

# ⚔ PIRACY OFF THE HORN OF AFRICA: WHY DOES IT STILL POSE A THREAT, ALBEIT DORMANT?

(AFRIKA BOYNUZU'NDA DENİZ HAYDUTLUĞU:  
UYKUDA DA OLSA NEDEN HALA BİR TEHDİT TEŞKİL EDİYOR?)

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## ABSTRACT

*Even though numerous states and international organizations launched counter-piracy operations to Somalia and its surrounding maritime areas over the past 15 years, piracy remains and is regarded as a dormant threat, rather than a relatively neutralised one. Despite the international military and financial support to suppress piracy and strengthen regional states' maritime capacity, why does Horn of Africa remain to be perceived as a treacherous zone? This article argues that the current legal counter-piracy regime spanning off the Horn of Africa set primarily by United Nations Security Council Resolutions is inexpedient due to its mandate being formulated for suppression rather than reduction of piracy off the Horn of Africa to healthy levels through constructive means. The article will analyse the reasons behind the regional instability and social-economic factors which nurture piracy, the instability's effect as a legitimizing factor for international interventions, and the effects of this international presence on Somalia by analysing the legal framework used for counter-piracy measures and ventures of international actors present in the region. After this inquiry, the article will reflect upon the outcome of these measures and whether they succeeded in their efforts.*

**Keywords:** *Maritime Piracy, United Nations Security Council, Counter-piracy Operations, Public International Law, Somalia, International Law of the Sea*

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<sup>H</sup> Eserin Dergimize geliş tarihi: 21.10.2024. İlk hakem raporu tarihi: 18.11.2024. İkinci hakem raporu tarihi: 19.11.2024. Üçüncü hakem raporu tarihi: 24.11.2024 Onaylanma Tarihi: 26.11.2024.

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**Esere Atf Şekli:** Ege Çiftçi, "Piracy Off The Horn Of Africa: Why Does It Still Pose A Threat, Albeit Dormant?", YÜHFD, C.XXII, 2025/1, s.177-214.

## ÖZ

*Son 15 yılda çok sayıda devlet ve uluslararası organizasyon Somali ve çevresindeki deniz sahalarına deniz haydutluğuyla mücadele operasyonları düzenlemiş olmasına rağmen, deniz haydutluğu nispeten nötralize edilmiş bir tehditten ziyade uykuda olan bir tehdit olarak görülmekte ve varlığını sürdürmekte. Deniz haydutluğunu bastırmak ve bölge devletlerinin denizcilik kapasitesini güçlendirmek için verilen uluslararası askeri ve mali desteğe karşın, Afrika Boynuzu neden hala tehlikeli bir bölge olarak ele alınmaya devam ediyor? Bu makale, Afrika Boynuzu'nu kapsayan, esasen Birleşmiş Milletler Güvenlik Konseyi Kararları tarafından belirlenen mevcut yasal deniz haydutluğuyla mücadele rejiminin, Afrika Boynuzu'ndaki deniz haydutluğunun yapıcı önlemlere sağlıklı seviyelere indirilmesinden ziyade bastırılması için formüle edilmiş yetkilendirmesi nedeniyle temelden elverişsiz olduğunu savunmaktadır. Makale, deniz haydutluğunu besleyen bölgesel istikrarsızlığın ve sosyal-ekonomik etkenlerin ardındaki nedenleri, deniz haydutluğunun dış müdahaleleri meşrulaştırıcı bir unsur olarak rolünü ve bu dış güçlerin varlığının Somali üzerindeki etkilerini deniz haydutluğuyla mücadelenin yasal çerçevesini ve bölgede bulunan uluslararası aktörlerin girişimlerini analiz ederek inceleyecektir. Bu incelemenin ardından, makale bu mücadele tedbirlerinin sonuçlarını ve başarıya ulaşip ulaşmadığını değerlendirecektir.*

**Anahtar Kelimeler:** *Deniz Haydutluğu, Birleşmiş Milletler Güvenlik Konseyi, Deniz Haydutluğuyla Mücadele Operasyonları, Uluslararası Kamu Hukuku, Somali, Uluslararası Deniz Hukuku*

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## I. INTRODUCTION

Since the infamous collapse of the Somali state in 1991 after the Civil War, the Horn of Africa has drawn significant international attention as a region worth saving from instability – especially after the post-9/11 security discourse<sup>1</sup> of the United States fluxed piracy and terrorism by exaggerating the risk of maritime terrorism at the Horn of Africa.<sup>2</sup> It was this war-torn and unstable environment that had seen the great surge of pirate attacks towards the shipping routes crossing near the Horn of Africa and the Somali coast. With its effects still being felt by the Somali state and society today,

<sup>1</sup> HS Canca, 'Defeating terrorism, piracy and armed robbery against ships in a collective maritime security system' (2014) 11(1) International Journal of Human Sciences 1286.

<sup>2</sup> C Singh and AS Bedi, 'War on Piracy: The conflation of Somali piracy with terrorism in discourse, tactic, and law' (2016) 47(5) Security Dialogue 441-446.

the rise of piracy marked an important turning point for the politics and the economy of the region as a whole. The anarchy and corruption that pervaded Somalia was troubling, from the international community’s point of view, because of the country’s closeness to the Gulf of Aden and the risk it held for vital shipping routes. Naturally, a wide array of international meetings and the United Nations (UN) backed missions were conducted, but most of them were less than interested in finding out the key motivations of local Somalis who had conducted piracy off the coast of Somalia. A clear example of this superficial outlook towards possible solutions that can be found to ease the tension in Somalia is the United Nations Security Council’s (UNSC) Resolution 733 in 1992 which put an arms embargo on Somalia in paragraph 5 “for the purposes of establishing peace and stability in Somalia.”<sup>3</sup> The success of this embargo is open for debate as it is only recently recalled by Resolution 2714 in December 2023.<sup>4</sup> Despite the embargo being in place for 31 years, the rise of Al-Shabaab terrorism and the peak of piracy in Somalia coincides with the arms embargo being fully imposed.

However, both the regional instability and international attention towards Somalia can be traced back before 9/11 and the Civil War in 1991. As a post-colonial state which was formed in 1960 when British and Italian Somaliland gained independence within a few days of one another, Somalia had drawn attention from both superpowers of the Cold War due to its proximity to the crucial trade routes passing through Gulf of Aden and connecting global markets with each other and to the Middle Eastern oil supply.

In 1969, General Mohammed Siyad Barre took power in a coup and began modernizing the country. Receiving patronage first from the Soviet Union until the Ogaden War in 1977 and the United States until his eventual downfall in 1991, Barre modernized the country through substantial reforms aimed towards building a common Somalian identity in a society organized

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<sup>3</sup> “*Decides*, under Chapter VII of the Charter of the United Nations, that all States shall, for the purposes of establishing peace and stability in Somalia, immediately implement a general and complete embargo on oil deliveries of weapons and military equipment to Somalia until the Council decides otherwise” United Nations Security Council (UNSC) Res 733 (23 January 1992) UN Doc S/RES/733, para 5.

<sup>4</sup> “*Recalls* paragraph 5 of resolution 733 (1992) which established a general and complete embargo on all deliveries of weapons and military equipment to Somalia as amended by subsequent resolutions...” United Nations Security Council (UNSC) Res 2714 (1 December 2023) UN Doc S/RES/2714, para 1.

around patrilineal segmentary lineage.<sup>5</sup> His regime, however, turned increasingly authoritarian in late 80s when the region lost its prominence for the Cold War rivals and lavish funding from both sides which kept the maintenance cost of local political magnates' loyalty to Barre's regime in check dried up, leading to an imminent bankruptcy and declining political support. Donors of the regime identified the problem excessive spending and inflationary monetary policies and demanded austerity measures.<sup>6</sup> But these reforms only deepened the corruption. The erosion in the value of public-sector salaries made it necessary for public servants to take bribes or second jobs in order to make a living, and therefore legitimized corruption throughout government.<sup>7</sup> In 1991, this self-consuming regime gave its final breath and Somali Civil War led to the fragmentation of the country and dissolution of central authority.

Without any nation-wide authority to check and regulate local economic transactions and international relations, Somali economy and societal order transformed into an intricate web of patronage lines, some with foreign networks, including newly-formed autonomous states and local clans which formed a new rentier military-political elite. In this new post-Civil War order, despite international attempts to form a Transitional National Government (TNG) in 2000, lives of ordinary Somalis were exposed to constant turbulence. It was this environment that had seen the great surge of pirate attacks towards the shipping routes crossing near Horn of Africa and Somali coast. With its effects still being felt by Somali state and society today, rise of piracy marked an important turning point for the politics and the economy of the region as a whole.

Bearing this historical background in mind, this article will seek to answer the question of why the international actors' counter-piracy regime based on the UNSC's mandates have struggled to deliver its anticipated level of success on their focal points, that are being the repression of piracy off the Horn of Africa and providing capacity for regional states to contain piracy levels in healthy rates. To put it plainly, the main question is whether the UNSC mandates were efficient to reach these desired outcomes or not? Has piracy ever been put into a "dormant" situation at the first place? In

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<sup>5</sup> A de Waal, *The real politics of the Horn of Africa: Money, war and the business of power* (John Wiley & Sons 2015).

<sup>6</sup> World Bank, 'Somalia: Policy Measures for Rehabilitation and Growth, Washington, DC: World Bank, Country Programs Department Eastern Africa Regional Office' (Report No. 4081a-SO May 1983)

<sup>7</sup> de Waal (n 6).

*YÜHFD Cilt: XXII Sayı:1 (2025)*

order to tackle these questions and review the methodology the UNSC had followed to counter piracy, this article will follow a holistic approach in order to provide a broad view of the topic and, while providing their core aspects with relevant parts being provided in footnotes, refrain from delving too deep into the content of individual resolutions and legal documents.

At its beginning, the article will touch upon the debate on the definition of piracy as an international legal norm in Chapter II and deliver some of the shortcomings in the definition as it was put in international legal documents. In Chapter III, the article will begin follow a linear timeline and provide a compatible analysis of events that were unfolded during the great surge in Somali piracy between 2005-2011 and the first wave of the UNSC Resolutions to counter the piracy threat, together with actions of other actors (NATO, the European Union, IMO etc.) involved in the counter-piracy regime these Resolutions have provided the backbone of. In this chapter, effects of the UNSC resolutions on the legal background of the counter-piracy regime and some of their controversial aspects will be shown. In Chapter IV, the article will keep its linear historical approach and analyse the second wave of the UNSC Resolutions that came on top of the relative success of the first wave that have managed to contain numbers of pirate attacks in between 2011-2022. This second wave was consisted of international actors' capacity-building missions which were aimed to increase the maritime, security and economic potential of regional states, especially that of Somalia, and were launched with their mandate provided by the UNSC Resolutions. In this chapter, the preliminary effects of these missions will be examined by taking the views of both international actors who launched these missions and the Somali state and its officials into account. It is also in this chapter that the article will link these two waves into a pattern. In Chapter V, the article will break the linear timeline in order to return to the debate revolving around the definition of piracy and inquire whether all these developments in Somalia made an impact on the field of international maritime law. To assess this, the article will analyse the International Law Commission's recent proposals on the definition and the impact of the UNSC-led counter-piracy operations on them. Finally, in this Chapter, the recent surge in successful pirate attacks as of December 2023 will be summarised and commented on in light of the supposed effects of counter-piracy regime that was constructed in between 2005-2022 and whether these attacks fit into the pattern proposed in the previous chapter.

The contribution this article aims to provide to the maritime legal literature is twofold; (i) presenting the issue of piracy off the Horn of Africa

through a reading based on the UNSC resolutions' mandates and actions of international actors formed around them, (ii) opening a discussion on the possibility of a patterning in the UNSC's actions against international maritime crimes, piracy in this article's scope, and its effects on the normative field.

## II. PIRACY: A COMMENTARY ON THE DEFINITION

Before examining the events that followed the great surge in Somali piracy between 2005-2011, it is necessary to take a step back and seek a definitive answer to the question of piracy and its legal nature.

Due to the absence of any supreme global authority with a legitimate power to sanction laws and juridical decisions the binding character of which can be imposed universally, international law has always suffered from a lack of unanimity among its subjects regarding definitions of certain phenomena such as terrorism and piracy. A codification spree has indeed swept the globe in 20<sup>th</sup> century, but the fragile nature of its achievements became quite clear from the beginning of the 21<sup>st</sup> century. A product of this codification spree was the United Nations Convention on the Law of the Sea (UNCLOS) which was signed in 1982 and came into force in 1994. Before continuing with the definition, UNCLOS defines a threefold piracy counter-measure guideline regarding piracy. First, Article 100 of UNCLOS provides that "all States shall co-operate to the fullest possible extent in the repression of piracy on the high seas or in any other place outside the jurisdiction of any State."<sup>8</sup> Second, under Article 105 of UNCLOS, warships of any flag are accorded the right to seize a pirate ship or a vessel under the control of pirates on the high seas.<sup>9</sup> The State that seizes a vessel for such purpose may then decide on the penalties to be imposed. Third, under Article 110, warships of any flag are also entitled to board a ship on the high seas if there are reasonable grounds to suspect that, inter alia, it is engaged in an act of piracy.<sup>10</sup> As for the definition, Article 101 of

<sup>8</sup> United Nations Convention on the Law of the Sea (10 December 1982), UNTS 1833 (p.3), 1834 (p.3), 1835 (p.3), entered into force 16 November 1994, Art 100.

<sup>9</sup> "On the high seas, or in any other place outside the jurisdiction of any State, every State may seize a pirate ship or aircraft, or a ship or aircraft taken by piracy and under the control of pirates, and arrest the persons and seize the property on board." United Nations Convention on the Law of the Sea, Art 105.

<sup>10</sup> T Davenport, 'Legal measures to combat piracy and armed robbery in the horn of Africa and in Southeast Asia: a comparison' (2012) 35(7-8) *Studies in Conflict & Terrorism* 570, 572.

UNCLOS assumes three features for an act to be regarded as piracy: (i) committed for private ends, (ii) takes place on the high seas and (iii) done by one ship on another ship.<sup>11</sup> Then, according to the definition given by UNCLOS, piracy can be committed, or will be regarded as committed, on high seas<sup>12</sup>; acts that fulfil the features *sauf* high seas are described as “armed robbery against ships.” All three of these features have been and still being criticized.

The use of the word “private end” has led some scholars to argue that *animus furandi* (intention to steal) is the definitive criteria for the act of piracy.<sup>13</sup> Defenders of this argument claim that if there is *animus furandi*, then the motive is to gain financial benefits and reaping them for selfish motives. If it is indeed the case, as a further deliberation that should be held by the courts, then “the consideration of *mens rea* (criminal intention) would help determine if the act was politically motivated or not.”<sup>14</sup> Albeit reasonable on paper, this clearcut distinction between political and private ends may and does become untenable in practice as multiple organisations profit from piratical acts they employ to reach their political ends while, similarly, pirates may find themselves political grounds to legitimize their actions which are originally held for financial/economic reasons.<sup>15</sup>

The debate revolving around the word “high seas” is even more complicated than the first and third feature of the definition. According to the international maritime law, maritime zones are divided into different zones that have distinct legal regimes ascribed to them, such as; internal waters, the 12-nautical-mile territorial sea, the contiguous zone extending 24 nautical miles from the baselines, the 200-nautical-mile exclusive economic zone, the continental shelf which extends to at least 200 miles but does not exceed 350 nautical miles from the baselines, or the high seas. It is worth noting, both the contiguous zone and the exclusive economic zone are considered as high seas for piracy by virtue of Article 33 and Article 58 UNCLOS.<sup>16</sup> Despite this stretch of jurisdiction to combat piracy, it is widely

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<sup>11</sup> United Nations Convention on the Law of the Sea, Art 101.

<sup>12</sup> United Nations General Assembly (UNGA) International Law Commission, First report on prevention and repression of piracy and armed robbery at sea (22 March 2023) UN Doc A/CN.4/758 15

<sup>13</sup> E Kontorovich ‘The Piracy Analogy: Modern Universal Jurisdiction’s Hollow Foundation’ (2004) 45 *Harv. Int’l LJ* 183, 183-188.

<sup>14</sup> *ibid*, 216.

<sup>15</sup> A/CN.4/758 (n 13) 18.

<sup>16</sup> M Ahmad, ‘Maritime piracy operations: Some legal issues’ (2020) 4(3) *Journal of International Maritime Safety, Environmental Affairs, and Shipping* 1, 2.

debated that a geographical limitation being put on a crime that by nature knows no maritime boundaries lays a restrictive regime for counter-piracy actors who, in case of an engagement with a suspected pirate vessel, may detect and pursue the vessel on high seas and disengage with it once it enters territorial waters due to the prohibition installed by the definition.<sup>17</sup> In fact, this hypothetical instance was often a reality in the acts of piracy and counter-piracy taking place within the territorial seas of Somalia prior to the UNSC regime which will be extensively inquired at the following pages.

The third element of UNCLOS definition requires two ships to be involved in any act of piracy. However, the term “ship” is not defined in UNCLOS and what is more, in some cases of piratical acts, the assault does not take place “against another ship or aircraft, or against persons or property on board such ship or aircraft.”<sup>18</sup> In the Achille Lauro case (1985), the members of the Palestine Liberation Front (PLF) boarded the vessel as passengers and hijacked it off the coast of Egypt while sailing between Alexandria and Ashdod.<sup>19</sup> As it can be seen, there was no second ship or aircraft that assaulted another ship, thus disqualifying this act to be regarded as piracy under Article 101 of UNCLOS.

This particular case had sparked a clamour for reform in the definition of piracy as it revealed the inaptness of the UNCLOS definition in several aspects. Thus, the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (SUA Convention) was drafted and came into being in 1988.<sup>20</sup> Article 3 of the SUA Convention expands the definition of piracy with a seven-point list of offences being regarded as piratical actions.<sup>21</sup> As it was tacitly accepted in UNCLOS, the SUA Convention openly draws the geographical limits of piratical actions “beyond the outer limit of the territorial sea of a single State, or the lateral limits of its territorial sea with adjacent States.”<sup>22</sup> The member states to the SUA Convention are under an obligation as per Article 5, to make the crimes falling under the scope of the Convention “punishable by appropriate

<sup>17</sup> A/CN.4/758 (n 13) 17.

<sup>18</sup> United Nations Convention on the Law of the Sea, Art 101.

<sup>19</sup> Klinghoffer v. S.N.C. Achille Lauro, 937 F.2d 44

<sup>20</sup> Convention for the suppression of unlawful acts against the safety of maritime navigation (10 March 1988), 1678 UNTS 201, (entered into force 1 March 1992)

<sup>21</sup> Convention for the suppression of unlawful acts against the safety of maritime navigation, Art 3.

<sup>22</sup> Convention for the suppression of unlawful acts against the safety of maritime navigation, Art 4.



penalties which take into account the grave nature of those offences”.<sup>23</sup> Another major difference between SUA Convention and UNCLOS is that the former specifies which state would have jurisdiction over the perpetrator as compared to universal jurisdiction under UNCLOS. Despite its wider scope and more detailed nature, the countries most affected by piracy, such as Indonesia, Malaysia and Somalia have not ratified the SUA Convention due to the threat it poses to the sovereignty of its signatories; especially those with disputed maritime boundaries.<sup>24</sup> Consequently, SUA Convention remained as a wishful attempt to reform the UNCLOS regime of piracy, despite all the efforts put on by maritime powers which exercise most of the counter-piracy operations, such as the United States. Although it is currently in force, SUA Convention exerts little to no effect on the jurisdiction of piracy.

As seen from the aforementioned legal documents, the very definition of piracy – a crime known for being the historical basis of customary international law concerning universal jurisdiction – presents a daunting task for convening parties to overcome; and perhaps this hardship may be linked to the historical baggage that piracy as a crime under international law carries, that is being linked to universal jurisdiction in a global legal order meant clearly to stress the sovereignty of states.

### **III. PIRACY AS A LEGITIMIZING FACTOR FOR INTERNATIONAL MILITARY PRESENCE**

#### **A. Development Of Counter-Piracy Sentiments Amongst International Community**

Even before piracy off the Horn of Africa began to hit levels that had a negative impact on global trade in 2008, pirate attacks in the region were attracting the attention of multiple actors, including maritime insurance companies and international shipping conglomerates. Especially after 9/11, a significant increase in publications which portrayed piracy as an existential threat towards the global order – just like terrorism – had already

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<sup>23</sup> Convention for the suppression of unlawful acts against the safety of maritime navigation, Art 5.

<sup>24</sup> AJ Young and MJ Valencia, ‘Conflation of piracy and terrorism in Southeast Asia: Rectitude and utility’ (2003) 25(2) Contemporary Southeast Asia: A Journal of International and Strategic Affairs 269, 273.

occurred.<sup>25</sup> Eventually, these publications had set up a substructure to the debates revolving around the necessity of an action taken by the international community following the surge in successful attacks in 2005. The crew members of ships that suffered pirate attacks released reports and statements describing the dangerous situation they had faced. There was also a drastic surge in internal violence in Somalia following the rise of the Islamic Courts Union (ICU) that had led millions of Somalis turning dependent on food aid shipments by the World Food Programme. All these factors contributed to the “facilitating conditions,” as it is referred by Buzan, Wæver and Wilde,<sup>26</sup> for an intervention by the international community.

In March 2006, Lloyd’s of London – the world’s largest maritime insurer – issued a statement that pirate attacks and terrorist attacks would be covered by a single scheme because of the “difficulty in distinguishing” between the two.<sup>27</sup> The White House followed suit with the Policy for the Repression of Piracy and Other Criminal Acts of Violence at Sea in 2007, which interpreted piracy as a terrorist threat. This document outlined a single policy to address both piracy “for private ends’ and ‘criminal and terrorist activities not defined as piracy.”<sup>28</sup> By 2008, kidnap and ransom insurance had multiplied tenfold, cargo insurance premiums in war risk areas had risen between 25 and 100 US dollars per container, and hull insurance had doubled.<sup>29</sup> The global economic crisis of 2008 brought only more suffering to the shipping industry as shipping rates collapsed and costs of fuel doubled due to shipping companies avoiding pirate-infested waters of the Gulf of Aden.

At the regional level in 2008, the US endorsed an Ethiopian military intervention with an aim to defeat the ICU and cause its downfall, which eventually led to the division of the ICU into two wings: “a moderate Alliance for the Re-liberation of Somalia which was later incorporated into

<sup>25</sup> AG Alexandre, ‘An analysis of the issue of piracy in the Horn of Africa through the lens of the Securitization Theory of the Copenhagen School’ (2022) 13(2) *Janus.net e-journal of international relations* <<https://doi.org/10.26619/1647-7251.13.2.2>> 43-44.

<sup>26</sup> B Buzan, O Wæver, and J De Wilde, *Security: A new framework for analysis* (Lynne Rienner Publishers 1998) 23-24.

<sup>27</sup> ‘New Lloyd’s policy wording covers terrorist ‘piracy’ (Insurance Journal, 2006) <<https://www.insurancejournal.com/news/international/2006/03/20/66594.htm>>.

<sup>28</sup> Singh and Bedi (n 2) 446.

<sup>29</sup> A Bowden, ‘The economic cost of maritime piracy: One Earth Future working paper’ (2011) *Oceans Beyond Piracy*, One Earth Future Foundation <<https://oneearthfuture.org/en/one-earth-future/publication/economic-cost-maritime-piracy-2010>>.

Somalia’s transitional government in the 2008 peace agreements; and a radical wing, al-Shabaab.”<sup>30</sup> This military intervention and the downfall of the ICU which had formed a relatively stable administration in Mogadishu that had cracked down on piracy<sup>31</sup> led to a sudden surge in successful attacks once again, from only one successful hijack in the last six months of 2006 under ICU rule. Collectively, this accumulation of tension and pressure resulted in a series of Resolutions passed by the UNSC in 2008 and the initiation of military operations by multiple actors.

## **B. Formation Of Legal Counter-Piracy Regime Through UNSC Resolutions**

The very first justification of an international intervention and the basis of all legal documents authorizing operations against piracy off the Horn of Africa came with Resolution 1816 of the UNSC on 2 June 2008. In this document, the UNSC reaffirmed “the relevant provisions of international law with respect to the repression of piracy, including the Convention (United Nations Convention on Law of the Sea),”<sup>32</sup> thus, it formed the legal basis of “War Against Piracy” mainly from the provisions of UNCLOS and tacitly from the SUA Convention. Despite the international legal basis being formed by this preambulatory paragraph, it did not include any source of legitimacy for an intervention taking place in maritime zones of a sovereign state, being Somalia, without its consent. This problem was foreseen by Resolution 1816 and was addressed by touching upon the lack of capacity Transitional Federal Government (TFG) had in containing and combating piracy in its territory and stressing that the TFG needs and would welcome international assistance to address the problem.<sup>33</sup>

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<sup>30</sup> G Ziebell de Oliveira and N Cesar Fernandes Cardoso, ‘Securitisation in Africa in the 21st century: Analysis of the situations in the Gulf of Guinea and the Horn of Africa’ (2021) 27(4) South African Journal of International Affairs 542.

<sup>31</sup> K Hamilton, ‘The piracy and terrorism nexus: Real or imagined?’ (Proceedings of the 1st Australian Counter Terrorism Conference, Edith Cowan University, Perth, 30 November 2010). <<https://ro.ecu.edu.au/cgi/viewcontent.cgi?article=1002&context=act>>.

<sup>32</sup> “Reaffirming the relevant provisions of international law with respect to the repression of piracy, including the Convention, and recalling that they provide guiding principles for cooperation to the fullest possible extent in the repression of piracy on the high seas or in any other place outside the jurisdiction of any state...” United Nations Security Council (UNSC) Res 1816 (2 June 2008) UN Doc S/RES/1816

<sup>33</sup> “Taking into account the crisis situation in Somalia, and the lack of capacity of the Transitional Federal Government (TFG) to interdict pirates or patrol and secure either the international sea lanes off the coast of Somalia or Somalia’s territorial waters” *ibid* 1-2.

These two preambulatory paragraphs (see footnotes n 33 and n 34) virtually forestalled any international legal problem regarding the jurisdiction of Somalia being ignored by the UNSC, opening room for operative clauses taking authorization from Chapter VII of the Charter of the United Nations<sup>34</sup> being put into action. Resolution 1816 encouraged the states “interested in the use of commercial maritime routes off the coast of Somalia” to increase their efforts not only to combat piracy out of a sheer understanding of international responsibility, but also to protect their national interests by acting as such. In that manner, Resolution 1816 seems to have grasped the need to incentivise member states and not only through a reminder to fulfil their responsibility towards the international community.<sup>35</sup> Resolution 1816 set a time period of six months for member states to “enter the territorial waters of Somalia for the purpose of repressing acts of piracy and armed robbery at sea” and use “all necessary means to repress acts of piracy and armed robbery.”<sup>36</sup> The attitude of the UNSC towards piracy off the Horn of Africa was truly unprecedented, especially when considering the ineptness it had shown to garner enough support for impactful action towards other international crimes and conflicts across the globe since its foundation. The Resolution 1816 explicitly blocked any of these provisions turning into a precedent and used for further operations without the UNSC’s consent by virtue of paragraph 9, which states that “it shall not be considered as establishing customary international law.”<sup>37</sup>

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<sup>34</sup> “Article 41: The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations

Article 42: Should the Security Council consider that measures provided for in Article 41 would be inadequate or have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations” United Nations, *Charter of the United Nations* (1945).

<sup>35</sup> JG Dalton, JA Roach, and J Daley, ‘United Nations Security Council: Piracy and Armed Robbery at Sea - Resolutions 1816, 1846 & 1851,’ (2009) 48(1) *International Legal Materials* 130.

<sup>36</sup> S/RES/1816 (n11), para 7(b).

<sup>37</sup> “Affirms that the authorization provided in this resolution applies only with respect to the situation in Somalia and shall not affect the rights or obligations or responsibilities of member states under international law, including any rights or obligations under the *YÜHFD Cilt: XXII Sayı:1* (2025)

Despite the initial failure of its call to attract a well-organized response from international actors, Resolution 1816 set the stage for all actions against piracy. It has formed a carefully constructed edifice that would put on singular UNSC Resolutions at the heart of any international operation sanctioned by the UN, without providing any state a chance to consider its Resolutions as customary international law. The UNSC’s true impact, however, would be felt by Resolutions 1846 and 1851; but right before them, another resolution was passed which added further pressure towards the international community. Resolution 1838 of the UNSC noted that; “recent humanitarian reports estimate that as many as three-and-a-half million Somalis will be dependent on humanitarian food aid by the end of the year, and that maritime contractors for the WFP will not deliver food aid to Somalia without naval warship.”<sup>38</sup>

This preambulatory paragraph reemphasized the humanitarian catastrophe caused by piracy and showed that piracy was not only harmful to international trade and security, but also it had hurt the very people it originated from: ordinary Somali citizens. It also, albeit quite tacitly, implied that a sword of Damocles hung over Somalia unless decisive action was taken. Thus, a means to cover further missions with a humanitarian cause was granted. Resolutions 1816 and 1838 fulfilled their mission as of late 2008 when their call received well-organized responses from multiple actors, including the EU, the US-led NATO, the African Union, China and even some unexpected actors such as Japan and South Korea.<sup>39</sup> A clear example is NATO’s response with the initiation of Operation Allied Provider “in full respect of relevant UNSC resolutions.”<sup>40</sup> It is mentioned that the NATO naval forces “are escorting World Food Programme-chartered vessels carrying humanitarian aid to Somalia.”<sup>41</sup> The final communique also states that it encourages other upcoming operations such as the European Union’s ATALANTA operation which had been equipped by the Council of the European Union with a mandate to take all necessary

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Convention, with respect to any other situation, and underscores in particular that it shall not be considered as establishing customary international law...” *ibid*, para 9.

<sup>38</sup> United Nations Security Council (UNSC) Res 1838 (7 October 2008) UN Doc S/RES/1838 1.

<sup>39</sup> V Teo, *Japan’s arduous rejuvenation as a global power: Democratic resilience and the US-China challenge* (Springer Nature 2019), 242.

<sup>40</sup> North Atlantic Treaty Organization (NATO) Final Communique of Meeting of the North Atlantic Council at the level of Foreign Ministers held at NATO Headquarters (2008).

<sup>41</sup> *ibid*.

measures, “including the use of force, to deter, prevent and intervene in order to bring to an end acts of piracy and armed robbery which may be committed in the areas where it is present.”<sup>42</sup>

Within a short period of time, based on the grounds laid down by the UNSC Resolutions, both NATO and EU amassed forces to provide a deterrent presence and intervene off the Horn of Africa. Despite its claim that it shall not form a customary international legal norm, Resolution 1816 had led, perhaps not to a normative, but to a practical precedent for all military operations that would follow.<sup>43</sup>

Although Resolutions 1816 and 1838 provided a groundwork for EU and NATO operations against piracy, their mandate had certain limits, including a short time span (six months) and restricted space for operations (territorial waters of Somalia); and, a limited context for legitimate international presence (repressing acts of piracy off the coast of Somalia and protecting WFP convoys). These limits alienated international actors to dedicate more resources since their expenditure for an operation would be fruitless due these limits. These problems were solved with the UNSC Resolutions 1846 and 1851.

Operative paragraphs of 1846 start with a condemnation of piracy, but it is immediately followed by a specific finding of the Monitoring Group on Somalia that “escalating ransom payments are fuelling the growth of piracy off the coast of Somalia.”<sup>44</sup> This acknowledgment will be revisited when the mandate of Resolution 1851 is discussed. Paragraph 6 celebrates and justifies NATO and EU operations, and paragraph 10 decides upon the renewal of the mandate laid down by Paragraph 7 of Resolution 1816 with exact language.<sup>45</sup>

<sup>42</sup> The Council of the European Union. (2008) Council Decision 2008/918/CFSP.

<sup>43</sup> K Neri, ‘Security Council’s Contribution to the Evolution of the Law of the Sea: Avant Garde or Self-Limitation?’ in: MC Ribeiro, Fernando L Bastos and T Henriksen (eds), *Global Challenges and the Law of the Sea* (Springer Nature 2020), 188.

<sup>44</sup> Letter dated 10 December 2008 from the Chairman of the Security Council Committee established pursuant to resolution 751 (1992) concerning Somalia addressed to the President of the Security Council UN Doc S/2008/769, 55

<sup>45</sup> “Decides that for a period of 12 months from the date of this resolution States and regional organizations cooperating with the TFG in the fight against piracy and armed robbery at sea off the coast of Somalia, for which advance notification has been provided by the TFG to the Secretary-General, may: (a) Enter into the territorial waters of Somalia for the purpose of repressing acts of piracy and armed robbery at sea, in a manner consistent with such action permitted on the high seas with respect to piracy under relevant international law; and (b) Use, within the territorial waters of Somalia, in a manner  
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Finally, on 16 December 2008, Resolution 1851 was passed by the UNSC, completing the framework by which international actors would conduct operations against piracy and remain in the region, for longer. Without elaborating further, Resolution 1851 points out the impotency of the TFG by “again taking into account the crisis situation in Somalia, and the lack of capacity of the TFG.”<sup>46</sup> What Resolution 1851 elaborated on was a problem that had a close link with the finding of the Monitoring Group on Somalia pointed out in Resolution 1846: Escalating ransom payments fuelling the growth of piracy. Notwithstanding the fact that any explicit reference to the effects of ransom payments being present in the Resolution, it touches upon this lawless order of things and that very report in which the finances of piracy and armed groups in Somalia was examined. Resolution 1851 highlights the lack of capacity and insufficiency of domestic legislation and tying the domestic lack of capacity of Somalia to the hindrance of “more robust international action against the pirates off the coast of Somalia and in some cases led to pirates being released without facing justice.”<sup>47</sup>

As a side effect of the lack of capacity for the interdiction and/or prosecution of pirates, “international shipping through its membership of bodies... responded to the piracy menace by designating high-risk areas within the Gulf of Aden and the Indian Ocean. Consequently, the areas designated as high-risk areas have been avoided, whenever possible, by ships en-route to seaports on these waters”,<sup>48</sup> fuelling the cost of piracy that had already cost them between 13 to 15 billion US dollars per year while skyrocketing insurance premiums from a single transit through Gulf of

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consistent with such action permitted on the high seas with respect to piracy under relevant international law, all necessary means to repress acts of piracy and armed robbery at sea,” United Nations Security Council (UNSC) Res 1846 (2 December 2008) UN Doc S/RES/1846, para 10.

<sup>46</sup> “*Again taking into account* the crisis situation in Somalia, and the lack of capacity of the Transitional Federal Government (TFG) to interdict, or upon interdiction to prosecute pirates or to patrol and secure the waters off the coast of Somalia, including the international sea lanes and Somalia’s territorial waters,” United Nations Security Council (UNSC) Res 1851 (16 December 2008) UN Doc S/RES/1851.

<sup>47</sup> “*Noting with concern* that the lack of capacity, domestic legislation, and clarity about how to dispose of pirates after their capture, has hindered more robust international action against the pirates off the coast of Somalia and in some cases led to pirates being released without facing justice,” *ibid.*

<sup>48</sup> International Maritime Organization (IMO) Comments and analysis on the review of the High-Risk Area for piracy in the Indian Ocean (9 February 2021) UN Doc MSC 103/10/2, 2.

Aden from 500 to a staggering 20.000 US dollars.<sup>49</sup> Since TFG had virtually no control over its coastlines, pirates who sought refuge in coastal areas after an attack would be out of the UNSC mandates' reach, due to their geographical limits and the nominal sovereignty of TFG; hence, the background for Resolution 1851's true breakthrough was set. In its operative paragraph 6, after protracting the mandate of Resolution 1846 for 12 months, Resolution 1851 gave its blessing to the member states to "undertake all necessary measures that are appropriate in Somalia, for the purpose of suppressing acts of piracy and armed robbery at sea, pursuant to the request of the TFG."<sup>50</sup>

It was with the usage of expression "in Somalia" that the mandate of military operations and all other actions for the purpose of suppressing acts of piracy was expanded to the mainland Somalia, in contrast with the previous resolutions that allowed actions to be taken only in the territorial waters of Somalia. From this point afterwards, land territory of Somalia had been opened to international intervention, albeit for suppressing and tackling pirates. One aspect of this expansive mandate is that it defies the traditional international humanitarian law principle that civilians may not be targeted with force on land, except in cases of self-defence; and since pirates are considered as civilians no matter their threatening activities, it causes a legal conflict that should be noted.<sup>51</sup> This principle of international humanitarian law could – and would – be by-passed through an interpretation of piracy as a form of terrorism as it was perceived by multiple international actors<sup>52</sup> and the usage of counter-terrorism methods to

<sup>49</sup> J Kraska and B Wilson, 'Fighting Pirates: The Pen and the Sword' (2008) 25(4) *World Policy Journal* 41, 43

<sup>50</sup> "In response to the letter from the TFG of 9 December 2008, encourages Member States to continue to cooperate with the TFG in the fight against piracy and armed robbery at sea, notes the primary role of the TFG in rooting out piracy and armed robbery at sea, and decides that for a period of twelve months from the date of adoption of resolution 1846, States and regional organizations cooperating in the fight against piracy and armed robbery at sea off the coast of Somalia for which advance notification has been provided by the TFG to the Secretary-General may undertake all necessary measures that are appropriate in Somalia, for the purpose of suppressing acts of piracy and armed robbery at sea, pursuant to the request of the TFG, provided, however, that any measures undertaken pursuant to the authority of this paragraph shall be undertaken consistent with applicable international humanitarian and human rights law;" S/RES/1851 (n 24), para 6.

<sup>51</sup> M Sterio, *Prosecuting Juvenile Piracy Suspects: The International Legal Framework* (Routledge 2017) 21-22.

<sup>52</sup> The Council of the European Union (CoEU) European Union Maritime Security Strategy (24 June 2014) EU Doc 11205/14 9.



suppress piracy on Somali mainland; thus, stripping Somali pirates from the protection of civilian status.

As binding as it was under the scope of the UN Charter and its authority, the UNSC Resolutions still carried the risk of being perceived as tools of great powers to enforce their will upon Somalia and its surroundings. To cope with this perception and co-operate actions taken against piracy, The Contact Group on Piracy off the Coast of Somalia (CGPCS) was created on 14 January 2009 pursuant to the UNSC Resolution 1851 as a ‘voluntary, ad hoc international forum’ that “brings together countries, organizations, and industry groups with an interest in combating piracy.”<sup>53</sup> This forum was formed outside the UN umbrella with the purpose of ensuring flexibility and enabling a non-restrictive membership criterion; and it indeed encompassed a variety of members including States that have spearheaded the initiative such as the US, UK and France, together with international organisations such as UN, IMO, EU and NATO. Over time, CGPCS included more than 80 countries and 20 international organisations, multinational companies, NGOs and other international actors that contribute to the goal of countering Somali piracy.<sup>54</sup>

Even though the TFG’s consent and request was the primary incentive that seemed to drive the UNSC to sanction these interventions; a wider array of self-declared consent from not only Somalia, but also from regional states that shared the coast of Western Indian Ocean, and the Gulf of Aden would further stress the gravity of piracy as a common bane upon all regional actors. This type of a document came into being shortly after Resolution 1851’s publication, an important document from the angle of international law that was signed and published by the regional actors under the mandate of International Maritime Organization (IMO) on 29 January 2009: Djibouti Code of Conduct.<sup>55</sup> Among other areas of cooperation promised in the document, such as “the investigation, arrest and prosecution of persons, who are reasonably suspected of having committed acts of piracy and armed

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<sup>53</sup> Bureau of Political-Military Affairs, ‘Contact Group on Piracy off the Coast of Somalia’ (U.S. Department of State 2009) <[<sup>54</sup> H Swartouw and DL.Hopkins, ‘The Contact Group On Piracy Off The Coast Of Somalia: Genesis, Rationale And Objectives’. in T Tardy \(ed.\), \*Fighting piracy off the coast of Somalia: Lessons learned from the Contact Group\* \(European Union Institute for Security Studies \(EUISS\) 2014\), 13.](https://2009-2017.state.gov/t/pm/rls/fs/2016/255175.htm#:~:text=The%20Contact%20Group%20on%20Piracy,an%20interest%20in%20combating%20piracy>.”</a></p></div><div data-bbox=)

<sup>55</sup> International Maritime Organization (IMO) (3 April 2009) UN Doc C 102/14.

robbery against ships, including those inciting or intentionally facilitating such acts,”<sup>56</sup> the Code also decided to support “the conduct of shared operations - both among signatory States and with navies from countries outside the region - such as nominating law enforcement or other authorized officials to embark on patrol ships or aircraft of another signatory.”<sup>57</sup> Although the Code itself couldn’t achieved its goals and aspirations due to its non-binding nature, it functioned as a legitimizing document by reaffirming the UNSC Resolutions and<sup>58</sup> therefore accepting their mandate.

After this “authorization spree” of late 2008 and early 2009, complementary UNSC Resolutions such as 1918 (2010), 1950 (2010), 1976 (2011), 2015 (2011) and 2020 (2011) together with Resolutions of IMO such as 1044 (2011) which urged governments for “additional naval vessels, maritime patrol and reconnaissance aircraft and other surveillance assets, operating bases and logistic support,”<sup>59</sup> sealed the legal framework for actions against piracy. As a result of intensive actions taken to tackle piracy, “in Somalia and the Gulf of Aden, just 75 ships reported attacks in 2012 compared with 237 in 2011, accounting for 25% of incidents worldwide. The number of Somali hijackings was halved from 28 in 2011 to 14 last year.”<sup>60</sup> A total of 358 incidents recorded between 2010 and 2015; a notable result about which the Secretary General of IMO states that:

“The reduction in numbers of attacks can be attributed to efforts both ashore in Somalia and through disruption to the pirates' business model. The reduction in the proportion of attacks being successful was achieved through a combination of actions by naval forces to disrupt pirate operations...”<sup>61</sup>

Piracy off the Horn of Africa fell dramatically to 8 incidents reported between 2016 and 2022, thenceforth regarded as dormant. One can observe that these material elements appear to be following a certain pattern that can be identified with a further inquiry on whether it repeats itself after the conclusion of the military operations phase. The idea of the possibility of a pattern will be revisited at the next chapter.

<sup>56</sup> *ibid* 8-9.

<sup>57</sup> *ibid* 3.

<sup>58</sup> *ibid* 6.

<sup>59</sup> International Maritime Organization (IMO) Res A.1044(27) (30 November 2011) UN Doc A 27/Res.1044

<sup>60</sup> ICC Commercial Crime Services <<https://www.icc-ccs.org/index.php/836-piracy-falls-in-2012-but-seas-off-east-and-west-africa-remain-dangerous-says-imb>>.

<sup>61</sup> International Maritime Organization (IMO) Note by the Secretary-General (15 May 2013) UN Doc C 110/13.

Notwithstanding this status, as of 2019, there were 16 military bases of various sizes that belonged to multiple international actors located around the Gulf of Aden; as well as a total of 21 naval missions, 5 of which being led by international organizations or US-led coalitions;<sup>62</sup> and as of 2023, there are at least 11 military bases being operational at the Horn of Africa. Then the question once again arises: Why, after 15 years of active combat against piracy, does this significant military presence remain in and around Somalia? In order to reach a complete answer, as the article has already pointed out the root causes of piracy and the road it paved for legitimate international intervention, it will now touch upon the operational performance of these international missions and their perception by Somali officials and civilians.

#### **IV. EFFECTS OF INTERNATIONAL INTERVENTION ON SOMALI STATE AND SOCIETY**

##### **A. Capacity-Building Missions: An Inquiry**

In order to complete the framework of the article; in this chapter, the article will examine the effects of international intervention on Somali society and statehood especially through international capacity building missions conducted in Somalia after military operations had managed to suppress piracy in the region. As of late 2011 and early 2012, international military operations to suppress piracy had reached a significant success in fulfilling their – UNSC sanctioned – mandates, and thereby self-annihilating their *raison d’être*. Initial political, economic and symbolic (especially in the area of public relations) gains of states and international shipping companies from these operations were put on risk by an imminent termination of legitimate reason to remain in Somalia in view of the fact that above mentioned missions’ scopes were focused primarily on suppressing piracy that was ravaging the sea routes – a problem that was now quashed and more or less put under control. As to seal and solidify these gains, more time and space were needed; especially taking into consideration the condition of Somali Federal Government not being fit to maintain the status quo delivered by these missions. Hence, the second wave of international missions sought to lean onto the “structural” problems of Somalia, a theme that was also echoed in the UNSC Resolution 1976 by “stressing the need to

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<sup>62</sup> N Melvin, ‘The Foreign Military Presence In The Horn Of Africa Region’ (2009) Stockholm International Peace Research Institute  
<<http://www.jstor.org/stable/resrep20075>>, 28-31.

build Somalia's potential for sustainable economic growth as a means to tackle the underlying causes of piracy, including poverty, thus contributing to a durable eradication of piracy and armed robbery at sea off the coast of Somalia and illegal activities connected therewith."<sup>63</sup>

In its operative paragraphs, a signal fire was sparked by the UNSC as a means to legitimize forthcoming missions, a very similar pattern that had been used in military operations was unfolded by explicitly requesting the support of member states to ensure sustainable economic growth in Somalia "in particular in priority areas recommended by the Istanbul conference on piracy in Somalia,"<sup>64</sup> which were recommended by both first and second Istanbul conferences were Political, Security and Justice, Local Stability, and Economic Recovery. These areas were to be improved sustainably by states, international organizations, donors, civil society and private sector. It is worth noting that in the second conference held in May 2012 the final declaration stressed "the importance of creating the right investment climate"<sup>65</sup> but did not elaborate on what "the right investment climate" means; however, it stresses – albeit discreetly – further intervention on Somali state and society to provide this climate is a must for international community as it also emphasizes that:

"insecurity in Somalia, including ... misappropriation of funds, piracy, kidnapping, terrorism and human rights abuses and violations, is exacerbated by the crisis emanating from the deficiency of the state structures and institutions in large parts of the country."<sup>66</sup>

Shortly after the publications Resolutions 1976 and 2020 and other complementary materials such as Istanbul Conferences, this article argues that events which had unfolded followed a "pattern of legitimacy" (akin to the securitization theory) as it was tried and executed in 2008-2009, and its material elements being put forth at Chapter III. This pattern consists of: (i) an imminent threat towards strategic interests of international actors (States, International Organisations (IOs), Multinational Shipping and Insurance

<sup>63</sup> United Nations Security Council (UNSC) Res 1976 (11 April 2011) UN Doc S/RES/1976.

<sup>64</sup> "Requests States and regional organizations to support sustainable economic growth in Somalia thus contributing to a durable eradication of piracy and armed robbery at sea off the coast of Somalia, as well as other illegal activities connected therewith, in particular in priority areas recommended by the Istanbul conference on piracy in Somalia;" *ibid*, para 5.

<sup>65</sup> The Second Istanbul Conference on Somalia (Republic of Türkiye Ministry of Foreign Affairs 2012) <[https://www.mfa.gov.tr/the-second-istanbul-conference-on-somalia\\_-final-declaration\\_-1-june-2012\\_-istanbul.en.mfa](https://www.mfa.gov.tr/the-second-istanbul-conference-on-somalia_-final-declaration_-1-june-2012_-istanbul.en.mfa)>.

<sup>66</sup> *ibid*.

Companies), (ii) calls for action via diplomatic venues, (iii) the UNSC Resolution(s) being published as a groundwork for further interventions, (iv) states and international organizations launching missions with mandates sanctioned by the UNSC Resolution(s). In 2008-2009 period, the pattern had fitted as it has been observed that: (i) pirate attacks had sharply risen to all time highs and risked the interests of various actors such as TFG, NATO and Lloyd’s of London; (ii) multinational companies and associations published risk reports that highlighted the costs of pirate attacks on global trade, governments and IO’s published policy statements, TFG permanent representative sent a letter for action to the UNSC; (iii) the UNSC authorized actions against piracy in Somalia with Resolutions such as 1816, 1846 and 1851; (iv) multiple States and IO’s initiated military operations against Somali pirates in and off the coast of Somalia immediately after these Resolutions such as ATALANTA and AMISOM. Now the existence of such a pattern of legitimacy can be identified as the same process that had been operated to legitimize capacity building missions of international actors will be laid out. Although the threat that loomed over the horizon was not as materialised as the one back in 2008-2009, the UNSC and other actors constantly stressing the re-emergence of piracy unless maritime and governance capacities of Somalia being strengthened kept the ethos of emergency that was needed to legitimize forthcoming actions. Diplomatic venues had once again been used to make calls for action such as Istanbul Conferences; and finally, UNSC Resolutions paved the groundwork for further operations by international actors.

The most visible and impactful of maritime capacity building missions initiated during this phase was the EUCAP NESTOR which was renamed as the EUCAP Somalia in March 2017. The Council Decision that initiated the mission, as a common preambulatory statement in these authorizing documents, highlighted the blessing that the mission had acquired from regional states such as Somalia and Kenya.<sup>67</sup> The mission drew the limits of its mandate by declaring that the “EUCAP NESTOR is to assist countries in the Horn of Africa and the Western Indian Ocean in strengthening their maritime security capacity in order to enable them to fight piracy more effectively.”<sup>68</sup> This mission had a relatively larger budget and human

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<sup>67</sup> “The Governments of Djibouti, Kenya and the Seychelles, and the Transitional Federal Government of Somalia have welcomed the deployment of the Mission in their countries.” Council of the European Union (CoEU) (16 July 2012) EU Doc 2012/389/CFSP.

<sup>68</sup> *ibid*, art 2.

resources than other previously initiated missions, thus providing us more insight about its impact.

Other missions included the “United Nations Assistance Mission to Somalia’s (UNSOM) Rule of Law and Security Institutions Group (ROLSIG)” that has “provided assistance to the Somali government on the harmonisation of their maritime code with international law;”<sup>69</sup> the UK that “committed GBP 14.3 million in 2013 under its Conflict, Security and Stabilisation Fund (CSSF) to support policing and justice in Somalia;”<sup>70</sup> or the IMO that “has conducted various activities under its Djibouti Code of Conduct initiative, aimed at strengthening coastguard capacities and maritime legal regulation in Somalia and Somaliland.”<sup>71</sup> Apart from these European capacity building missions which were co-ordinated by the CGPCS’ Capacity Building Working Group which at the same time attempted to establish an “online Capacity Building Coordination Platform through which donors could catalogue and share information on projects”<sup>72</sup> but failed due to a lack of participation; there were also two important actors that followed a different path: Türkiye and UAE. Among these two, Türkiye has invested heavily in commercial and security infrastructure that exceeded 1 billion US dollars, including a major renovation of the Port of Mogadishu, Mogadishu International Airport, as well as other projects such as road building.<sup>73</sup> As recent as July 2024, Türkiye agreed to send an exploration vessel “off the coast of Somalia to prospect for oil and gas.”<sup>74</sup>

Meanwhile, Somali Federal Government (SFG) published its own Maritime Resource and Security Strategy in September 2013. For the first time since the beginning of international interventions towards Somali piracy, the government had taken its own initiative that was relatively independent from other actors. The document is not shy to acknowledge the lack of capacity Somalia suffers and states that “the international community, nations and donors will continue to provide the necessary support until we - in terms of capacity-building and other development - are

<sup>69</sup> T Edmunds ‘Maritime Capacity Building in the Horn of Africa: States of Somalia.’ (2017) EU-CIVCAP. EU-CIVCAP Working Paper No. 01–17 (May 2017) 4-5.

<sup>70</sup> *ibid.*

<sup>71</sup> *ibid.*

<sup>72</sup> *ibid.* 10.

<sup>73</sup> Relations between Turkey and Somalia (Republic of Türkiye Ministry of Foreign Affairs 2024) <<https://www.mfa.gov.tr/relations-between-turkey-and-somalia.en.mfa>>.

<sup>74</sup> H Hayatsever and S Maier ‘Turkey to send navy to Somalia after agreeing oil and gas research’ (Reuters 19 July 2024) <<https://www.reuters.com/world/turkey-send-navy-somalia-after-agreeing-oil-gas-search-2024-07-19/>>.

ready to stand on our own feet.”<sup>75</sup> This half-heartedness of SFG to cooperate with international actors due to its lack of capacity repeats itself more openly by stating that “although much of this support has been in the regions’ best interests, controlling our own destiny is preferable.”<sup>76</sup> One of the aspects of this 13-page strategy that is worth noting is the absence of piracy except in two places and without any particular remark towards it, unlike international actors’ documents which highlight piracy as a formidable threat for Somalia (and for the international community). Notably, the strategy defies the traditional idea of Somalis being fishermen by stating “Somalis are not traditionally fishermen and fish is still not a popular food amongst the Somali population, particularly away from the coast.”<sup>77</sup> This document was last updated in 2016 and as of 2023, United Nations Department of Political and Peacebuilding Affairs noted that a new National Maritime Strategy (NMS) has been undertaken as a joint venture between the SFG, UNSOM and EUCAP to replace the Maritime Resource and Security Strategy.<sup>78</sup> However, this attempt may come to a halt as in May 2024 SFG formally requested the termination of UNSOM.

Lastly in 2022, as an action that completed the transition from military-focused interventions to soft interventions, maritime security and capacity building was designated as the primary objective of CGPCS with a change of its mandate and name in the 24<sup>th</sup> plenary session; with a note that, “although Somali piracy was on the decline, the rise in illegal, unreported and unregulated (IUU) fishing, and drug trafficking still posed considerable potential for another wave of maritime insecurity within the Western Indian Ocean seaboard.”<sup>79</sup>

## **B. Impact Of Military and Capacity-Building Missions**

Have these missions and actions managed to fulfil their mandates? What were their impact on Somalis and the SFG? To give a definitive answer to these questions, the reflections of Somali people, government officials and personnel of international missions on military operations and subsequent

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<sup>75</sup> Maritime Resource and Security Strategy (Somali Federal Government 2013) <[http://www.somalilandlaw.com/SomaliMaritimeStrategyFINAL\\_1\\_2013.pdf](http://www.somalilandlaw.com/SomaliMaritimeStrategyFINAL_1_2013.pdf)>.

<sup>76</sup> *ibid* 8.

<sup>77</sup> *ibid* 8.

<sup>78</sup> United Nations Department of Political and Peacebuilding Affairs. Inputs for the next Report of the Secretary-General on Oceans and the Law of the Sea (June 2023), 2.

<sup>79</sup> International Union of Marine Insurance (2022) <<https://iumi.com/news/news/uns-contact-group-on-somali-piracy-changes-its-mandate>>.

capacity building actions will be examined. A small glimpse of Somali reflections on international actors' interventions was seen in Maritime Resource and Security Strategy, in which the SFG revealed its half-heartedness towards them. What was more irritating about these missions, for both sides, was a clear lack of willingness towards co-operation and absence of necessary means to fulfil objectives. Almost all missions are originated from non-Somali actors who bring with them their own human and material resources, leaving no room for local officials to participate in the process of planning and decision-making. Hence, it is not surprising to hear from local officials that "while 'local involvement in the planning process' was a 'key element' for the success of programmes, there was a 'lack of communication between locals and external stakeholders' and 'the impact is not felt, because everything is top down.'"<sup>80</sup> Edmunds also notes from his personal interviews that:

"As explained by an official of the Attorney-General Office of Somaliland: 'Most of the EUCAP Nestor (now EUCAP Somalia) staff are not local. They don't hire local staff. By the time they get certain degree of understanding the local context, they leave the mission.'"<sup>81</sup>

Local officials note that the foreign personnel "do not know much about this country" and that they "do not value local knowledge."<sup>82</sup> One other issue that underlines the "de-Somalified" state of these missions is the mutual distrust between Somali officials and mission planners in the area of funding. According to a Somali official, "whenever the international community designates funding for Somalia, the donors send along the consumer of that funding."<sup>83</sup> As these reflections by Somali officials suggest and the Maritime Resource and Security Strategy confirm, it is indeed plausible to highlight the Somali outlook towards piracy as a secondary problem, compared to the weak institutionalization of the federal state and terrorism. The SFG's desire to act more autonomously from the UN or other actors came to surface in its decision to end UNSOM's presence; by which the government expressed its willingness to carry the partnership between Somalia and the UN to a next level while no longer needing the UN's coordination in its relations with international

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<sup>80</sup> Edmunds (n 47) 13.

<sup>81</sup> *ibid* 13.

<sup>82</sup> *ibid* 14.

<sup>83</sup> LA Affi, AA Elmi and S Mohamed, 'Avoiding Somalia: what prevents onshore solutions to piracy?' (2015) 1(3) *Global Affairs* 309.

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community.<sup>84</sup> Not only the state officials, but also – and perhaps more importantly – Somali civilians view piracy as a secondary threat to their lives. In fact, Somali civilians, facing with the IUU fishing as a threat towards their livelihoods, view what the international community damn as pirate attacks as legitimate defensive measures.<sup>85</sup> It is worth noting that Somalis engaged in piracy were claiming to act not only due to desperation, but also to defend Somalia against these illegal activities, estimated to cost Somalia USD 100 million a year.<sup>86</sup>

From the opposite side of this debate, the most widespread reasoning behind the de-Somalified state of these missions is the turbulent political landscape that installs insecurity to donors when prospects towards a medium to long term development plan emerge in these policy-making centres. Since 2007, Somalia has had 14 prime ministers and 8 presidents, many of whom resigned within a year due to their conflicts with each other. Before a government can find sufficient time and space to meditate on the issue, negotiate with its counterparts and come up with a schedule, an internal conflict signals the collapse of the government and formation of a new one; thus, presenting the international community a frustrating cycle of instability and lack of forecast. One other source of distrust is the rampant corruption in the ranks of Somali state. reported by the UN in detail,<sup>87</sup> corruption and illegal financial transactions between those who are at the top of the piracy pyramid and Somali officials fuel the sense of insecurity, which, in return, results in a hesitation and reluctance to hand over funds to those who are notoriously swamped in a network of illegal transactions.

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<sup>84</sup> A Ross and G Pallavicini, ‘In surprise move, Somalia asks U.N. to end political mission’ (Reuters 10 May 2024) <<https://www.reuters.com/world/africa/surprise-move-somalia-asks-un-end-political-mission-2024-05-09/>>.

<sup>85</sup> AI Samatar, M Lindberg and B Mahayni, ‘The Dialectics of Piracy in Somalia: the rich versus the poor’ (2010) 31(8) *Third World Quarterly* 1384-1387.

<sup>86</sup> Teo (n 17) 75.

<sup>87</sup> Letter dated 11 July 2012 from the Chair of the Security Council Committee pursuant to resolutions 751 (1992) and 1907 (2009) concerning Somalia and Eritrea addressed to the President of the Security Council UN Doc S/2012/544.

## V. LOOKING FORWARD IN THE LIGHT OF RECENT DEVELOPMENTS

### A. Effects of UNSC-led Counter-Piracy Regime on International Maritime Law

Success of the counter-piracy and capacity-building operations under the mandate of the UNSC resolutions is, to say the least, ambiguous. Despite an average decline have been achieved in the quantity of attacks, neutralisation of piracy off the Horn of Africa is far off the horizon. This relative success has also been taken into notice by the International Law Commission and piracy was “included in the long-term programme of work of the Commission during its seventy-first session (2019)”<sup>88</sup> and officially became a part of annual reports as of seventy-third session (2022) with the title of “prevention and repression of piracy and armed robbery at sea.”

In the seventy-third session, the Commission requested a report about the issue from the Special Rapporteur, which was delivered in two parts, latter of which being delivered on May 2024. As the primary organ of the General Assembly on the field of international law, the Commission’s reaction towards counter-piracy regime and its proposals to amend the definition of piracy deserve a closer look.

The report of Special Rapporteur which the Commission took as the basis of its actions had, in its first part, “reviewed the national legislation and judicial practice of States concerning the definition of piracy”<sup>89</sup>; and it also included a memorandum by the secretariat<sup>90</sup> that summarised previous actions taken by the UNSC and the UNGA together with other regional organisations to prevent and repress piracy off the Horn of Africa and Gulf of Guinea. In the second part, the report reviewed regional and national practices of jurisdiction against the crime of piracy together with an analysis of the definition of piracy in 1958 Convention on the High Seas and UNCLOS.<sup>91</sup> Taking these data into consideration, the Special Rapporteur – with regards to the UNSC’s calls toward the issue – stressed the importance

<sup>88</sup> United Nations General Assembly International Law Commission, Official Records of the General Assembly, Seventy-fourth Session, Supplement No. 10 A/74/10, para. 290.

<sup>89</sup> United Nations General Assembly International Law Commission, Report of the International Law Commission, Seventy-fifth Session, A/79/10 54.

<sup>90</sup> United Nations General Assembly International Law Commission, Memorandum by the Secretariat, Seventy-fourth Session, A/CN.4/757.

<sup>91</sup> United Nations General Assembly (UNGA) International Law Commission, Second report on prevention and repression of piracy and armed robbery at sea (4 March 2024) UN Doc A/CN.4/770

of harmonisation of national criminal laws with international norms to combat and repress piracy<sup>92</sup> and shortcomings of current definition of piracy, as the article has mentioned in Chapter II, in counter-piracy operations. As a result of this report and deliberations of members of the Commission on the topic, 4 draft articles have been proposed to amend the definition of piracy in order to increase the efficiency of counter-piracy operations to be conducted in the future and comply with the UNSC’s call to harmonise national criminal laws to effectively adjudicate piracy in national courts. As it is the most relevant to the topic of this article, the amendments proposed by the introduced draft article on the definition of piracy will be examined.

The draft article on the definition of piracy,<sup>93</sup> proposed to amend article 101 of the UNCLOS, made a clear return to the works of the International Law Commission in 1956 and “has adopted a definition of illegal acts of violence where *animus furandi* is not required”<sup>94</sup>; thus, intending to end the debate on whether *animus furandi* is a necessity to define piracy. Again, as a response to ongoing debates about the nature of intentions concerning piracy, the draft article “recognized that the pursuit of private ends can coexist with political or ideological objectives.”<sup>95</sup> It is worth noting that the Commission kept the narrative of the UNSC mandates regarding the territorial nature of the crime by stating that the definition “does not apply to acts committed within the territorial jurisdiction of a State”; similar to the attitude of operative clauses of the UNSC Resolutions that consistently stressed its mandate not forming a customary international legal norm, as it was stressed in the Chapter III of this article. Finally, the draft article once again responds to debates on “involving two ships” part of the UNCLOS art. 101’s definition. The Commission implicitly targets the argument revolving

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<sup>92</sup> *ibid* 57.

<sup>93</sup> “Piracy consists of any of the following acts: (a) any illegal act of violence or detention, or any act of depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft, and directed: (i) on the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft; (ii) against a ship, aircraft, persons or property in a place outside the jurisdiction of any State; (b) any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft; (c) any act of inciting or of intentionally facilitating an act described in subparagraph (a) or (b).” United Nations General Assembly International Law Commission, Report of the International Law Commission, Seventy-fourth Session, A/78/10 55-56.

<sup>94</sup> *ibid*.

<sup>95</sup> *ibid*.

around the Achille Lauro case and its components by stating that the definition “does not extend to situations of unlawful violence or detention or acts of depredation by the crew or the passengers of a ship or aircraft against that same ship or aircraft.”<sup>96</sup>

The Commission’s proposals regarding prevention and repression of piracy are far too little too late, for it appears that the Horn of Africa did not remain an idle spot for piracy as of December 2023.

### **B.The Recent Surge in Successful Pirate Attacks: The End of Dormancy?**

On 16 December 2023, a Maltese-flagged commercial vessel was hijacked by Somali pirates, marking the first successful hijacking since 2017.<sup>97</sup> On 5 January 2024, the Indian Navy reported that it rescued a crew of a merchant vessel off the coast of Somalia after an unsuccessful hijacking attempt.<sup>98</sup> As of mid-February 2024, The UK Marine Trade Operations, which monitors piracy, recorded six incidents off the coast of Somalia since mid-December, “from approaches by crews armed with machine guns and rocket launchers, to successful hijackings.”<sup>99</sup> Since the Houthi attacks that began as a retaliation for the Palestine-Israel conflict, many cargo ships have slowed down hundreds of miles out at sea to await instructions on whether to proceed to the Red Sea, and this created “a hunting ground” for pirates.<sup>100</sup> These vessels have become especially vulnerable as some foreign navies which were part of international missions that patrolled the Gulf of Aden have relocated from the Indian Ocean to the Red Sea in response to the Houthi attacks. Between late November 2023 and April 2024, at least 20

<sup>96</sup> *ibid* 57.

<sup>97</sup> J Saul, ‘Warship rushes in to investigate suspected pirate attack off Somalia’ (Reuters 16 December 2023) <<https://www.reuters.com/world/spanish-warship-headed-vessel-that-may-be-hijacked-by-pirates-eu-somali-force-2023-12-15/>>.

<sup>98</sup> K Kaushik, ‘Indian Navy rescues bulk carrier crew after Arabian Sea hijack attempt’ (Reuters 6 January 2024) <<https://www.reuters.com/world/india-sends-warship-after-hijacking-liberian-flagged-vessel-arabian-sea-2024-01-05/>>.

<sup>99</sup> ‘Fears that pirates are returning to seas off Somalia’ (France 24 14 February 2024) <<https://www.france24.com/en/live-news/20240214-fears-that-pirates-are-returning-to-seas-off-somalia>>.

<sup>100</sup> *ibid*.

attempted hijackings occurred, once again driving prices for armed security personnel hired by commercial ships and insurance costs.<sup>101</sup>

Meanwhile, global shipping companies are reported to have been “the best performing stocks in Europe since the start of 2024 and were set for their biggest weekly jump in years, as the re-routing of vessels following attacks in the Red Sea boosted freight rates.”<sup>102</sup> Furthermore, the UNSC’s first Resolution of the year 2024 addressed the situation in the Gulf of Aden and the Horn of Africa. Although it appears to be a Resolution that responds to the Houthi threat, its motivation can be spotted in its preambulatory paragraphs as they expressed “concern over the threat that unlawful acts against the safety of navigation posed to seafarers and other persons” and “the importance of the exercise of navigational rights and freedoms of vessels of all States in the Red Sea.”<sup>103</sup>

One cannot help but notice the similarity of these recent events unfolding with those between 2008-2011; and as the article has demonstrated the pattern of legitimacy that fitted two waves of legitimization of further international actions, one can argue that while a third wave of authorization may be looming on the horizon, there is no sign that the pattern of legitimacy will change its form or the UNSC will come up a mandate that will seek to neutralise rather than simply suppress piracy off the Horn of Africa with its current composition. As long as the UNSC Regime formed by resolutions 1816, 1838, 1846 and 1851 remain intact with the international missions that were formed on top of them, piracy will endure as a threat off the Horn of Africa.

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<sup>101</sup> G Paravicini, J Saul and A Hassan, ‘Somali pirates return, adding to global shipping crisis’ (Reuters 21 March 2024) <<https://www.reuters.com/world/africa/somali-pirates-return-adds-crisis-global-shipping-companies-2024-03-21/>>.

<sup>102</sup> S Indyk, ‘Shipping stocks rise, biggest gainers in Europe at start of 2024’ (Reuters 5 January 2024) <<https://www.reuters.com/markets/europe/shipping-stocks-rise-biggest-gainers-europe-start-2024-2024-01-05/>>.

<sup>103</sup> “*Underscoring* the importance of the exercise of navigational rights and freedoms of vessels of all States in the Red Sea, including for merchant and commercial vessels transiting the Baab al-Mandab, in accordance with international law, and further underscoring that the transit passage of merchant and commercial vessels through the Red Sea must continue unimpeded,” United Nations Security Council (UNSC) Res 2722 (10 January 2024) UN Doc S/RES/2722.

## VI. CONCLUSION

In this article, it was endeavoured to approach piracy from the normative legal framework constructed primarily by the UNSC Resolutions while keeping close connection with the practical causes and consequences of these normative actions. The primary goal was to seek a plausible explanation for the relative inefficiency of the counter-piracy regime in its quest to repress and counter piracy off the Horn of Africa through the mandate set forth in the UNSC Resolutions and followed suit by other international organizations. First, the article has sought to summarise the historical background of the instability in Somalia and the debate revolving around the definition of piracy in order to present a groundwork for actions taken by the UNSC and other actors. An analysis of the UNSC's counter-piracy and capacity building regimes in the main bulk of the article was made to lay out the causes and effects of its mandates in the fight against piracy especially off the coast of and in Somalia and whether these mandates fulfilled their goals. Finally, the article has returned to the question of definition of piracy and analysed the International Law Commission's response as the primary legal authority of the UNGA, together with recent events that heralded the return of piracy off the Horn of Africa despite the endeavour of past 15 years.

These inquiries answer the primary question and prove the central thesis of this article. Why does piracy remain a threat, albeit dormant? Because it was never brought to a healthy level of neutrality at the first place; in fact, it is even open to debate whether it was "dormant" after military operations took place, as recent developments showcased a surge in attacks as soon as the international naval military presence relocated to answer another threat. As mentioned in the article, recent developments have shown that the counter-piracy regime which involved a first wave of international missions with mandates of military action to hunt down pirates both off the coast of and in Somalia and a second wave of international missions with mandates aiming to remove piracy via capacity building and economic development actions have failed in their goals. The primary reason behind this failure, as shown in this article, is that the UNSC Resolutions that initiated these processes have been inappropriate for an effective campaign to neutralise piracy. These resolutions put hard rather than soft power at the centre of their frameworks and failed to comprehend the alienation this method would create on Somali state and society. The mandate which the UNSC Resolutions formed for military operations opened Somali maritime and land territories for a foreign presence open to debate. Some of the foreign

states included states whose nationals were involved in IUU fishing activities. This development infuriated Somali civilians and made them either sympathetic towards piracy or caused them to opt piracy. In the second wave, the UNSC Resolutions began to touch upon the root causes and authorized states and IOs to form capacity-building missions. This was, however, too late and a model that further alienated not only Somali civilians but also government officials who felt excluded from the decision-making process by international mission planners that viewed them with distrust.

The holistic approach of this article and the pattern of legitimacy it suggests can be used in further studies on piracy not only off the Horn of Africa but also at the Gulf of Guinea and other areas at risk. As such, a similar inquiry can be undertaken on various international crimes akin to piracy and by counteraction the international community through actions built upon mandates provided by the UNSC Resolutions and international missions guided by them can be studied through this article's approach. Inquiries and analyses of the UNSC's and various IOs' counter-piracy regimes can also be conducted with the pattern of legitimacy suggested by this article, instead of the traditional and relatively less constructive methodology the International Law Commission and its recent reports had utilised; so that a tangible regulation especially about the definition and execution of piracy as a crime can be brought up. Regarding and analysing the UNSC's resolutions as international legal instruments that project normative framework into the practice may reveal the strengths and weaknesses of current regimes and allow both policymakers and legalists to reconsider their approaches to these issues.

## BIBLIOGRAPHY

Affi Ladan A., Elmi Afyare A., & Mohamed Said, “Avoiding Somalia: what prevents onshore solutions to piracy?”, *Global Affairs*, 1(3), 2015, 305-314.

Ahmad Mazyar, “Maritime piracy operations: Some legal issues”, *Journal of International Maritime Safety, Environmental Affairs, and Shipping*, 4(3), 2020, 62-69.

Alexandre, António Gonçalves, “An analysis of the issue of piracy in the Horn of Africa through the lens of the Securitization Theory of the Copenhagen School”, *Janus.net, e-journal of international relations*, 13(2), 2022, <<https://doi.org/10.26619/1647-7251.13.2.2>>

Bowden Anna and Basnet Shikha, “The economic cost of Somali piracy 2011 report”, *Oceans Beyond Piracy*, One Earth Future Foundation, 2012.

Bowden Anna, “The economic cost of maritime piracy: One Earth Future working paper, December 2010”, *Oceans Beyond Piracy*, One Earth Future Foundation, 2011 <<https://oneearthfuture.org/en/one-earth-future/publication/economic-cost-maritime-piracy-2010>>

Bureau of Political-Military Affairs, “Contact Group on Piracy off the Coast of Somalia”, U.S. Department of State, 2009, <<https://2009-2017.state.gov/t/pm/rls/fs/2016/255175.htm#:~:text=The%20Contact%20Group%20on%20Piracy,an%20interest%20in%20combating%20piracy>> accessed 03.02.2024 15.00 GMT +3.

Buzan Barry, Wæver Ole and De Wilde Jaap, “*Security: A new framework for analysis*”, Lynne Rienner Publishers, 1998.

Canca Hakan Selim, “Defeating terrorism, piracy and armed robbery against ships in a collective maritime security system”, *Journal of Human Sciences*, 11(1), 2014, 1282–1300.

Convention for the suppression of unlawful acts against the safety of maritime navigation (10 March 1988), 1678 UNTS 201, (entered into force 1 March 1992).

Dalton Jane G., Ashley Roach J., & Daley John, “United Nations Security Council: Piracy and Armed Robbery at Sea - Resolutions 1816, 1846 & 1851”, *International Legal Materials*, 48(1), 2009, 129-142, <[doi:10.1017/S0272503700004110](https://doi.org/10.1017/S0272503700004110)>



Davenport Tara, “Legal Measures to Combat Piracy and Armed Robbery in the Horn of Africa and in Southeast Asia: A Comparison”, *Studies in Conflict & Terrorism*, 35(7-8), 2012, 570-587.

De Waal Alex, *“The real politics of the Horn of Africa: Money, war and the business of power”*, John Wiley & Sons, 2015.

Edmunds Tim, “Maritime Capacity Building in the Horn of Africa: States of Somalia. EU-CIVCAP”, EU-CIVCAP Working Paper, No. 01–17, May 2017.

“Fears that pirates are returning to seas off Somalia”, France 24, 14 February 2024, <<https://www.france24.com/en/live-news/20240214-fears-that-pirates-are-returning-to-seas-off-somalia>> accessed 20.02.2024 11.45 GMT +3.

Garrod Matthew, “The Emergence of ‘Universal Jurisdiction’ in Response to Somali Piracy: An Empirically Informed Critique of International Law’s ‘Paradigmatic’ Universal Jurisdiction Crime”, *Chinese Journal of International Law*, 18(3), 2019, 551-643, <<https://doi.org/10.1093/chinesejil/jmz025>>

Gaynor Jennifer L., *“The Colonial Origins of Theorizing Piracy’s Relation to Failed States”*, Amsterdam University Press, 2021, <<https://doi.org/10.2307/j.ctv21r3j8m.7>>

Guilfoyle Douglas, “The Laws of War and the Fight against Somali Piracy: Combatants or Criminals?”, *Melbourne Journal of International Law*, 11, 2010, 141-153.

Guzansky Yoel, “A Port Rush: Competition for Control of Trade Routes”, *Institute for National Security Studies*, 2019, <<http://www.jstor.org/stable/resrep19523>>

Hamilton Karine, “The piracy and terrorism nexus: Real or imagined?” (2010) Proceedings of the 1st Australian Counter Terrorism Conference, Edith Cowan University, Perth, 30 November <<https://ro.ecu.edu.au/cgi/viewcontent.cgi?article=1002&context=act>> accessed 21.12.2023 16.00 GMT+3

ICC Commercial Crime Services, <<https://www.icc-ccs.org/index.php/836-piracy-falls-in-2012-but-seas-off-east-and-west-africa-remain-dangerous-says-imb>> accessed 10.01.2024 13.00 GMT+3

Indyk Samuel, “Shipping stocks rise, biggest gainers in Europe at start of 2024”, Reuters, 5 January 2024, <<https://www.reuters.com/markets/europe/shipping-stocks-rise-biggest-gainers-europe-start-2024-2024-01-05/>> accessed 20.02.2024 11.45 GMT +3.

International Maritime Organization (IMO), 3 April 2009, UN Doc C 102/14.

International Maritime Organization (IMO), “Comments and analysis on the review of the High-Risk Area for piracy in the Indian Ocean”, 9 February 2021, UN Doc MSC 103/10/2.

International Maritime Organization (IMO), “Note by the Secretary-General”, 15 May 2013, UN Doc C 110/13.

International Maritime Organization (IMO), Res A.1044(27),30 November 2011),UN Doc A 27/Res.1044.

International Union of Marine Insurance, 2022, <<https://iumi.com/news/news/uns-contact-group-on-somali-piracy-changes-its-mandate>> accessed 03.02.2024 15.00 GMT +3.

Kaushik Krishn, “Indian Navy rescues bulk carrier crew after Arabian Sea hijack attempt”, Reuters, 6 January 2024, <<https://www.reuters.com/world/india-sends-warship-after-hijacking-liberian-flagged-vessel-arabian-sea-2024-01-05/>> accessed 20.02.2024 11.45 GMT +3

Klinghoffer v. S.N.C. Achille Lauro, 937 F.2d 44

Kraska James, Wilson Brian, “Fighting Pirates: The Pen and the Sword”, *World Policy Journal*, 25(4), 2008, 41-52. <<http://www.jstor.org/stable/40210120>>

Lagdami Khanssa and Fakhry Aref, “The Application of Human Rights and Ethics Principles to Self-protection Measures by the Ship Against Pirates and Armed Robbers” in Mukherjee, Proshanto K., Mejia Maximo Quibranza, Xu Jingjing. (eds.) *Maritime Law in Motion*, WMU Studies in Maritime Affairs, vol 8., Springer, 2020. <[https://doi.org/10.1007/978-3-030-31749-2\\_18](https://doi.org/10.1007/978-3-030-31749-2_18)>

Letter dated 10 December 2008 from the Chairman of the Security Council Committee established pursuant to resolution 751 (1992)

concerning Somalia addressed to the President of the Security Council UN Doc S/2008/769

Letter dated 11 July 2012 from the Chair of the Security Council Committee pursuant to resolutions 751 (1992) and 1907 (2009) concerning Somalia and Eritrea addressed to the President of the Security Council, S/2012/544

Melvin Neil, “The Foreign Military Presence In The Horn Of Africa Region”, Stockholm International Peace Research Institute, 2019, <<http://www.jstor.org/stable/resrep20075>> 27.12.2023 18.00 GMT+3

Neri, Kiara, “Security Council’s Contribution to the Evolution of the Law of the Sea: Avant Garde or Self-Limitation?” in Ribeiro Marta Chantal da Cunha Machado, Bastos Fernando Loureiro Henriksen Tore, (eds.) “*Global Challenges and the Law of the Sea*”, Springer Nature, 2020, <[https://doi.org/10.1007/978-3-030-42671-2\\_10](https://doi.org/10.1007/978-3-030-42671-2_10)>

“New Lloyd’s policy wording covers terrorist ‘piracy’”, Insurance Journal, San Diego, 2006, <<https://www.insurancejournal.com/news/international/2006/03/20/66594.htm>> accessed 10.01.2024 13.00 GMT+3

North Atlantic Treaty Organization (NATO), “Final Communiqué of Meeting of the North Atlantic Council at the level of Foreign Ministers held at NATO Headquarters”, 2008.

“Relations between Turkey and Somalia”, Republic of Türkiye Ministry of Foreign Affairs, 2024, <<https://www.mfa.gov.tr/relations-between-turkey-and-somalia.en.mfa>> accessed 03.02.2024 16.45 GMT+3

Samatar Abdi Ismail, Lindberg Mark and Mahayni Basil, “The Dialectics of Piracy in Somalia: the rich versus the poor”, *Third World Quarterly*, 31(8), 2010, 1377-1394.

Saul Jonathan, “Warship rushes in to investigate suspected pirate attack off Somalia”, Reuters, 16 December 2023, <<https://www.reuters.com/world/spanish-warship-headed-vessel-that-may-be-hijacked-by-pirates-eu-somali-force-2023-12-15/>> accessed 20.02.2024 11.45 GMT +3

Singh Currun, and Bedi Arjun Singh, “War on Piracy: The conflation of Somali piracy with terrorism in discourse, tactic, and law”, *Security Dialogue*, 47(5), 2016, 440-458.

“Maritime Resource and Security Strategy”, Somali Federal Government, 2013,  
<[http://www.somalilandlaw.com/SomaliMaritimeStrategyFINAL\\_1\\_2013.pdf](http://www.somalilandlaw.com/SomaliMaritimeStrategyFINAL_1_2013.pdf)> accessed 03.02.2024 20.05 GMT+3

Sterio Milena, “International Law in Crisis: Piracy off the Coast of Somalia”, *Case Western Reserve Journal of International Law*, 44, 2012, 291.

Sterio Milena, “*Prosecuting Juvenile Piracy Suspects: The International Legal Framework*”, New York, Routledge, 2017.

Swarttouw Henk, Hopkins Donna L., “The Contact Group On Piracy Off The Coast Of Somalia: Genesis, Rationale And Objectives” in Tardy Thierry (ed.), “*Fighting piracy off the coast of Somalia: Lessons learned from the Contact Group*”, European Union Institute for Security Studies (EUISS), 2014, <<http://www.jstor.org/stable/resrep07079.5>>

The Council of the European Union (CoEU), 16 July 2012, EU Doc 2012/389/CFSP

The Council of the European Union (CoEU), 2008, Council Decision 2008/918/CFSP

The Council of the European Union (CoEU), “European Union Maritime Security Strategy”, 24 June 2014, EU Doc 11205/14

“The Second Istanbul Conference on Somalia”, Republic of Türkiye Ministry of Foreign Affairs, 2012, <[https://www.mfa.gov.tr/the-second-istanbul--conference-on-somalia\\_-final-declaration\\_-1-june-2012\\_-istanbul.en.mfa](https://www.mfa.gov.tr/the-second-istanbul--conference-on-somalia_-final-declaration_-1-june-2012_-istanbul.en.mfa)> accessed 26.01.2024 20.20 GMT+3

United Nations Convention on the Law of the Sea (adopted 10 December 1982, entered into force 16 November 1994) UNTS 1833 (p.3), 1834 (p.3), 1835 (p.3)

United Nations Department of Political and Peacebuilding Affairs. Inputs for the next Report of the Secretary-General on Oceans and the Law of the Sea (June 2023)

United Nations General Assembly, Inputs for the next Report of the Secretary-General on Oceans and the Law of the Sea June 2023 (September 2022-August 2023)

United Nations General Assembly International Law Commission, Memorandum by the Secretariat, Seventy-fourth Session, A/CN.4/757

United Nations General Assembly International Law Commission, Official Records of the General Assembly, Seventy-fourth Session, Supplement No. 10 A/74/10 (29 April–7 June and 8 July–9 August 2019)

United Nations General Assembly International Law Commission, Report of the International Law Commission, Seventy-fourth Session, A/78/10

United Nations General Assembly International Law Commission, Report of the International Law Commission, Seventy-fifth Session, A/79/10

United Nations General Assembly (UNGA) International Law Commission, Second report on prevention and repression of piracy and armed robbery at sea (4 March 2024) UN Doc A/CN.4/770

United Nations Security Council (UNSC), Res 1816, 2 June 2008, UN Doc S/RES/1816

United Nations Security Council (UNSC), Res 1838, 7 October 2008, UN Doc S/RES/1838

United Nations Security Council (UNSC), Res 1846, 2 December 2008, UN Doc S/RES/1846

United Nations Security Council (UNSC), Res 1851, 16 December 2008, UN Doc S/RES/1851

United Nations Security Council (UNSC), Res 1976, 11 April 2011, UN Doc S/RES/1976

United Nations Security Council (UNSC), Res 2714, 1 December 2023, UN Doc S/RES/2714

United Nations Security Council (UNSC), Res 2722, 10 January 2024, UN Doc S/RES/2722

United Nations Security Council (UNSC), Res 733, 23 January 1992, UN Doc S/RES/733

Teo Victor, *“Japan’s Arduous Rejuvenation as a Global Power”*, Palgrave Macmillan, 2019.

World Bank, “Somalia: Policy Measures for Rehabilitation and Growth, Washington, DC: World Bank, Country Programs Department Eastern Africa Regional Office” (Report No. 4081a-SO, May 1983).

Young Adam J., Valencia Mark J., “Conflation of piracy and terrorism in Southeast Asia: Rectitude and utility”, *Contemporary Southeast Asia: A Journal of International and Strategic Affairs*, 25(2), 2003, 269-283.

Ziebell de Oliveira Guilherme, Fernandes Cardoso Nilton Cesar, “Securitisation in Africa in the 21st century: Analysis of the situations in the Gulf of Guinea and the Horn of Africa”, *South African Journal of International Affairs*, 27(4), 2020, 533-560.