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## **Fishermen, Pirates and Naval Squadrons: The Security Council and the Battle over Somalia's Coastal Seas**

*By Suzanne Dershowitz and James Paul*

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Since 2008, a powerful naval flotilla has patrolled the seas off the coast of Somalia. More than thirty nations have sent warships – including aircraft carriers, frigates, destroyers and other heavily-armed vessels – as well as many sophisticated military aircraft. Officially, the naval forces are protecting the sea lanes from pirates – Somalis in small boats who have seized merchant ships and their crews for ransom.<sup>1</sup>

The United Nations Security Council has repeatedly endorsed the naval operations, warning of the pirates' threat to safe passage for the world's maritime fleets and their "threat against international peace and security in the region."<sup>2</sup> At the same time, however, Council members have failed to act on other serious maritime crimes in the same waters – foreign fishing vessels that have stolen Somalia's rich marine resources, as well as foreign ships that have dumped toxic wastes off Somalia's shores. As we shall see, by punishing one crime and turning a blind eye to another, the Council is deepening the very crisis it is supposedly trying to solve. And by deploying a flotilla of the world's most advanced – and lethal – naval vessels against lightly-armed pirates, the Council is adopting an unreasonably force-dependent response to the problem at hand.

### **Illegal Fishing and Toxic Dumping**

During two decades without an effective Somali government, the country's 3,300 km coastline has remained unprotected. Industrial fishing vessels from Europe and Asia have entered the area in large numbers. Having over-fished their home waters, these sophisticated factory ships are seeking catch in one of the world's

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<sup>1</sup> For the objectives and mandate of one of the major naval forces, see the website of the European Union's Operation Atalanta (<http://www.eunavfor.eu/about-us/mission/>)

<sup>2</sup> See Security Council Resolutions 1816, 1838, 1846, 1851, 1918 and 2020

richest remaining fishing zones.<sup>3</sup> The foreign boats are illegal, unreported and unregulated – part of a growing international criminal fishing enterprise.<sup>4</sup>

The foreign fishing ships operate at the expense of local, small-scale Somali fishermen who find far fewer fish in their waters. The foreign ships have earned millions of dollars a year through sales of illegally-caught tuna, shark, lobster and deep-water shrimp.<sup>5</sup> According to the High Seas Task Force and FAO, about 700 foreign fishing vessels were operating in these waters in 2005, many well-armed.<sup>6</sup> The Task Force – which was led by Ministers of Fisheries from the UK, Chile, Canada and other countries – referred to the unauthorized fishing as “criminal” and “plunder” – and used the term “pirates” to describe international illegal fishing operations of this kind.<sup>7</sup>

Somali coastal people have not only endured the hardships of a long period of civil strife and serious drought. They have also been deprived of natural resources important to their livelihoods and food supply. The fish captured by foreign vessels represent a source of food and protein for people who live on or near the coast. The disappearance of fish stocks into the nets of the foreign fishing boats is especially serious at a time when UN humanitarian agencies have spoken of famine in Somalia as “the world’s most serious food crisis.”<sup>8</sup>

Somali fishermen have also faced attacks from foreign fishing vessels. A UNEP report in 2005 spoke of regular attacks that have destroyed the Somalis “boats and equipment.”<sup>9</sup> In that same year, an FAO Report noted that “foreign vessels compete with the artisanal fishermen, by coming close inshore and inflicting losses, including physical confrontation between the two sides which has led to gear losses and at times to loss of life.”<sup>10</sup>

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<sup>3</sup> In many cases, also, the foreign fishing operations have been excluded from home waters by increasingly stringent catch limits or even closure of fishing grounds, due to the long history of over-fishing

<sup>4</sup> High Seas Task Force (HSTF), “Closing the Net: Stopping Illegal Fishing on the High Seas,” March, 2006 (<http://www.illegal-fishing.info/uploads/HSTFFINALweb.pdf>)

<sup>5</sup> The UN Food & Agriculture Organization (FAO) published in 2005 a “Profile of the Fishing Sector in Somalia” (<http://www.fao.org/fi/oldsite/FCP/en/SOM/profile.htm>) that estimated the size and value of the fish stocks, noting the presence of high-values species such as mackerel and yellow fin tuna. The Secretary General’s report of October 2011 (S/2011/661) notes that the sustainable catch has been estimated at 200,000 tons.

<sup>6</sup> HSTF report (note 4 above), p. 81. While a more recent authoritative count of fishing activity has not been published, it appears that heavy foreign fishing activity continues

<sup>7</sup> HSTF report (note 4 above), p. 81. The report examines the use of the term “pirates” at p. 23.

<sup>8</sup> “Emergency Relief Coordinator Concludes “Heartbreaking” Trip to Horn of Africa,” UNOCHA, August 15, 2011 (<http://www.unocha.org/top-stories/all-stories/emergency-relief-coordinator-concludes-heartbreaking-trip-horn-africa>)

<sup>9</sup> *The State of the Environment in Somalia: A Desk Study*, UNEP, December 2005, p.17 ([http://postconflict.unep.ch/publications/dmb\\_somalia.pdf](http://postconflict.unep.ch/publications/dmb_somalia.pdf))

<sup>10</sup> FAO (note 5 above)

Information of this kind has continued to circulate. In 2011, a senior official in Puntland told IRIN that “more and more, Puntland fishermen come to us with complaints that foreign ships are destroying their nets and denying them access to prime fishing grounds.” The same official emphasized that these clashes threaten the lives of the local crews: “We get regular reports of murders of Somali fishermen,” he said.<sup>11</sup>

There have also been many reports of foreign dumping of hazardous substances in Somali waters.<sup>12</sup> Governments of rich, waste-producing societies often do not permit toxic wastes to be disposed in the national territory or they impose heavy mitigation costs on the disposal process. So disposal companies, sometimes in league with organized crime, dump such wastes at sea, in waters with minimal legal control or oversight.<sup>13</sup> Somalia’s unpatrolled seas have offered attractive possibilities for such bootleg disposal operations, and there have been many reports of dumping of toxic items such as used electronic products, medical wastes, nuclear and chemical wastes and other toxic substances. The issue has been discussed since the early 1990s, and Somali leaders have lodged complaints with the UN Environmental Programme and the Basel Convention<sup>14</sup> without much result. The Voice of America ran a story in 2005 quoting a number of sources, including UNEP staff, who described the problem as serious and said it was widely known.<sup>15</sup> “European companies find it to be very cheap to get rid of waste there,” said Nick Nuttall of UNEP in Nairobi.<sup>16</sup>

In June 2010, Greenpeace Italy published a report titled “The Toxic Ships,” with evidence of dumping networks in Italy that have disposed of European wastes off the Somalia coast.<sup>17</sup> Interpol and other “reputable sources” have provided

<sup>11</sup> “Piraterie : La Colère des Pêcheurs Somaliens,” *Info Sud/IRIN*, August 27, 2009 (<http://www.infosud.org/spip.php?article6524>)

<sup>12</sup> See for instance “Waves 'brought waste to Somalia',” *BBC News*, March 2, 2005 (<http://news.bbc.co.uk/2/hi/africa/4312553.stm>) & “‘Toxic Waste’ behind Somali Piracy,” Najad Abdullahi, *Al Jazeera English*, October 11, 2009 (<http://www.aljazeera.com/news/africa/2008/10/2008109174223218644.html>)

<sup>13</sup> In an effort to tighten the global regulation of toxic waste dumping, a conference in Cartagena in late 2011 agreed to a protocol to strengthen the weak Basel Convention. Many large waste-generating countries, including the United States and Canada, have rejected international controls, however

<sup>14</sup> *Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal*, 1989. The Convention came into force in 1992, but its capacity is limited and its ability to address sea dumping off the Somali coast more limited still ([www.basel.int](http://www.basel.int))

<sup>15</sup> “Waste Dumping off Somali Coast May Have Links to Mafia, Somali Warlords,” *Voice of America* March 15, 2005 (<http://www.voanews.com/english/news/a-13-2005-03-15-voa34.html>)

<sup>16</sup> Ibid

<sup>17</sup> Greenpeace Italy, “The Toxic Ships: the Italian hub, the Mediterranean area, and Africa,” June 2010 (<http://www.greenpeace.org/italy/Global/italy/report/2010/inquinamento/Report-The-toxic-ship.pdf>)

further evidence, as the UN Secretary General noted in his October 2011 report to the Security Council.<sup>18</sup> Somalis have testified to illness among coastal communities from these wastes. In 2005, UNEP reported that coastal villagers complained of “a wide range of medical problems like mouth bleeds, abdominal haemorrhages, unusual skin disorders and breathing difficulties.”<sup>19</sup> There is also evidence that ships flush their oil tanks and dump refuse into the sea off the Somali coast.<sup>20</sup>

In such circumstances of flagrant illegal fishing and dumping, with virtually no preventive action by maritime powers and intergovernmental organizations or treaty bodies, it should not be surprising that some Somalis have taken up arms against those seen as the cause of their suffering – the foreign ships.

Those who best know the Somalia crisis have long understood the “piracy” conundrum and many authoritative reports have spoken about it. The 2003 Report of the Panel of Experts on Somalia, mandated by the Security Council under Resolution 1474, referred to the “‘free-for-all’ among the world’s fishing fleets,” noting that “for over a decade, hundreds of vessels from various Member States have continuously fished Somali waters in an unreported and unregulated manner, as documented in many reports on the subject.”<sup>21</sup> In 2011, the UN Office for Drugs and Crime pointed out that

A number of sources focus on the extent to which [fishing] crimes in Somali waters contribute to the surge of pirate activities and the suggested support for piracy by Somalis in general.<sup>22</sup>

A 2009 poll concluded that a large majority of Somalis support the ship seizures as a form of national defense of the country’s territorial waters.<sup>23</sup> And in June 2011 IRIN Press Service reported that “illegal fishing and dumping by foreign vessels was the original impetus for bands of fishermen to become pirates.”<sup>24</sup>

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<sup>18</sup> UN Security Council, “Report of the Secretary-General on the Protection of Somali Natural Resources and Waters” 25 Oct. 2011 ([S/2011/661](#)), 13

<sup>19</sup> “Toxic Waste Spawning Radioactive Diseases in Somalia Coastline: UN,” *AFP*, March 5, 2005

<sup>20</sup> The 1997 Qayad Mission report, sponsored by UNEP and DHA, mentions the issue of oil tar balls and related evidence on Somali beaches. For more on this, see section on Qayad below.

<sup>21</sup> UN Security Council, “Report of the Panel of Experts on Somalia pursuant to Security Council Resolution 1474 (2003),” November 4, 2003 ([S/2003/1035](#))

<sup>22</sup> UN Office for Drugs and Crime, [Transnational Organized Crime in the Fishing Industry](#) (Vienna: 2011) 122.

<sup>23</sup> “The Two Piracies in Somalia: Why the World Ignores the Other?” Mohamed Abshir Waldo, *Wardheer News*, January 8, 2009 ([http://wardheernews.com/Articles\\_09/Jan/Waldo/08\\_The\\_two\\_piracies\\_in\\_Somalia.html](http://wardheernews.com/Articles_09/Jan/Waldo/08_The_two_piracies_in_Somalia.html))

<sup>24</sup> “Somalia: Fishermen Driven from the Sea by Illegal Trawlers,” *IRIN*, June 27, 2011 (<http://www.irinnews.org/report.aspx?reportid=93079>)

## The Qayad Mission and the Statements of Special Envoy Ould Abdallah

In 1997, more than ten years before the naval armada made its appearance, a UN report based on direct investigation called attention to illegal foreign fishing and dumping off Somalia's coast. Consultant Mahdi Gedi Qayad undertook his mission on behalf of the UN Environmental Programme and OCHA's predecessor, the Department of Humanitarian Affairs. Somalis had been lodging complaints, so the agencies felt compelled to respond. Qayad's report recounted serious charges by coastal Somalis and it drew the following conclusions:

Wide spread illegal fishing is constantly going on in the surveyed coastal areas. The absence of a national government and the availability of huge natural marine resources in Somali waters attracted the international poachers and also motivated the illegal fishing and the damaging of the previously unpolluted ecological system.<sup>25</sup>

Qayad recommended that the UN appeal to the international community against illegal fishing and toxic dumping in Somali waters and he proposed that the UN devise ways of providing protection, monitoring, and surveillance of these waters against abuse. The Security Council and the UN system ignored these calls and no action followed.

Ten years later, the situation had greatly deteriorated. Illegal fishing and dumping had continued unabated and seizure of foreign ships was on the rise. Policy makers and the press had sensationalized the "piracy" phenomenon. Naval strategists had seized an opportunity. Advance deployment of warships to the seas off Somalia had already begun.

Diplomats and UN advisors at the highest level were disturbed at the direction that policy was taking. In July, 2008, Special Envoy for Somalia Ahmedou Ould Abdallah, a longtime UN senior official, called attention again to the illegal fishing and dumping. He reminded reporters of the "irregular fishing from European and Asian countries."<sup>26</sup> And he further told the press: "I am convinced there is dumping of solid waste, chemicals and probably nuclear ..."<sup>27</sup> Doubtful that states would act, he urged NGOs to track this crisis, which, he said, fueled the broader Somali conflict. Ould Abdallah also identified a new negative effect of the illegal fishing. The profits from fishing valuable species off the Somali coast are so great, he pointed out, that the fishing companies can offer large bribes to

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<sup>25</sup> Qayad, Mahdi Gedi. "Assessment Mission to Somalia in Connection with Alleged Dumping of Hazardous Substances," Joint UNEP/DHA Environmental Unit and the UNCU for Somalia, 1997

<sup>26</sup> "UN Envoy Decries Waste Dumping off Somalia," *AFP*, July 26, 2008 (<http://www.middle-east-online.com/english/?id=27114>)

<sup>27</sup> Ibid

Somali national and local “authorities” for false papers and licenses, adding to the corruption and de-legitimization of Somali state institutions.<sup>28</sup>

### The Land-Based Crisis

The battles off the coast of Somalia are closely connected to the onshore crisis in the country, where again we find heavy foreign use of military force. During the Cold War, the primary importance of Somalia was its geo-strategic location. Today, there are new interests, including mineral reserves of iron ore, tin, uranium, copper and other metals. Most importantly, there are likely deposits of natural gas and an estimated 5-10 billion barrels of crude petroleum reserves – worth as much as \$500 billion at today’s prices.<sup>29</sup> US, Australian, Canadian and Chinese and other companies are already at work to tap these rich resources.

Somalia remains the prototypical “failed state” – a government that does not rule over its national territory. The Cold War drew the country into regional rivalries and conflict, including the brutal Ogaden War with Ethiopia. The Somali army grew to be one of Africa’s largest and a military dictatorship ruled. Eventually, the unpopular and bankrupt state collapsed. There followed a series of failed foreign military interventions to restore order. A UN peacekeeping force (UNISOM I – 1992) was soon followed by a US military force (UNITAF – 1992-93), and then another UN peacekeeping mission (UNOSOM II – 1993-95). These operations withdrew when confronted by Somali opposition and well-organized armed insurgents. An Ethiopian invasion in 2006 was followed by an African Union force (AMISOM – formed in 2007 and still deployed). During 2011, Kenya invaded and there was a second Ethiopian incursion, as well as clandestine ground and air operations by the United States and other foreign powers.<sup>30</sup>

Some governments and NGOs have continued to call for more force – arguing that military might is needed to bring stability to the country, to insure the delivery of humanitarian supplies and to “protect” humanitarian workers and civilians caught in the conflict. But such militarized approaches have not ever solved Somalia’s problems. Each new intervention has seemed to worsen the conflict and postpone the peace. Many humanitarian groups have now recognized this. Lobbying within the Inter Agency Standing Committee, they

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<sup>28</sup> Ibid

<sup>29</sup> “Exploration Rights in Somalia for Chinese Oil Giant CNOOC,” *Oil Marketer*, July 18, 2007 (<http://www.oilmarketer.co.uk/2007/07/18/exploration-rights-in-somalia-for-chinese-oil-giant-cnooc/>) See also reports of a Canadian firm, Africa Oil, beginning drilling in the northern region, “Somalia Oil Exploration: Drilling Begins in Puntland,” *BBC*, January 17, 2012 (<http://www.bbc.co.uk/news/world-africa-16600649>)

<sup>30</sup> “CIA Boosts Covert Operations in Somalia,” *UPI*, September 13, 2011 ([http://www.upi.com/Top\\_News/Special/2011/09/13/CIA-boosts-covert-operations-in-Somalia/UPI-37221315941735/](http://www.upi.com/Top_News/Special/2011/09/13/CIA-boosts-covert-operations-in-Somalia/UPI-37221315941735/)); Jeremy Scahill, “The CIA’s Secret Sites in Somalia,” *The Nation*, January 28, 2012 (<http://www.thenation.com/article/161936/cias-secret-sites-somalia>)



pressed in late 2011 for a clear new policy signal from the UN's Office for the Coordination of Humanitarian Assistance (OCHA), whose field staff were already of the same view. In early December 2011, OCHA issued a strong "Position Paper" making the point. OCHA wrote:

The use of military action remains a great concern to the humanitarian community operating in Somalia. The use of military intervention to support humanitarian action directly impacts the population because it risks intensifying or expanding the conflict; thereby, contributing to further displacement and civilian deaths.<sup>31</sup>

Sadly, international "assistance" to Somalia has inexorably favored the use of force, on land and on sea – with apparently little attention to the real lives, needs and motivations of Somalis. In the offshore environment, as we shall see, the Security Council has hastily promoted the use of naval force, while ignoring the most promising, low-cost and sensible solutions to the maritime conflict. And by pursuing one kind of pirates and closing their eyes to another kind, Council members have raised inevitable questions about their own motivations and interests in the matter.

### **The Security Council Opts for the Use of a Naval Force**

With passage of Resolution 1816 on June 2, 2008, the Security Council took action under Chapter VII of the UN Charter, moving quickly into the use of armed force in response to growing Somali seizure of fishing vessels and merchant ships. It urged governments to be "vigilant" and encouraged "States interested in the use of commercial maritime routes off the coast of Somalia" to "increase and coordinate their efforts to deter acts of piracy."<sup>32</sup> The Council went further, authorizing naval action in Somalia's territorial waters and by "all means necessary." The mandate was strong and broad but very vague. It did not provide for a UN peacekeeping operation or a coalition of the willing under unified command but rather an à la carte approach in which participants would make their own arrangements, set up their own commands and follow their own interests. The Council did not assume any oversight or coordination of the operations. Not surprisingly, the resolution remained completely silent on illegal fishing and dumping.

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<sup>31</sup> "Military Intervention in Support of Humanitarian Action in Somalia," HCT Position Paper, Drafted: OCHA Somalia, December 2, 2011

<sup>32</sup> UN Security Council Resolution 1816, June 2, 2008 ([S/RES/1816](#))

## The Faina Incident

On September 25, 2008, a Somali group calling itself the “Central Regional Coast Guard” seized a Ukrainian freighter, the MV Faina, off the Somali coast.<sup>33</sup> The Somalis soon announced that they had found a cargo of 33 Soviet-era T-72 tanks and a considerable quantity of weapons and ammunition -- bound for Mombasa, Kenya. As the pirates took the vessel into port, they were pursued by the destroyer USS Howard and other US naval ships, including the missile cruiser USS Vella Gulf.<sup>34</sup> The pirates, forbidden by the naval forces from off-loading the cargo, managed to extract a \$3.2 million ransom from a mysterious owner nominally based in Panama. The Faina then set to sea and continued on its way to Mombasa. According to information in a Wikileaks-released US cable, the tanks and other arms were shipped by rail from Mombasa port to Juba in Southern Sudan where conflict was simmering, under the eye of a UN peacekeeping force.<sup>35</sup> The Kenyan parliament demanded information about the cargo’s ultimate destination, but the Kenyan government refused to comply.<sup>36</sup> Questions inevitably arose as to who owned the ship, who was the owner of the cargo and why the naval forces overlooked such a high-profile arms shipment.<sup>37</sup> The “coast guard” pirates got their booty and disappeared from view.<sup>38</sup>

The Faina Incident (with its arms smuggling dimension quickly forgotten) provided drama to galvanize public opinion and to justify further Security Council action. Council members spoke of the need for a stronger military effort in the counter-piracy campaign. As the incident showed, however, a number of major naval ships were already in the operational theater.

## The Council Ratchets Up the Use of Force – 2009-10

On October 7, 2008, the Council passed Resolution 1838, which clarified the military action – calling on states to deploy “naval vessels and military aircraft.”<sup>39</sup> Then on December 2, in Resolution 1846, the Council welcomed the “initiatives

<sup>33</sup> “Pirates ‘want \$35m for tank ship’,” *BBC News*, September 27, 2008 (<http://news.bbc.co.uk/2/hi/africa/7639090.stm>)

<sup>34</sup> “Tensions Rise Over Ship Hijacked Off Somalia,” Jeffrey Gentleman, *New York Times*, September 28, 2008 (<http://www.nytimes.com/2008/09/29/world/africa/29pirates.html?ref=world>)

<sup>35</sup> “Wikileaks: US ‘Aware of’ Kenya-Southern Sudan Arms Deal,” *BBC News*, December 9, 2010 (<http://www.bbc.co.uk/news/world-africa-11957839>)

<sup>36</sup> “Ministers to be Summoned Over Ship Crisis,” *Kenya Broadcasting Co.*, October 5, 2008 ([http://www.hiiraan.com/news2/2008/oct/ministers\\_to\\_be\\_summoned\\_over\\_ship\\_arms.aspx](http://www.hiiraan.com/news2/2008/oct/ministers_to_be_summoned_over_ship_arms.aspx))

<sup>37</sup> “Confusion Looms over Ownership of Seized Ukrainian Military Cargo,” *Xinhua*, September 28, 2009 ([http://news.xinhuanet.com/english/2008-09/29/content\\_10130741.htm](http://news.xinhuanet.com/english/2008-09/29/content_10130741.htm))

<sup>38</sup> “Somali Pirates ‘Free Arms Ship’,” *BBC News*, February 5, 2009 (<http://news.bbc.co.uk/2/hi/africa/7871510.stm>)

<sup>39</sup> UN Security Council Resolution 1838, October 7, 2008 ([S/RES/1838](http://www.un.org/News/Press/docs/2008/200810/20081007.res1838.html))



by Canada, Denmark, France, India, the Netherlands, the Russian Federation, Spain, the United Kingdom, the United States of America, and by regional and international organizations to counter piracy off the Somalia coast."<sup>40</sup> The naval powers had now the Council's unreserved endorsement.

Two weeks later, with Resolution 1851, the Council ratcheted up the military campaign still further. This time, the Council encouraged the "seizure and disposition of boats, vessels, and arms used in the commission of piracy."<sup>41</sup> Most importantly, the resolution empowered states to "undertake all necessary measures" – that is, to conduct operations including the use of military force – "in Somalia," that is, on land.<sup>42</sup> Ironically, the same resolution expressed the Council's "respect" for the country's "sovereignty" and its "political independence." The text also referred in passing to "Somalia's rights with respect to offshore natural resources, including fisheries," but no action on the matter was proposed.

Pursuant to Resolution 1851, a Contact Group on Piracy off the coast of Somalia, was set up in New York on January 14, 2009, in an effort to coordinate global counter-piracy activities, especially through the use of forceful measures. Its emphasis was and would later remain focused entirely on ship-targeted piracy, ignoring the other marine crimes.<sup>43</sup>

In the spring of 2009, some NGOs called attention to the Council's militarized response to piracy, suggesting that the Council's faith in military solutions was unwarranted.<sup>44</sup> At about the same time, ambassadors of maritime powers spoke of a lack of "reliable information" about illegal fishing and toxic dumping in Somali waters. In fact, research ships had long avoided the area for fear of violence. But the ambassadors' own naval ships, with highly-sophisticated radars, sonars and aerial surveillance, had already gathered plenty of intelligence about maritime movements off Somalia's coasts, including the movement of hundreds of large foreign fishing vessels.

### **International Naval Operations and the Arming of Merchant Vessels**

By mid-2009, three international naval task forces were in place for "counter-piracy missions." In December 2008, the EU had launched Operation Atalanta, the Union's first operational naval deployment outside of European waters. The

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<sup>40</sup> UN Security Council Resolution 1846, December 2, 2008 ([S/RES/1846](#))

<sup>41</sup> UN Security Council Resolution 1851, December 16, 2008 ([S/RES/1851](#))

<sup>42</sup> "UN Empowers Land Operations against Somali Pirates," *AFP*, December 17, 2008 (<http://www.google.com/hostednews/afp/article/ALeqM5g2By-gJLrbPT2jIDBpo0ux4TKQjA>)

<sup>43</sup> See the website of the Contact Group at <http://www.thecgps.org/main.do?action=main>

<sup>44</sup> See for example, "Who Are the Real Pirates?" Global Policy in Brief, *Global Policy Forum*, April 16, 2009 (<http://globalpolicyinbrief.blogspot.com/2009/04/who-are-real-pirates.html>)

task force, with Operational Headquarters in the UK military complex at Northwood, near London, has had from the early days a dozen or more vessels, involving more than 1,800 military personnel.<sup>45</sup> Among the fleet have been the Swedish flag vessel *Carlskrone*; France's advanced stealth frigate, the *Lafayette*; the *Absalon* and the *Corte Real*, frigates from Denmark and Portugal, and the *Patino*, a flagship "replenishment vessel" from Spain. Closely aligned to the EU force is Operation Ocean Shield, a NATO standing maritime group set up in 2009 with similar terms of reference and overlapping national contributions.<sup>46</sup> The third fleet was Combined Task Force 151, a broad, multi-national flotilla set up by the United States in 2009 – a 25-nation coalition under US command, headquartered in Bahrain. US, UK and French naval ships have been present in considerable numbers.

In addition to these multinational task forces, Pakistan, Russia, Australia, India, Japan, Iran, Saudi Arabia and other nations have also deployed naval ships to the Somali coastal seas.<sup>47</sup> China has sent two destroyers and a supply ship, the first operational out-of-area deployment in the history of the Chinese Navy.<sup>48</sup>

For all the talk about naval cooperation in the piracy wars, it is hard to avoid the conclusion that an international naval rivalry is driving these deployments and that many naval powers have sent ships to affirm their right to "project power" into the Indian Ocean/Gulf of Aden arena. How else could such a large force be explained, when compared to the very small resources of the pirates? Rising tensions in the nearby Persian Gulf and the importance of the region to the world's oil supply may also be part of the force-equation.

While the navies have flaunted their strength, the merchant shipping companies have joined the show of force. In 2008, the notorious private security firm Blackwater (now Academi) converted an oceanographic research vessel into a pirate-hunting ship for hire, in the hope of attracting business from shipping companies seeking protection.<sup>49</sup> Some merchant vessels have hired armed private security guards to join their crew and they have mounted new weapons

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<sup>45</sup> "EU Naval Operation Against Piracy (EUNAVFOR Somalia – Operation ATALANTA)," European Union, February 2010  
[http://www.consilium.europa.eu/uedocs/cmsUpload/100201%20Factsheet%20EU%20NAVFOR%20Somalia%20-%20version%2014\\_EN.pdf](http://www.consilium.europa.eu/uedocs/cmsUpload/100201%20Factsheet%20EU%20NAVFOR%20Somalia%20-%20version%2014_EN.pdf)

<sup>46</sup> "Piracy: No Stopping Them," *The Economist*, February 3, 2011  
<http://www.economist.com/node/18061574>

<sup>47</sup> One list of participants outside the multinational operations is to be found in Security Council Resolution 2020 (November 22, 2011), preambular paragraph 10

<sup>48</sup> "China begins anti-piracy mission," BBC News, December 26, 2008  
<http://news.bbc.co.uk/2/hi/africa/7799899.stm>

<sup>49</sup> "Blackwater Aimed to Hunt Pirates," Mark Mazzetti, *New York Times*, November 30, 2010  
<http://www.nytimes.com/2010/12/01/world/africa/01wikileaks-blackwater.html?ref=africa>

systems on board such as the Long-Range Acoustic Device (LRAD) and the Active Denial System (ADS or “pain ray”).<sup>50</sup>

### **Complicit Silence from the Navies**

The naval forces off the coast of Somalia could provide much useful information about the fishing and dumping operations, but they have not done so. The EU naval fleet was specifically mandated by the EU Military Commission to gather information about the fishing. By the end of 2011 a three-year record almost certainly exists.<sup>51</sup> In early 2012, the spokesperson of the fleet confirmed that basic information about fishing vessels operating within 200 nautical miles of the Somali coast has been “recorded and sent to Brussels.”<sup>52</sup> But the fleet’s commanders have said nothing to the public about such findings, nor have authorities in Brussels or individual maritime governments said anything for the public record. It would have been logical for those with such knowledge to inform the UN Secretary General, but (as we shall see) his recent report provides no hint of fresh and useful intelligence.

### **African Union Workshop – Somali Official Speaks Out**

On April 6, 2010, the African Union convened a workshop of Experts on Maritime Security and Safety, in which speakers emphasized the linkages between illegal fishing, dumping of toxic wastes, and piracy – off the coast of Somalia and in other African coastal areas.<sup>53</sup> The workshop stressed the need to promote holistic approaches to piracy, coupling security measures at sea with protection of the livelihoods of coastal populations.

During the workshop, Somalia’s Deputy Prime Minister of Fisheries and Marine Resources, Professor Abdulrahman Adan Ibrahim Ibbi, described the situation in his country.<sup>54</sup> He said that pirates invoke legitimate Somali grievances about foreign exploitation of marine resources and they have gained “community support.” Professor Ibbi also referred to the negative impact of foreign naval forces. Somalia lacks the right to inspect and supervise these foreign naval activities, he pointed out. The naval forces, he charged, do more than protect deepwater merchant marine vessels – they also protect foreign fishing vessels,

<sup>50</sup> “Fighting Piracy,” Cmdr. James Kraska & Capt. Brian Wilson, *Armed Forces Journal*, February 2009 (<http://www.armedforcesjournal.com/2009/02/3928962>)

<sup>51</sup> EU NAVFOR website (<http://www.eunavfor.eu/about-us/mission/>)

<sup>52</sup> Email from Operation Atalanta spokesperson Commander Harrie Harrison, January 11, 2012

<sup>53</sup> African Union, Experts Workshop on Maritime Security and Safety, “[Conclusions and Recommendations](#),” April 6-7, 2010

<sup>54</sup> African Union Experts Workshop on Maritime Security and Safety, April 2010. See Statement by Hon. Prof. Abdulrahman Adan Ibrahim Ibbi (<http://www.africa-union.org/root/ua/conferences/2010/avril/psc/07avril/Maritime.htm>)

allowing them to fish illegally in Somali waters without being attacked. Ibbi's comments made it clear that the Somali government, though dependent on foreign funding and military support, is opposed to the one-sided counter-piracy campaign set in motion by the Security Council.

### **Security Council Action and Jack Lang's Report**

On April 27, 2010, shortly after the AU workshop, the Security Council requested a report from the Secretary General on options to ensure "prosecution and imprisonment" of persons responsible for the piracy.<sup>55</sup> On August 25, 2010, the Council held yet another debate on Somali piracy,<sup>56</sup> and on August 26, the Secretary General announced the appointment of a Special Adviser on Legal Issues Related to Piracy off the Coast of Somalia—Jack Lang of France.<sup>57</sup>

On November 23, the Council adopted Resolution 1950, mentioning, in passing, "the importance of preventing, in accordance with international law, illegal fishing and illegal dumping, including toxic substances" and it contained language stressing the "need for a comprehensive response to tackle the problem of piracy and its underlying causes by the international community."<sup>58</sup> But predictably no concrete action was taken or proposed with respect to the fishing/dumping issue.

Jack Lang's report of January 24, 2011, focused on the need for jails, courts and other initiatives to punish the ship-snatching pirates. But Lang went cautiously further, calling for an "independent committee" to investigate illegal fishing and to determine how to protect these resources. As Lang noted, "One of the reasons advanced for the large-scale development of piracy off the coast of Somalia is the need for the Somalia population to protect its territorial waters and marine resources against illegal fishing, [flushing of fuel bunkers] and dumping of toxic waste by foreign vessels."<sup>59</sup> Recalling the 1997 UN assessment mission led by Mahdi Gedi Qayad, Lang made the direct link between the spread of piracy and the absence of action to protect the country's marine resources.

On April 11, 2011, the Security Council adopted Resolution 1976,<sup>60</sup> welcoming Lang's report, but failing to set up the review committee he had proposed. The

<sup>55</sup> UN Security Council Resolution 1918, April 2010, 27 ([S/RES/1918](#))

<sup>56</sup> UN Security Council, 6374<sup>th</sup> Meeting, August 25, 2010 ([SC/10014](#)). In his statement at the debate, Permanent Observer for the African Union to the UN, Tété António, referred to the AU Workshop on Maritime Security and Safety in April, stating that it "focused on illegal, unreported and unregulated fishing" and "the dumping of toxic wastes" (among other issues)

<sup>57</sup> UN Security Council, Secretary-General Biographical Note, August 26, 2010 ([SG/A/1260](#))

<sup>58</sup> UN Security Council Resolution 1950, November 23, 2010 ([S/RES/1950](#))

<sup>59</sup> UN Security Council, "Report of the Special Adviser to the Secretary-General on Legal Issues Related to Piracy off the Coast of Somalia," January 24, 2011 ([S/2011/30](#))

<sup>60</sup> UN Security Council Resolution 1976, April 11, 2011 ([S/RES/1976](#))

resolution mentioned “Somalia’s rights with respect to offshore natural resources, including fisheries, in accordance with international law.” It expressed concern about “alleged illegal fishing and illegal dumping,” and it urged states “individually or within the framework of competent international organizations” to “positively consider investigating” the matter. Like the naval operation, it was to be an à la carte approach, but unlike that operation it was understood to be without likely effect. Incredibly, with scores of naval ships operating in Somali waters, Council members decided that the matter needed still “more investigation.” So they requested the Secretary General to report within six months on the “protection of Somali natural resources.”

The Council held a general debate on Somalia on June 21, 2011. The delegations of Lebanon, Nigeria and South Africa spoke out about illegal fishing and dumping. But not a single comment came from the naval powers and those most outspoken about the piracy threat.<sup>61</sup>

Not long afterwards, the African Union took up the matter in its Peace and Security Council. At a meeting on July 13, it stressed the need to match naval operations off the coast of Somalia with efforts to effectively address illegal fishing and dumping to protect the livelihoods of the Somali people.<sup>62</sup> But the African Union was not ready to insist on the matter. Keen to get financial support from the UN or Western governments for its AMISOM military force in Somalia, it chose to take a low-profile approach to illegal fishing and dumping, even though these maritime crimes threatened to destabilize several other African countries.

### **Report of the Secretary General and Resolution 2020**

On October 25, 2011, UN Secretary General Ban Ki-moon finally issued his Report on the Protection of Somali Natural Resources and Waters.<sup>63</sup> His bland report sets out the facts on illegal fishing and dumping very cautiously, though it admits the evidence is from “reputable sources.” The report ascribes the problem largely to the lack of government in Somalia, while avoiding direct discussion of the illegal foreign fishing and dumping operators, the absence of action by the maritime powers, and the lack of necessary global governance regimes. In spite of the urgency of the situation, and the many previous delays, the Secretary General spoke of the lack of “recent and conclusive studies” and called for still further investigation.

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<sup>61</sup> UN Security Council, 6560th Meeting, June 21, 2011 ([S/PV.6560](#))

<sup>62</sup> African Union, “Press Statement of the 285th Meeting of the Peace and Security Council,” July 13, 2011 (<http://reliefweb.int/node/425881>)

<sup>63</sup> UN Security Council, “Report of the Secretary-General on the Protection of Somali Natural Resources and Waters,” October 25, 2011 ([S/2011/661](#))

Within the Security Council, some elected members felt that the time had come for serious steps to address illegal fishing and dumping. In closed-door negotiations on a new Somalia resolution during November, they insisted that the Secretary General's report become the reference base for action. But powerful Council members made it clear that they strenuously opposed such a step. In the end, the resolution did not even mention the SG's report. Once again, the interests of the powers prevailed and nothing serious on fishing/dumping was forthcoming.<sup>64</sup>

In Resolution 2020 of November 22, the Council renewed its call for states or international organizations to "positively consider investigating" illegal fishing and dumping. It was yet another cynical political gesture.<sup>65</sup> The Council could have tasked the UN with such an investigation, it could have asked the International Maritime Organization or any number of other bodies, but it did not do so. Nor did the Council consider the extensive naval intelligence that already existed, in the files of Operation Atalanta, in the records of the Military Commission of the European Union and possibly even in the secret files of the UN itself. Renewing a vague call for investigation was an empty gesture that guaranteed continued inaction.

When the deployment of heavily-armed naval ships was first proposed (and later renewed), no one in the Security Council had called for inquiries, investigations, studies, or further information. Yet when peaceful actions have been suggested to prevent related maritime crimes (and their larger implications) no evidence seems sufficient, not for the Secretary General, nor especially for the controlling members of the Security Council.

## Conclusion

So the naval fleets continue their mighty presence in the seas off Somalia. After three years of deployment and in spite of their massive electronic gear and aerial surveillance systems, they have not stamped out the modestly-equipped, ransom-seeking pirates (pirate attacks apparently have increased substantially since 2008). Predictably, the navies have done nothing whatsoever about the other "pirates" – the illegal fishing operators and the toxic dumpers.

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<sup>64</sup> The Permanent Members, with the US in the lead, appear to have been the main opponents of Council action. The UK government, seeking to change opinions rather than deal with reality, provided an \$800,000 grant in November 2011 to a US organization called Oceans Beyond Piracy, to fund a public relations initiative seeking to persuade Somalis of the "dangers of piracy!" (<http://oceansbeyondpiracy.org/content/oceans-beyond-piracy-announces-ground-breaking-public-private-counter-piracy-contribution-uk>)

<sup>65</sup> UN Security Council Resolution 2020, November 22, 2011 ([S/RES/2020](https://www.un.org/press/en/2011/scres2020.doc)).



If the Security Council were really acting for Somalia's (and the world's) well-being, it would have acted long ago to halt illegal fishing and dumping, by speedily setting up a coast guard that could halt these crimes off the Somali coast. Such a coast guard could greatly reduce the ship-snatching, it would help the Somali economy and food crisis, reduce corruption and pollution, help preserve the world's disappearing fish stocks, increase the Council's credibility, and advance the use of peaceful rather than military means. The Secretary General proposed in his report that the naval forces should take on the task of patrolling Somalia's coasts against illegal fishing and dumping. But why should a heavily-armed and hugely expensive naval force do this work, when a lightly armed coast guard would serve the purpose much better? Neither option is, in fact, being pursued.

Thinking more broadly, the international community should establish serious and well-enforced global regimes against illegal fishing and toxic waste dumping. Such action is urgently needed before the oceans' fish are hunted to extinction and the ocean's waters polluted beyond repair. Such steps would also address the increase of piracy in many regions – far more effectively than the further deployment of naval force.

The naval armada off the coast of Somalia (and its equivalent – the intervention forces onshore) are military operations that allow for little subtlety or political nuance and remarkably little effectiveness. The powerful governments that set these operations in motion should abandon their force-mode (and set aside their fishing, financial and mining interests) and instead take simple, obvious and non-violent steps to solve the Somalia tragedy. The London Conference of February 23, 2012 has announced that it will address "root causes" and seek a new path for peace in Somalia.<sup>66</sup> Given the evidence thus far, however, credible action to address the offshore (and onshore) crises appears inexcusably unlikely.

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<sup>66</sup> <http://www.fco.gov.uk/en/global-issues/london-conference-somalia/aims-of-the-conference/>