

INTERNATIONAL ORDER AT SEA



Anti-Piracy and Humanitarian Operations

Jo Inge Bekkevold

Robert S. Ross (eds)

International Order at Sea



INTERNATIONAL ORDER AT SEA – WORKSHOP SERIES is a two-year project chaired by the Norwegian Institute for Defence Studies (IFS) in partnership with India's Institute for Defence Studies and Analyses (IDSA), China Foundation for International and Strategic Studies (CFISS), China Institute for Marine Affairs (CIMA) and the US-based Center for Naval Analyses (CNA).

Securing sea lanes of communication is vital to stability, economic growth and development throughout the world. The workshop series International Order at Sea examines seapower and the future of the global commons. It explores how international order at sea is established, maintained, changed and challenged, and it focuses on the interaction and cooperation among leading, emerging and smaller naval powers to maintain order at sea.

The idea for the workshops evolved from the international conference on Emerging Naval Powers, hosted by the Norwegian Institute for Defence Studies in 2010. Conference papers are scheduled for publication by Routledge in 2012; the volume, which is edited by Robert S. Ross, Peter Dutton and Øystein Tunsjø, will be called *Seapower in the 21st Century*.

The International Order at Sea project consists of four workshops – one in 2011, two in 2012, and one in 2013. The workshops are conceived as one-day events with participation of a limited number of experts and invited participants. Papers presented at each of the four workshops will analyse matters of contemporary relevance to the subject of international order at sea, furthering scholarship work, stimulating academic debate and aiding policy making.

WORKSHOP CALENDAR

- Workshop 1: Oslo, Autumn 2011: Anti-Piracy and Humanitarian Operations
- Workshop 2: New Delhi, Spring 2012: Maritime Security
- Workshop 3: Beijing, Autumn 2012: Global Commons and Order at Sea
- Workshop 4: Washington D.C., Spring 2013: Traditional versus Non-Traditional Maritime Security

Project coordinators are Dr Robert S. Ross, Professor at Boston College and Adjunct Professor at the Norwegian Defence University College, and Jo Inge Bekkevold, Co-ordinator of the Asia Programme at the Norwegian Institute for Defence Studies. We are grateful for Dr Øystein Tunsjø's pivotal role in initiating and developing the project.

We are honoured that Professor Geoffrey Till, Director of the Corbett Centre for Maritime Policy Studies at the Defence Studies Department of King's College

London, a foremost international scholar on maritime strategy, has agreed to act as Academic Advisor to the workshop series.

The structure of the project is based on the joint efforts of core groups based in Norway, India, China and the United States. Core group leaders work in conjunction to select workshop participants, including writers of papers. Each of the four core groups hosts a workshop.

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Anti-Piracy and Humanitarian Operations

International Order at Sea:
Workshop 1

Jo Inge Bekkevold and Robert S. Ross (eds)

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Executive Summary

Jo Inge Bekkevold and Robert S. Ross

The Norwegian Institute for Defence Studies (IFS) hosted the first of a series of four workshops under the title International Order at Sea. This workshop was held in Oslo, on 26 August 2011. Its subject was Anti-Piracy and Humanitarian Operations. Given recent maritime cooperation in humanitarian assistance and disaster relief (HADR) operations in both Japan and Libya, it was a timely and important workshop.

Bernard Cole, Professor at the US National War College, presented a paper on maritime support for Humanitarian Aid and Disaster Relief Ashore. Dr Cole analysed several recent US HADR operations in the Asia-Pacific region. Sarabjeet Singh Parmar, Research Fellow at the Institute for Defence Studies and Analyses (IDSA), India, discussed the importance of HADR operations in India's National Strategy. A team of Norwegian scholars and naval officers assessed Norway's contribution to multilateral anti-piracy missions in the Indian Ocean and Somalia. These three papers were followed by valuable discussions among workshop participants.

We have also included in this report a paper by Øystein Tunsjø, Associate Professor at the Norwegian Institute for Defence Studies. Dr Tunsjø discussed the impact of recent and future maritime developments in Asia on Norwegian security.

Preceding the Oslo workshop, the Royal Norwegian Naval Academy in Bergen, in cooperation with the Oslo workshop on International Order at Sea, hosted a one-day international Seapower Symposium on Asia. Geoffrey Till, Bernard D. Cole, Vijay Sakhujia, Yoji Koda and Robert S. Ross presented papers at the Bergen symposium. These papers are available at the website of the Norwegian Institute for Defence Studies and the websites of the other core group members of the International Order at Sea workshop series.

SUMMARY OF THE OSLO WORKSHOP'S KEY POINTS AND CONSIDERATIONS FOR FUTURE RESEARCH

The balance between maritime and peacetime platforms: Navies consist primarily of warships; the core objectives and capabilities of modern navies are not designed for counter-piracy and HADR, but war-fighting operations. It can be difficult for states to strike the right balance between funding for war-time platforms and peace-time platforms, between costly high-end military ships that may be used in low-intensity operations, such as anti-piracy operations, and low-end ships expressly designed for constabulary duties.

The overriding problem for most navies is that they do not plan for peacekeeping, humanitarian relief and constabulary operations. Since the early 1990s, several parliamentary white papers and governmental security reviews have routinely omitted consideration of such missions. Nonetheless, peacekeeping, humanitarian relief and constabulary operations have become the dominant missions of navies throughout this period.

Have HADR operations become so important that we need to rethink the traditional role of the navy? Will excessive focus on HADR operations compromise war preparedness? If these missions detract from the navy's traditional missions, governments need to think very carefully before budgeting for HADR operations. Given that these missions will almost certainly continue, if not necessarily with greater frequency, than we must rethink the definition of the "traditional" naval mission – particularly when they involve small states with limited naval resources and an abundance of tasks.

Should navies construct ships designed for constabulary duties, and should coastguards be in charge of financing them? Coastguards can play a crucial role in anti-piracy and HADR operations. Coastguard HADR missions are relatively cost-effective, and it might be less politically sensitive for different national coastguards to work together than for navies to do so. However, as was pointed out by several workshop participants, giving the coastguards a wider mandate in international operations may require governments to amend the legal mandate of coastguards.

The contribution of smaller navies in large international HADR operations: Smaller navies face challenges of a specific nature when they participate in large international HADR operations, including counter-piracy operations. Naval personnel often lack the training and the navies the finances to make a significant long-term contribution. As workshop participants also observed, even Norway, which is a historical maritime state, finds the costs of HADR to be excessive at times. But the structure of the Norwegian navy does not really allow for efficient HADR operations.

That said, smaller navies learn from each other by participating in anti-piracy missions and their special "small power" strategic characteristics mean they can

play an important role in ameliorating the complex politics of international maritime cooperation.

SPECIFIC POINTS RELATED TO ANTI-PIRACY

The workshop addressed a wide range of issues related to anti-piracy,¹ from the need to understand how the “pirate enterprise” operates to the larger geopolitical implications of piracy.

According to statistics presented at the workshop piracy and high jacking do not appear to have a serious impact on international trade flows, but they are nonetheless disruptive forces and have serious implications for some shipowners. If piracy proliferates, it could affect safe transit through the Suez Canal and reduce the number of ships using the canal. It would adversely affect Egyptian tax revenues and undermine socio-economic stability. Furthermore, should Yemen become a new source of entry and exit points for piracy, there would be serious consequences for the security of shipping lanes and international trade flows.

“The Pirate Enterprise”: All the participants agreed about the importance of “following the money”, i.e. asking who profits from piracy, in order to better understand the economics of piracy. This requires better intelligence. In addition, states must also pay greater attention to the safe havens used by pirates to hold hijacked ships and as entry and exit points to and from the high seas.

The privatisation of security: Maritime security is traditionally the responsibility of states, but the demand for fast and flexible responses to piracy has created opportunities for private security guards to operate on board ships passing through insecure waters. Both governments and shipowners are concerned about the heightened risk of conflict arising from manning merchant ships with armed personnel provided by civilian security companies. These concerns are part of a broader debate regarding the privatisation of security.

The legal challenges to fighting piracy: Pirates can be prosecuted by the flag state of the attacked ship or the pirate’s host country. It may also be possible to prosecute pirates in the country of the naval vessel that apprehended the pirates. But in order to do this, many countries will have to amend their laws. Thus far they have resisted making the required changes. EU NAVFOR has bypassed the problem by signing an extradition agreement with Kenya and the Seychelles. Several EU countries and Norway refrain from extraditing prisoners to host countries where the death penalty is practised.

 1 The paper presented at the workshop and the ensuing discussion defined “anti-piracy” as the sum of economic, political, diplomatic and military measures taken to tackle the problem of piracy, while “counter-piracy” was understood more narrowly as the tactical use of force to deter, disrupt or counter robbery at sea.

SPECIFIC POINTS RELATED TO HUMANITARIAN ASSISTANCE AND DISASTER RELIEF (HADR) OPERATIONS

The issue of sovereignty and the responsibility to protect (R2P): HADR involves sovereignty questions that can be sensitive and difficult to negotiate. Diplomacy with the host country is therefore of utmost importance. State capacity, nationalism and national pride, degree of political stability, and national priorities that outweigh international cooperation, including internal security interests, may all influence and sometimes determine the results of HADR operations.

R2P is mandated when the host country refuses assistance. R2P is still very much a conceptual notion in many countries. It is also controversial in much of the world. States must avoid associating humanitarian operations, including disaster relief, humanitarian assistance and R2P missions, with regime change.

Track 1, track 1 ½ and track 2 initiatives can all contribute to overcoming challenges related to the issue of sovereignty and R2P.

Civil – military relations and the role of NGOs: Due to state sensitivity to political intervention in domestic politics, domestic security interests, international security competition, domestic and international reputation, and the risk of extended outside involvement in domestic affairs, it is important that states conducting HADR operations establish good relations with civil governments, military and non-governmental organisations (NGO) in host nations. In HADR operations, navies must carry out effective military operations and project an image of benign humanitarianism. It is difficult to achieve both objectives simultaneously. In these circumstances, NGOs can be a useful instrument of state policy. But NGOs are likely to be wary of dealing with foreign (or any) military organisations, however well intended. This is also true of international NGOs.

The issue of effective command of HADR operations: Effective command and control must be established among the militaries of the various foreign countries engaged in assisting the disaster-struck host nation. If the United States is unable or unwilling to lead, which country will lead large-scale HADR operations? Some host countries may have reservations not only towards US command of HADR operations, but also towards HADR command by Asian nations as China, India and Japan.

China, India and Japan can develop an advance planning contingency and common framework to facilitate cooperation between their navies on regional HADR missions. This may be preferable to relying on US leadership of Asian HADR operations.

States can also make better use of the United Nations in managing the sensitive politics of humanitarian operations. United Nations participation in command of humanitarian maritime operations could facilitate HADR operations in general and R2P missions in particular.

Where Angels Fear to Tread

NORWAY'S CONTRIBUTION TO ANTI-PIRACY MISSIONS IN THE INDIAN OCEAN AND SOMALIA

Tom Kristiansen, Jan Tore Nilsen, Henning Smidt and Ola Bø Hansen

This article sets out to identify and discuss some of the prevailing problems facing the Norwegian government and the shipping industry in fighting piracy off Somalia (without, however, attempting to give exhaustive answers). We describe first the situation in the area, and then the political, legal and operational measures taken to bring about a solution.¹ This account prompts several intriguing questions. What are the most challenging issues facing Norway's government and shipping industry when it comes to dealing with piracy, and what lessons can be learned after a few years of rather indifferent pirate fighting? Or should we perhaps instead apply the blander term, "lessons identified", since there is no apparent consistency in the government's approach?

Now the essence of the predicament of the Norwegian authorities is, we believe, more or less similar to that of other involved nations, above all, EU member countries. True, Norway is a small country, but due to the size, versatility, competi-

1 This is not a research paper but an article based on our introductory notes for a panel discussion on international order at sea. The occasion was a workshop held in Oslo at the Norwegian Institute for Defence Studies, 26 August 2011. Independent scholars, officers and shipping industry representatives from Britain, India, Japan, Norway and the US were present. The purpose of our remarks was to identify and discuss some of the knotty aspects of international pirate fighting and how to facilitate efficient cooperation in this highly complex enterprise. Our views (which are our own, not those of the institutions to which we are attached) were debated with vigour and commented, and we would like to thank all participants for their constructive interventions.

tiveness and worldwide distribution of its merchant and offshore fleet and shipping sector, Norway is also something of an unacknowledged great power in this domain. In fact, while Norway is the sixth biggest shipping nation² in the world, it has only been able or willing to deploy a single frigate for six months and a maritime patrol aircraft for three in naval counter-piracy operations since 2009. In addition to sea-going personnel, Norwegian officers have served in several capacities in NATO and EU.³ Finally, the international shipping industry would naturally expect Norway to make a palpable, substantive contribution in that its own economic interests and reputation are at stake.

Let us also by way of introduction mention that what the militaries refer to “anti-piracy” is the sum of economic, political, diplomatic and military measures taken to tackle the problem, while “counter-piracy” is restricted to the tactical use of force to deter, disrupt or counter robbery at sea. It is hardly to anticipate our conclusion to say that the government is preoccupied with “anti-piracy”, something it repeatedly communicates to the public. The industry is, unsurprisingly, totally committed to bringing this disruptive and costly criminality to a halt. Neither is it to anticipate our conclusion to state that there is no general agreement on these issues. Until recently the industry has time and again levelled harsh criticism at the government for not having faced up to the problem given that the measures taken so far have been somewhat erratic and productive of only meagre results.

THE PROBLEM

Now, what is piracy and what characterises the situation off Somalia? First of all, although criminality at sea has been going on for centuries, it was very largely contained until the early nineteenth century, – with the possible exception of the corsairs operating off the Barbary Coast to 1830 (when Algiers was conquered by the French). The term “piracy” has traditionally referred to robbery in international waters, while acts within territorial waters pass as “sea robbery”, according to UNCLOS.⁴ As Geoffrey Till points out, notwithstanding the consequences for those involved and the disruption caused by criminality at sea, piracy has normally been regarded “more as a nuisance than a systemic threat to world trade”. Piracy, Till

 2 Number six measured by gross register tonnage, number five measured by number of vessels, number four measured in monetary value.

3 Naval Cooperation and Guidance personnel (NCAGS) at the Maritime Security Centre Horn of Africa (MSCHOA), NCAGS and intelligence officers on the EU NAVFOR command vessel, the Swedish corvette Carlskrona, and NATO Shipping Centre in Northwood to support the Operation Ocean Shield. This liaison is regarded as vitally important by the industry and the navy.

4 For definitions and procedures, see UNCLOS, articles 100–108.

adds, “reflects and increases local instabilities”.⁵ He is right in pointing out the distinction between piracy’s direct and indirect consequences. But the definition raises certain problems in the case of Somalia, since the country is neither a functioning state nor a political entity, and has not been so for a couple of decades. To a certain extent, prosecution is hampered by lack of legal clarity – which of course the pirates use to their advantage.⁶

World trade and crime statistics for the Indian Ocean since 2007 provide ample evidence for piracy’s ascendance on the international agenda. The nature and character of Somali piracy appear to be different from run-of-the-mill piracy, which traditionally is all about valuables and money, but on a relatively petty scale. Off Somalia, big ships, high ransoms, a variety of cargoes and brutal methods are involved, and in a region ridden by widespread unrest and frequent humanitarian disasters. Somali-inspired piracy may also be spreading to other regions, cf. reports in 2011 of an increase in pirate attacks off the west African countries of Nigeria and Benin.⁷ Twenty per cent of global trade passes through the Gulf of Aden every year, according to some estimates. Approximately twenty thousand merchant vessels transit these waters annually. Around a thousand – or 5 per cent – of them are owned or controlled by Norwegian shipowners.

Pirates have been active off Somalia for more than a decade as a consequence of the meltdown of central government and civil war in the Horn of Africa. Incidents of piracy have been growing steadily in recent years, though 2008 represented a turning point. First, there had been a 75 per cent increase in number of attacks since the year before; second, the pirates had begun to take hostages and claim ransoms rather than cargoes; third, “high side” vessels such as tankers and Ro-Ros (previously regarded as relatively safe) were attacked; and fourth, thanks to far better equipment and vessels, the pirates have been able to mount attacks up to a thousand nautical miles off the coast. In 2008, pirates captured some 48 vessels; the number for 2009 was 52. In 2010 there was a further rise to 61. By March 2011, as many as 31 vessels and some 800 crew had been involved.⁸ At the moment (August 2011), 19 vessels, and 22 crews comprising 411 people are in confirmed captivity.⁹ Notwithstanding all this, piracy remains a seasonal phenomenon.

5 Geoffrey Till, *Seapower. A Guide for the Twenty-First Century. Second Edition* (London: Routledge, 2009), p. 291, and Martin Murphy, *Small boats, weak states and dirty money* (New York: Columbia University Press, 2009).

6 See <http://www.wvec.com/news/military/Somali-pirates-appealing-US-conviction-130181933.html> on the first US court case against pirates since 1819.

7 *Guardian*, 12 August 2011, David Smith, “Piracy off west Africa increases sharply”.

8 See e.g. the article by the Norwegian Shipowners’ Association, 24 February 2011, published online, and the CEO’s article in the Norwegian financial daily *Dagens Næringsliv*, 19 April 2011.

9 Risk Intelligence website, 2 August 2011, table “MaRisk – Status of confirmed hijackings in the Horn of Africa area.”

EXTENT OF PIRATE ATTACKS IN THE GULF OF ADEN

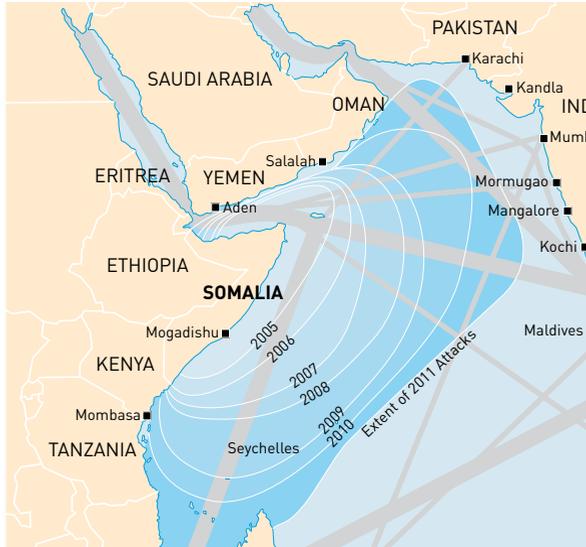


FIGURE 1 The developing range of pirate attacks per year.

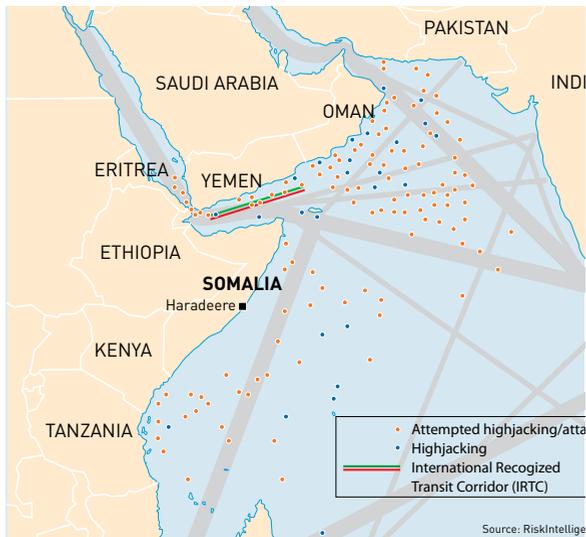


FIGURE 2 The density of pirate attacks.

The pirates constitute a variety of threats to sailors, ships, yachtsmen and cargoes. The severity of the threat and the lack of other workable solutions have even induced some governments to pay unprecedented ransoms, an option they would have totally dismissed before. Although piracy is not yet a major disruptive force, it is easy to imagine that it could interfere with trade flows criss-crossing the Indian Ocean, on which Asian and European economies depend so heavily. Energy security is also affected since around six million barrels of oil transit these waters every day, though very little of this is destined for the US market. The Saudi *Sirius Star* was the first supertanker to be highjacked. That was in November 2008. Since then, oil and chemical tankers have been attacked by pirates wielding automatic weapons and rocket-propelled grenades. There is also a gloomy environmental aspect to Somali piracy. In October 2011, fleeing pirates reportedly even set fire to a captured ship.¹⁰ Then there is the imminent risk of contacts developing between pirates and terrorist groups, militant Islamists and warlords. For instance, it is known that the Islamist rebel movement al-Shabaab in Somalia has connections with al-Qaeda in the Arabian Peninsula, based in Yemen.¹¹

Piracy could easily become an integrated part of the Somali economy if it were allowed to prosper. There is also the corruption piracy promotes. It has been known for some time that pirates have paid huge sums of money to Puntland officials to ward off official interference in criminal activities. A direct comparison with opium cultivation trade in Afghanistan is still something of a stretch, but deserves nonetheless to be considered very carefully as a possible development. Above all, however, piracy harms the Somali population itself, making recovery and normalisation even more unlikely. It also makes UN relief work extremely difficult, thereby adding to the suffering of the population.

Military intervention on land in the Horn of Africa is apparently neither on the agenda of the EU, the US or any other country. This suggests that piracy and highjacking are still not regarded as sufficiently disruptive to world trade; more of a nuisance. This approach, however, is deeply worrying, and affects a number of trade-dependent countries like China, India, Japan and Russia as much as the US and European countries. Pirates are operating in larger units, are better organised and trained, and more lethally equipped. They are clearly increasingly violent and in a position to demand bigger ransoms. These developments are aptly summarised by Rose George:

10 *MarineLog*, 23 October 2011, "Italian navy rescues crew after fleeing pirates set ship on fire".

11 *Telegraph*, 23 October 2011, "Somali terror suspect captured in US linked to Anwar al-Awlaki".

Modern day Indian Ocean piracy used to be thought of as a bloodless enterprise. The business model didn't require violence: you take a ship and crew; you negotiate with the owner or insurer; the insurer pays a ransom; the ship is released; insurers increase premiums. Everybody is happy, except the crew. But that has changed.¹²

The whole criminal organisation, it is suspected, is expanding and increasing its capacity to execute increasingly advanced operations; it thus poses a steadily increasing threat to international shipping. According to estimates, the number of active pirates rose from around 200 in 2007 to 2000 in 2010. Piracy presents itself as a lucrative enterprise in failed Somalia. The perpetrators can actually look back on a period of relative success in terms of "returns on investment", which, of course, is of great concern both to the shipping industry and governments.

Piracy emanates from the collapse of government in the east African state of Somalia. It has no functioning central government able to control an army; it has no legal system or police force able to maintain law and order. Some provinces are haunted by civil war and tribal disputes. The Islamist uprising laid until lately siege to the capital of Mogadishu. Somalis flee the country in their hundreds of thousands. To cite Madeleine Bunting writing in the British broadsheet *The Guardian*, what has caused the humanitarian disaster was not necessarily the drought but the human aggravation of it by conflict.¹³ The national economy has gone through a total meltdown; the only prospering sectors are weapons smuggling, drug running and piracy. In a recent interview-based book by Jay Bahadur, the pirates in the vast province of Puntland – a third of the country and centre of the activity – self-servingly claim to be ex-fishermen who were forced into criminality by the aggressive international trawler fleet.¹⁴ This is hardly the most salient explanation though the ocean fisheries off Somalia have indeed at some point caused problems for local fishermen. Recent research dismisses it as a viable explanation, apart perhaps from the earliest period.¹⁵ Bahadur, furthermore, tried to calculate the running costs of high-seas robbery (such as fuel, salaries, weapons and boats) against the returns. Unsurprisingly, the investment, he finds, provides a handsome surplus, which, we might add, is hardly the case with coastal fisheries. The author finds, moreover, little or no connection between the pirates and Islamists. The pirates tend to prefer attacking unarmed ves-

 12 *Guardian*, 30 October 2011, "Piracy is no longer bloodless".

13 Madeleine Bunting, "Somalia was a sideshow in the war on terror – and is paying a colossal price," *Guardian*, 12 September 2011.

14 Jay Bahadur: *Deadly Waters: Inside the Hidden World of Somalia's Pirates* (London: Profile, 2011).

15 Stig Jarle Hansen (2009), *Piracy in the Greater Gulf of Aden: Myths, Misconception and Remedies* (Oslo: Norwegian Institute for Urban and Regional Research, 2009).

sels. The leading pirate expert Martin Murphy, on the other hand, finds evidence of economic ties between the pirates and al-Shabaab. The latter, however, are basically trying to get their hands on a share of the ransom; “in terms of motivation” though, according to Murphy, “they remain as far apart as ever”.¹⁶

After the dreadful 1993 Battle of Mogadishu, during which US and UN forces came up against Somali militia under General Mohamed Farrah Aidid, Somalia has barely figured on the international radar. Between the US withdrawal and the emergence of piracy, the country was hardly monitored at all. Much has been done lately to improve regional surveillance. Nonetheless, the intelligence on which effective counter-piracy operations depend, is still somewhat blurred and incomplete compared to that obtained in other international hot spots. This has impeded anti-piracy operations because it is difficult to distinguish between criminals, local seafarers, smugglers, human traffickers and fishermen. For a variety of practical, cultural and political reasons, it would be extremely difficult to step up intelligence gathering in a country like Somalia, and would take time. Having said that, improvements in this respect have been given priority by the EU and NATO forces in the area. NATO recently embarked on a new “see and avoid”-approach to counter-piracy which, on the one hand, aims at strengthening surveillance and intelligence gathering and, on the other, at enabling so-called focused operations near shore, that is, attacking the pirates as they put to sea.

The international community is currently attempting to address the almost insurmountable and vastly complex problems of the region. Counter-piracy, however, dominates US efforts. In addition to piracy, there is terrorism, organised crime, refugees and famine, just to mention a few. These phenomena are moreover interconnected and it is very unlikely they can be solved one by one, perhaps with the exception of piracy, which can be dealt with quite successfully by way of passive and active measures on board merchant ships. The June 2003 introduction of version 3 of the Best Management Practice (BMP) is expected, for example, to put the industry on the road to success. Experience so far indicates that the BMP – now in version 4 – is probably as useful as naval forces in countering piracy. The UN passed Security Council resolutions nos 1816, 1846 and 1851 after the dramatic increase in attacks in 2007/2008. These resolutions, which have been reiterated and elaborated every year, condemn piracy, set out the general mandate for the naval forces and urge the affected countries to take necessary measures to counter piracy and secure the vessels operated by the World Food Programme (WFP). Most importantly, an agreement with the Transitional Federal Government (TFG) in Somalia facilitated counter-piracy operations in Somali territorial waters.

16 Martin Murphy's blog, <http://www.murphyonpiracy.com/> on the unlikelihood of a pirate-terrorist nexus.

All the governments engaged in anti-piracy are clearly trapped between the devil and the deep blue sea when it comes to balancing long-term efforts with the pressing need to remedy the situation off Somalia. The former US defence secretary, Robert Gates, commented on the question of bringing about control in Africa earlier this year and his much-quoted words did not at all reflect any pious wish to seek a solution on land. He paraphrased General Douglas MacArthur's address to cadets at the US Military Academy: "any future defense secretary who advises the president to again send a big American land army into Asia or into the Middle East or Africa should 'have his head examined'". Gates is probably not alone in his judgment, and there is obviously a gulf between the rhetoric and posturing in many western countries and the realities of the anti-piracy campaign.

There is, moreover, a snag to the trade and piracy statistics. Piracy does not severely affect the trade flow of the by far biggest economy and mightiest seapower in the world, the US. To clarify our argument, let us quote the forthright Stephen M. Carmel, Senior Vice President of Maersk Line (the world's largest container company), who on 3 August 2011 told a US audience, "Today piracy has zero direct effect on our economy and I have yet to hear anyone articulate anything approaching a valid national interest that justifies the costs, and risks to US lives, of that [counter-piracy] mission ..."¹⁷ Here is another one: "piracy is a very rare event considering the volume of traffic that moves through the area", and "from a system perspective, piracy is not an issue." His conclusion as regards the impact of piracy is in line with Geoffrey Till's observation quoted above: "Piracy is a pain, but a manageable one that must be kept in context."

The most important sea lanes for trade between Asia and the US cross the Pacific, while around 80 per cent of the traffic through the Gulf of Aden is bound for or coming from Europe. As mentioned, piracy is not a big problem for the US. On the other hand, however, the US has other interests as well. First to counter terrorism and facilitate delivery of humanitarian aid in the wake of the civil war and famine in the region. The essential challenge is therefore that piracy in the Indian Ocean is regarded very differently by the affected countries, since it affects them in different ways. This is reflected in the lack of coordination and balance in efforts on land and at sea.

There are some fundamental questions that need further examination, but that is outside the scope of this brief article. First, are the pirates off Somalia capable of seriously disrupting international trade flows or is piracy by and large a costly

¹⁷ Stephen M. Carmel, lecture given at the Commander Second Fleet Intelligence Symposium, 3 August 2011. Source: quoted on the Intelligence Dissemination blog.

and painful nuisance for those affected? Second, are the countries taking part in anti- and counter-piracy missions so diverse in matters of operational guidelines, legal traditions and exposure to the problem that is unlikely that a unity of command can be established? (It is even difficult to set common goals and establish efficient modes of cooperation.) Third, the complexity of the wider situation in the Horn of Africa constitutes a major stumbling block. Is it possible to pursue a set of goals such as humanitarian relief, counter-piracy, and development aid at the same time with scarce resources and without strategic coordination? Fourth, should we be convinced that piracy as a “business model” necessarily will be affected by a positive development on land if it is allowed time to establish itself firmly?

NAVAL FORCES OFF THE SOMALI COAST

We shall not detail the naval forces deployed in the Indian Ocean, but restrict ourselves to a brief overview. There are three multinational naval forces, EU, NATO and Combined Maritime Forces (CMF). A number of countries occasionally have warships there under national command, among them China, Egypt, India, Japan, Malaysia, Pakistan, Russia, Saudi Arabia, South Korea, Thailand and Turkey. Japan and South Korea have also taken part in international counter-piracy operations. What characterises the situation is that the naval forces have different mandates and different rules of engagement. This again reflects policy differences of the participating countries. Even though there is no “unity of command”, there is at least a “unity of effort”, facilitated by the Shared Awareness and Deconflicting Meetings (SHADE). These meetings started in 2008 in order to coordinate the efforts of all nations taking part in counter-piracy operations in the Gulf of Aden and the western Indian Ocean. Meetings are held every six weeks in Bahrain and representatives from some 25 countries and organisations take part.¹⁸

Under its European Security and Defence Policy (ESDP) initiatives, the EU is conducting Operation Atalanta – with the maritime force EU NAVFOR. The operation was approved in 2008 as a first reaction to the evolving situation.¹⁹ A coordination cell was established in Brussels to support the surveillance and protection missions carried out by some of the member states (EU NAVCO). The aim was to synchronise the efforts of all the actors taking part in the counter-piracy operations. France became the leading nation by establishing a naval mission, and by July 2009

18 <http://oceansbeyondpiracy.org/matrix/activity/shared-awareness-and-deconfliction-shade>.

19 See e.g. Basil Germond and Michael E. Smith, “Re-thinking European Security Interests and the ESDP: Explaining the EU’s Anti-Piracy Operation”, *Contemporary Security Policy*, vol. 30, no. 3, December 2009, pp. 573–593.

France, Germany, Greece, Italy, Spain and Sweden had deployed vessels. Operation Atalanta is only a part of a wide-ranging EU strategy which also encompasses economic, legal, institutional and political measures. The mission is to deter, prevent and repress criminal acts at sea, also within Somali territorial waters in accordance with the UN Security Council resolutions and the agreement with the local authorities. The operation goes somewhat beyond the Petersberg tasks of the 1990s. The main task was to secure the World Food Programme's humanitarian operations in the Horn of Africa, but a naval presence would also have a deterring effect on the pirates. The situation off the coast of Somalia is clearly regarded as a threat to EU maritime security. In late 2008 only three warships were operating in the area. By May 2009, 25 were cruising the Gulf of Aden and the Somali Basin. However, to efficiently patrol over 25 million square meters of sea, many more vessels would be necessary.

The EU NAVFOR operations are conducted from facilities at the NATO maritime centre at Northwood. Collaboration with the shipping industry is taken care of by the Maritime Security Centre Horn of Africa (MSCHOA), which is collocated with the EU NAVFOR.

NATO mounted Operation Allied Provider (later Allied Protector) in October/December 2008 to safeguard the humanitarian aid programme at the Horn of Africa. Operations alternate between NATO Standing Maritime Groups 1 and 2, with three to eight ships participating more or less continuously. Operations are conducted by the Allied Maritime Command at Northwood, where the EU NAVFOR command is also located. The mandate for the latest NATO operation, Ocean Shield, is counter piracy. It started in August 2009 and will end in 2012.

The Combined Maritime Forces is a coalition under US leadership. It consists of three Combined Task forces (CTF 150, CTF 151 and CTF 152). CTF 150 and CTF 152 are part of Operation Enduring Freedom aimed at countering terrorism at sea, while CTF 151 is dedicated to countering piracy. The operational command of the CMF is under the Chief US Naval Forces Central Command and the US Fifth Fleet, while tactical command rotates among the participating forces. The aforementioned Shared Awareness and Deconfliction Group (SHADE) was established in 2008 to coordinate and de-conflict activities among the countries and coalitions involved in military counter-piracy operations in the Gulf of Aden and the western Indian Ocean.

Since their deployment, the various naval forces have instituted joint measures to secure traffic in the Gulf of Aden, the Somali Basin and Indian Ocean. One of them established the Maritime Security Patrol Area (MSPA, initiated by the US in 2008) in the Gulf of Aden in order to systematise the patrolling routes of the war ships and the International Recognised Transit Corridor (IRTC) for merchant vessels

from 2009. The individual nations also offer convoying. Some Norwegian shipowners apparently prefer to sail in the national convoys rather than the group transits organised by the EU and NATO, probably considering the former as more protective. The arrangement was meant for US ships alone, but recently vessels from other countries have been allowed in. In addition to naval vessels, MPAs patrol the area; an array of protective measures has been taken by the industry as well (BMPs). The latest development comprises the NATO Shipping Centre's publication of warnings and maps depicting the positions of assumed pirate mother vessels and pirate attack groups (PAGs). This is the core of the "see and avoid" tactic which enables civilian ships to choose alternative sailing routes. The combination of these measures has reduced much of the risk already. For obvious reasons, not least with a view to producing permanent results, there is a pressing need for coordination and cooperation among the different participants.

But the presence of naval forces in the Gulf of Aden and the Somali Basin has so far not deterred the pirates. What seems to have reduced the success rates of the pirates in the Gulf of Aden is rather the joint effort of the industry and the navies. While the naval protection of ships chartered by the UN has been an out-and-out success, that is not the case for other merchant vessels.²⁰ The industry is generally satisfied with the transit corridors (IRTC) and protection of convoys but not with the reluctance of the naval forces to intervene in ongoing incidents. Captains and shipowners would likely prefer naval vessels to keep their distance after a highjacking in order to cool the situation down, thereby protecting the crews. In the Somali Basin, naval counter-piracy measures have been far less successful.

THE POLITICAL PREDICAMENT OF THE NORWEGIAN AUTHORITIES

There are several predicaments facing the Norwegian government, but they are nonetheless relatively easy to understand. First of all, it is plainly difficult to strike a balance between long-term anti-piracy measures in the Horn of Africa and the need to do something immediately about the piracy problem off the coast. For obvious reasons, there is some understanding within the affected ministries of the urgent need to fight criminality at sea on a day-to-day basis, but on the whole the government is somewhat hesitant, evasive and uncommitted. So despite the government's assurances of its readiness to make a substantial contribution to the operations, it so

20 Klaus Olai Johansen, "Krigsskip mot pirater ved Afrikas horn. Er den sjømilitære tilstedeværelsen effektiv piratbekjempelse?", Master's thesis submitted to the Norwegian Staff College 2010, p. 69 ff.

far appears more like grandstanding. Indeed, not only is there a nagging suspicion in shipping circles that the government is not overly concerned about the issue, it is an inescapable political fact that piracy does not loom large on the national security agenda despite the shipping industry's intensive lobbying in favour of active participation. Piracy instead tends to come in as a 'vortex issue' from time to time, while, as industry leaders and the authorities frequently say, only patient, long-term measures will bring about lasting results.

In the eyes of the industry and employee organisations, the government's limited involvement in counter-piracy operations so far (the six-month deployment of the frigate in 2009 and of staff officers) does not altogether rise to the occasion. An MPA was deployed from the beginning of September until December 2012, while it is still to be decided whether to send the announced frigate for some months in 2012. It is a problem for the government that the shipping industry and the international community actually expect the government of a major seafaring nation to be far more active and visible, particularly as long as Norwegians not at all suffer from the degree of economic recession that haunts many western countries. What really is at stake politically for the government is its reputation, which the successful highjacking of a Norwegian ship could shatter in a matter of minutes. So far, the government appears to be uncertain about how seriously it wants to view piracy. On the other hand, the government has given quite generously to the establishment of a controlling regime and all sorts of aid to the region.

But there is also the problem of military overstretch. Like most western countries, Norway's international agenda is awash with pressing issues. For obvious reasons, most of its attention and resources have been diverted to Afghanistan, and, until recently, the air-force mission in Libya. What fundamentally characterises Norwegian foreign policy since the end of the nineteenth century is its energetic engagement in the development of international law, institutions and cooperation. This has been regarded by the political majority as a far more rewarding way for a small country to bring about civilised codes of conduct between nations, and far more important than the mustering of military resources. Moreover, both Norwegian political and economic life has indeed reaped the benefits of this avenue from a historical perspective. Nonetheless, there is a perennial problem: acute threats call for an altogether different type of intervention than negotiation teams and aid workers. This is exactly the challenge facing Norwegian authorities in the Indian Ocean. They excel in diplomacy, foreign aid programmes and the promotion of national interests in international organisations, but are unprepared for and reluctant to engage more actively in constabulary tasks such as counter-piracy.

Another major obstacle to greater Norwegian participation in counter-piracy operations is the economy. Even for wealthy Norway, the cost of such operations is

forbidding. The explanation is partly to do with the fleet structure of the navy. The only vessels available for deployment are the new frigates of the Fridtjof Nansen class, which are in the process of being commissioned and going through sea trials. The frigates are state-of-the-art anti-submarine warships, and the cost of personnel and operations is extremely high. For the government, it boils down to a cost-benefit calculation. However, the matter of cost appears different for the navy. It would benefit in a variety of ways from putting the frigates to sea in international operations. For the government, it is tempting to pursue other anti-piracy measures than costly naval operations which would likely divert resources from the intervention in Afghanistan that is given the highest priority by the centre-left government. So far it looks as if the security measures taken by the industry and armed guards are beginning to produce viable results, so for the moment, the kettle is probably off the boil as far as the government is concerned, particularly since this unprecedented privatisation of security surprisingly did not provoke a fierce public debate.

In terms of politics, there is perennial uncertainty as to how seriously piracy should be regarded. Despite industry's concerns, the public is not particularly interested in piracy. Second, almost two decades of extensive international engagements have left the Norwegian armed forces overstretched, with not many capacities readily available. Third, since the navy has no purpose-built vessels for constabulary tasks, the new frigates are the only option, but the price is forbidding. To critics of the government, however, the cost of protecting Norwegian shipping interests is incomparable to the vast sums spent on the war in Afghanistan and Libya.

THE LEGAL CHALLENGES

The legal challenges facing the Norwegian government are largely the same as for other European countries. Piracy is defined as a "high seas" phenomenon and as a crime to achieve private ends, not a political undertaking like terrorism.²¹ Inspection procedures and treatment of pirates are laid down in UNCLOS. The UN Security Council resolutions mentioned above and the agreement with the Transitional Federal Government in Somalia allow foreign forces to intercept pirates in Somali territorial waters. But the situation is nonetheless fraught with serious legal problems. Pirates can be prosecuted by the flag state of the attacked ship, by their home country, or even by the country of the naval vessel that apprehended them. They can also be transferred to a third party for prosecution, but in order to do this the involved countries must amend their domestic laws by incorporating anti-piracy measures in

21 UNCLOS, articles 101-107.

compliance with the UNCLOS, something very few have done as yet. EU NAVFOR has bypassed the problems in part by signing extradition agreements with Kenya and the Seychelles. But the fact remains that the legal infrastructure of western countries has not been modified to meet the situation prevailing in and off Somalia. At the moment of writing, pirates are being tried in the US, Kenya, the Seychelles, Puntland, Somaliland, the Maldives, Yemen, the Netherlands, France, Spain and Germany.

Yemen, Puntland and Somaliland also prosecute pirates captured by other countries, though some western countries have been reluctant to go down that road due to lack of confidence in their respective legal and penal systems. And letting pirates be tried in a third country is something international jurists find highly controversial. Several EU countries and Norway refrain from extraditing prisoners to countries where the death penalty is practised, such as Yemen, Puntland and Somaliland.

Western countries prefer to expel captured pirates to countries in the region with which they have agreements (and that do not practice the death penalty). There are at least four reasons for this. First, pirates tend to regard prisons in the west almost as luxury hotels where accommodation and food are far better than they can expect at home. Most western countries give them a daily allowance and free health care. Second, since western law is not built to deal with the Somali brand of piracy, perpetrators are more likely to be acquitted in western courts given the rigorous standards of evidence production. It is feared, and with good reason, that pirates will invoke their statutory human rights and end up as asylum seekers and apply for family reunification. Third, those found guilty will most probably face short sentences and also apply for asylum status. Fourth, the cost of all this is, of course, high compared to the likely results. The situation is untenable, and many western law makers should therefore do more to face up to the complex issues at hand.

However, extraditing pirates to third countries is far from simple. Evidence in such cases needs to meet stringent criteria. And it is so difficult under UNCLOS rules to justify treating the criminal act as an act of piracy, that in some cases the pirates have been apprehended, interrogated, had their bounty confiscated and then released. The standard legal procedure in piracy cases is also in danger of becoming protracted and more complicated because of the stringent rules in western courts on witness interrogation and production of evidence. There have therefore been several incidents of apprehension and release in order to avoid time-consuming and costly legal proceedings. This, in turn, has outraged industry leaders and the public who tend to regard the authorities as existing in a state of suspended reality. The legal regime under which many countries operate is clearly insufficient to bring about viable results. Under the framework of the Djibouti Code of Conduct, steps have been taken to harmonise and adjust legislation in some of the countries in the region. Economic aid from western countries is funding the building of prisons in Puntland

and Somaliland, so that pirates can serve their sentences in Somalia. However, there has been little progress in establishing an international piracy tribunal.

PRIVATE ARMED GUARDS

Up to 2011 the Norwegian shipping industry put pressure on the government to allow armed security guards on board merchant vessels. Other countries have been less willing to use private security firms (e.g. France, the Netherlands and Italy), and the shipping companies would prefer military guards on board their merchant vessels. On the back of the International Maritime Organization meeting in May 2011 the Norwegian government finally gave in and made a decision in June. It still remains to be seen whether it opens a Pandora's box of legal problems but the shipping companies and employee organisations welcome it as a vital improvement and crucial addition to the passive security measures. Version 3 of the IMO-supported Best Management Practice manual did not unambiguously recommend the use of private armed guards on merchant vessels. The May meeting, however, did approve the Maritime Safety Committee's recommendation to introduce such a measure, which some companies had been practising for a while with considerable success.²² The Norwegian government acted swiftly and interpreted IMO's approval as a recommendation, and national legislation was amended to allow a trial period of one year.

The long-term solution to the piracy problem in Somalia is to be found ashore. However, until that is achieved it is imperative that the crews are protected. As long as passive measures do not suffice and naval resources are inadequate, the shipowners must be given the opportunity of using armed security guards.²³

These are the words of Sturla Henriksen, Director General of the Norwegian Shipowners' Association, on hearing that the Norwegian government had finally permitted the use of private armed security guards on board vessels transiting the Indian

22 <http://www.imo.org/MediaCentre/PressBriefings/Pages/29-msc-89-.aspx>. Briefing 29, May 26, 2011: "The meeting approved MSC Circulars on Interim Recommendations for flag States regarding the use of privately contracted armed security personnel on board ships in the High Risk Area (MSC.1/Circ.1406) and Interim Guidance to shipowners, ship operators, and shipmasters on the use of privately contracted armed security personnel (PCASP) on board ships in the High Risk Area (MSC.1/Circ.1405). These interim Circulars provide considerations on the use of privately contracted armed security personnel if and when a flag State determines that such a measure would be appropriate and lawful. They are not intended to endorse or institutionalize their use and do not represent any change of policy by the Organization in this regard."

23 Norwegian Shipowners' Association web page, Sturla Henriksen, communiqué issued 30 June 2011.

Ocean. The shipping industry firmly believed that it would help bring the situation under better control, and so far it seems to be proving both efficient and cost-effective. There has been some fear, for instance, that armed guards will result in two categories of ships those that can and those that cannot afford such a costly measure. Armed guards would not stop piracy *per se* but rather divert the attention of the criminals to less well-protected vessels.

Fearful that allowing civilian armed guards aboard merchant ships could be in breach of highly acclaimed political, legal and ethical principles, ones shared by an overwhelming majority of the public since the interwar years, the Norwegian government dragged its feet for months. By this point, however, Norway and certain other European countries were already trailing countries with fewer qualms about protecting crews, ships and cargoes from attacks by criminals. Handing over responsibility for what was generally regarded as an undisputed public duty to businesses in the private sector had never been considered since the Second World War. It was therefore quite surprising to see a centre-left government take the decision, and without provoking any public debate worth mentioning, except for the rather feeble protests of the police officers' union. And while the cabinet certainly debated the issue at length, it is nonetheless a convincing example of how a conflict shapes policy more than policy shapes the conflict. Clearly, necessity knows no law.

THE NAVAL AND OPERATIONAL CHALLENGES

Now, what can the Norwegian Armed Forces offer in the form of operational assets for use in the Indian Ocean? Unfortunately, not much, at least not at a reasonable price. The economic argument is rejected by the industry and not altogether accepted by the public. The short story is as follows. In 2009 the navy demonstrated its capacity to deploy a frigate equipped, manned and trained for job, and could operate successfully for half a year. And if the government decides to deploy a frigate in 2012, which it says is an option, the navy will be able to amount another mission without difficulty. True, the price tag is considerable.

Norway's armed forces underwent massive cuts and were restructured following the end of the Cold War. There were two driving force behind this process. There was an urgent need to reduce the cost of maintaining a vast mobilisation force for which there was little need in the security environment of the post-Cold War era, and, most importantly, the country needed an army that was better suited for international operations. Norway has taken part in a number of such since the Balkan wars of the 1990s. Work on transforming the army started in earnest in the wake of the 1999 Kosovo war and the 2002 NATO summit in Prague. Starting in the early 1990s, parliament has almost unanimously adopted a succession of reforms. By

2002, the navy could look back on a decade of successful efforts to reform the fleet and wider naval organisation.

Moreover, the Cold War navy that was built in the 1960s and 1970s was in urgent need of renewal and downscaling. The end of the Cold War brought about a considerable change both in the number of vessels and the assignments of the fleet. The anti-invasion tasks that loomed large until 1990 were by and large abandoned. The Oslo-class frigates from the 1960s were about to be decommissioned, and the relatively high number of small torpedo boats and coastal attack submarines was difficult to maintain as long as anti-invasion capacities no longer were given priority. The mighty coastal artillery was also discontinued and replaced with lightly armed, mobile marine units. In the late 1980s the fleet counted around ninety combat vessels, basically designed for anti-invasion tasks. Today, the fleet comprises five new frigates (the Fridtjof Nansen class), six new, small coastal corvettes (the Skjold class) and six submarines commissioned in the 1980s (the Ula class). In addition, six efficient, composite-hulled minesweepers/hunters were launched in the 1990s. None of the new frigates and corvettes are fully operational with a complete suite of weapons and helicopters, and there is a severe lack of personnel and support facilities even for this modest fleet.

This modernisation process has left the navy with very few suitable and readily available capabilities for international constabulary duties such as counter piracy. The need for such duties was not taken into consideration when the new force structure was configured. It compounds the problem that the frigates and corvettes are still undergoing sea trials and training. The ocean-going coastguard vessels (of which Norway has four) could possibly be assigned to counter-piracy and surveillance tasks in the Indian Ocean, though it is very unlikely since they patrol the Norwegian Sea and the Arctic, where in the view of the government (and the public in the far north) they perform functions of vital national importance.

All in all, if the order is given, the navy is capable, willing and competent. The overruling problem is that peacekeeping, humanitarian relief and constabulary operations in far-away waters have not been planned for. True, the new vessels are versatile and flexible, but they are extremely costly to engage given the magnitude of the piracy problem. The deployment of the frigate KNM *Fridtjof Nansen* was touted as a success in official propaganda and in the media. There is little doubt that it contributed positively to the EU counter-piracy operation. However, the shipping industry was far less pleased since the engagement rules made it difficult to take the frigate out of Operation Atalanta to give dedicated support to Norwegian merchant

vessels. Norwegian authorities apparently were more tenacious in this respect than other those of countries.²⁴

FROM THE INDUSTRY'S PERSPECTIVE

There is no doubt about the Norwegian shipping industry's and employees' view of piracy. It represents increased costs in any number of ways; it endangers the lives of the crews; and it interrupts day-to-day commercial operations. For obvious reasons, the industry and the employees are deeply worried. They have worked vigorously for several to make their views known, and have been quite successful in getting their message across.

The industry is definitely not on the horns of a dilemma. In their opinion safeguarding freedom of navigation is clearly a governmental responsibility. So is protection of Norwegian crews, ships and cargoes. Frustration with the lack of action has occasionally run high, and the industry has accused the government of ducking its responsibilities or at least soft-peddling. These misgivings are usually prompted by the lack of active naval counter-piracy measures. It is, for instance, somewhat embarrassing for the industry that far smaller shipping nations like neighbouring Finland, Denmark and Sweden have been more active.

So far the Norwegian-controlled merchant fleet has not been much affected by attacks or hostage-taking. But it goes without saying that the cost of insurance and passive security has been on the rise. The apparent lack of government initiative finally provoked the shipowners and employee organisations to write a letter to the prime minister in November 2010 in which they gave an account of the situation and called for steps to be taken.²⁵ But there was no immediate response.

The Director General of the Norwegian Shipowners' Association, Sturla Henriksen, has pursued the issue since then with particular vigour, putting forward the industry's views on several occasions. In January 2011, he maintained in a newspaper article that Norway's from counter-piracy operations was downright "unworthy and unacceptable" for a major shipping nation. On behalf of the shipowners he urged the government to press forward with the planned deployment of a frigate in 2012, announced but not definitively decided. Pirate attacks were becoming more frequent, more violent, more mobile and the tactics more elaborate. Piracy is getting out of control and the criminals are being given a free hand. It would

24 Johansen (2010), p. 69 ff.

25 Letter of 18 November 2010 to the prime minister signed by Sturla Henriksen, CEO Norwegian Shipowners' Association, Jaqueline Smith, Norwegian Seamen's Union, Hans Sande, Norwegian Maritime Officers Association and Bjørn Richard Gutterud, Association of Norwegian Maritime Engineer

probably only be a matter of time before Norwegian vessels came under attack. The industry has found it extremely difficult to understand why hostages from hijacked aircraft are treated with far more urgency than those at sea – of which there were some 700 at the time. He feared the deployment of a frigate off Somalia in 2009 was a one-off event since the government has hesitated to decide on a follow-up. And, moreover, the international community expected Norway as a major shipping nation to take part in counter-piracy operations. Non-participation, he maintained, undermined political efforts to bring about a solution to the pirate problem.²⁶ Despite Henriksen's pleadings, the government remained non-committal. In February, 2011, Henriksen resumed his campaign.²⁷ With reference to the rise in attacks he asked whether politicians were wait for an attack on a Norwegian ship before making a decision; he also pressed the case for allowing civilian armed guards aboard Norwegian merchant ships.

The shipowners clearly wanted to highlight in their submissions the economic losses and disruptive effects of piracy. Far less was said about the fate of sailors held captive and the constant strain caused by uncertainty. Generally speaking, hostages have not been treated particularly violently (which, of course, would undermine the prospect of cashing in ransoms). But captivity by pirates is nonetheless a harrowing experience. We would like to put forward two explanations for why economic loss and business disruption have been more used arguments than the fate of crews. First, the multinational composition of crews truly reflect the globalisation of the shipping industry. Crews are mostly made up of non-Norwegian nationals, which in turn does not provoke the same sentiments as if they were Norwegians. It has also been suggested that since commercial shipping takes place at a distance from the public compared to air and rail traffic it is less likely to cause an uproar. Second, the economic argument is easily grasped by the wider public in a seafaring country like Norway.

TO SUM UP

Clearly, there is little a small country like Norway can do on its own to protect its vast international shipping interests by naval means. In fact, protecting the merchant navy in far-away waters was actually dismissed as a naval task at the turn of the last century, and has not reappeared until recently. It was a controversial decision as far as the navy and shipping circles were concerned, but their grievances grew fainter

 26 Sturla Henriksen, "Skal piratene få herje?", *Dagens Næringsliv*, 20 January 2011.

27 Norwegian Shipowners' Association website, 20 February and 19 April 2011.

over time. However, it is impossible for the authorities not to deal with the harrying of merchant ships off Somalia, not least from a political standpoint. But they tend to look for solutions in international cooperation and international naval operations. This has been the official policy and there is little doubt that it will continue. But the lack of government willingness to pursue a more determined policy on naval operations has surprised and occasionally enraged the industry.

Pointing out that the solution to the piracy problem in the Horn of Africa is on land has become something of a mantra, repeated by politicians, diplomats, officers and even the industry. But there is something deceptive about these repetitious official statements which come across as platitudes. They basically act as a political comfort zone where undetermined and ineffective politicians can find sanctuary. Piracy, it seems, causes paralysis. We, however, have arrived at another conclusion. Piracy and attacks on international shipping can very well be addressed and countered at sea by a combination of naval force and BMP, and by continuously developing new modes of operation as lessons are learned. That, needless to say, does little to solve the problems on land. This is perhaps the most salient lesson to be learned and it is therefore somewhat surprising that the Norwegian government continues to maintain a low profile at sea.

We noted in the introduction to this article that there is a conspicuous lack of consistency and single mindedness in the government's handling of piracy. When it unveiled its 2012 defence budget, 5 October 2011, the government, notwithstanding previous announcements, had still not decided whether to deploy a frigate in 2012. Again, the government is quite good at balancing its options, just enough to be able to bear the brunt of the criticism from the shipping industry and the public. There will now be an MPA for three months, though it is doubtful whether another frigate will be deployed for another six months. This is indeed a feeble response by a shipping nation that has lived on and by sea for ages. Since the late nineteenth century Norway has transported around 10 per cent of world trade on keel, and it would therefore be troubling for the industry if the government were to be regarded as a free rider in the counter piracy campaign.

Humanitarian Assistance and Disaster Relief (HADR) in India's National Strategy

Sarabjeet Singh Parmar¹

Humanitarian Assistance and Disaster Relief (HADR) operations have been attracting the attention of the global community in recent years. The building of capabilities, interoperability and conceptual framework for participation in these operations is gaining increasing urgency for policy makers in India. Indian forces are well versed in disaster relief operations both at home and abroad; and, military forces have been at the core of domestic disaster relief operations. India's sub-continental size, its geographical location and its vulnerability to disasters have ensured a continued state of readiness in these forces to intervene at short notice. Over the six decades since its independence, India has experienced a number of natural and manmade disasters - floods, earthquakes, famines, industrial accidents etc. India has also partnered with the global community in providing relief in affected regions. In recent years, India has come to occupy an important position in the global community and is in the process of bolstering its capabilities to match these increasing expectations.

1 The views expressed in this paper are the author's own.

That India would play an important role is only to be expected in view of its value preferences, its interests in stability in the region, its economic and development needs and its geographical location.

India's democratic traditions, its sense of obligation, and historical experience require it to demonstrate empathy for the victims of disasters in all parts of the world. India plays a pivotal role in relief operations in the India Ocean Rim. The growing economic interdependence makes it imperative that India continue to invest in operations that can promote stability and international goodwill. Its geographical location gives it a natural advantage to put its services to good use in the immediate region.

Indian willingness and growing capabilities to partner others in disaster relief operations provide an opportunity to discuss how best to align these intentions and resources to the common good, and how best to align our concepts and methodologies.

However, there is a major divide in the methodology of providing assistance and relief that is due to the outlook and principles of the donor states of which there are two major groups. The first is the western nations that are members of Development Assistance Committee (DAC) of the Organisation for Economic Cooperation and Development (OECD), and the second the nations that are not members of this group.

Although there is international consensus with respect to disaster relief, there are divergent views regarding humanitarian assistance. The 1994 Oslo guidelines on 'The Use of Foreign Military and Civil Defence Assets in Disaster Relief' state, "Humanitarian assistance must be provided in accordance with the principles of humanity, impartiality and neutrality" (para 20) and must also "fully respect the sovereignty of states" (para 21).²

More and more governments are becoming involved in the response to complex crises and natural disasters. In the mid-1990s, 16 donor governments officially pledged their support in response to the humanitarian crisis in Bosnia. A decade later, after the Indian Ocean tsunami, an unprecedented 92 countries responded with pledges of support.³ This aspect has given rise to debate on the "direction, purpose, principles and methodology of relief" ranging from politico-economic to religious issues.⁴

2 Guidelines on the Use of Foreign Military and Civil Defence Assets in Disaster Relief - "Oslo Guidelines" Rev. 1.1, November 2007, p. 7 et seq.

3 See Adele Harmer and Lin Cotterrell, "Diversity in donorship. The changing landscape of official humanitarian aid", Humanitarian Policy Group Research Report no. 20, September 2005. Available at <http://www.odi.org.uk/resources/download/234.pdf>. Accessed 26 July 2011.

4 Ibid.

India, on its part, has come a long way since independence, evolving from a recipient of aid to a donor state and one of the non DAC members that account for up to 12 per cent of total official humanitarian assistance rendered.⁵

The first part of the paper will examine India's role in Humanitarian Assistance and Disaster Relief (HADR), keeping in mind India's emerging strategic aspirations in the larger context of India's contemporary strategic thought and practice, especially in the early part of the twenty-first century. This part will also focus on the symbiotic relationship between the emerging order at sea; on India's growing naval and maritime capabilities designed to meet current and future challenges in the India Ocean Region; and on the potential implications for HADR of developments in the Indian maritime dimension.

The second part of the paper will look at the differing views and global discourse on HADR and attempt to identify areas of convergence and divergence in the Indian, Asian and Western context.

The third part suggests ways to bridge the divergence gap and forge a common denominator so as to align HADR operations with good international order at sea.

INDIA'S ROLE IN HADR

The Indian concept of humanitarian assistance stems from India's cultural and spiritual values that have been handed down from generation to generation and the principle of non-alignment espoused by Nehru. The Indian government uses the terms "humanitarian assistance" and "disaster relief" to refer to activities that address human suffering caused by natural disasters like cyclones, droughts, earthquakes and/or floods. This definition is narrower than that of Western donors, which also includes helping civilian populations affected by armed conflict.⁶

However, on two occasions India has rendered aid in post-conflict scenarios - Sri Lanka and Afghanistan - echoing the neoliberal approach adopted by India post-1991 according to which India's interests take precedence over working within the postulates of the Non Aligned Movement (NAM) In this context, maintaining regional stability and harmony takes precedence and India's rationale for rendering humanitarian assistance lies in the idea of establishing and maintaining friendly relations. The idea of rendering assistance is conceived as 'extending sympathy' to those affected by disaster or as a 'goodwill gesture'.⁷ This aspect stands to reason

5 Ibid., p. 16

6 Claudia Meier, CSR Murthy, "India's Growing Involvement in Humanitarian Assistance", GPPi Research Paper no. 13 (March 2011), p. 6.

7 Ibid., p 7.

especially in light of the fact that the region around India is frequently affected by disasters. It also conveys India's ability to use this soft power in being recognised as a responsible nation. India's approach in rendering aid is thus based on three ideals:⁸

- Assistance is given for political or economic purposes which can be a highly effective means of improving relations
- The wrong type of assistance can be counter-productive
- Conditional or tied bilateral aid, in particular, can be degrading for the recipient

Therefore, India follows a model of direct government to government aid. This direct assistance to the affected nation acts as a bridge to promote future bilateral dialogue between the affected and the donor nation. However, this at times may not be very effective due to the divergent perceptions of the two nations in question. For example, in the 2005 earthquake that affected India and Pakistan, Pakistan was reluctant to accept direct government-to-government aid from India and India, on its part, does not render aid through non-governmental organisations (NGOs). The resultant conspicuous absence of any cogent government aid helped certain terrorist groups such as Jamaat-Ud-Dawa in furthering their cause and garnering local support by rendering assistance.

India's strategic thought process has paved the way for a dialogue with its neighbours, especially via the seas. The continental mindset forged through history due to invasions by land and finally colonisation served to overshadow the maritime outlook. The current resurgence of this outlook is in tandem with the developing international order at sea, of which India is a proponent. Being a maritime nation with a reasonable maritime capability, the seas are the best medium for expressing goodwill and portraying India as a responsible nation. This was amply displayed during the evacuation of civilians from Lebanon in 2006 and more recently from Libya. The civilians evacuated from Beirut included 514 Nepalese, Sri Lankan, American and Bangladeshi nationals.⁹ The Tsunami of 2004 brought out the merits of India's strategy of rendering aid: on this occasion, 32 naval ships, seven aircraft and 20 helicopters¹⁰ were deployed as part of five rescue, relief and reconstruction missions to the states of Andhra Pradesh, Tamil Nadu and the Andaman Nicobar Islands in India, and further afield to the Maldives, Sri Lanka and Indonesia. Given their

8 See Gareth Price, "Diversity in donorship: the changing landscape of official humanitarian aid, India's official aid programme", Humanitarian Policy Group Background Paper, September 2005, p. 3.

9 Indian Naval Press Release, "Op Sukoon - The Beirut Sealift (Jul 2006) Evacuation of Indians from Beirut, Lebanon". Available at <http://indiannavy.nic.in/Op_sukoon_lebanon.pdf>. accessed 31 July 2011.

10 See Vijay Sakhuja, "Indian Naval Diplomacy: Post Tsunami", Available at <<http://www.ipcs.org/article/navy/indian-naval-diplomacy-post-tsunami-1640.html>>. Accessed 31 July 2011.

proximity and immediate response capacity, these maritime assets were the first to reach the nations in distress. It not only demonstrated India's ability to mount a fast, capable response but also reinforced the value of India's Armed Forces as a benign force asset.

Drawing on the lessons learnt, i.e. the inability of the amphibious ships to reach the debris littered shores,¹¹ and in order to bolster HADR capabilities, the Indian Navy acquired an LPD from the US in 2007. The LPD, named INS Jalashwa, is capable of carrying six helicopters and, along with its landing crafts, would be able to land relief supplies and manpower faster. In addition, the Indian Navy is replacing its medium Landing Ship Tanks (LST(M)) with large LSTs, further increasing the relief capabilities. This aspect may draw the ire of nations with different opinions on India's stance; however, the use of the military, especially the navy, has two clear advantages. First, it can be viewed as a positive signal to the international community of India's willingness to put aside its political differences while rendering humanitarian aid, and in doing so, paving the way for future dialogue with the affected nation. Second, India's refusal to accept foreign aid but still give assistance to other littoral nations expresses India's belief not only in its own capabilities but also accession to a level of power whereby it has an important role to play in the security of the Indian Ocean Region (IOR) as a whole.

DIVERGENT VIEWS

India follows a typically Asian view of HADR as being apolitical, decentralised and most often based on a bilateral government to government approach. This, naturally, departs somewhat from the Western approach, which meshes civil and military mechanisms and also involves NGOs. Another issue attracting increasingly divergent views is the Responsibility to Protect (R2P) or, as it is viewed in Asia, intervention.¹² R2P gained momentum after the Cold War and could be considered a post-Cold War necessity. Prior to the 1990's humanitarian intervention was limited primarily to the détente and polarisation of states into the two power blocs of NATO and the Soviet Union and the resources this détente employed leaving very little for humanitarian concerns. Another issue was that of public desire; with the world watching the fluctuating relations between the two superpowers and the proxy wars these created, there was very little desire to engage in anything else. The final factor, and one that

11 See "India says <Not Yet> to another assault ship from US And to Hawkeye II, too", India Strategic August 2007. Available at <<http://www.indiastrategic.in/topstories20.htm>>. Accessed on 31 July 2011.

12 The scope of R2P is restricted to four crimes – genocide; war crimes; ethnic cleansing; and crimes against humanity.

to some extent is still in place, is the divide within the five permanent members of the United Nations Security Council.¹³ Given the option to veto actions during the Cold War, it was not possible to engage in humanitarian intervention. This divide, despite the end of the Cold War, is still visible between the US, the UK and France on the one side and China and Russia on the other. Since the 1990's there has been a shift from interstate conflict to intrastate conflict as the end of cold war polarisation allowed numerous internal conflicts to explode.¹⁴

The issue of respecting sovereignty lies at the heart of divergence. In this regard, Asian states tend to adhere to the 1994 Oslo Guidelines stringently. As quoted above, the Oslo guidelines require *Humanitarian assistance* to be provided in accordance with the principles of humanity, impartiality and neutrality (para 20), while fully respecting the sovereignty of states (para 21).¹⁵ The Asian states fully respect Paragraph 21, despite any concerns they may have about the apathy, ineptitude or state treatment of civilians in a state undergoing a complex humanitarian emergency (CHE). Western states on the other hand claim that the very nature of *complex* humanitarian emergencies excludes them from following Oslo Guidelines.¹⁶ The issue of sovereignty could be seen to arise from the fact that most Asian states are weak economies compared to the West and therefore, would have no political will or desire to advocate a policy of intervention. Even states like China would hesitate in doing so as it could undermine its own domestic humanitarian problem.¹⁷ Inasmuch as the West is considered the advocate of democracy, human rights, and the rule of law – so-called Western values – some Asian countries reject intervention by Western countries as an imposition of Western values on Asians, or more Western dominance.¹⁸ Asian states, therefore, endorse aid based on mutual benefits through direct bilateral dialogue as the more acceptable option because the recipient state is more likely to feel like a partner rather than an inferior, and there is no influence on their sovereignty.¹⁹

13 See Theo Farrell "Humanitarian Intervention and Peace Operations", in John Baylis, James J. Wirtz, and Colin S. Gray (eds), *Strategy in the Contemporary World*, Oxford University Press (2002; Third edition 2010), and Gareth Evans 'From Humanitarian Intervention to the Responsibility to Protect' – Keynote Address by Gareth Evans, President of International Crisis Group and Co-Chair of the International Commission on Intervention and State Sovereignty 2001, to Symposium on Humanitarian Intervention, University of Wisconsin-Madison, March 31, 2006.

14 See Michael C. Williams "Humanitarian Intervention and the Use of Force", in *Power and Ethics in International Politics*, Second Transatlantic Editors' Roundtable, April 29/30, 1999, London, UK.

15 See note 2 above.

16 See Sharon Wiharta, Hassan Ahmad, Jean-Yves Haine, Josefina Löfgren and Tim Randall, "The Effectiveness of Foreign Military Assets in Natural Disaster Response", SIPRI, 2008.

17 See «The Debate on Humanitarian Intervention», in Watanabe Koji (ed.), *Humanitarian Intervention: The Evolving Asian Debate*, Tokyo: Japan Center for International Exchange, 2003.

18 Ibid.

19 See CMI Report, "Asian Models for Aid: Is There a Non-Western Approach to Development Assistance?" Summary record of seminar held in Oslo, December 2006.

The concerns are mainly over issues of non-interference, a matter of integral importance to the Asian community; the issue of R2P's implementation and where should it apply.²⁰ A typical disagreement occurred when Cyclone Nargis hit Myanmar. Although France wished to invoke R2P, China and Russia vetoed such an action. "The situation in Myanmar", China argued, "was a natural disaster and not a matter of international peace and security, which placed the crisis outside the remit of the Security Council."²¹ Russia stated that "without having determined a threat to peace, interference in Myanmar's domestic affairs was not legitimate", stressing that presumable violations of human rights could not serve as a justification for illegitimate interventions and violations of the principle of sovereignty.²² However, a tenuous link was drawn to R2P by the West citing that "if the Myanmar/Burma government was deliberately withholding aid to people who are facing the immediate risk of death, it may be guilty of crimes against humanity".²³ The intervention in Libya by NATO citing R2P, while there was no clarity on the issue in NATO's 2010 Strategic Concept, is another case in point. The approach to legitimising the Libya campaign was to draw from Article 20 of the Strategic Concept that stipulates²⁴

Crises and conflicts beyond NATO's borders can pose a direct threat to the security of Alliance territory and populations. NATO will therefore engage, where possible and when necessary, to prevent crises, manage crises, stabilize post-conflict situations and support reconstruction.

While this issue has divided NATO members, the examples illustrate how R2P can be used by states wishing to intervene by citing moral justification. They also demonstrate the lack of consensus over the scope of R2P.

20 See GCR2P Report "Implementing the Responsibility to Protect – The 2009 General Assembly Debate: An Assessment", Global Centre for the Responsibility to Protect, 2009.

21 See Myanmar/Burma no.2 Briefing Paper, "Cyclone Nargis and the Responsibility to Protect", Asia Pacific Centre for the Responsibility to Protect, May 2008, p. 9, available at http://www.r2pasiapacific.org/documents/Burma_Brief2.pdf, accessed on July 27, 2011.

22 See Delegation of the Russian Federation, "Position Paper for the Security Council", Universities of Magdeburg and Munich Russia, 2011, p.1, available at http://www.madmun.de/img/ppnmun/madmunxi/PP_RF_SC.pdf, accessed on July 27, 2011.

23 See note 21 above.

24 See Allyd Paynter, "IDSA Comment – Libya: Evaluating NATO's Strategic Concept". Available at http://www.idsa.in/idsacomments/LibyaEvaluatingNATOsStrategicConcept_apaynter_060711. Accessed 31 July 2011.

BRIDGING THE GAP

There are two bridges that have to be traversed, firstly the aspects related to aid rendered in the case of natural disasters and secondly the forms of humanitarian assistance that are not a response to natural disasters. These clear-cut demarcations must be recognised and their nuances related to each, and clearly understood to forge a common denominator. Although there is a commonality in the understanding of relief to be provided, especially during natural disasters requiring the involvement and commitment of the international community, certain issues need better understanding and synergy.

The growing number of donor states has increased the opportunities for the recipient states to choose the type of assistance they require and from which nation. This wide ambit presents significant challenges to the way in which the international humanitarian system is financed, managed and coordinated.²⁵ This increase in the number of donor nations with differing strategic aspirations is changing the manner in which humanitarian assistance has been shaped and influenced by different regional groupings. Some nations may therefore use the opportunity to advance their own political and economic influence and indeed foreign policies. However, the main stumbling block lies in the differing policies of rendering assistance that are dependent on the donor concept and these vary from region to region. In this debate two major groups – DAC donors and non DAC donors – play a major role. The DAC group is dominated mainly by Western states and the majority of the non DAC group comes from three regions – Asia, the Gulf and Central Europe. This global diaspora presents opportunities that could be harnessed to ensure an international cooperative framework that would benefit the international community in developing global goodwill.

Firstly, an international framework on how assistance should be rendered could be discussed and brought into force. This would take into cognisance the core competency and capabilities of nations and lay out the responsibilities for these nations. For example, some states may not have the capability to provide assistance on ground, but could provide economic assistance through an accepted route. In this sense, as accountability would be a major factor, the government to government channel is considered appropriate. Secondly, it is important to identify regional players who would be central in engaging states requiring assistance but may be wary of accepting assistance from states whose strategic aspirations and governance differ from their own. This point could also obviate the factor of perceived extra-regional influence. Regional groups like ASEAN, SAARC, EU and AU could also play a major

25 See note 3 above.

role as this would strengthen relations, foster a bond of better understanding and possibly facilitate dispute settlement among nations. This could be translated into the maritime domain where issues are gaining dominance. Maritime engagements in terms of HADR and search and rescue (SAR) exercises could be the starting point for enhancing a better international order at sea.

R2P in its present form should be revisited to ensure international acceptance. From the various stances it is difficult to assess how much the general change in opinion actually reflects a desire to institutionalise R2P within a region. In Asia there is a question of whether there are any effective regional mechanisms to invoke R2P. Possibilities include ASEAN or SAARC,²⁶ but both have their own problems to deal with at present. The ASEAN, though a possible candidate, has entrenched within its accords the fundamental principle of non interference, the principle of non-use of force, and the principle of consensus-based decisions.²⁷ This effectively stops the association from endorsing the three pillar strategy²⁸ of R2P, although there have been signs of a shift, according to the Asia-Pacific Centre for R2P.²⁹

The debate on R2P will continue unless the issues brought out in the GCR2P report's assessment are addressed.³⁰ As per the report, some pertinent issues require resolution to reach an international understanding.

- Solving the problem of poverty and underdevelopment before seeking to prevent atrocities
- Implementation of R2P without selectivity or double standards
- A refrain from using veto in R2P situation by UNSC permanent members
- Misuse of R2P to claim legitimacy for unilateral action. Although this issue was rejected on the grounds that the world summit outcome document ruled out unilateral intervention and called for collective action in conformity with the UN charter, it should still be re-examined
- UN work on the first and second pillars
- Ratification of human rights treaties and adoption of accountability measures
- Strengthen the UN and regional organisations in early warning mechanisms, stand-by abilities and mediation capabilities

26 See Civil Society Consultation Final Report, "International Conference on Preventing Mass Atrocities: Asian Perspectives on R2P" Responsibility to Protect – Engaging Civil Society, February 2008.

27 Kristin M. Haugevig, "Regionalizing the Responsibility to Protect – Possibilities, Capabilities and Actualities", Norwegian Institute of International Affairs, 2008, p. 19.

28 The three pillar strategy rests on state responsibility; assistance by states; and timely and decisive action by the international community.

29 See note 27 above.

30 See note 20 above.

CONCLUSION

The international outlook post the Cold War heralded a change in geopolitics and a rise in strategic aspirations of nations. It has also posed many challenges. Disasters of the magnitude of the 2004 tsunami have offered opportunities to address growing perceptions of misunderstandings and pave the way for international goodwill in the form of a regional and international cooperative framework. A comprehensive and mutually acceptable approach to HADR could forge a common denominator that in turn would enhance the international order at sea.

India's willingness and growing capability to be a partner in disaster relief offers an opportunity to discuss the best ways to align these intentions and resources to the common good and most importantly, to align our concepts and methodologies. India as a responsible regional and international player would continue to follow its policy of non-interference, yet render the assistance that is sought on mutually acceptable grounds. India would have to work out a methodology by which civil authorities supported by the armed forces, where required, would be able to render timely assistance, both internally and externally, in a constructive and streamlined manner. A study of natural disasters, actions taken and lessons learnt would help in developing a national disaster strategy and plan. In doing so India would look to forging bonds with nations which would help foster stability and the peaceful settlement of disputes.

Maritime Support for Humanitarian Aid and Disaster Relief Ashore

Bernard D. Cole¹

The oceans of the world provide the primary means for international discourse, in both peace and war. Merchant fleets enable the vast majority of world trade, while navies are often the primary vehicles of warfare among nations. The first priority for naval readiness is to be prepared to defend the nation's national security interests, but nominally non-traditional missions are earning an increased profile under the broad category of "military missions other than war", or MOOTWA.

This paper will address this relatively new, but increasingly prevalent aspect of maritime security – utilising maritime forces to respond to disasters ashore, known as humanitarian and disaster response, or HADR, operations. Three case studies will serve to examine this relatively new mission for maritime forces: First, Operation Sea Angel, the relief operations in response to the cyclone that afflicted Bangladesh in 1991. Second, the operations in response to the massive earthquake and tsunami that struck Southeast Asian and Indian Ocean nations in December 2004. Third, the still ongoing operations to relieve the suffering and repair the damage to Japan resulting from the enormous earthquake, tsunami, and resulting nuclear ca-

1 A paper prepared for the workshop Anti-Piracy and Humanitarian Operations, Oslo Norway, August 2011. This paper reflects the views of the author alone and not those of the National War College or any other agency of the US Government.

tastrophes that struck Japan in 2011; the efforts in this latter case are code-named Operation Tomodachi.

The increasing importance of the HADR mission is certainly not restricted to the US or any other single navy; the Indian Navy regards the mission as a likely contingency for which it must be prepared. Similarly, the Chinese Navy and Japanese Maritime Self-Defence Force are fully aware of the increasing prevalence of the disasters requiring a maritime response.

These are focused on natural disasters such as floods; cyclones, typhoons, and hurricanes; tsunamis; and earthquakes; but the United States also focuses on man-made disasters requiring stability operations or, more formally, “stability, security, transition, and reconstruction” (SSTR) operations, an example of which might be the Haitian exodus of the mid-1990s – a national case study that may be said to have started in 1915 and which is still ongoing – or the unrest predating the emergence of East Timor of 2001.

The US view also has included formulation of a global response, sometimes called the “thousand ship navy” or “global maritime response” (GMR). This in turn has contributed to the concept of “global fleet stations” (GFS), evidenced in the near continuous deployments of the US’s two hospital ships, augmented by large amphibious vessels, on medical assistance missions to various parts of the world. The first such cruises were conducted by the U.S. Pacific Fleet in the mid-1980s; recent deployments have included missions to the South and Southwest Pacific, Latin America, and sub-Saharan Africa.

Yet another example of US non-emergent HADR missions is deploying smaller amphibious ships equipped with engineering personnel and equipment to undertake improvements to a nation’s civilian infrastructure, infrastructure crucial to the development of good governance. These have been conducted since the end of World War II and continue, often tying in with specific HADR operations in response to natural disasters, many of them less dramatic than the 2004 tsunami response in Southeast Asia, but no less important to the countries affected.

GMR and GFS aim to improve the readiness of resources available to conduct SSTR operations: to ensure that not only US naval resources, commanded by the worldwide combatant command commanders, but also the maximum number of international maritime assets, are available for joint and integrated tasking in response to internationally recognised humanitarian disasters.

GLOBALISM

International participation in HADR operations is central to US efforts. The United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA) is the lead

international agency in combating the effects of humanitarian disasters, while the World Health Organisation (WHO), the World Food Programme, Doctors Without Borders, and many other organisations with global aspirations are important players.

Regional organisations are also active in coordinating international responses in facilitating HADR efforts. The Association of Southeast Asian Nations (ASEAN), for instance, played a significant role in alleviating the effects of the 2004 disaster in its region, as did the South Asian Agency for Regional Cooperation (SAARC). Other international organisations, including the World Bank, International Monetary Fund, Asian Development Bank, the European Investment Bank, and the Arab Gulf Fund also serve as sources of financial support for HADR efforts.

The effectiveness of international efforts, whether by individual nations such as the United States, alliances such as the North Atlantic Treaty Organisation (NATO), regional organisations such as ASEAN, or global organisations such as the UN, is subject to national sensitivities. Despite recently conducting an HADR exercise, and contingency planning drills in Indonesia and Papua New Guinea, ASEAN remains constrained by the isolationism of some of its members.²

A particularly egregious case is that of Burma (Myanmar), whose oligarchic military government consistently refuses significant international assistance when confronted by natural disasters.

Less dramatic, but nonetheless limiting examples of national priorities outweighing beneficial international efforts abound. International HADR efforts in the Indonesian province of Aceh in 2005, for instance, were limited by the Indonesian government for reasons of internal security, primarily, and perhaps for reasons of national pride, secondarily. This is not a pejorative statement, but acknowledges that national sovereignty is as paramount in times of emergency as it is during times of normal conditions.

Other important political relationships also condition the effectiveness of US (and international) HADR efforts. First is the relationship with the host country. In addition to the sensitivities of nationalism mentioned in the foregoing paragraph, the degree of political stability may be an important factor. A prime case is Bangladesh in 1991, where the civilian government had taken office just two months before Cyclone Marian struck, following years of military rule. This meant a government both inexperienced and facing a sensitive relationship with the Bangladeshi military, which normally would be the nation's force best equipped to respond to the tragedy. Even in Japan, with its long history of effective democratic government, the

2 Wahyudi Soeriaatmadja, "ASEAN Disaster Relief Exercise Ends in Indonesia", *Straits Times Indonesia* (15 July 2011), at: <http://www.thejakartaglobe.com/home/first-asean-disaster-relief-exercise-ends/453053> (accessed 10 August 2011).

pre-disaster weakness of the Tokyo government, which has experienced a series of short-term prime ministers, affected the country's ability to balance domestic and foreign policy concerns.³

Second to the relationship with the host civilian government, the assisting nation must be able to coordinate its efforts with the host country's military and non-governmental organisations (NGOs). These latter normally will be wary of dealing with a foreign (or any) military organisation, no matter how well intended. Third, this also holds true for foreign NGOs, even those from the United States, who have demonstrated on several occasions a characteristic wariness when it comes to relying on or even cooperating with US military forces engaged in HADR operations.⁴

Fourth, US efforts conducting HADR missions continue to reveal the difficulties inherent in obtaining maximally effective efforts among the various government agencies involved, a conundrum that affects both host and assisting governments. In Bangladesh in 1991, relations between the US military command and the U.S. Agency for International Development (AID) demonstrated the difficulty of obtaining effective inter-agency cooperation.⁵

Fifth, effective command and control must be established among the militaries of the various foreign countries engaged in assisting the disaster-struck host nation. This posed significant issues in each of the three case studies under consideration in this paper. HADR efforts in Bangladesh in 1991 included several foreign militaries in addition to the US: Indian, Chinese, and others. This required friendly or at least tolerable cooperation and coordination among militaries not normally on such terms. In the case of the 2004 HADR efforts in Indonesia, the number of involved militaries was even greater, although the geographically widespread nature of the tragedy – from Indonesia to the Seychelles – perhaps diffused the international efforts to a more acceptable level.

Finally, ongoing efforts to alleviate pain and suffering in Japan in 2011 are benefiting from what is usually a superbly organised Japanese infrastructure, including a professional, capable military. Furthermore, the geographically limited scope of the earthquake-tsunami-nuclear spillage disaster that afflicted Japan enabled a concentrated maritime effort by the Maritime Self-Defence Force and US naval units as

3 Discussed in Jeffrey W. Hornung, "The Risks of 'Disaster Nationalism'", PacNet #34 (13 July 2011), at: <http://csis.org/publication/pacnet-34-risks-disaster-nationalism> (accessed 10 August 2011).

4 Author's discussions with (then) Brigadier General Anthony Zinni, USMC; LtGen Henry Stackpole, USMC; and a former US Embassy official in Dacca. Zinni related a story from his experiences in the Horn of Africa: he was having difficulty making himself understood while talking with a young NGO representative and suddenly realised that instead of talking to her as if she was a second lieutenant, he should be talking to her as if she was his daughter, who was of a similar age.

5 See, for instance, Paul A. McCarthy, "Operation Sea Angel: A Case Study", Rand Corporation: Santa Monica, CA, 1994, p. 16, who also discusses the trials of dealing with foreign NGOs.

“first responders”, with other foreign aid limited to non-naval elements and financial assistance.

BANGLADESH (1991): OPERATION SEA ANGEL⁶

Cyclone Marian struck this low-lying nation on 29/30 April 1991, and the resulting US assistance effort took place from 11 May to 13 June. While various US government agencies, especially AID, and NGOs participated, the primary effort was almost entirely sea-based, led by a Contingency Task Force (CTF) composed primarily of an amphibious task force (ATF) led by USS *Tarawa* (LHA 1), USS *Juneau* (LPD 10), USS *St. Louis* (LKA 16), and USS *Frederick* (LST 1184), which was returning from the Persian Gulf with a Marine Corps Air Ground Task Force (MAGTF) embarked under the command of Lt Gen Henry C. Stackpole, USMC, who was assigned command of the US effort. The CTF included 4,600 Marines, 3,000 sailors, 28 helicopters, four air-cushion landing craft (LCAC), numerous conventional landing craft, and many wheeled and tracked vehicles.

In addition to these almost ideally composed assets – the widespread destruction of the already limited Bangladeshi infrastructure made the helicopters and LCACs especially valuable – the CTF ships offered superb command and control (C2) and medical assistance facilities to maximise the synergy of international efforts, as British, Japanese, and Chinese assistance elements were also present.

C2 was a relative strength of Operation Sea Angel, but exercising it effectively was not easy: maintaining communications and understanding among the different assistance elements required continual attention to resolve conflicting priorities, competition, lack of intelligence and technical problems. The technical requirements were especially difficult to satisfy, given the widely disparate capabilities of host nation, US and other foreign military and civilian agencies, and NGO equipment. Another communications requirement, one not resolved by sea basing, was the lack of translators. Again, this may be expected to be a near-ubiquitous issue for international HADR efforts.

Nonetheless, the availability of sea basing was the most important element in resolving these problems, due to the availability of relatively neutral ground, redundant technical facilities, and ability to minimise the “footprint” ashore of US forces. This latter factor is characteristic of foreign HADR efforts and was especially pertinent in the case of the Indonesian disaster 2004–2005.

⁶ Code names used in this paper are those assigned by the United States Department of Defense.

Operation Sea Angel provided many lessons learned, ranging from the need to standardise communications capabilities more effectively, to the requirement for common training and doctrinal development of deploying naval forces for HADR missions. This is not a lesson learned that is unique to US maritime forces, as China's People's Liberation Army Navy (PLAN) has also worked to develop standard responses to such emergencies.⁷

INDIAN OCEAN RELIEF OPERATIONS, 2004–2005

The most massive HADR efforts in history occurred as a result of the 9.0 magnitude earthquake that struck in the eastern Indian Ocean, north of western Sumatra, on 26 December 2004. The Indonesian province of Aceh, on Sumatra, was struck by a series of tidal waves 30–50 feet in height, over a coastal distance of 200 miles. While Indonesia was the country most seriously affected by the resulting tsunami, damage from these cataclysmic events extended throughout much of the Indian Ocean littoral, reaching as far as the Seychelles, in the western Indian Ocean, and even the eastern African coast. More than 200,000 people lost their lives and entire portions of the Sumatran coastline vanished in the tsunami.

In response, the UNOCHA assumed the lead in coordinating international efforts. On 29 December, the US president directed the formation of a donor group consisting of the United States, Australia, India, and Japan to coordinate military capabilities in the region.

The US effort was led by the Department of Defense (DOD) Overseas Humanitarian, Disaster and Civic Aid (OHDACA) office, which funds the Humanitarian Assistance Program (HAP), the Humanitarian Mine Action (HMA) programme, and the programme for Foreign Disaster Relief and Emergency Response (FDR/ER). These programmes are generally focused on a 30–90 day effort, which proved an accurate time frame for the US military mission to the areas struck by the December 2004 earthquake and tsunami.⁸

The aircraft carrier USS *Abraham Lincoln*, in company with several other U.S. Navy vessels, responded immediately, flying helicopter relief missions by 1 January

7 Author's discussions with senior PLA and PLAN officers, 2009–2011. Also see "Regulations on Military Participation in Disaster relief," *Jiefangjun Bao* (Beijing), 07 June 2005, in CPP20061003325003 (accessed 06 July 2011).

8 A good source of information on the US HADR efforts in 2004–2005 is in Rhoda Margesson et al., "Indian Ocean Earthquake and Tsunami: Humanitarian Assistance and Relief Operations", Washington, D.C.: CRS Report for Congress, RL32715, updated 3 June 2005.

2005. The Indonesian effort was constrained by host nation political security concerns, however, as the military, the TNI, was understandably sensitive to the unrest prevailing in Aceh. This unrest included both crimes at sea (“piracy”) and “Free Aceh” independence movements, including elements of radical Islamic groups.

As a result of these concerns, on 11 January the Jakarta government announced that US and other foreign relief efforts would end by 31 March; further restrictions on US flight operations and Marine logistic support plans were announced. Before these restrictions were in place, nearly 15,000 US military personnel were involved in HADR operations; 12,000 of these were sea based, with just 2,500 ashore. Twenty-seven U.S. Navy ships and one U.S. Coast Guard vessel were engaged, in addition to 47 transport/heavy lift aircraft from the U.S. Navy, Marine Corps, and Air Force. While the *Abraham Lincoln* task group operated off the Indonesian coast, the USS *Bonhomme Richard* Expeditionary Strike Group (ESG) proceeded to conduct relief operations in Sri Lanka. This was an amphibious force that included additional ships, 2,100 embarked Marines, LCACs, landing craft, vehicles, and 25 helicopters. In fact, 57 US helicopters were operating in support of the relief efforts throughout the area.⁹

Sri Lanka was second only to Sumatra in the degree of damage suffered: an estimated 70 per cent of the island nation’s coast had been damaged and approximately 31,000 citizens killed. Particularly valuable assistance was provided by two US ships pre-positioned in Diego Garcia for contingency operations in Southwest Asia. These ships were ordered to Sri Lanka, where they each provided 90,000 gallons of fresh water daily.¹⁰

The advantages of offshore basing were as apparent in Indonesia and elsewhere in the HADR area as they had been in Bangladesh, more than a decade earlier. Even host nation concerns about domestic political concerns were ameliorated by the ability of offshore basing to minimise the US military presence ashore, marked by the ability of personnel to return to their ships during night-time hours.

The 2004–2005 operations by US sea based forces again demonstrated the mobility and resources offered by large combatant and support ships. While aircraft carriers and very large amphibious ships are present in significant numbers in the U.S. Navy, similar resources are available in the Australian, Chinese, Indian, and Thai, Navies, and the Japanese MSDF. These increasing international assets

9 DOD Press Announcement (10 January 2005). These numbers included HADR efforts in Thailand, Sri Lanka, and Malaysia, as well as Indonesia. Also notable is the fact that the entire Sri Lankan military could muster just 12 helicopters, the most valuable aircraft in any HADR situation. Two of the US ships initially assigned to Sri Lankan relief operations were soon dispatched to the Maldives to render assistance to that island nation.

10 Margesson et al., p. 25 provides this and additional data.

strengthen the case for establishing a contingency multi-national organisational structure that would provide standardised C2 procedures and provisional forces.

OPERATION TOMADUCHI

“Tomaduchi” is the code-name assigned by the Japanese and US governments to the relief and reconstruction efforts still underway in response to the unique, multi-faceted, three-stage tragedy that struck Japan earlier this year. On 11 March 2011, a massive earthquake occurred off the Pacific coast of northern Honshu, Japan’s main home island. This resulted in a devastating tsunami that destroyed several cities and devastated much of Japan’s northeastern coastline. The third element in this catastrophe was the destructive impact on several nuclear power plants ashore.

The immediate US response focused on the dispatch of navy ships home ported in Japan or operating in nearby waters. Several additional ships, including the aircraft carrier USS *Ronald Reagan*, were assigned to the HADR mission, with their embarked Marines and aircraft, especially helicopters. By 22 March, the United States had 20 navy vessels, 140 aircraft, and almost 20,000 sailors and Marines engaged in HADR operations. Yokota Air Base, located west of Tokyo, was designated as the Operational Command Centre for US efforts, while *Reagan* served as the afloat C2 centre and central refuelling station for both US and Japanese helicopters.

USS *Essex* (LHD 2), USS *Germantown* (LSD 42), and USS *Tortuga* (LSD 46), large amphibious ships, led relief efforts involving landing craft and their embarked Marines in transporting supplies, helping to clear harbours and repair damaged infrastructure throughout the affected areas of Honshu. The U.S. Seventh Fleet flagship, USS *Blue Ridge* (LCC 19), was visiting Singapore when the earthquake and tsunami occurred but immediately loaded relief supplies and departed for Japanese waters. A civilian-manned Navy salvage ship, USNS *Safeguard* (ARS 50), sailed at once to Hachinoe, Japan where its embarked Explosive Ordnance Disposal and Underwater Construction Teams began clearing wreckage from the local harbour. During the initial HADR operation, US naval units flew 1,100 hours of support flights, delivered 260 tons of relief supplies and helped clear several Japanese ports.

A unique – at least to date – feature of Operation Tomodachi was the radiological hazard posed to relief units by leakage from the damaged nuclear power plants. At one point, USS *Ronald Reagan* and many of the navy and Marine Corps helicopters involved in operations ashore had to be decontaminated. Additionally, a U.S. Navy Reserve unit was deployed to Japan as part of a Radiological Consequence Management Team. Another element in U.S. Navy assistance was the 500,000

gallons of fresh water supplied to assist cooling efforts at one of the damaged nuclear power plants, at Fukushima Daiichi.¹¹

US involvement in relief efforts have continued, due in part to the strong relationship between the United States and Japan throughout both the military and civilian sectors. The U.S. Pacific Fleet commander declared a month after the tragedy struck that “we have every ship we have here under way,” and noted that 400 US personnel were assigned to disaster consequence management duties, full time.¹²

Operation Tomodachi scored notable successes, although the tertiary disaster – the damaged nuclear power plants – remains unresolved. US ability to assist its treaty ally, Japan, was greatly facilitated by longstanding mutual operations and cooperation on both military and civilian fronts. In particular, the U.S. Navy and JMSDF were able to draw on sixty years of joint operations at sea and training exercises ashore in demonstrating effective operations and C2. While this degree of historical relationship cannot be expected to be present in the majority of HADR situations, the common experience and mutual confidence between US and Japanese naval units and personnel vividly demonstrate the efficacy of future cooperative preparations among nations’ navies to ensure improved readiness for HADR missions.

CONCLUSION

It is incontrovertible that non-traditional military crises have been major causes of humanitarian tragedies, with enormous material losses. Hundreds of thousands of people have died in just the three cases briefly surveyed above, in Bangladesh, Southeast and South Asia, and Japan. The costs of both material damage and of assistance rendered may well be incalculable, for all practical purposes, especially for the ongoing Japan nuclear situation, which remains many months, if not years, from final resolution.

The three cases of HADR used in this paper were all the result of natural disaster: earthquake, tsunami, and flood. Human ecological abuse, including global warming, as well as population growth, urbanisation, infectious disease, water and food shortages, and large-scale migration may well cause problems of such magnitude as to qualify for significant HADR operations by the international community.

Such expectations indicate a continuation and even increase in non-traditional

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- 11 Andrew Feichert and Emma Chanlett-Avery, “Japan 2011 Earthquake: U.S. Department of Defense (DOD) Response”, Washington, D.C.: Congressional Research Service Report, R41690 (22 March 2011), contains pertinent data about Operation Tomodachi. The nuclear aspects are specifically addressed in Nathan Hodge, “Nuclear Disaster Offers Military Lessons”, *Wall Street Journal* (20 June 2011), p. 6.
 - 12 Quoted in Donna Miles, “Operation Tomodachi Mission Continues Strong”, American Forces Press Service (5 April 2011), at: <http://www.defense.gov/news/newsarticle.aspx?id=63439> (accessed 6 July 2011).

missions for military and especially for naval forces. Increased emphasis on such missions should drive a redefinition of resource priorities within the DOD. A yearly average of 255 natural disasters occurred annually between 1991 and 2000, a number that has risen dramatically during the ensuing decade, to 390 incidents per year.¹³

There is no indication that HADR missions will decrease in number during the coming decade; instead, they may be expected to increase, as they have during the past twenty years. The U.S. Navy, under the aegis of the U.S. Pacific Command, has moved to ensure maximum possible readiness for its deploying units and personnel to respond to HADR missions. Pacific Command has established a standing joint task force infrastructure towards this end, while deploying ships regularly prepare for possible HADR efforts, on all levels of scale, from assisting with a local school to incidents of the magnitude of the 2004 Indian Ocean disaster. Additionally, the Pacific Command has launched a series of conferences, under Pacific Partnership 2011, with individual partner countries, focusing on planning appropriate responses to HADR crises.¹⁴

This raises the issue of the role played in US (and other nations') national security interests by HADR missions. If such missions detract from the navy's traditional missions, then careful consideration is required when prioritising resources for HADR. As such missions are almost certain to continue, if not increase in frequency, in a world marked by globalisation and other technical and human phenomena that may not always seem to represent "progress", then the definition of a "traditional" naval mission must be rethought.

The dominant military theorist, Carl Von Clausewitz, believed that the use of the military instrument of statecraft must serve the nation's political ends. A modern view of this belief, expressed by U.S. Marine Corps Commandant James T. Conway in 2009, is that "offering the hand of friendship is also an essential and prominent tool in our kit. . . . preventing wars is as important as winning wars."¹⁵ This line of strategic reasoning supports the importance of naval forces ready not just to engage in traditional combat, but also ready to engage in HADR operations.

Another facet of applying Clausewitzian rationale to HADR readiness is demonstrated in the reconstruction and counter-insurgency efforts in which the United States is currently engaged in Afghanistan and elsewhere. Operations by Navy Sea-

 13 Cited in Tay Kwang Leong, "Should the Armed Forces Be Employed to Fight the War or Win the Peace?", *Pointer*, Journal of the Singapore Armed Forces, vol. 36, no. 3-4 (16 March 2011), p. 28.

14 John Grandin, "Papua New Guinea Residents Attend Pacific Partnership 2011 HA/DR Conference", Navy News Story NNS110601-02 (1 June 2011), at http://www.navy.mil/search/print.asp?story_id=60694&VIRIN=&imagetype=0&page=1 (accessed 6 July 2011).

15 Quoted in Leong, p. 23.

bees in what is effectively a combat zone, are both traditional military and non-traditional HADR operations.

The three examples that have formed the core of this paper – Bangladesh, Indonesia, and Japan – were but three such instances when large-scale HADR demands have been placed on the U.S. Navy in the past twenty years. Others have involved natural or man-made disasters striking the Balkan states, Cuba, Haiti, the Philippines, Central America, and sub-Saharan Africa, as well as domestic US cases such as those resulting from Hurricanes Hugo and Katrina.

This record of demands on naval and Marine forces, no matter how regretted and resource intensive, has brought home to the US naval service the requirement for its units to be ready to execute HADR missions which, by definition, are almost invariably emergent in nature. The capabilities of off-shore basing cannot be matched. They are trained and equipped for intelligence gathering and promulgation, command and control, logistics, equipped with indispensable aircraft and surface platforms, and most importantly, manned by men and women trained and ready to operate in almost any environment, flexible and dedicated.

Maritime Developments in Asia: Implications for Norway

Øystein Tunsjø¹

The re-emergence of great powers in Asia, the shifting of the economic centre of gravity towards Asia and the primary focus of US security concerns turning to developments in Asia, are all indicative of an increasingly Asia-centred world. Changes in the distribution of capabilities within the international system are fuelling the transition to a bipolar system and a new world order.

The wider implications of the transformations taking place in Asia will have repercussions even for a geographically remote country like Norway. This will probably be the case regardless of whether the rising powers in Asia succeed in their economic, political and military ambitions, and whether the great powers manage to settle conflicts of interest and pursue a policy of cooperation.

This paper is divided into two sections. The first part explores the potential impact of these geopolitical shifts and the emergence of an Asia-centred world on transatlantic relations, NATO and Norwegian defence and security policy. As most

¹ This paper was also presented at the "Seapower Symposium," *Norwegian Naval Academy*, Bergen, 24 August 2011. The author would like to thank many of the participants at the Sea Power Symposium conference who were both constructive and helpful in their feedback. The author is grateful for comments and suggestions on earlier drafts of this paper. Robin Allers, Johannes Rø, Tom Kristiansen, Roald Gjelsten, Robert S. Ross, Kristine Offerdal, Rolf Tamnes and Bjørn Terjesen have provided valuable input.

observers of Norway's foreign and security policy agree, China's rise, US-China relations and a more Asia-centred world are of major importance in policy making terms.² Some researchers have examined ways in which the West and NATO could adjust to a more Asia-centred world while maintaining a robust alliance system across the Atlantic.³ This paper draws on their findings in order to explain why great power politics and geopolitical developments matter to Norway's foreign and security policy and how Norway is likely to respond to challenges like these in the years ahead.⁴

This broad strategic overview will provide an important backdrop for analysing the implications of maritime developments in Asia for Norway. The second section identifies a number of direct and indirect consequences for Norway, highlighting sovereignty disputes at sea and growing concerns about SLOC security, two areas of crucial importance to Norway as a coastal state with strong maritime interests.

NORWAY IN AN ASIA-CENTRED WORLD

Economic, political and military power is becoming increasingly concentrated in Asia. Trade across the Pacific surpassed trans-Atlantic trade in the late 1970s and has been growing ever since. Europe is becoming less relevant in world politics while other regions, notably Asia, are where the 21st century will probably be shaped and defined. The US, Norway's closest and most important ally, is therefore redeploying military forces from Europe to East Asia. In light of the growing US debt burden, it is worth pondering whether it has the means to maintain a global military presence.

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- 2 An increasing number of government reports have been published addressing geopolitical shifts and a more Asia-centred world. See St.meld. nr 15 (2008–2009), "Interests, Responsibility and Possibilities: Main Developments in Norwegian Foreign Policy," Oslo: Norwegian Ministry of Foreign Affairs; St.prp. nr 48 (2007–2008), "The Norwegian Armed Force's Long Term Plan," Oslo: Norwegian Ministry of Defence; China Strategy, 2007, published by the Ministry of Foreign Affairs, August. Available at http://www.regjeringen.no/upload/UD/Vedlegg/Kinastrategi_opplag_to.pdf. For a debate regarding these reports see Øystein Tunsjø, "Kina - mer en handel og rettigheter", *Dagsavisen*, 6 September 2007; Espen Barth Eide, "China and Geopolitical Changes", *Dagsavisen*, 12 September 2007; Øystein Tunsjø, "Kina og norske interesser", *Dagbladet*, 29 June 2008; and Jonas Gahr Store, "Broad Dialogue with China", *Dagbladet*, 15 September 2008.
 - 3 Øystein Tunsjø, "Norske utenrikspolitiske interesser", *Samtiden*, 2011. Available at <http://www.samtiden.no/?p=324>; Øystein Tunsjø, "Geopolitical shifts, great power relations and Norway's foreign policy", *Cooperation and Conflict*, 46 (1), 2011, 60–77; Øystein Tunsjø, "A division of labour in transatlantic relations", *Clingendael Asia Forum*, 21 April 2011, available at http://www.clingendael.nl/publications/2011/20110000_cas_artikel_%20tunsj%C3%B8.pdf; Daniel Deudney, James Goldgeier, Steffen Kern, Soo Yeon Kim, Hanns W. Maull and Iskander Rehman, *Global Shifts: How the West Should Respond to the Rise of China*, Transatlantic Academy, June 2011; and Øystein Tunsjø, "Kinas vekst - implikasjoner for norsk utenrikspolitikk", *Report for the MFA*, 2008. Available at http://www.regjeringen.no/nb/dep/ud/kampanjer/refleks/forside/kina_vekst.html?id=525539.
 - 4 While this article is mainly concerned with contemporary trends, it also looks ahead at the longer-term implications of geopolitical shifts, changes in polarity and development of a new world order over the next 10–20 years. Of course, any assessment of scenarios and consequences will always be highly speculative.

The lack of money and resources will force the US to examine its commitment priorities. Asia and the Middle East are likely to figure at the top of that priority list.⁵

US defence budgets fund US carrier and submarine presence in East Asian waters and efforts to improve the forward presence of American air power in the region.⁶ Over the last two decades, several US Defence posture reviews have mandated more Pacific bases and European drawdowns; US bases in Asia have been expanded and modernised.⁷ In 2007 more ships were based in the Pacific than the Atlantic for the first time in 60 years. Two-thirds of the US navy used to be located on the East coast and deployed in the Atlantic, but about two-thirds is now located on the West coast and operates in the Pacific; newly commissioned ships are largely deployed to Asian Waters.⁸

One important aspect of this re-alignment is the US response to a more assertive China. This 'push back' strategy has included consolidating alliances in Asia, engaging in closer military cooperation with countries in Southeast Asia, and conducting a more active and provocative diplomacy on sensitive questions such as in

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- 5 U.S. Department of Defense, "Sustaining U.S. Global Leadership: Priorities for 21st Century Defense," January 2012, available at http://www.defense.gov/news/Defense_Strategic_Guidance.pdf
- 6 The Joint Chiefs of Staff, *The National Military Strategy of the United States of America: Redefining America's Military Leadership* Pentagon, Washington, D.C. 2011; Annual reports by Ronald O'Rourke on *China's Naval Modernization*, Washington DC: Congressional Research Service Report and Robert S. Ross, "Bipolarity and Balancing in East Asia", in *Balance of Power: Theory and Practice in the 21st Century*, edited by T.V. Paul, James J. Wirtz and Michel Fortmann, Stanford: Stanford University Press, 2004, pp. 267-304, 280-280.
- 7 US Quadrennial Defense Review (QDR) 2006, available at <http://www.defense.gov/qdr/report/report20060203.pdf> and US QDR 2010, available at http://www.defense.gov/qdr/images/QDR_as_of_12Feb10_1000.pdf. The 2010 QDR was criticised by the QDR independent panel in its final report where they argued, "the absence of a clear force-planning construction in the 2010 QDR represents a missed opportunity". The independent panel called for an expansion of the force structure in the Asia-Pacific, depicting the rooting of the structure in a maritime strategy to be essential. The Final Report of the QDR Independent Panel, "The QDR in Perspective: Meeting America's National Security Needs in the 21st Century", Washington DC, 2010, pp. xii-xiii. Available at <http://www.usip.org/files/qdr/qdrreport.pdf>. US Navy's maritime strategy October 2007 states, "Credible combat power will be continuously postured in the Western Pacific and Arabian Gulf/Indian Ocean...". Available at <http://www.navy.mil/maritime/Maritimestrategy.pdf>. See also National Defense Strategy, June 2008, available at <http://www.defense.gov/news/2008%20National%20Defense%20Strategy.pdf> and National Security Strategy, May 2010, available at http://www.whitehouse.gov/sites/default/files/rss_viewer/national_security_strategy.pdf.
- 8 The US Navy had deployed 31 of 53 its nuclear attack submarines in the Pacific by the end of 2009. See Shirley A. Kan and Larry A. Niksch, "Guam: U.S. Defense Deployments", Congressional Research Service, 7 January 2010. Available at <http://www.fas.org/sgp/crs/row/RS22570.pdf>. As of February 2011, 16 of the Navy's 21 BMD-capable Aegis ships were homeported in the Pacific, including five at Yokosuka, Japan, six at Pearl Harbor, HI, and five at San Diego, CA. The remaining five BMD-capable Aegis ships were homeported in the Atlantic, with four at Norfolk, VA, and one at Mayport, FL. It remains to be seen if the number of capable Aegis-BMD ships increases to 13 in the Atlantic as scheduled by the end of 2012. See Ronald O'Rourke, "Navy Aegis Ballistic Missile Defence (BMD) Program: Background and Issues for Congress", Congressional Research Service, 23 June 2011. Available at http://www.missiledefenseadvocacy.org/data/images/crs%20report_aegis%20bmd.pdf

the South China Sea.⁹ In July 2010, three nuclear powered cruise missiles submarines appeared simultaneously in Pusan, South Korea (USS Michigan); in Subic Bay, the Philippines (USS Ohio); and in the strategic Indian Ocean outpost of Diego Garcia (USS Ohio) in a show of force not seen since the Cold War.¹⁰

While very few people remember the last time an American carrier battle group visited or held exercises in the North Atlantic, three US carrier battle groups were deployed to East Asia following the North Korean shelling of a South Korean island in November 2010. In the context of this re-alignment of US forward military presence, it should be noted that Russian strategic bombers and the Russian Northern Fleet, including a Russian carrier battle group, have been operating and conducting military exercises in the Northern Atlantic and the Norwegian Sea. The point here is not to be alarmist about these developments, but to illustrate shifting US priorities and new developments that will shape Norwegian defence and security policy.

Geopolitical changes and the fact that China is the only great power recognised as capable of challenging US power preponderance mean that US military presence in Asia will be a priority in US strategy. Nevertheless, its continued emphasis on sea power gives the US the flexibility to direct naval power to Norwegian waters and render Norway assistance in a wartime contingency. US allies, and Norway in particular, have shown an ability to adapt to new circumstances, facilitating, upgrading and sharing much of the costs of accommodating flexible US response units. Norway maintains pre-positioned war reserve equipment for US expeditionary Marine Corps and Norway can be of strategic value were the US to seek a forward military presence in the Arctic in the future.¹¹

Nonetheless, the current geopolitical changes set new terms for Norwegian defence and security policy. Its increasing focus on Asia means less attention in the

9 Many writers have pointed to the Impeccable Incident in March 2009; Obama's unsuccessful state visit to China in November 2009; the belligerent diplomacy in the South China Sea; the combative diplomacy adopted by China towards Japan after the Senkaku incident in September 2010; the differences that have re-emerged over the Korean Peninsula; the renewed US-China tension over naval exercises by US and its allies and partners; US arms sell to Taiwan; President Obama's meeting with the Dalai Lama; and the Obama administrations new defense posture, which priorities a stronger US military, economic and diplomatic presence in Asia and the Pacific as indications that US-China relations have become more confrontational since 2009. See Robert S. Ross, "Chinese Nationalism and the American Response: Sources of Tension and Prospects for Renewed Cooperation," in Chaibong Hahn and Gilbert Rozman, (eds.), *China's Foreign Policy: Who Makes It, and How Is It Made?* Seoul: Asan Institute, 2012; Thomas J. Christensen, "The Advantages of an Assertive China", *Foreign Affairs*, 90 (2), 2011, pp. 54-67 and Wang Jisi, "China's Search for a Grand Strategy", *Foreign Affairs*, 90 (2), 2011, pp. 68-79.

10 Li Jing, "US subs reach Asian ports: Report", *Global Times*, 6 July 2010. Available at <http://world.globaltimes.cn/americas/2011-04/548595.html>.

11 The plan suggests the pre-position war reserve material in Norway could be used for several other missions than NATO article five contingency plans. A forward military presence in Europe will also be important for contingency planning and US strategic objectives in the years ahead and complement the US as it focuses on Asia and the Middle East. While Europe will doubtless need to share more of the costs, a role for the US in Europe has been important historically in maintaining peace, stability and prosperity.

US on European affairs. Of course, this is not necessarily negative. On the contrary, it signals a positive state of affairs in that Europe remains peaceful and stable.¹² The US will maintain its position as the leading global power for the foreseeable future and will doubtless continue to help preserve a benign security environment in Europe while offsetting any great power aggression or regional hegemonic ambitions in Europe.

Shifting US priorities are not only affecting US military presence in Europe and the Northern Atlantic; they also present new challenges to transatlantic relations and NATO, each of which has implications for Norway. The first foreign leader to be welcomed at the White House under Obama was the prime minister of Japan. For the first time in nearly fifty years, the first foreign trip by an American secretary of state in a new administration was to Asia, starting in Japan. In 2009, Obama shelved his plans to attend celebrations marking the twentieth anniversary of the fall of the Berlin Wall on the 9 November. He travelled instead to Japan where he stated on 14 November 2009: “[...] there must be no doubt: as America’s first Pacific President, I promise you that this Pacific nation will strengthen and sustain our leadership in this vitally important part of the world.”¹³ With President Obama adopting an ‘Asia first’ approach, there is little wonder that he has been characterised as the first “post-Atlanticist President”.¹⁴

Many US decision makers are no longer predominantly concerned with Europe. As Richard Haass, the President of the Council of Foreign Relations forcefully argues, intimate ties across the Atlantic were forged at a time when American political and economic power was largely in the hands of Northeastern elites, many of whom traced their ancestry to Europe and who were most interested in developments there. Today’s United States – featuring the rise of the South and the West, along with an increasing percentage of Americans who trace their roots to Africa, Latin America

 12 Tunsjo’s “Geopolitical shifts” discusses potential implications for Europe of a more Asia-centred and a multipolar and bipolar system, including the role of Russia, Germany and Europe’s common foreign and security policy.

13 “Full Text: Barack Obama’s Speech in Tokyo”, *Financial Times*, 14 November 2009. Available at <http://www.ft.com/cms/s/0/9e985a46-d0c2-11de-af9c-00144feabdc0.html#axzz1EieQKUPV>. Conversely, for an emphasis on transatlantic relations, see Obama’s speech to the UK Parliament on 25 May 2011. Available from http://articles.cnn.com/2011-05-25/politics/obama.europe.speech_1_magna-carta-english-bill-uk-parliament?_s=PM:POLITICS

14 Roger Cohen, “Europe and Benign Neglect”, *New York Times*, 6 September 2010. Available at <http://www.nytimes.com/2010/09/07/opinion/07iht-edcohen.html> Domestic factors – ethnic, generational, demographic and educational – in the US are also contributing to the erosion of transatlantic cohesion. The proportion of US citizens of European origin is in relative decline in the US; Asian and other minorities represent a growing fraction of students at US universities and colleges and more than 100,000 exchange students in the US are from China and India. Europeans have not invested very much on developing expertise in Chinese military and security affairs and are less relevant as partners on issues to do with security in Asia. Many US decision makers are increasingly turning their attention away from Europe. Richard Haass, “Why Europe no longer matters”, *Washington Post*, 18 June 2011. Available at http://www.washingtonpost.com/opinions/why-europe-no-longer-matters/2011/06/15/AG7eCCZH_story.html

or Asia – could hardly be more different. American and European preferences will increasingly diverge as a result.

More importantly, preoccupation with China's rise and the transition towards a bipolar system concentrated on US-China relations means the US will seek to consolidate ties with Asian allies and partners.

Although this is no zero sum game, it could nevertheless marginalise European partners. Improving US-Russian relations could also benefit US efforts to deal with a rising China, while increased Russian leverage could compromise European interests.¹⁵ Conversely, if Russia is willing to seek closer ties with the US in response to China's growing power in Asia, Russia might also emphasise benign relations with Europe in order to focus more on great power politics in Asia.¹⁶

It would be premature to conclude that Europe is history. The US has always been both an Atlantic and a Pacific power and remains committed to NATO and Europe through institutional ties, shared history, democratic values and cultural factors. Peace and stability in Europe, largely promoted by NATO, the EU and US presence in Europe, is essential to the US objective of preventing a two-front situation as the US focuses on the rise of China.¹⁷

While tensions and disagreements in transatlantic relations are nothing new,¹⁸ what is new, apart from the disappearance of the Soviet Union and lack of a new common threat as a rationale for NATO's collective defence, is China's rise and the emergence of other great powers. The US is therefore increasingly preoccupied with China and great power politics; it cannot afford to overstretch itself and prioritise second-order risk management tasks. Creating a counterweight to China's growing power is not a priority in Europe, but then China does not represent the same threat to European powers as to the US.

Accordingly, a new 'division of labour', a re-allocation of tasks, responsibilities and duties within NATO, could be one way of preserving strong ties across the Atlantic in the face of new challenges to transatlantic relations from diverging threat perceptions and an Asia-centred world.¹⁹ The conflict in Libya demonstrated what the US expects NATO and European powers to do to manage humanitarian crises

15 Tunsjo, "Geopolitical shifts".

16 Other scholars see a Sino-Russian strategic partnership as more important. Cooperation between Beijing and Moscow allows Russia to prioritise its sphere of influence in Eastern Europe and the Caucasus, and leaves China to focus on shifting its strategic centre of gravity towards the maritime domain, while cooperation is maintained in Central Asia. See Ross, 2004 and 2006 and Tunsjo, "Geopolitical shifts".

17 Tunsjo, "Norske utenrikspolitiske interesser".

18 See for example; Geir Lundestad, *Just Another Major Crisis, The United States and Europe Since 2000*, Oxford: Oxford University Press, 2008.

19 Tunsjo, "A Division of Labour"; and Deudney et al., *Global Shifts*.

and new security challenges,²⁰ while it itself prepares to meet a more threatening environment and offset China's rise. The US is likely to prefer Asian allies, even Russia, as partners in this effort. That being the case, European states may need to take the lead in expeditionary tasks and out-of-area operations that deliver security, whether in Africa, Eastern Europe and the Middle East or in safeguarding sea lines of communications (SLOCs), in order to preserve strong transatlantic ties, complement US strategic priorities and assure Europe's influence in a more bipolar system.

Acting under the umbrella of a collective defence has traditionally been the exception for NATO, while ad hoc based operations and coalitions of the willing have been the norm. It is too early to say if Libya will create a pattern and push the NATO alliance towards a new division of labour, but ad hoc operations and coalitions of the willing will arguably remain the operational modus of the future. It is also difficult to predict whether the EU will become a more coherent defence and security player regionally and globally. Libya was a mission the EU and its common foreign and security policy (CFSP) were manifestly unable to prosecute when put to the test, notwithstanding the fact that the expeditionary forces had been set up precisely with this type of eventuality in mind.

Norway's participation in Operation Unified Protector in Libya is an important example of how a new division of labour would work in a more Asia-centred world where shifting US priorities no longer put as much emphasis on "saving strangers".²¹ Norway's Libya involvement demonstrates how a small country and close ally of the US can complement US strategic and political objectives while pursuing its own interests and preserving NATO as a relevant organisation in an increasingly Asia-centred world. Additionally, Norway's participation in out-of-area operations and a new division of labour ensure that bilateral ties with the US remain strong and boost US commitments to the defence of Norwegian interests.

NATO's emphasis on partnership could also contribute to a division of labour.²² For example, NATO's SLOC security operations and Norway's contribution to anti-piracy missions in the Gulf of Aden provide opportunities where Norway can promote and contribute to a global partnership, which again could complement US strategy in an Asia-centred world, enhance NATO's relevance and be conducive

20 Bruno Waterfield and Alex Spillius, "Libya: NATO remains split as Barack Obama announces US would pull back 'this week'", *Telegraph*, 23 March 2011. Available at <http://www.telegraph.co.uk/news/worldnews/africaandindianocean/libya/8402224/Libya-Nato-remains-split-as-Barack-Obama-announces-US-would-pull-back-this-week.html>

21 Nicholas J. Wheeler, *Saving Strangers: Humanitarian Intervention in International Society*, Oxford: Oxford University Press, 2003.

22 On the importance of partnership see, Håkan Edström, Janne Haaland Matlary, and Magnus Petersson, *NATO: The Power of Partnership*, Palgrave Macmillan, 2011 and *NATO's New Strategic Concept*, pp. 8-10. Available at <http://www.nato.int/lisbon2010/strategic-concept-2010-eng.pdf>

to Norwegian defence and security interests. Nonetheless, it remains to be seen whether NATO will be able to develop a comprehensive and effective partnership with Asian powers.

Before expecting European powers to shape great power politics and promote their interests in an Asia-centred world with a new division of labour or a global NATO complementing US strategy and priorities, it is necessary to acknowledge the financial predicament in which many European states find themselves, one that threatens to undermine the entire EU project. Indeed, there is little evidence today that NATO and EU members are willing or able to spend more on defence and contribute to out-of-area operations in ways that would relieve the US from the burden of tackling a number of new security challenges.²³ Even Norway, which is in much better economic shape than most other European states, could only maintain its deployment of a frigate to the Gulf of Aden in 2009 for six months.²⁴

NORWAY AND MARITIME DEVELOPMENTS IN ASIA SOVEREIGNTY DISPUTES AT SEA

There are numerous disputes over sovereignty in and over Asian waters. Tensions recently flared up over issues in the South China Sea.²⁵ China, Vietnam, Taiwan, the Philippines, Malaysia, Indonesia, and Brunei each claim sovereignty to parts of the South China Sea, including land features. The magnitude of each party's claim varies widely (China, Taiwan and Vietnam claim almost all of the South China Sea), but at the centre of the disputes is sovereignty over the 200 small islands, rocks and reefs that make up the Paracel and Spratly Islands archipelagos. China and Taiwan are pursuing similar claims. Together with Vietnam, they are claiming all of the Paracel and Spratly Islands. The Philippines, Malaysia and Brunei claim some of the Spratly Islands.

China occupied the Paracel Islands after a brief clash with Vietnamese forces in 1974 and took control of some of the Spratly Islands in 1988 after a short naval battle with Vietnam, which left about 70 Vietnamese sailors dead.²⁶ Conflicts erupted throughout the 1990s between China and Vietnam, China and the

23 See "Transcript of Defense Secretary Gates' Speech on NATO's Future", *Wall Street Journal*, 10 June 2011. Available at <http://blogs.wsj.com/washwire/2011/06/10/transcript-of-defense-secretary-gatess-speech-on-natos-future/>

24 "Norwegian Frigate to Join EU NAVFOR Atalanta", 8 June 2009. Available at http://www.eu-norway.org/news/F378ADB7_E19F_4ADC_8C45_D26D85C1651B/

25 Robert D. Kaplan. "The South China Sea is the Future of Conflict", *Foreign Policy*, September/October 2011. Available at http://www.foreignpolicy.com/articles/2011/08/15/the_south_china_sea_is_the_future_of_conflict%23.TkkO5xhXpBA.email

26 Chalmers Johnson, "The Chinese Way", *Bulletin of the Atomic Scientists*, January/February 1997, pp. 20-25, 23.

Philippines, Taiwan and Vietnam and the Philippines and Vietnam. However, in 2002 the ASEAN countries and China signed a Code of Conduct. The code urges all claimants to “resolve their territorial and jurisdictional disputes by peaceful means, without resorting to the threat or use of force, through friendly consultations and negotiations”.²⁷

Recent events suggest that China, Vietnam and the Philippines at least have failed to honour the spirit of that agreement. Indeed, tensions have surged recently, accompanied by strong statements and displays of naval strength in the South China Sea. This has both direct and indirect implications for Norwegian interests. The Norwegian seismic survey ship *Viking 2*, chartered by the state oil and gas company Petro Vietnam, found itself in the middle of the escalating conflict in the summer of 2011.²⁸ In early June 2011, a Vietnamese Foreign Ministry spokeswoman said a Chinese fishing boat had deliberately rammed the exploration ship as it was conducting a seismic survey inside Vietnam’s 200 nautical mile exclusive economic zone.²⁹ Six Norwegians were on board the ship, but the captain played down the event in a telephone interview with a Norwegian newspaper. The ship had been operating in international waters, related the captain, outside Vietnam’s EEZ, when the incident occurred. These things happen, he said, and the ship was determined to return after a few days for repairs.³⁰ According to the Vietnamese government, however, the incident did indeed take place within the EEZ, further fuelling tensions between Vietnam and China.

Vietnam conducted a live-fire exercise off its coastal waters in response to the *Viking 2* incident and China’s display of naval strength in the South China Sea.³¹ Shortly after that, the Philippines decided to send its flagship BRP *Raja Humabon* to the Scarborough Shoal after the PLA’s military exercises off Hainan, which included

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- 27 See *Declaration on the Conduct of Parties in the South China Sea*. Available at <http://www.aseansec.org/13163.htm>. The countries agreed to “exercise self restraint in the conduct of activities that would complicate or escalate disputes and affect peace and stability including, among others, refraining from action of inhabiting on the presently uninhabited islands, reefs, shoals, cays, and other features and to handle their differences in a constructive manner.” Finally, the agreement signalled a willingness among claimants to approach the dispute multilaterally, reaffirming “their respect for and commitment to the freedom of navigation in and over flight above the South China Sea, as provided for by the universally recognized principles of international law, including the 1982 UN Convention on the Law of the Sea.”
- 28 Norway has had close contact with Petro Vietnam since the early 1970s through development aid programmes for Vietnam.
- 29 “Vietnam says China fishing boat rams research ship”, *Strait Times*, 9 June 2011. Available at http://www.straitstimes.com/BreakingNews/SEAsia/Story/STIStory_678024.html
- 30 Kristoffer Ronneberg, “Protestere over angrep på norsk skip”, *Aftenposten*, 11 June, 2011. Available at <http://ipad.afenposten.no/nyheter/uriks/article4145501.ece>
- 31 Shortly after, the Philippines decided to send its flagship BRP *Raja Humabon* to the Scarborough Shoal after the PLA’s military exercises off Hainan, which included beach landing drills to retake a seized island. See Greg Torode and Teddy Ng, “Manila send its flagship to shoal.” *South China Morning Post*, 18 June 2011. Available at http://viet-studies.info/kinhte/Manila_sends_ship.htm

beach landing drills to retake a seized island.³² While the Norwegian ship and its crew were not injured or arrested, the incident demonstrates how Norway, and in particular its maritime and offshore commercial interests, are directly affected by maritime disputes in Asia.

Asia and Oceania have the world's fastest growing defence budgets at the moment, averaging 8.9 per cent.³³ China has had double digit growth in defence spending for about two decades and its naval expansion is fuelling tensions and geopolitical friction as countries around China react to its military and naval build up and ambitions for sea power. Military budgets in Vietnam, South Korea and the Philippines rose sharply recently;³⁴ India's defence budgets are increasing; Japan has changed its defence posture and highlighted China's military modernisation as a rising threat;³⁵ and the Australian government has put forward a more alarmist regional defence review.³⁶ The US forward military presence in the region is strong. All this suggests a continuation of tension, an arms race in the budding and heightened risk of conflict, all of which will have implications for Norwegian foreign policy and maritime interests.

While current hostilities point in an opposite direction and it will be very difficult to solve the various overlapping sovereignty claims in the South China Sea, if the littoral states surrounding the South China Sea started to abide by the 2002 Code of Conduct and solved many of the legal limbos that prevent or complicate commercial activities in the contested area, it could open up new sites for resource exploration with commercial possibilities for foreign petroleum and offshore companies. According to Statoil's office in Beijing, Norwegian petroleum and offshore companies could compete at short notice for exploration contracts if and when delineation issues in the South China Sea are resolved.³⁷

32 Greg Torode and Teddy Ng, "Manila send its flagship to shoal", *South China Morning Post*, 18 June 2011. Available at http://viet-studies.info/kinhte/Manila_sends_ship.htm

33 Stockholm International Peace Research Institute (SIPRI), *SIPRI Military Expenditure Database*, 2010.

34 Jason Miks, "Vietnam eyes China 'threat'", *Diplomat*, 28 March 2011. Available from <http://the-diplomat.com/china-power/2011/03/28/vietnam-eyes-china-threat/> "South Korea increases defence budgets", *Defence Talk*, 1 December 2010. Available from <http://www.defencetalk.com/south-korea-increases-defense-budget-30365/> and John Gravatt, "Philippines raises spending in reaction to insurgency and Chinese build up", *Jane's Defence Weekly*, 8 September 2010.

35 See http://www.kantei.go.jp/foreign/kakugikettei/2010/summary_ndpg_e.pdf and http://www.kantei.go.jp/foreign/kakugikettei/2010/ndpg_e.pdf

36 Defence White Paper, "Defending Australia in the Asia Pacific Century", Department of Defence, 2009, 16, 28-29. Available at: http://www.apo.org.au/sites/default/files/defence_white_paper_2009.pdf. Matthew Franklin, "Julia Gillard backs US concerns over China", *Australian*, 9 March 2011 <http://www.theaustralian.com.au/national-affairs/foreign-affairs/julia-gillard-backs-us-concerns-over-china/story-fn59nm2j-1226018292636>

37 Interview with Statoil office, Beijing, August 2009. Statoil, in partnership with British Petroleum (BP), was involved in a major petroleum project in Vietnam in the 1990s. It terminated in 2001-2002.

Norwegian interests, especially maritime business interests, are not only affected *directly* by tension and conflict in Asian waters or the management of legal claims at sea, but also *indirectly* by sovereignty and territorial disputes. China has protested strongly against the freedom of military operations at sea within the EEZ of coastal states and harassed US naval ships operating in the South China Sea. China's view challenges customary international law as defined by state practice that allows freedom of navigation for military purposes within states' EEZs.

The degree to which coastal states will continue to respect the full navigational freedoms within their EEZs is not entirely clear. Around twenty-five of the 157 UNCLOS member states have already enacted limitations in their EEZs that interfere with the navigational rights and freedoms of other states, and the number is growing.³⁸ According to Chinese legal experts, the "regime of freedom of the seas is changing as states make and enforce laws based on UNCLOS, which provides a new legal order for most maritime activities although it deliberately neglects the contentious issues related to military activities."³⁹ The traditional freedoms of the seas, it is being argued, have been greatly reduced and coastal state jurisdiction enhanced by extending the contiguous zone from twelve to twenty-four nautical miles; by expanding territorial waters from three to twelve nautical miles; by clarifying and extending the continental shelf seaward; and by the emergence of the concept of the EEZ.

Wu and Zhang therefore maintain it is "no longer possible to insist that the principle of freedom of the seas remains the same as it had for more than a hundred years". The new sea zones established by the 1958 Geneva Convention and the additional jurisdictional regimes created in 1982 by UNCLOS entitle coastal states to establish their own jurisdiction and erect new legal regimes with new approaches to navigation, in accordance with the legal status of each of these different sea zones. As observers have acknowledged, the drafters of UNCLOS deliberately avoided negotiations of the rules applicable to military activity carried out in the EEZ. Nonetheless, it is argued, the new legal regime challenges the view of military activities as falling within the orbit of "freedom of the seas".⁴⁰ It is important to note the paradox

38 Donald R. Rothwell and Tim Stephens, *The International Law of the Sea*, Hart Publishing, 2010, p. 155.

39 Wu Jilu and Zhang Haiwen, "Freedom of the seas and the law of the seas: A Chinese perspective", in Peter Dutton, Robert S. Ross and Øystein Tunsjø (eds), *Twenty First Century Sea Power: Cooperation and Conflict at Sea*, (forthcoming, London: Routledge).

40 Wu Jilu and Zhang Haiwen, "Freedom of the seas and the law of the seas". Restrictions are based on the lack of legal definition of the terms 'military activities', 'the use of the seas for military purposes' and 'navigation'.

in China's stand on this issue, since China undertakes incursion and surveillance in areas of Japan's EEZ not disputed by China.⁴¹

While China's claims about territorial waters and extended jurisdiction are supported only by a minority of UNCLOS member states, what other legal experts claim is that if China were to gain support for its policy of limiting the freedom to undertake military activities in foreign EEZs, global economic development could suffer and the safety of the world's merchant fleet be put at risk.⁴² As Dutton at the US NWC has argued, the correct response to any attempt to create a regional exception must be to insist that the law applies everywhere, or not at all. Somali piracy shows the vulnerability of maritime trade to disruption at sea by non-state actors, especially in waters adjacent to the coastlines of the many weak or developing states without the capacity to police their EEZs. Close to 40 per cent of the world's oceans lie within EEZs. So, as Dutton notes, "just as the lack of effective governance on land results in the disruptive spill-over effects of failed states on their neighbors, so too at sea would a removal of international authority to provide order result in maritime zones of instability."⁴³ This eventuality would not serve Norway's security interests or the commercial interests of the Norwegian merchant fleet. Conversely, from a Chinese perspective, constabulary tasks may best be assured by ensuring authorisation from the United Nations Security Council before undertaking military operations.⁴⁴

At the same time, rising naval powers tended in the past to revise their position on the issue of freedom of navigation for military purposes as they grew more dependent on the global connections provided by the seas and more capable of protecting their global interests at sea. When conflict broke out in Libya, China decided to send the missile frigate Xuzhou, then on anti-piracy missions in the Arabian Sea and the Gulf of Aden, through the Suez Canal. It arrived off the Libyan coast on 2 March in one of the PLA's first deployments to the Mediterranean to assist, facilitate and provide security for the evacuation of more than 35,000 Chinese workers based in Libya by commercial ferries and ships.⁴⁵ While this operation is not directly com-

41 Cole, "Great Wall at Sea", p. 41 and Mark Valencia, "Intelligence gathering, the South China Sea and the law of the sea", Nautilus Institute, 30 August, 2011.

42 According to Statistics Norway, the Norwegian merchant fleet, i.e. vessels registered with the Norwegian International Ship Register (NIS) and the Norwegian Ordinary Ship Register (NOR), totalled 1,407 vessels at the end of 2010. Total gross tonnage was 15.7 million tonnes. Available at http://www.ssb.no/handelsfl_en/main.html The Norwegian-controlled fleet represents about 10 per cent of the world's merchant fleet and makes Norway one of the four largest shipping nations of the world. See Norwegian Shipowners' Association. Available at <http://www.rederi.no/nrweb/english.nsf>

43 Peter Dutton "Law of the sea for the 21st Century", in Peter Dutton, Robert S. Ross and Øystein Tunsjø (eds), *Twenty First Century Sea Power: Cooperation and Conflict at Sea* (forthcoming, London: Routledge).

44 As Wu and Zhang point out the fight against piracy and armed robbery at sea off the coast of Somalia is consistent with UNSC Resolutions 1836 and 1851 (2008). See Wu Jilu and Zhang Haiwen, "Freedom of the seas and the law of the seas".

45 "China's Libya evacuation highlights people-first nature of government", Xinhua, 3 March 2011. Available at http://news.xinhuanet.com/english2010/indepth/2011-03/03/c_13759953.htm

parable to US military exercises or intelligence gathering in China's EEZ, it shows China's readiness to protect its global interests by military means and freedom of navigation for military purposes inside a country's EEZ. According to most reports, the frigate did not enter Libyan territorial waters, but this is difficult to verify.⁴⁶ If it did without the approval of the Gaddafi regime, it would indeed presage a watering down of China's stand on national sovereignty.

Another indirect implication for Norway of maritime sovereignty disputes in Asia is that the law of the sea and its conventions, on which Norwegian interests depend, are not static or given, but changing and evolving. Norway does not take sides in sovereignty disputes in Asia, such as in the South China Sea. Legal experts at the MFA refuse to comment on disputes and advise the Norwegian government to do the same.⁴⁷ For example, neither the Norwegian government nor the MFA issued statements in connection with the June 2011 Viking 2 incident. Nonetheless, some maritime boundaries in the Arctic are still not settled and Norway has strong commercial and security interests in this region.⁴⁸ Nor have questions relating to the regulation of access to many of the waterways in the Arctic, such as the Northwest Passage and the Northeast Passage,⁴⁹ or the right to extract resources from the seabed in different parts of the Arctic, been settled. It is not clear if the protection of freedom of navigation in the Arctic will be upheld within the EEZ, and there is already evidence of a creeping jurisdiction with coastal states claiming stronger control. As pointed out, a Chinese or an Asian exception to accepted rules of international law could undermine laws guaranteeing freedom of navigation everywhere.⁵⁰

46 Gabe Collins and Andrew Erickson, "China dispatches warship to protect Libya evacuation mission", *China Sign-Post*, no. 25, 24 February 2011. Available at <http://www.chinasignpost.com/2011/02/china-dispatches-warship-to-protect-libya-evacuation-mission-marks-the-prc%E2%80%99s-first-use-of-frontline-military-assets-to-protect-an-evacuation-mission/>

47 Two matters count for the MFA. 1) The government should not take part in international disputes because it could harm Norway's commercial interests: an official protest in the aftermath of the Viking 2 incident could have hurt Norwegian businesses operating in China. 2) Foreign office philosophy, based on lessons learned during the Cold War and the law of the sea, prefers to see Norway keeping a low profile on law of the sea issues unless they have an immediate bearing on Norwegian interests. Rather, Norway should do what it can to promote its interests and policies through the appropriate institutions and diplomatic channels.

48 On signing an agreement on the delimitation in the Barents Sea with Russia, Norway settled its sovereignty disputes at sea in the Arctic. See http://www.regjeringen.no/en/dep/ud/Whats-new/news/2010/statement_delimitation.html?id=601983 The only outstanding issue is related to the interpretation of the Spitsbergen Treaty, which is not directly related to the law of the sea. However, there are overlapping claims to the continental shelf and EEZs between littoral states in the Polar Sea. See Øystein Jensen, "Kontinentalsokkelkrav i Polhavet: Alminnelig havrett eller folkerett sui generis?" *Lov og Rett*, 48(7), 2009, pp. 406-424.

49 At the core of the dispute we find the US arguing for freedom of navigation and Canada and Russia arguing for restrictions in the Northwest Passage and the Northeast Passage, respectively.

50 At stake here is whether the international law of the seas, as a whole, is interpreted in such a way first as to promote military uses of the seas for the purpose of maritime security and countering traditional and non-traditional threats or, second, as allowing some countries claim regional exceptions for themselves, in which case the law may indeed be a cause instability and insecurity. See, among others, Dutton, "Law of the Sea".

So when China argues for limiting the protection of over-flight under article 58 of the convention that is applicable to the EEZ (such as in the EP-3 incident) or harasses US surveillance ships operating within its EEZ (i.e. the Impeccable incident), this may explain why China would be reluctant to comment openly on restrictions imposed by coastal states in the Arctic on their EEZs, as there is a certain reciprocity in the way these issues are dealt with in international law. In other words, if China wants to interpret the law of the sea and UNCLOS in a manner consistent with their actions in the EP-3 and Impeccable incidents, it would be difficult to deny other major powers the freedom to make similar claims on behalf of their own EEZs.⁵¹

China might come to support coastal states in the Arctic that impose restrictions within their EEZs, for example, through the practice of staying silent and accepting rules, regulations and regimes enforced in waters and sea lanes defined by Russia, for example, as internal waters. China's own sovereignty and jurisdictional claims in the South China Sea are likely to remain China's primary consideration. China faces a traditional challenge, shared by other coastal states and maritime nations including Norway, of balancing expanding jurisdictional waters and developing the natural resources in those waters, on the one hand, and the desire of major maritime powers to uphold the principles of the freedom of the seas in all of the world's oceans, on the other. Both China and Norway, although for various reasons,⁵² have ended up supporting in practical terms Russia's claims to territorial waters, in contradiction with their own maritime interests. In addition, Norway's position could undermine the strong interests of the US in preserving the principle of the freedom of navigation at sea.

Finally, in a long-term perspective, with new SLOCs opening up in the Arctic, Norway stands to benefit from a more Asia-centred world and maritime developments in Asia. As Europe and Asia literally melt together in the future, it will have commercial, environmental, strategic and military implications for Norway, although the long-term consequences remain uncertain.

SAFEGUARDING SLOCS

Piracy, hijacking and robbery constitute an increasing risk to shipping, and shipping companies pay higher insurance rates for vessels in affected areas. Piracy costs

51 Jonas Weltan, "Evidence of Chinese views towards the application of UNCLOS in the Arctic areas," Master's Thesis, The Fletcher School, Tufts University, 2011. Several of the Chinese energy and maritime law experts interviewed by the author in Beijing and Oslo interviewees expressed apprehension about Russian behaviour in the arctic and restrictions within its EEZ.

52 Norway remains reluctant to challenge Russia's interpretation of internal waters and restrictions in the freedom of navigation because of the importance of maintaining close relations with Russia over questions such as the Spitsbergen Treaty, petroleum sources, fishing rights and maintaining a benign security environment in the High North.

the world \$7–12 billion per year.⁵³ According to the International Maritime Bureau (IMB), the number of reported actual and attempted attacks fell from 445 in 2003 to 293 in 2008, but increased again to 406 in 2009 and 489 in 2010.⁵⁴ The Norwegian Royal Navy has recently been tasked with safeguarding SLOCs in Asia. Norway deployed a frigate to the Gulf of Aden to combat piracy in 2009, where it operated alongside several navies from Asia. Norway is now considering sending a new frigate to the same area in 2012.

Such out-of-area operations can complement US strategy and priorities,⁵⁵ facilitate a division of labour in transatlantic relations, enhance the relevance of NATO and protect Norway's commercial interests. The situation also creates opportunities to promote and facilitate NATO's partnership ambitions. It would show NATO as a flexible alliance, and able to deal with traditional and non-traditional security challenges in the twenty-first century regionally and globally.

While piracy in Southeast Asia grew exponentially after the Cold War, from 6–7 attacks annually before 1989, to 50 in 1991 and 469 in 2000, recent figures show a dramatic decline in incidents. Indonesia reported 121 attacks in 2003 and 28 in 2008, while there were 28 actual and attempted attacks in the Malacca Straits in 2003 and only 2 in 2008, according to the IMB.⁵⁶ This is largely accounted for by national, bilateral and multilateral measures.⁵⁷ The littoral states of Indonesia, Malaysia, Singapore and Thailand have all taken measures to address the issues of piracy and robbery. They include more naval and coastguard patrols, improved surveillance, coordinated patrols by littoral states, capacity building, training, technical assistance, more contact between command centres and the shipping community and a focus on improving the living standards and welfare in areas bordering the key sea lanes.⁵⁸

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- 53 "ICS changes position on arming ships", *MarineLog*, 30 June 2011. Available at http://www.marinelog.com/index.php?option=com_content&view=article&id=505:2011feb000152&catid=1:latest-news&Itemid=107
- 54 IMB, 294 need to update in 2010/11, but the number from 2008 is also up from 2006/239 and 2007/263. "Guidance released on arming ship personnel", *MaritimeSecurity.Asia*. 8 June 2011. Available at <http://maritime-security.asia/free-2/piracy-update/guidance-released-on-arming-ship-personnel/>
- 55 Back in 2005 former US Chairman of the Joint Chiefs of Staff, Admiral Mullen, was calling for a partnership that could lead to a 1,000-ship navy, and the new US maritime strategy of 2007 emphasised a global maritime partnership. Available at <http://www.navy.mil/maritime/Maritimestrategy.pdf>
- 56 It has been pointed out by some experts that the 2004 tsunami that hit Indonesia and islands in the Indian Ocean in December 2004 probably eliminated several pirate groups, including their supply lines and infrastructure.
- 57 Joshua Ho, "Security of Transportation Routes in Southeast Asia", presentation at *Energy Security in Asia* conference, Beijing 20–21 May 2009. Joshua Ho, "Piracy in the Gulf of Aden: Lessons from the Malacca Strait", *RSIS Commentaries*, 22 January 2009. Available at <http://www.rsis.edu.sg/publications/Perspective/RSIS0092009.pdf> (accessed 21 June 2011).
- 58 Joshua Ho, "Piracy in the Gulf of Aden: Lessons from the Malacca Strait", *RSIS Commentaries*, 22 January 2009. Available at <http://www.rsis.edu.sg/publications/Perspective/RSIS0092009.pdf> (accessed 21 June 2011).

A multilateral framework was put in place under the Regional Cooperation Agreement on Combating Piracy and Armed Robbery Against Ships in Asia (ReCAAP).⁵⁹ Seventeen countries are contracting parties to ReCAAP and Norway was the first non-regional country to participate. Denmark and the Netherlands have subsequently joined this multilateral effort to enhance collaboration in the fight against piracy and armed robbery against ships in Asia. The important steps taken to deal with piracy in Southeast Asia show it can be managed and limited. Although Norway's input has been limited compared to that of the littoral states, Norway has contributed to enhanced cooperation in the fight against piracy in maritime Asia, which, of course, is conducive to Norwegian interests.

However, efforts to curb piracy off the coast of Somalia and in the Gulf of Aden have not been as successful, with many writers pointing to the differences between piracy in Southeast Asian waters and around Somalia.⁶⁰ Most of the attacks in these areas occur on the high seas from small high speed open boats operating from a "mother ship" carrying supplies, personnel and equipment, which allows attacks to take place at a greater range from the shore.⁶¹ In contrast, Southeast Asia pirates are less organised and conduct opportunistic raids closer to shore.⁶²

Another main difference between Southeast Asia and East Africa/Gulf of Aden is that many of the East African cases, large ships are hijacked and crews taken hostage for ransom.⁶³ In comparison, ransom is seldom the goal of pirates in Southeast Asia; they are more likely to steal valuables and operate under the cover of darkness. Firearms are seldom used.⁶⁴ The most important difference, however, is the lawlessness on land in Somalia and the "inability of the Somali government to respond", which encourages the pirates.⁶⁵ This level of disorder is not found in many places in Southeast Asia and there are very few places in Southeast Asia, if any, where pirates can take a large vessel, hold it and its crew for ransom and protect it from recovery.⁶⁶

59 See <http://www.recaap.org/about/index.html>

60 Catherine Zara Raymond, "Countering piracy and armed robbery in Asia: A study of two areas", in Dutton, Ross and Tunsjo (eds), *Emerging Naval Powers*, forthcoming and selected conference briefing papers from "Global Challenge, Regional Response: Forging a Common Approach to Piracy", Dubai, United Arab Emirates, 18-19 April 2011. Available at http://counterpiracy.ae/briefing_papers/Forging%20a%20Common%20Approach%20to%20Maritime%20Piracy.pdf

61 See monthly and annual piracy and armed robbery reports by the International Maritime Organization. Available at <http://www.imo.org/ourwork/security/piracyarmedrobbery/pages/piratereports.aspx> and International Maritime Bureau, Piracy Reporting Centre, 2009, p. 2. Available at <http://www.icc-ccs.org/piracy-reporting-centre>

62 IMB, 2009, p. 2 and Sam Bateman and Joshua Ho, "Somalia-type Piracy: Why it will not happen in Southeast Asia", *RSIS Commentaries*, 24 November 2008. Available at <http://www.rsis.edu.sg/publications/Perspective/RSIS1232008.pdf>

63 According to the IMB, out of a total number of 49 vessels that were hijacked, and 889 crew taken hostage worldwide in 2008, 42 vessels were hijacked by Somali pirates and 815 crew taken hostage. See IMB, 2008, p. 26.

64 Bateman and Ho, "Somali-type Piracy", 2008.

65 IMB, 2008, p. 26.

66 Bateman and Ho, "Somali-type Piracy", 2008 and IMB, 2008 p. 26.

ARMING MERCHANT SHIPS AT SEA

Several shipping companies and governments have therefore concluded that arming ships is necessary in order to fight piracy. The US, France, and Belgium and other nations have already decided to put military guards on their ships and Norway is now moving in the same direction. However, there are important differences. Under Norwegian law, the guards on ships will be armed security personnel hired in from the private sector, not Norwegian military personnel. Of course, these security companies hire people with a military background, including ex-officers from the Special Forces. The decision to allow shipping companies to hire armed guards from private security companies is, some argue, to go down a slippery slope.⁶⁷

Nonetheless, from July 2011, shipping companies could apply for a permit from the government to arm their ships.⁶⁸ Submissions should include a risk assessment and information on the training, qualifications, recruitment of personnel, and how weapons will be stored and deployed on the ship.⁶⁹ Flag state jurisdiction and any laws and regulations imposed by the flag state on the use of military guards and private security companies will apply to affected shipping companies. However, most ports do not allow vessels to carry weapons, and getting every country to change their regulations would be difficult. And since commercial vessels often stop in a dozen countries during a voyage, just a single ill-disposed port authority could create practical difficulties. It will therefore be difficult to devise a common international standard, because so many countries are involved.⁷⁰

Contemporary piracy in Asian waters is therefore eating away at the tradition of not arming commercial ships at sea. This of course has important repercussions for a maritime nation such as Norway. Indeed, many have advised against letting ships at sea carry private armed guards and the laws of many nations have prevented vessels from carrying weapons.⁷¹ As many also have pointed out, arming ships could initiate an arms race with the pirates, attacks of greater violence, resulting in the possible death of crew members.⁷² It would increase the risk of an accident to the ship or the cargo, for example a fire resulting of a shoot-out with pirates. Roughly 1,000 Nor-

67 Ellen Synnøve Viseth, "Åpner for private vakter til sjøs", *Dagsavisen*, 30 June 2011.

68 "Regjeringen åpner for bevæpning av norske skip", *VG Nett*, 29 June 2011. Available at <http://www.vg.no/nyheter/utenriks/artikkel.php?artid=10088152>

69 "Åpner for bevæpning på norske skip", *Dagsavisen*, 29 June 2011. Available at <http://www.dagsavisen.no/innenriks/article517573.ece>

70 Keith Bradsher, "Captain's Rescue Revives Debate over Arming Crews", *New York Times*, 13 April 2009. Available at <http://www.nytimes.com/2009/04/13/world/13shipping.html>

71 Historically, one of the reasons has been fear that weapons on board ships could be used by mutineers. In recent times, it has been more about liability and the safety of sailors, although many captains will probably continue to carry weapons on board.

72 "Betydelig skepsis til bevæpning av skip", *VG Nett*, 29 April 2011. Available at <http://www.vg.no/nyheter/innenriks/artikkel.php?artid=10092860>

wegian-owned ships sail through the Gulf of Aden each year, half of them flying the Norwegian flag. Between 250 and 300 Norwegians are on board ships plying the Indian Ocean every day. In the event of escalating hostilities with pirates, Norwegian ships and Norwegians on board them may face an even greater risk.

Having said that, arming ships has so far proved successful and no ship with armed guards has been hijacked. Difficult legal and humanitarian issues remain, however. The ships and security companies operating under both Norwegian and international law are obliged to assist wounded pirates and pirate vessels in distress in the event of a failed attack and shoot-out. If the pirates surrender and are captured alive, what will be the role of the shipping companies, their ships and the security firms in bringing the pirates to justice and how would they do so in practice? Where will they be taken? Will the pirates be kept on the ship for weeks or months on end, before being handed over, and to whom? The weapons could be even be used for terrorist attacks. While Norwegian authorities are likely to enforce a strict, if transparent, set of regulations, who will control the military guards and security companies on ships from countries such as Iran, Pakistan, North Korea and so forth?

Less debated in the reports coming out of Norway recently about letting commercial vessels carry military guards or armed personnel supplied by private security companies is the opportunity for intelligence gathering and military activity through the deployment of armed military guards on merchant ships. Military guards and private security companies supplying armed ex-military officers equipped with sophisticated military technology to thousands of ships from various states sailing critical sea lanes around the world could aid intelligence gathering and covert operations for many countries.⁷³ While the idea is to carry armed guards in seas known for piracy, such as the Gulf of Aden, Southeast Asia and off Nigeria, how and when will the military guards and private operators disembark from the ships? If ships operating in piracy-prone waters in Asia have military guards, could there not be demands about reciprocity in the Mediterranean and even the Atlantic from Asian countries? Asian ships enter Norwegian ports daily and it might be worthwhile to think about the implications if these vessels were to carry armed military guards in the future.

73 Of course, military guards on board merchant ships are not likely to be the preferred option for intelligence gathering. For example, one PLA expert has pointed out to the author that the PLA and the CCP would be more concerned about control and command issues. Instead of focusing on potential benefits of using merchant ships for intelligence gathering, the PLA and the CCP will probably be more concerned about the potential that they will lack control of PLA military guards on merchant ships involved in a crisis or a shot-out that might have negative effects on China's broader national interest. Nonetheless, allowing military guards to operate on merchant ships provides countries with more options and an opportunity to be present in more distant waters where their military normally do not operate.

CONCLUSION

Maritime developments in Asia have geopolitical, commercial, strategic, military and legal implications for Norway. The re-emergence of great powers in Asia, the redistribution of power from the West to the East and traditional great power rivalry in Asia are all contributing to an increasingly Asia-centred world. One of the most important geopolitical developments in contemporary international affairs is China's and India's respective drives to become major sea powers. When land powers go to sea, geopolitical tensions and friction tend to follow. The most obvious case today is the relationship between the US and China, although other bilateral relations are affected as well, notably China and India and China and Japan. The problems are only exacerbated by the determination of the US to preserve its dominance at sea. This is the situation in which maritime developments in Asia will determine whether peace, stability and prosperity prevail in Asia; whatever the outcome, the consequences for Europe, transatlantic relations, NATO and Norway will be immense.

Norway and NATO can adapt to a changing geopolitical situation and to traditional great power politics and rivalries in Asia by enacting a new division of labour to complement the US in the security sphere. As the US becomes more attentive to security issues in Asia, Norway and NATO can 'share the burden' by building capacity to address humanitarian crises and new security challenges rather than seeking to be a major player in Asia. If European states respond effectively to risk management and new security challenges in out-of-area operations, strong transatlantic ties can be maintained, the relevance of Europe in an Asia-centred multipolar system secured, and a new world order promoted. However, it remains to be seen whether European powers are willing and capable of pushing through this new division of labour.

Maritime developments in Asia, including rising tensions at sea, have an immediate bearing on Norwegian commercial interests in the maritime and offshore sector. Sovereignty disputes over land and sea in Asia could affect the law of the sea and its conventions, and will affect the development of a legal regime for the Arctic region. If China, Russia and the US hold to different interpretations of the law of the sea, it will have implications for a small, but a major maritime state such as Norway. Whether the major powers are able to co-exist in an ordered universe, or fall prey to, friction, tensions and conflicts at sea will largely be decided by developments in Asian waters. By allowing merchant ships to carry armed guards at sea, Norway's maritime and broader security interests face a new situation. It carries with it a medley of legal and ethical issues.

Norwegian decision makers, their advisors and the Norwegian business community need to learn more about maritime developments in Asia and take action to help maintain order at sea. A policy of reconciliation rather than confrontation is

one way to safeguard Norwegian interests. It means, on the one hand, working with Asian naval powers, protecting SLOCs and promoting rules of engagement at sea to safeguard maritime interests and prevent great power rivalry from undermining stability and order at sea. It also means urging a new division of labour in NATO and transatlantic relations, to ensure NATO's continued relevance should balance-of-power politics and great power rivalry in Asia become the major preoccupation of the US over the next few decades.

Attachments

INTERNATIONAL ORDER AT SEA: WORKSHOP 1
 ANTI-PIRACY AND HUMANITARIAN OPERATIONS



Norwegian Institute for Defence Studies (IFS)
 26 August 2011

PROGRAMME

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|-----------|---|
| 0845–0900 | Fruit and coffee |
| 0900–0910 | Welcoming remarks by Director Rolf Tamnes and Professor Robert Ross |
| 0910–1020 | <p>Session 1
 <i>Norway's contribution to the anti-piracy missions in the Indian Ocean and Somalia</i>
 Professor Tom Kristiansen, Norwegian Institute for Defence Studies
 Commander (Senior Grade) Ola Bøe Hansen, Norwegian Defence Command and Staff College
 Commander (Senior Grade) Jan Tore Nilsen, Norwegian Defence Command and Staff College
 Captain (Navy) Henning Smidt, Norwegian Defence Staff and Norwegian Shipowners' Association</p> <p>Discussant: RADM Michael McDevitt (ret.), Center for Naval Analysis, CNA
 Chair: Øystein Tunsjø, IFS</p> |
| 1020–1045 | Coffee break |
| 1045–1200 | <p>Session 2
 <i>India's Humanitarian Assistance and Disaster Relief (HADR) in India's National Strategy</i>
 Sarabjeet Singh Parmar, Commander/Research Fellow, IDSA</p> <p>Discussant: Thomas J. Bickford, Analyst, CNA
 Chair: Robin Allers, Head of the Department of International Security Policy, IFS</p> |

1200–1315

Lunch

1315–1430

Session 3*Maritime Support for Humanitarian Aid and Disaster Relief Ashore*

Bernard Cole, Professor, National War College

Discussant: VADM Yoji Koda (ret.), former Commander in Chief,
Japanese Self Defence FleetChair: Robert S. Ross, Boston College/Adjunct Professor, Nor-
wegian Defence University College

NAVAL DEVELOPMENTS IN ASIA – THE SIGNIFICANCE FOR SMALL MODERN NAVIES

Seapower symposium 24 August 2011 at the Royal Norwegian Naval Academy, Bergen.

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|-----------|---|
| 0900–0920 | Opening by Chief of Royal Norwegian Navy |
| 0920–1020 | <i>Global survey of naval trends with emphasis on Asia. Case: Royal Navy's capacity after the cost-cutting review.</i>
Prof. Geoffrey Till, Director of Maritime Studies in the Defence Studies Department and Director of the Corbett Centre for Maritime Policy Studies, King's College, London. |
| 1020–1040 | Coffee break |
| 1040–1140 | <i>Naval developments in China: capabilities, missions, challenges and weaknesses. Prospects for cooperation with small modern navies in different scenarios.</i>
Dr Bernard D. Cole, Captain, USN (Ret.), National War College |
| 1150–1230 | <i>Naval developments in India: capabilities, missions, challenges and weaknesses. Prospects for cooperation with small modern navies in different scenarios.</i>
Dr Vijay Sakhuja, Director (Research) Indian Council of World Affairs, New Delhi. |
| 1230–1330 | Lunch |
| 1330–1410 | <i>Naval developments in Japan: capabilities, missions, challenges and weaknesses. Prospects for cooperation with small modern navies in different scenarios.</i>
VADM (ret.) Yoji Koda, former Commander in Chief, Japanese Self Defence Fleet. |

- 1420–1500 *US perspectives on the naval developments in Asia.*
Prof. Robert S. Ross. Professor of Political Science at Boston College and Associate, John King Fairbank Center for Chinese Studies, Harvard University.
- 1500–1520 **Coffee break**
- 1520–1600 *Maritime developments in Asia: Implications for Norway.*
Dr Øystein Tunsjø, Associate Professor, Norwegian Institute for Defence Studies (IFS).
- 1610–1730 Plenary debate.
Moderator: Karl Rommetveit, Royal Norwegian Naval Academy

- > NORWEGIAN INSTITUTE FOR DEFENCE STUDIES (IFS), OSLO
- > CHINA INSTITUTE FOR MARINE AFFAIRS (CIMA), BEIJING
- > CHINA FOUNDATION FOR INTERNATIONAL AND STRATEGIC STUDIES (CFISS), BEIJING
- > INSTITUTE FOR DEFENCE STUDIES AND ANALYSES (IDSA), NEW DELHI
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