9

MARITIME PIRACY

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Unlike most of the other organized crime problems discussed in this report, maritime piracy is not a trafficking issue. No contraband is moved, no illicit market serviced. Rather, it is a violent, acquisitive crime.[1] It is transnational because a ship is considered the sovereign territory of the nation whose flag she flies.[2] It is organized because commandeering a ship at sea requires considerable planning and some specialized expertise.
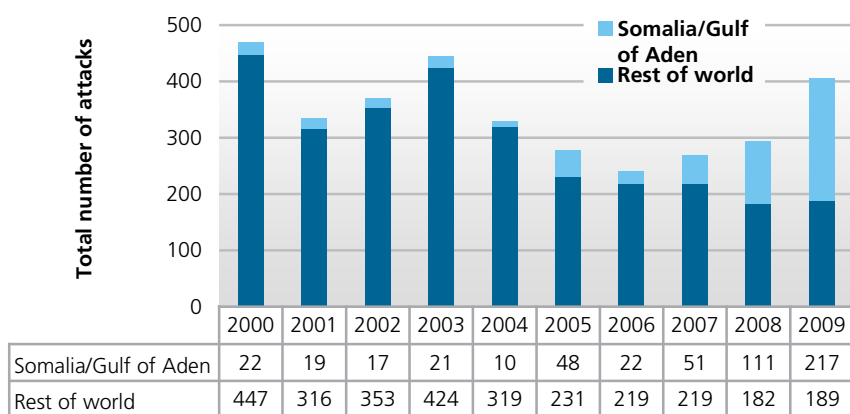
The following chapter focuses on just one piracy problem: that found off the coast of Somalia, especially in the Gulf of Aden. This area has seen the largest share of global piracy attacks in recent years, and the problem appears to be growing. Somalia is not the only area of the world affected by maritime piracy, however. The Gulf of Guinea in West Africa has long been a high risk area, as are the waters along Bangladesh and the South China Sea. But in 2009, more than half the global piracy attacks were ascribed to Somali pirates.

The term "piracy" encompasses two distinct sorts of offences: the first is robbery or hijacking, where the target of the attack is to steal a maritime vessel or its cargo; the second is kidnapping, where the vessel and crew are threatened until a ransom is paid. The Somali situation is unique in that almost all of the piracy involves kidnapping for ransom.

Until recently, piracy was a phenomenon in decline. Twenty-first century piracy was first seen in the South China Sea and in the Malacca Straits.[3] Attacks peaked at roughly 350 to 450 reported attacks per year during the period 2000-2004, and then dropped by almost half in 2005.[4] This reduction was attributed to effective and coordinated international action against the pirates. But in 2008-2009, piracy again skyrocketed, due almost entirely to the dramatic increase of piracy off the Coast of Somalia. Piracy is once again on the forefront of the international community's attention, as maritime trade is threatened and ransom payments to Somali pirates have risen to the millions of dollars.

FIG. 155: **LOCATIONS OF ALL REPORTED PIRACY ATTACKS,** 2000-2009

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Somalia/Gulf of Aden	22	19	17	21	10	48	22	51	111	217
Rest of world	447	316	353	424	319	231	219	219	182	189

Source: IMB-ICC annual reports, 2003-2009

FIG. 156: **PIRACY ATTACKS,** 2009

- Each dot represents a piracy or armed robbery incident during 2009
- Total per regions

Note: The names of countries are mentioned when the number of attacks was higher than 10 in 2009.

37 South and Central America

47 West Africa

223 Indian Ocean, Red Sea and Gulf of Aden

30 South Asia

67 South-East Asia

Sources: International Chamber of Commerce, International Maritime Bureau, Piracy Reporting Center
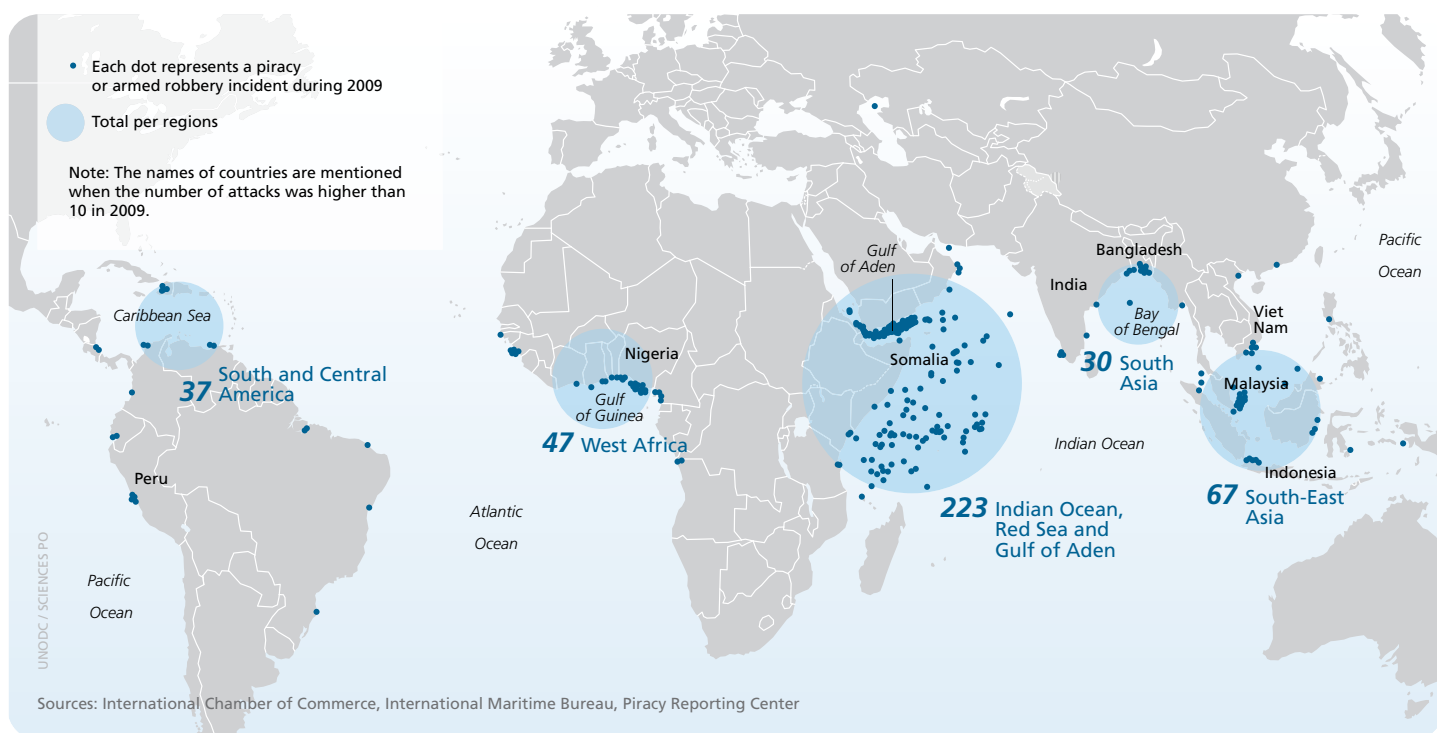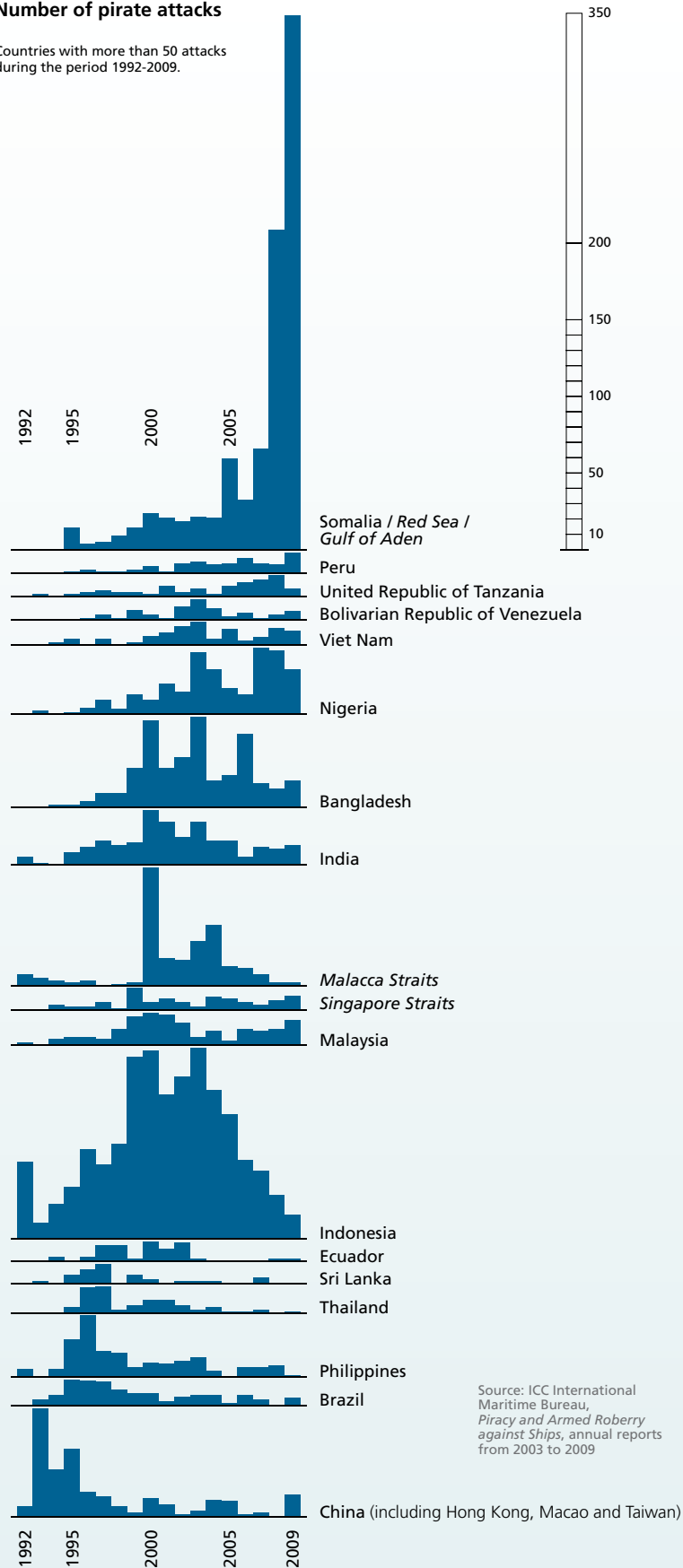
FIG. 157: PIRACY ATTACKS, MAIN COUNTRIES, 1992-2009

Number of pirate attacks

Countries with more than 50 attacks during the period 1992-2009.

Somalia / *Red Sea / Gulf of Aden*

Peru

United Republic of Tanzania

Bolivarian Republic of Venezuela

Viet Nam

Nigeria

Bangladesh

India

Malacca Straits

Singapore Straits

Malaysia

Indonesia

Ecuador

Sri Lanka

Thailand

Philippines

Brazil

China (including Hong Kong, Macao and Taiwan)

Source: ICC International Maritime Bureau, *Piracy and Armed Roberry against Ships*, annual reports from 2003 to 2009

Source: UNODC

9.1. Piracy off the coasts of the Horn of Africa

Route

Vector:	*Ships*
Location of perpetrators:	*Off the Somali coast*
Origin and destination of affected ships:	*Most countries are affected*

Dimensions

Volume:	*217 attacks in 2009*
Annual value:	*Estimated profits of at least US$50-100 million*

Offenders

Groups involved:	*Two main networks: One Puntland-based, another in the south-central Mudug province*
Residence of traffickers:	*Somalia*

Threat

Estimated trend:	*Increasing*
Potential effects in region:	*Difficulties in establishing Government authority, negative impact on local and international commerce*
Likelihood of effects being realized:	*High*

What is the nature of this market?

Although there have long been pirates based in Somalia, profiting off the commercial maritime flows that concentrate in the area, recent events are a direct product of the social and political chaos that has prevailed in the last two decades. After the 22-year dictatorship of Siad Barre and 18 years of civil war, the central government collapsed in 1991, and the country effectively split into three:

- the independent north-eastern state of Somaliland;
- the central semi-autonomous region of Puntland; and
- the south-western state of Somalia.

Today, the Transitional Federal Government of Somalia still does not retain full control of the capital, let alone the rest of its sovereign territory. Over three million Somalis depend on food aid, more than a two-third increase from 2007. The country has one of the highest maternal mortality rates in the world. Less than a quarter of Somalia's children go to school, and the country is about to become Africa's least literate. There has been a continuous outflow of refugees and migrants to neighboring countries, with the UN High Commissioner for Refugees estimating that as many as 50,000 people, predominantly Somalis, crossed the Gulf of Aden to Yemen in 2008.[5]

Modern piracy off the coast of Somalia is said to have arisen from efforts of local fishermen, who formed vigilante groups to protect their territorial waters. After the fall of the Barre regime, foreign vessels from Europe, Asia and Africa moved into tuna-rich Somali waters *en masse*. Unauthorized fishing may have resulted in the loss of nearly 30% of the annual catch. The United Kingdom Department for International Development (DFID) has estimated that Somalis lost US$100 million to illegal tuna and shrimp fishing in 2003-2004, at a time when the country's GDP was perhaps US$5 billion.[6] There have also been reports of toxic waste dumping in Somali waters. Initially, vessels involved in illicit fishing or dumping were attacked by these vigilante groups, with the end of either extracting taxes or deterring future incursions. One way of securing reparations was to hold the vessel and its illicit cargo until compensation was paid, and over time seizing vessels became an end in itself.

Today, in a situation similar to what has happened in the Niger Delta, the political aims of the pirates have all but been forgotten. While the rhetoric remains, the true end of these attacks is the enrichment of the pirates. Drifting further and further from the Somali coasts, the pirates are attacking commercial freighters, pleasure craft and other vessels that have nothing to do with Somalia. Rather than championing the cause of the Somali people, pirates today attack vessels bearing the food aid on which so many Somalis depend.

Somalia's pirates have had to drift further and further from the coast in search of prey. In 2004, the International Maritime Board warned all vessels to avoid sailing within 50 nautical miles of the Somali coast. In 2005, it increased this distance to 100 nautical miles.[7] By 2006, some pirate attacks extended as far as 350 nautical miles off the coast of Somalia, with pirate attacks occurring in the Indian Ocean, in the Gulf of Aden and at the mouth of the Red Sea.[8] Between 2007 and 2008, the main area of pirate activity shifted from southern Somalia and Mogadishu port to the Gulf of Aden. Since the beginning of 2009, there has been an increase in the number of attacks reported off the east coast of Somalia in the western Indian Ocean, with some attacks taking place over 1,000 nautical miles off that coast.

The greatest victim of this piracy is undoubtedly the Somalis themselves. On top of the ongoing conflict, Somalia is also suffering from four years of catastrophic drought, and an estimated 3.2 million Somalis, approximately 43% of the population, were dependent on food aid in the latter part of 2008. Some 95% of international aid supplies to Somalia is shipped by sea. The World Food Programme (WFP) ships approximately 30,000 to 40,000 metric tons of food aid per month to the Horn of Africa region. As a result of the attacks on aid-bearing ships, WFP has reported that it has become more expensive and dangerous to ship food assistance to Mogadishu.[9]

Since late 2008, on top of having to pay higher insurance premiums, WFP shipments also require an escort from European Union or Canadian navies. While some Somali pirates have consented not to target vessels carrying humanitarian aid and other supporting commercial vessels,[10] attacks on humanitarian aid shipments have yet to stop. For example, in April 2009, Somali pirates hijacked the MV Maersk Alabama and attacked the MV Liberty Sun, both US-flagged and -crewed cargo vessels contracted by the WFP to deliver food assistance off the south-east coast of Somalia.[11] In November 2009, the MV Maersk Alabama was attacked again, although the crew managed to repel the attack.[12]
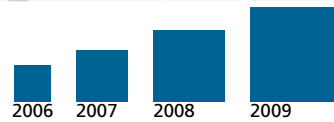
FIG. 158: **PIRACY INCIDENTS ATTRIBUTED TO SOMALI PIRATES,** 2006-2009
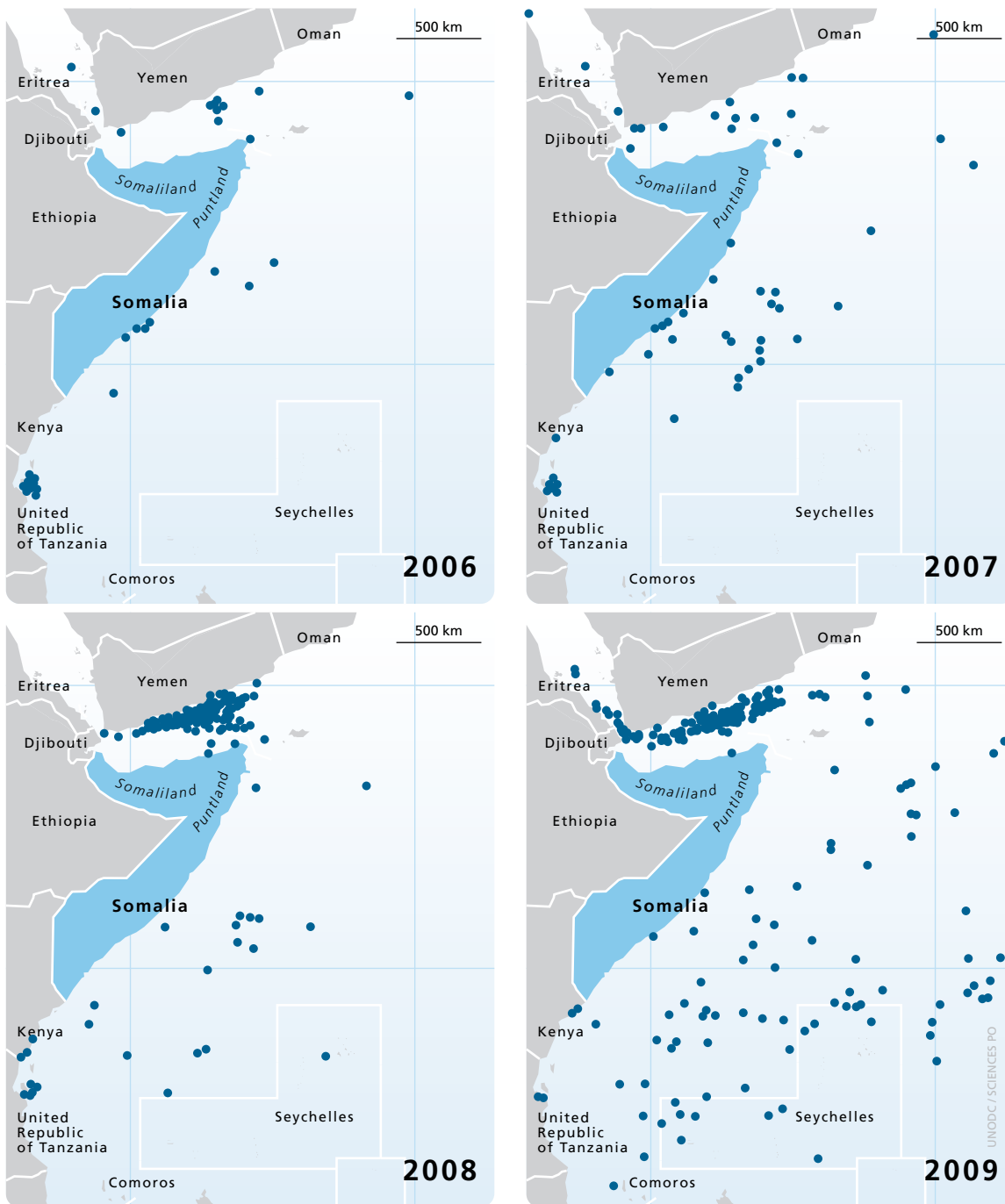
Sources: Source: ICC: International Maritime Bureau,
Piracy and armed robbery against ships, Annual Report 2009

• Each dot represents an actual or attempted piracy attack

Number of pirate attacks in the area, 2006-2009 2006 2007 2008 2009

The increased shipping costs have also had a major impact on the economy, since shipping is traditionally a major source of income for the country. The region's fishing industry has also been affected. Tuna catches in the Indian Ocean are reported to have fallen by 30% in 2008, in part because of fishing vessels' fear of piracy.[13] This has had a major impact on countries like the Seychelles, who rely on the fishing industry for up to 40% of their income.[14]

On the other hand, the inflow of ransom money has had a beneficial economic effect on some localities. For example, Garoowe, the capital of Puntland, appears to be experiencing a construction boom, and even the price of marriage dowries is

said to have increased.[15] This 'dirty money' is likely to have a negative impact on governance in that region, however, as the purchasing power and influence of the pirates exceeds that of the government. Piracy is said to be penetrating all levels of the society in Puntland, with a number of ministers being suspected of involvement in piracy.[16] It is also reported to be undermining the traditional leadership influence of many clan elders in Somalia, who are actively encouraging local youth not to get involved in piracy.[17] There have been fears that ransom funds could affect the outcome of upcoming elections in Puntland.

Beyond Somalia, the effects are also wide ranging. There are the direct victims: in the first half of 2009 alone, 485 seafarers were taken hostage off the coast of Somalia, with six injured, four killed and one missing.[18] Ship-owners are victim to piracy not only because of the ransom that they have to pay but also because of the increase in the cost of shipping. The increased incidence of piracy has raised insurance premiums for vessels plying these waters from some US$20,000 in 2008 to US$150,000 at the end of 2009.[19]

The Gulf of Aden is one of the most important trading routes in the world. Thousands of ships pass through the Gulf en route to or from the Suez Canal every year. The US Department of Energy estimated that, as of 2006, as many as 3.3 million barrels of oil per day were transiting the Bab el Mandab strait between the Gulf of Aden and the Red Sea.[20] To compound the problem, there are few alternatives to the Gulf of Aden. The longer route to Europe and North America around the Cape of Good Hope significantly increases the cost of shipping.

Canal authorities have reported declines in shipping traffic and resulting revenue loss recently, due both to decreased economic activity and the piracy threat in the Gulf of Aden.[21] If international shipping continues to avoid the Gulf area's oil and gas exporting facilities, the world may see an increase in commodity and energy prices from Asia and the Middle East. Furthermore, it is feared that if the price of shipping, including insurance premiums, continues to rise, regional trade for countries like Egypt, Sudan, Saudi Arabia, Eritrea, Ethiopia, Dijbouti and Yemen will decline as well.

How is the crime conducted?

Somali piracy is unique in many regards, as Somalia does not have a natural coastal terrain of the sort that is usually favourable to pirates. Pirates in other parts of the world typically operate in areas with numerous forested inlets and islands, where ships could be hidden from aerial and maritime surveillance while they are being renamed and repainted. Instead, Somali pirates have developed on-land sanctuaries from which they can launch pirate attacks and conduct ransom negotiations.[22] This, no doubt, has affected their choice to focus on hostages rather than cargo.[23] What may have been considered a deficiency has resulted in a very positive outcome for the pirates: the amounts they command for ransoms far exceed what they could have gained through robbery.

Traditionally, Somali pirates have operated from small, fast skiffs, waiting up to 50 nautical miles off the coast for a suitable vessel to attack. But as patrols have pushed them further out, they are increasingly using bigger fishing trawlers as "mother ships". These larger vessels are usually able to carry several skiffs, as well as weapons (typically AK-47s and increasingly, rocket-propelled grenades).

The visual horizon at sea is normally about three miles. The ability of pirates to locate target vessels in vast expanses of sea has led some to conclude that pirates are being provided with GPS coordinates by informants with access to ship tracking data.[24] Crews of some hijacked vessels have said that the pirates appear to know everything about the ship on boarding, from the layout of the vessel to its ports of call. Calls made by pirates from their satellite phones from captured ships indicate an international network.

From the time of first sighting, it generally takes the pirates some 15 to 30 minutes to board the ship.[25] Once the vessel is targeted, the skiffs attack from a number of directions simultaneously, which usually allows one of the skiffs to approach the vessel unnoticed. Relatively slow ships with low sides, a small crew and insufficient surveillance are more vulnerable to pirate attacks. Pirates do not limit their attacks to one kind of ship, although bulk carriers, container ships and general cargo ships comprise the majority of piracy targets.[26]

Most ships that are successfully captured by Somali pirates in the Gulf of Aden are brought to Eyl, Hobyo or Haradheere.[27] There are also reports that Bargaal and Garaad are used as anchorage sites.[28] As mentioned above, since the pirates are not concerned about concealing the vessel from public sight, negotiations are usually done with the ship visibly anchored off the Somali coast.[29]

In the first part of 2009, the average time that crews were held hostage was approximately two months, with the shortest time being six days and the longest six months.[30] Negotiations for ransom are usu-

ally done directly between the pirates on the seized vessel and the ship-owners or head companies, although sometimes third-party intermediaries in Somalia and abroad are also used. The negotiations are generally conducted via satellite telephones and the captured ship's communication equipment.

In most instances, ransoms are paid in cash and are delivered to the pirates aboard the seized ship. The method of payment may be direct transportation of the money to the pirates by a representative of the ship-owner or even the parachuting of the ransom money. In a few cases, ransoms have been paid to a trusted third party representative outside Somalia. Upon receipt of the money, the pirates release the hostages and usually leave separately to avoid tracking and capture.[31]

Who are the offenders?

Somali pirates are generally young men raised in a desperate and disorganized society, willing to risk their lives for the slightest chance of something better. The groups themselves are small – perhaps six to 10 individuals – so despite the existence of a number of well-known groups, this would appear to be an endeavour with few barriers to entry. So long as start-up financing is available, there is likely a long list of volunteers willing to sign up. Most use small arms such as AK-47s and shoulder-fired rocket-propelled grenades, of which there is an abundant supply in their war-torn country. While clearly no match for a naval vessel, teenagers with automatic weapons in skiffs can easily overcome most commercial ships, since the crews are generally unarmed.

Some 1,400 Somalis are estimated to be involved in piracy.[32] Two main piracy networks in Somalia have been recognized: one in the semi-autonomous northern Puntland in the Eyl district and another group based in Haradheere in Central Somalia.[33] Smaller pirate groups have been recognized operating from the ports of Bosaso, Qandala, Caluula, Bargaal, Hobyo, Mogadishu and Garad.[34] Specific groups mentioned in reports from the region include:

- **the Somali Marines** based in Central Somalia, this group appears to have pioneered the use of mother ships;

- **the Kismayu group** (also own as **National Volunteer Coastguard)** from Kismayu in southern Somalia, focused on small boats, close to the shore;

- **the Marka Group** operating south of Mogadishu to Kismayo, this small group uses fishing boats with long-range fire power; and,

- **the Puntland group** operating from a small village near Bossaso, using modified fishing vessels and seized vessels for continued attacks.[35]

It also appears that a number of groups are organized along clan lines, with the sub-clans of Darood and Hawiye being particularly prominent. But most piracy groups appear to be equal-opportunity employers, seeking recruits in the refugee camps housing some 40,000 internally displaced Somalis. They may recruit skilled fishermen since some would-be pirates have little or no knowledge of the sea. With the resources they command, pirates can draw whole communities into their net.[36] For example, the ancient town of Eyl is said to have been transformed into a logistic support structure for piracy.

How big is the offence?

The amount of ransom demanded by the pirate groups over the past few years has risen from tens of thousands of dollars to hundreds of thousands and even millions. In 2008, the average ransom was estimated at between US$500,000 to US$2 million, and in 2009 it appears to have risen further still. According to the Report of the Secretary-General to the Security Council on the state of piracy in Somalia (2009), the "Eyl Group" alone was holding hostage six vessels and their crew and was expected to have earned approximately $30 million in ransom payments by the end of 2008.[37] While some ship-owners have been understandably reluctant to disclose ransom payments, recent ransom payments of more than US$5 million have been reported.[38]

Only a portion of this money goes to the pirates. Government officials and the armed groups that control different parts of the country - especially in Puntland - may also be taking a share, though the precise amount is unknown. According to one breakdown, the pirates involved in the actual hijacking receive only 30% of the ransom, out of which they must cover their expenses. The armed groups who control the territory where the pirates are based may claim perhaps 10% as a tax, and elders and local officials command a similar share. The financier of the operation may take 20% as interest on the funds advanced, with a full sponsor claiming perhaps 30%.[39]

According to a convicted pirate, a single armed pirate can earn anywhere from US$6,000 to US$10,000 for a $US1 million ransom.[40] This is approximately equivalent to two to three years' worth of salary for an armed guard at a humanitarian agency and much higher than what a local business would pay.

IMPLICATIONS FOR RESPONSE

Somali piracy is another example of a problem caused more by prevailing conditions than by the impetus of any particular group. If armed robbery in any other part of the world routinely yielded takings in the millions of dollars, or even the equivalent of several years' salary, this activity would be extremely difficult to deter through law enforcement, however harsh. But these rich pickings are available in an environment where there are few alternative sources of income, where war and famine have hardened some to the sufferings of others, and where the chances of being brought to justice are slim. In this context, becoming a pirate may appear to be a rational vocational choice.

Halting this activity will require a change in circumstances. There have been longstanding international efforts to combat hunger, promote development and bring peace to Somalia, and these remain the core of the issue. There may be scope for reducing piracy, however, without waiting until this embattled nation is returned to normalcy.

One approach is target hardening. The shipping lines themselves have experimented with a wide variety of security devices, most of which are non-lethal, including water cannons and high-intensity light and sound projectors. The efficacy of these devices remains unclear, but if they could truly repel a military attack, they would likely have wider application in conventional warfare. This sort of technical solution could promote an arms race, with cargo vessels taking on increasingly heavy hardware to avoid being singled-out, and well-funded pirates employing ever more aggressive tactics in response.

However well-funded, it is unlikely the pirates will ever be able to take on a naval warship. Under Resolution 1816,[41] the Security Council has created conditions for third-party governments to conduct anti-piracy operations in Somali territorial waters, as well as engaging in on-shore operations with authorization from the Somali Transitional Federal Government (TFG). Currently, naval battleships from a wide range of countries patrol the Gulf of Aden. This presence seems to have had some impact: there were more attempted hijackings in the Gulf in 2009 than in 2008, but fewer successful ones.

But the greatest potential lies in promoting action against the pirates by Somalis in Somalia. Somali Prime Minister Omar Abdirashid Ali Sharmarke has argued that, "[Y]ou cannot tackle piracy from the sea no matter how many naval ships you put

FIG. 159: ATTEMPTED VERSUS SUCCESSFUL HIJACKINGS IN THE GULF OF ADEN, 2008-2009
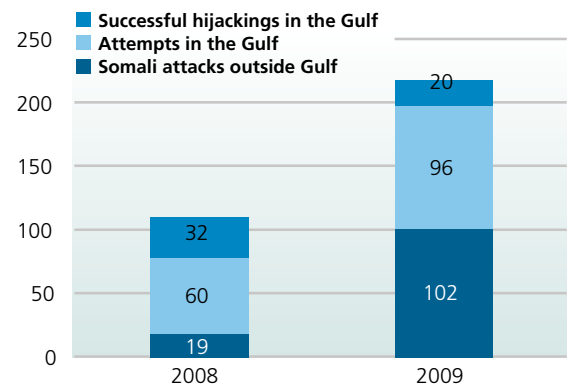
Source: IMB-ICC annual reports, 2008 and 2009

into the waters… the best way to actually fight the piracy is to tackle these things from the land."[42] It is certainly true that the open way the pirates currently operate is only possible with substantial mainland support. The pirates are often at sea for months negotiating a ransom, and need supplies and services during this time. Once paid, the militants must debark and return to shore, often laden with considerable volumes of cash. They would not get far if they could not rely on the protection of local potentates. If the groups that are currently taxing the piracy trade – including community officials, elders and clan leaders, and militants – were to decide it were in their best interest to stop piracy, it would very likely stop. The governments of Puntland and the TFG have pledged their support, but need assistance in translating this political will into local action. Aside from the broader project of improving national governance and the rule of law in the country, specific measures aimed at enhancing law enforcement effectiveness could have a beneficial effect.

Another point of vulnerability lies in the pirates' information stream. While some attacks appear to be opportunistic, some seem to be aimed at particular maritime vessels. Locating a particular ship at sea without inside information would be extremely difficult. Better securing this information for vessels traversing the danger zone could pay dividends in reduced pirate attacks. Similarly, bundles of currency are of little use if they cannot be converted into the goods and services the pirates desire. Measures to prevent the outflow of this money or the inflow of products (particularly arms, maritime craft and parts, and vehicles) could also reduce incentives for piracy.