

THE TWO PIRACIES IN SOMALIA: WHY THE WORLD IGNORES THE OTHER?

By Mohamed Abshir Waldo, Journalist/Consultant

SANDI CONSULTING & ASSOCIATES

Tel: 00254 722790574 - 0025290748464 – Email: waldo@todays.co.ke

THE SHIPPING PIRACY & THE INVASION OF THE SOMALI SEAS

Much of the world's attention is currently focused on the Somali sea lanes. The navies of big and small powers are converging on the Somali waters in the Gulf of Aden and Indian Ocean. The recent hijacking of the Saudi oil tanker and Ukrainian MV Faina, laden with arms for Kenya, off the coast of Somalia by Somali pirates captured world media attention. War has been rightly declared against this notorious new shipping piracy. But the older and mother of all piracies in Somalia - illegal foreign fishing piracy - in the Somali seas is ignored, underlining the international community's misunderstanding and partiality of the underlying interdependent issues involved and the impracticality of the proposed actions to find ways to effectively resolve the piracy threat.

A chorus of calls for tougher international action resulted in multi-national and unilateral Naval stampede to invade and take control of the Somali territorial and EEZ waters. The UN Security Council, a number of whose members may have ulterior motives to indirectly protect their illegal fishing fleets in the Somali Seas, passed Resolutions 1816 and 1838, giving a license to any nation who wants a piece of the Somali marine cake. Both NATO and the EU issued Orders to the same effect and Russia, Japan, India, Malaysia, Egypt, Yemen and anyone else who could afford an armed boat and its crew on the sea for a few months joined the fray.

For years, attempts made to address piracy in the world's seas through UN resolutions have failed to pass largely because many of the member nations felt such resolutions would infringe greatly on their sovereignty and security and have been unwilling to give up control and patrol of their own waters. UN Resolutions 1816 and 1838, which were objected to by a number of West African, Caribbean and South American nations, was then tailored to apply to Somalia only, which had no strong enough Somali representation at the United Nations to demand amendments to protect its sovereignty. Also Somali civil society objections to the Draft Resolutions were ignored.

This massive "Global Armada" invasion is carried out on the pretext to protect the busy shipping trade routes of the Gulf of Aden and the Indian Ocean from Somali shipping piracy, which threatens to disrupt these international lifeline sea ways. While there are two equally nasty, criminal, inhuman and exploiting gangs of pirates in Somalia, only one of them is publicized by the western media: the Somali shipping pirates attacking merchant shipping in these sea lanes, where the illegal poachers are also actively operating.

THE ILLEGAL FISHING PIRACY

The other more damaging economically, environmentally and security-wise is the massive illegal foreign fishing piracy that have been poaching and destroying the Somali marine resources for the last 18 years following the collapse of the Somali regime in 1991. With its usual double standards when such matters concern Africa, the “international community” comes out in force to condemn and declare war against the Somali fishermen pirates while discreetly protecting the numerous Illegal, Unreported and Unregulated (IUU) fishing fleets there from Europe, Arabia and the Far East.

Biased UN resolutions, big power orders and news reports continue to condemn the hijackings of merchant ships by Somali pirates in the Indian Ocean and the Gulf of Aden. If response to both piracy menaces was balanced and fair, these condemnations would have been justified. European Union (EU), Russia, Japan, India, Egypt and Yemen are all on this piracy campaign, mainly to cover up and protect their illegal fishing fleets in the Somali waters.

In all these piracy ballyhoo and campaigns, why is the other key IUUs fishing piracy ignored? Why are the UN Resolutions, NATO Orders and EU Decrees to invade the Somali seas fail to include the protection of the Somali marine resources from IUU violations in the same waters? Not only is this outrageous fishing piracy disregarded but the illegal foreign marine poachers are being encouraged to continue their loot by as none of the current Resolutions, Orders and Decrees apply to the IUUs, which can now freely fish in and violate the Somali seas. The Somali fishermen can no longer scare away the IUUs for fear of being labeled pirates and attacked by the foreign navies unlawfully controlling the Somali waters. Even the traditional Somali trading dhows are in panic of being mistaken for pirates.

a) The IUU Menace and Fish Laundering Practice

There is no doubt IUU is a serious global problem. According to the High Seas Task Force (HSTF), IUU does not respect national boundaries or sovereignty, puts unsustainable pressure on stocks, marine life and habitats, undermines labor standards and distorts markets. “IUU fishing is detrimental to the wider marine ecosystem because it flouts rules designed to protect the marine environment which includes restrictions to harvest Juveniles, closed spawning grounds and gear modification designed to minimize by-catch on non-target species....In so doing they steal an invaluable protein source from some of the world’s poorest people and ruin the livelihoods of some legitimate fishermen; incursions by trawlers into the inshore areas reserved for artisanal fishing can result in collision with local fishing boats, destruction of fishing gear and deaths of fishermen” says HSTF. In its report, *Closing the Net: Stopping Illegal Fishing on the High Seas*, HSTF puts worldwide value of IUU catches at \$4 to \$9 billion, large part of it from Sub-Saharan Africa, particularly Somalia.

IUUs practice fish catch laundering through mother ship factories, transshipment and re-supply at sea. “This means that vessels can remain at sea for months, refueling, re-supplying and rotating their crew. IUU fishing vessels never need to enter ports because they transfer their catches onto transport ships. Illegally caught fish are laundered by mixing with legally caught fish on board transport vessels”, writes HSTF. Apparently, fish laundering, which generates hundreds of millions dollars in the black market is not as criminal as money laundering! Countries used for Somali fish laundering include Seychelles, Mauritius and Maldives.

As EU closed much of its fishing waters for 5 to 15 years for fish regeneration, as Asia over fished its seas, as international demand increases for nutritious marine products and as the fear of worldwide food shortage grows, the rich, uncontrolled and unprotected Somali seas became the target of the fishing fleets of many nations. Surveys by UN, Russian and Spanish assessors just before the collapse of the Barre Regime in 1991 estimated that 200,000 tones of fish a year could be caught by both artisanal and industrial fisheries and this is the objective of the international fishing racket

There is no doubt that the actions of the shipping pirates are reprehensible and this paper does not seek to justify or explain their odious actions. They must be stopped. But the notorious shipping piracy is unlikely to be resolved without simultaneously attending to the fraudulent IUU piracy, too.

b) The Origin of the Somali Piracy War

The origin of the two piracies goes back to 1992 after the fall of the Gen. Siyad Barre regime and the disintegration of the Somali Navy and Police Coastguard services. Following severe draughts in 1974 and 1986, tens of thousands of nomads, whose livestock were wiped out by the draughts, were re-settled all along the villages on the long, 3300kms Somali coast. They developed into large fishing communities whose livelihood depended inshore fishing. From the beginnings of the civil war in Somalia (as early as 1991/1992) illegal fishing trawlers started to trespass and fish in Somali waters, including the 12-mile inshore artisanal fishing waters. The poaching vessels encroached on the local fishermen's grounds, competing for the abundant rock-lobster and high value pelagic fish in the warm, up-swelling 60kms deep shelf along the tip of the Horn of Africa.

The piracy war between local fishermen and IUUs started here. Local fishermen documented cases of trawlers pouring boiling water on the fishermen in canoes, their nets cut or destroyed, smaller boats crushed, killing all the occupants, and other abuses suffered as they tried to protect their national fishing turf. Later, the fishermen armed themselves. In response, many of the foreign fishing vessels armed themselves with more sophisticated weapons and began to overpower the fishermen. It was only a matter of time before the local fishermen reviewed their tactics and modernized their hardware. **This cycle of warfare has been going on from 1991 to the present. It is now developing into fully fledged, two-pronged illegal fishing and shipping piracy conflicts.**

According to the High Seas Task Force (HSTF), there were over 800 IUUs fishing vessels in Somali waters at one time in 2005 taking advantage of Somalia's inability to police and control its own waters and fishing grounds. The IUUs, which are estimated take out more than \$450 million in fish value out of Somalia annually, neither compensate the local fishermen, pay tax, royalties nor do they respect any conservation and environmental regulations – norms associated with regulated fishing. It is believed that IUUs from the EU alone take out of the country more than five times the value of its aid to Somalia every year.

Illegal foreign fishing trawlers which have been fishing in Somalia since 1991 are mostly owned by EU and Asian fishing companies – Italy, France, Spain, Greece, Russia, Britain, Ukraine, Japan, South Korea, Taiwan, India, Yemen, Egypt and many others. Illegal vessels captured on the Somali coast by Somali fishermen during 1991 and 1999 included Taiwanese trawlers *Yue Fa No. 3* and *Chian Yuein No.232*, *FV Shuen Kuo No.11*; *MV Airone*, *MV De Giosa Giuseppe* and *MV Antonietta*, all 3 Italian vessels registered in Italy; *MV Bahari Hindi*, Kenyan registered but owned and managed by Marship Co. of Mombasa. A number of Italian registered *SHIFCO* vessels, *Korean and Ukrainian trawlers*, *Indian, Egyptian and Yemeni boats* were also captured by fishermen and ransoms of different sizes paid for their release. Many Spanish seiners, frequent violators of the Somali fishing grounds, managed to evade capture at various times.

According to a report in the Daily Nation of October 14, 2004, even Kenyan registered fishing vessels are known to have participated in the rape of the Somali fishing grounds. In October 2004, Mr Andrew Mwangura, Kenya Coordinator of the Seafarers Assistance Program (SAP) asked the Kenya Government to help stop illegal fishing in Somalia. “Since Somalia has been without government for more than 11 years, Kenya trawlers have been illegally fishing along the country’s territorial waters contrary to the UNCLOS and the FAO instruments, he said. SAP further reported that 19 Kenyan registered fishing vessels also operated illegally in the Somalia waters.

In arrangements with Somali warlords, new companies were formed abroad for bogus fishing licensing purposes. Jointly owned mafia Somali-European companies set up in Europe and Arabia worked closely with Somali warlords who issued them fake fishing “licenses” to any foreign fishing pirate willing to plunder the Somali marine resources. UK and Italy based African and Middle East Trading Co. (AFMET), PALMERA and UAE based SAMICO companies were some of the corrupt vehicles issuing such counterfeit licenses as well as fronting for the warlords who shared the loot.

Among technical advisors to the Mafia companies – AFMET, PALMIRA & SAMICO - were supposedly reputable firms like MacAllister Elliot & Partners of the UK. Warlords Gen. Mohamed Farah Aidiid, Gen. Mohamed Hersi Morgan, Osman Atto and Ex-President Ali Mahdi Mohamed officially and in writing gave authority to AFMET to issue fishing “licenses”, which local fishermen and marine experts call it simply a “deal between thieves”. According to *Africa Analysis* of November 13, 1998, AFMET alone “licensed” 43 seiners (mostly Spanish, at \$30,000 per 4-month season. Spanish Pesca Nova was “licensed” by AFMET while French Cobracaf group got theirs from SAMICO at a much discounted rate of \$15,000 per season per vessel.

Not to be outdone, in October 1999 Puntland Administration, gave carte blanche to another Mafia group known as PIDC, registered in Oman to fish, issue licenses and to police the Puntland coast. PIDC in turn contracted Hart Group of the UK and together they pillaged the Somali fishing grounds with vengeance, making over \$20 million profit within two years. The deal was to split the profits but PIDC failed to share the spoils with Puntland administration, resulting in revocation of their licenses. Having reneged on their part of the deal, PIDC/Hart quit the country with their handsomely won chips.

Somali Complaints and Appeals on Illegal Fishing & Hazardous Waste Dumping

Another major problem closely connected with the IUUs and illegal fishing is industrial, toxic and nuclear waste dumping in both off-shore and on-shore areas of Somalia. Somali authorities, local fishermen, civil society organizations and international organizations have reported and warned of the dangerous consequences of these criminal actions. In a Press Statement dated 16 Sept 1991, the SSDF, which then administered the Northeastern Regions of Somalia, sternly warned "all unauthorized and illegal foreign fishing vessels in the Somali waters are prohibited, with immediate effect, to undertake any further illegal fishing and to stay clear of the Somali waters". In April 1992, SSDF Chairman, Gen. Mohamed Abshir Musse wrote to the then Italian Foreign Minister, Gianni De Michelis, drawing his attention to the robbery of the Somali marine resources and ecosystem destruction by unlicensed Italian trawlers.

In September 1995, leaders of all the Somali political factions of the day (12 of them) and two major Somali NGO Networks jointly wrote to the UN Secretary General, Dr Boutros Boutros Ghali, with copies to the EU, Arab League, OIC, OAU and to other involved parties, detailing the illegal fishing and hazardous material dumping crises in the Somali sea waters and requesting the UN to set up a body to manage and protect these waterways. They pointed out that since ICAO already manages the Somali airspace, so could IMO or a newly created organization run Somalia's seas until an effective Somali national government is able to take control of it. Again, from 1998 to 2006, consecutive Ministers of Fisheries of Puntland State of Somalia have repeatedly appealed to the international community: UN, EC, African Union, Arab League and to individual nations, advising the members states of these organizations to help keep poaching vessels and crews from their countries out of the Somali waters. The Ministers also complained of oil spills, toxic and nuclear waste dumping in the Somali coast.

Somali fishermen in various regions of the country also complained to the international community about the illegal foreign fishing, stealing the livelihoods of poor fishermen, waste dumping and other ecological disasters, including the indiscriminate use of all prohibited methods of fishing: drift nets, under water explosives, killing all "endangered species" like sea-turtles, orca, sharks, baby whales, etc. as well as destroying reef, biomass and vital fish habitats in the sea (IRIN of March 9, 2006). Fishermen in Somalia have appealed to the United Nations and the international community to help them rid the country's shores of foreign ships engaged in illegal fishing. United Nations Food and Agriculture Organization (FAO) estimated 700 foreign-owned vessels were engaged in unlicensed fishing in Somali waters in 2005. However, FAO said it was "impossible to monitor their fishery production in general, let alone the state of the fishery resources they are exploiting....there is also strong suspicion of illegal dumping of industrial and nuclear wastes along the Somali coast", IRIN 09/03/06.

"They are not only taking and robbing us of our fish, but they are also trying to stop us from fishing," said Jeylani Shaykh Abdi, a fisherman in Merca, 100km south of Mogadishu. "They have rammed our boats and cut our nets", he added. Another Merca fisherman, Mohamed Hussein, said [Our] existence depends on the fish. He accused the international community of "talking only about the piracy problem in Somalia, but not about the destruction of our coast and our lives by these foreign ships." Jeylani noted that the number of foreign ships had increased over time. "It is now normal to see them on a daily basis, a few miles off our shores" (IRIN 09/03/06).

Describing the activity as "economic terrorism", Somali fishermen told IRIN that the poachers were not only plundering the fish but were also dumping rubbish and oil into the sea. They complained the Somali government was not strong enough to stop it. "We want the international agencies to help us deal with this problem," said Hussein. "If nothing is done about them, there soon won't be much fish left in our coastal waters." Musse Gabobe Hassan and Mohamud Hassan Tako of the Mogadishu Maritime and Fisheries Institute accuse foreign ships of illegal fishing and dumping of hazardous waste in Somali waters. "Somalia's coastal communities who eke their livelihood from the sea are appealing to the international community for help stop the illegal fishing fleets from both the developed and developing countries that are robbing our marine wealth and destroying its habitats", they added.

Like the UN Security Council, Chatham House, an International Affairs Think-Tank, in a much publicized recent Paper on piracy in Somalia failed to present a balanced view of the issue and concentrated on the shipping piracy side of the coin. Roger Middleton, the author of the Paper, however, mentions in passing that European, Asian and African (Egypt and Kenya) illegally fish in the Somalia waters. In ignoring the principal IUU factor, the origin and the purpose of the shipping piracy, UN and Roger Middleton seem to be either misled or pressured to take this one-sided course by powerful interests who want to cover up and protect the profitable business of illegal fishing.

These crises of the illegal fishing, waste dumping, warlords/mafia deals and the loud complaints of the Somali fishermen and civil society have been known to UN agencies and international organizations all along. The UN Agencies and organizations, which have been fully aware of these crises, often expressed concern and lamentations but never took any positive action against these criminal activities. It appears as if they have also failed to inform the UN Security Council of this tragedy before it passed its resolutions 1816 and 1838 early this year.

Mr. Ould Abdalla, UN Secretary General Special Envoy for Somalia, who should know better, continued to condemn Somali shipping piracy in a number of press statements and rightly so though biased. In his latest Press Statement of 11/11/08 on the subject matter, he warmly welcomed the agreement by European Union member states to send ships to combat piracy off Somalia. "I am extremely pleased by the EU's decision," said Mr Ould-Abdallah. "Piracy off the Somali coast is posing a serious threat to the freedom of international navigation and regional security". But he forgot to condemn fishing piracy, mention the Somali fishing communities' livelihood security or to propose concrete actions to deal with the two inter-related piracies, which are like the two sides of the same coin.

An FAO study, *Somalia's Fishery Review* by Frans Teutscher, Nov. 11, 2005, states, "In the absence of legal framework and/or for capacities for monitoring, control and surveillance, extensive illegal, unreported and unregulated (IUU) is taking place and considerable quantities of non-targeted by catch are discarded because they cannot presently be utilized". The report said that the foreign IUUs maximize their catch by fishing throughout the year without regard to the wider marine ecosystem, not respecting fish and crustacean spawning periods or irreparable damage done by their massive drift nets and use of explosives or the loss of local fishermen's livelihood.

In a letter to the SSDF dated January 1998, Mr. Dominic Langenbacher, UNDP Somalia Resident Representative, expressed his apprehension of the danger posed to the Somali marine resources and environment by foreign vessels. “The concern of the international community is that the threat of toxic waste dumping, pirate fishing by foreign vessels and over fishing of Somali stocks could adversely, and perhaps permanently, affect the ecosystem of the entire region” he said. “Furthermore, Somalia currently has no provision to deal with potential oil spills or other marine disasters and has no capability to monitor and control her coastal waters and, if necessary, provide sea search or rescue operations”, he added.

Dr Mustafa Tolba, former Executive Director of UNEP, confirmed that Italian companies were dumping lethal toxic waste in Somalia which might “contribute to the loss of life in the already devastated country”. Dr Tolba added that the shipment of the toxic wastes from Italy that could also aggravate the destruction of the ecosystem in Somalia “earned a company, which ships the waste, between 2 to 3 million dollars in profits”, (*Sunday Nation*, 06/09/92).

In a proposal for action to the UNDP for Somalia in early 1990s, Mr. John Laurence, a fishery consultant with PanOceana Resources Ltd, reports the catastrophic and heartbreaking illegal foreign exploitation of the Somali seas. “With regards to the controlled exploitation of the Somali deep sea fishing grounds by the huge foreign factory ships and vessels it is our opinion that the UN must get involved. This area is recognized as one of the 5 richest fishing zones of the world and previously unexploited. It is now being ravaged, unchecked by any authority, and if it continues to be fished at the level it is at present stocks are in danger of being depleted So, a world resource is under serious threat and the UN is sitting back doing nothing to prevent it”. “Secondly, the Somali people are being denied any income from this resource due to their inability to license and police the zone” and “ the UN is turning a blind eye to the activities of the fishing vessels whose operators are not paying their dues; which in any other circumstances would be enforced by any international court of law”, argues Laurence.

Surprisingly, the UN disregarded its own findings of the violations, ignored the Somali and international appeals to act on the continued ravaging of the Somali marine resources and dumping of hazardous wastes. Instead, the UN and the big powers, invoking Charter XIV of the UN Charter, decided to “enter the territorial waters of Somalia.....anduse, within the territorial waters of Somaliaall necessary means to identify, deter, prevent, and repress acts of piracy and armed robbery, including but not limited to boarding, searching, and seizing vessels engaged in or suspected of engaging in acts of piracy or armed robbery, and to apprehend persons engaged in such acts with a view to such persons being prosecuted” (Resolution 1816).

It should be noted that there is *no mention of the illegal fishing piracy, hazardous waste dumping or the plight of the Somali fishermen in the UN Resolutions*. Justice and fairness have been overlooked in these twin problems of FISHING PIRACY and SHIPPING PIRACY.

The Illegality and Impracticality of the actions of the UN, NATO and EU

This Global Armada is in the Somali waters illegally as it is not approved by the Somali Transitional Federal Parliament (TFP). It is also unlikely it will achieve its stated objectives to curb the shipping piracy as it is now conceived. The TFP and the members of the European Parliament rejected these UN and European decisions to police the Somali seas (both the Indian Ocean and the Gulf of Aden) as both illegal and unworkable. At a Press Conference in Nairobi on October 18th 2008, the Deputy Speaker of the TFP, Mohamed Omar Dalha, termed the deployment of foreign warships to the country's coast to fight piracy as invasion of its sovereignty and asked the foreign warships to "move out of the Somali waters". The Speaker questioned the intent of the deployment and suggested that the powers involved had a hidden agenda. He said if these powers were genuine in curbing the piracy they would have supported and empowered the Somali authorities, who would be more effective in stopping the menace. "If the millions of dollars given to the pirates or wasted in the warship policing there were given to us, we would have eliminated this curse", he said.

Several EU members of parliament (MEPs) called the EU naval mission to be deployed against pirates off the coasts of Somalia as a "military nonsense," "morally wrong" and having "no international legal basis." German green MEP Angelika Beer underlined the lack of international law to sustain the proposed European Security and Defense Policy (ESDP) mission. "There is no clarity to the limitations of this mandate. Will the EU be able to sink ships and arrest pirates?" she asked. Portuguese socialist MEP Ana Maria Gomes gave a fiery speech on the "moral problem" of the EU mission, which, in her opinion, is only about "protecting oil tankers." "Nobody gives a damn about the people in Somalia who die like flies," she said (EU Observer of 15th October 2008).

Conclusion

The EU, NATO and US Navies can, of course, Rambo and obliterate the fishermen pirates and their supporting coastal communities but that would be illegal, criminal act. Yet, it may temporarily reduce the intensity of the shipping piracy but it would not result in a long-term solution of the problem. The risk of loss of life of foreign crews and ecological impact of major oil spill would be a marine catastrophe of gigantic proportions for the whole coastal regions of East Africa and the Gulf of Aden. In their current operations, the Somali fishermen pirates genuinely believe that they are protecting their fishing grounds (both 12-mile territorial and EEZ waters). They also feel that they exacting justice and compensation for the marine resources stolen and the destroyed ecosystem by the IUUs. And their thinking is shared and fully supported by the coastal communities, whose protectors and providers they became.

The matter needs careful review and better understanding of the local environment. The piracy is based on local problems and it requires a number of comprehensive joint local and external partners approaches. Firstly, practical and lasting solution lies in jointly addressing the twin problems of the shipping piracy and the illegal fishing piracy, the root cause of the crisis. Secondly, the national institutional crisis should be reviewed along with the piracy issues. Thirdly, local institutions should be involved and supported, particularly by helping to form coastguards, training and coastguard facilities. These may sound asking too much to donors and UN agencies. But we should ask what it meant those who paid tens of millions dollars of ransom and their loved ones held hostage for months. Fourthly, a joint Somali and UN agency like the present ICAO for the Somali airspace should be considered.

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