

# NATO's Approach to Counter-Piracy

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### Introduction

#### *Background and Composition*

In 1945 the Second World War came to an end and so did the alliance between the USSR, the USA and the British Empire. The world was divided into two blocs: the East and the West. Any move or action taken by either group was seen suspiciously and as an act of aggression by the other. As the USSR took the nations of east Europe into its bloc, there was a growing concern among the Western nations regarding the spread of Communism. The western nations were suspicious of USSR trying to impose its ideology across Europe. In January 1948, British Foreign Secretary Ernest Bevin spoke of the need for a “treaty of alliance and mutual assistance”, a defensive alliance and a regional grouping within the framework of the UN Charter. In the meantime, the US senate adopted the Vandenberg Resolution which allowed the United States to constitutionally participate in a mutual defence system in times of peace. Hence, the ground was set for a transatlantic treaty (NATO website). The foundation to this treaty was laid down on 4<sup>th</sup> April 1949 with collective defence as its core purpose. The North Atlantic Treaty Organization (NATO) is a political and military alliance of 28 countries from North America and Europe. The heart of the treaty lies in article 5 which states that “an armed attack against one or more of them in Europe or North America shall be considered an attack against them all”.

The structure of NATO can be broadly divided into Civilian structure, Military structure and Organizations and Agencies. The military structure of NATO is comprised of the contributing forces and equipment of the member countries participating in the military aspect of the alliance. The Military structure of NATO is divided into:

1. International Military staff
2. Allied Command Operations (ACO)
3. Allied Command Transformation (ACT)
4. Other NATO Command & Staff Organisations

Each category is then further divided into a number of divisions and sub-divisions. This paper is concerned with the ACO and its sub-division of Headquarters Allied Joint Force Command HQ Brunssum, which is further divided into:

Headquarters Allied Maritime Command HQ Northwood, GB

Headquarters Allied Air Command Ramstein (HQ AC Ramstein)- Ramstein, DE

Headquarters Allied Force Command Heidelberg, DE

NATO has two Immediate Reaction Forces: the standing NATO Maritime Group composed of the SNMG1 and SNMG2; and the standing NATO Maritime Mine Countermeasure Groups composed of SNMCMG1 and SNMCMG2. The SNMG1 and SNMG2 are multinational, integrated maritime force composed of vessels from various allied nations that is permanently available to NATO. SNMG1 is usually employed in the Eastern Atlantic area, although it can be deployed anywhere NATO requires. SNMG2 is usually employed in the Mediterranean area although it can

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be deployed anywhere NATO requires. The composition for the groups varies as it depends on the contribution by the member nations on a rotational 4-6 months basis. Its current operations are in Afghanistan, Horn of Africa/Gulf of Aden, Kosovo and the Mediterranean sea. Its operation in Horn of Africa/Gulf of Aden is the counter piracy operation. NATO started its counter piracy operation in 2008 while providing escort for the World Food Programme (WFP) vessels carrying humanitarian aid to Africa. Its current operation is Operation Ocean Shield (OOS) which started in 2009 and had been extended till the end of 2012. However, on 19 March 2012, the allies agreed on the need to continue counter piracy operations off the Horn of Africa and Operation Ocean Shield has been extended for further two years until the end of 2014.

## *Counter-Piracy Operations*

The counter piracy measures adopted by NATO are patrolling, information sharing, providing self-protection measures, spreading awareness among the shipping industry, and keeping the community informed about risk zones and incidents via alerts. NATO's approach to counter-piracy is through cooperation and self-awareness. NATO works in cooperation with other forces present in the area involved in counter-piracy activities such as the EU operation Atlanta as well as with individual nation's deployment. The presence of NATO forces along with the others have led to a decline in the number of incidents in the Gulf of Aden. However, the downside to this improvement is that it has resulted in the pirates increasing their area of operations and spreading out to the Indian Ocean which is a much larger area to monitor.

The NATO Shipping Centre (NSC) is the point of contact between the maritime community and NATO. It is a part of the Allied Maritime Command Headquarters Northwood in the United Kingdom. NSC provides the link for information exchange between the NATO forces and the international shipping community. It alerts the shipping community about incidents and potential threats in the region. The NSC website suggests that along with counter-piracy actions it supports NATO, national and multinational Naval Cooperation and Guidance for Shipping (NCAGS) operations and exercises. The aim of the Shipping Centre is to provide accurate and up-to-date information regarding merchant shipping vessels present or transiting in the area to the naval forces and to provide information to the shipping community on the situation in the risk zones.

The maritime community is central to OOS. The NSC advises vessels and ship owners of precautionary measures and relies on these measures to a great extent for reduction in piracy incidents. It provides its guidelines in the BMP (Best Management Practices) and claims that ships adhering and implementing the BMP is less likely to be attacked or approached. The focus of the operation is at sea, but more needs to be done onshore as the base for piracy is not the water, but the land. It is futile fighting a virus if the cause is not addressed. OOS provides regional capacity building assistance to states which, makes it different and improved from its predecessors. However, it is interesting to note that this new feature by OOS does not earn NATO any brownie points as its engagement with capacity building activities has been insignificant. A report on External Information Sharing in support of NATO counter-piracy operations (2011) underlines the "lack of a common network" to counter-piracy forces in sharing information, which is highly detrimental to the purposes of the operation.

This paper examines the counter piracy operations carried out by NATO and the measures adopted to meet its purposes. It underlines the effective concepts and methods adopted by NATO to prevent piracy as well as to point out the flaws that undermine the capacity of the operations. The paper outlines a detailed analysis of OOS which include its background, measures required, measures adopted, progress, the problems faced, drawbacks and a conclusion which lies in the fact that to combat piracy one has to address the problem which is firmly rooted in the soil of Somalia.

## **Operation Ocean Shield (OOS)**

Piracy is a major threat to important trade route and dangers the lives of innocent seafarers. Over the years the Somalia pirates have come to be known as notorious with increasing attacks and vessel hijacking. International Maritime Bureau (IMB) reports show that majority of the world attacks in 2011 happened in East and West Africa. The report shows that currently there are 13 vessels and 197 hostages under Somalia pirates (as of 19 March 2011).

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So far, out of the 9 hijackings in 2012, 7 are from Somalia pirates. There is an increase in the number of Somalia incidents in 2011. However overall, there is a drop in the number of incidents recorded in 2011 after 4 consecutive years of increased piracy and armed robbery. In all, there were 45 vessels hijacked, 176 vessels boarded, 113 vessels fired upon and 105 reported attempted attacks in 2011 (IMB).

## *Aims and Purposes*

NATO operations are carried out along the principles outlined in the Strategic Concept. NATO revoked its article 5 for the first time after the September 2011 attacks in the United States of America in the form of operation Active Endeavour. The latest strategic concept document is the strategic Concept 2010 "Active Engagement, Modern Defence" which clearly states NATO's tasks and principles. In consistence with this strategic concept NATO developed an Alliance Maritime strategy adopted in January 2011. The document identifies four roles for NATO's maritime forces: deterrence and collective defence; crisis management; cooperative security-outreach through partnerships, dialogue and cooperation and maritime security.

NATO's counter piracy operation began when the United Nations Secretary General requested naval escort for the World Food Programme vessels to Africa in 2008. Operation Allied Provider (October-December 2008) was a temporary programme which laid the foundation for NATO's two other piracy operations in the region. The basis for NATO's counter piracy operations are found in the Final Communiqué: Meeting of the North Atlantic Council at the level of Foreign Ministers held at NATO Headquarters, Brussels (3 December 2008):

'As demonstrated by NATO's rapid deployment of Operation Allied Provider, we are greatly preoccupied by the rising incidence of piracy off the Horn of Africa and are committed to assist in fighting this scourge, in full respect of relevant United Nations Security Council resolutions.'

Operation Allied Provider was followed by Operation Allied Protector (March to July 2009) conducted by SNMG1 vessels. The current operation to prevent and deter piracy is Operation Ocean Shield carried out by SNMG2 vessels. Allied Joint Command Lisbon is in overall command of OOS while Maritime Component Command Headquarters Northwood, United Kingdom, will execute day-to-day tactical control. The SNMG2 and SNMCMG 2 fall under the command of Allied Maritime Component Command (CC-Mar) Naples. However, for OOS, SNMG2 comes under the operational control of Component Command Maritime Headquarters Northwood, and under the overall responsibility of Joint Headquarters Lisbon. The area of operation as stated by the Allied Command Operations in their website is 1 million square kilometers in the Gulf of Aden and the Somali basin.

Operation Ocean Shield was approved by the North Atlantic Council on 17 August 2009 and now has been extended till the end of 2014. The NATO website justifies its presence in a counter-piracy operation in the region by stating that "Piracy threatens to undermine international humanitarian efforts in Africa and disrupt vital sea lines of communication and commerce in the Indian Ocean". OOS broadens its scope of counter piracy activities through a new approach by providing assistance to regional states in capacity building to combat piracy. The NATO Shipping Centre website, which is NATO's point of contact with the maritime community explaining the capacity building efforts, says:

'While at-sea counter piracy operations will continue to be the focus, a new element of regional state counter piracy capacity building has been developed for Operation Ocean Shield. NATO's capacity building effort will aim to assist regional states, upon their request, in developing their own ability to combat piracy activities. This element of the operation is designed to complement existing international efforts, and will contribute to a lasting maritime security solution off the Horn of Africa.'

NATO naval operations aim to contribute in the areas of deterrence and collective security, crisis management, cooperative security and maritime security. The NATO shipping Centre outlines Operation Ocean Shield's in the following manner:

1. Deter, disrupt and protect against pirate attacks, rendering assistance to ships as required and if available.

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2. Actively seek suspected pirates and prevent their continued activity through detention, seizure of vessels and property, and the delivery of suspects and evidence to designated law enforcement authorities, in accordance with NATO agreements.
3. Facilitate and support the development of regional states' capacity to conduct effective counter-piracy operations, in coordination with other related international efforts.
4. Coordinate NATO operations and initiatives with coalition maritime forces, EU naval forces, and other non-NATO forces conducting counter piracy operations off the Horn of Africa.

## *Counter-Piracy Measures*

NATO forces rely on the patrolling of the pirate infested waters, the use of the Internationally Recommended Transit Corridor (IRTC), use of self-protecting measures by the vessels, implementation of the Best Management Practices (BMP), information sharing between the naval forces and the merchant community and awareness and analysis through SHADE (Shared Awareness Deconfliction) meetings, in order to fight piracy in the region. The SHADE group meeting happens monthly in Bahrain which is a platform for coordination of activities between the maritime industry and NATO (OOS-TF 508), EU (Operation Atlanta-TF 465), the US led Coalition Maritime Force (CMF- TF- 151), along with individual nations deployment which have included Australia, Bahrain, China, Egypt, India, Jordan, Pakistan, Russia, Saudi Arabia, Seychelles, Singapore, South Korea, Ukraine and Yemen. Along with SHADE, NATO uses the platform provided by the Contact Group on Piracy off the Coast of Somalia to coordinate activities across a broad range of actors present in the area. The contact group was established in January 2009 in consistence with the UNSC resolution of 1851 to facilitate discussion and coordination of actions among states and international organisation to overcome piracy off the coast of Somalia.

The self-protecting measures suggest onboard security measures to minimize the threat of a pirate attack. Some of the examples and measures that the NSC provides to the ship owners are: to hinder the use of companionways and ladders onboard by placing barb wires on it or some other form of obstruction, by removing access ladders and restricting access to the accommodation by locking the lower access doors and hatches, windows blank off to prevent breaking in, use of razor wire around the dock of the vessel and by using propeller arrestor. The BMP is the most efficient and reliable tool for the shipping community as suggested by the NSC. The purpose of the BMP is to "assist ships to avoid, deter or delay piracy attacks in the high risk area". The BMP asserts that the implementation of self-protection measures outlined in the booklet is very effective and the consequences of not following the BMP are severe. The three fundamental requirements of BMP are to register at MSCHOA (EU NAVFOR, Maritime Security Centre-Horn of Africa), report to UKMTO (UK Maritime Trade Operations) and implement SPMs (Self-Protecting Measures). The NSC advises and strongly recommends ships to register at MSCHOA on entering the high risk area. The ships can do this by filling a form online or by fax or email. The vessels are also encouraged to report daily to the UKMTO (UKMTO) at 8:00 hours GMT if operating within the high risk area. The most recent edition of the practices is BMP 4 published august 2011. The BMP is put together on the experiences of the shipmasters and provides details on how to implement these measures. The BMP lists out 6 key points to avoid being a victim of piracy:

- **Do not be alone:** The ships are advised to report to the UKMTO and register with the MSCHOA along with using the IRTC.
- **Do not be detected:** The ship owners are suggested to be aware of warnings and alerts by visiting the websites and make themselves aware of the pirate operating locations
- **Do not be surprised:** the use of radar, CCTV and increased vigilance is highly recommended.
- **Do not be vulnerable:** To deter and prevent pirate attacks ships are encouraged to use visible and physical obstructions onboard such as razor wires or water.
- **Do not be boarded:** On spotting any suspicious behavior the vessels are advised to increase their speed and maneuver their vessel.
- **Do not be controlled:** the ship master and the crew are advised to follow well practiced procedures and drills and deny the pirates use of any tools, equipment or access routes.

The NATO TV (2010) provides insight into how the forces carry out helicopter surveillance to trace ships and identify

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potential pirate bases. They then closely monitor these bases and on the occasion of a pirate launch from any of the suspected points, the NATO maritime security forces advances on to the pirates before they can attack any vessel. The pirates often do not offer any resistance to the well-equipped soldiers and surrender. Once they are caught, their weapons are seized and their boats/skiffs destroyed. The pirates are then given enough food and water and sent back to the land. An overview of the measures adopted by NATO for its counter-piracy operations almost seems impeccable.

If attacked, a ship is required to call the UKMTO, giving the name of the ship, position and the nature of the attack on telephone. The NSC provides daily and weekly piracy updates. It reports on incidents and alerts provided by the naval forces and the ships and vessels in the area. It informs the reader of any attacks that may have happened in the last 24 hours of reading the content as well as of the past week. It also provides weekly assessment of the situation in the region. It updates its alert details providing insight into the kind of pirate threat existing in the area which includes the information on mother ships or skiffs. The ship master and the crew can also get an idea of the kind of tactics used by the pirates to attack by reading the alert details. The NSC website issues pictures of Motherships which pose a threat to the transiting vessels and encourages reports on these ships if spotted. The crew is also encouraged to take pictures and if possible videos of suspicious behavior by another ship or if being approached by potential pirates and send them to NSC, UKMTO and MSCHOA. If the shipmasters closely monitor the alerts and incidents posted in the NSC website as well as implement the BMP and adhere to the advice provided, it is possible to evade a pirate attack.

The aims and objectives set out for the mission are in consistence with their measures besides two points. The first one is lack of information on coordination with law enforcement agencies and the second one is the new element in the operation of regional capacity building assistance. The information for these two factors is almost negligible although it is underlined in the aims and objectives of the mission. Along with these two factors, there also other problems and areas of concern that the counter-piracy operations should focus on. I will discuss the problems in the following section.

## *Critique*

The NATO counter-piracy operation has contributed immensely towards keeping the Gulf of Aden safe. The measures adopted by the actor are in consistence with the objectives of the operation. It provides guidance and suggestions to the shipping community, informs the concerned communities of the pirate situation through alerts and assessments, carries out patrols to deter any attack from taking place, provides preventive measures and destroys pirate vessels. A look at the picture and it seems like everything is being done that is possible. However, the operation is flawless only till the time we are talking about preventive measures. It talks about avoiding pirates and prepares the shipping community to do so. Interestingly, avoiding a problem does not make it non-existent. There is a big problem which is affecting not just the trading routes but also human lives. The entire practice of shipping has become more expensive than ever due to the high insurance prices attributed to piracy. It is time that NATO stop looking at piracy as just something to prevent but as something that needs attention at the root cause of the problem. In case of piracy, the root cause is on land and not on water.

To begin with Operation Ocean shield is said to be based on the experiences and lessons learned from the previous counter piracy operations by NATO. One of the lessons learned was that more needs to be done onshore and hence NATO OOS has a new function. As mentioned above, it provides assistance to regional states in capacity building to combat piracy. The work carried out in this regard is negligible. There is no information available as to what is meant by "capacity-building", how NATO aims to carry this out and what has been done so far. The only thing available is the mention of coast-guard as an example within brackets. If NATO has realized that it is important to strengthen the capabilities of individual states in fighting piracy, then it should focus on capacity building along with patrolling the pirate infested waters. The question is then, does NATO have the mandate to carry out operations onshore? The answer to this is found in the Security Council resolution 1851. UNSC resolution 1851 "Authorizes States to use Land Based Operations in Somalia". A report on the resolution by the UN News Centre states:

'The Security Council today decided that, for the next year, States and regional organizations cooperating in the

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fight against piracy and armed robbery at sea off Somalia's coast — for which prior notification had been provided by Somalia's Transitional Federal Government to the Secretary-General — could undertake all necessary measures "appropriate in Somalia", to interdict those using Somali territory to plan, facilitate or undertake such acts.'

The resolution was adopted on 16 December 2008. If the UN has provided for *all necessary measures* to be taken, then why is there insignificant initiative to curb piracy as a long term solution? Although there could be a lot more reasons, research shows that the most evident reason for piracy is lawlessness in Somalia. Chalk (2010), a senior political scientist at the RAND Corporation suggests that piracy is an extension lead of the poverty and lawlessness tormenting the people of Somalia since the fall of the Said Barre dictatorship in 1991. Writing a commentary in the Los Angeles Times (02/2011) chalk says that the buildup to piracy leads back to the people of Somali fighting foreign ships for fishing in their territorial water and dumping toxic wastes. Acting on the anger provoked by the foreign ships stealing their fish and by the prevalent poverty, piracy seems to be a more lucrative method than a risk. The report on UNSC resolution 1851 by the UN News Centre points out that the Secretary-General of the United Nations reminds the member nations that piracy is "a symptom of the state of anarchy that had persisted in Somalia for more than 17 years. Anti-piracy efforts, therefore, must be placed in the context of a comprehensive approach that fostered an inclusive peace process in Somalia and assisted the parties to rebuild security, governance capacity, addressed human rights issues and harnessed economic opportunities throughout the country." Along with academic scholars and the United Nations, the task forces involved in fighting piracy off the coast of Somalia as well, believes in the need to bring stability to Somalia as the key to eradicate piracy. In an episode by the NATO TV on "Horn of Africa: Pirate Menace" Commodore Christian Rune (Commander, Task Force 508/SNMG1, Royal Danish Navy) talking about the inability of the use of force as a long term solution says "we are sort of fighting the symptoms and not the disease down here and to really solve the problem of piracy we have to solve the problem of Somalia". The commodore goes on to say that "[we] need to help the local in the area to build up their own capability to curb or fight piracy". The need for capacity building, as mentioned earlier is ingrained in the purposes of Operation Ocean shield. It is interesting to note that despite a unanimous opinion the solution to eradicate piracy, there is no peace-building operation in Somalia as yet. That is probably because restoring peace and stability in Somalia is a political matter. It is accepted that the process of solving the problem in Somalia is complex but the agencies involved in counter-piracy actions can contribute by at least starting to focus on their capacity building agenda.

The other problem related to piracy is the lack of legal capacity to capture and punish pirates. Most of the time the detained pirates are freed without any trial due to the lack of law enforcement bodies to investigate and prosecute the cases. The UN Secretary General (resolution 1851) acknowledges both the "...lack of capacity, domestic legislation, and clarity about how to dispose of pirates after their capture" and the need for willing states and organizations fighting piracy to come to an agreement regarding "... prosecution of persons detained as a result of operations..." (UNSC Resolution 1851). There is very little information on what happens after the pirates are caught by the NATO forces. The process of trying the captured pirates is complex. There is no clarity as to under whose jurisdiction the trial lie if pirates are caught for example on an Iranian origin vessel, flying the Greek flag, on international water with Indian crew. Every time the pirates are captured and released without taking any action, they come back with new and improved tactics. The *New York Times* (2012) in news analysis on the lack of legal rules quotes a released victim as saying: "every time these navies' countries let them go, the pirates just laugh at that". If the international community does not want to take on the responsibility of the captured pirates then they should prepare Somalia to be accountable for their people. It is futile for navies to carry out these high risk operations only to just let them go free. International politics plays a major role in tackling this problem.

The increase in piracy has led to rise in insurance prices. Hijackings and ransom payment has had an immense effect in the insurance price. In case of an attack the ship owners prefer to pay off ransom as the amount of the ransom is much less compared to losing of the vessel and the money lost while in captivity (Chalk, 2011). There are alternative routes that ships can take around the Cape of Good Hope, but this route is mostly ignored as it increases the length of the journey. The longer the journey, the more is the cost of the journey and with the increasing prices in oil; this is definitely not a preferred option for the ship owners (Chalk, 2011). It is also suggested that piracy is not just constraint to the hunger stricken Somali Pirates. In fact it is like a business which encompasses more than just the people carrying out the attack. The negotiations that follow include lawyers and negotiators and it is an industry in itself (BBC Magazine, 2009). I will not go into the details of the negotiations and the methods involved in the process

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but would like to point out the problems involved in rescuing the hostages and how piracy affects the economy. Delivering the money to the pirates is always a problem as sailing the pirate infested waters with huge amounts of money is like a sitting duck for the pirates and dropping off ransoms by air is very costly (Askins, BBC, 2009). Lord Levene, the chairman of Lloyds of London commenting on the problem of piracy from the commercial perspective says that the cost of the maritime industry and insurances increases more due to piracy. He goes on to say that to tackle the problem of piracy, “[you] have to get to the root cause of the problem. [The] root cause of the problem is not in the ocean, it is on the land”.

## Conclusion

The Somalia pirates continue to be a major threat to the safety and security of the Shipping Community, constituting approximately 54% of the world attacks (IMB). It threatens maritime routes, world trade, and seafarer's safety, increases the costs of the maritime industry and causes menace in international relations. The work done by the forces of NATO and EU to deter attacks are admirable and have helped increase the safety of the seafarers. Without their presence in the area, the situation would be far worse and it would affect the world trade and economy enormously. The NATO forces are doing commendable work in deterring attacks and protecting the seafarers from the clutches of the Somali pirates. The size of the area is overwhelmingly huge and it is not possible for the forces to be there every time an attack is launched. The self- preventive measures provided in the BMP helps the ships to take preventive measures and reduce the risk of an attack.

However, the operation is focused mainly on preventive measures. With the increase in the number of attacks, preventive measures are no longer sufficient. NATO forces are lacking in carrying out one of the important purpose of the operation-capacity building. Through the paper I have built an argument regarding the need to address the root cause of the problem. Capacity building is a stepping stone to tackling the root problem of Piracy. NATO is involved in the counter-piracy operation for 3 years now and has extended it for another two years. The experience the forces have with dealing with the pirates is much more and if NATO has outlined the need for capacity building based on these experiences, then it should focus on carrying out the objective. Preventive measures are adopted before a crisis is anticipated not after. Once the crisis has occurred there is no alternative but to address the problem rather than its effects.

The lack of legal jurisdiction to prosecute the captured pirates hinders efforts by the naval forces. The international community should unite to find a solution and a way to fight piracy. It is agreed that the condition prevailing in Somalia makes it difficult to address the piracy problem on shore. There are a lot of hindrances and legal constraints in the path. However, forces like NATO with a mandate to go onshore should take decisions that help facilitate capacity building. The focus on land should be equal to the focus at sea. Measures should no longer be just preventing piracy and it is not enough to merely include needed measures in the purposes of the operations. NATO should carry out all of its purposes outlined for a successful and effective counter-piracy operation. It is time that NATO carries out its operation with the aim of 'eliminating' the problem rather than 'preventing'.

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## **NATO's Approach to Counter-Piracy**

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