

## **UN Security Council Renews Mandate to Combat Piracy off Somalia: Call for Sustained International Action**

**Author:** Himadri Das\*

**Date:** 18 November 2016

On 09 November 2016, the United Nations (UN) Security Council unanimously adopted Resolution 2316 (2016), renewing authorisation for international naval forces to combat piracy off the Somali coast. The United Nations Security Council Resolution (UNSCR) comes days after the announcement by the European Union Naval Force (EUNAVFOR), on 04 November 2016, of a confirmed attack by six armed men on a chemical tanker, *CPO Korea*, 330 nautical miles off the east coast of Somali on 22 October 2016. The attack, the first in more than two and half years, was at a considerable distance from the Somali coast. The attack underscores the possibility of a resurgence of piracy. In another development, on 22 October 2016, it was announced that 26 surviving crew of the Omani-flagged vessel *FV Naham 3*, have been released after over four and half years in captivity.

Since its peak in 2010-11, when piracy had spread rapidly beyond the shores of Somalia, the crime has been effectively suppressed. This has been widely attributed to deployment of naval vessels and aircraft, compliance with *Best Management Practices* (BMP) adopted by the shipping industry in the piracy High Risk Area (HRA) and employment of Armed Security Teams (AST). As the root causes of piracy are ashore (fragile economy, lack of alternative livelihood and weak governance), efforts by the international community at addressing these causes, and capacity building have also contributed to the reduction in piracy. The prosecution (and incarceration) of pirates (the 'foot soldiers'), some in faraway lands, and the apprehension of piracy (and financial) kingpins have also, in their own ways, contributed towards reducing the attractiveness of piracy among coastal communities as a viable 'business model'.

The October 2016 report of the Secretary-General of the UN on the piracy situation off Somalia had noted that 'progress remains fragile and reversible' and that 'credible reports indicate that Somali pirates possess the intent and capability to

resume attacks against large commercial ships, should the opportunity present itself. Further, the report had also highlighted that the 'drivers which triggered piracy remain unchanged since 2005'.

The UN Security Council, acting under Chapter VII of the UN Charter, *inter alia* renewed the call upon member States and regional organisations to take part in the fight against piracy by deploying naval vessels, arms and military aircraft. The UNSCR also renewed authorisations, set forth earlier in 2015, to States and regional organisations cooperating with Somali authorities.

Amongst the deployed naval task forces, which include EUNAVFOR (Operation *Atalanta*), the Combined Maritime Forces and the NATO (Operation *Ocean Shield*), the termination of Operation *Ocean Shield* in December 2016 has already been announced earlier, and the existing mandate of Operation *Atalanta*, unless renewed, expires in December 2016. UN member States which have independently deployed naval ships and aircraft in the region in support of the international anti-piracy efforts include: China, India, Iran, Japan, South Korea and Russia.

The UNSCR noted with appreciation the efforts of the International Maritime Organisation (IMO) and the shipping industry in the development of BMP, and also urged States, in collaboration with the shipping and insurance industries, and the IMO, to continue working towards developing best practices. The BMP, promulgated by the shipping industry, which also demarcated the piracy High Risk Area (HRA), recommends measures for self-protection of merchant vessels including reporting procedures to facilitate coordinated naval response. Self-protection essentially involves high speeds and evasive measures by merchant vessels and 'hardening' of ships using both active and passive defensive measures.

Steaming at speeds greater than economical speed, higher insurance premiums in the piracy HRA, additional expenditure for hardening (and security teams), all come with an economic cost to the shipping industry. This additional cost is however passed on to the end-consumers. A larger-than-necessary HRA, therefore, is not in the interest of global trade, and particularly developing countries. Reports suggest that with the decline in piracy (and revision of piracy HRA), BMP compliance is also on the decline, ostensibly to save costs.

Notwithstanding its continuing relevance, the BMP has firstly, in some ways, undermined the role of piracy reporting centres of coastal States within the HRA; and

secondly, perpetuated, without transparency, additional costs to the shipping industry (and end consumers). Therefore, based on the experience gained, the primacy of piracy reporting centres of coastal States needs to be reinstated, and a calibrated response based on cooperative consensus, as suggested by the UNSCR, needs to be evolved for establishing/ revising HRA. Considering the economic and security ramifications, the piracy HRA which was revised in 2015 after much controversy, on the request of affected coastal States, needs to be reviewed at regular intervals (and progressively reduced). Perhaps, the IMO, a UN body, needs to more actively engage itself in the process of such delimitation.

The UNSCR also urges States to regulate activities of Privately Contracted Armed Security Personnel (PCASP) with applicable international law. Likewise, the Contact Group on Piracy off the Coast off Somalia (CGPCS), at its 19<sup>th</sup> plenary meeting in June 2016, noted the challenges posed by floating armouries and decided to refer the issue to the IMO for further discussion. Earlier in April 2016, in a noteworthy development, the Security Association of the Maritime Industry (SAMI), an industry body of the private maritime industry, went into liquidation due to a fall in membership. The industry, therefore, is currently without an umbrella body for self-regulation, and fragmented. This is not a good portent for the future of the industry (and maritime security). The weaponisation of the maritime domain by private players, although driven by necessity, unless regulated, remains a potential risk as well.

Post the revision of the piracy HRA in 2015, in effect, of the three pillars of the international anti-piracy efforts, two pillars, the BMP and Armed Security appear to be weakening in view of economic considerations, and understandably so. In the foreseeable future, in the absence of any credible 'local' security arrangement in the Horn of Africa/ Gulf of Aden and the geo-economic/ geo-strategic relevance of the region, the onus of ensuring freedom of the seas in that region will continue to rest upon the international naval forces. Consequently, despite the scheduled exit of NATO, these forces are likely to remain deployed, with possibly marginal reduction in overall force levels.

Reports of hijacking of Iranian dhows, illegal fishing in Somali waters, seizures of arms, ammunition and drugs, and charcoal smuggling are indicative of continuing maritime threats in the region. The reported missile attacks on a UAE-operated ship and on US naval warships in October 2016, by Yemini rebels, also highlight the enhanced threats to maritime security from non-state actors.

From the Indian perspective, Indian naval warships have continued to be deployed as part of the international anti-piracy effort since 2008. Cconsequent to robust anti-piracy efforts, the lasthijack in the east Arabian Sea was reported in March 2012. Considering India's increasing dependence on shipping, the continuing threats to maritime security in the region, the renewed UN mandate, and the expanding role of the Indian Navy in the Indian Ocean Region, it would serve India's interests for the Indian Navy to remain deployed in the region unless the security environment changes substantively. Considering the wide-ranging assistance required in Somalia, perhapsthere is also a case for expanding India's anti-piracy engagement. Notably, the *Indian Maritime Security Strategy*, published in December 2015, brings out the commitment of the Indian maritime forces to continue the counter-piracy efforts in 'coordination with international efforts and anti-piracy cooperative mechanisms'.

The UNSCR has also highlighted the need to adopt domestic legislation to facilitate prosecution of suspected pirates off the coast of Somalia. In September 2016, more than four years into the trials, the 119 Somali pirates apprehended by the Indian Navy and the Indian Coast Guard, in four different incidents in 2011, pleaded guilty to offences against them. Hopefully, with this development, the trial which have been ongoing for several years will come to a close. The *Anti-Maritime Piracy Bill* under consideration also needs to be enacted sooner than later.

Piracy is perhaps one of the earliest forms of unlawful activity in the maritime domain. While piracy off Somalia has been effectively suppressed, it is yet to be eradicated. Meanwhile, piracy and armed robbery in Gulf of Guinea and South East Asia has also waxed and waned. In conclusion, despite the lull, there is work to be done, both nationally and internationally – the pirates have indeed gone home, but may possibly return.

\*\*\*\*\*

\*Commander Himadri Das is a serving officer of the Indian Navy. The views expressed are his own and do not reflect the official policy or the Indian Navy, the NMF or the Government of India. He can be reached at [himadridas@rediffmail.com](mailto:himadridas@rediffmail.com)