeast Asian waters. It is to be noted that in the past few years piracy in the southeast reduced

quite fairly but the upsurge in piracy off the coast of Somalia increase the number of pirate attacks in Indian ocean. This led to an increased number of pirate attacks in the Indian Ocean compared to the other years and the other oceans.

While the best approach to SLOC security obviously lies in extensive cooperation, the fact is that SLOCs arouse different response strategies amongst different people. To a military analyst, the SLOCs are related to the maritime instruments of power. and maritime geography becomes the pivot on which forces must be deployed. To a politician. on the other hand. SLOCs signify the state of relations with countries located along the sea route traversed. while for an economist it is just the shortest and most economical travel distance between two destinations. Similarly, for some nations multilateral cooperation on SLOC security may mean a perceived intrusion into aspects of sovereignty. Thus the security of sea lanes requires comprehensive strategies encompassing differing perceptions and national interests of concerned states.

The Gulf presents special characteristics and an intense degree of challenges because of the combination of its relatively closed ecology as an enclosed body of water or "bounded seas." the presence on its shores of an intense degree of economic development and environmental stress, and the high level of military and civil marine interest and activity there, and operations conducted at extremely close quarters. Other areas noted as presenting special issues because of their enclosed character as straits or gulfs included the Gulf of Aden, the Palk Straits and the Malacca Straits.

The Palk Straits between India and Sri Lanka also offer a complex blend of factors. Their rich resources of fish and shellfish have historically been used by artisanal fishers in India and Sri Lanka. These have sometimes led to disputes. and official and private detention of those

encroaching on the other. The picture is complicated by two substantial factors. The first is the simultaneous use of the Straits for supply and related military operations by the Tamil Tigers. Military operations to counter this have posed significant constraints on the livelihoods and food security of communities that rely on artisanal fisheries. A distinct problem arises from the Indian plan for dredging of the channel to accommodate ocean going ships ("Setu Samudram"), which has raised concerns about widespread environmental damage, disruption of fisheries, security concerns for Sri Lanka, and Sri Lankan commercial concerns about the bypassing of Colombo by commercial shipping should the dredging of the channel proceed.

The growth in the economic importance of many countries of the region and the rise of regional powers on the Indian Ocean littoral has increased the complexity of the issues and challenges, and also complicated the prospect of collective action on responses and solutions. The structures for collective response have failed to keep pace with the development of the objective challenges. In a somewhat distinct vein, some observe that a comprehensive understanding of maritime issues must consider also issues of food and energy security, principally to understand the impact of the search for food and energy security on maritime activity (shipping volume; over-fishing), and also because of the impact of seaborne trade on food and energy security. Others also note the importance of looking at patterns of population growth and distribution. for their impact on marine environments.

Throughout the Indian Ocean littoral, experts see a need for more effective collective mechanisms among nations. looking to the European Union (EU) or the Nordic states of northern Europe, or the European Maritime Safety Agency (EMSA) as models. There is a perceived need for better coordination on issues as varied as regulation of single hulled vessels, fishing fleets in EEZs, and marine safety and pollution more generally.

3.3 Southeast Asia

Throughout the 1990s and into the first years of this century. maritime security watchers frequently lamented that piracy in Southeast Asia was becoming more frequent and violent. after increasing for years, the frequency of pirate attacks has declined. This is particularly true with regard to the strategic Strait of Malacca and the Singapore Strait, which together form the world's busiest waterway. The best piracy data available, that provided by the International Maritime Organization (IMO) and the International Maritime Bureau-Piracy Reporting Center (IMB-PRC) in Kuala Lumpur, generally corroborate these observations.

There have been several responses to these criminal activities. There have been cooperation initiatives in the Malaccan Strait (MS) which are supported by many Asian Countries and the US. Japan Coast Guard has set up joint patrols with Malaysia and Indonesia in the MS. The country will also join to fight against Somalia Pirates. Indian Navy is considering sending up to four warships to patrol the pirate infested waters in the Gulf of Aden and the Indian Ocean off coast of East Africa. The IMB has set up a 24 hour maritime terror hotline seafarers where Maritime security information is provided[20]. Singapore has deployed Accompany Sea Security Team (ASSET) on high risk merchant ship when entering and leaving the harbour and also random escorts is provided for merchant vessels.

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[20] British Government, *The UK Government's strategy for tackling Piracy and armed robbery at sea.* from http://www.dff.gov.uk/prg/security/theukgovernmentsstrategyfort4906, (March 2005) last updated August 2011

3.4 Africa

A major concern in Africa is Somalia, as it is the only region that piracy in Indian Ocean occurs and affects both global trade as well trade in the Indian Ocean rim.

3.5 Conclusion

The topics of discussion include improved regional coordination (the European Maritime Safety Agency should be a model for emulation), the need for a whole of government model (to mitigate atomization of policymaking between various ministries within single governments), and the need for improved surveillance and enforcement capacity particularly in the areas of maritime crime, maritime resources and environment. Many consider it highly desirable to develop more effective systematic and incident-related sharing of information among governments and between governments and nonofficial actors, and recognition of the importance of unofficial initiatives.

A general concern that the resources available for effective responses remain inadequate, and that research into emerging threats and emerging patterns is unable to keep pace with the of pace of economic development.

One area of policy priority for a given government can distort the attention that is given to maritime concerns more broadly. In Kenya for example, the great economic importance of Mombasa as the major port for the entire East African region allows considerations related to port operations to dominate the government's policy attention and resources, to the detriment of other maritime concerns. Another example of policy distortion is found in Sri Lanka. There the military conflict between the government and the Liberation Tigers of Tamil Eelam (LTTE)

dominates all policymaking, including issues arising in the Palk Straits. Thus, considerations of

environmental degradation of coasts and coastal waters, livelihoods, and competition between

Sri Lankan and Indian fishers all take a back seat to the immediate military necessities of

supplying Sri Lanka army units, interdicting Tiger supplies and pursuit of ground operations.

A significant constraint on effective response to many of the challenges identified lies in

the relative lack of national capacity to enforce protective measures. Both surveillance and

enforcement capacities are required. For example, the Seychelles has the limited capacities and

resources of a small nation, yet enjoys a relatively large EEZ. The relatively small Kenyan navy

is responsible for policing territorial waters and an EEZ pendant on seven hundred kilometers of

Kenyan coastline.

The difficulties posed by limited capacity are compounded by the relatively low level of

attention or policy priority accorded by governments to maritime security broadly defined.

Fisheries departments are often quite small. There also remains a problem of disproportion

between the scale of the problems and the legal instruments available to governments. This is in

part a result of inequality between well-capitalized and technologically sophisticated global

actors on the one hand and the limited capacities of governments on the other. It is also a result

of the lag between the objective dimensions of the problems and the understanding and

awareness of them. Thus, although all parties to the International Maritime Organization (IMO)

must have domestic implementing maritime legislation, it is not at all clear how responsive this

is to nation's obligations under subordinate protocols and instruments of the IMO such as

SOLAS (Safety of Life at Sea). MARPOL (Marine Pollution) and the ISPS Code (International

Ship and Port Security), let alone how responsive legislation is to the actual dimensions of the security challenges posed.

The major regional groups such as the Association of South East Asian Nations (ASEAN), the South Asian Association for Regional Cooperation (SAARC), and the Gulf Cooperation Council (GCC) are seen as of limited utility in respect of effective coordination of response. ASEAN is hampered by its excessive mutual deference to individual member states, and the SAARC is seen as hampered by the need for complete consensus. This leaves the only organization with the will to handle piracy is the IOR-ARC, due to its common interest on trade and piracy as common barer to this achievement.

The GCC does have an effective mechanism in the form of the Riyadh Memorandum of Understanding which provides rules and mechanisms for joint Search and Rescue, as well as a Maritime Response Coordination Center located in Qatar with each GCC member represented on the headquarters staff. Other bodies, of varying degrees of effectiveness include the following. The most effective has proven to be MALSINDO, comprising Malaysia, Singapore and Indonesia, which has had significant success in collective action against piracy in and near the Malacca Straits. PERSICA is an association of Red Sea nations comprising Jordan, Saudi Arabia, Yemen, Somalia, Sudan, and Eritrea, and devoted to protection of the marine environment: specifically dealing with oil spills, land based pollution, and protection of coastal vegetation and ecosystems such as sea grass and salt marshes.

The Indian Ocean Rim Association for Regional Cooperation, with its subsidiary bodies the Indian Ocean Rim Business Forum and the Indian Ocean Rim Academic Forum is strictly concerned with economic cooperation, as is the Bay of Bengal Initiative for Multi Sectoral Training and Economic Cooperation. The East African Community, which includes Tanzania

and Kenya, devotes a limited amount of attention to marine and coastal issues, as does the Southern Africa Development Cooperation (SADC), which includes Madagascar, Mozambique, Mauritius and Tanzania. With trade as their main agenda maritime security is and should be one of the major concerns that hamper their mandate, through cooperation with trade interest piracy can be handled.

Major naval nations such as India and some others in the region are now becoming aware of the need to assume responsibility for collective security there. India unsuccessfully warned off the major powers in the 1970s, arguing for making the Indian Ocean a "zone of peace". Some now see the need to step up and take responsibility for making this a reality. There remains outstanding an Indian Navy offer to patrol the waters off Somalia, which is now considered likely to form the core of a multilateral anti-piracy effort under UN auspices to supplement the operations under the US led coalition's Task Force 150 (CTF 150).

However, some observers remain skeptical in light of experience of factors that have hampered the effectiveness of UN Security Council Resolution 1816 relating to multilateral cooperation against piracy off the Horn of Africa. The concern here is not strictly the sovereignty concerns that usually hamper international police action in the territorial waters of a given state. Indeed in a mutual recognition that the Transitional Federal Government of Somalia (TFGS) remains unable to enforce its sovereign power to police its coasts and waters. UNSC 1816 provides for conclusion of bilateral agreements between the TFGS and other nations to authorize the latter to do so. However, in some cases, nations with navies patrolling the region, including some participating in CTF 150, have failed to conclude such implementing agreements. Kenya being one on the fore fronts in the formation of the TFG through various peace talks in Nairobi and Addis Ababa is on the verge of realizing this possibility having entered into an agreement

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with US and the TFG to try pirates on the Kenyan courts. A number of pirates have been tried on

the Kenyan court in Mombasa since the agreement was met last year.

CHAPTER 4

Challenges and Successes of the Measures Against Maritime Insecurity in the Region

4.1 Introduction

Countries along the Indian Ocean still have problems with piracy. Piracy along the Indian Ocean has been a problem over the years and it dramatically escalated on the last decade due to the sudden upsurge of piracy off the Somali coast on the Gulf of Aden which is a major transit route for shipping to the east and to the west. However. because of the escalating crimes the international community decided to intervene with NATO forces patrolling the area and trying to prevent the hijackings, as well as the security forces employed to escort the ships according to international maritime organization (IMO). The number of successful piracy attacks on ships off the coast of Somalia and the Gulf of Aden has decreased this year leading to fears that there will be an escalation in violence against seafarers.

International Maritime Organisation (IMO) secretary general Efthimios Mitropoulos said the ratio of successful pirate attacks against ships travelling off the East African coast and through the Gulf has fallen from 50 per cent in August 2008 to below 20 per cent. "In the first six months of this year, of 187 attacks (off the Somali coast), only 22 resulted in hijack, indicating that 88 per cent of attacks are being defeated. largely by proper application of best management practice," Mr Mitropoulos said in London. Best management practice includes ships travelling in protected convoys in the piracy risk areas, taking measures to protect their ships against attacks and in some cases, the use of armed personnel to protect merchant vessels.

He however said the IMO was concerned at the escalating use of violence by pirates. "They have become more aggressive, audacious and better organised." This view was echoed by International Maritime Bureau director Captain Pottengal Mukundan, who said, "Attacks off the coast of Somalia have been characterised by a greater degree of violence against crews[21]

This however does not alter the fact that piracy is still a major issue in the Indian Ocean and to address the problems faced by the countries along the Indian ocean coastline more needs to be addressed. This research has been able to get a substantial amount of information regarding the weaknesses facing these countries. First and foremost the presence of NATO patrolling the region has helped reduced the problem but hasn't eradicated it.

According to Karine Langlois in safety for sea, employment and training of pirates along the Somali coastline to guard and protect the coastline would bring down the cost incurred due to piracy and that is cheap and can easily be eradicated.[22]

Piracy is a land-based problem, triggered by a combination of poverty in a coastal community, lawlessness and increasing use of weaponry. Somalia has lacked a functioning government for two decades. In August, 2011, The United Nations last month declared a famine in Somalia and said that 3.7 million people were in need of food assistance.[23] Therefore if solutions have to be developed then these solutions have to be approached from the problems being faced inland.

[21] International maritime organization; *World Maritime day 2011*;
http://www.imo.org/About/Events/WorldMaritimeDay/Pages/2010.aspx last accessed June 17, 2011
[22] Karine Langlois; *The Ottoman's solution to piracy*; http://www.safety4sea.com/page/6227/4/the-ottoman-s-solution-to-piracy last accessed in June 17, 2011
[23] Nick Brown; *Gulf states must beef up coastal security against pirate attacks*;
http://www.safety4sea.com/page/6211/4/gulf-states-must-beef-up-coastal-security-against-pirate-attacks- last accessed September 7, 2011

4.2 Data Analysis

This research heavily depended in secondary data. Primary data was also collected through oral interviews and questionnaires with which was able to identify various weaknesses that countries face along the Indian Ocean coastline with regard to piracy were able to be identified. The research was also able to identify the challenges that these countries have to endure to achieve safety of the sea.

100 questionnaires were administered to various individuals who have been or at least are in contact with the problem of piracy of the Indian Ocean. 20 of which were administered to the Kenya Maritime Authority. 20 to the Kenya Ports authority and 60 to private shipping companies in Kenya. People interviewed were between the ages of 25 to 60 with experience in the industry ranging from between 1 to 5 years and over 35 years. 100 percent of the people interviewed believed that piracy has increased with most of them clearly identifying the Gulf of Aden being an area with increased piracy attacks where insurance companies have labelled them high risk zone. The IMB (International Maritime Bureau) report of 2009 indicated that 217 incidents were carried out by Somali pirates during last year. 47 ships were hi-jacked and 867 crew members taken hostage. 4 crew members were killed, 10 injured and one crew member is missing.[24] Kenya has specifically been affected with this since much of shipping from the west and to east is dependent on that route. According to IMB an estimated 30.000 ships go through that channel in a year.

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[24] International Maritime Bureau; *Statistics*; http://www.icc-ccs.org/news/116-imb-releases-latest-piracy-statistics last updated May 2011.

Just 60 percent of the respondents have heard of the Indian Ocean Rim - Association of regional cooperation, while 40 percent have not heard of its existence. Of the 60 percent only 2 out of 10 believe that the member states have done enough trying to combat piracy while the other 8 out of 10 stated clearly that the member states haven't done enough in combating piracy. This is clear as to why most of the individual haven't heard of the IOR-ARC due to the little role they play in combating piracy and safeguarding security in the maritime region. From the IOR-ARC charter combating piracy is not part of the charter.

Respondents were asked to rate the effectiveness of solutions to combating piracy off the Somali coast and assisting Somalia in setting up government initiatives to fight piracy was rated as the most effective solution with 8 out of 10 consideration, this means that the fact that piracy is an inland problem as opposed to offshore problem and the existence of a government would go a long way in curbing piracy as poverty is one of the major reasons that leads to piracy. Also the fact that Somalia has no government increases the chances of lawlessness. Antipiracy/crisis management plan by member states was also considered as very effective with 6 respondents out of every 10. Setting up a UN coast guard to fight pirates was considered as effective with 7 out of ten 10, this is as a result of the presence of NATO forces led by the US navy and the British Navy, has helped reduced the number of attacks since the sudden upsurge of piracy in the region. It is clear that none of the IOR-ARC member states have any military might to instigate such kind of protection. India and China too have proposed to include their forces in the region to boost security. Enhancing the international legal framework to make punishment of pirates effective, was rated as maybe effective with 6 out of 10, punishing the pirates would stop others from trying the same thing, due to the high returns they get from ransom is too high and piracy to

them is highly lucrative. According to IMB the average ransom paid to pirates stands at $150 million. And thus the risk for them will be worth it whether their punishment is high or not. Putting naval forces to monitor and destroy pirate skiffs was considered effective by the respondents with 59 percent. Currently the NATO forces have helped reduce the pirate attacks off the Somali coast. Piracy could cause a major environmental disaster in the Gulf of Aden if a tanker is sunk or run around or set on fire. The use of ever more powerful weaponry makes this increasingly likely.

The safety of Indian ocean was considered to be low with 60 percent saying that the safety of Indian ocean waters in regard to Indian Ocean states is low. However, the stakeholders are optimistic that they have a better future with the situation in Somalia and the greater Indian Ocean states. According to IMB, piracy increased slightly in the first quarter of 2006. Reported attacks have risen approximately 8 percent when compared with the same period in 2005. The actual number of reported piracy attacks in the first three months of 2006 was 61, a modest increase over the 56 attacks noted in the same period of the previous year. Though the overall rate of piracy is at its highest compared to the previous decade. To date at least 21 foreign vessels plus one barge are kept in Somali hands against the will of their owners, while at least 376 seafarers have been captured or held captive by the pirates In 2008, East Africa accounted for the greatest number of incidents with 134, followed by the South China Sea (72 incidents) and West Africa (50 incidents).

The table below from the international maritime bureau show how piracy in Indian ocean is rising and becoming a threat over the years

Table 1: Incidents of International Piracy and Armed Robbery at Sea, 1998-2008*

Year	East Africa	Indian Ocean	Malacca Strait	Mediterran ean Sea	South America	South China	West Africa	Total
1998	19	25	6	2	38	94	22	210
1999	16	51	37	4	29	136	36	309
2000	29	109	112	2	41	140	33	471
2001	22	86	58	2	23	120	58	370
2002	23	66	34	3	67	140	47	383
2003	22	96	36	1	72	154	67	452
2004	13	41	60	0	46	113	57	330
2005	47	51	20	0	26	97	23	266
2006	31	53	22	1	31	66	31	240
2007	60	40	12	3	25	67	60	282
2008	134	26	2	2	19	72	50	306
Compound annual growth rate. 1998-2008	19.40%	0.40%	-9.50%	0.00%	-6.10%	-2.40%	7.70%	3.50%

*Source international maritime bureau http://www.imb.org/statistics

Incidents of piracy and armed robbery have been rising in East African waters (e.g., Gulf of Aden, and Red Sea) in recent years as the numbers of incidents in other parts of the globe have generally stabilized.

In 2008, acts of piracy that occurred in East African waters were more than double the number from the prior year and comprised 44 percent of incidents worldwide. In the 11-year

period from 1998 to 2008, yearly totals in these waters rose from 19 to 134—an increase of 605 percent. In contrast, in 2000, when global incidents of piracy and armed robbery at sea peaked at 471, only 6 percent occurred in East African waters while acts of piracy in the South China Sea, Malacca Strait, and Indian Ocean accounted for 77 percent of incidents across the globe. The danger and cost of piracy (insurance premiums for the Gulf of Aden have increased tenfold) mean that shipping could be forced to avoid the Gulf of Aden/Suez

Canal and divert around the Cape of Good Hope. This would add considerably to the costs of manufactured goods and oil from Asia and the Middle East. At a time of high inflationary pressures, this should be of grave concern

The question as to whether the Government of Kenya has considered the cooperation and safeguarding maritime security as part of the IOR-ARC charter, was of a shared opinion with only 51 percent saying that it was while 49 percent stated that it wasn't. Though the confirmation was strong that the Government hasn't enacted any law or implemented any part of the law that will lead to the cooperation of the IOR-ARC in combating piracy in Indian ocean. This is a result of the existing agreement with the international community that captured pirates will be tried and convicted of piracy under the laws united nations laws of sea, if found guilty in the Kenyan law courts and imprisoned here. Though as far as it stands, the Kenya Government has no legislation in regard to piracy other the United Nations laws of the sea.

The increase in pirate attacks off the Horn of Africa is directly linked to continuing insecurity and the absence of the rule of law in war-torn Somalia. The absence of a functioning central government there provides freedom of action for pirates and remains the single greatest

challenge to regional security. The lack of law enforcement capacity creates a haven where pirates hold hostages during ransom negotiations that can last for months. Some allege that the absence of Somali coastal security authorities has allowed illegal international fishing and maritime dumping to go unchecked, which in turn has undermined coastal communities' economic prospects, providing economic or political motivation to some pirates. The apparent motive of most pirate groups, however, is profit, and piracy has proven to be lucrative. Somalia's "pirate economy" has grown substantially in the past two years, with ransoms now averaging more than $5 million. These revenues may further exacerbate the ongoing conflict and undermine regional security.

4.3 Challenges Faced by States in the Region

The weakness of the member states in terms of combating piracy issues in the region is logistical; they do not have the capabilities to handle the problem that Somalia offers, as well as the International Maritime organisation (IMO) discourages the arming of seafarers because of the potential escalation of violence during or after attacks. While some flag states and vessels owners are considering armed security teams, the IMO says a clear policy on their engagement is needed. With the growing incidence of piracy off the Horn of Africa and shipping companies' ability to deal with it, foreign navies have played a larger role, therefore the Indian Ocean Rim countries should also play their part by ensuring that at least their naval forces do help in combating piracy.

In order to develop a coordinated response to the challenge of maritime piracy along the Somali coast, the United Nations Political Office for Somalia (UNPOS) commissioned an

international expert consultation on the issue. The consultation took place in Nairobi from the 10th to the 21st of November, 2008. It was supported by the United Nations Development Programme (UNDP) Somalia and hosted by the International Organization for Migration (IOM) in Nairobi. The international group consisted of private experts, national officials and representatives of international organizations covering expertise in organized crime, maritime law, Navy operations, risk management, migration management, marine contingency management, state of law, development and livelihoods, humanitarian relief, peace keeping and security sector reform. Many of the experts possess expertise and experience in Somalia as well as in neighbouring countries and seas. The assessment aimed at providing a practical interdisciplinary overview on piracy rather than a comprehensive analysis of all aspects of piracy in Somalia. The expert group had limited time to prepare and consult, which in combination with the difficult access to local knowledge in Somalia has constrained the scope of the assessment and its recommendations. The report was prepared on the basis of information available as of 20 November 2008.

This shows that piracy off the Somali coast is only one manifestation of the tragic events this country has experienced for almost 20 years. The long human tragedy that the Somali people have endured, has led the experts to remain careful in their recommendations, propose solutions that can be locally driven and supported, and provide ideas to strengthen local resilience of predominant livelihoods in Somalia. Having said this, it is a clear focus: to present an assessment and appropriate recommendations to guide a coordinated response to the challenges of maritime piracy off the Somali coast.

The problem plaguing the Indian Ocean and the Southern Asian region is the lack of "channelized" efforts towards addressing maritime challenges. Previous efforts to combat these problems have been mostly bilateral and, at best, trilateral arrangements. There is a near total absence of a multilateral approach to combat maritime disorder. Maritime piracy provides unique challenges for nations that are attempting to combat it.

Piracy exists because the opportunity for reward outweighs the potential risk. Martin Murphy writes that seven factors are common across all regions where piracy is active, including the Horn of Africa and Southeast Asia. These include: 1) legal and jurisdictional weakness, 2) favorable geography, 3) conflict and disorder, 4) underfunded law enforcement and lack of security, 5) permissive political environments, 6) cultural acceptability, and 7) the promise of reward.[25]

In both Southeast Asia and the Horn of Africa, legal and jurisdictional problems minimize the risk pirates take each time they attempt to hijack a ship. International law and the laws of nations regarding piracy are frequently incompatible, and thus, create legal obstacles that minimize accountability and provide the perception of weakness. In addition, evidentiary requirements could not be met for regional states to take action. Peter Chalk elaborates on this situation further when he writes, "Corruption and dysfunctional systems of national criminal justice have encouraged official complicity in high level pirate rings."[26]

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[25] Murphy N M ., Contemporary Piracy and Maritime Terrorism: *The Threat to International Security* (New York, NY: Routledge, 2007): p. 60-71
[26] Peter Chalk, The Maritime Dimension of International Security (RAND Project Air Force Strategy and Doctrine Program, 2008),

Both regions of the world—East Africa and Southeast Asia—have geographical conditions that put security forces at a disadvantage. The Strait of Malacca, one of the world's major chokepoints, is one of the busiest sea-lanes in the world. The vast coastlines of Indonesia, Malaysia and Singapore provide numerous coves and inlets from which pirates can stage attacks and return quickly. Each day. over 200 vessels transit through this region. carrying over 10 billion barrels of oil and tons of cargo, enticing pirates to test their skills and luck.[27] In contrast to the Strait of Malacca, Somalia occupies over 2.000 miles of coastline around the Horn of Africa and the Gulf of Aden, allowing pirates to extend their reach for hundreds of miles into the ocean. When pirates return to shore, lawless conditions, encouraged by little or no security, have provided almost unlimited safe havens and supportive communities where pirates obtain supplies to execute attacks.

Piracy is a symptom of conflict and disorder that erupts on land when coastal regions have weak or failed governments. The Asian financial crisis in 1997 and conflict in the Indonesian government contributed greatly to the spike in piracy in the late 1990s in Southeast Asia. The diversion of funding and resources to other priorities weakens security. encourages corruption and provides criminals with weaknesses to exploit. In Somalia, conflict and disorder, encouraged by the lack of security, forced local fisherman to protect their territorial waters from illegal fishing and vessels dumping waste. According to Peter Lehr. "The first pirate gangs emerged in the 1990s to protect against foreign trawlers."[28] Over time. actions taken by

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[27] Sakhuja V, et al, Sea Piracy in Southeast Asia in Violence at Sea: *Piracy in the Age of Global Terrorism*, ed. Peter Lehr (New York: Routledge, 2007);p.53-65
[28] Ibid, Lehr : p.87,88

fishermen to protect their territorial waters blossomed into a financial enterprise for warlords who demanded cash for the return of vessels and their crews.

Both regions suffered from underfunded law enforcement and lack of security. The failure to fund and train coast guards, navies and police allows pirates to operate freely. Fixing this problem can have significant effects on curbing piracy. For example, in 1992, Indonesia, Malaysia and Singapore began to patrol the Malacca Strait aggressively, which resulted in the reduction of pirate activity. This effort was suspended after six months, however, due to cost. The attack of September 11 further exacerbated this by shifting funding from piracy to the war on terror. In Somalia, lack of law enforcement caused piracy to grow even worse. Peter Lehr writes that the Somali Navy at one time had several versions of armed patrol craft—given to them by the Soviet Union—capable of patrolling the coastline and waterways. By the early 1990s, the vessels fell into disrepair, providing little or no security to monitor the resource-rich ocean in Somalia's Exclusive Economic Zone (EEZ). This contributed to the current piracy problem by allowing foreign nations to plunder fish stocks[29].

Weak governments encourage lax law enforcement. In countries with permissive political environments, resources to combat piracy are scarce. This encourages corruption, increases crime, and draws attention to areas where security is weak and targets are plentiful, such as the Strait of Malacca and the Horn of Africa. This can further erode the stability of surrounding nations. Somalia, Kenya, Yemen, Sudan and Indonesia have all had political problems and are examples of states that have had problems with countering piracy.

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[29] Lehr p., Violence at Sea: *Piracy in the Age of Global Terrorism* (New York; Routledge 2007), pg 23

Piracy is most likely to take hold in regions that have a maritime tradition. Murphy suggests that regions that have established trading patterns. such as Southeast Asia and West Africa, are more likely to resort to piracy because of cultural reasons passed on from generation to generation[30]. The large volume of ship traffic that passes through the Horn of Africa and Southeast Asia provides an inviting target for those with seafaring skills to operate at sea.

The promise of reward encourages piracy. In both regions. piracy has become a lucrative business. In the Strait of Malacca, where robberies are frequent, pirates steal almost anything of value and go to great lengths to do so. Examples include pirates taking jewellery, TVs and DVD players, to robbing and murdering the crew. and then selling the ship and its cargo. Off the coast of Somalia, the average ransom paid to pirates stands at 150 million dollars a year. Until the risks outweigh the reward, piracy will continue to be difficult to stop.

Addressing the underlying causes of piracy has required nations to respond in different ways to combat piracy. In Southeast Asia. the closeness of strait nations to one another has heightened sensitivities to state sovereignty. These sensitivities have made the principle of non-intervention the "bedrock of intraregional state relations and have become the single most inhibitor of maritime cooperation in Southeast Asia."[31] The ability to understand and respond to these issues has required regional and extra-regional responses to ensure cooperation amongst the various nations. Individual efforts, regional cooperation, bilateral and multilateral measures

[30] Murphy, Contemporary Piracy and Maritime Terrorism: *The Threat to International Security*, (New York, NY: Routledge, 2007): pg17
[31] Bradford J F., The Growing Prospects for Maritime Security Cooperation in Southeast Asia, *Naval War College* Review 58, no .3 (Summer 2005): pg73.

between the straits nations of Singapore, Malaysia and Indonesia has had an impact on lessening the effects of piracy in the Strait of Malacca.

Examples of individual efforts include Indonesia's push in 2003 to modernize the Navy's platforms, which encouraged an emphasis on coastal interdiction and increasing patrols. Also, in 2005, Indonesian President Yudhoyono increased naval patrols in waters near the Strait of Malacca, in addition to increased intelligence operations in coastal regions.[32] Malaysia constructed radar tracking stations in the Strait of Malacca to track ship traffic, and Singapore increased its maritime patrols. John Bradford notes that the governments of Indonesia, Malaysia and Singapore in 2004 began a series of trilateral coordinated maritime patrols called the Maritime Straits Sea Patrols.[33] These were further augmented in 2005 with coordinated airborne surveillance under the terms of the "Eyes in the Sky" agreement.[34] This cooperation has further expanded to include extra-regional states that rely upon trade routes passing through Southeast Asian waters. Countries, such as the United States, India and Japan, have assisted in capacity building programs and assistance. In 2001, Japan proposed the creation of a regional cooperation agreement called ReCAAP or Regional Cooperation Agreement on Combating Piracy and Armed Robbery in Asia to encourage cooperation and information sharing amongst Asian states. It was the first successful intergovernmental organization whose mission was to combat piracy, culminating in 2006 with the opening of the Information Sharing Center in Singapore. [35]The United States has also taken steps towards cooperation by participating in

[32] Storey I, Calming the Waters in Maritime Southeast Asia, *Asia Pacific Bulletin*, Vol. no. 29
(February 2009): http://www.eastwestcenter.org/fileadmin/stored/pdfs/apb029.pdf (accessed June 5, 2009)
[33] Bradford J F., Shifting the Tides against Piracy in Southeast Asian Waters, *Asian Survey* Vol.48,
no. 3 (May/June 2008): pg 482
[34] Ibid, Bradford: p.483
[35] Ibid, Bradford: pg 484

regional exercises that emphasize maritime cooperation, such as the Cooperation and Readiness Afloat (CARAT) exercise that partner the U.S. military with nations, such as Brunei, Singapore, Thailand, Philippines and Indonesia[36]. The overall outcome has been the increased cooperation between nations and an overall reduction in pirate attacks in Southeast Asia. Similar to Southeast Asia, the lack of state control. resources. economic distress and endemic corruption in Somalia and regional states has allowed piracy to thrive and has complicated efforts by the United States and coalition nations to combat it. Regional governments in the region have taken action to curtail piracy by adopting a code of conduct similar to ReCAPP proposed by Japan in 2001. Called the Djibouti Code of Conduct to repress acts of piracy and armed robbery against ships, it facilitates the cooperation of member states in efforts, such as the apprehension and prosecution of suspected pirates. information sharing and ship rider programs. Of the 21 countries that attended the convention, nine nations signed the agreement in January 2009, including Somalia, Ethiopia, Kenya, Djibouti and Yemen.[37]

In December 2008, the National Security Council released its approach to combat piracy in the Gulf of Aden titled, "Countering Piracy off the Horn of Africa: Partnership & Action Plan." The objective of the plan was to focus on immediate short-term measures aimed at preventing, disrupting and punishing acts of piracy by Somali pirate organizations through law enforcement means that support long-term initiatives aimed at stabilizing Somalia.[38] In 2009, Secretary of State Hillary Clinton announced new counter-piracy initiatives to broaden U.S. strategy in the region that includes increased cooperation, expanding multinational cooperation,

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[36] Ibid. Bradford: pg 485
[37] International Maritime Organization, (High-level Meeting in Djibouti Adopts a Code of Conduct to Repress Acts of Piracy and Armed Robbery against Ships on February 20, 2009).
[38] U.S. National Security Council, (Countering Piracy off the Horn of Africa: Partnership & Action Plan, Washington, DC, May 5 2008.)

bilateral meetings with the Somali Transitional Federal Government and working with the shipping industry to increase awareness of best practices.[39] Current U.S. strategy includes the creation of an antipiracy taskforce, Combined Task Force 151 (CTF-151), conducting legal agreements with regional nations and cooperating with other nations to combat piracy effectively.

In response to United Nations Security Council Resolutions (UNSCR) requesting greater international cooperation, NATO, European Union Naval Forces (EU NAVFOR), the United States and other maritime nations have contributed ships and aircraft to the anti-piracy patrol. In May 2009, 28 nations and six international organizations met in New York to participate in the contact group on piracy whose goals were to promote increased, coordination and awareness. To facilitate cooperation amongst nations, four working groups were created to address concerns that include military and operational coordination, information sharing, capacity building, judicial issues, commercial industry coordination and public information.[40]

United States and coalition responses to piracy lie in the belief that piracy is an international problem that requires an international solution. Since coalition operations are primarily using law enforcement mechanisms, they are forced to rely upon international law and individual states laws to combat piracy. This includes observing strict rules of evidence for prosecuting pirates. Problems in enforcement occur because of the lack of a coherent unified strategy brought about by separate chains of command and diverse national strategic goals.

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[39] U.S. Department of State, *Announcement of Counter-Piracy Initiatives*, April 15, 2009, http://www.state.gov/secretary/rm/2009a/04/121758.htm (accessed June 6, 2009).
[40] America.gov, *Report on Contact Group on Piracy off the Coast of Somalia*, May 18, 2009, http://www.america.gov/st/texttrans-english/2009/May/20090518175245xjsnommis0.5672266.html. (accessed June 6, 2009).

Since UNCLOS defines acts that occur on the high seas and not inside the territorial waters of a nation, this has produced constraints that hamper law enforcement action against pirates. The IMB definition closes the gap by defining piracy as, "An act of boarding or attempting to board any ship with the intent to commit theft or any other crime and with the intent or capability to use force in the furtherance of that act."[41] This provides further protections beyond UNCLOS to maritime states whose territorial waters are in close proximity to each other.

To combat piracy, the United Nations (UN) has authorized United Nations Security Council resolutions 1816, 1846 and 1851 on behalf of member states. These authorize progressive actions by states to intervene on both land and sea using force for a period not to exceed one year. Although these resolutions provide legal protection for nations, they do not provide incentives for nations to act, which limits their effectiveness. Additional areas of concern include the failure of nations to assist in the detention and adjudication of suspects. The only countries that have agreements are the United States, United Kingdom and Kenya. To be effective and to reduce the burden on Kenya, more countries need to participate. In conclusion, the causes of piracy can be found on land and will require a land based solution to combat. Responses by regional and extra-regional governments so far have included actions taken on land and at sea with varying levels of success. Current literature suggests that the answer to piracy in the Horn of Africa will come from solutions that incorporate Somalia and the surrounding states, in addition to international assistance. Addressing root causes of piracy, in

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[41] Young and Valencia, Conflation of Piracy and Terrorism in Southeast Asia: *Rectitude and Utility*, Vol.21 2007: pg270.

addition to reducing the impact of attacks. can help achieve a lasting. economic. political and

security arrangement that reduces the threat of piracy in the Gulf of Aden and Horn of Africa.

CHAPTER 5

Conclusion: Way Forward for Cooperation

5.1 International Community Response

Acts of piracy and armed robbery at sea have incensed the international community and brought about a sense of cooperation among nations. international law enforcement. and treaty organizations. In turn. this has led to information sharing and joint naval patrols.

The International Maritime Bureau established the Piracy Reporting Centre (PRC) in Kuala Lumpur. Malaysia. The PRC serves as a mechanism for coordinating response by local authorities and providing incident reports to mariners.[42] In addition. 15 nations in South East Asia have signed the Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia.[43]

In 2000, the waters of the Indian Ocean and the Strait of Malacca totaled the highest number of attacks. However, the nations in South East Asia surrounding these two bodies of water with the support of the international community have made great strides in decreasing the number of incidents. By 2008. the combined number of incidents had decreased in the Strait of Malacca and the Indian Ocean by 87 percent from their peak in 2000.

Pursuant to United Nations Security Council Resolution 1851, the Contact Group on Piracy off the Coast of Somalia (CGPCS) was established on January 14, 2009 to facilitate

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42 International Chamber of Commerce. Commercial Crime Services. International Maritime Bureau . Piracy Reporting Centre, *IMB Piracy Reporting Centre*. available at http://www.icc-ccs.org/ as of Jan. 5. 2010

43 Regional Cooperation Agreement on Combating Piracy and Armed Robbery Against Ships in Asia (ReCAAP); available at http://www.recaap.org/ as of Jan. 14. 2010

discussion and coordination of actions among states and organizations to suppress piracy off the coast of Somalia. The CGPCS includes representatives from over 50 countries and international organizations and it acts as a point of contact on aspects of combating piracy and armed robbery at sea off Somalia's coast. The CGPCS reports to the United Nations Security Council on a regular basis concerning the progress of its activities. A CGPCS working group has produced a best management practices document for owners, operators, managers, and masters of vessels transiting the Gulf of Aden and along the coast of Somalia.[44]

Twenty nations now participate in the Combined Maritime Force, which established Combined Task Force 151 to conduct antipiracy patrols in the Gulf of Aden, Gulf of Oman, Arabian Sea, Indian Ocean, and the Red Sea.[45] The goal of this coordinated reporting and response is to turn the tide on the growing number of East Africa incidents.

The international community has made several attempts to deal with the issue of piracy around Somalia. The most successful has been escorts for World Food Programme ships which had been unable to enter Somali waters until France, Denmark, the Netherlands and most recently Canada agreed to provide naval escorts from November 2007 to June 2008.

A more general approach has focused on Combined Taskforce 150 (CTF150), a coalition naval taskforce covering the Gulf of Aden, Gulf of Oman, Arabian Sea, Red Sea and the Indian Ocean. CTF150's primary responsibility is to assist in the 'war on terror', so piracy is lower on their list of priorities. However some of the roughly fifteen ships making up CTF150 have been involved in deterring pirate attacks. To strengthen the hand of international naval forces, on 2

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[44] Contact Group on Piracy off the Coast of Somalia (CGPCS). *Best Management Practices to Deter Piracy in the Gulf of Aden and off the Coast of Somalia* (Version 2 August 2009). available at http://www.marad.dot.gov/ as of Feb. 3, 2010.

[45] United States Navy. *New Counter-Piracy Task Force Established* (01/08/09). available at http://www.navy.mil/search/display.asp?story_id=41687 as of Dec. 28, 2009.

June 2008 the UN Security Council passed the US/France-sponsored resolution 1816 that gives foreign warships the right to enter Somali waters 'for the purposes of repressing acts of piracy and armed robbery at sea' by 'all necessary means'. The most recent initiative involves the establishment of a 'Maritime Security Patrol Area' (MSPA) which coalition navies will patrol. The hope is that shipping will stay in these zones and hence be in range of military assistance if they are threatened. To date these measures do not seem to have had much impact. although it is too early to comment on the efficacy of the MSPA.

In recent years India has begun to take a greater interest in the African side of the Indian Ocean Rim for a number of reasons including a desire to compete with China. but the danger of piracy is also of concern. The Indian navy has indicated a willingness to send support to the Gulf of Aden. Indeed it has gone so far as to remind the government that it is ready to help ships carrying Indian nationals. However. analysts assert that the Indian government is reluctant to involve itself with the internal affairs of another country. To date France is the country that has taken the most robust stand against piracy off Somalia. The EU has established a mission under the ESDP (European Security and Defence Policy) to provide a coordination cell (EU NAVCO) for the fight against piracy. Coordination of the different naval and air assets in the region could help to improve the efficacy of the fight against piracy

Despite international naval efforts to counter acts of piracy in the waters off Somalia. pirates in this region continue to increase not only the sophistication and geographic range of their attacks. but also the level of violence against hostages. Hostages are also being detained longer, as pirates hold out for ransom payments that now reportedly average over $5 million per ship. Heightened military presence in an internationally recommended transit corridor in the Gulf

of Aden has reduced attacks in that area, but pirates have adopted tactics that now allow them to attack more than 1,000 nautical miles off the Somali coast.

The situation in Somalia, and the related piracy threat, was the subject of open debate at the Security Council in March 2011, during which the Council stressed the need for a "comprehensive strategy to encourage the establishment of peace and stability in Somalia," and a "comprehensive response to tackle piracy and its underlying causes." Among the items on the Council's agenda was a report issued in January by the Secretary-General's Special Advisor on Legal Issues Related to Piracy off the Coast of Somalia. The Special Advisor has proposed, among other recommendations, the creation of three specialized piracy courts for Somalia to address current obstacles to the prosecution of Somali pirates. The Security Council expressed unanimous support for increased efforts to establish governance and the rule of law in Somalia in Resolution 1976, passed on April 11, noting concern with the large number of suspected pirates being released without trial and deciding to urgently consider the establishment of the specialized Somali courts recommended in the Special Advisor's report.

5.2 Way forward

The international community has come whole handed to assist in combating piracy in the region since it is also in their best interest maritime security is safeguarded at all times, the IOR-ARC hasn't done enough in safeguarding maritime security in the region, as part of the IOR-ARC charter. From the respondents, institutions may like to see a number of campaigns or lobbying that would enhance the safety of the sea to be carried out these include lobbying with member states to come up with long term strategies that would solve the issue of piracy in the region, these include assisting Somalia to solve their issues and set up a government which will

then be assisted in recruiting and training of marines that would be patrolling their waters to ensure there is some sense of law and order.

In conclusion piracy cannot be curbed off the Somali coast in the short term without establishing minimum law and order in Puntland and the other coastal areas of Somalia. This must be supported by disruption of the pirate revenues and indeed by more determined efforts to minimize the risks for new attacks on ships at sea. Due to the unlawfulness in Somalia, it is expected that any success on the ground needs some form of external security input. At the same time, piracy will not be suppressed without providing coastal populations with alternative occupation and revenue: the goals should include the establishment of a minimum state of law in the whole of Somalia to allow business, trade and other economic activities to flourish. One of the most powerful leverages for establishing this new order would be the cooperation of regional countries including Somalia in their political, economic and security environment.

The international community wishes not only to curb and suppress piracy but also to sustainably up-root it. In order to eradicate this activity and prevent it from arising again, we need the reconstruction of Somalia as a fully respected member of the community of Nations.

5.3 Recommendations

From the above observations piracy off Somalia and the entire Indian ocean is rooted on land. The reason piracy has not been suppressed yet is because it is only addressed at sea in a too restricted manner. To curb piracy off the coast of Somalia and the entire Indian ocean needs to combined intervention on both land and sea. It may be said that without considerable renewed

effort from the international community to address the misery and despair on the ground, the fight against piracy and other crime will be difficult if not impossible to win. The following proposals must take into consideration that in order to help take care of piracy then cooperartion is key otherwise countries acting on their own will not be able to help and the benefit will not serve one country. It is to the interest of the international community that piracy is solved not only to stop terrorism as an act against the global war on terror since it has been linked that funding from the ransom paid to free hostages maybe used to fund the terrorism. The international community has done more to help the devastating situation but the Indian ocean rim countries can do more than just request for help. Kenya stands to loose more than any other country if piracy isn't solved off the coast of Somalia, and the Key towards this issue is to solve both problems inland and at the ocean. In order for any substantial peace to be achieved in Somalia then these countries have to come together to solve this overwhelming issue. The following are recommendation that have been derived during my research;

5.3.1 Establish law and order on the coastal areas on land

On the short term, in order to effectively curb piracy off Somalia it is necessary to establish a minimum capability of effective law and order in Puntland and in the coastal areas of Somalia. This might need an external security input, which include raiding of the coastal areas of Somalia and setting police patrols around the area while recruiting some of the locals train them to help in arresting any form of illegal venture such as arms dealing because the power of any sort of pirate activity is the benefit of having ammunition and artillery hence the willingness of individuals having access to these engage in piracy. the idea is to make it difficult for anyone to have access to means of conducting his pirate activities. For all these to be possible then various

factors need to be considered. but first and for most Support should be issued on what has already been done by the International Community, the regional states and the Somali themselves. For this reason. some already ongoing actions will be presented here as recommendations by the experts. Secondly the IOR-ARC should explore new ways and means to address piracy even if some of these recommendations could appear today as not immediately implementable. Thirdly IOR-ARC should identify and take into account the risks of implementing the proposals. In some matters. like seeking alternative means of earning income by the locals needs a more robust measures because they recognized the limits of their ability to assess their political and economical impact. because these not only is just setting up projects but entails education too and training these will require a long term strategy as well money.

The structure of the recommendations is organized along two strands: the four concentric impact geographical circles of the recommendations and the three incremental implementation framework.

The proposed recommendations can be described as covering four different circles: recommendations that apply only in Puntland and the remaining coastal area of Somalia; those that involve the whole territory of Somalia, because they depend on the general situation; others will need the cooperation and the commitment of the regional states. the main victims of piracy; and lastly. some of them will necessitate an exceptional and common effort by the international community. Despite the fact that all the proposed recommendations are to be implemented as soon as possible, it is obvious that not all of them will return outcomes in the short term. They are consequently organized in three categories: short. med and long term impact.

5.3.2 Curb piracy through short term impact measures

Piracy must be curbed as soon as possible in the interest of Somalia and of the international community as well as for the benefit of the regional states. This requires an immediate firm action on land to reinforce measures taken at sea and to deprive the pirates from the proceeds of hijacking.

On the short term, in order to effectively curb piracy off Somalia it is necessary to establish a minimum capability of effective law and order in Puntland and in the coastal areas of Somalia. This might need an external security input. Such quick impact security actions must be part of a broader strategy in Security Sector Reconstruction, these can be achieved through enlisting all influential Somali actors in closing down pirates' shore bases, sanctions against leaders and influential beneficiaries of piracy, establish intelligence network, registration of skiffs, destroy skiffs with motors over 50hp, capture of "mother ships", establish within the Somali law enforcement authorities an effective response capability against piracy, transfer captured pirates ashore to regional states to enable or facilitate prosecution in neighboring states keep in mind Somali perceptions. When framing anti-piracy initiatives foreign governments should not send mixed signals to the TFG(transitional federal government of Somalia) or puntland government or clan elders

Action at sea has shown its limitations, but at present they are the only intervention that the international community can implement, cooperating, when necessary, with TFG. The IOR-ARC should also continue intervention by foreign warships in the short term but establish Ship radar arrangements to better on-board protection against piracy to ship transiting through the gulf of Aden. Monitor Somali coast through manned or unmanned airborne surveillance and establish

a shore monitoring system using local communities to look out for boats suspected to be involved in piracy, illegal fishing or illegal dumping

One solution to discourage piracy would either be to disrupt pirates' revenue or to track the ransom they receive. Due to the fact that ransoms are generally not wired but currently paid in used dollar notes, these could be a problem. but because most of the money issued as ransom are of large amount institution can be set up to watch for alarming money that cannot be accounted for as well as the notes can be marked so that it is hard for them to use the money for any form of expenditure. Because the pirates in Somalia only act through hijacking and ransom demands. our strategy must focus on depriving them of the revenue. international community to develop consistent response to ransom demands

5.3.3 Suppress piracy through medium term measures

Even if short term recommendations are successfully implemented. piracy will not have been suppressed unless coastal populations are provided with alternative occupation and revenue. Such goals could only be reached through establishing a minimum state of law throughout Somalia which would allow business, trade and other economic activities to flourish. Primary actors in these measures should be the regional community.

For more than 20 years the international community has been trying to rebuild the Somali economy. In the aim of suppressing piracy, this reconstruction effort must focus on the coastal areas and in the whole Somalia. to prevent Somalia from becoming a pirate state. Building up of local infrastructure in Somalia, and putting up the coastal communities through labour-intensive

jobs, creation of vocational training for unemployed youth support the youth groups by engagement with Somali Diaspora for greater socio-economic benefits of Somalia support to pastoralist.

The establishment of the state of law in the whole Somalia is a necessary condition for the success of a development initiative in country and coastal areas. This state of law must progress in parallel with the Security Sector Reconstruction. as an important condition to allow the state to control its security system. Support IMO's efforts to establish regional anti-piracy arrangements on illegal arms trade. Media campaign to strengthen the operational capacity of the regional Somali law enforcement authorities strengthening the coastguard developing and upgrading the capacity of the Somali prison service to incorporate piracy offenses in Somali law. Strengthen the legal structure in Somalia and take into account lesson learned when disarming pirates

The states in the greatest danger from unchecked piracy off the Somali coast are those of the surrounding region. For this reason they must be involved in the struggle against piracy and do their best to accept. support and respect Somalia as a partner in the struggle for regional political and economic stability, and security to establish/enhance border management and protection system

5.3.4 Uproot piracy through long term impact measures

The international community goal is to uproot piracy altogether. For this to happen, the international community will have to be sure that a sustainable state is established in Somalia

and it is fully integrated into the community of Nations. To achieve these then we need to define a comprehensive long term security sector reconstruction (SSR) strategy actually insert Somalia within the international priorities. To achieve this the regional members need to seek the establishment of a specialized capacity within the Somali police services to respond to piracy, this will have an immediate and beneficial counter effect upon the illegal activities of those persons and groups engaged in these acts. Through the provision of a uniform training approach, professional and operational standards will be raised in a key law enforcement authority tasked with maintaining law and order.   As a coast guard service to exist in Somalia, resources should be directed to develop its operations – both professional and operational to a higher standard of effectiveness, and link their operations with the land based strategy of the police. As a result of this intervention, the Government of Somalia will be able to move effectively in a short time against pirate operations utilizing existing structures and resources.   As a result, there will be a well trained, disciplined and operationally equipped police and coastguard service able to respond individually and in coordination on a land and sea enforcement strategy that will impact directly upon illegal pirate operations.

5.4 Risks

The risk to such a success would include the lack of political will by Somali authorities to support a proactive counter piracy strategy. As is the case with many African countries and due to the high level of illiteracy and greed corruption within government authorities could undermine the programme or delay the implementation process. Also the probability to identify suitable recruits for the police unit or the coast guard service may be a very low due the high number of banditry that goes on in Somalia. The low levels of literacy amongst officer recruits

could be a problem during training and understanding the reason behind the initiatives. Much of the recommendations require a serious amount of input in terms of resources and lack of financial resources to sustain on-going agency operations could be a real problem. Security situation in the country / regions might not permit access to training and

The retention on board warships for indefinite periods of persons taken under control (pirates) at sea significantly impairs the ship's ability to carry out its other missions. Accordingly, it is necessary that arrangements be in place for the rapid transfer ashore of pirates captured at sea. The 1988 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA) provides a legal basis to effect the rapid transit ashore of pirates captured at sea where both the flag State and the receiving States are Parties to SUA. Kenya's recent agreement to accept Somali pirates for prosecution is encouraging but Kenya's judicial system needs to be supported if additional pirates are to be tried there.

All other States in the region have functioning courts of law, prosecutors, judges, and legislation. Most are also parties to some or all of the relevant international legal instruments. Taken together, there is generally legal jurisdiction and some legal capacity to impose law and order in response to piracy. However, they need assistance in enhancing their capacity. Kenya, in particular, has demonstrated its willingness to accept Somali pirates and prosecute them but needs additional resources to be more effective if the number of prosecutions and convictions increase. Another expected benefit is the opportunity to second Somali legal officials to be trained in the prosecution and conviction of pirates.

Somali piracy can also be defeated if its shore bases are closed. This will require the active support not just of Somalia's leaders but also its ordinary people. However, the common strand linking all Somali insurgents is a perception that the international community has been indifferent to Somali sovereignty and the interests of ordinary Somalis. For example: The insurgency against the TFG is driven by perceptions amongst Islamists and Somali nationalists alike that it is an illegitimate government imposed by the international community. The missile strike that killed the Al Shabaab leader Aden Hashi Ayro (as well as others) in June 2008 provoked intense anger across Somalia even amongst the Somali majority who have no sympathy for Al Shabaab.

If criminals and/or insurgents are given excuses to justify the hijacking of ships for ransom as a legitimate 'political' and/or Jihadist activity then the problem will become exponentially harder to resolve. On the other hand, attention to Somali perceptions also suggests that deploying a naval task force that apparently – from a Somali point of view – lacks the willingness to take risks actually weakens the credibility and influence of the international community. This is a constant worry and complaint of Somalis who oppose piracy and want to see it ended.

The operations provided by the international community to combat piracy are conducted both by individual warships and those of a number of combined naval forces, and take a number of forms: one by immediate Assistance: where a warship intervenes in a piracy incident in its immediate vicinity under the duty to render assistance. Two is via deterrence: where warships patrol known piracy areas to deter attacks. Experience has shown that pirates will not generally attack shipping if they see a warship. Three is through disruption: the boarding of suspected vessels, the confiscation of piracy equipment and (where there is a mechanism for transfer

ashore) destruction of the vessel. Finally, through deliberate counter-piracy operations: the release of hostage vessels and crews, generally through special forces intervention.

Apart from the two operational vessels of the Puntland Coast Guard, there is no domestic law enforcement capacity in the seas off Somalia. In the absence of a domestic capability, the President of the TFG has approached naval powers operating in the region and the UN to request that they conduct counter piracy operations in Somali waters. These operations have been underway for many years and have involved all 4 of the above elements . Although it is difficult to gauge the number of piracy attacks that have been deterred, known results include: the disruption of piracy operations in their early stages, the release of a number of pirated vessels, the capture and destruction of mother ships, the confiscation of skiffs, weapons and equipment and the deaths of pirates who have fired on naval forces. Counter-piracy operations are limited by the terms of the mission that the ship is given (for instance they may be limited to going to the defense only of ships of their own flag). The absence of regional transfer arrangements and reluctance to repatriate to the warship's flag state mean that pirates must often be allowed to return to Somalia.

The most desirable format is the multilateral approach toward solving transnational crime and maintaining maritime order. While regional cooperation between navies and coast guards must take center stage in the emerging order, non-military maritime cooperation is equally important. Navies must reorient themselves from the existing mindset of 'preparing for war in order to ensure peace' to that of 'if you want peace and stability prepare to cooperate.' Any multinational agency designed to deal with the aforementioned maritime challenges will need to set priorities, multinational security organization will have to adapt to different capabilities and

perspectives on the pace of operations and the degree of force to be applied to a particular challenge.

National efforts that address the causes of piracy on land, such as conflict and disorder and the lack of security, have the best chance of combating piracy. In addition, multilateral efforts that emphasize cooperation and communication using air and sea patrols contribute by providing increased security, which deters pirates. In the horn of Africa, responses have failed to address underlying causal factors that enable piracy, such as conflict and disorder, legal and jurisdictional weakness, and lax and underfunded law enforcement. Despite the best efforts of maritime forces, acts of piracy continue to increase. What is encouraging is that the number of successful attacks by pirates has begun to decline overall. Piracy in the horn of Africa continues to be a significant problem for the international community because it disrupts trade and limits freedom of the seas. Pirates operating among fishermen routinely swarm the Gulf of Aden and have extended their attacks via mother ships into the Indian Ocean, Red Sea and the Arabian Peninsula, in search of vessels to hijack for ransom. The response has been predominantly international, and has utilized a sea-based approach that this research seeks to show that it is widely a temporary fix to a permanent problem.

The fact is that the solution to piracy will not come from maritime forces alone. The source of the problem lies in the lawlessness created by the failure of governance and security in Somalia. The poor economic, political and security situation that exists in the Horn of Africa provides little incentive for pirates to stop attacking ships. This, coupled with the lack of coastal security and the limited number of warships available to protect merchant ships, makes the risk-to-reward calculation favorable to pirates. In addition to Somalia, its neighbors, Kenya,

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Ethiopia, Djibouti and Yemen, all suffer from some form of economic and political instability, which makes efforts at combating piracy from a regional perspective all the more difficult.

Piracy needs to be tackled at its source: it requires a domestic solution. Indonesia had the greatest number of attacks in its waters and was responsible for the increase in rates of piracy between its neighbors. Malaysia and Singapore. The Asian financial crisis. which weakened the whole of Southeast Asia. was particularly devastating to Indonesia. It precipitated economic and political instability, which contributed to Indonesia's inability to control its territory. This led to increasing rates of poverty and corruption. which weakened security. This provided opportunities for villagers living along the coast to attack ships passing through the Malacca Strait and throughout the region. In addition, Indonesia and Malaysia were concerned that cooperative measures might compromise their claims to sovereignty. Both countries viewed issues. such as smuggling and terrorism greater than piracy. which led to a lack of cooperation and communication. Improved conditions in Indonesia allowed better cooperation and security with Indonesia's neighbors. which helped to reduce piracy. Somalia has been a failed state for almost two decades, which complicates any efforts to address the causes of piracy there. It is important to note that direct intervention in Somalia by extra-regional nations is unlikely to happen soon because there is no incentive to become involved. Lessons learned from previous humanitarian relief efforts in Somalia have made the United States and other nations reluctant to involve themselves in nation-building efforts, out of fear of becoming bogged down in a Somali civil war. This has limited the international response to a sea-based approach. The implications of lessons learned indicate that piracy can be reduced without shore-based measures, but only at great cost. Piracy is unlikely to be eliminated until substantial progress is made in restoring

governance and security on land. International measures that curb piracy should include stronger

efforts to improve governance within the region that piracy exists.

BIBLIOGRAPHY

A Cooperative Strategy for 21ˢᵗ Century Sea power. (October 2007).

ASEAN Survey Vol.XLVIII, No.3 (California: University of California Press. May/June
2008)

Australian Chamber of Commerce and Industry (ACCI) Review No.91. (September 2002).

Bradford J.F., "Shifting the Tides against Piracy in Southeast Asian Waters," in *Asian
Survey 48, No.3*. (May/June. 2008).

_____. *The Growing Prospects for Maritime Security Cooperation in Southeast
Asia, Naval War College Review Vol. 58, no .3* (Newport: 2005)

Campbell G., *The Indian Ocean Rim: Southern Africa and Regional Co-operation*,
(New York: Taylor & Francis 2003)

Carlsnaes W. et al. A *Handbook of International Relations*. (New Delhi: Sage Publications
ltd.. 2002).

Chalk P., *The Maritime Dimension of International Security: Terrorism, Piracy and
Challenges for the United States*. (RAND Project Air Force Strategy
and Doctrine Program, 2008).

Charter for the Indian Ocean Rim Association for Regional Cooperation

Contact Group on Piracy off the Coast of Somalia (CGPCS), *Best Management Practices
to Deter Piracy in the Gulf of Aden and off the Coast of Somalia, Version 2,* (August
2009)

D' Souza S.. "US-Pakistan Counter-Terrorism Cooperation: Dynamics and Challenges" in *Strategic Analysis, Vol 30, No.3,* (Institute for Defense studies and Analyses, Jul-Sep 2006).

Ghosh P.K.. *Maritime Security Challenges in South Asia and the Indian Ocean: Response Strategies,* (Honolulu: Centre for Strategic and International Studies, January 2004).

"International Developments – Adoption of the Charter of the Indian Ocean Rim Association for Regional Cooperation". in *Journal of African Law: Vol.42, No.2,* (School of Oriental and African Studies, 1998)

Kalegama S.. "Can Open Regionalism Work in the Indian Ocean Rim Association for Regional Cooperation?". in *ASEAN Economic Bulletin, Vol.15, NO.2,* (1998).

Khurana G. S.. "Maritime Security in the Indian Ocean: Convergence Plus Cooperation Equals Resonance" in *Strategic Analysis, Vol. 28, No. 3,* (July-September 2004)

Krasner S., *International Regimes,* (New York: Cornell University Press, 1983).

Lehr P., "The challenge of Security in the Indian Ocean in the 21st Century: Plus ça change" in *Working Paper No.13 of Heidelberg Papers in South Asian and Comparative Politics,* (Heidelberg: South Asia Institute, 2002).

Lehr P., *Violence at Sea: Piracy in the Age of Global Terrorism.* (New York: Taylor & Francis Group, 2007).

Mackie J.A., *Konfrontansi: the Indonesia-Malaysia Dispute 1963-1966,* (Kuala Lumpur: Oxford University Press, 1974).

Maluki P., Regionalism in the Indian Ocean: Order Cooperation and Community, Master Thesis, Jawaharlal Nehru University, 1996

Murphy M.N., *Contemporary Piracy and Maritime Terrorism: The Threat to International Security*, (New York: Routledge, 2007).

Naval War College Review Vol. 58, No.3 (Newport: 2005)

Phadke A., "Preventing Nuclear Arms Race between India and Pakistan: A Practical Proposal" in *Economic and Political Weekly*, Vol. 23, No. 34 (1988).

Pugh M., *Maritime Security and Peacekeeping: A Framework for UN Operations*, (Manchester: Manchester University Press, 1994).

Richardson M., *A Time bomb for Global Trade: Maritime Related Terrorism in an Age of Weapons of Mass Destruction*, (Singapore: ISEAS Publications, 2004).

Sakhuja V., "Sea Piracy in Southeast Asia," in P. Lehr (ed), *Violence at Sea: Piracy in the Age of Global Terrorism*, (New York: Routledge, 2007).

Sanjay C., "Common Security? Geopolitics, Development, South Asia and the Indian Ocean" in *Third World Quarterly*, Vol. 19, No. 4, *Rethinking Geographies: North: South Development* , (Taylor & Francis Ltd. 1998)

Storey I., "Calming the Waters in Maritime Southeast Asia," in *Asia Pacific Bulletin, no. 29*, (Washington DC: East West Centre: 2009).

Taylor H., "Idiom and Action in the Changing State-Society Relations of South East Asia in *Asian Affairs-London, Vol 33: No.1*, (2002).

Teich B, et al. *Building Partnerships: Co-operative Maritime Security Operations in the 21st Century Warfare*, Military Paper, Naval War College, 2008.

United Nations Convention on the Law of the Sea(UNCLOS)1982

United Nations Security Council Resolutions, (UNSCR) 1814
_____.1816
_____.1838

_____.1846
_____.1851

Vines A. and B. Oruitemeka. *India's Engagement with the African Indian Ocean Rim States.* (London: Chatham House. 2008).

Young A.. *Contemporary Maritime Piracy in South East Asia: History. Causes and Remedies.* (Singapore: ISEAS. 2003)

Young A. & M. Valencia. "Conflation of Piracy and Terrorism in Southeast Asia: Rectitude and Utility" (2003).

Internet

http://www.america.gov
www.aseanregionalforum.org
http://www.cnn.com
http://www.dff.gov.uk
http://english.aljazeera.net
http://www.fbri.org
http://geocieties.com
http://www.iccwbo.org
http://www.imo.org
http://maps.google.com
http://www.navy.mil
http://news.bbc.co.uk
http://www.rand.org
http://www.recaap.org
http://www.saarc-sec.org
http://www.safety4sea.com
http://www.skynews
http://siteresources.worldbank.org

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QUESTIONNAIRE

"International Cooperation in combating piracy and safeguarding maritime security: An analysis of the Indian Ocean Rim States."

(IOR-ARC) Indian Ocean Rim-Association for Regional Cooperation initially known as the Indian Ocean Rim initiative was established in 1997. The organization which exists to disseminate information on trade and investment regimes with a view to expand intra-regional, and act as bridge between Africa, Asia and Australasia. With 18 member states and 3 dialogue partners.

NAME OF THE ORGANISATION..

TITLE OF RESPONDENT...

PART A – General Questions

1. Experience in your field of expertise?

        a. 1-5 years

        b. 6-20 years

        c. 20-35 years

        d. More than 35 years

2. In your years of experience do you think piracy has increased or decreased?

Yes {.....}   No {.....}

3. Have you heard of the IOR-ARC?

Yes {...}   No {...}

4. If yes do you think the member states have done enough in combating piracy in Indian Ocean?

Yes {...}   No {...}

5. Please rate the effectiveness of each of the following measures with respect to treating the Piracy threat. Please consider each solution / treatment on a stand alone basis Not

Not Effective - 1, May be Effective -2, Effective -3, Very Effective – 4, Extremely Effective - 5

       a. Anti Piracy / Crisis Management Plan by the member states

       b. Set up of a "UN Coast Guard" to fight the pirates

       c. Assist Somalia in setting up Government initiatives to fight piracy

       d. Enhance the International legal framework to make punishment of pirates effective

       e. Naval forces to monitor and destroy Pirate Skiffs

       f. Invasion to Somalia to free Seafarers and fight pirates

6. On a scale of one (least) to five (most) how safe is the Indian Ocean waters in regard to the relationship of the Indian Ocean states?

7. Please rate your opinion on the future status of the situation in Somalia and the greater Indian Ocean on a scale of one (worst) to five (great)

PART B – LAWS FOR COMBATING PIRACY

1. Has the government of your country given consideration to the cooperation and safeguarding maritime security as part of IOR-ARC charter?

Yes {....}   No {....}

2. If so, has your country enacted or otherwise implemented all or any part of the Law regarding

    cooperation of the IOR-ARC in combating Piracy in Indian Ocean? If so, please supply the text

    of the relevant legislation or regulation in English.

Yes {....} please state

No {....}

3. If the answer to either (2) or (3) above is negative, what do you believe are the reasons for your

    government's lack of interest in or failure to cooperation in combating piracy via the IOR-ARC?

4. If negative, and the reason is that your country already had national legislation in place applicable

    to acts of piracy and/or maritime violence, how many cases have arisen and been dealt with in

    recent years under such legislation?

5. What campaigns and/or lobbying would your organization/country like to see the Maritime

    Security and Safety Group undertake to induce beneficial change in the business environment

    associated with maritime security and safety?

6. What focus would your country/organization like to see in events (conferences, presentations,

    workshops, etc.) organized by the Maritime Security and Safety Group to promote a greater

    understanding of the issues surrounding maritime security and safety and the domestic and export

    business opportunities that the topic provides?

PART C – Combating piracy

1. Do you think that the organization (IOR-ARC) have properly addressed the problem? What would be your suggested improvements?

2. In your opinion is the co-ordination offered by the Naval Forces in the area enough / adequate?

3. Should any improvements introduced? Do you see any problem escalation of any sort?

4. In your opinion what is the most CRITICAL solution that would solve the Piracy Problem in Somalia?

5. What is the timeframe required for such a solution to be affective enough? What is the most worrying trend with respect to Piracy Problem in Somalia and the greater Indian Ocean?

6. Your Open Feedback on the subject of the survey