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*ROLE PLAYED BY KENYA IN THE FIGHT
AGAINST PIRACY AND ARMED ROBBERY
AGAINST SHIPS OFF THE COAST OF SOMALIA*

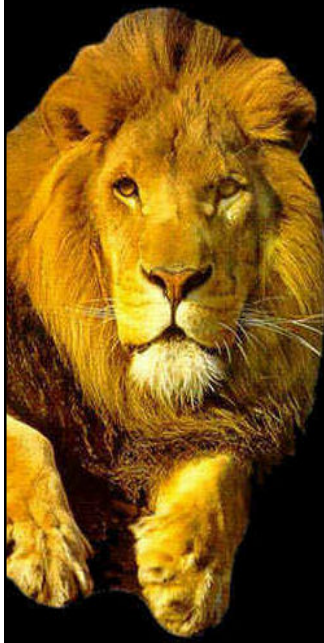
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Port of Mombasa: Comparative Position



STRENGTHS



- ❖ Strong Market Position
- ❖ Gateway to E & Central Africa
- ❖ Proximity to Europe, Middle East and Asia
- ❖ Large captive cargo base
- ❖ Natural and sheltered deep water harbour



OVERVIEW OF SOMALIA

- Located on the East Coast of Africa.
- Total size 637,657 Km/sq.
- It has the longest coastline in Africa of 1,700 miles.
- It borders Djibouti on the northwest, Ethiopia on the west, and Kenya south.
- Population approximately 8,000,000.



OVERVIEW OF SOMALIA

Somalia has had no functioning central administration since the 1991 and pirates have increasingly taken advantage of the lack of authority to ply the 1,800 mile coastline.

- The Government of Kenya played a key role in efforts that led to the formation of a Transitional Federal Government of Somalia in 2004.

Threats to Maritime security arising from Proximity to Somalia

- Piracy, terrorism, and armed robbery;
- Risk of oil spills;
- Threat to sea lanes of communications and choke points; — Bab el Mandeb, Mozambique channel;
- Disruption of seaborne trade;
- Threat to the lives of seafarers;
- Security and safety of navigation;
- Security of regional States;
- Threat to the right of innocent passage.

INCREASING PIRACY INCIDENTS ON SOMALIA COAST

- Pirates are currently operating in the high seas targeting merchant ships of all types.
- Current trends show a intensive and violent leaning to hijacking and armed attacks on ships, taking crews hostage, and demanding huge amounts of cash in ransom.

Geographical proximity to Somalia has caused major challenges to Kenya:

- The attack on passenger vessel Seaborne Empress while en route to Mombasa on 7th November 2005

Security Challenge

- With no army, police, navy or coast guard since 1991, permanent national government, national legal system
- therefore no system to reach out to at a national level;
- Porous shores :constant challenge to prevent clan and militia fighting in Somalia from spilling across border into Kenya.

Security Challenges

- **Breach of existing measures**
- **Fueling regional conflicts/instability**
- **Emergence of gangs/drug cartels danger to national security**

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Security Challenges

- Threat to lives of seafarers, safety and security of navigation, and the protection of marine environment.
- Lack of political guidance to bring the security agencies together to combat piracy.
- Lack of national plans to combat piracy. Lack of national patrols and surveillance against piracy.

ISSUES OF CONCERN

- Lack of coordination and cooperation in pooling of resources by the regional governments.
- Non-compliance by the operators of ships to the established maritime security and safety measures.
- Impact of acts of piracy and armed robberies against ships on the economies of the region.

Impact of Piracy in Kenya

- Increased costs of doing business
- reduction in cruise industry, slow down in the distribution of food aid to Somalia,
- increased costs of relief food operations;
- relief food is increasingly opting for road transport, (wear and tear of roads and increasing insecurity due to seasonal nature of such roads and also the dangerous terrain)

INTERNATIONAL REGIME-IMO EFFORTS

- The IMO developed Resolution A 979 (24) which was adopted by the IMO Assembly on 1st December 2005.
- The Resolution urges governments to adopt a regional approach to combat piracy and armed robbery against ships and engage in a concerted international effort.
- Further urges for the assistance to the Transitional Federal Government to build capacity to combat these incidents in the territorial waters of Somalia.

Kenya Government's Efforts

- In reaction to IMO Resolution A 979/24, the Government of Kenya hosted a meeting of regional Governments on 23rd and 24th February 2006.
- Meeting attended by delegates from Kenya, Mozambique, United Republic of Tanzania and the Transitional Federal Government of Somalia, representatives of the Governments of United Kingdom, United States of America, Australia, Bangladesh, India, Sri Lanka and India; International Maritime Organization (IMO), New Partnership for Africa Development (NEPAD), World Food Programme (WFP) and United Nations Monitoring Group in Somalia.

Kenya Government's Efforts

The meeting discussed the concerns raised by piracy and issued a Joint Communiqué as well as agreed on the way forward as follows:

- That patrols by the Combined Joint Task Force (CJTF) off the coast of Djibouti be encouraged and sustained to combat incidents of piracy.
- That the regional Governments hold frequent meetings to review the developments in combating piracy and armed robberies in the region.
- That the regional Governments agree to frequently exchange and disseminate intelligence on threats by pirates against ships at sea.

Kenya Government's Efforts

- The meeting also adopted an action plan to be executed both in the short term and the long term.
- In the short term, the Governments of the region should initiate negotiations and consultations with the Government of Somalia and other interested parties.
- This has not been possible because the Transitional Federal Government of Somalia has not settled in the country.



Kenya Government's Efforts

- The Governments of the region to enhance patrol and surveillance capacity building.
- Formation of the Expert Working Group from the Governments and stakeholders.
- GOK established an Inter-Ministerial Steering Committee for the development and deployment of Coastal Security Patrol Unit; Maritime Police Unit became a reality in May last year.



Kenya Government's Efforts

- Enactment of the Merchant Shipping (Maritime Security Regulations) in January 2005.
- Investment of over USD 17M to improve security in Kenyan seaports in compliance with the ISPS Code.
- Establishment of a Search and Rescue Coordination Centre in Mombasa to coordinate activities in search and rescue operations for distressed ships and seafarers and also operations against piracy and armed robberies.

Kenya Government's Efforts

- In January 2006 10 suspected pirates brought on shore to Kenya by American navy;
- Section 69 of the Penal Code: “Any person who in territorial waters or upon the High Seas commits any act of piracy *jure gentium* is guilty of an offence of piracy”.
- Pirates brought under the jurisdiction of Kenyan courts.

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Legal Framework

- Ratification of UNCLOS since 1989
- Criminal law jurisdiction – limited
- Kenyan courts have not been exposed to maritime law
- Neither has the investigative arm of Government in such matters;

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Legal Framework

- Spirited defense mounted on both technical and evidence
- There is need to urgently review the law
- national laws to permit ships or warships from another state to intervene in the national waters;
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CONCLUSION

- Lasting peace and stability will not only afford Somalia a lasting solution to her political problems but may be the solution to the problem of piracy off the Somalia coast.

CONCLUSION

- Assistance must be given by the Governments in the region to the Transitional Federal Government of Somalia to achieve lasting peace and stability.
- This would have to involve the regional Governments, Development Partners, African Union (AU), United Nations (UN), East African Community (EAC) and Inter-Governmental Authority on Development (IGAD).

WAY FORWARD

- Peace and stability
- Armed fast reaction to piracy attacks
- Active patrols
- Maritime & air surveillance
- SAR and disaster relief
- Capacity building
- Compliance with established regulations
- National, Regional Legislations and strategies
- Regional Cooperation:
 - Capacity building
 - Sharing information and intelligence
 - Development of information centers and procedures
 - Sharing information and intelligence
 - Joint law enforcement at sea
 - Joint training, exercises sharing experiences

What are the Challenges

- Political will and guidance
- Inadequate capacity
- Lack of national, regional plans to combat piracy
- Lack of integrated legislative frameworks
- Non compliance to SOLAS requirements
- Maritime territorial dispute (UNCLOS III OF 1994)
- Transnational disputes
- Lack of public awareness
- Inter Agency conflict
- Acute national sensitivity towards preservation of sovereignty

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THE END

THANK YOU

