

PIECES OF EIGHT

An Appraisal of U.S. Counterpiracy Options in the Horn of Africa

Lesley Anne Warner

Over the course of the past five years, maritime piracy off the coast of Somalia has been on the rise as the country has spiraled deeper and deeper into anarchy.¹ The United States responded in late 2008 and early 2009 with a variety of counterpiracy measures, ranging from strengthening the multinational naval presence in the Gulf of Aden and Indian Ocean to the signing of a memorandum of understanding (MOU) with Kenya to facilitate the prosecution of suspected pirates. However, despite assertions that lawlessness on land allows maritime piracy to emerge, present counterpiracy methods have failed to address poor governance and instability within Somalia. Instead, they have dealt only with the sea-based manifestations of land-based malaise. Ideally, a sustainable counterpiracy strategy would address root causes as well as symptoms, in both the short and long terms. By disaggregating Somalia's maritime insecurity from the insecurity it suffers on land, the United States and its international partners may well be unable to achieve a sustainable solution to piracy.

Lesley Anne Warner is an analyst at CNA's Center for Strategic Studies, in Alexandria, Virginia, where she focuses on African security issues, including maritime piracy and the U.S. Navy's growing engagement with African countries. She holds an MA in security studies from the Edmund A. Walsh School of Foreign Service, Georgetown University, Washington, D.C. She is also the author of an article on Somali piracy in the January/February 2010 issue of the Journal of International Peace Operations.

This article outlines the causal logic that led to the spike in pirate attacks off the coast of Somalia in recent years. It will then, after an overview of the nature of maritime piracy in this region, highlight the counterpiracy methods employed by the United States and assess their prospects for success or failure. It will conclude by proposing a comprehensive and sustainable counterpiracy strategy that targets both the root causes of piracy and the symptoms that emerge from lawlessness on land.

UNDERSTANDING PIRACY AS A SYMPTOM OF LAWLESSNESS ON LAND

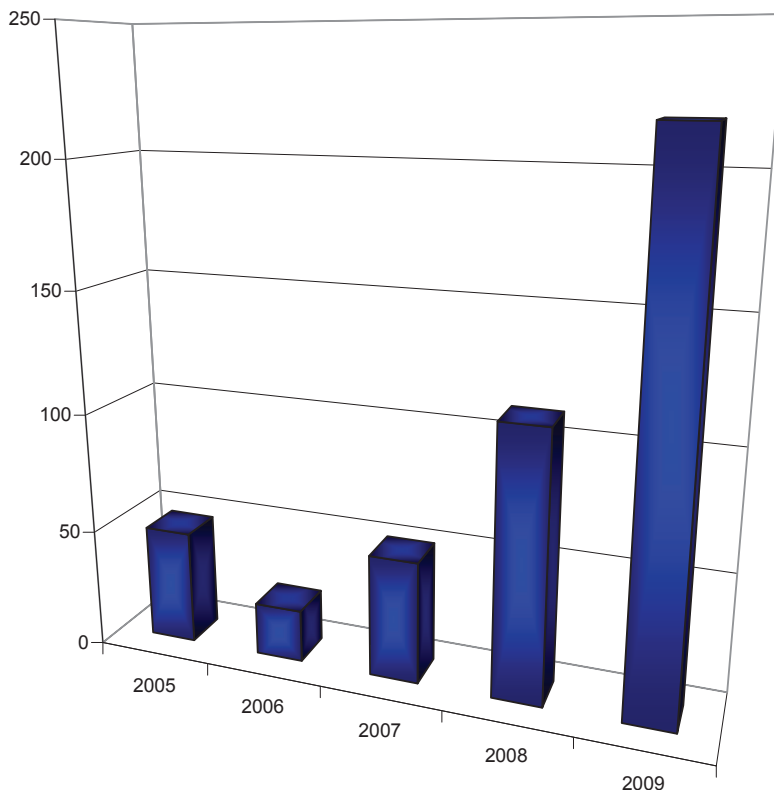
Since maritime piracy off the coast of Somalia is a result of the absence of governance on land projected out to sea, the unremedied collapse of the Somali state will be an insurmountable obstacle to a sustainable counterpiracy strategy. Somalia has been in a persistent anarchic state since 1991, when General Mohamed Siad Barre was overthrown and the country descended into clan-based civil war for control of the government. Eventually, the Somali state collapsed, destroying social services and the security-sector institutions that might have protected the country, its resources, and its citizens against internal and external threats.² The lack of governance and human security created a permissive environment on land and at sea that offered Somalis not only incentives to participate in criminal enterprises but also sanctuaries from which to do so. Given Somalia's proximity to one of the world's main sea lines of communications through the Gulf of Aden, Somali fishermen, unrestrained by a functioning coast guard or navy, seized the opportunity to engage in maritime piracy starting in the 1990s—initially claiming to be protecting Somali waters from foreign vessels that were fishing illegally off the country's coast.³ (Current estimates state that more than three hundred million dollars' worth of fish is stolen each year from Somali waters.)⁴

To put piracy off the coast of Somalia in its contemporary context, pirate attacks off the coast of Somalia have increased overall during the course of the past five years, as shown below on figure 1.

However, pirate attacks decreased in 2006, which many analysts attribute to the rise of the Islamic Courts Union (ICU) in the middle of that year. The ICU was an umbrella movement comprising various factions that had gained control of much of south and central Somalia, essentially providing a degree of governance that had not existed in these regions since 1991. Asserting that it ran contrary to Islamic law, the ICU declared a war on piracy during the latter half of 2006. As a result of the ICU's grasp on power, attacks on maritime vessels dropped during these six months of relative order.⁵ However, this relative order was short-lived, as extremist elements within the ICU provoked a conflict with Ethiopia, as a result of which Ethiopia invaded Somalia in December 2006 and the ICU lost control over the territory it had previously controlled. Pirate attacks subsequently increased in early 2007 and continue to plague the region to the present day.⁶

This chronic lack of governance on land and resultant absence of maritime security spurred a rash of pirate attacks that escalated in frequency, range, and cost to global maritime commerce in 2008, as pirate attacks off the coast of Somalia accounted for 111 of the 293 reported incidents of piracy worldwide.⁷

FIGURE 1
PIRATE ATTACKS OFF THE COAST OF SOMALIA, 2005–2009



Source: ICC—International Maritime Bureau, *Piracy and Armed Robbery against Ships Report: Report for the Period 1 January–31 December 2009*.

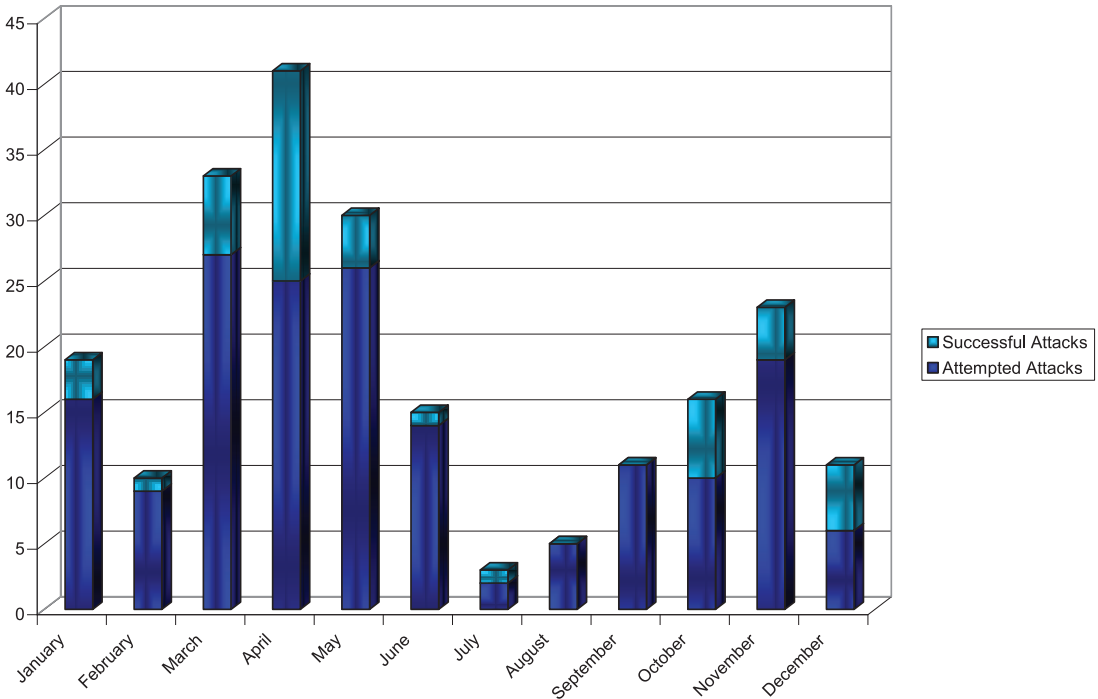
In 2009, attacks in this region accounted for 217 out of 406 attacks worldwide.⁸ Attempted and successful pirate attacks off the coast of Somalia by month in 2009 are detailed in figure 2.

The trends that appear to be emerging suggest that pirates in this region have been able to adapt rapidly to their changing environment. In 2009, pirates greatly expanded their range of operations, operating as far north as Oman and as far south as the Seychelles and Madagascar, attacking up to 1,100 miles from Somalia's coast. In addition, to decrease the chance of detection, pirates have increasingly operated at night.⁹

U.S. GOVERNMENT COUNTERPIRACY POLICY

Recent American maritime security strategy and policy documents related to piracy include but are not limited to the *United States Maritime Security (Piracy) Policy* (released in 2007 as a new annex, "Policy for the Repression of Piracy and Other Criminal Acts of Violence at Sea," to the 2005 *National Strategy for Maritime Security*) and *Countering Piracy off the Horn of Africa: Partnership and Action*

FIGURE 2
SUCCESSFUL AND ATTEMPTED PIRATE ATTACKS OFF THE COAST OF SOMALIA,
JANUARY–DECEMBER 2009



Source: ICC—International Maritime Bureau, *Piracy and Armed Robbery against Ships Report: Report for the Period 1 January–31 December 2009*.

Plan, published in 2008.¹⁰ The *Maritime Security (Piracy) Policy* identifies piracy as a threat to national security, associating it with such other forms of maritime insecurity as illegal fishing, smuggling, and terrorism and urging that it be addressed within a multilateral and interagency policy framework. The *Partnership and Action Plan* outlines three lines of action to repress piracy—preventing pirate attacks by reducing the vulnerability of the maritime domain, interrupting acts of piracy, and holding pirates accountable by prosecuting them.¹¹

The week following the MV *Maersk Alabama* incident in April 2009, Secretary of State Hillary Rodham Clinton articulated a new counterpiracy strategy.¹² It included developing an expanded and better-coordinated multinational response, exploring the tracking and freezing of pirate assets, working with the shipping industry to address gaps in self-defense measures, and engaging diplomatically with Somalia's Transitional Federal Government (TFG) and authorities in Puntland to combat piracy in their territories.¹³ Finally, it addressed improvement in Somalia's capacity to police its own territory, assistance to Somali authorities in cracking down on pirate bases, and reduction of incentives for Somalis to engage in piracy.¹⁴

In spite of the evolving contemporary U.S. maritime security strategy and its efforts to explore diplomatic, military, economic, and legal means by which to combat piracy, specific counterpiracy methods have thus far been unbalanced, with more emphasis placed on addressing the symptoms of instability on land than on the actual conditions that allowed lawlessness on land to create lawlessness at sea. Nonetheless, it appears that the United States is gradually recognizing the need to adapt to the limitations of current policies and turn its counterpiracy strategy in the direction of conceptually linking efforts to eliminate insecurity at sea with those to eliminate insecurity on land.

POTENTIAL COUNTERPIRACY METHODS

Eight counterpiracy methods are either currently in use or under consideration by the United States:

- Accepting piracy as a cost of doing business
- Tracing and targeting pirate finances
- Increasing the defenses of merchant vessels
- Addressing legal impediments to combating piracy
- Continuing multinational naval patrols
- Pursuing kinetic operations on land
- Building local and regional maritime security–sector capacity
- Building local and regional security-sector capacity on land.

The following pages examine these methods, assessing the strengths and weaknesses of each.

Accepting Piracy as a Cost of Doing Business

In 2009, of the approximately thirty thousand vessels that pass through the Gulf of Aden every year, 217 were attacked. Of these, only forty-seven were successfully hijacked.¹⁵ Given that only 0.72 percent of the ships that traversed the gulf were attacked in 2009, it is easy to argue that the international community should simply accept the payment of ransoms to pirates in this region as an added business expense.

Despite the fact that there is no universally accepted method for enumerating the various costs of piracy, several analysts have attempted to assess the cost of piracy to global maritime commerce. Contemporary estimates range between \$500 million and \$25 billion per year.¹⁶ The burdens imposed on governments and the shipping industry by piracy are often passed on to taxpayers and consumers:

- Rerouting ships to bypass pirate-infested waters such as the Gulf of Aden, adding three thousand miles and from two to three weeks to voyages, incurring additional fuel costs of \$3.5 million per year for tankers and \$74.4 million per year for the liner trades
- Opting to pay higher insurance premiums, which have increased from only five hundred dollars in 2007 to approximately \$20,000 per ship per voyage, excluding injury, liability, and ransom coverage
- Paying ransoms, totaling between \$30 million and \$150 million in 2008
- Paying ransom-delivery costs, negotiation fees, and lawyer fees
- Hiring licensed private security guards (up to \$60,000 for the voyage through the Gulf of Aden), as well as absorbing the additional insurance costs associated with embarked security teams or armed sailors
- Installing nonlethal deterrent equipment and employing personnel to operate it, at a cost of \$20,000 to \$30,000
- Paying higher wages to crews of vessels transiting waters where pirate attacks are considered likely
- Sustaining a multinational naval presence in the Gulf of Aden and Indian Ocean, at a cost of between \$250 million and \$400 million per year.¹⁷

To put these figures into context, global maritime commerce ranges in the trillions of dollars, so current estimates of losses to piracy are comparatively small.¹⁸ Nonetheless, continued piracy off the coast of Somalia poses a grave threat to global maritime commerce because of the country's proximity to the Gulf of Aden, which is a major sea line of communication. With the opportunity to target any of the thirty thousand vessels that transit the Gulf of Aden every year, pirate attacks would not only continue, but also escalate in range, frequency, and possibly even lethality due to the opportunity for high and reliable profits from continued ransom payments and the lack of sufficient deterrents to continuing such activity. Ransoms paid to pirates operating off the coast of Somalia have increased from 2004 to the present—from about \$500,000 per vessel to upwards of \$5.5 million.¹⁹ Pirates have learned quickly that publicity pays. For example, publicity from the fall 2008 hijackings of the MV *Faina* and the MV *Sirius Star*, large ships with controversial or valuable cargoes, enabled the pirates to negotiate higher ransoms—a process for which a clear, yet elaborate, mechanism has been established.²⁰

Continued piracy off the coast of Somalia also has negative implications for other littoral states, especially for Kenya, Tanzania, and Yemen, whose port cities may receive fewer port calls as a result. Additionally, continued attacks have

negative effects on Egypt, in terms of forgone revenue from vessels that would have passed through the Suez Canal and paid tolls but decided not to transit the pirate-infested Gulf of Aden.²¹ Furthermore, inland markets in East and Central Africa that depend on imports from ports on the Indian Ocean may also face increased costs when many of their economies are struggling to recover from the recent global financial crisis. Finally, continued pirate attacks off the coast of Somalia risk disrupting the United Nations World Food Programme's (UN WFP) food shipments to Somalia—90 percent of which are delivered by sea, to feed a third of the nation's population.²²

Naturally, one option would be for shipping companies that own hijacked vessels to refuse to pay ransoms. By paying ransoms these companies contribute to further destabilization of the region, because the influx of cash enables warlords to continue their conflicts on land. Additionally, concerns have emerged regarding the possibility that pirates might cultivate ties to terrorist groups that may be affiliated with al-Qa'ida such as al-Shabaab—albeit out of convenience, not shared ideology.²³ However, prohibiting payment of ransoms by shipping companies may be impractical, because these companies could face pressure from politicians, the media, and the families of captured sailors to pay in order to ensure the safety of the crews and cargoes of hijacked ships.²⁴

Tracing and Targeting Pirate Finances

Pirate gangs operating out of Somalia derive funding, among other benefits, from an extensive network of support.²⁵ One way to erode this network could be to trace and target pirate finances, much as is being done to counter other illicit activities, such as drug trafficking and terrorism.

Investigation of pirate finances would reveal information concerning the structures of pirate gangs, relationships within and among them, and their domestic and foreign financiers. Targeting pirate finances might erode some of the active or tacit support pirates gain from spreading money to local officials and relatives, who then become part of the pirates' logistical and intelligence networks.²⁶ Since piracy in this region is a crime of economic incentives and not one of ideology, once the money dries up, this support network is likely to do the same. Integral to this approach would be increased information sharing regarding pirate financials among local, regional, and international partners.

A limitation of tracing and targeting pirate finances, however, is that not all ransoms are paid through formal banking processes. In fact, some involve the transfer of money through informal channels that leave no paper trail; some have even been paid in cash, parachuted onto the decks of hijacked vessels. Applying pressure on such informal banking methods could have the unfortunate and unintended consequence of driving them farther underground, making

them more difficult to trace. The question also arises as to whether authorities in Somalia or even regional states are capable of targeting and seizing pirate assets.²⁷ Some government officials in Somalia and abroad have been accused of complicity in networked pirate activity, raising the prospect of pirate gangs being tipped off in time to protect their assets. The country's cash-based economy also poses challenges for tracking ransoms or start-up logistical money from Somali businessmen.²⁸ Finally, pirates have proved to be adaptive, and it is safe to assume that they will learn to adapt to the tracing and targeting of their finances until the underlying economic incentives—for the pirates and for the communities that provide them sanctuary—are eliminated once and for all.²⁹

Increasing the Defenses of Merchant Vessels

The shipping industry has been an integral part of the search for a counterpiracy strategy. In January 2009 representatives of twenty-four countries held the inaugural meeting of the Contact Group on Piracy off the Coast of Somalia, creating four working groups.³⁰ Working Group 3 is led by the United States, with the support of the International Maritime Organization (IMO), and is working to strengthen shipping industry self-awareness, security, and commercial industry coordination. The Contact Group now has nearly forty countries and international organizations as members or observers, including the United Nations, the European Union (EU), the North Atlantic Treaty Organization (NATO), the African Union (AU), and the IMO. In February 2009 representatives of the international shipping industry released a document of best management practices, advising vessels transiting afflicted areas on how to avoid, deter, or delay pirate attacks.³¹ Finally, at the Contact Group's May 2009 meeting, Panama, Liberia, the Bahamas, and the Marshall Islands—whose flag registries together comprise more than half of the world's shipping by gross tonnage—signed the New York Declaration, stating that they agreed to promulgate best practices to protect ships against pirate attacks.³²

Thus far, nonlethal ship protection against pirate attacks has evolved to include increased surveillance; transit of piracy-prone areas at night, utilizing night vision equipment for early detection of pirate skiffs; frequent course changes and evasive maneuvers; transit in convoys, possibly escorted by warships, or at least in frequent contact with them; operational communications security protocols preventing disclosure on radio channels of cargoes, intended routes, or the presence or absence of onboard security, in order to prevent intelligence-driven attacks; use of maximum safe speeds; rehearsal of lockdown procedures and seclusion of crews in the pilothouse out of the reach of pirates; the lining of ships with netting, barbed wire, or electric fencing; the spraying of slippery foam on deck in the event of attack; and onboard training teams for nonlethal

response techniques, such as long-range acoustic devices, lasers, flares, micro-waves, and water hoses.³³

Increasing the defenses of merchant vessels generally is certainly a step in the right direction, since it provides some degree of protection for ships that have been relatively vulnerable. Particularly, nonlethal techniques have been so successful that 80 percent of attempted pirate attacks are now foiled without assistance from warships on patrol.³⁴ Nevertheless, they have limitations: they can still represent delaying tactics at best for the remaining 20 percent of merchant vessels that were successfully hijacked; also, crew members operating them are often vulnerable to fire from heavily armed pirates. In contrast, lethal defenses, such as firearms, could have a deterrent effect on the calculations of pirates, who might consider the risks of death or capture higher if they know that merchant vessels may be armed. Possibilities that have been broached are training and equipping seamen with small arms and embarking private security teams on board merchant vessels transiting pirate-infested waters.

In June 2009 the House of Representatives proposed two bills designed to increase the security of U.S.-flag vessels against pirates. An amendment to House Resolution 2647 (signed into law in October 2009 as the National Defense Authorization Act for Fiscal Year 2010), requires the Department of Defense to place military personnel on the approximately fifty-four U.S.-flag vessels that carry weapons or military supplies through the waters off the Horn of Africa each year, in order to prevent military equipment from falling into the hands of pirates. This requirement will last until either 30 September 2011 or when the Secretary of Defense notifies Congress that there is no longer a credible piracy threat to U.S.-flag vessels carrying government cargo—whichever comes earlier.³⁵ House Resolution 2984, the “Mariner and Vessel Protection Act,” in committee at this writing, would allow vessels carrying arms to enter international ports, authorize the embarkation of Coast Guard maritime safety and security teams on U.S.-flag ships transiting pirate-infested waters, and grant immunity to civilian sailors who, having received firearms training from the Coast Guard, wound or kill pirates during attacks.³⁶

On the downside, arming seamen or embarking security teams on merchant vessels presents a new set of questions. First, arming merchant vessels may well escalate the violence of pirate attacks by encouraging gangs to invest in the quality and quantity of weapons and to alter their calculations with regard to the use of force.³⁷ Second, arming crews poses safety and training issues and offers no guarantee that they would be proficient enough to fend off heavily armed pirates.³⁸ Third, there may be increased insurance costs associated with embarked security teams or armed sailors, and the shipping industry may calculate that

it is cheaper to pay ransoms on the odd chance that a ship does get successfully hijacked.³⁹ Fourth, many international ports do not allow armed merchant vessels to enter, although this obstacle could be overcome by dispatching armed security teams in separate escort ships, which would stay at sea. Finally, arming merchant vessels raises legal and liability issues, specifically as they pertain to whether recognized governmental authorities will provide armed protection or whether the task will be outsourced to private security firms. The latter opens the door for very complicated debates regarding rules of engagement, jurisdiction over captured pirates, and the oversight and regulation of private security counterpiracy operations.

Addressing Legal Impediments to Combating Piracy

The current legal framework for addressing maritime piracy has been one of the many impediments to combating piracy, with regard to how it addresses issues of state sovereignty, rules of engagement, jurisdiction, and “persons under control” (PUCs).⁴⁰ Compounding these difficulties is the fact that the Somali government is incapable of providing its own legal deterrent to piracy. Nor can other states in the region process the number of pirates apprehended by navies patrolling the waters of the Gulf of Aden and the Indian Ocean.

The 1982 United Nations Convention on the Law of the Sea (UNCLOS) and the 1988 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation collectively establish the definition of modern piracy and the basis of the legal framework, including provisions to render suspected pirates to littoral states (if they are signatories to these conventions) where attacks take place. In addition, between June 2008 and December 2009 six UN Security Council resolutions were passed urging states to use the necessary means in conformity with international law for the repression of acts of piracy, including authorization for states cooperating with the TFG to enter Somali land or territorial waters to combat piracy.⁴¹

Among the many impediments that remain is the fact that multinational naval patrols off the coast of Somalia have occasionally been obliged to “catch and release” suspected pirates after confiscating their weapons and skiffs, because no nations would accept them for trial. In some of these countries, penal codes do not treat piracy as a punishable offence; other countries can arrest suspected pirates only if their own interests are directly affected.⁴² Compounding these challenges, jurisdiction can be difficult to determine, because several countries might be affected by an actual or attempted act of piracy, such as the vessel’s flag state, the state of the company that owns the vessel, the state of the company that owns the cargo, the states of which crew members are nationals, and the state of the warship that disrupted the attack.⁴³

The alternative, prosecuting pirates outside the region—in the United States or in Europe, for example—would bring its own set of complications. Whether trials of suspected pirates are held in the region of the attacks or further abroad, adherence to international norms of human rights means that countries that accept pirates for prosecution must ensure that suspects are not detained for long periods of time, which could be a problem for countries with overburdened legal systems or for cases that require the transport of pirates, witnesses, and evidence over long distances.⁴⁴ Additionally, suspected pirates may claim asylum if brought to Europe or the United States, asserting that their lives would be endangered by the continual warfare and desperate human conditions they would face should they be found innocent and returned to Somalia.⁴⁵ This latter factor threatens the legal deterrent effect that an enhanced international legal framework should ideally have.

One solution to these impediments would be to strengthen the ability of regional states' judicial systems to investigate and prosecute suspected pirates and to incarcerate those convicted. Kenya has signed MOUs with the United States, the United Kingdom, Denmark, and the EU to prosecute captured pirates in their court systems on a case-by-case basis. Regional states have also explored the possibility of assembling teams of law enforcement ship riders that can board warships, begin criminal investigations at sea, arrest suspected pirates in the name of the teams' countries, and then send them for trial in those nations in order to address some of the problems with PUCs, jurisdiction, and regional legal capacity.⁴⁶ Such initiatives could be supported through capacity-building activities coordinated by the U.S. Coast Guard law enforcement detachments (LEDETs) and the Naval Criminal Investigative Service (NCIS) teams supporting Combined Task Force 151 (discussed below). Finally, an international tribunal for prosecuting pirates could resolve many of the jurisdictional problems that have arisen, make trials more efficient, and speed up prosecutions that would have burdened the underdeveloped judicial systems of regional states.⁴⁷

The evolution of an international legal framework to combat piracy is a positive development, because it seeks to bolster the presently weak legal deterrent for current and prospective pirates. Kenya, in exchange for agreeing to try some of the suspected pirates, will receive assistance to strengthen its judicial system, which should have the broader benefit of expanding the country's capacity to enforce the rule of law and address other threats to security and stability. This method, if applied to other regional states, could have similar impact on their judicial systems.

However, as things stand now, prosecution of suspected pirates in regional countries may present bureaucratic and financial burdens, clogging jails and

courts and even fomenting social unrest. For instance, Kenya's judicial system is engulfed in a debate over whether to prosecute those who instigated violence following the 2007 presidential election; allegedly, the country's judicial system already has a backlog of cases.⁴⁸ In addition, Kenya may wish not to be a dumping ground for captured pirates, because making it the centerpiece of pirate prosecution efforts could inflame the country's Somali refugee population, as well as its own Muslim population.⁴⁹

Continuing Multinational Naval Patrols

In support of UN Security Council resolutions passed in 2008 and 2009 in response to the rise in pirate attacks off the coast of Somalia, the United States and several international partner nations began to increase air and sea patrols of the areas where attacks were most likely to take place. In August 2008, the United States established a movable Maritime Security Patrol Area (MSPA) along the Yemeni coast to allow a limited number of warships to protect a greater number of merchant vessels by concentrating the vessels in number and proximity. In January 2009, ships from over twenty nations joined or otherwise cooperated with Combined Task Force 151 (CTF 151) to engage in counterpiracy operations in the Red Sea, Arabian Sea, Indian Ocean, Gulf of Oman, and Gulf of Aden. CTF 151 is one of three task forces of Combined Maritime Forces (CMF), a coalition of over twenty countries operating in a 2.5-million-square-mile area.⁵⁰ CMF had been established in February 2002 by U.S. Naval Forces, Central Command to "deter destabilizing activities to create a lawful maritime order by defeating terrorism, deterring piracy, reducing illegal trafficking of people and drugs as well as promoting the maritime environment as a safe place for mariners with legitimate business."⁵¹ In order to increase the effectiveness of coordination on counterpiracy measures at sea, CMF hosts Shared Awareness and Deconfliction (SHADE), which involves regular workshop-style meetings of staff-level officers from the various operational headquarters. SHADE is designed to provide opportunities for navies to share information, streamline tactics, and ensure that assets are used efficiently and with the desired effect.⁵²

In February 2009, the Internationally Recommended Transit Corridor (IRTC), extending 464 miles along the southern coast of Yemen and the northern coast of Somalia, became operational, and coalition warships began to escort merchant vessels through it. The area off the coast of Somalia is patrolled by approximately thirty warships contributed by CMF, the EU's Operation ATLANTA, NATO's Operation OCEAN SHIELD, and navies from such countries as Russia, India, China, Iran, and Japan.⁵³ In addition, the United States and its partners monitor pirate activity on the high seas; conduct visit, board, search, and seizure (VBSS) of suspected pirate skiffs; and provide surveillance of vessels

that have been hijacked—much as USS *Bainbridge* and *Boxer* did during the *Maersk Alabama* incident.

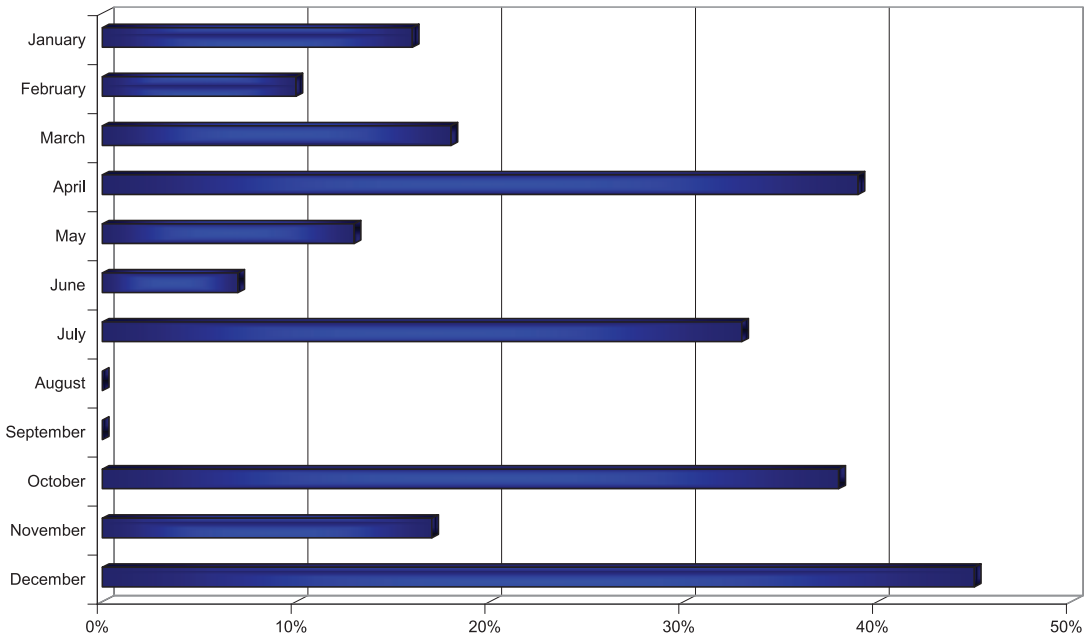
As both the U.S. Navy and Coast Guard have the authority to conduct counterpiracy operations, CTF 151 is supported by both Coast Guard law enforcement detachments and teams of NCIS personnel on board ships in order to address some of the legal impediments to combating piracy that have arisen.⁵⁴ LEDETs are responsible for supplementing Navy VBSS teams in maritime interdiction operations, training them on issues concerning maritime law, boarding policies and procedures, evidence collection and preparation, and safe and humane treatment of suspects. Upon encountering a suspected pirate vessel, air and sea assets attempt to compel it to allow boarding.⁵⁵ A LEDET team goes on board first, to secure and search the skiff, preserve evidence, and radio its assessment of the situation. Once the vessel is secured, an NCIS team joins the LEDET, and together they perform a crime-scene investigation, collecting, logging, and securing evidence so as to ensure chain of custody until it can be handed over to a judicial authority. If the CTF 151 commander determines that there is sufficient evidence to prosecute, suspected pirates are detained until they can be rendered for trial in a state willing to accept them.⁵⁶

A naval presence off the coast of Somalia presumably forces pirates to project their attacks farther out to sea, aside from disrupting or deterring attacks where warships are close enough to protect threatened vessels. Additionally, depending on weather, naval patrols can be scaled back between May and September and from December to March, when Indian Ocean monsoons produce swells reaching ten to fifteen feet and pirate skiffs cannot effectively stalk vulnerable merchant vessels. (However, pirate attacks tend to increase following periods of poor weather conditions.)⁵⁷ Finally, a measure that has not been taken thus far but may be under consideration is the establishment of a maritime exclusion zone adjacent to the Somali coastline.⁵⁸

Despite the palpable deterrent that a naval presence represents, pirates appear to have developed a fair understanding of the gaps in naval capabilities. Notwithstanding the MSPA, IRTC, and the patrols of warships from over twenty navies, pirate attacks off the coast of Somalia in 2009 still accounted for over half of the attacks worldwide.⁵⁹ However, on average the success rate for pirate attacks for this time period was just over 21 percent, compared with 40 percent for the year 2008.⁶⁰ Success rates by month in 2009 are detailed in figure 3.

Although pirate attacks had lower rates of success in 2009 than in 2008, coalition maritime forces on the whole simply do not have enough warships to patrol off the coast of Somalia and protect the tens of thousands of ships that traverse these waters annually. Responding to an analysis positing that it would take a

FIGURE 3
SUCCESS RATES OF PIRATE ATTACKS OFF THE COAST OF SOMALIA,
JANUARY–DECEMBER 2009



Source: ICC—International Maritime Bureau, *Piracy and Armed Robbery against Ships Report: Report for the Period 1 January–31 December 2009*.

force over three times the size of the entire U.S. Navy to fight piracy effectively, Admiral Michael Mullen, chairman of the Joint Chiefs of Staff, pointed out that the Navy has other pressing priorities as well, in other parts of the world.⁶¹ Furthermore, the Chief of Naval Operations, Admiral Gary Roughead has pointed to a need for counterpiracy approaches that complement naval patrols, such as the combined sea and shore strategy that was so instrumental in curbing piracy in the Strait of Malacca earlier this decade.⁶² Both the attack trends and the statements of Navy leadership highlight the limitations inherent in a purely naval approach to countering piracy.⁶³

There are specific operational difficulties as well. For example, it has been estimated that escorting merchant vessels between the Red Sea and Mombasa alone would require seventy-two ships—more than currently operate in the entire region at any given time.⁶⁴ In any case, organizing convoys under escort would compel merchant ships to follow schedules that may not meet market requirements.⁶⁵ Since convoys move at the speed of the slowest member, a container ship would have to travel as slowly as a tanker.⁶⁶ Finally, for many countries, contributing to a sustained naval presence off the coast of Somalia is extremely costly and plagued by logistic hurdles.

Pursuing Kinetic Operations on Land

One of the options to consider in order to counter piracy off the coast of Somalia might include a range of kinetic methods targeting the land-based aspects of piracy. On the lower end of the scale, the international community could mobilize to launch air strikes or amphibious raids designed to dismantle pirates' bases and infrastructure and to destroy their ability to launch attacks out at sea. At the higher end, surgical air strikes could be followed by military occupation of the territories from which pirates launch their attacks, providing security (and eventually enabling governance) and preventing pirates from operating.

The unequivocal attractiveness of kinetic methods applied ashore lies in the argument that as pirates and their support networks reside ashore, they should be targeted there. Furthermore, a credible threat of military force could compel Somali clan leaders and businessmen to clamp down on pirate activity, reducing it to a level that may turn a profit but that the international community may be willing to ignore.⁶⁷

In reality, the United States is unlikely to launch air strikes or send in troops for several reasons.⁶⁸ First, attacks on pirate bases or an outright military occupation would certainly undermine President Sheikh Sharif Ahmed's TFG, which already has plenty of obstacles to overcome. Even with—or especially with—the consent of the TFG, an American attack could provoke greater support among the population for the pirate gangs or even for ideological groups like al-Shabaab. Second, there is resistance within the United States to reengaging militarily on land in Somalia, as a result of the October 1993 Black Hawk Down incident, in which eighteen American soldiers were killed while supporting the United Nations Operation in Somalia, known as UNOSOM II, which was attempting to avert a humanitarian crisis in Somalia. Third, there appears to be insufficient intelligence to allow pirate infrastructure to be targeted without inflicting civilian casualties, which could further destabilize the country and energize al-Shabaab.⁶⁹ Fourth, international norms of human rights dictate that the United States could not simply kill suspected pirates encountered but would have to develop a method to capture them, put them on trial within an acceptable and humane amount of time, and incarcerate those convicted, which raises legal complications similar to those already discussed. Lastly, were there to be any sort of military intervention, Western humanitarian relief organizations currently providing services that the Somali government has been unable to offer since 1991 could be targeted for reprisals.⁷⁰

Building Local and Regional Maritime Security—Sector Capacity

Building local and regional maritime security—sector capacity may provide a deterrent against pirate attacks, finally making pirates accountable for their

destabilizing activities. To make these countries capable of contributing to maritime security in the Gulf of Aden and Indian Ocean, the United States and its partners could enhance their engagement with maritime security–sector institutions in Somalia and neighboring littoral countries, such as Djibouti, Kenya, Madagascar, Mauritius, the Seychelles, Tanzania, and Yemen.

Somalia has already requested assistance in the form of training and equipment from the international community to establish a coast guard to help tackle piracy. The TFG has also been training five hundred young men to serve in the Somali navy, which its chief hopes will eventually have five thousand men.⁷¹ However, training has thus far taken place on land, since the force has no operational ships. Although Somalia would like to provide for its own maritime security, its transitional government is likely to be preoccupied in the short term with staving off defeat by various insurgent groups and gaining control of its own capital city.⁷² Consequently, the maritime security gap will have to be filled by regional and international partners in the meantime.

Regrettably, however, most countries in the region are currently ill equipped to provide maritime security even for themselves, let alone Somalia; they lack the requisite training and equipment, and their security forces have traditionally been land focused. In order to build their capacity to deal with maritime threats, the United States and international partners could augment security cooperation agreements, offering to train maritime security personnel; equip and assist in the maintenance of vessels; share best practices for the collection, sharing, and synchronization of intelligence; provide aerial surveillance; and coordinate multilateral naval training exercises designed to increase regional cooperation.⁷³ Ideally, these countries would eventually be able to patrol with international partners by air and sea; conduct surveillance of the littoral zone; facilitate the collection, analysis, and dissemination of information on possible maritime threats; encourage interagency and multinational cooperation; and harmonize maritime doctrines.⁷⁴

As a step in the right direction, Djibouti, Ethiopia, Kenya, Madagascar, the Maldives, the Seychelles, Somalia, Tanzania, and Yemen signed in February 2009 a code of conduct to counter piracy, agreeing to establish counterpiracy information centers in Mombasa, Dar es Salaam, and Sanaa and a counterpiracy training center in Djibouti.⁷⁵ Also, in June 2009, Bahrain, Djibouti, Egypt, Jordan, Kuwait, Oman, Qatar, Saudi Arabia, Sudan, the United Arab Emirates, and Yemen agreed upon the formation of an Arab Anti-Piracy Task Force to provide maritime security for states in the region and enhance cooperation with multinational naval patrols.⁷⁶ In addition, Kenya and Tanzania have pledged to start joint naval operations, and in the spring of 2009 the Seychelles became the first

East African nation to assist in operations carried out by the EU's Operation ATALANTA.⁷⁷

Increased coordination among regional stakeholder states could set precedents for sustained regional maritime security cooperation that could be extended to other maritime security threats, such as arms trafficking, human trafficking, drug trafficking, and illegal, unreported, and unregulated fishing (which was arguably what drove Somali fishermen to pursue piracy on a much smaller scale in the 1990s). Regardless, the present limitations of local and regional maritime capacity mean that the benefits of such regional and international initiatives are more likely to have concrete impact over the long term than in the immediate future.

Building Local and Regional Security-Sector Capacity on Land

As a result of the security and governance vacuum in Somalia, lawlessness ashore is likely to continue to create lawlessness at sea unless security-sector capacity can be built up both in Somalia and in neighboring states. In order to build this capacity with the intent that these countries would increasingly contribute to the provision of security in the region, the United States and international partners could enhance engagement with local and regional security-sector institutions on land.

Given the fact that Somalia lacks functional governing institutions to support a security sector, one will have to be built from scratch, which will require a costly and sustained whole of government multinational commitment. International security assistance could equip Somalia to develop a police force and military supported by robust security-sector institutions that could enable the country to address the security and governance vacuum that allows pirates and insurgents to thrive. That said, the TFG is currently extremely weak, controlling little territory within the country it purports to govern. In the meantime, the United States and its partners could address capability gaps in regional partner nations like Kenya and Djibouti, in nations that do not share a border with Somalia (such as Tanzania, Uganda, Burundi, and Rwanda), and in regional and subregional organizations like the AU and the Intergovernmental Authority on Development. Ideally, the regional militaries could become more able and willing to build governing institutions in Somalia and help provide security there, in the event of a more viable and inclusive peace agreement.

However, it is for all intents and purposes impossible to disaggregate Somalia's problems, whether on land or at sea, from other conflicts in the region, such as the proxy war often fought on Somali soil between Ethiopia and Eritrea, and Ethiopia's internal security concerns in the Ogaden region.⁷⁸ Though it is important to attempt to maintain dialogues with Ethiopia and Eritrea on the situation

in Somalia, it might be advisable therefore to exclude them from efforts to build capacity specifically to address instability there. Furthermore, the international community will have to remain sensitive to Kenya's concerns *vis-à-vis* its own internal security issues. With lucrative foreign investments, a tourism industry shaken by electoral violence two years ago, and almost three hundred thousand Somali refugees along the porous border with Somalia, Kenya takes very seriously the threats issued by al-Shabaab to launch terrorist attacks in Kenya if the country were to become militarily involved in Somalia.⁷⁹

The international community should also consider concrete financial, logistical, and political support to the African Union Mission in Somalia (AMISOM) and any successor multinational peacekeeping forces so that they might become capable of achieving their strategic, operational, and tactical objectives.⁸⁰ AMISOM was authorized by a communiqué of the sixty-ninth meeting of the Peace and Security Council of the African Union, on 19 January 2007.⁸¹ One of just a handful of AU peacekeeping missions, AMISOM was essentially stillborn in the face of a challenging security environment in Somalia as well as operational and tactical setbacks. It was initially authorized for six months from the date of the communiqué, with a mandate (set out in paragraph nine of the UN Security Council Resolution 1772) that included:

- Providing support to transitional federal institutions, to help them carry out their functions of government
- Supporting dialogue and reconciliation in Somalia
- Providing security for key infrastructure
- Assisting with the implementation of the National Security and Stabilization Plan, in particular the effective reestablishment of the Somali security forces
- Facilitating the provision of humanitarian assistance.⁸²

AMISOM's mandate has been extended several times, most recently to 31 January 2011, as authorized by UN Security Resolution 1910.⁸³

In addition to a mandate that was restricted to self-defense and the protection of a weak and divided government, AMISOM has encountered several difficulties. AMISOM has suffered from unfulfilled commitments made by the international community. The original understanding was that AMISOM would evolve into a UN peacekeeping mission upon the expiration of its initial mandate in June 2007, but as of early 2010 this has not occurred. AMISOM has been able to muster only 5,200 of its authorized troop strength of eight thousand soldiers, which have been contributed by Uganda and Burundi, although Nigeria, Ghana, and Malawi pledged troops that were never deployed. Also, the AU, unable to finance the mission on its own, had to rely on ad hoc international

financial assistance for training and equipment, which has proved insufficient. Additionally, although initiated and staffed by African personnel, AMISOM was perceived in Somalia as a tool of Western interests, and its soldiers were consequently targeted by insurgents.⁸⁴ Finally, AMISOM forces were accused of human rights violations, having used indiscriminate violence to defend themselves against attacks. Only in the spring of 2009 did AMISOM change tactics, returning fire only if attackers could be visually identified, but by that time their actions had already further alienated the population from the TFG.⁸⁵

ADEPT AND CULTURALLY SENSITIVE ENGAGEMENT

Piracy off the coast of Somalia must be analyzed in the context from which it emerged if a comprehensive and sustainable response is to be crafted. Piracy is a symptom of instability on land; as such, counterpiracy methods that focus on the symptoms of lawlessness on land rather than on its root causes do little to mitigate the conditions that allowed piracy to emerge in the first place. Because piracy is a land-based enterprise, possible counterpiracy solutions must be assessed in terms of how they would positively impact conditions ashore.

In the preceding paragraphs, the author outlined a variety of counterpiracy methods. Assuming pirate attacks would escalate in range, frequency, and lethality were they to be accepted as a cost of doing business, this option may be infeasible. However, the remaining methods could have a positive impact if their strengths are pursued in concert. In order to reach maximum effectiveness, an ideal counterpiracy strategy would address the catalysts of instability as well as its manifestations in the maritime domain.

A comprehensive and sustainable strategy to address piracy off the coast of Somalia would entail the United States working with regional and international partners to trace and target pirate finances, albeit with a clear understanding of the limitations of this approach in Somalia's cash-based economy. Additionally, international stakeholders would have to be conscious of the inability of this method to target the underlying conditions that allowed piracy to emerge in the first place.

The U.S. government should also maintain its engagement with the shipping industry, not only to make nonlethal ship defenses more effective and widespread but also to explore how seamen utilizing them could make themselves less vulnerable while under attack. Lethal defenses of merchant vessels should be avoided if possible, due to the possibility of escalation of violence during pirate attacks, as well as the various liability and oversight issues that could arise. In any case, nonlethal or lethal merchant vessel defenses address only the symptoms of instability on land.

To alleviate the bureaucratic and financial burdens on regional states willing to accept suspected pirates for trial, the United States and its partners should support a regional ship-rider program. In addition, international stakeholders should emphasize building the capacity of the judicial systems in the region in order to bolster legal deterrents to those who wish to foment instability in Somalia or elsewhere in the region. Above all, a reliable process by which countries apprehending pirates at sea can deliver suspects for trial and incarceration is essential. However, addressing legal impediments to combating piracy fails to address the conditions from which piracy emerged.

Multinational naval patrols should be continued, sensitive to seasonal fluxes in pirate attacks and acknowledging the limited ability of these warships to protect the tens of thousands of merchant vessels that transit the region on a yearly basis. However, such a method should recognize the limitations of a solely sea-based approach to countering piracy, as it targets the symptoms of instability and is no substitute for enhanced regional maritime capacity and law and order on land in Somalia. Multinational naval patrols may also be unsustainable over the long term.

However ill advised and improbable it may be in practice, a credible threat of kinetic military action on land could encourage pirates to reduce their attacks to a pre-2008 level that might not draw the attention of the international community. If actually put in practice, a U.S. attack on Somali pirate bases or an outright invasion might address some of the conditions that allowed piracy to emerge, but at the cost of increasing the level of intensity of the insurgency in Somalia as a whole. Therefore, this method should be avoided in spite of its potential to address the security and governance gap in Somalia.

Building local and regional maritime security–sector capacity is an important area for international engagement, since regional states must eventually bear some of the burden of maritime security in their region under any long-term counterpiracy strategy. Specifically, East African and Persian Gulf states should continue regional maritime security cooperation supported by international partners. The goal would be to harmonize regional maritime coordination efforts by sharing information regarding suspicious activity and conducting joint patrols with the support of nonregional partners. Like the multinational naval patrols, this method is limited by the fact that it only targets the symptoms of instability. However, it is possible that over the long term increased maritime security in the Horn of Africa could lessen seaborne threats that have contributed to lawlessness on land in Somalia, such as illegal fishing and arms trafficking.

Although the methods above can contribute greatly to the eventual success of the counterpiracy campaign, a truly comprehensive and sustainable counterpiracy strategy in the Gulf of Aden and Indian Ocean must address the security

vacuum on land in Somalia that has created the conditions that allow piracy to thrive. While UN boots on the ground are increasingly unlikely, the international community should continue to support the Djibouti Agreement, although it is arguably handicapped by its lack of inclusivity.⁸⁶ As an alternative, the international community could encourage a new round of peace talks, advocating maximum practical participation, encouraging clans and factions to buy in to a peaceful Somalia where law and order thrive. More inclusive peace talks may in fact be a prerequisite to any reduction in violence in Somalia, and they could provide the space necessary to address the governance vacuum.

Flaws notwithstanding, it is crucial that the international community support initiatives such as AMISOM with a strong and sustained commitment to provide financing, training, and equipment, since it is an attempt to create and sustain an African peacekeeping force whose mere existence is at the very least a positive development for African regional security. Stronger international support may make African countries that have pledged troops but have not sent them more willing to do so. Although peacekeeping is by no means nation building, the presence of a sufficiently trained and equipped peacekeeping force could contribute to an environment amenable to political, social, and economic development in Somalia.

In any long-term diplomatic or military engagement with Somalia, the international community will have to decide how best to deal with nonstate entities in Somalia. It should be open to abandoning the notion of a unified Somali state in order to accommodate entities like Somaliland, which declared independence from Somalia in 1991, and Puntland, which declared its autonomy in 1998. Somalia as it stands now does not act like a state; for the international community to engage with Somalia as it would with a state presents more complexities than can be managed in the current security and humanitarian situation. In particular, the United States and its international partners should weigh the costs and benefits of dealing directly, on a case-by-case basis, with legitimate and effective local authorities within Somalia, regardless of their affiliation or lack thereof with the Somali government. In the long run, these alternative identities and centers of authority may prove capable of providing law and order in Somalia in a way that a central government has been unable to do for two decades.⁸⁷ Selecting local authorities for engagement could, admittedly, intensify competition among them and undermine the authority of the TFG; nonetheless, an adept and culturally sensitive engagement strategy may reveal that state and nonstate authorities are not necessarily mutually exclusive.

As a precaution, any support the United States gives to Somalia should not be too overt, as it could backfire, empowering hard-liners and reversing gains in governance and security. On one hand, Somali president Sheikh Sharif Ahmed

needs external support to maintain the TFG's current position; on the other hand, he needs broad support within Somalia if his government is to be successful. If he relies too much on the former, it will compromise his success with the latter.⁸⁸

In the end, by addressing the security and governance vacuum in Somalia by building local and regional capacity through a long-term multinational commitment, the United States and international partners may be able to assist in eliminating insecurity on land and the resultant insecurity at sea that has manifested itself in the recent spike in pirate attacks. The key to success in countering piracy off the coast of Somalia lies in conceptually linking the positive elements of current sea-based counterpiracy methods with approaches designed to remedy the underlying instability ashore that produced piracy in the first place.

NOTES

The author would like to thank Captain Peter Swartz, USN (Ret.), and Dr. Eric V. Thompson for their substantive comments on earlier drafts. Any remaining errors are the author's alone.

- This article uses the UNCLOS definition of piracy, which states (article 101), "Piracy consists of any 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: (i) on the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft; (ii) 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 described in subparagraph (a) or (b)."
- Gary E. Weir, "Fish, Family, and Profit: Piracy and the Horn of Africa," *Naval War College Review* 62, no. 3 (Summer 2009), pp. 15–29.
- Ken Menkhaus, "Dangerous Waters," *Survival* 51, no. 1 (February–March 2009), pp. 21–25. See also Clive Schoefield, "The Other Pirates of the Horn of Africa," *RSIS Commentaries*, 5 January 2009, available at www.rsis.edu.sg/.
- Johann Hari, "You Are Being Lied to about Pirates," *Huffington Post*, 12 April 2009, www.huffingtonpost.com/.
- Clive Schoefield, "Plaguering the Waves: Rising Piracy Threat off the Horn of Africa," *Jane's Intelligence Review*, 1 July 2007, www.janes.com. See also Roger Middleton, "Piracy in Somalia: Threatening Global Trade, Feeding Local Wars," *Chatham House Briefing Paper* (October 2008), available at www.chathamhouse.org.uk/. See also Scott Baladauf, "Piracy Raises Pressure for New International Tack on Somalia," *Christian Science Monitor*, 6 January 2009, available at www.csmonitor.com.
- Martin Murphy, "High Resolution: Trying to Tame Somalia's Piracy Problem," *Jane's Intelligence Review*, 17 July 2008, available at www.janes.com.
- ICC—International Maritime Bureau [hereafter IMB], "IMB Reports Unprecedented Rise in Maritime Hijackings," *ICC Commercial Crime Services*, 16 January 2009, www.icc-ccs.org/.
- IMB, *Piracy and Armed Robbery against Ships Report: Report for the Period 1 January–31 December 2009* (London: January 2010).
- Abdiqani Hassan, "Somali Pirates 'Smell Money' as Good Times Return," Reuters UK, 10 April 2009, available at uk.reuters.com/. See also "Pirates Expand into Oman's Waters," *BBC News*, 12 June 2009, news.bbc.co.uk/.
- "Memorandum from the President: United States Maritime Security (Piracy) Policy," 14 June 2007, available at www.marad.dot.gov/ as annex 1 of National Security Council,

- Countering Piracy off the Horn of Africa: Partnership and Action Plan* (Washington, D.C.: December 2008). See also The National Strategy for Maritime Security (Washington, D.C.: September 2005), available at www.dhs.gov/.
11. National Security Council, *Countering Piracy off the Horn of Africa*.
 12. The U.S.-flag containership *Maersk Alabama* was hijacked on 8 April 2009 approximately three hundred miles off the coast of Somalia, while en route to Mombasa, Kenya. Following a scuffle with the pirates, *Alabama's* crew of twenty U.S. nationals was able to retake the ship; the master, Richard Phillips, who had surrendered to ensure the safety of his crew, was taken hostage aboard a twenty-eight-foot lifeboat. The USS *Bainbridge* (DDG 96, a guided-missile destroyer), USS *Boxer* (LHD 4, an amphibious assault ship), and USS *Halyburton* (FFG 40, a guided-missile frigate) were dispatched to the scene. The standoff was resolved on 12 April, when three of the four pirates were killed by SEAL snipers on board *Bainbridge* when it was determined that Captain Phillips was in imminent danger. The fourth pirate, who had been on board *Bainbridge* to receive medical treatment and negotiate the master's ransom, was taken into custody and at this writing awaits trial in New York. Although short-lived, the hijacking of *Alabama* was the first successful pirate seizure of a U.S.-flag ship in almost two hundred years.
 13. The leaders of Puntland, a region in north-east Somalia, declared it an autonomous state in 1998 as a result of the collapse of the central government in Somalia in 1991. In the spring of 2009, a UN Security Council report named Puntland as home to several pirate bases and accused the government that had been in power at the end of 2008 of complicity in pirate activity. Ban Ki-moon, *Report of the Secretary-General Pursuant to Security Council Resolution 1846 (2008)* (New York: UN Security Council, 16 March 2009), available at daccessdds.un.org/doc/.
 14. "Announcement of Counter-piracy Initiatives: Hillary Rodham Clinton, Secretary of State, Washington, DC, April 15, 2009," *U.S. Department of State: Diplomacy in Action*, www.state.gov/.
 15. IMB, *Piracy and Armed Robbery against Ships Report*.
 16. Peter Chalk, *Maritime Piracy: Reasons, Dangers and Solutions—Testimony Presented before the House Transportation and Infrastructure Committee, Subcommittee on Coast Guard and Maritime Transportation*, February 4, 2009, RAND Corporation Testimony, CT-317, February 2009, www.rand.org/. See also Martin N. Murphy, *Contemporary Piracy and Maritime Terrorism*, Adelphi Paper 388 (London: International Institute for Strategic Studies, 2007).
 17. "The Long Way Around," *Lloyd's List*, 26 November 2008. See also "Piracy Could Add \$400m to Owners' Insurance Cover Costs," *Lloyd's List*, 21 November 2008; Murphy, *Contemporary Piracy and Maritime Terrorism*; U.S. Transportation Dept., *Economic Impact of Piracy in the Gulf of Aden on Global Trade* (Washington, D.C.: Maritime Administration, 2009), available at www.marad.dot.gov/; and John Knott, "Somalia: Clan Rivalry, Military Conflict, and the Financial and Human Cost of Piracy," Mondaq.com, 17 March 2009.
 18. Murphy, *Contemporary Piracy and Maritime Terrorism*. See also Robert Wright, "Somali Pirates Release Captured Ship," *Financial Times*, 19 January 2010, available at www.ft.com.
 19. House Committee on Transportation and Infrastructure, Subcommittee on Coast Guard and Maritime Transportation, *Summary of Subject Matter: International Piracy on the High Seas*, 111th Cong., 1st sess., 4 February 2009, available at transportation.house.gov/.
 20. "Who Do Pirates Call to Get Their Cash?" *BBC News*, 29 January 2009, news.bbc.co.uk/.
 21. Analysts attribute the drop in canal traffic and revenue to the economic crisis but warn that it has the potential to be affected by piracy. "Suez Canal Revenue down 26%," *AMEInfo.com*, 24 March 2009. See also "Suez Canal Revenue Drops," *Agence France-Presse*, 23 March 2009, available at www.straitstimes.com/.
 22. United Nations, "Countries: Somalia," *United Nations World Food Programme*, www.wfp.org/countries/somalia.
 23. Bruno Schiemsy, "Piracy's Rising Tide: Somali Piracy Develops and Diversifies," *Jane's Intelligence Review*, 16 January 2009, www.janes.com. See also Tim Sullivan, "A Wicked Brew: Piracy and Islamism in the Horn of

- Africa," *Small Wars Journal*, 29 November 2008, smallwarsjournal.com/. See also "The Lawless Horn," *Economist*, 20 November 2008.
24. J. Peter Pham, "'Strategic Interests': Pondering Somali Piracy," *World Defense Review*, 23 April 2009, worlddefensereview.com/.
 25. According to a UN report released in December 2008, revenues gained from the payment of ransoms are distributed as follows: 30 percent for sponsors, 20 percent for financiers, 30 percent for the maritime militia (pirates involved in the actual hijacking), 10 percent for the ground militia (controlling the territory where the pirates are based), and 10 percent for local community, including elders and local officials. In addition, the families of pirates killed during an operation are paid compensation. Dumisani Shadrack Kumalo, "Letter dated 10 December 2008 from the Chairman of the Security Council Committee Established Pursuant to Resolution 751 (1992) Concerning Somalia Addressed to the President of the Security Council," *United Nations Security Council*, 10 December 2008, available at www.securitycouncilreport.org/.
 26. Xan Rice and Abdiqani Hassan, "Life Is Sweet in the Piracy Capital of the World," *Guardian*, 19 November 2008, available at www.guardian.co.uk/.
 27. Tabassum Zakaria, "US Chase of Somali Pirate Assets Faces Rough Seas," Reuters, 21 April 2009, www.reuters.com/.
 28. It costs investors approximately six thousand dollars to send a team of pirates out searching for ships to hijack. This money goes toward the purchase of food, ammunition, and fuel and the rental of rocket-propelled-grenade launchers and speedboats. Rob Walker, "Inside Story of a Somali Pirate Attack," *BBC News*, 4 June 2009, news.bbc.co.uk/. See also Antonio Maria Costa, "Fighting Somali Piracy on Land, Not at Sea," Globeandmail.com, 22 April 2009.
 29. Compared to an estimated average annual income of \$650 per year, pirates may be able to earn ten thousand dollars per raid, creating a high potential for reward in a situation with very few risks or punishments. Roger Middleton, "Piracy a Symptom of a Bigger Problem," *BBC News*, 15 April 2009, news.bbc.co.uk/.
 30. "Contact Group on Piracy off the Coast of Somalia: Bureau of Political-Military Affairs Fact Sheet, January 14, 2009," *U.S. Department of State: Diplomacy in Action*, www.state.gov/. Working Group 1 is led by the United Kingdom, with the support of the International Maritime Organization, and is addressing activities related to military and operational coordination, information sharing, capacity building, and the establishment of a regional coordination center. Working Group 2 is led by Denmark, with the support of the United Nations Office of Drugs and Crime (UNODC), and is addressing the judicial aspects of piracy and assisting regional states in building the legal capacity to prosecute pirates. Working Group 4, led by Egypt, is seeking to improve diplomatic and public information efforts on all aspects of piracy.
 31. Oil Companies International Marine Forum [hereafter OCIMF], *Piracy: The East Africa/Somalia Situation: Practical Measures to Avoid, Deter, or Delay Piracy Attacks* (London: 2009), available at www.marad.dot.gov/.
 32. Bureau of Public Affairs, Office of the Spokesman, "The Bahamas, the Republic of Liberia, the Republic of Marshall Islands and the Republic of Panama Announce Their Commitment to Best Practices to Avoid, Deter or Delay Acts of Piracy," 29 May 2009, *U.S. Department of State: Diplomacy in Action*, www.state.gov/.
 33. Patrick Lennox, "Contemporary Piracy off the Coast of Africa," *Canadian Defence and Foreign Affairs Institute* (December 2008). See also OCIME, *Piracy*.
 34. Brian Murphy, "US Admiral: Pirates Facing Tougher Merchant Ships," Associated Press, 21 August 2009, available at news.yahoo.com/.
 35. H. Amtd. 269, available at www.govtrack.us/. See also Rebekah Gordon, "Amendment Mandates Military on US Cargo Ships Facing Piracy Risk," *Inside the Navy*, 29 June 2009.
 36. H.R. 2984, available at www.govtrack.us/. See also Susan Gvozdaz, "House Bill Would Give Immunity to Mariners," *Navy Times*, 23 June 2009.
 37. "Fighting Off the Somali Pirates," *BBC News*, 16 April 2009, news.bbc.co.uk/.

38. Mark Bernstein, "How Do We Make the Sea Lanes Safe?" *World Trade Magazine*, 11 June 2009, available at www.worldtrademag.com/.
39. Mark Mazzetti, "Standoff with Somali Pirates Shows US Power Has Limits," *New York Times*, 10 April 2009.
40. In the case of maritime piracy, not only suspected pirates but witnesses and victims of pirate attacks might be PUCs. See James Kraska and Brian Wilson, "Fighting Piracy," *Armed Forces Journal* (February 2009).
41. The UN Security Council resolutions (UNSCRs) passed in 2008 and 2009 that concern piracy are UNSCRs 1816 (June 2008), 1838 (October 2008), 1844 (November 2008), 1846 (December 2008, renewing UNSCR 1816), 1851 (December 2008), and 1897 (December 2009, renewing 1846 and 1851).
42. Sonia Phalnikar, "Governments Struggle to Combat Piracy with Legal Measures," *Deutsche Welle*, 26 August 2009, available at www.dw-world.de/.
43. Kraska and Wilson, "Fighting Piracy."
44. Costa, "Fighting Somali Piracy on Land, Not at Sea."
45. U.S. Coast Guard, *Statement of RADM William Baumgartner on International Piracy on the High Seas before the Subcommittee on Coast Guard & Maritime Transportation, Committee on Transportation & Infrastructure, U.S. House of Representatives, February 4, 2009*, available at www.marad.dot.gov/.
46. This policy is currently in force in the Caribbean to facilitate criminal and legal preparations for the trials of drug traffickers. Costa, "Fighting Somali Piracy on Land, Not at Sea."
47. At the May 2009 meeting of the Contact Group on Piracy off the Coast of Somalia, members endorsed the creation of an International Trust Fund to defray expenses of prosecuting suspected pirates. Bureau of Public Affairs, Office of the Spokesman, "Third Plenary Meeting of the Contact Group on Piracy off the Coast of Somalia," 29 May 2009, *U.S. Department of State: Diplomacy in Action*, www.state.gov/. See also Adam Gonn, "Kenya Mulls Hosting Piracy Tribunal," *Allheadlinenews.com*, 20 April 2009.
48. Alisha Ryu, "Paris-Based Group Says Accused Somali Pirates Denied Rights," *Voice of America*, 27 August 2009, www.voanews.com/.
49. James Butty, "Kenyan Foreign Minister Shed Light on US-Kenya Piracy Agreement," *Voice of America*, 28 January 2009, www.voanews.com/.
50. In addition to CTF 151, CMF has Combined Task Force 150 (CTF 150) and Combined Task Force 152 (CTF 152). CTF 150 operates in the same area of responsibility as CTF 151 and was given the counterpiracy mission, as a gap filler, until the latter was in place. CTF 150, however, had been established in 2001 to deter destabilizing activities such as drug, arms, and human smuggling and to counter acts of violent extremism. CTF 152 was established in 2004 to coordinate theater security cooperation activities with navies in the southern and central Persian Gulf. Richard Scott, "Policing the Maritime Beat: Combined Maritime Forces," *Jane's Defence Weekly*, 22 April 2009, www.janes.com.
51. Nathan Schaeffer, "Deterring Piracy at Sea," *All Hands*, no. 1103 (February 2009), pp. 18–23.
52. Nathan Schaeffer, "Combined Maritime Forces Works with International Navies to Counter Piracy," *Navy.mil*, 28 May 2009. See also Lisa M. Novak, "Naval Officials Discuss Anti-piracy Tactics," *Stars and Stripes*, 28 May 2009; and Scott, "Policing the Maritime Beat."
53. The EU's Operation ATALANTA, commenced in December 2008, is focused on deterring, preventing, and repressing acts of piracy and armed robbery off the coast of Somalia by escorting UN WFP vessels and protecting other vulnerable vessels transiting these waters. NATO's OCEAN SHIELD was begun in August 2009 to build the maritime capacities of regional states to combat piracy. OCEAN SHIELD will also continue the mission of Operation ALLIED PROTECTOR, launched in March 2009, to deter, disrupt, and defend against pirate activity off the coast of Somalia. A previous operation, ALLIED PROVIDER, lasted from October to December 2008 and escorted UN WFP vessels off the coast of Somalia.
54. U.S. Coast Guard, *Statement of RADM Brian M. Salerno, Assistant Commandant for Marine*

- Safety, Security, and Stewardship, on Piracy on the High Seas: Protecting Our Ships, Crews, and Passengers, before the Subcommittee on Surface Transportation and Merchant Marine Infrastructure, Safety, and Security, Committee on Commerce, U.S. Senate, May 5, 2009*, available at www.marad.dot.gov/.
55. "Navy, Coast Guard Join Forces to Combat Piracy," *CGNews*, 21 January 2009, available at coastguardnews.com/.
 56. James Warden, "The Law of the Seas: U.S. Troops Gather Evidence for Prosecution of Aden Piracy," *Stars and Stripes*, 30 March 2009. See also James P. Terry, "Eliminating High Seas Piracy: Legal and Policy Considerations," *Joint Force Quarterly*, no. 54 (3rd Quarter 2009); Monique K. Hilley, "NCIS Lends Expertise to Counterpiracy Operations," Navy.mil, 20 February 2009; and U.S. Coast Guard, *Statement of RADM William Baumgartner*.
 57. OCIME, *Piracy*.
 58. James Kraska, "Fresh Thinking for an Old Problem: Report of the Naval War College Workshop on Countering Maritime Piracy," *Naval War College Review* 62, no. 4 (Autumn 2009), pp. 141–54.
 59. IMB, *Piracy and Armed Robbery against Ships Report*.
 60. Lauren Caldwell, "Pirate Attacks off Africa Less Successful, Official Says," America.gov, 7 July 2009.
 61. Andrea Shalal-Esa, "Fight against Pirates Also Needed Ashore: US Navy," Reuters, 4 May 2009, available at www.reuters.com/.
 62. *Ibid.*
 63. Jacquelyn Porth, "East Africa: Piracy off the Horn of Africa Threatens Relief Efforts, Trade," allAfrica.com, 31 October 2008.
 64. Bernstein, "How Do We Make the Sea Lanes Safe?" See also Donna Miles, "Admiral Cites Partnership, Commitment as Keys to Piracy Crackdown," Navy.mil, 13 May 2009.
 65. Anne Gearan, "US Military Ponders Options to Combat Piracy," Associated Press, 18 April 2009, available at Google.com
 66. Bernstein, "How Do We Make the Sea Lanes Safe?"
 67. Zakaria, "US Chase of Somali Pirate Assets Faces Rough Seas."
 68. Gary J. Ohls, *Somalia . . . From the Sea*, Newport Paper 34 (Newport, R.I.: Naval War College Press, July 2009).
 69. Andrew Gray and Sue Pleming, "US Said Unlikely to Attack Somali Pirate Bases," Reuters, 20 April 2009, available at www.reuters.com/. See also Baladauf, "Piracy Raises Pressure for New International Tack on Somalia."
 70. "Somalia: Piracy and the Policy Vacuum," allAfrica.com, 22 November 2008.
 71. "Somali Anti-pirate Coastguard Bid," *BBC News*, 18 May 2009, news.bbc.co.uk/.
 72. Alisha Ryu, "Analyst Skeptical New Somali Navy Can Fight Piracy," *Voice of America*, 18 June 2009, www.voanews.com/.
 73. Lars Bangert Struwe, *For a Greater Horn of Africa Sea Patrol: A Strategic Analysis of the Somali Pirate Challenge* (Copenhagen: Danish Institute for Military Studies, March 2009), available at www.difms.dk/. See also James Jay Carafano, Richard Weitz, and Martin Edwin Andersen, *Maritime Security: Fighting Piracy in the Gulf of Aden and Beyond*, Heritage Foundation Special Report (Washington, D.C.: 24 June 2009), available at www.heritage.org/.
 74. J. Peter Pham, "'Strategic Interests': A Sustainable Response to the Scourge of Somali Piracy," *World Defense Review*, 26 February 2009, worlddefensereview.com/. See also Peter Chalk, "Maritime Violence, Crime and Insecurity: Nigeria—a Case Study," *Journal of International Peace Operations* 4, no. 3 (November–December 2008), pp. 17–19.
 75. J. Peter Pham, "'Strategic Interests': Despite Progress, Somali Pirate Threat Persists—and May Grow Larger," *World Defense Review*, 19 February 2009, worlddefensereview.com/.
 76. "Arab Mission to Combat Piracy off Somalia," Bernama.com, 30 June 2009. See also Paul Handley, "All-Arab Red Sea Anti-piracy Force Proposed in Riyadh," *Agence France-Presse*, 29 June 2009, available at www.google.com/.
 77. "Somali Anti-pirate Coastguard Bid." See also Helmoed-Römer Heitman, "Seychelles Contributes to Anti-piracy Efforts," *Jane's Defence Weekly*, 6 May 2009, www.janes.com.
 78. Originally an Italian colony until 1941, Eritrea became federated with and was annexed by Ethiopia, in 1950 and 1962, respectively. Eritrea fought for independence for over

thirty years, expelling Ethiopian forces from the majority of its territory by 1991. In a UN-sponsored referendum held in 1993, Eritrea voted for independence. The two countries returned to war between 1998 and 2000 as the result of a border conflict concerning the city of Badme. Eritrea has been accused of arming and supporting rebel movements throughout the Horn of Africa, particularly in Somalia and Ethiopia. Following the Ethiopian invasion of Somalia in 2006, Eritrea hosted exiled members of the ICU and its successor organization, the Alliance for the Re-liberation of Somalia (ARS)—like Sheikh Hassan Dahir Aweys, who had suspected terrorist connections. This worsened already strained relations between Eritrea and the United States. Peter Clotey, “Somalia Has Proof of Eritrea’s Meddling in Internal Affairs, Says Minister,” *Voice of America*, 5 May 2009, www.voanews.com/.

The Ogaden is an eastern region of Ethiopia that borders Djibouti, Somalia, and Kenya; it has a predominantly Muslim and ethnic Somali population. Between 1977 and 1978 Ethiopia and Somalia went to war as a result of General Mohamed Siad Barre’s desire to incorporate ethnic Somalis into a “Greater Somalia” encompassing Somalia, Djibouti, the North Eastern Province of Kenya, and the Ogaden. It is believed that the ICU’s stated aim to form a “Greater Somalia” during the short period in which it ruled Somalia was one of the reasons for the Ethiopian invasion of the country in late 2006. Ethiopia withdrew its troops in December 2008 but has acknowledged that it continues reconnaissance missions in Somalia and reserves the right to intervene again if its interests are directly threatened. A second Ethiopian invasion would likely exacerbate the security and humanitarian situation in Somalia and should thus be avoided if at all possible. “Ethiopia Admits Somalia Presence,” *BBC News*, 4 June 2009, news.bbc.co.uk/.

79. “A Government under the Cosh,” *Economist*, 25 June 2009.
80. “Somalia: Piracy Problem Inseparable from Overall Crisis, Ban Warns,” *allAfrica.com*, 17 December 2008.
81. African Union, *Communiqué of the 69th Meeting of the Peace and Security Council of the African Union* (Addis Ababa: African Union Peace and Security Council, 19 January 2007), available at www.iss.co.za/.
82. UN Security Council Resolution 1772, 20 August 2007, available at daccessdds.un.org/.
83. UN Security Council Resolution 1910, 28 January 2010, available at www.un.org/.
84. Paul D. Williams, “AMISOM’s Five Challenges,” *Africa Policy Forum*, 12 May 2009, forums.csis.org/.
85. *Ibid.*
86. From 31 May to 9 June 2008, the UN mediated a conference between the TFG and the ARS (the ICU’s successor organization) in Djibouti. The eleven-point Djibouti Agreement, signed 9 June 2008, called for a ninety-day cease-fire, set a withdrawal timetable for the Ethiopian troops within 120 days of the signing of the agreement, and requested that the UN authorize and deploy an international stabilization force from countries that were friends of Somalia, excluding neighboring states. However, ARS chairman and current Somali president Sheikh Sharif Ahmed had negotiated it without first securing the withdrawal of Ethiopian troops from Somalia; accordingly, the hard-line Islamist Sheikh Hassan Dahir Aweys and like-minded supporters rejected the agreement and continue to be part of the insurgency in Somalia today. The AU and all states in the region except for Eritrea have endorsed the agreement. See Alisha Ryu, “Somali Opposition Splits amid Conflict,” *Voice of America*, 29 May 2009, www.voanews.com/. Also see U.S. State Dept., “Background Briefing on US Assistance to the Somalia Transitional Federal Government: Background Briefing by a Senior Department Official, June 26, 2009,” *U.S. Department of State: Diplomacy in Action*, www.state.gov/.
87. Kraska “Fresh Thinking for an Old Problem.”
88. Alisha Ryu, “Somalia Stability Challenged by Complex and Shifting Politics,” *Voice of America*, 29 April 2009, www.voanews.com/.