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Piracy in the Gulf of Aden: Naval Challenges

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Piracy in the Gulf of Aden, which first emerged as a serious threat in 2005, has since grown manifold, virtually doubling with each passing year between 2006 and 2009. In 2010, though, there was a slight dip in the number of attacks by the Somali pirates the range of piracy attacks has increased significantly. The response of the global community has been remarkably swift. The UN resolution 1816 of 2008 which first authorised nations to deploy warships for counter-piracy operations in Somali territorial waters has since been followed by several international initiatives. Currently over two dozen warships are deployed in the region on anti piracy patrols. Yet, attacks by Somali pirates continue unabated. This paper seeks to highlight the key challenges faced by naval patrols in the Gulf of Aden and brings out the various options that exist for the global shipping industry.

"The area (Gulf of Aden and the Arabian Sea) is enormous and we just do not have enough assets to cover every place in the Indian Ocean."

– Admiral Mark Fitzgerald, USN[1]

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Somalia

Piracy in the Gulf of Aden is the manifestation of a greater problem being faced by Somalia: the absence of a central and effective government since the overthrow of the authoritarian regime of Said Barre in January 1991.[2] The UN Mission withdrew in 1995, leaving Somalia a classic failed state with factional violence, lawlessness, poverty and famine. Today, it carries the dubious distinction of being the longest-running instance of a failed state in postcolonial history.[3] The lack of security ashore has spilled into the maritime domain where there is a lack of regional maritime capacity and no credible indigenous maritime forces.[4] As a result, the decade following the collapse of the Somali government saw extensive poaching activities by Asian and European fishing fleets in the Somali Exclusive Economic Zone (EEZ). There were also reports of toxic waste being dumped in the Somali waters, which subsequently washed ashore. According to a lesser-known study by the UNO, Somalia was losing $300 million annually due to poaching in its EEZ.[5] All this led to the emergence of self-styled armed protection groups such as the Somali National Volunteer Coast Guard and the Puntland Coast Guard, aimed at combating poaching and dumping of toxic waste.

The self-styled coast guard groups took it upon themselves to attack illegal poachers. Soon, they moved on to attacking private yachts transiting the Somali EEZ. However, the Somali pirates made global headlines for the first time when on 5 November 2005, they attempted to hijack the American cruise liner *Seabourn Spirit* approximately 75 nautical miles off the coast of Somalia. This unsuccessful attack triggered a wave of piracy attacks along the Somali coast. Subsequently, Somali pirates made headlines in India when in February 2006, they hijacked an Indian dhow named *Bhakti Sagar* (registered in Porbandar) whilst on passage to Kisamayu. 25 Indian crew members were held hostage till a large undisclosed amount was paid as ransom by the owners.[6]

The Advent of Piracy

In 2006, there were 22 incidents of attacks on ships by Somali pirates. The numbers have since increased rapidly, more than doubling with each passing year from 51 in 2007 to 111 in 2008, then 217 in 2009. For the first time since 2006, the IMB has reported that the total number of attacks on ships reported globally declined significantly during the first quarter of 2010 to 67 from 102 in the same period last

year. During this period, Somali pirates were responsible for 35 out of the 67 attacks (a drop from 42 attacks in the first quarter of 2008) reported globally. 24 ships were boarded and 11 others hijacked in the Gulf of Aden.[7] The drop in the number of piracy incidents, though a welcome development, should not be considered as a sign of success of the naval patrols in the Gulf of Aden. While the numbers of attacks have reduced, the range of attacks by Somali pirates has increased significantly in recent months. On 23 March 2010, a Turkish owned vessel, MV Frigia, a bulk carrier with a crew of 21, was hijacked at 1350 nautical miles from Mogadishu, Somalia.[8] At the time of its capture the ship was closer to India than Somalia!

In mid 2009, with the arrival of the Second Standing NATO Maritime Group 2 (SNMG2) the number of warships on anti-piracy patrols in the Gulf of Aden had reached a record number of about 20–23 ships on patrol. To this day almost all the G 20 countries are represented in the region including the multinational Task Force 151, European Union Naval Force, NATO and several other naval ships from China, Russia, India, Iran, Japan, South Korea, etc. on independent patrol. However, this did not deter the Somali pirates and in 2009 the number of piracy attacks stood at 217, compared to 111 in 2008. Piracy had more than doubled during the period that a record number of warships were on patrol!

It is estimated that deployment of a frigate sized ship cost approximately $ 50,000 each day at sea.[9] Thus, the questions that arise are: how much longer will the naval patrols need to be sustained in the Gulf of Aden? Are naval anti-piracy patrols the only solution to maintaining security in the shipping lanes? What happens when Gulf of Guinea or some other location emerges as another piracy hotspot? What should be the role of the shipping industry? This paper seeks to answer these questions. It examines the challenges faced by naval anti-piracy patrols and highlights the various trends in piracy.

Security Initiatives in the Gulf of Aden

The multinational Task Force 150 deployed in the North Arabian Sea since 2003 under the Coalition Maritime Campaign Plan (CMCP) formed the first naval effort to combat piracy. Subsequently, when piracy had reached alarming levels, the UN Security Council first adopted Resolution 1816 in June 2008, authorising nations to deploy warships for counter-piracy operations in Somali territorial waters. This was

followed by Resolution 1838, in October 2008, urging all maritime states to dispatch naval units to fight piracy off the Horn of Africa. The response of the international community to piracy has been unprecedented. Never before has such a large multinational naval force participated in ensuring security of the seas. This perhaps gives the first indications of how a multi-polar world might look like.[10] In such a scenario, there is no room for regional sensitivities; as the Arab states learnt. Presently the various ongoing security initiatives aimed at combating piracy are enumerated in the following paragraphs.

CTF 151

The Coalition Task Force 151 under the United States Fifth Fleet headquarters in Manama, Bahrain was established in January 2009 with a clear mandate to combat piracy in the Gulf of Aden. It comprises of countries engaged in the Coalition Maritime Force (CMF) in the North Arabian Sea region and includes Germany, UK, Turkey, Pakistan, and others. A Maritime Liaison Office (MARLO) facilitates the exchange of information between the United States Navy, Combined Maritime Forces, and the commercial maritime community in the Middle East. The MARLO also monitors the movement of traffic through the IRTC (see below).

The formation of the CTF 151 in 2009 led to a debate on the issue of India's participation in the multinational patrols. Traditionally, since independence the Indian armed forces have never served under a foreign flag and therefore the government decided to stay out of the multination task force, choosing to deploy Indian naval warships on independent patrols. In the words of Admiral (Retired) Arun Prakash, former naval chief, the time has come for the Indian navy to push for a regional task force under the aegis of the Indian Ocean Naval Symposium (IONS) and invite the other extra regional powers to participate.

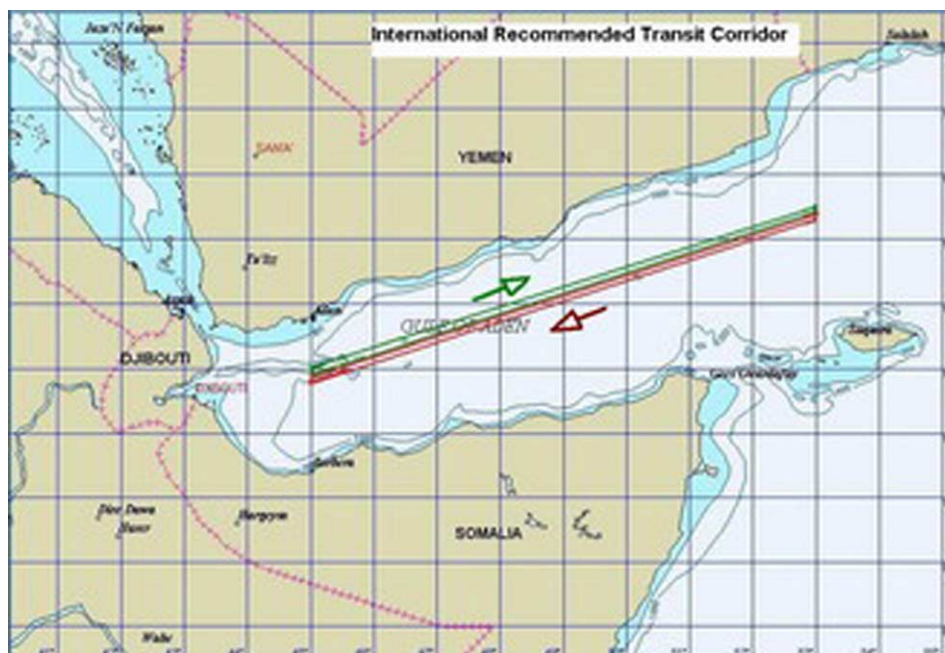## International Recommended Transit Corridor (IRTC)

The US Navy Central Command (CENTCOM) established the IRTC – a 560nm-long security corridor formerly known as the Maritime Security Patrol Area (MSPA) in the Gulf of Aden – on 22 August 2008 (see Fig. 1). This area is currently patrolled by the coalition forces, NATO and the EU.[11] The coalition forces have since repulsed several attacks by Somali pirates, even though some successful hijacking have taken place within the IRTC.

Shared Awareness and Deconfliction (SHADE)

A series of regular meetings of the naval representatives from China, India, Russia and others from the EU and the CMF participating in the anti-piracy patrols held under the US Central Command (CENTCOM) have come to be known as SHADE. The aim of SHADE is to share information and streamline the tactical operating procedures. SHADE is currently co-chaired by the EU and the CMF.

Operation 'Ocean Shield' by NATO

A Standing NATO Maritime Group (SNMG) has been deployed in the region to allow the World Food Organisation to fulfill its mission of providing humanitarian aid to Somalia under the UN World Food Programme. The operation has been codenamed "Ocean Shield". The SNMG comprises of about seven ships from Italy, Germany, Greece, Turkey, UK, USA, and Spain.

Fig. 1. The International Recommended Transit Corridor (IRTC) (source: AsianYachting Ventures, "Gulf of Aden Pirate Corridor Waypoints – New coordinates in effect", http://asianyachting.com/news/PirateCorridor.htm (accessed January 10, 2011)).

EU Naval Force (EUNAVFOR): Operation "Atlanta"

A convoy escort system codenamed Operation "Atlanta" is being maintained by six ships of the 27 nation European Union. About three to five Maritime Patrol Aircraft are also employed for surveillance in the region. The main missions of the EU Naval Force are:

- The protection of United Nations World Food Programme Shipping delivering humanitarian food aid to Somalia;
- The protection of merchant vessels transiting through the Gulf of Aden or in proximity to Somalia; and
- The deterrence and repression of acts of piracy and armed robbery off the Somali coast.

The following EU Member States have committed assets to the EUNAVFOR£ Greece, France, Belgium, Sweden, Netherlands, Norway, Germany, Italy, Spain, and the UK. The EU has also established the Maritime Security Centre Horn of Africa in partnership with industry to improve coordination between commercial shipping and international military forces in the region.

Maritime Security Centre (Horn of Africa)

The MSC(HOA) centre is a Coordination Centre tasked to safeguard merchant shipping operating in the region by preventing and deterring acts of piracy in the Gulf of Aden, off the Horn of Africa and in the Somali Basin. The MSCHOA Centre plays the lead role in monitoring all vessels transiting through the Gulf of Aden and also communicates alerts to ships in the region through an interactive website. The MSCHOA is assisted by the UK Maritime trade Office in Dubai.

UN Resolution 1816/2008

In June 2008 the UN Security Council passed a resolution to give foreign warships the right to enter Somali waters for the purposes of repressing acts of piracy and armed robbery at sea by all necessary means. However, entry into Somali water is permitted with the consent of the Somali Transitional Federal Government (STFG).

UN Resolution 1851/2009

This resolution, adopted in January 2009, established the Contact Group on Piracy off the Coast of Somalia. Today its membership has grown from 30 countries to more than 50. Six International organisations viz The African Union, Arab League, EU, IMO, NATO, and the UN Secretariat are members. The contact group has a rotating Chairmanship and has four working groups as below:

- Military and Operational Coordination, information sharing and capacity building – Chaired by UK.
- Judicial issues – Chaired by Denmark.
- Strengthening shipping self-awareness and other capacities – Chaired by the USA.
- Public Information – Chaired by Egypt.

Djibouti Code of Conduct

The Djibouti Code of Conduct – inspired by the 2004 Regional Co-Operation Agreement on Combating Piracy and Armed Robbery against Ships (ReCAAP) in Asia – concerning the Repression of Piracy and Armed Robbery against Ships in the Western Indian Ocean and Gulf of Aden, came into force from 29 January 2009. On the occasion of the meeting in Djibouti, the following nine countries in the region signed the Code of Conduct: Djibouti, Ethiopia, Kenya, Somalia (TFG), Yemen, Madagascar, Maldives, Seychelles, and Tanzania. The Code of Conduct is open for signature by 21 countries in the region. The signatories of the Djibouti Code of Conduct have agreed to establishment of Piracy Information Exchange Centres at Kenya, Tanzania and Yemen, and a regional training centre in Djibouti.

Independent Anti-piracy Patrols

Several counties have deployed their navies on independent patrols for safety of their merchant ships. These include China, Russia, India, Iran, Japan, and South Korea.

Role of the Indian Navy

Following the incident of MV Stolt Valor[12] the Government of India decided to deploy Indian Naval ships on anti-piracy patrols in the Gulf of Aden region. The

Indian navy has been deployed in the International Maritime Transit Corridor off the Horn of Africa and the coast of Somalia since October 2008, making it the navy's longest continuous out-of-area deployment ever. In June 2010, the Indian Navy crossed a milestone in out-of-area operations when it safely escorted its thousandth ship, the MV Bornza, through the Gulf of Aden.

As of 17 September 2010 the Indian naval ships had safely escorted 1200 merchant vessels – including both Indian and foreign flagged ships – from over 50 different nations and prevented 18 pirates attacks. In September this year, INS Delhi put down three pirate attacks in four days. The anti-piracy patrols being conducted today are in addition to the regular Exclusive Economic Zone patrols conducted by the Indian navy in the waters off the Maldives and the Seychelles.

GCC Navies

Alarmed by the drop in Suez Canal toll taxes due to ships following the longer (yet safer) Cape of Good Hope route, a meeting of the representatives of the GCC members was held at the behest of Egypt, at Riyadh on 29 June 2009 to discuss the role of the GCC in combating piracy in the Gulf of Aden. This included six members of the GCC, viz. Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates, and the Arab Red Sea littoral countries (Djibouti, Egypt, Jordan, Sudan and Yemen). After the deliberations, a joint statement declared that it is the responsibility of the littoral countries to maintain the security of the Red Sea and combat piracy. The meeting approved the formation of an Arab naval taskforce against piracy in tune with the international laws and the resolutions of the United Nations Security Council. The planned taskforce would have a single command and a one-year mandate after which an assessment of the process should be conducted. Each of the concerned countries can decide the size and nature of its contribution to force. The force will be tasked with safeguarding the oil and LNG tankers passing through the Red Sea against the risks of piracy.[13]

However, realising the growing threat of maritime terrorist attacks on their essential infrastructure, including oil facilities, power plants, desalination plants, etc., the Gulf states are now coordinating their efforts with multinational forces for a comprehensive security regime. The Gulf states have also realised that piracy is as much of a problem for the regional states as for the extra regional powers. The multinational forces together with the regional navies of the Gulf can collectively put

up a force of up to 30 ships to patrol the Gulf of Aden. This will substantially increase surveillance in the area.

Analysis of Naval Patrols

The IMB report for the first quarter of 2010 indicated a significant drop in piracy incidents off Somali. This can be attributed to the fact the naval patrols have succeeded in destroying several of the "mother boats" used by the Somali pirates and also captured a large quantity of arms and equipment used by the pirates. Further, the merchant shipping community is now better prepared to tackle the menace of piracy. However, the fact that the range of attacks by Somali pirates has increased manifold since 2006 when piracy had just begun off the Horn of Africa and that the number of attacks continues to remain at an unacceptably high level despite naval patrols is a cause for concern. The main factors that hamper warship efforts at countering piracy in the Gulf of Aden are enumerated in the following paragraphs.

Lack of Investments in Ship Security

One of the key stakeholders in ensuring maritime security is the shipping industry. The lack of propensity on part of the shipping sector to invest in security stems from the fact that most ships involve multiple stakeholders and thus there is a tendency to "pass the buck". Several USA and British Private Security Companies (PSC) offer security solutions for ships transiting the Gulf of Aden. However, these services are expensive: a three man armed detail typically costs about $21,000 per day. The Yemini Navy also provides security in association with a UK PSC for $55,000 per trip through the Gulf of Aden.[14] However, the majority of the shipping companies are reluctant to invest in expensive security solutions. This can be partly attributed to the global recession, which has led to reduced freight earning by shipping companies who in turn are forced to cut down their operating expenses.

An analysis of various incidents reveals several attempts at hijacking have been successfully thwarted due to timely alarm being raised by the target ship. Conversely, in many cases the ships realised they had been under attack from pirates only after the pirates were on board. Such situations are difficult to salvage and even warships with commandoes onboard can do very little to help. The security options before the merchant ships can be divided into active and passive measures as follows:

- **Active Measures** These include onboard armed guards or Sea Marshalls, self defence devices such as the Long Range Acoustic Device (LRAD), etc.
- **Passive Measures** These measures include high speeds by ships, evasive manoeuvring, ship wide alarm and surveillance devices, anti-boarding devices such as electric fencing, armoured doors, water cannons, etc.

It is evident that ships fitted with security devices are better equipped to detect potential attacks in good time and alert security agencies. Lack of such systems reduces the effectiveness of naval patrols. Yet, most shipping companies are loathe to invest in security. Perhaps a certain basic security system could be considered as a mandatory suite for ships. This could be on the lines of the ISPS code of 2004 that made fitment of radio/ satellite systems compulsory for ship safety. Moreover, incentives by insurance companies in terms of reduced premiums for ships fitted out with security devices could be a viable option to encourage ships to invest in security systems. An example is the Hart-Swinglehurst – Protected Gulf of Aden Transits, which provide a new war risk product. The insurance cover is provided for financial loss resulting from hijacking and crew protection at a discount of 20–30% since each ship is accompanied by an armed security team.[15] Further, ships could conduct regular anti-piracy drills for the crew on lines of the daily onboard fire fighting drills to improve crew confidence in dealing with pirate attacks.

Lack of Regulations Dealing with Armed Protection Merchant Ships

The extant IMO and IMB regulations do not encourage armed protection of ships since it is expected to lead to increased violence at sea. It is likely that confrontation between armed guards and pirates could lead to secondary/collateral damage. Presently, the decision to carry firearms on-board ships is that of the Flag state. However, this is subject to the laws of the country being visited when in Port or in territorial waters. In the absence of clearly defined rules of engagement, the use of firearms can pose a serious challenge. This issue has, however, been perceived differently by various states. In the Strait of Malacca region, Singapore is in favour of embarking armed security onboard ships while both Malaysia and Indonesia have strongly opposed this move and banned ships with armed security from entering their territorial waters. Following the capture of the USA Flagged vessel MV *Maersk Albama*, the USA government has advised all US Flagged vessels to carry armed

security. The MV *Maersk Albama* successfully fired and defended itself from pirates when attacked for the second time in November 2009. The US government's decision to encourage carriage of firearms onboard merchant ships follows the recent executive order passed by President Obama declaring piracy as a threat to national security of the USA and forbidding material or financial assistance (read ransom) to pirates. It is believed that a few of the "Flag of Convenience" states are also actively considering following suit, since under Article 94 of the UNCLOS, the Flag states are responsible for security of the ship. It is reported that German shipping companies are now opting for registration under Flags of Convenience since German law does not permit carriage of firearms onboard merchant ships.

The use of private security for transportation systems on land is not a new practice. Consider the example for moving cash (say a few million dollars) from a bank to another location in the city. Today, the use of an armoured vehicle with a GPS tracking system and well-trained and armed guards is the norm rather than an exception. In stark comparison, a typical merchant ship loaded with billions of dollars worth of cargo would be manned by a skeleton crew of 10–15 unarmed people. Security for shipping hitherto was not considered important since the high seas were once upon a time desolate areas. This is no longer true as the Somali pirates – equipped with medium sized trawlers (mother boats), a GPS and radio sets – have demonstrated.

According to the National Union of Maritime Aviation and Shipping Transport Officer (NUMAST), a rocket or Bazooka attack on a train or bus would have resulted in huge public outcry. The attacks on ships do not generate much interest because they are out of sight and hence out of mind.[16] Thus, the use of private security onboard ships is imperative. However, the use of weapons will have to be regulated by the IMO on similar lines as the ISPS Code, which makes it mandatory for merchant ships to be equipped with radio/satellite equipment for safety at sea.

Inadequacy of Extant International Laws for Prosecution of Pirates

The most difficult challenge faced by warships on anti-piracy is that of prosecution of persons under control (PUCs). Pirates once detained become "persons under control". International law requires that the pirates be tried by the courts of the Flag state of the warship which apprehended the pirates or carried out the seizure.

This poses a serious logistics challenge of transporting the captured pirates to the Flag State to stand trial.

The lack of proper judicial mechanism is hugely counterproductive to the efforts of the warships in the region. Apprehended pirates go scot-free – only to return to piracy, with more experience.

Trends in Piracy

Ransom

According to some estimates the ransom collected by Somali pirates in 2009 exceeds $48.4 million.[17] Evidently, a large part of this amount has been ploughed back into business to procure better equipment and weapons. The Somali pirates are now equipped with GPS, automatic rifles, Rocket Propelled grenade launchers and high-speed boats! The increased range and audacity of attacks clearly indicates improved tactics and better equipment in the hand of the pirates.

The average ransoms demanded by Somali pirates have increased from $100,000 to 200,000 in 2005 to $3–5 million in 2010.[18] It is also evident that the pirates have realised that the success of the business depends on a "non violent" method of extraction. The statistics recorded by IMB indicate that pirates have deliberately abstained from violence against the crew. In 2008, over 800 crew members had been held hostage; three were killed. In 2009, over 860 crew members were taken hostage, but only four were killed.

In September 2008, during the hijacking of a Ukrainian freighter, the *Faina*, off Somalia, the pirate leader admitted via phone to a New York Times reporter that the group wanted "just money".[19] In many of the other hijacking incidents off the Horn of Africa, the pirates have been unequivocal about their demand for cash, and, unless pushed too hard, not caused any physical harm to the crew of the captured vessel. Yet, experts opine that with increasingly audacious piracy attacks in high seas, the scale of violence may increase in the future.

Insurance

The rise in ransom demands has been accompanied by an increase in insurance premiums. Since 2008, war risk premiums (insurance for vessels transiting a "war

risk" area, including areas under threat of piracy) have increased 300-fold from $500 per ship, per voyage to up to $150,000 per ship, per voyage in 2010.[20] Accordingly, the shipping companies have increased their freight charges to include the insurance surcharge and also additional risk pay for crew. The Shipping Corporation of India has recently introduced a piracy risk surcharge of $40/TEU on all shipments thorough the Gulf of Aden. This increased freight is passed on to the exporter by the shipping agent. Eventually, the sum is passed on to the final consumers.

Over 24,000 ships transit the Gulf of Aden annually. In 2009, 47 ships were hijacked and released on payment of ransom. The ransom is paid by the insurance companies through their agents in cash and the sum is generally undisclosed. Considering an average of $4 million ransom for each ship hijacked, the total ransom paid would be about $188 million. Clearly, the total ransom paid is much lower than the insurance surcharge (at $25/TEU or $5/Tonne) paid by the shipping companies. Thus, the system of ransom has emerged as a lucrative business model with both insurance companies and the pirates making a neat sum at the expense of the end consumer.

Terrorism

The gravest risk of piracy is the threat of terrorist groups linking up with the Somali pirates. There is a clear danger of the Al Qaeda operating out of Yemen linking up with. Al Qaeda has demonstrated its capacity to launch maritime terrorist attacks in the region when it struck the USS Cole and the French Tanker MV Limburg in Aden in 1998 and 2000 respectively. The pressures of the Global War on terror on land and aviation security could force the Al Qaeda to move to sea. While there is no evidence to suggest any linkages between pirates and terrorist groups, the possibility cannot be ruled out in the near future.

Conclusion

Piracy in the Gulf of Aden, which first made headlines in 2005, is now a well-established industry. The fact that the system of ransom is turning out to be a lucrative business for pirates and insurance companies sets a dangerous precedent. These trends are disturbing. Clearly, in such a scenario the interests of the crew are not being addressed, as Flag States are reluctant to invest in ship security and prefer to

take their chances at sea. The additional insurance surcharge is passed on the end consumer of the goods with no dues to the ship-owners.

Warship patrols in the Gulf of Aden have reached a record number with a majority of the G20 navies operating in the region. Yet piracy continues to flourish, albeit at a reduced intensity. Pirates armed with sophisticated weapons and equipment operate with impunity at great ranges. The high seas are no longer desolate areas where unarmed ships with a handful of men can sail undisturbed. Warships cannot be omnipresent and therefore there is a need for ships to invest in security. However, this calls for a new regulation to be drafted. Perhaps this could be done on the lines of the ISPS code implemented in 2004.

The scourge of piracy can only be addressed by collaborative efforts on part of the three main stakeholders i.e. the shipping industry, the security agencies and the international maritime organisations such as the IMO and ITWF. India as the largest provider of skilled manpower to the maritime sector could play an important role ensuring participation by all the stakeholders.

Notes

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