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Maritime security and piracy as challenges for the EU and Asia: Lessons from EU experiences

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About Zeus

The Institute for Peace Research and Security Studies at the University of Hamburg (IFSH) is divided into three specialized research units. The **Centre for European Peace and Security Studies (ZEUS)** focuses on the theoretical and practical aspects of the European Union's efforts to strengthen peace and security in the various fields included within the scope of the Common Foreign and Security Policy - both within and beyond Europe.

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Maritime security and piracy as challenges for the EU and Asia: Lessons from EU experiences

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Executive Summary

Globalisation is changing the world and the strategic environment in the 21st century. In this process the relevance of the maritime domain is increasing because it connects people, economies and cultures more than ever providing for opportunities and security challenges. The threat assessments of the EU and its main member states converge to a high degree. Albeit maritime security is not a topic of special attention, the risks and challenges identified in the various strategy papers may assume a maritime dimension. The EU and its member states have started to come to grips with maritime security challenges such as piracy. They have implemented a variety of policies to tackle the piracy threat off the coast of Somalia. Although the performance has been mixed so far, the EU's efforts have contributed to improving the security of the SLOC in the Indian Ocean. Maintaining good order at sea is in the very interest of the European trading nations if they want to prevent and counter possibly increasing negative impacts of piracy and other security challenges to the SLOC. Hence, the EU and its Asian partners should increase their dialogue on and practical cooperation in maritime security issues such as piracy, organised crime, and terrorism, and their root causes.

Introduction[1]

Asia has become the most dynamic continent in the world. It is a driving force of globalisation asking for closer EU-Asia cooperation on the political, economic and security level. Since the end of the Cold War and after a brief episode of an unipolar system led by the US during the 1990s a multipolar world has been emerging that could lead to a cooperative multilateral system in the best case scenario, and to a confrontational multipolar system in the worst case, or something in between that could be called 'coopetition'. Be this as it may, Asia and especially China and India will be major players in this century whereas the European Union (EU) is set to evolve as an international actor and security provider. Whether the EU will play a bigger role in Asian security remains to be seen. While the EU is not being perceived as a hard security actor in Asia, it can nevertheless "bring its smart power to bear in combining bilateralism and regionalism" (Reiterer 2013: 79). It is obvious that globalisation is changing the world and the strategic environment in the 21st century. In this process the relevance of the maritime domain is increasing because it connects people, economies and cultures more than ever. It provides for opportunities and challenges. For Asia and Europe the sea lines are objectively of huge importance, so is maritime security. The question however is whether and how this importance is displayed in the actual EU policy and whether the EU approach to maritime security can provide lessons for Asia?

The EU has been described as the first potential post-modern superpower (Guérot 2004). While in the modern age international relations were state-centric and security was defined primarily by national military capabilities, the post-modern understanding of security is much

[1] I am very grateful to Howard Löwen and Torsten Geise for valuable comments. This working paper is based on a study prepared for the EU-Asia Dialogue – Sharing a Common Future for Europe and Asia – Sharing Policy Innovation and Best Practices in Addressing Common Challenges, co-funded by the European Union and implemented by the Konrad Adenauer Foundation, the East Asian Institute, the European Policy Centre, and the European Union Centre Singapore.

more differentiated in terms of the multiplicity of actors (international organisations, regional organisations, states, private actors, non-governmental organisations/NGO etc.) and security relevant sectors (diplomacy, economy, humanitarian aid, military, police, development, etc.) as well as possible risks and threats ranging from soft to hard security challenges (human security, economic security, environmental security, energy security, military security, etc.). This approach is a reaction to the fact that with globalisation the nature of politics is changing too, not least due to the empowerment of individuals and groups by modern technologies. Nevertheless, it remains true that "seapower is at the heart of the globalisation process in a way in which land power and airpower are not, simply because the system is based essentially on sea transportation" (Till 2009: 6).

Therefore the security of the Sea Lines of Communication (SLOC) is in the interest of all trading nations. Securing the national littorals of the 12 miles zone and the exclusive economic zone (EEZ) is the task of the state whereas the security on the high seas is both an international and a transnational task. The United Nations play an important role as promoter of internationally accepted norms and regimes regulating the maritime space – be it via the International Maritime Organisation (IMO) regarding questions of safety[2], the UN Convention on the Law of the Seas (UNCLOS) regarding questions of the constitution of the oceans[3] or the UN Security Council (UNSC) regarding questions of security[4]. Regional organisations such as the North Atlantic Treaty Organisation (NATO) and mechanisms such as the Regional Cooperation Agreement on Combating Piracy and Armed Robbery Against Ships in Asia (ReCAAP) also have an important role when it comes to the security of the SLOCs. Against this background, this working paper deals with the EU approach to maritime security in general and

2 For more information see http://www.imo.org/Pages/home.aspx
3 For more information see http://www.un.org/Depts/los/convention_agreements/convention_overview_convention.htm
4 For more information see http://www.un.org/en/sc/documents/resolutions/index.shtml

more extensively with the EU's anti-piracy approach off the coast of Somalia. It concludes with a plea for closer cooperation between the EU and ASEAN and some recommendations derived from EU experiences.

Challenges to maritime security

The question pertaining to what kind of challenges with regard to maritime security are perceived as important by the EU will be approached by looking into official documents and statements, and putting them in the context of the EU's complex institutional landscape and the role of important member states. In contrast to NATO (NATO 2011), the EU does not yet have an official maritime strategy based on current security challenges. The European Security Strategy from 2003 is still the most authoritative document dealing with security challenges (Council 2003). After touching briefly upon global challenges such as underdevelopment, global warming and interconnected infrastructures, it identifies five key threats: terrorism, proliferation of weapons of mass destruction, regional conflicts, state failure, and organised crime. It emphasizes the link between global and local dynamics and the resulting necessity of being able to deal with security challenges far away via supporting an international order based on a more effective multilateralism. Five years later the report to the implementation of the ESS basically confirmed the initial threat analysis but added climate change and energy security as additional key threats. While maritime security is not mentioned explicitly, the challenge of piracy is briefly touched upon as "a new dimension of organised crime" and as a consideration for EU activities to create stability beyond its own borders (Solana 2008: 8).

The identified key threats implicitly include the maritime dimension of these threats. That is why the report mentions maritime surveillance as one of the key crisis management capabilities (Solana 2008: 10). The proliferation of weapons of mass destruction may be implemented via

maritime transport; terrorists use the maritime environment and attack maritime targets, organised crime is engaged in maritime trafficking of drugs, human beings and weapons. Piracy is seen as driven by organised crime. While not being a security problem in the European territorial waters and the EEZs of the EU-Member States (EUMS), piracy off the coast of Somalia has been identified as a security challenge since 2008. It is neither a vital threat nor does it get much attention in the European public. Nevertheless, piracy is threatening the SLOC and the international order of the high sea as well as the life of human beings and the property of individuals and companies. The fact that piracy off the coast of Somalia has triggered the first EU military naval operation is due to the initiative by countries directly concerned by acts of piracy, the relative regional proximity of region which is sometimes referred to as the "wider Mediterranean" (Germond 2010: 47), and the economic relevance of the sea route along the Gulf of Aden for the European-Asiatic trade.

The EU's understanding of security challenges is less state-centred and more societal oriented. Starting from a complex and multi-dimensional concept of security, it has developed different strands of maritime activities. It is a strong proponent of a comprehensive approach to security albeit it struggles to translate this concept into reality. On the one hand, the EU has a fairly well established maritime dimension in its overall policy; on the other hand, this is often obscured by the complexity of its institutional setting. As to the latter, there is the traditional cleavage between the two main institutional "tribes": the European Commission with its civilian competencies in maritime affairs such as safety, spatial planning and surveillances, and the Council (as the intergovernmental organ of the member states) who is responsible for security in the context of the Common European Foreign and Security Policy (CFSP) and the Common European Security and Defence Policy (CSDP). The ongoing build-up of the European External Action Service (EEAS) is an additional institution led by the High Representative for Foreign

Affairs and Security Policy based on the Treaty of Lisbon (2009) with the task to exercise foreign affairs functions in a more comprehensive way[5]. Hence, besides the security challenges mentioned above, one major challenge with regard to maritime security is to bring together the many loose ends of its diverse institutions and their maritime activities in a comprehensive approach, ideally based on a joint maritime strategy.

The above mentioned threat assessment and the EU structures and policies to deal with these threats are the result of unanimous political decision of EUMS who of course, also have their national agendas. More interventionist countries like France and the UK possessing overseas territories, being nuclear powers and permanent members of the UNSC, think and sometimes act in more global terms, while others such as Germany or Poland see themselves more as land powers who are more focused on Europe and its neighbourhood. Hence, the former invest more in naval power than the latter (IISS 2012: 112f. 118f., 170). However, the reproach that the Europeans "have become increasingly 'sea blind'" (Rogers 2010: 5) is somewhat reflected in the strategic defence reviews of the EU's 'big three': UK, France and Germany. Genuine maritime threats are hardly mentioned. In the German Defence White Book the term 'maritime security' is not mentioned at all, but all the risks and threats enshrined in the ESS are covered (Bundesminister der Verteidigung 2006: 19-23). Regarding the German navy, it states that it is in a transformation process towards a "Expeditionary Navy" whose tasks include inter alia to secure the SLOC and to counter conventional and asymmetric threats (ibid: 122). The British Strategic and Defence Review mentions "maritime security" twice and elaborates more on the tasks of British naval power: that consist of "tackling drug trafficking, piracy and counter-terrorism" and potentially of the projection of power inter alia "to keep the sea lanes open,

[5] From an organisational point of view the EEAS is a third "tribe", although a very young one. Other main players within the EU system of governance are the European Parliament, the European Court of Justice, and the European Court of Auditors.

protect the nuclear deterrent and feed strategic intelligence back to the UK" (HM Government 2010: 8). The French White Book ranks the threats of terrorism, cyber attack and ballistic threats as highest followed by pandemics, natural disasters and organised crime (Livre blanc 2008: 59). While maritime security in not covered as a special topic and piracy is only mentioned once, the White Book displays a more geostrategic approach by underlining among others, the rising importance of the Indian Ocean which led to the construction of a naval station in the United Arab Emirates. Like the UK, France wants to retain a global power projection capability in order to "preserve our strategic interests and to live up to our international responsibilities" (Livre blanc 2008: 71).[6]

In a nutshell, the threat assessments of the EU and its main member states converge to a high degree. Maritime security is not a topic of special attention but the risks and challenges identified in the various strategy papers may assume a maritime dimension. Since membership in EU and in NATO overlap considerably NATO's maritime strategy[7] and threat assessment can be read as being in line with the national maritime security interests of its 21 EU members. The maritime strategy specifies: "The maintenance of the freedom of navigation, sea-based trade routes, critical infrastructure, energy flows, protection of marine resources and environmental safety are in Allies' security interests" (NATO 2011: 2). In addition to the tasks of deterrence, collective defence, and crisis management, NATO sees maritime security as "a suitable area for cooperation with partners" in order to contribute to "the maintenance of a secure and safe maritime environment" (NATO 2011; 5) which is challenged by transnational crime such as piracy, illegal trafficking of humans, weapons and narcotics, and terrorists activities (NATO 2011: 2).

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6 Translation by the author.

7 It is NATO's first maritime strategy since 1984.

Relevance ot the maritime domain and impact of piracy on Europe

Before dwelling on the impact of piracy in particular, I start with the broader picture of the general relevance of the maritime domain for the EU because it is a major argument for policing the maritime global commons. After several enlargement rounds the EU-27 seem to have shifted more towards the continent. In fact, it broadened its access to the surrounding seas. According to data from the European Maritime Safety Agency the EUMS have 100,000 km of coastline and 1,200 commercial ports which "handle around 90% of EU external trade and 40 percent of trade between EU countries" (EMSA 2009: 1). 15 percent of the seaborne trade "passes through a few, vulnerable, canals and international straits" (NATO 2011: 2). Given that the EU is a major global trading bloc which accounted for 15.1 percent of world exports (imports: 16,5 percent) in 2010, the importance of secure SLOC becomes evident[8] (Bundeszentrale für politische Bildung 2012). This is especially valid for the trade between the EU and Asia. Five of the ten non-European major trading partners are from Asia (China, Japan, South-Korea, Singapore, India) and the Asian markets are becoming increasingly important and vice versa. Add the geopolitical importance of the Eurasian coastal zone from Shanghai to Hamburg with its strategic choke points such as the Straits of Singapore, Malacca, Hormuz, Bab-el-Mandeb, Suez Canal, and the Strait of Gibraltar (Emmerson/Stevens 2012) and the political instability in various countries bordering this coastal zone (Foreign Policy 2012), the international community should have some reasons to become engaged in securing the SLOC.

[8] US: 10.8 (16.3); China: 16.7 (15.1)

The precise impact of these challenges on the EU is very difficult to assess though. Fortunately, worst case scenarios such as the blockage of the Suez channel by a terrorist attack have not happened yet. Although the threat of terrorism in Europe is real (Europol 2012), acts of maritime terrorism have been relatively rare in general so far, and Europeans have been targeted only a few times (Chalk 2008). There is an abundance of scenarios with regard to transnational risks such as cyber crime, illegal migration, or drug trafficking. Organised crime in Europe is regularly assed by Europol (Europol 2012). However, resilient analyses dealing with non-traditional threats in the maritime domain and their impact on the EU do rarely exist. That is somewhat different in the case of piracy on which this study concentrates on mainly.

The 'Oceans beyond Piracy' project has calculated that piracy causes cost between 7 and 12 billion US Dollars a year until 2009 and 4.9 to 8.3 billion in 2010 with the expectation to increase to 13-15 billion by 2015 (One Earth Future 2010: 25; Geopolicity 2011: IV). There have been direct costs such as for ransoms (176 million USD), insurance premiums (up to 3.2 billion), re-routing of ships (2.4-3 billion), security equipment (up to 2.5 billion), naval forces (2 billion), prosecutions (31 million), piracy deterrent organizations (19.5 million), and cost to regional economies such as trade, inflation and reduced foreign revenue (1.25 billion) (One Earth Future 2010: 25). Regarding piracy off the coast of Somalia, another report states that the cost for 2011 was between 6.6 and 6.9 billion USD (One Earth Future 2012: 1). This study also shows the negative impact that piracy in the Indian Ocean may have on countries like India and Kenya, and it detects worrying trends with regard to increasing seafarer deaths, increasing risk of piracy in West Africa, and increasing impact of piracy on oil trade (One Earth Foundation 2012: 31-38).

Although the figures are broad estimates and do not explicitly analyse the cost for the EU and European stakeholders, they give an indication of the economic impact of piracy on Europe bearing in mind the economic role of the EU as indicated above and the sizable merchant fleets

of the EU members totalling over 6,000 ships of 1,000 GRT and more (CIA Factbook 2012)[9]. As the EU and its member states are strongly engaged in coping with piracy off the coast of Somalia and its vessels are relatively exposed, it can be roughly estimated that its share of cost is about 15-20 percent of the overall cost (or about one billion USD per year). The annual IMB Piracy Report 2011 shows that vessels from EUMS bore 320 (16 percent) out of 1.850 of attacks between 2007 and 2011 (IMB 2011: 15-16). Among the 11 managing countries, whose vessels were attacked 12 times or more in 2011, were four EUMS: Germany (64), Greece (58), UK (12), and Denmark (12) (IMB 2011: 19).[10]

Regarding the human cost off the coast of Somalia from 2008 to May 2012, 3,356 crew members were taken hostages, 35 died in 2011. The hostages taken in 2011 came from the Philippines (17 percent), China (9 percent) and India (8 percent). With the exception of Italy, only seafarers from non-OECD countries were taken hostage between 2008 and 2012 (ICC-IMB and One Earth Future 2012: 4, 18). In a cynical interpretation one could conclude that the human cost for the EU is rather low. From a humanitarian point of view it is absolutely not. If one thinks in economic terms of human capital, seafarers from the traditional labour-providing nations are absolutely vital for the EU merchant fleet.

Seen from a narrow macro-economic point of view, the impact of piracy on the EU is not so dramatic. Two thirds of the EU trade is intra-EU trade. The most important external trading partners are North America and the Mediterranean countries. Hence, a great part of trade takes place in regions hardly affected by piracy (Engerer 2011: 16). On the one hand, the importance of China as a trading partner has grown considerably and the trade relations with other Asian countries might also improve in future. On the other hand, the relevance of sea trade for EU

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9 Panama: 6.413, Liberia 2.771, China: 2.030

10 Seven are from Asia: Singapore (65), Hong Kong (27), Japan (19), Malaysia (17), India (14), UAE (12), China (12).

countries has to be qualified: measured by EU's GDP. Sea trade is responsible only for 4.5 percent of exports and 6 percent of imports. However, the more EUMS trade takes place at sea, the more they are affected by maritime security challenges. The countries most involved in sea trade are the UK, the Netherlands, Italy, Spain, France and Germany (Engerer 2011: 18). Germany, as the European economic powerhouse trades 30 percent of its exports and imports with non European countries, Asia being the most important region with 15 percent of the exports and 20 percent of the imports. About one sixth is traded via the sea, and China is the most important recipient of German exports. Thus, German sea trade on less secure sea lanes is increasing (Engerer 2011: 27).

Concluding this section, one can state that Europe is indeed affected by transnational threats and risks, including piracy however the concrete impact is difficult to measure. As to piracy, it does harm the EU countries but only in a limited way if one considers the human and economic cost so far. However, given the growing socio-economic inequalities and political instability in countries situated at the coastal zone from Europe to Asia, this may change. If one looks at the broader picture of political order and future world trade in a globalised world, maintaining good order at sea will be a must for the European trading nations if they want to prevent possibly increasing negative impacts of piracy and other maritime security challenges.

EU concepts of (maritime) security

Since the signing of the Treaty of Maastricht in 1991, the EU has been trying to develop the CFSP and to combine it with its overall external action. This policy is guided by the basic principles of the Union such as democracy, the rule of law, human rights and by common objectives such as to safeguard the Union's values, fundamental interests and security. Eight years later, the CSDP was launched as an additional policy within the CFSP in order "to give the

European Union the necessary means and capabilities to assume its responsibilities regarding a common European policy on security and defence" (European Council 1999). If the EU "wants to play its full role on the international stage" it has to have "the capacity for autonomous action…" (ibidem). The violent crisis in the Balkans during the 1990s and the EU's incapacity to solve it paved the way to the insight that an autonomous European capacity for crisis management is necessary. EU Crisis management comprises the so called Petersberg tasks, initially defined in 1992 and later on enshrined in Article 43 of the EU Treaty. These tasks span humanitarian and rescue operations, conflict prevention and peacekeeping, peace enforcement, disarmament operations, military advice and assistance tasks, and post-conflict stabilisation tasks (Official Journal 2010).

In the context of the Petersberg tasks, EUMS have forged bi- and multilateral military structures such as the Sea Lift Coordination Centre in Eindhoven by the Netherlands and the UK, the European Amphibious Initiative by France, Italy, Netherlands, Spain and the UK or the European Maritime Force EUROMARFOR by France, Italy, Portugal, and Spain (Armedforces 2011). In the framework of the CSDP, so called civilian and military Headline Goals – including appropriate naval elements such as strategic sea lift capabilities – were decided. The EU Military Committee adopted a Maritime Rapid Response Concept in 2007 and established a Maritime Rapid Response Database of potentially available assets and capabilities. The gradual implementation of the stated goals is supervised by the European Defence Agency (EDA). Yet, the whole process is bottom-up steered, that is, the member states are the driving forces. This is one reason why the process of developing capabilities has been running so sluggishly and the recent idea of pooling and sharing of assets has come up in 2010, but without much success so far (Biscop and Coelmont 2011). Due to the financial constraints, the EU tries to improve civil-military synergies, for example, the cooperation between the EDA and the Commission in the

field of maritime surveillance. These policies also serve as the declared political goal of combating piracy off the coast of Somalia.

The EU counter-piracy policy is embedded in its overall approach to Africa, and focused on Somalia and the Horn of Africa. With regard to Africa, in 2004, the EUMS agreed to a "Common position on conflict prevention, conflict management and conflict resolution in Africa" which defined among others, not only the objective to strengthen African crisis management capabilities but also to become engaged in crisis management in Africa whenever necessary (Council 2004: 25). In 2005, the European Council adopted an Africa strategy covering inter alia topics such as peace and security, human rights, good governance, and development cooperation. In this document the EU confirmed its intent to cooperate with its African partners in questions of crisis prevention and management, and to directly support them in the framework of CSDP. Two years later, the EU and the AU approved a joint strategy (JAES) which defines under the heading "promoting a safer world" concrete steps of cooperation in peace and security issues such as supporting the built-up of the African Peace and Security Architecture and capacity-building (Council 2007: 5). The JAES builds the fundament for the Action Plan 2011-2013 which details the various initiatives within the eight partnerships among them and the issue of peace and security. The latter includes an initiative to exert "coordinated and concerted efforts to combat piracy, including in the framework of the UN, and consider the elaboration of legal instruments which may be deemed appropriate to enhance cooperation on all piracy related issues" (Joint Africa EU Strategy 2010: 18).

The EU engagement of combating piracy off the coast of Somalia is part of its political approach towards the Horn of Africa region. The Somalia issue is integrated into an overall approach towards the region. In December 2009, the Council adopted 'An EU Policy on the Horn of Africa – towards a comprehensive EU strategy. It was supposed to provide for 'strategic

guidance' and to help 'articulate EU action in response to regional challenges on the Horn' (Council 2009: 2). In an effort to drive the process further, the Council adopted a 'Strategic Framework for the Horn of Africa' in November 2011 (Council 2011a), which identifies five focal areas of EU engagement: building democratic and accountable state structures; contributing to peace, security, conflict prevention and resolution; mitigating the effects of insecurity in the region; reducing poverty and promoting economic growth; and fostering regional cooperation. While the drafting and implementation of concrete policies is left to the Commission, the Council and the Member States, the framework aims to help create synergies between the various strands of action and to increase the EU's overall impact in the region. The appointment of a Special Representative for the Horn of Africa is intended to support this. The framework regards Somalia and the issue of piracy as major impediments to regional peace and security and they are one of the priorities of the Special Representative. This approach is based on the EU's earlier assessment of 'the strategic importance of peace, stability and prosperity in Somalia' (Council 2006: 7) and its commitment to following 'a comprehensive strategic framework' (Council 2006: 8). In particular, this involves supporting the overall reconstruction of the country, creating structures of governance, encouraging reconciliation, and restoring the rule of law (Council 2011b: 15-18).

Towards internal and external security governance

The main framework for cooperation to cope with maritime security challenges in general and the anti-piracy policy in particular comprises two systems of governance. The first one deals with internal coordination and cooperation within the EU and its complex set of actors, policies and institutions (internal security governance). The second relates to multilateral cooperation on the regional and international level (external security governance) (Ehrhart 2011).

With regard to the *internal governance*, the EU has tried to improve its civil-military coordination under the heading of CMCO within the CSDP. Since 2009, the main institutional framework for dealing with external, security and defence issues has been the European External Action Service (EEAS)[11] which includes bodies responsible for civil and military crisis management and for regional and global issues. One of the actual tasks of the EEAS is to support the EUMS in the fight against piracy off the Horn of Africa (EEAS 2012).

The Commission has launched its programmatic idea to build-up an Integrated Maritime Policy (IMP) in 2007 (European Commission 2012a). The IMP is an effort to bring together already existing activities in the maritime domain in an overarching framework. The question behind it is how offshore government activities by EUMS could be rationalised. One important aspect was the acknowledgement of the responsible Ministers for Maritime Affairs of the necessity to reinforce maritime governance in general and the development of a maritime surveillance network in particular. Since then, efforts have been undertaken to identify and network national, regional and sectoral projects and activities in areas such as customs, pollution response, search and rescue, border surveillance, non-proliferation, and maritime security operations (Council 2008). Yet, being a primarily economically driven project, the security dimensions in IMP "are fairly limited and the military dimension quasi non-existent" (NATO Parliamentary Assembly 2010: 9).

The Council wants to go further and pleads for the elaboration of a maritime security strategy in order to tackle "the threats identified in the European Security Strategy, while ensuring coherence with EU internal policies, including the EU Integrated Maritime Policy". (Council 2010: 1) A task force with specialists from the EEAS, the Commission and EUMS has started to work on this. The idea is to link the civilian and military capabilities of the EU and

[11] The personnel of the EEAS have been recruited from the Council, the Commission and EU Member States.

Member States. A concrete project is the "Common Information Sharing Environment for the surveillance of the EU maritime domain" (CISE) which aims "to generate a situational awareness of activities at sea, impacting on maritime safety and security, (…)" (European Commission 2010: 2).

Piracy has been identified as a case in point by the EEAS and the Commission who's former Commissioner for Fisheries and Maritime Affairs, Joe Borg, stated: "The EU is committed to doing all it can to play its part in deterring and stamping out acts of piracy. We need an integrated civilian-military approach where all concerned work together. The European Commission contributes to this through improving maritime surveillance and by helping to set up a firm international legal framework for ensuring security at sea (…)" (European Commission 2009). However, creating joint maritime awareness is still a work in progress. A Wise Pen Panel mandated by the European Defence Agency (EDA) to compile a report on the EU efforts to integrate mechanisms to maritime surveillance within CSDP stated for instance that "Confusion and competition continue because of a lack of agreed definitions of even basic terms like safety and security. People are talking past each other". (The Wise Pen Panel 2010:3) Thus, the project to improve maritime surveillance has not yet been able to significantly contribute to the comprehensive approach that the EU is pursuing with regard to Somalia, and of which, operation Atalanta is supposed to be a part of. However, if realised, the project could be a major asset for dealing with the piracy issue.

The *external governance* of coping with maritime security in the case of piracy is embedded in a multilateral context (Ehrhart and Petretto 2012). On the global level, two informal contact groups are of special relevance: The International Somalia Contact Group (ICG) installed in 2006 and the Contact Group on Piracy off the Coast of Somalia (CGPCS) created in 2009. The former is headed by the Special Representative of the UN Secretary General and comprises more

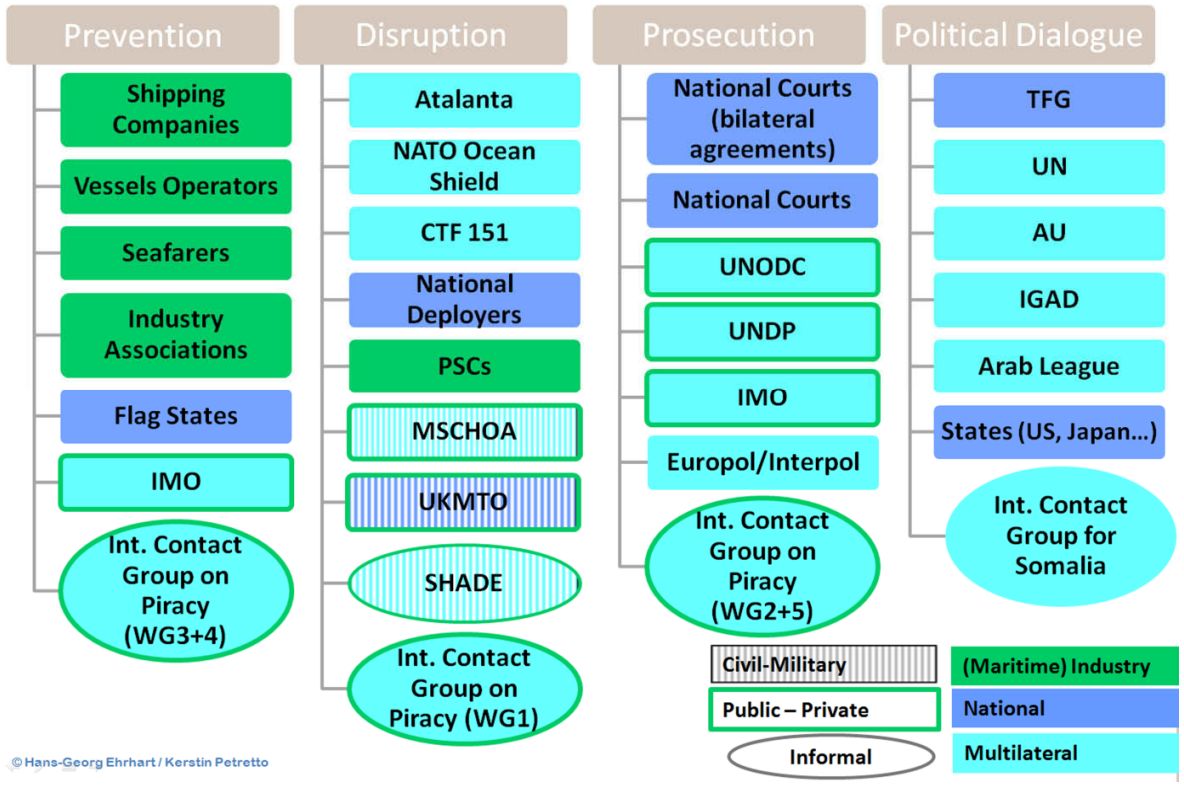
then 40 participants and observers, including the EU and many of its member states. The ICG has the task to coordinate and calibrate the positions of its international, regional and Somali members pertaining to the political problems in Somalia. The CGPCS counts over 60 state and non-state members. Its main working bodies consist of five working groups dealing with military issues (WG 1), judicial issues (WG 2), Best management Practices (WG 3), Information (WG 4) and Financial Networks (WG 5). The goal of the CGSCS is to tackle the challenge of piracy in a comprehensive manner (International Contact Group on Piracy off the Coast of Somalia 2012).

Other relevant players and EU partners on the UN level are the United Nations Office on Drugs and Crime (UNODC), the United Nations Development Programme (UNDP) und the International Maritime Organisation (IMO). UNODC manages a trust fund established in 2010 to support notably law enforcement projects via capacity building in Somalia and – jointly with the EU – in the region. The IMO is also engaged in this field especially by initiating the *"Code of Conduct on the Suppression of Piracy and Armed Robbery against Ships in the Western Indian Ocean and the Gulf of Aden"* (Djibouti Code of Conduct). This mechanism aims at furthering the regional cooperation of the littoral states of the Indian Ocean and the Gulf of Aden. The UNDP is among others engaged in supporting civilian police programmes.

The most important regional partners of the EU are the AU and the Intergovernmental Authority on Development (IGAD). The EU has been supporting the African Union Mission in Somalia (AMISOM) with more than 400 million Euros since 2007. The IGAD is the major sub-regional organisation dealing with the Horn of Africa region and an important political partner for the EU. Other cooperation partners are the USA, NATO and other states who are militarily engaged in anti-piracy operations off the coast of Somalia. Besides the European Naval Force's Operation Atalanta, there are the US-led Combined Task Force (CTF 151) and the NATO-led operation "Ocean Shield" plus ships from more then a dozen of other states such as India, China

and Russia. These activities are being coordinated by various informal bodies such as the "Shared Awareness and Deconfliction" mechanism chaired by the EU, NATO and the US, the EU's "Maritime Security Centre Horn of Africa (MSCHOA)" and the United Kingdom Maritime Trade Operations (UKMTO). The complex web of EU partners in the fight against piracy off the coast of Somalia is complemented by non-state actors like shipping companies, vessel operators, industry associations, and seafarers associations.

EU Partners Involved in Tackling the Somali Crisis and Piracy



Combating piracy off the coast of Somalia

The EU is engaged in dealing with state fragility because of its potential negative impacts on regional and international security. Somalia is a case in point that has become more prominent on

the political agenda since the raise of piracy off the coast of Somalia. While the EU is currently trying to forge a comprehensive approach in its Somalia policy (European Action External Action Service 2011), it started with a piecemeal course of action. Following the collapse of Somali state structures in the early 1990s, the EU initially resumed its engagement solely in the area of humanitarian aid. The other two focal points of EU engagement have been development cooperation and political dialogue.

The EU became a major donor in the field of development assistance: the aid budget of 215,4 million Euro originally planned for 2008 to 2013 was augmented by 175 million in August 2011 (European Commission 2011). Key areas have been governance and security, education, economic development and food security. The EU has also become a firm supporter of peace initiatives held under the auspices of IGAD. This process finally led to the establishment of Somalia's Transitional Federal Institutions (TFI), including a Federal Transitional Charter, the Transitional Federal Government (TFG) and a Transitional Parliament, in 2004. Since then the TFI have been the official representatives of the Somali state in the international arena, despite the fact that they have hardly resided within the country, have never controlled it and were repeatedly accused of massive fraud and corruption, as well as the fact that parts of the country have either claimed their independence or autonomy within the state of Somalia.

From 2004 onwards, the future of Somali statehood was further negotiated in international conferences with the ultimate aim of ending the transitional period. This was finally achieved in August 2012 when, in an initial stage, a new constitution was drafted and accepted by a National Constituent Assembly as envisaged by the EU- and UN-sponsored Roadmap for the End of Transition in Somalia in September 2011. In the second stage, a new parliament was appointed by a group of traditional Somali Elders, advised by a Technical Selection Committee, which then elected a speaker and a president. In addition to ending the violent conflicts in diverse parts of

the country, particularly in south-central Somalia, the next steps will then be to set up permanent democratic structures, resolve the status of the various regions and adopt the provisional constitution in a national referendum (Ehrhart and Petretto 2012).

EU policies towards Somalia have become more securitized since 2007 as a result of several components: the provision of security onshore, including the rebuilding of the Somali security sector, and the countering of pirates' activities. With regard to the first component, major support has been provided for AMISOM. Its primary task is to assist the TFI in facilitating the provision of humanitarian assistance and in creating conditions for reconstruction, reconciliation and the sustainable development of Somalia. (European Commission 2012b). Moreover, the EU has put some effort into enhancing security in the country via the European Union Training Mission (EUTM) for Somalia, which was established in 2010, in Uganda. The objective of this military mission is to contribute to the reform of the Somali security sector by providing training for several thousand recruits to be integrated into the Somali National Security Force and by funding them and paying their salaries. The entire undertaking is being executed in close co-ordination with the UN, AMISOM, Uganda and the US.

The maritime component was set up in 2008, when the increasing challenge of piracy off the Somali coast impinged upon the EU's agenda. The Council therefore decided to launch its first military naval mission, EU Naval Force Somalia – Operation Atalanta (EUNAVFOR) (Council 2008). EUNAVFOR's mandate is based on the direct request by the TFG for the international community's support in tackling the problem of piracy. Accordingly, the mission works towards four objectives: the protection of vessels from the World Food Programme (WFP) delivering food aid to Somalia and the protection of AMISOM shipping; the protection of vulnerable vessels cruising off the Somali coast; the deterrence, prevention and repression of acts of piracy and armed robbers; and the monitoring of fishing activities off the coast of Somalia (European

Union 2012a). The operation's overall political objective is to improve maritime security in the region, while its politico-military objective is to deter piracy and to strengthen the security of main maritime routes.

Via the Instrument for Stability, the EU has also focused on improving the regional response towards piracy by means of its Critical Maritimes Routes Programme. Finally, the EU initiated the mission "Regional Maritime Capacity Building for the Horn of Africa and the Western Indian Ocean" (EUCAP NESTOR) in 2012: this civilian operation is a regional training mission which is also aimed at strengthening the maritime capacities of selected countries in the region including Somalia (European Union 2012b).

The EU's comprehensive approach to Somalia and the piracy issue is still a work in progress with mixed results so far. On the one hand, there has never been such a high degree of inclusion and co-ordination embracing state and non-state, sovereign and private, and civilian and military actors as in the fight against Somali piracy. On the other, the scourge of piracy is still a reality. The objective of protecting WFP and AMISOM shipping has been successful because none of these vessels has been hijacked since 2008. With regard to the task of protecting other vulnerable vessels, the establishment of the IRTC has led to a significant reduction in attacks within the Gulf of Aden but also to the ballooning of piracy in the Indian Ocean; moreover, the success rate of Somali pirates in general has been reduced considerably, especially in 2012, after years of raising attacks the years before. For instance, the number of hijackings in the Gulf of Aden decreased from 31 to 4 so far (ICC-IMB 2012: 8).[12] Nevertheless, given that this year 57 attacks off the coast of Somalia were reported between January and September 2012, it can be stated that

[12] The reasons fort his are manifold, such as: the adaptation of the navies' tactics, improved operational coordination, refined Best Management Practices complied to by many of the ship owners, and the growing use of private security companies on merchant vessels but also the interventions by regional players in Somalia. However, there is also some suspicion that a considerable amount of attacks is not reported for financial and practical reasons. See Bruxelles2 (2012).

the objective of the deterrence, prevention and repression of acts of piracy has been achieved only partially so far. A crucial reason for this is the insufficient land-based support dealing with the structural causes of the phenomenon. Another one is the fact that large numbers of suspected pirates arrested by naval forces have to be released immediately due to the lack of capacities for prosecution, and the unwillingness of many states to prosecute pirates in their own courts (UNSC 2012, p. 208).

The EUTM's co-operation with key partners has been applauded (ICG 2011). However, the EUTM faces major problems. Firstly, Somalia needs a totally new set of security structures to properly command and control its security forces. Secondly, the security forces were selected by and trained for the TFG reinforcing the perception that they are there only to support the TFG and not to serve the general population. Thirdly, as the EUTM is not present within Somalia, it is hardly possible to oversee the mission.[13] Regarding their performance in delivering humanitarian aid, the 2011 famine demonstrated the difficulties of the Somali government and its major partners to deal with this catastrophe in a co-ordinated fashion. As far as development assistance is concerned, the situation is similar. In particular, the management of projects via remote control from Nairobi has not delivered the desired results, both with regard to aligning priorities to local needs and in terms of oversight.

So the EU has implemented a variety of policies to tackle the Somalia challenge as the main reason for the piracy threat in the Indian Ocean. Although the performance has been mixed so far it has contributed to improve the security of the SLOC in the Indian Ocean, however, without being able to eliminate the root causes of piracy so far. This is mainly due to the fact that until now the main emphasis is being laid on a naval based containment approach.

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[13] This could change in 2013 because the EU is considering the option of transferring the training mission to Mogadishu.

Towards closer cooperation between Europe and Asia via lessons learnt?

The world's oceans are vital global commons who are central to life. The SLOC are crucial for the proper functioning of trade in a globalised world. From this follows that Asian and European states have common interest in securing SLOC. The main international framework for dealing with the high sea is the UN. The basic legal documents are UNCLOS (especially article 100, 101 and 105) in general and the UNSR resolutions related to piracy in particular (UNSC Res. 816, 838, 846, 851, 897, 19918, 1950, 1976, 2015, 2020). Moreover, the UN offers a framework for launching new initiatives and a concerted approach to tackle the problem more successfully. Good examples are the International Contact Group on Somalia and the CGPCS.

The latter comprises of Asian states such as China, Japan, India, Republic of Korea, Malaysia, The Philippines, Singapore, and Thailand. The differentiated structure of the CGPCS dealing with the major problems of piracy offers a unique environment for political and practical exchange of ideas, lessons learnt practices, coordination and action. The framework is not only relevant for the issue of Somali piracy but in principle, also for dealing with the piracy problem worldwide. Asian partners are engaged in policing the Indian Ocean – be it independently or as part of the Combined Maritime Forces such as CTF 151. In doing so, they contribute to fight piracy, to enforce international law, and to secure the SLOC. Reciprocally, EU Member States such as the UK, Denmark and the Netherlands participate in ReCAAP.

Fighting against piracy on land and policing the sea is the primary task of the littoral states of cause. In the Horn of Africa region however, states are either fragile and/or lacking maritime capacities to do the job. In the first case, Asia and Europe could learn from each others experience with their engagement in fragile states. As to maritime capacity-building, stakeholders from both regions can draw on recent experiences which could be exchanged or even jointly assessed in order to speed up the learning cycle. On the one hand, it is clear that

each case is different due to the special local and historical circumstance. On the other hand, the mutual knowledge-base could be widened and improved.

The example of ReCAAP serves as a reminder that regional cooperation is decisive for successfully coping with the maritime threats. Regional cooperation starts with building trust and concrete projects. The aim is to cope more effectively with a common security challenge, hence, the need for increased security governance. This is not merely a military task but first and foremost a political endeavor which has to be implemented in a comprehensive way by dealing with various assets on the basis of a sound regional and country strategy. Again, an Asian-EU exchange on these policies and strategies could be beneficial in terms of learning from each other but also of opening avenues for future cooperation in dealing with maritime security issues.

The EU's comprehensive approach to Somalia demonstrates that such an approach is difficult to implement because there are many challenges and stumbling blocks. This is especially true on the local level. If the state concerned has no functioning government but is a deeply divided, partially war-torn country with a clan-based society resting on traditional values, international state-building and blueprints are hardly helpful. Direct intervention on land is not the primary choice, whereas indirect intervention by remote control is difficult to steer. Since the root causes of piracy can only be tackled by political reforms on land, the question to be debated is what kind of policies by external actors is conductive to an acceptable situation.

Another opportunity for cooperation is threat analysis, which can improve mutual understanding and lead to practical cooperation. Looking for synergies in the provision of maritime security is not the worst approach in times of economic hardship. On the one hand, policing the sea should be based on the principle of subsidiarity, that is, the states of the region have the primary responsibility for security. On the other hand, sharing tasks and supporting partners alleviates the respective burdens and strengthens global maritime security. However, the

EU has still a long way to go to become an autonomous maritime security actor with global outreach. After the (ongoing) experience with its first maritime operation "Atlanta", the next steps are to create a common information sharing environment and to forge a comprehensive maritime strategy.

Maintaining good order at sea is in the very interest of the European trading nations if they want to prevent and counter possibly increasing negative impacts of piracy and other security challenges to the SLOC. Given the maritime and colonial history of some European states and their ability to rule the waves by naval power, one can state today that times have changed significantly (Cozens 2009). The reason for this are manifold, to mention only the loss of great power status, the end of colonialism, the revolutionised construction of merchant ships, and the deliberate decision to invest less in national navies. Parallel to this maritime decline of Europe, Asian states emerged or re-emerged as maritime nations being more competitive in economic and capable in naval terms. At the same time the strategic importance of the sea grew considerably for Asian states as mirrored by the increasing investment in naval power (Rogers 2009: 42). The EU and its member states have recently started to come to grips with maritime security challenges such as piracy. Albeit there is still a lot to do, European practices in combating piracy so far lead to the following recommendations for European and Asian stakeholders:

1. Improve internal governance

The process of European political integration must be continued. For the EU this means that the development of Common Foreign and Security Policy and a Common European Security and Defence Policy has to be accelerated and combined with an increased effort to create an integrated and comprehensive maritime policy. Effective internal governance asks for less

bureaucratic turf wars and more preparedness of EUMS to renounce on national egoisms. ASEAN should deepen its regional cooperation on security issues in the process of forging an ASEAN Community, among others by further implementing its action plan to combat transnational crime, including piracy.

2. Build joint maritime surveillance

The EU should strive for a common understanding of risks and threats to security emanating from the maritime environment. For this, the ongoing project of networking existing national, regional and global EU assets in order to create a "Common Information Sharing Environment for the Surveillance of the EU Maritime Domain" should be accelerated. ASEAN should consider upgrading RECAAP Information Sharing Centre in a similar direction.

3. Improve external governance

Cooperation with external actors in a crisis environment is essential for dealing with security challenges. Building reliable stakeholder partnerships with international and regional, state and private, civil and military actors may alleviate the burden and could make success more probable.

4. A comprehensive approach is needed but no guarantee for success

The EU should improve its nascent comprehensive approach towards Somalia, while at the same time bearing in mind that even a perfect comprehensive approach cannot guarantee success given the manifold local, regional and international intricacies of the Somalia and piracy issue.

5. Towards a maritime strategy

The EU should develop a maritime strategy, including the aspects of piracy and other threats to security in the maritime environment. ASEAN should strive for a joint doctrine on addressing non-traditional security threats, including piracy.

6. Support regional organisations

The EU should continue its effort to support the build-up and functioning of the AU's strategic planning, command and control structures. It should also support the reform process of IGAD and contribute to the organisation's efforts to develop programmes for Security Sector Reform.

7. Build regional capacities

In addition to the civilian Regional Maritime Capacity-Building missions the EU should coordinate all Member States programmes and activities related to maritime capacity-building in Gulf of Aden and the Gulf of Guinea region in order to empower the states with access to the sea to protect their coastal and their exclusive economic zone.

8. Strengthen EU-ASEAN cooperation in maritime security

The EU and ASEAN+3 should increase their dialogue on and practical cooperation in maritime security issues such as piracy, organised crime, and terrorism and its root causes building on the Plan of Action to Strengthen ASEAN-EU Enhanced Partnership (2013-2017).

9. Create a common information sharing environment

The EU and Asian partner should explore opportunities for working together in the crucial field of maritime surveillance by building a common information sharing environment.

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