

PRIVATE SECURITY CONTRACTORS: A WAY OF COMBATING PIRACY IN THE HORN OF AFRICA

A Monograph

by

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The opinions and conclusions expressed herein are those of the student author and do not necessarily represent the views of the U.S. Army Command and General Staff College or any other governmental agency. (References to this study should include the foregoing statement.)

ABSTRACT

PRIVATE SECURITY CONTRACTORS: A WAY OF COMBATING PIRACY IN THE HORN OF AFRICA, by MAJ Michael J. Shouse, United States Army, 44 pages.

Private security contractors (PSC) are an integral part of the global effort in conducting counter-piracy operations in the Horn of Africa. Their previous use in Iraq, Afghanistan, Kosovo, and Somalia in support of military operations has been relevant to mission success. From 2008-2011, piracy in the Horn of Africa grew to astronomical numbers. A global effort ensued in 2009 with the creation of three maritime task forces, counter-piracy working groups, and an increase in the hiring of private security contractors. Private security contractors have bridged the gap between the shipping industry, maritime insurance agencies, and the nation's naval assets. Their involvement made immediate impacts to the piracy epidemic, successfully reducing piracy by more than 50 percent. This study centered on the role of private security contractors operating in the Horn of Africa through the framework of the theory of supply and demand. In a time when it appears piracy will continue to thrive, the importance of private security contractors can not be overstated.

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This research began with a thirst for information regarding the United Nations mission, *Operation Restore Hope*, from 1992 to 1994. As a deployed member member serving in *Operation Restore Hope*, I was left wondering what U.S. forces were doing there. After discussions with Dr. Bruce Stanley, a different direction emerged. An interest in counter-piracy operations led to researching the use of private security contractors as a substantial effort in piracy reduction off the Horn of Africa. This research has been extremely satisfying and has left a desire to continue to monitor the future of Somalia and its fight against piracy. I would like to take this opportunity to publically thank Dr. Bruce Stanley for showing the members of his monograph syndicate, and myself, that this process can be enjoyable. Dr. Stanley's mentorship, guidance, and strict timeline enabled me to become a more thorough, focused, and better writer. To my wife Amy, thank you for your patience during those late nights when I should have been sleeping but remained downstairs to write "one more page." To my daughter Campbell, thank you for understanding when Daddy had to work, and for making those times when I didn't work, the very best times I could have hoped for. Last but not least, I would like to thank the School of Advanced Military Studies (SAMS) Program for providing me with this opportunity to continue my education and show me perhaps a new direction to pursue when I make the decision to retire.

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ACRONYMS

AFRICOM	United States Africa Command
AMISOM	African Union Mission in Somalia
AIS	Automated Information System
ASG	Armed Security Guard
BMP	Best Management Practices
CENTCOM	United States Central Command
CGPCS	Contact Group for Piracy Off the Coast of Somalia
CMF	Combined Maritime Forces
ECOP	Economic Cost of Piracy
EUNAVFOR	European Union Naval Force
HCOP	Human Cost of Piracy
HOA	Horn of Africa
IMB	International Maritime Bureau
IMO	International Maritime Organization
IRTC	Internationally Recognized Transit Corridor
ISO	International Organization for Standardization
JWC	Joint War Committee
K&R	Kidnap and Ransom Insurance
KFR	Kidnap for Ransom
LOS	Law of the Sea
MARLO	Maritime Liason Office
MSC-HOA	Maritime Security Centre – Horn of Africa
MSCHOA	Military Safety Committee Horn of Africa
NATO	North Atlantic Treaty Organization
OBP	Oceans Beyond Piracy

OEF	One Earth Future Foundation
PAG	Pirate Action Group
PFR	Piracy For Ransom
PRC	Piracy Reporting Centre
PSC	Private Security Contractor
PMSC	Private Military Security Company
PVC	Pirate Value Chain
RUF	Rules for the Use of Force
SAMI	Security Association for the Maritime Industry
SHADE	Shared Awareness and Deconfliction
SPM	Ship Protection Measures
UKMTO	United Kingdom Marine Trade Operations
UNCLOS	United Nations Convention on the Law of the Sea
UNSCR	United Nations Security Council Resolution
WFP	World Food Programme
WRA	War Risk Area

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INTRODUCTION

The piracy epidemic in Africa recently reached an all time high, prompting the shipping industry to hire private security contractors (PSC) to safeguard cargo traversing the Horn of Africa (HOA). In recent months, the use of PSCs has created controversy. The head of the United Nation's Working Group on the use of mercenaries "called upon the international community to reach an agreement on regulations and procedures regarding the use of armed personnel in the shipping industry, cautioning that a failure to do so created risks for human rights violations at sea."¹ However, Thomas Kelly, Principal Deputy Assistant Secretary, Bureau of Political-Military Affairs, remarked that the use of PSCs "have served as a *game-changer* in the effort to combat piracy."²

The pirate's effect on the shipping industry in the Horn of Africa is difficult to fully determine. Research proves that the effects of piracy on both economics and humans is costly and requires drastic measures of implementation to curtail it. The influence that private security contractors have in combating piracy is also difficult to fully understand, but research shows that in the last two years it has been extremely successful. Research shows that hiring PSCs has decreased piracy dramatically and reduced the number of successful hijackings tenfold. The increase in security measures is allowing the shipping industry the opportunity to move through the Horn of Africa relatively unhindered. Because of this, the use of private security contractors has increased security, decreased the number of hostages, and reduced the piracy epidemic by more than 50 percent.

¹UN News Centre; Quote from Ms. Faiza Patel, UN Working Group on the use of mercenaries, during her remarks in December 2012 after visiting the HOA. Somalia: UN Experts On Use Of Mercenaries Urge Greater Oversight for Private Security Contractors, December 18, 2012, <http://www.un.org/apps/news/story.asp?NewsID=43797#> (accessed September 10, 2013).

²Thomas Kelly Remarks at Combating Piracy Week, London, United Kingdom, *The U.S. Government's Approach to Countering Somali Piracy*, October 25, 2012, <http://www.state.gov/t/pm/rls/rm199929.html> (accessed September 10, 2013).

The purpose of this study is to explore the use of private security contractors and their success in combating piracy in the Horn of Africa. A second purpose is to determine whether the use of PSCs led to the decrease in the number of hostages taken because of successful ship hijackings. Thirdly, this study provides accurate data linked to the reduction of successful ship hijackings by pirates in the Horn of Africa. Finally, data collected for the study provides evidence that the use of private security contractors has increased security and decreased the pirate's ability to successfully board merchant ships, hijack crews, and demand ransom payments.

The significance of this study centers on the overall impacts to the global shipping industry since hiring PSCs as armed escorts. While their use remains a concern to many government agencies and anti-piracy groups, insurance companies have benefited from their use. Laws governing the use of PSCs vary from country to country, as do rules of engagement. This study showcases the necessity to continue using private security contractors to safeguard the shipping industry. The results are staggering when armed security guards are used; and the study will show that when guards are not used, successful hijackings occur more easily. The study also shows that when PSCs are coupled with the industry's best management practices (BMP), results are high. Additionally, the number of insurance companies hiring PSCs has increased because ransom payouts remain in the millions per crew. The results of this study may be used for educational purposes when researching piracy and the use of private security contractors in the shipping industry.

Numerous terms are used throughout this study, such as: piracy, private security contractors or PSCs, maritime insurance, hijacking, kidnapping, and ransom. Furthermore, governmental agencies such as the Department of State (DOS), United Nations (UN), and the European Union (EU). This research will use internal terms and definitions specific to those agencies, as well as those pertinent to the private security contractors and pirates. The terms

supply and demand are used throughout this study as the researcher delves into the theoretical framework of the paper.

Piracy is not new, but the use of private security contractors in the shipping industry is. In 2008, piracy in the Horn of Africa created an immediate need for armed security. This demand for PSCs to curb piracy in the Horn of Africa created a supply and demand phenomenon. The need to move freely around the Horn of Africa without the fear of pirates created the demand for using PSCs. Piracy caused a supply and demand issue for the shipping industry, insurance companies, and pirates alike. Nation's governments should require that shipping industry and maritime insurance companies hire armed security guards before sailing through high risk areas (HRA). Most countries aren't willing to pay ransoms to pirates to release crews, ships, and cargo; creating a stalemate in hostage releases in Somalia when payouts aren't available. The simple theory of supply and demand is relevant in this study.

In research of this study, the need to answer numerous questions existed. Questions remained broad in this study and focused on the United Nations, European Union, and United State's policy in counter-piracy operations. Additionally, the questions focused on the shipping industry, maritime insurance, and legislation. Furthermore, the questions focused on the use of private security contractors in the shipping industry. It is easy to deduce that security has improved when private security contractors are used. The study suggests that when PSCs are used the number of hostages decreases, reducing the number of ransom payouts. The analysis gained in this study shows that many nations are actively participating in aggressive measures to decrease piracy in the Horn of Africa, and the use of private security contractors is greatly linked to the decrease.

Two limitations exist in this study; the use of open source reporting and the limited information found regarding current policies contained in the U.S. and other nation's government websites depicting the use of private security contractors. The first limitation is concerned with

the researchers scope of information being available through print and media only. There is no use of classified information in this study. The second limitation is relegated to the use of government web sites. Most government websites lack pertinent information, particularly in the context of this study. While this study appears limited in its ability to provide adequate information through open source reporting, the researcher encountered numerous writings to aid in the development of this paper. News articles, journals, and reports were used extensively in this research. The researcher's desire to gain a better understanding regarding the use of private security contractors in combating modern day piracy was the nucleus to this study. The study provides limited background on the history of piracy. Instead, it focuses on the use of PSCs from 2008 to the present. For the purpose of this paper, it considers the Horn of Africa as its primary region because it serves as the primary shipping area near the country of Somalia. The Horn of Africa encompasses the Gulf of Aden and portions of the Indian Ocean closest to the Somali coastline.

This paper does not attempt to solve the piracy epidemic, but merely provide credence to the use of private security contractors. The shipping industry has developed internal policies and measures to reduce successful ship and crew hijackings, some with more success than others. As mentioned earlier, the hiring of PSCs does not come void of controversy and there are numerous agencies lobbying for international legislation to minimize their aggressive tactics. This paper will include the following assumptions: the shipping industry will continue to use private security contractors to protect shipping, international naval assets will continue to conduct counter-piracy operations, Somali pirates will continue to operate in the Horn of Africa as long as economics is the main goal; and the piracy epidemic will continue to be of relevance for years to come.

This research study has six sections. Section one serves as the introduction and includes the background of the study, statement of the problem, purpose of the study, significance of the

study, definition of terms, theoretical framework, research questions, limitations, delimitations, and the assumptions of the study. Sections two and three present the literature review and methodology of the study. This section clearly outlines sources used and how the researcher conducted his study of the specific cases. Section four is the case study regarding the use of PSCs and piracy in the Horn of Africa. This section will look at five things in particular, current policies, insurance, international response, the use of private security contractors, and legislation governing the use of PSCs. Section five presents the study's findings on why the use of PSCs is critical to the shipping industry, and overall economy. This section will answer the research questions and provide quantitative data. Section six presents the conclusion. This section outlines the summary of the entire study, discussion of the findings, implications of the findings for theory and practice, and recommendations for further research.

LITERATURE REVIEW

This section presents the rationale for conducting studies on private security contractors and their impacts to the global shipping industry, insurance companies, and pirates operating in the Horn of Africa. It is important to recognize the state of the Somali economy, recently elected government, and the history of piracy in the region. Piracy increased dramatically in the aftermath of *Operation Restore Hope* in 1994 and has only recently seen a decline in successful hijackings. The President of Somalia, Hassan Sheikh Mohamoud, who recently celebrated his first year in office on 16 September 2013, insists, "security is priority number one."³

The following review of the literature represents the literature pertinent to this study. It builds upon the shipping industry's concerns in the Horn of Africa and the impacts associated with successful hijackings. This paper conducts the literature review in five steps. First, it

³Hasan Sheikh Mohamoud, interview with *GlobalPost*, September 15, 2013, from his villa in Mogadishu, Somalia on the eve of his one year anniversary of his election. "SOMALIA: One-on-One with Somalia's Embattled President," <http://www.midnimo.com/2013/09/15/somaliaone-on-one-with-somalias-embattled-president/> (accessed September 20, 2013).

describes the theory of supply and demand, as well as the cost and benefits to pirates operating along the coast of Somalia. Second, it considers the key terms related to piracy, private security contractors, and maritime insurance. Third, it examines the key concepts used in the case study. Fourth, it highlights the global impacts to the shipping industry, insurance companies, and pirates operating in the Horn of Africa.

Supply and Demand Theory

The theory of supply and demand deals with economics. Economics is defined as “a social science dealing with the production, distribution, and consumption of goods and services.”⁴ It is economics that drives the sovereignty of a country through its ability to freely trade goods with other countries. The law of demand, the need for an increased quantity at a set price, leads to the law of supply. The law of supply is a direct correlation between the price and the good. It is within this framework that supply and demand exists.

The theory of supply and demand is critical to understanding the cause and effect of piracy operations and those competing to destroy it. The Pirate Value Chain (PVC) “highlights the linkage between pirates, financiers, and sponsors.”⁵ What it does not highlight is the possible government ties to piracy and those sponsoring, financing, or executing it. The PVC represents the criminal aspects of piracy, but does not represent the insurance companies, shipping industry, or private security contractors. The funneling of money through underground sources and across country borders makes defeating piracy a difficult task. Each vessel armed with security guards decreases the PVC’s opportunity to make money. In a global sense, piracy is nothing more than economics, relying on the cost and benefit of those involved. As *Geopolicy* pointed out in its

⁴*The Merriam-Webster Dictionary*, 11th ed., s.v. “Economics,” Springfield: Massachusetts, 2004, 228.

⁵“The Economics of Piracy: Pirate Ransoms & Livelihoods off the Coast of Somalia,” *Geopolicy*, May 2011, http://www.geopolicy.com/upload/content/pub_1305229189_regular.pdf, (accessed September 13, 2013), iv.

May 2011 report, pirates are the “very essence of rational profit maximizing entrepreneurs described in neo-classical economics.”⁶ Additionally, “the supply of pirates, therefore, is closely related to the expected benefits of being a pirate and the associated risk adjusted costs.”⁷

The cost and benefits to both pirates and the shipping industry is difficult to determine. There are numerous reporting agencies with drastically different numbers representing the overall impact to both. It remains inherently understood that in the declining economy and failed state status of Somalia, piracy represents an opportunity for organized groups to become wealthy. This paper will highlight the amounts in U.S. dollars a pirate stands to make, as well as his financiers and sponsors. There is no government program designed to augment large payouts received by the PVCs.

Key Terms

This study uses numerous terms. This section outlines key definitions used in order to provide the reader with a simple understanding. These following six terms remain consistent throughout the paper. The terms are: piracy, private security contractor, maritime insurance, hijacking, kidnapping, and ransom.

The term piracy is defined in Article 101 of the 1982 United Nations Convention on the Law of the Sea (UNCLOS) as any one of the following acts:

- a) any illegal acts of violence or detention, or any act of depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft, and directed:
 - a. on the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft.
 - b. against a ship, aircraft, persons or property in a place outside the jurisdiction of any State.
- b) any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft.
- c) any act of inciting or of intentionally facilitating an act

⁶Ibid., ii.

⁷Ibid.

described in subparagraph (a) or (b).⁸

The shipping industry's best management practices (BMP) simplifies the definition by providing "clear, practical, working guidance to the industry to enable accurate and consistent assessment, of suspicious activity and piracy attacks."⁹ The BMP articulates that a piracy attack may include, (but is not limited to), actions such as the following:

- a) The use of violence against the ship or its personnel, or any attempt to use violence.
- b) Attempt(s) to board the vessel where the Master suspects the persons are pirates.
- c) An Actual boarding of the vessel whether successful in gaining control of the vessel or not.
- d) Attempts to overcome the Ship Protection Measures by the use of:
 - a. Ladders.
 - b. Grappling hooks.
 - c. Weapons deliberately used against or at the vessel.¹⁰

The term private security contractors is defined through the term private military companies. Private military companies (PMCs) are defined as "legally established international firms offering services that involve the potential to exercise force in a systematic way and by military or paramilitary means, as well as the enhancement, the transfer, the facilitation, the deterrence, or the defusing of this potential, or the knowledge required to implement it, to clients."¹¹ The University of Denver's Sié Chéou-Kang Center for International Security and Diplomacy simplifies its definition of PMCs, outlining that "military and security services are

⁸United Nations. "United Nations Convention on the Law of the Sea." United Nations, 1982, http://www.un.org/Depts/los/convention_agreements/texts/unclos/unclos_e.pdf, (accessed September 15, 2013), 61.

⁹BMP, vol. 4, *Best Management Practices for Protection Against Somalia Based Piracy: Suggested Planning and Operational Practices for Ship Operators and Masters of Ships Transiting the High Risk Area* (Livingston: Witherby Publishing, 2011), 57.

¹⁰Ibid., 57-58.

¹¹Carlos Ortiz, *Private Armed Forces and Global Security: A Guide to the Issues* (Santa Barbara: Praeger, March 2010) 48.

services intended to manage violence – on land or sea.”¹² The 100 Series Rules, An International Model Set of Maritime Rules for the Use of Force (RUF) defines both privately contracted armed security personnel (PCASP) and private maritime security company (PMSC). PCASP is defined as “the personnel directly engaged or employed by the Private Security Company or Private Maritime Security Company for the performance of security services on board the ship.”¹³ The term PMSC is defined as “any privately contracted company that provides both armed and unarmed security services to the maritime industry for the protection of clients against a range of potential threats.”¹⁴ The Department of Defense recognizes the importance of PMCs and their ability to conduct security operations while the military is engaged in conflict. The Department of Defense’s goal in its use of PMCs is to “remain a legitimate and effective method for providing non-inherently governmental protection of personnel, property, and activities in contingencies and areas of other significant military operations where the use of military or other government security forces are unavailable, insufficient, or inappropriate.”¹⁵ For the remainder of this study, the terms PCASP, PMSC, and PMCs will be referred to as PSCs.

The term maritime is defined as “relating to navigation or commerce of the sea.”¹⁶ Additionally, insurance is defined as “coverage by contract whereby one party agrees to guarantee another against a specified loss.”¹⁷ There are numerous types of policies concerning maritime insurance, such as: hull, war, cargo, protection and indemnity (P&I), kidnap and ransom

¹²University of Denver, “Private Security Monitor,” <http://psm.du.edu/> (accessed December 15, 2013).

¹³100 Series Rules: An International Model Set of Maritime Rules for the Use of Force (RUF), https://100seriesrules.com/uploads/20130503-100_Series_Rules_for_the_Use_of_Force.pdf, (accessed December 5, 2013), 8.

¹⁴*Ibid.*, 8.

¹⁵Department of Defense, “Program Support,” <http://www.acq.osd.mil/log/PS/psc.html> (accessed December 15, 2013).

¹⁶*The Merriam-Webster Dictionary*, 11th ed., s.v. “Maritime,” 439.

¹⁷*The Merriam-Webster Dictionary*, 11th ed., s.v. “Insurance,” 378.

(K&R), loss of hire (LOH), and small craft. The term hijack is the “illegal seizure or exercise of control over a ship by force or threat thereof or any other form of intimidation.”¹⁸ The term abduction, or kidnapping, is defined as the seizure or detention of “any person without lawful authority or reasonable excuse from a ship.”¹⁹

Key Concepts

This study examines six key concepts. These concepts include: economics, maritime insurance agencies, international navies, private security contractors, and legislation associated with the shipping industry and private security contractors. The following section will outline each of those concepts.

Economics

The Central Intelligence Agency (CIA) World Factbook credits Somalia with an increased economy in a time of limited government involvement.²⁰ While the government is steadily building, the country is showing resilience for the first time since the early 1990s when it abruptly fell into a state of civil war. The capital city of Mogadishu is seeing dramatic results with its rebuilding efforts. The building of hotels, shopping areas, and the re-opening of the International airport is a sign of progress. The three primary sources of income in Somalia are agriculture, accounting for 59.3 percent of the GDP, industrialization accounting for 7.2 percent, and other essential services accounting for 33.5 percent.²¹ Unfortunately, the newly elected Somali government will require years to increase its gross domestic progress (GDP) above 2.6 percent and remove it from the list of failed states.²²

¹⁸100 Series Rules, 7.

¹⁹Ibid.

²⁰Central Intelligence Agency. “CIA World Factbook 2013,” http://www.indexmundi.com/somalia/economy_profile.html (accessed October 15, 2013).

²¹Ibid.

²²Ibid.

The economic cost of piracy at its peak in 2011 was approximately \$6.9 billion, of which \$5.3 and \$5.5 billion was absorbed by the shipping industry alone.²³ In 2012, *One Earth Future Foundation* (OEF) reports that the economic cost to the global economy was \$6 billion, of which \$5 billion was absorbed by the shipping industry.²⁴ The result is a 12.6 percent reduction from 2011, approximately \$850 million.²⁵ Each year, 66,612 transits move around the Horn of Africa.²⁶ Additionally, shipping companies are spending more money to avoid pirates, particularly on fuel, best management practices, and private security contractors. In 2011, an estimated \$1.16 billion was spent on security equipment and PSCs, equating to approximately 30 percent of all ships having some form of security.²⁷ In 2012, it is estimated that 50 percent employed PSCs.²⁸

The human cost of piracy is difficult to fully articulate. The data associated with ship hijackings and ransom costs are easy to understand as long as they are reported. Unfortunately, the mental anguish and cost associated with becoming a hostage is not easy to measure. The average time held for one hijacked crew is 316 days.²⁹ Since 2010, OEF reports that 589 seafarers were taken hostage and 78 still remain in captivity.³⁰ In the three years, 83 ransoms were paid to free hostages, costing between \$3.97 and \$5.4 million per ransom.³¹

Insurance

²³Jonathan Bellish, “The Economic Cost of Somali Piracy, 2012,” *One Earth Future Foundation*, 2013, 1.

²⁴Ibid.

²⁵Ibid.

²⁶Ibid.

²⁷Bellish, 1.

²⁸Ibid.

²⁹Ibid., 10.

³⁰Kaija Hurlburt and D. Conor Seyle, “The Human Cost of Somali Piracy, 2012.” *One Earth Future Foundation*, 2013, 5.

³¹Bellish, 10.

Insurance companies have felt much of the impacts to successful ship hijackings. The wealthier insurance companies willingly pay private security contractors to safeguard its cargo. A 2011 report in *Insurance Journal* depicts the reality that more and more insurance companies are hiring armed security guards to safeguard its insured cargo. A member of the Lloyd's of London insurance market, Emma Russell, commented during an interview in 2011, "Piracy is clogging the arteries of globalization."³² Insurance companies have not always been receptive to hiring private security contractors, and have asked the United Nations and others to create binding laws and regulations governing their use. While the demand is still there to govern PSCs, insurance companies and merchant ships have benefited from the freedom of movement when accompanied by armed security guards. The Convoy Escort Program (CEP) uses 18 ships to protect merchant vessels and serves as the "private navy" in the Gulf of Aden.³³ Jardine Lloyd Thompson, International Shipping Insurer Company, operates the fleet at a cost of \$70 million.³⁴

International Naval Assets

Three major naval maritime organizations operate in the Horn of Africa. They are the European Union Naval Forces (EUNAVFOR), United States Central Command's (USCENTCOM) Combined Task Force (CTF) -151, and the North Atlantic Treaty Organization (NATO/OTAN).³⁵ The operations, EUNAVFOR's *Operation Atalanta*, operates with 4-7 vessels at a administrative cost of \$11.4 million; NATO's *Operation Ocean Shield* operates with 2 vessels at a administrative cost of \$5.7 million, and CTF-151's exact vessel numbers are unknown,

³²Interview with Emma Watkins," *Insurance Journal*, <http://www.insurancejournal.com/news/international/2011/09/20/216642.htm> (accessed September 20, 2011).

³³"The Convoy Escort Program will be Patrolling the Gulf of Aden," *Business Insider*, May 2012, <http://www.businessinsider.com/the-convoy-escort-program-will-be-patrolling-the-gulf-of-aden-2012-5> (accessed September 16, 2013).

³⁴Ibid.

³⁵Bellish, 13.

but operates at a administrative cost of \$5.7 million.³⁶ Administrative costs do not account for the overall operational costs, which is unknown at this point. The total cost of military operations around the Horn of Africa in 2011 was \$1.27 billion, and \$1.09 billion in 2012.³⁷ The decrease in cost is due to a reduction in naval assets between 2011 and 2012. The total 2011 and 2012 administrative costs include the “administrative budgets for the “big three” naval missions, the operating costs of surface vessels, their surveillance detachments, and unmanned aerial vehicles (UAV), personnel costs associated with vessel protection detachments, and the cost of Shared Awareness and Deconfliction (SHADE) meetings.”³⁸ All three, along with additional naval assets from China, India, Japan, Russia, and South Korea, primarily focus on the International Recognized Transit Corridor (IRTC).³⁹

The IRTC is a two lane mobility corridor for ships passing through the Gulf of Aden. Ships are requested by the Maritime Liason Office (MARLO) to travel in groups at certain speeds while under the security of naval assets operating along the IRTC.⁴⁰ While operating in the IRTC, ships must remain vigilant through the use of best management practices and private security contractors because naval assets can not patrol the entire corridor. However, when traveling in groups, chances of being attacked or hijacked decreases.

Private Security Contractors

The use of private security contractors in the shipping industry has increased since 2008. The United States used PSCs to provide security to key personnel and organizations in Iraq, Afghanistan, Kosovo, Bosnia, and even Somalia. In September 2008, the successful hijacking of

³⁶Ibid., 13-15.

³⁷Ibid., 14.

³⁸Bellish, 14.

³⁹Ibid., 13.

⁴⁰Maritime Liason Office (MARLO), <http://www.cusnc.navy.mil/marlo/Guidance/Corridor.htm> (accessed December 15, 2013).

a Ukrainian ship loaded with tanks and weapons triggered the use of armed security guards to allow safe passage through the Gulf of Aden.⁴¹ Since 2008, the use of PSCs has become routine and welcomed by the shipping industry and world navies alike. Private security contractors often served as a signal of consternation and found their way in newspaper headlines for its aggressive and unregulated rules. This paper outlines the pros and cons to using PSCs in the shipping industry and provides the requisite analysis to the cost and benefit of their use.

Legislation

Legislation for shipping companies primarily comes from the 1982 United National Convention on the Law of the Sea (UNCLOS). There are other leading agencies that continue to push legislation, such as: the International Maritime Organization (IMO), International Maritime Bureau (IMB), United Nations Security Council, Maritime Liason Office (MLO), and others. The United Nations Security Council (UNSC), Oceans Beyond Piracy (OBP), One Earth Future Foundation (OEF), the Security Association for the Maritime Industry (SAMI), and flag bearing States provide much of the legislation governing the use of private security contractors. The *Montreaux Document* serves as the leading document in providing legislation governing the use of PSCs. Recently, the European International Organization for Standardization (ISO) began drafting the “100 Series Rules” as a legitimate document outlining the rules of self defense while contracted as a PSC.⁴²

Summary

Until the government of Somalia can effectively stop the piracy epidemic on the shores of its own country, insurance companies and the shipping industry will continue to require the use of private security contractors to protect shipping. While it costs the shipping industry millions of

⁴¹Fox News. “Private Security Firms Join Battle Against Somali Pirates,” October 26, 2008, <http://www.foxnews.com/story/2008/10/26/private-security-firms-join-battle-against-somali-pirates/> (accessed September 15, 2013).

⁴²100 Series Rules, 2.

dollars annually to insure its crews and cargo, it costs even more for insurance companies to pay ransoms in the event a ship is hijacked. The bill absorbed by insurance companies for hiring private security contractors is less in comparison than the ransom payments provided when hijackings occur, costing insurers as much as \$5.4 million per ransom.⁴³

METHODOLOGY

The following section explains the rationale for selecting one single case study focused on the use of private security contractors in the shipping industry. The case focuses on the Horn of Africa as its geographical area, consisting of the Gulf of Aden and the Indian Ocean. The case study will analyze the use of international naval assets and the International Recognized Transit Corridor (IRTC) through the Gulf of Aden. Analysis will be done regarding the ebbs and flows of marine insurance, kidnappings, ransoms, and how private security contractors have impacted counter-piracy operations.

This case study used George and Bennett's structured, focused approach to examine the use of private security contractors in the shipping industry. The *structured* method of this study is the analysis of the case through a set of guiding questions.⁴⁴ The *focused* method is that it deals with certain aspects of the case.⁴⁵ The result of the structured, focused approach ensures the researcher executed a systematic approach to his/her research and a detailed comparison of the findings.⁴⁶ This paper centers on the use of private security contractors in the shipping industry and the impacts associated with their use. This method analyzes the increase and decrease in piracy from 2008 to 2013. Additionally, the method outlines the increase in benefits of hiring

⁴³Oceans Beyond Piracy, "The Economic Cost of Somali Piracy, 2011." *One Earth Future Foundation*, 2012, 4.

⁴⁴Alexander L. George and Andrew Bennett, *Case Studies and Theory Development in the Social Sciences*, (Cambridge, Mass.: The MIT Press, 2005), 67.

⁴⁵*Ibid.*, 67.

⁴⁶*Ibid.*, 67-69.

PSCs, and the consequences of not. In the case study, the researcher examines current policies in counter-piracy, maritime insurance, ransom payouts, the international community response, and the use of private security contractors and the legislation governing their use.

The purpose of this study is to explore the use of private security contractors and their success in combating piracy in the Horn of Africa. A second purpose is to determine whether the use of PSCs led to the decrease in number of hostages. Thirdly, this study provides accurate data linked to the reduction of successful ship hijackings by pirates in the Horn of Africa. Finally, data collected for the study provides evidence that the use of private security contractors has increased security and decreased the pirate's ability to successfully board merchant ships, hijack crews, and demand large ransoms.

The pirate, legislation, maritime insurance, international navies, and PSCs are examined through focused questions. The first question addresses the current policies in combating piracy. This question is the starting point because it provides context to the growing concerns of the international communities and efforts to protect shipping routes. The second question addresses the costs associated with shipping, insurance, and PSCs. It provides the cost benefit analysis of PSCs and their direct impact on piracy. The third question addresses the naval response to combating piracy. This question provides the data analysis to understanding piracy before 2008 and the present. The fourth question addresses private security contractors and their impacts on piracy. This question provides empirical data on the cost and benefits of PSCs in the maritime domain. The final question addresses legislation governing the use of PSCs in the maritime domain from 2008 to the present.

CASE STUDY

This paper concerns itself with one case study, broken into five sub-sections. First is the introduction and justification for selection of the case. The second part provides an overview regarding Somalia and the piracy situation. The third part examines current policies, both U.S.

and International, that regulate the shipping industry. The fourth part is to examine the maritime insurance industry. The fifth part is analysis of the international naval task forces and counter-piracy groups involved in combating piracy. The sixth part is an analysis of private security contractors and the cost and benefits associated with their use. The final part is an analysis of legislation seeking to govern the use of PSCs and prevent mercenary style measures in international waters.

Overview

Piracy is not new. Until recently, it seems to have been over looked by many countries and left to the shipping industry. Between 2008 and 2012, there was an increase in successful ship hijackings by pirates off the Somalia coastline. The Gulf of Aden is recognized as one of the most dangerous and pirated waterways in the world.⁴⁷ It provides a wealth of opportunity to Somali pirates and financiers to earn large amounts of money with the high volume of shipping passing through its waters. With each hijacking, ransom demands are steep and often paid for by maritime insurance companies. The use of PSCs has decreased the number of successful hijackings, causing a decrease in ransom payouts.

The country of Somalia has been in despair since the early 1990s, when Islamists executed a coup against the former president. The country spiraled out of control and immediately became one of the poorest nations on the globe, leading to a humanitarian crisis that prompted the United Nations to provide relief. The country of Somalia has lacked any effective government structure since 1991, and does not possess a constitution to guide the citizens of its country. However, a newly elected government has been in place for more than one year and is taking great strides to better the country and protect the waterways. President Hassan Sheikh Mohamoud was elected in September 2012. The country has no standing army but employs

⁴⁷“Joint War Committee,” *Lloyd's Market Association*, http://www.lmalloyds.com/Web/Market_Places/marine/JWC/Joint_War.aspx (accessed October 20, 2013).

armed security to protect critical infrastructure and the political power base. There are numerous factions and clans that maintain militias and operate independently of the central government. Somalia routinely ranks as one of the poorest countries and is routinely on the verge of another humanitarian crisis. The country currently ranks as number 2 of 10 on its Foreign Investment Index.⁴⁸ The Foreign Investment Index is “based on a given country’s economic stability (sustained economic growth, monetary stability, current account deficits, budget surplus), economic risk (risk of non-servicing of payments for goods or services, loans and trade-related finance, risk of sovereign default), business and investment climate (property rights, labor force and laws, regulatory transparency, openness to foreign investment, market conditions, and stability of government).”⁴⁹

The coastline of Somalia is one of the largest in Africa and stretches along two major waterways, the Gulf of Aden and the Indian Ocean. The Gulf of Aden and the Indian Ocean make up the northern and eastern borders respectively. Somalia has more than 1,800 miles of coastline. The country borders Ethiopia to the west, Djibouti to the northwest, and Kenya in the south. It bisects the northern and southern hemispheres. Somalia is primarily desert and flat, but provides many economic opportunities. Millions of square miles of ocean along the coastline provides ample fishing opportunities for those seeking to earn money through legitimate means. The country relies on livestock, telecommunications companies, and money transfer companies to provide the bulk of its economics.

The Gulf of Aden is a “deepwater basin that forms a natural sea link between the Red Sea and the Arabian Sea.”⁵⁰ It covers a geographical area of 205,000 square miles (530,000 square

⁴⁸“Somalia,” *Country Watch*, http://countrywatch.com/country_profile.aspx?vcountry=158, (accessed November 5, 2013), 137.

⁴⁹*Ibid.*, 131.

⁵⁰Encyclopedia Britannica, s.v. “Gulf of Aden,” <http://www.britannica.com/EBchecked/topic/5650/Gulf-of-Aden> (accessed October 15, 2013).

km). It is approximately 920 miles (1,480 km) in length and its mean width is 300 miles (480km).⁵¹ The maximum depth recorded in the Gulf is 17,586 feet (5,360 meters).⁵² The Gulf serves as an important fishing area and transient waterway for the shipping industry. The Gulf is named after the seaport of Aden, in southern Yemen, and is situated between the coasts of Arabia and the Horn of Africa.⁵³ The Gulf serves as the most direct route to bypass Africa.

The History Of Piracy In Somalia

Piracy in Somalia has steadily increased since 2000. Brought on by a lack of governance and European and Asian fishing in Somalia's territorial waters, Somali citizens began patrolling their territorial waters to disrupt illegal fishing. It is estimated that illegal fishing cost the Somalis US\$100 million in 2003-2004.⁵⁴ As Somali fishermen worked to disrupt illegal fishing in territorial waters, they began boarding ships and holding the crews for ransom. After netting hundreds of thousands of dollars, the piracy epidemic began to increase as financiers and warlords saw an increased opportunity to make money. The maturation of modern day piracy in just a few years highlighted the Somali piracy business model. A recent report, *Pirate Trails*, highlights the levels of a piracy action group, and defines the Somali piracy business model (PBM).⁵⁵ As piracy increased, the international community grew increasingly pressured to respond, and built a global effort to respond to the crisis.

The Somali Piracy Business Model (PBM) is an elaborate system involving "investors, financiers, and other shareholders within Somalia, across the region, and even internationally."⁵⁶

⁵¹Ibid.

⁵²Ibid.

⁵³Ibid.

⁵⁴United Nations Office on Drugs and Crime, *Maritime Piracy*, http://www.unodc.org/documents/data-and-analysis/tocta/9.Maritime_piracy.pdf (accessed on October 14, 2013).

⁵⁵The World Bank, *Pirate Trails*, (Washington DC: International Bank for Reconstruction and Development/The World Bank, 2013), 30.

⁵⁶Ibid., 30.

Piracy is a criminal act, and pirates execute hijackings for money to spend on alcohol, khat, and prostitutes.⁵⁷ Their money is also reinvested into future operations and into real estate, the khat trade, and other business ventures.⁵⁸ Financiers, or investors, are those persons that invest in piracy operations.⁵⁹ They receive the bulk of ransom payments and move the money to and from Somalia for investment in other business opportunities. Once a ransom is paid, the pirates receive an average of \$35,000 and \$75,000 while the financier receives 25 to 30 percent of the final payout when sponsoring the operation.⁶⁰ When directly overseeing the operation, financiers keep between 50 and 75 percent of the final ransom.⁶¹ Additionally, financiers and sponsors make money on their investments by charging pirates and ransom negotiators for services rendered.⁶²

Combating Piracy: Current Policies

As piracy began to increase after the year 2000, many nations started paying close attention to the Horn of Africa, particularly the Gulf of Aden. Over time, the number of piracy operations increased, it became apparent that there were few guiding principles governing the maritime shipping industry and the policies associated with combating piracy. The United Nations, the European Union, the United States, and others began using naval combat power to conduct counter-piracy operations. However, there were no specific guiding principles to the shipping industry, or the use of private security contractors.

The United Nations Convention of the Law on the Sea is the guiding document for all United Nation signatories operating in international waters. The international community, particularly the UN, EU, and the United States has sought to regulate the use of PSCs. All agree

⁵⁷Ibid., 10.

⁵⁸Ibid.

⁵⁹Ibid., 13.

⁶⁰Ibid., 32.

⁶¹Ibid.

⁶²Yikona, 32.

that the use of PSCs are a much needed commodity in the security of merchant ships, as well as the agreement of regulating their mercenary style tactics. The *Montreux Document*, published by the International Committee of the Red Cross provides an understanding of “pertinent international legal obligations and good practices for States related to operations of private military and security companies during armed conflict.”⁶³

The International Maritime Organization (IMO) provides much of the legislation and guidelines to shipping companies operating in international waters. The IMO has published 13 Maritime Safety Committee (MSC) circulars that provide best practices and guidelines for operating ships in vicinity of the Horn of Africa. The IMO serves as the leading counsel on shipping and the best methods of combating piracy along the coast of Africa.

The Maritime Shipping Industry’s Best Management Practices (BMP), version 4, for Protection against Somalia Based Piracy is an August 2011 document that “suggests planning and operational practices for ship operators, and masters of ships transiting the high risk area.”⁶⁴ The purpose of the document is to “assist ships to avoid, deter, or delay piracy attacks in the High Risk Areas (HRA), as defined by the Suez and the Strait of Hormuz.”⁶⁵ The document outlines three fundamentals for the shipping industry, they are: register their ships and cargo with the Military Safety Committee Horn of Africa (MSCHOA); report to the United Kingdom Maritime Trade Operations (UKMTO) Office in Dubai; and implement ship protection measures (SPM) while operating in the vicinity of Somalia.⁶⁶ The BMP is a collaborative document in which many countries seek the freedom of travel in open waters without the fear of piracy. The document is the industry’s recommended solution to combating piracy prior to hiring private security

⁶³ICRC. “The Montreux Document,” *International Committee for the Red Cross*. Geneva, 2009.

⁶⁴BMP, i.

⁶⁵Ibid., 4.

⁶⁶Ibid.

contractors. When shipping companies adhere to the best management practices as outlined in the document, their chances of being hijacked decreases.

The United States has taken active measures to combat piracy in international waters. The Department of Defense (DOD) provides naval capability in combating piracy. In January 2009, Combined Task Force (CTF) -151 was organized.⁶⁷ The combined task force was task organized with “naval ships and assets from more than 20 nations.”⁶⁸ The mission of CTF-151 is “to conduct counter-piracy operations in and around the Gulf of Aden, the Arabian Sea, the Indian Ocean, and the Red Sea and was established to create a lawful maritime order and develop security in the maritime environment.”⁶⁹ The task force works in conjunction with the “North Atlantic Treaty Organization (NATO) and the European Union Naval Force Somalia (EU NAVFOR), and together with independently deployed naval ships, CTF-151 helps to patrol the Internationally Recommended Transit Corridor (IRTC) in the Gulf of Aden.”⁷⁰ CTF-151 recently changed command from the Pakistan Navy to the United Kingdom’s Royal Navy.⁷¹ While under CENTCOM control, the commander may not necessarily be a United States Flag Officer.

Maritime Insurance

Insurance companies have benefited from both increased piracy and the use of private security contractors. In a time when piracy was skyrocketing, insurers made large sums of money by increasing rates to insure shipping companies. The cost associated with using PSCs is much less than paying ransom to piracy action groups. At first, insurance companies did not support the

⁶⁷United States Navy. “New Counter-Piracy Task Force Established, 2009,” www.cusnc.navy.mil/articles/2009/001.htm (accessed October 23, 2013).

⁶⁸Ibid.

⁶⁹Ibid.

⁷⁰United States Central Command. “CTF-151: Counter-Piracy, Combined Maritime Forces, 2013,” <http://combinedmaritimeforces.com/ctf-151-counter-piracy/> (accessed October 22, 2013).

⁷¹United States Central Command. Combined Task Force 151 Change of Command Ceremony, Combined Maritime Forces, 2013, <http://combinedmaritimeforces.com/2013/09/12/combined-task-force-151-change-of-com> (accessed October 10, 2013).

use of PSCs, but with the staggering decline of successful hijackings and requests for ransom, they appear to be supportive.⁷² The cost associated with holding a bulk carrier hostage for six months costs as much as \$3.15 million. Additionally, the cost associated with holding a ship and crew could cost as much as \$20 million for a \$4 million ransom.⁷³ Insurance companies and merchants absorb this cost.

In 2010, the Joint War Committee (JWC), subsidiary of Lloyd's Market Association, added the Gulf of Aden to the list of riskiest transportation routes.⁷⁴ The Joint War Committee "comprises underwriting representatives from both the Lloyd's and Insurance Underwriting Agency (IUA) company markets, representing the interests of those who write marine hull war business in the London market."⁷⁵ The Lloyd's Market Association and Insurance Underwriters Association is the leading global agency that underwrites marine insurance policies. Lloyd's JWC conducts quarterly conferences and supports the shipping industry's best management practices, works in unison with the EU, and supports SAMI's initiatives in accrediting private security contractors. Typically, piracy coverage falls under marine kidnap and ransom insurance, which "indemnifies ship-owners against the cost of paying ransoms and recovering vessels and crews."⁷⁶ In 2011, *Insurance & Technology* pulled data from the *One Earth Future Foundation* and reports that insurance companies paid \$160 million in ransom payments, while piracy cost the economy some \$7 billion.⁷⁷ Additionally, many insurance companies began recognizing the

⁷²Saul, Jonathan and Anthony Barker, "Marine Insurers Backing Armed Guards as Piracy Grows," *Insurance Journal*, September 20, 2011, <http://www.insurancejournal.com/news/international/2011/09/20/216642.htm> (accessed September 15, 2013).

⁷³Bellish, 12.

⁷⁴Joint War Committee.

⁷⁵Ibid.

⁷⁶Myles Neligan & Jonathan Saul. "Insurers Face Tougher Times as Somali Piracy Drops." *Insurance Journal*, September 2012, <http://www.insurancejournal.com/news/international/012/09/21/263889.htm> (accessed November 8, 2013).

⁷⁷Neligan and Saul.

effectiveness of private security contractors and have now started supporting their efforts. As Emma Russell stated, “Piracy is clogging the arteries of globalization,” and “no vessel with armed guards has yet been taken.”⁷⁸

Ransom payments have increased tremendously since 2005. This is partially due to the decline of successful ship hijackings through the vigilance of international naval assets and private security contractors. In 2005, the average ransom payment was \$150,000 U.S. per crew and increased to more than \$5.2 million in 2011.⁷⁹ In 2012, the U.S. Department of State reported that the average payment dropped to approximately \$4.5 million, with one payment costing insurers more than \$12 million.⁸⁰ The *Economist* reported in 2006 that one of the “biggest marine-insurance pay-outs occurred in 2002 and was approximately \$70 million after an attack on the French Tanker, *Limberg*, off Yemen.”⁸¹ High ransom payouts have caused consternation for insurance companies. For this reason, their support to private security companies and the naval response along the Horn of Africa has become a necessity.

The International Response

*“It is imperative that the international maritime community continues to deter and disrupt piracy, coordinated with all the regional key partners, as we strive to achieve pirate-free high seas. The multi-dimensional approach of the international community has also contributed hugely to the ongoing reduction in pirate activity.”*⁸²

Commodore Muhammad Ishan Qadir, Pakistan Navy,
CTF-151 Change of Command Ceremony, September 5, 2012

The United States, in concert with its global partners, has rallied to collectively combat

⁷⁸Gus Trompiz, “Marine Insurers Backing Armed Guards as Piracy Threat Grows.” *Insurance Journal*, September 2011.

⁷⁹Financial Action Task Force, “Financial Action Task Force Annual Report, 2010-2011,” *FATF/OECD*, 2011, 10.

⁸⁰Andrew J. Shapiro, *Piracy off the Horn of Africa*. Washington D.C., Mar 27, 2012.

⁸¹“Piracy Insurance: For Those in Peril,” *The Economist*, April 2006, <http://www.economist.com/node/6837144> (accessed November 8, 2013).

⁸²Combined Task Force 151 Change of Command Ceremony, Combined Maritime Forces, 2013.

piracy operations in the Horn of Africa. Annually, 66,612 ships move cargo and petroleum around the Horn of Africa, with more than 30,000 moving through the Gulf of Aden.⁸³ Since 2008, three separate maritime task forces and numerous navies have actively patrolled the IRTC and other areas of the gulf. In 2009, the Somali Navy was re-established, but comprised only 528 men.⁸⁴ At the Djibouti Peace Accord in 2009, the International Maritime Organization agreed to establish a regional training centre in Djibouti to train Somali naval recruits.⁸⁵ The importance of the international community's work in the Horn of Africa cannot be overstated. Since 2008, the Combined Maritime Force has seized or destroyed 40 pirate vessels and sent more than 235 suspected pirates to the appropriate flag carrying states for prosecution.⁸⁶ For those states unable to prosecute pirates, the country of Seychelles signed an agreement to conduct criminal proceedings.⁸⁷ Since the international community got involved in the Somali based piracy epidemic, the number of successful hijackings has dropped.

The European Union established *Operation Atalanta* in 2008, the North Atlantic Treaty Organization (NATO) established *Operation Ocean Shield* in 2009, and the United States led efforts in creating Combined Task Force-151 in January 2009.⁸⁸ While these efforts are independent of one another, they routinely operate together through training exercises and joint operations in counter-piracy. Since 2008, the use of international naval assets and global efforts

⁸³Bellish, 1.

⁸⁴“Jane’s World Navies: Somalia,” *IHS Jane’s*, September 24, 2012.

⁸⁵International Maritime Organization, “Regional Training Centre in Djibouti–Foundation StoneLaid,” <http://www.imo.org/MediaCentre/PressBriefings/Pages/52-djibouti-training-centre-stone.aspx> (accessed October 23, 2013).

⁸⁶U.S. Department of State. “United States Actions to Counter Piracy Off the Horn of Africa.” September 1, 2009, <http://www.state.gov/t/pm/rls/fs/128540.htm> (accessed September 10, 2013).

⁸⁷“Pirates in Paradise – Seychelles Faces Counter-Piracy Commitments,” *IHS Jane’s*, June 7, 2012, 3.

⁸⁸Information gathered from three websites. This clears up the spelling of EUNAVFOR’s *Operation Atalanta* which is referred to as such, not the city of *Atlanta*, <http://eunavfor.eu/>; <http://www.mc.nato.int/Pages/home.aspx>; and <http://combinedmaritimeforces.com/> (accessed October 15, 2013).

has reduced piracy tremendously, with 176 reported attacks in 2011 versus 6 in 2013.⁸⁹ Although the international navies are maintaining open shipping lanes through the IRTC, they cannot actively cover the vast ocean territory that pirates operate in. With increasing presence along the IRTC, pirates have been forced to expand operations much farther than they can often support.⁹⁰

Not only have international naval assets begun operating in the Horn of Africa, anti-piracy working groups have been established with representation from numerous nations. The Contact Group on Piracy Off The Coast of Somalia (CGPCS) serves as the lead and operates from a trust fund that supports three additional organizations actively supporting counter-piracy operations. They are the United Nations Development Programme (UNDP), United Nations Office on Drugs and Crime (UNODC), and the United Nations Political Office for Somalia (UNPOS).⁹¹ A total of \$5.83 US million was contributed to the trust fund in 2012.⁹² The International Maritime Bureau (IMB) Reporting Centre was established in 1992 as the reporting mechanism for ship captains to register their vessel and crew when entering high risk areas (HRA), and for timely reporting if they come under attack.⁹³ Additionally, the IMB recommends that vessels contact the United Kingdom Marine Trade Operations (UKMTO) prior to navigating around the Horn of Africa.⁹⁴ Since 2007, the UKMTO has become the “primary point of contact for merchant vessels in case of a pirate attack.”⁹⁵ The United States developed Anti-Piracy Assistance Team (APAT) teams to conduct initial assessments of all U.S. Flag carrying

⁸⁹European Union Naval Forces Somalia, <http://eunavfor.eu/key-facts-and-figures/> (accessed December 5, 2013).

⁹⁰The Economics of Piracy: Pirate Ransoms & Livelihoods off the Coast of Somalia, 11.

⁹¹Bellish, 34.

⁹²Ibid., 34.

⁹³International Maritime Bureau Reporting Centre, <http://www.icc-ccs.org/piracy-reporting-centre/piracynewsfigures> (accessed October 20, 2013).

⁹⁴BMP, v.

⁹⁵Oceans Beyond Piracy, <http://oceansbeyondpiracy.org/matrix/united-kingdom-marine-trade-operations-ukmto> (accessed January 22, 2013).

commercial ships operating outside of the continental United States.⁹⁶ The team belongs to the Military Sealift Command, a subcomponent to the United States Department of Transportation's Maritime Administration (MARAD) and the Naval Criminal Investigative Service.⁹⁷ The team provides commercial ships with courtesy inspections free of charge with an overall security evaluation, along with effective measures that can be used to prepare and safeguard ships against pirate attacks. Pamphlets depicting the tactics of pirates, ship training, and other training mechanisms have been developed to prepare merchant ships for possible attack on the high seas.

In December 2008, the European Union Naval Force (EUNAVFOR) Somalia established *Operation Atalanta* in accordance with the United Nations Security Council Resolutions. The task force is comprised of more than 20 vessels and aircraft with more than 1800 military personnel representing 10 European Union nations.⁹⁸ *Operation Atalanta*, part of UN Resolution 1851, was enacted and approved after the Transitional Federal Government (TFG) of Somalia requested assistance in stamping out piracy operations on and off coastal lands. The primary roles and responsibilities for European NAVFOR are:

1. The protection of World Food Programmes (WFP) vessels delivering aid to displaced persons in Somalia and the protection of African Union Mission in Somalia (AMISOM) shipping.
2. The deterrence, prevention, and repression of acts of piracy and armed robbery at sea off the Somali coast.
3. The protection of vulnerable shipping off the Somali coast on a case by case basis.
4. In addition, the EUNAVFOR also contributes to the monitoring of fishing activities off the coast of Somalia.⁹⁹

While EUNAVFOR Somalia conducts operations in accordance with the United Nations Security Council Resolutions, it operates within the framework of the European Common

⁹⁶United States Department of Transportation, "Anti-Piracy Assistance Team (APAT)," http://www.marad.dot.gov/documents/MARAD_ANTIPIRACY_April_09.pdf (accessed November 14, 2013).

⁹⁷Ibid.

⁹⁸Jane's World Navies: Somalia.

⁹⁹European Union Naval Forces Somalia, <http://eunavfor.eu/> (accessed October 14, 2013).

Security and Defense Policy (CSDP) and adheres to international laws and regulations.¹⁰⁰

EUNAVFOR operates and supports the published best management practices for ships maneuvering in and outside of Somali sovereign waters.

Since the inception of *Operation Atalanta*, the EUNAVFOR successfully protected 241 World Food Programme (WFP) vessels, 127 African Union Mission in Somalia (AMISOM) vessels, and allowed the delivery of more than 867,800 tons of food to the country of Somalia.¹⁰¹ In addition, EUNAVFOR has accounted for more than 149 arrests and 121 convictions.¹⁰² The roles and responsibilities of EUNAVFOR are primarily defensive in nature, but in March 2012, after approval from Somalia's Transitional Federal Government (TFG), they assumed a more offensive approach by conducting operations within the littoral waters of Somalia, particularly the coastline and inland waterways.¹⁰³ Although Soldiers and Sailors are not authorized to operate on the ground in Somalia, reconnaissance flights with helicopters and planes are authorized to target and destroy known logistical nodes along the Somali coastline.

Operation Ocean Shield, NATO's Maritime Command (MARCOM), is the counter-piracy mission in the Horn of Africa.¹⁰⁴ Currently, MARCOM is under the command of the British Navy and is comprised of two Maritime groups and two mine countermeasures groups. Each group is comprised of allied members belonging to NATO and actively rotates ships when available to support the operation. Their mandate provides naval escorts and deterrence, while increasing cooperation with other counter-piracy operations in the area in order to optimize efforts and tackle the evolving pirate trends and tactics.¹⁰⁵ In March 2012, the North Atlantic

¹⁰⁰Ibid.

¹⁰¹Ibid.

¹⁰²Ibid.

¹⁰³Ship to Shoreline: EU NAVFOR Expands its Anti-Piracy Mission.

¹⁰⁴NATO/OTAN, <http://www.mc.nato.int/ops/Pages/OOS.aspx> (accessed October 14, 2013).

¹⁰⁵Ibid.

Council extended this operation until the end of 2014.¹⁰⁶ NATO is conducting counter-piracy activities in full compliance with the relevant UN Security Council Resolutions.¹⁰⁷

In January 2009, United States Central Command (USCENTCOM) announced the creation of CTF-151, a 29-nation naval partnership.¹⁰⁸ The 29 nations include Australia, Bahrain, Belgium, Canada, Denmark, France, Germany, Greece, Italy, Japan, Jordan, Republic of Korea, Kuwait, Malaysia, the Netherlands, New Zealand, Norway, Pakistan, The Philippines, Portugal, Saudi Arabia, Seychelles, Singapore, Spain, Thailand, Turkey, UAE, U.K. and U.S. The mission is voluntary and command is rotated through the different participating nations. CTF-151 is designated as a counter-piracy operation focused on the Internationally Recognized Transit Corridor (IRTC) in the Gulf of Aden.¹⁰⁹ The task force operates in conjunction with NATO and EUNAVFOR-Somalia forces and other independently deployed naval ships currently operating in the Gulf of Aden.¹¹⁰

Recently, CTF-151 and the Chinese Navy conducted two counter-piracy training exercises. The exercises were held in September 2012 and August 2013.¹¹¹ International navies typically execute multi-national training on the high seas and expand much needed relationships with their global partners. In 2012, Commander Chris D. Stone, Commanding officer for the USS Winston S. Churchill, stated that, “Piracy is a threat to the freedom of the seas, economic security, and the safety of mariners from all nations. Bilateral exercises such as this demonstrate the cooperative will of the international community and increases proficiency of multinational forces in confronting the threat.” Additionally, he stated that “we have common regional and

¹⁰⁶Ibid.

¹⁰⁷Ibid.

¹⁰⁸CTF-151: Counter-Piracy, Combined Maritime Forces, 2013.

¹⁰⁹Ibid.

¹¹⁰Ibid.

¹¹¹United States Navy. “US and China Team up for C-P Exercises,” September 18, 2012, http://www.navy.mil/submit/display.asp?story_id=69643 (accessed October 23, 2013).

global security challenges, and we are able to jointly address those by training together.”¹¹²

Since 2008, the Maritime Task Force (MTF) and other navies from around the world have made great strides in the piracy epidemic off the Horn of Africa. Their diligence along the IRTC has made travel relatively easy for the shipping industry. The MTF has made numerous arrests since its inception. With numerous countries willing to prosecute Somali pirates, a clear message is being sent to land based pirates preparing to conduct attacks. As naval assets are reduced and expand their areas of operations, the use of PSCs will become more important. In 2008, as the United States was preparing for an Iraq departure, the Associated Press reported that “the growing interest among merchant fleets to hire their own firepower is encouraged by the U.S. Navy and represents a new and potentially lucrative market for security firms scaling back operations in Iraq.”¹¹³

Private Security Contractors

The use of private security contractors is becoming more relevant with each calendar year. In 2011, Oceans Beyond Piracy estimated that 30 percent of all ships moving through the Horn of Africa employed PSCs.¹¹⁴ In 2012, the number jumped 20 percent to approximately 50 percent of all ships.¹¹⁵ Oceans Beyond Piracy estimates that 66,612 ships transited the Horn of Africa with 33,306 ships containing private security contractors.¹¹⁶ As piracy action groups expand their area of operations outside the maritime recognized IRTC, combined maritime task

¹¹²US and China Team up for C-P Exercises.

¹¹³Mineau, Michael L., “After Iraq, Security Firms Join Somalia Piracy Fight: Pirate Coast of Africa Offers New Frontier for Security Firms Looking Beyond Iraq,” *The Journal of International Business & Law*, April 15, 2010, http://law.hofstra.edu/pdf/academics/journals/jibl/jibl_vol9no1_mineau_pirates.pdf (accessed November 26, 2013).

¹¹⁴Bellish, 1.

¹¹⁵Oceans Beyond Piracy information is based on the analysis of Automatic Information System (AIS) and its data on vessels moving around the Horn of Africa. Bellish, “The Economics Cost of Somali Piracy, 2012,” 1.

¹¹⁶Bellish, 20.

forces can no longer actively patrol the vast amount of sea space along the Horn of Africa. A recent report from the U.S. Department of Transportation points out that shipping companies have two options to combat piracy in the Gulf of Aden. The first option is to reroute the vessel via the Cape of Good Hope, or south of the African continent. The second option is to enhance vessel security for passage through the Gulf of Aden.¹¹⁷ Since the Gulf of Aden is the quickest route from the Red Sea to the Indian Ocean, most ship owners prefer to augment with best management practices and/or the use of security guards.¹¹⁸ The hiring of a three man security team to travel through the Horn of Africa is approximately \$34,500, and a four man security team costs as much as \$46,000.¹¹⁹ It is estimated that between \$1.15 and \$1.53 US billion is spent annually on armed security.¹²⁰ The importance of hiring PSCs is critical to the shipping industry and insurance companies alike, leading to an increase in economics.

The costs associated with rerouting a ship via the Cape of Good Hope shipping lane is measured in the millions of dollars. The U.S. Department of Transportation breaks down the average cost that a tanker ship incurs to reroute from Europe to the Far East via the Cape of Good Hope. First, the trip adds 2700 miles to the ships movement, increasing annual operating costs and decreasing the number of available deliveries.¹²¹ Second, the fuel cost for the shipping industry is \$3.5 million annually per ship.¹²² The cost associated with the hiring of PSCs is a reduction in cost compared to rerouting a ship via the Cape of Good Hope. To date, not one single

¹¹⁷United States Department of Transportation, "Economic Impact of Piracy in the Gulf of Aden on Global Trade," http://www.marad.dot.gov/documents/HOA_Economic%20Impact%20of%20Piracy.pdf (accessed October 23, 2013).

¹¹⁸Ibid.

¹¹⁹Bellish, 20.

¹²⁰Ibid., 20.

¹²¹Economic Impact of Piracy in the Gulf of Aden on Global Trade.

¹²²Ibid.

ship armed with private security contractors has been hijacked.¹²³

The International Maritime Organization “considers the use of private armed security to be a flag State concern.”¹²⁴ The International Maritime Organization reports there are 13 countries that allow the use of private security contractors on their flag carrying ships, 3 prohibit their use, and 13 have no official stance.¹²⁵ Unfortunately, this data is subjective because not all flag bearing countries report to the IMO of their policies and recommendations concerning the use of PSCs.

In 2011, the Baltic and International Maritime Council (BIMCO) published their industry guidelines for the use of Private Maritime Security Contractors. As a Non-Governmental Organization (NGO), BIMCO recommends against the use of private security contractors in the shipping industry. However, it understands that flag bearing countries have the right to safeguard crews and cargo, and supports the use of private security contractors only after a detailed voyage risk assessment is conducted. BIMCO also believes that the use of world navies and the International Maritime Organization’s best management practices (BMP) offers affordable protection without placing armed operators on board ships. In the absence of international regulation or accepted code of conduct for PSCs, BIMCO provides recommended guidelines.

Organizations such as XE (previously known as Blackwater), HollowPoint Protective Services, and HP Terra-Marine are just three of the United States based security companies providing armed security to the shipping industry.¹²⁶ Background Asia Risk Solutions, Drum Cussac, Olive Group, and Hart Security are just a few of the overseas-based security firms

¹²³Bellish, 19.

¹²⁴The Economic Cost of Somali Piracy, 2011, 17.

¹²⁵Ibid., 17.

¹²⁶Private Military.org, http://www.privatemilitary.org/private_security_companies.html (accessed October 25, 2013).

providing armed guards.¹²⁷ Each of these organizations typically hire ex-military and law enforcement agents, men and women that are specifically trained in military style tactics and conflict resolution. Numerous security companies work in unison with maritime insurance agencies to reduce the associated costs of insuring ships, crews, and cargo.

Ransom demands are declining as a direct result of hiring PSCs, making the piracy business model much less lucrative. Due to the recent budget constraints and reduction of naval assets in the region to support the shipping industry, it has become a winning scenario for the shipping industry to employ private security contractors. In March 2010, Peter Cook, maritime security consultant with PWJC Global Consulting, made the argument that “we should re-examine out maritime security concepts and accept that private security companies acting within agreed parameters are able to fulfill certain specific tasks and roles, which would release naval forces to provide the overarching structure and ultimate protection against all forms of maritime crime.”¹²⁸ In conjunction with many European countries, the use of private security contractors is an additional benefit to the industry’s best management practices in combating piracy.

The use of PSCs is not void of controversy. Private security contractors use military style means to combat piracy in the maritime industry. Reports remain vague when discerning the severity of piracy attacks and PSC responses. In March 2012, one vessel carrying PSCs reported that it was under attack and fired warning shots to deter the pirates. Video footage shows aggressive measures were taken by the PSCs to deter the pirates.¹²⁹ The attack was unsuccessful. Reports of PSCs firing on legal fishing vessels are becoming routine. These examples highlight some of the reasons for legislation governing the use of PSCs.

¹²⁷Ibid.

¹²⁸Peter Cook. “Tapping Private Forces In Fight Against Piracy.” *JDW*, Sentinel House, March 17, 2010.

¹²⁹Hurlburt, 32.

Legislation

There are numerous guiding principles that govern the use of private security contractors. The International Maritime Organization has published more than 25 Maritime Safety Circulars to provide recommended guidelines while using PSCs in high risk areas.¹³⁰ Unfortunately, many of the guiding principles are not agreed upon by the various participating nations conducting counter-piracy operations. Increased legislation on the use of private security companies have continued in earnest. The International Maritime Organization will continue to provide recommended guidelines for private security companies. The Security Association for the Maritime Industry (SAMI) is a global organization representing companies working in the maritime security industry and serves as a focal point for global maritime security matters.¹³¹ The organization provides accreditation to private security contractors, currently holding 186 members at a cost of \$3,947.40 per member and a total cost of \$734,216.40.¹³² In 2014, SAMI expects to begin training private security companies in order to streamline operations in the shipping industry. SAMI's training serves as additional PSC accreditation, helping the shipping industry decide which company to hire for security in high risk areas.

The *Montreaux Document* provides recommended guidelines regarding the hiring and use of PSCs, but is not a binding legal document and seeks international consensus more than it does in providing rules and regulations.¹³³ The Government of Switzerland, along with experts from 18 countries, wrote the document to provide best practices to participating countries in maritime shipping policies. Additionally, it clarifies the definition of private military security

¹³⁰International Maritime Organization, IMO Piracy Guidance, http://www.imo.org/Documents/IMO_Piracy_Guidance.pdf (accessed October 23, 2013).

¹³¹SAMI, Security Association for the Maritime Industry, <http://www.seasecurity.org/> (accessed November 22, 2013).

¹³²Bellish, 20.

¹³³ICRC.

companies, contracting states, territorial states, and home states. The document regulates the tactics of private security companies and attempts to provide one standard guiding their conduct in international waters.

The impact of PSCs on piracy in the Horn of Africa is tremendous. They have bridged the gap between international naval assets, coast guards, and land efforts to stop Somalia's piracy. Insurance premiums are at a lower cost even though ransom payouts remain high. With military budget constraints having global implications, the Maritime Task Force can expect reductions in its operating size near Somalia, and the use of PSCs will be of increased importance. While the majority of organizations continue to push the IMO's best management practices as the number one tool for ship owners, other defense measures and the use of PSCs will continue to be important in counter-piracy operations.

ANALYSIS AND FINDINGS

The purpose of this section is to provide analysis of the case study examined in the previous section. The first step is to review the findings from the case. The second step is to determine if the findings support the proposed hypothesis. The third step is to examine alternative explanations for the outcomes.

Hypothesis one states that when private security contractors are used to protect shipping, then security is improved. The evidence suggests that hypothesis one is supported. From 2000 to 2008, private security contractor statistics are unknown. From 2008 to 2013, private security contractor statistics remain difficult to retrieve, but multiple reports show significant signs of private security contractors contributing greatly to the shipping industry's protection. Since November 2008, the European Union has tracked merchant ships moving through the International Recognized Transit Zone. Figure 1 depicts the reduction in suspicious events, attacks, hijackings, and disruptions. Also, it tracks those ships that utilize the industry's best management practices and employ private security contractors. Oceans Beyond Piracy reports

that 25 percent of all ships employed PSCs in 2010, 30 percent in 2011, and 50 percent in 2012.¹³⁴

Action	2008	2009	2010	2011	2012	2013	Total
Suspicious Events	8	59	99	166	73	20	425
Total Attacks	24	163	174	176	35	7	579
Pirated	14	46	47	25	5	0	137
Disruptions	0	14	65	28	16	5	128
Best Management Practices (BMP)	7	48	81	76	41	10	263
Private Security Contractors (PSC)	1	4	16	72	48	17	158
PSC/BMP Combined	1	1	1	2	15	8	28
Unknown	21	71	177	96	34	9	408

Figure 1: Piracy Data in the Horn of Africa¹³⁵

Hypothesis two states that when private security contractors are used, then hostage numbers decrease. The evidence suggests that hypothesis two is supported. From 2008-2013, the number of known attacks is 579, of which 137 ships have been hijacked.¹³⁶ There have been 128 disruptions, mostly due to navy assets, best management practices, and PSCs.¹³⁷ As depicted in Figure 1, the number of hijackings has decreased since 2009. The reduced number of ship

¹³⁴Bellish, 1.

¹³⁵Data taken from two sources, for more information, see EUNAVFOR Website, <http://eunavfor.eu/key-facts-and-figures/>; and Bellish, 11.

¹³⁶EUNAVFOR Website, <http://eunavfor.eu/key-facts-and-figures/> (accessed December 5, 2013).

¹³⁷Ibid.

hijackings equates directly to reduced number of hostages. In 2012, 349 hostages were taken into captivity by Somali pirates, while 240 remained in captivity from 2010 and 2011 respectively. This is a reduction of 37.5 percent from 2011.¹³⁸ Figure 1 does not account for all ships moving through the Gulf of Aden, nor does it account for those moving around the Horn of Africa, only those that report to the Marine Liason Office and the UKMTO prior to embarking along the IRTC. Figure 1 adequately shows a reduction in suspicious events, attacks, hijackings, and disruptions as evidenced through other reporting agencies.

Hypothesis three states that when private security contractors were used, then ransom amounts decrease. The evidence suggests that hypothesis three is supported. As piracy continues to wane in the Horn of Africa, the number of hijackings and kidnappings decrease, resulting in lower ransom demands. In 2007, the average amount claimed from each kidnapping was \$1.5 million.¹³⁹ In 2009, the average amount paid was \$3.4 million, and in 2010 the payment averaged \$5.4 million.¹⁴⁰ In 2011, 31 ransom payments were made at an average cost of \$4.97 million, while in 2012, the average ransom was \$3.97 million.¹⁴¹ The increase in PSCs caused a reduction in the number of successful hijackings and a decrease in ransom numbers and payments.

Hypothesis four states that when private security contractors are used, then insurance premiums decreased. The evidence suggests that hypothesis four is supported. Insurance premiums were at its peak in 2011, costing the shipping industry \$634.9 million.¹⁴² Since the increase in naval forces and private security contractors, insurance costs have dropped 13.26 percent, to \$550.7 million annually.¹⁴³ Additionally, because the number of successful hijackings

¹³⁸Hurlburt, vii.

¹³⁹Maritime Piracy, 53.

¹⁴⁰Ibid., 54.

¹⁴¹Bellish, 10.

¹⁴²Ibid., 32.

¹⁴³Ibid., 19.

and kidnappings decreased, the insurance companies are more likely to fund the use of PSCs. The average cost of a private security team to safeguard a ship moving around the Horn of Africa is between \$34,500 and \$46,000.¹⁴⁴ In comparison to the average amount paid in ransom, the hiring of PSCs makes sense.

Hypothesis five states that when private security contractors are used, then the economic impacts to the shipping industry decreases. The evidence suggest that hypothesis five is supported. An estimated 66,612 ships move around the Horn of Africa annually.¹⁴⁵ Evidence shows that in 2012, re-routing costs the shipping industry approximately \$290.5 million to change course and re-route ships away from the Horn of Africa.¹⁴⁶ In 2011, re-routing cost the shipping industry between \$486 million and \$680 million.¹⁴⁷ Oceans Beyond Piracy estimates that between 50 to 70 percent of all vessels re-route along the Indian coastline or along the Cape of Good Hope. While the industry's best management practices recommend that vessels continue to re-route, it is understood that with the increased number of PSCs being used, the Horn of Africa saves the shipping industry, insurance companies, and merchants millions of dollars. \$290.5 million is a 47.9 percent reduction from the amount estimated in 2011.¹⁴⁸

Summary

The evidence from the case study suggests that all five hypothesis under review are supported. With the increase in piracy, international naval assets can not fully combat the epidemic. This either requires an increase in naval capability, best management practices, the use of private security contractors, or a combination of each. The evidence proves that using private security contractors in the shipping industry decreases the number of hijackings and hostages, and

¹⁴⁴Bellish, 19.

¹⁴⁵Ibid., 1.

¹⁴⁶Ibid., 21.

¹⁴⁷The Economic Cost of Piracy, 2011, 19.

¹⁴⁸Ibid., 3.

reduces insurance premiums.

All five hypotheses are supported by empirical evidence. Each hypothesis has distinct data associated with its conclusions. However, reporting of best management practices and private security contractors are only tracked through the EUNAVFOR reporting center. The primary reporting center for maritime shipping, the International Maritime Bureau Reporting Centre, has tracked statistics since 1992, but does not track ships using best management practices and private security contractors. If it does, it is not accessible through open source channels.

CONCLUSION

This study centered on how the use of private security contractors could benefit the shipping industry, maritime insurance companies, and international navies. The argument postulates that the use of private security contractors in the shipping industry increased security, decreased hostages, and reduced piracy by 50 percent. The argument analyzed the use of PSCs through the framework of supply and demand theory. For the shipping industry, the increase in hijackings and ransom payments created the demand for increased naval presence and the hiring of private security contractors. The seven focus questions presented in the case study sought to understand and legitimize the use of PSCs in maritime shipping. Additionally, the questions sought an understanding of the international response and legislation to combat piracy in the Horn of Africa.

The findings of this research demonstrate that using private security contractors to conduct counter-piracy operations is beneficial to the shipping industry, international naval assets, and maritime insurance companies. It is unlikely that global trade will decrease any time soon, but it is likely that nations will reduce their naval assets as piracy decreases and budget concerns continue. Any decrease in naval assets may cause an increase in piracy, calling for a further increase of private security contractors. The peace of mind to the maritime shipping

industry allows freedom of maneuver through the Horn of Africa because private security contractors possess the ability to match force with force. To date, no ship armed with private security contractors has been hijacked.

The significance of the findings suggests that the hiring of PSCs will become more frequent. The findings provided ample evidence to support a demand for using PSCs, but it also requires legislation to prevent a situation of mercenaries. The international community has acted swiftly, creating the *Montreaux Document*, publishing recommended guidelines, and pursuing strict rules of force (RUF). Pending a decrease in naval support and a slow developing Somali Navy, will inherently place demands on shippers and insurance companies to hire PSCs and prevent piracy from reversing its current trend.

The need to monitor piracy, naval assets, and the use of private security contractors is required. As freedom of passage along the Horn of Africa becomes absolute, the west coast of Africa is seeing an increase in its piracy situation. The West African piracy situation is much different than that of the Horn of Africa, because pirates are more violent and focused on stealing the ships cargo. The continued use of private security contractors stands to increase as high risk areas continue to emerge.

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