

## Opinion of the European Economic and Social Committee on 'Maritime piracy: strengthening the EU response' (own-initiative opinion)

(2013/C 76/03)

Rapporteur: **Dr BREDIMA**

On 12 July 2012, the European Economic and Social Committee, acting under Rule 29(2) of its Rules of Procedure, decided to draw up an own-initiative opinion on

*Maritime piracy: Strengthening the EU response*

(own-initiative opinion).

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 26 November 2012.

At its 486th plenary session, held on 16 and 17 January 2013 (meeting of 16 January), the European Economic and Social Committee adopted the following opinion by 147 votes to 1 with 8 abstentions.

### 1. Conclusions

1.1 The seriousness of the maritime piracy plague has not come to the full awareness of European civil society. The EESC wishes to increase the sensitivity of civil society and European public opinion in order to mobilise Member States and the EU institutions for concrete action aiming at eradicating it. In 2011 the World Maritime Day was dedicated to the fight against piracy. Its multifaceted nature will require a holistic action and not an ad hoc piecemeal one. Piracy is not a remote issue taking place somewhere in the Indian Ocean affecting only vessels attacked and their seafarers. It is affecting European consumers and taxpayers in many respects and is not 'a symptom that we can live with'.

The EESC advocates a concrete political will from the EU institutions and Member States to work out a permanent solution for piracy.

1.2 The EU has a unique toolbox with solutions ranging from trade and development aid to military presence, state-building and reconstruction.

1.3 The EESC welcomes the decisions of the UN Security Council and the EU to prolong the EU/NAVFOR-ATALANTA operation until December 2014, and to extend the area of operations to East and South in the Indian Ocean and in the Somali shoreline. It believes that EU NAVFOR should be given a more robust mandate with stronger engagement rules. The EESC urges to keep a strong commitment regarding the number of vessels deployed by EU Member States to this operation.

1.4 The recent linking of the Regional Cooperation Agreement on Combating Piracy and Armed Robbery against

Ships in Asia (ReCAAP) with the Djibouti Code of Conduct and the conclusion of bilateral agreements for the prosecution of pirates of the EU with Kenya, Seychelles, Mauritius and other countries is very important.

1.5 The EESC supports the establishment of a Regional Maritime Capacity Building mission by the European External Action Service (EEAS). The 'EUCAP NESTOR' will assist the Horn of Africa countries in creating a master plan to combat piracy, in drafting relevant legislation and supporting coast guard capacity.

1.6 The EESC requests EU Member States and states in accession process or having association agreements with the EU, to enforce legal actions against piracy and prosecution of pirates on the high seas according to Article 105 of the United Nations Convention on the Law of the Sea of 10 December 1982.

1.7 The EESC encourages shipping to apply the revised industry Best Management Practices (BMP 4) regarding self protection measures on board ships. The EESC calls on Member States considering allowing the use of qualified private armed guards for the protection of vulnerable ships to comply with the relevant guidance of the International Maritime Organization (IMO) and to draw up a strict legal framework that establishes, inter alia, the terms of the master of the ship's responsibility, particularly in the event of shots being fired. The use of private armed guards does not constitute a stand alone solution or should not become the norm and is complementary to the BMP. Member States are encouraged to organise convoys with military escorts and provide land-based military units (Vessel Protection Detachments - VPDs) under the auspices of the UN able to board a ship during the transiting from high risk areas.

1.8 The EESC is opposed to restricting the payment of ransoms which would have counter-productive effects and would put hostages to even greater risk. For the time being ransoms remain an instrument to ensure a safe return of seafarers, who are used as human shields. The EESC condemns the practice of pirates executing or torturing seafarers as a means of exerting pressure for the payment of ransoms.

1.9 The EESC believes that the key to solving the piracy problem lies in tracing and clamping down the involved financial flows. It welcomes targeting financiers and coordinating databases to increase the understanding of the pirate business model. A blacklist of financial institutions involved in piracy money laundering should be established in the EU. The work of Europol and Eurojust is commended in this respect.

1.10 The EESC urges the EU institutions to address escalation of armed robbery at sea (ARAS) and oil theft in West Africa and the Gulf of Guinea. As the modus operandi for ARAS is very different than that of Somali pirates, specific measures should be supported for this region. In the Indian Ocean, three million barrels of oil and 50 % of the world container trade are moving daily from piracy infested areas.

1.11 The EESC underlines the urgency to liberate the 218 seafarers currently held hostage and encourages anti-piracy vocational training of seafarers to protect themselves and healthcare clinics of seafarers held hostage. Three International Conventions (the Standards of Training, Certification and Watchkeeping for Seafarers Convention, 2010; the International Ship and Port Facility Security Code, 2004; and the Maritime Labour Convention, 2006) provide a legal basis for pre-embarkation training, onboard drills and exercises, repatriation, compensation, establishment of family liaisons, and post-release care of seafarers. The EESC prompts the EU to strengthen these Conventions and formulate a new comprehensive guidance for the welfare of seafarers who have or may become victims of piracy and of their families. The EU should have a leading role in amending these International Conventions in order to take account of measures for seafarers held hostage.

1.12 The elections of 20 August 2012 were a crucial event in the history of the failed state of Somalia. The EESC commits itself to cooperate in future EU action assisting the process of building up its civil society along the lines of similar action vis-à-vis other African countries.

1.13 The EESC asks for EU coordinated action to channel part of the development aid or other resources for training programmes of youngsters in the fisherman's profession, for promotion of sustainable agriculture and entrepreneurship. Decent living conditions for young Somalis could make piracy careers less appealing.

## 2. The multifaceted problem of piracy

### 2.1 *The complexity of piracy*

2.1.1 After five years of escalating pirate attacks on merchant ships in the Gulf of Aden, the Somali Basin, the Arabian Sea and the Indian Ocean, statistical figures may be misleading as to the piracy problem being contained. Such an assumption would be erroneously ignoring the imitation effect and the escalation of piracy in West Africa. The piracy problem is regrettably a worldwide issue occurring also in Indonesia, the Malacca/Singapore Straits, South China Seas and South America. Current figures (as of 24 September 2012) point to 50 incidents in Somalia, 34 in the Gulf of Guinea, and 51 in Indonesia.

2.1.2 Use of motherships has allowed pirates to operate more successfully. Ever-changing tactics and equipment facilitating identification of targets and tools to break into citadels onboard ships has rendered them more aggressive, sophisticated and violent occasionally resulting in deaths of seafarers.

2.1.3 Piracy starts as a maritime problem, evolving into a humanitarian, trade and global economic problem, affecting world consumers. Its cost could be exacerbated in case of disruption of the supply chain of goods and energy, should the world community not address effectively piracy activities or seafarers unions refuse to sail in the infested areas. Eighteen thousand vessels annually transit from these areas. Piracy in the Gulf of Aden/Horn of Africa represents a strategic threat to the EU since it affects the traffic in the main Europe-Asia corridor. Companies are increasingly using the Cape of Good Hope sea route in order to avoid the Suez Canal. Piracy has become a very lucrative criminal business and an appealing career for youngsters in the area. Its cost is disproportionate to the number of pirates involved (in Somalia around 1 500). Piracy is hampering the delivery of EU food aid when most needed to African drought victims. The naval presence in the Indian Ocean is likened to 'patrolling the area of Europe with 20 police cars'.

2.1.4 Impunity of acts of piracy and undermining of international law and order (UNCLOS Convention 1982) are intolerable and the EU is required to show strong political will to eradicate it. The UN Contact Group on piracy off Somalia stimulated establishing a global strategy, including preventive and dissuasive measures, operational guidance for better cooperation of the naval forces, prosecuting pirates and tracking down their financial resources.

2.1.5 The EU controlling 40 % of world shipping cannot afford an uncontrollable escalation of piracy. As transport Commissioner Kallas stated: 'Piracy at sea is a genuine threat to the EU transport policy'. Furthermore, the EU external trade, the energy supply and security, the seafarers' wellbeing and the humanitarian aid channelling are threatened.

## 2.2 *The human cost of piracy*

2.2.1 During 2011 more than seven seamen were murdered and 39 injured by pirates. In 2012 (as of 24 September), six seamen were murdered and 448 held hostage after 225 attacks and 24 hijackings. On 30 June 2012 pirates captured 11 vessels with 218 seamen hostages in Somalia. Over 43 seafarers have been killed and 2 653 have been held hostages since 2007 in piracy incidents off the Somali coast.

2.2.2 International shipowners' and seafarers' associations (e.g. International Chamber of Shipping [ICS], European Community Shipowners' Associations [ECSA], European Transport Workers Federation [ETF], Asian Shipowners Forum [ASF], the SOS 'Save Our Seafarers' grouping of 31 international maritime industry organisations) joined to raise awareness of the human and economic cost of piracy via the media and by approaching politicians and industry at the highest level. The ASF (24 May 2012) revealed that in the last seven years 62 seamen died as a result of pirate actions and 4 000 have been held hostage on some 200 ships hijacked by Somalis. Whilst piracy attacks in the Indian Ocean have fallen for the first time in five years (2007-2012), the number of seafarers killed has tripled in the last two years (Sultan AHMED BIN SULAYEM/DP World Chairman 30.6.2012). Hence, there is no room for complacency.

2.2.3 Curbing piracy lies in preventing the crime in the first place, not in preventing the payments that secure freedom for

victims of that crime. Seafarer deaths should not be accepted as 'collateral damage' in the war against piracy (Nautilus International).

## 2.3 *The economic cost of piracy*

2.3.1 Two reports on the economics of piracy are worth noting:

2.3.2 'The Economic Cost of Maritime Piracy', (December 2010) analyses the direct costs: ransoms, insurance premiums, re-routing around the Cape of Good Hope, deterrent security measures, armed guards, deployment of three naval missions, prosecutions, funding of anti-piracy organisations, humanitarian cost. It estimates the overall annual cost from USD 7 to 12 billion. In addition, the One Earth Foundation estimated the cost of ransoms for 2009-2010 as USD 830 million, and the annual cost of deterrent equipment/private armed annually between USD 360 million-2.5 billion.

2.3.3 'The Economics of Piracy' (May 2011), analyses the pirate 'value chain' between pirates, financiers, accountants, arms suppliers. It demonstrates how piracy can be a much more rewarding choice compared to the GDP/capita in Somalia (pirate incomes can be 67-157 times than the average Somali income). It focuses on the need to track the Hawala informal money transfer system and estimates the annual cost from USD 4.9 to USD 8.3 billion.

## 3. **EU action**

### 3.1 *European institutions*

3.1.1 In their Joint Declaration on a partnership to counter maritime piracy and armed robbery in the Western Indian Ocean (London, 15 May 2012), the European Union and the International Maritime Organization (IMO) reiterated their determination to increase their capacity of countering maritime piracy and armed robbery and to improve maritime governance in the Western Indian Ocean. The 'Djibouti Code of Conduct' has become a key vehicle allowing 18 States in East Africa to formulate a regional answer to the problem. Moreover, the EU supported financially the International Maritime Bureau (IMB) for a period of three years regarding the activities of the IMB Piracy Reporting Centre, which is dedicated to the suppression of piracy and armed robbery against ships.

3.1.2 The International Piracy Contact Working Group explores methods of clamping down on beneficiaries as ransoms of EUR 300-500 million go to Somali network leaders who deposit it - possibly even in EU banks. The EESC urges that such ransoms should be traced and confiscated so that piracy is no longer an attractive business.

3.1.3 Following the adoption of the Strategic Framework for the Horn of Africa the appointment of a Special Representative coordinating EU action in the region is a step in the right direction.

3.1.4 The EESC welcomes the European Parliament Resolution on Maritime Piracy (10 May 2012) aiming at better coordination of the EU institutions to step up efforts in fighting pirates and in rebuilding Somalia as a sovereign state.

3.1.5 In a spate of past opinions since 2008 the EESC expressed concern regarding the proliferation of armed robbery and piracy in South East Asia and Africa <sup>(1)</sup>. It urged the Commission to promote the establishment of appropriate jurisdictions to face the current impunity of pirates and categorically opposed the arming of seafarers. The EESC urged the Commission to examine the anti-piracy training of seafarers with the Member States.

3.1.6 In its conference on the 'Attractiveness of Maritime Professions' (7 March 2010) the EESC identified piracy as one of the disincentives in pursuing the seafarers' profession and negating the campaigns for their attraction.

### 3.2 European social partners (ECSA/ETF)

3.2.1 The European Community Shipowners' Associations (ECSA) and the European Transport Workers' Federation (ETF) (31 July 2012) express concern in a Joint Declaration about continuing attacks despite successful international and European efforts. They placed eradication of piracy high on the agenda of the Sectoral Social Dialogue Committee for Maritime Transport (SSDC).

<sup>(1)</sup> EESC opinion on *An Integrated Maritime Policy for the European Union*, OJ C 211, 19.8.2008, p. 31.  
 EESC opinion on *Strategic goals and recommendations for the EU's maritime transport policy until 2018*, OJ C 255, 22.9.2010, p. 103.  
 EESC opinion on *Towards the integration of maritime surveillance: a common information sharing environment for the EU maritime domain*, OJ C 44, 11.2.2011, p. 173.  
 EESC opinion on *Partnership between the European Union and Africa — Connecting Africa and Europe: working towards strengthening transport cooperation*, OJ C 18, 19.1.2011, p. 69.  
 EESC opinion on a *Minimum level of training of seafarers*, OJ C 43, 15.2.2012, p. 69.  
 EESC opinion on the *Maritime Labour Convention/Flag and port State responsibilities*, OJ C 299, 4.10.2012, p. 153.

## 4. A more coordinated EU response

4.1 Piracy as a complex, multifaceted problem, can only be resolved with a holistic coordinated approach ashore and at sea. The EU is uniquely placed to provide such an approach: it is a well respected stakeholder in the region in diplomatic, trade, transport, military and humanitarian terms.

4.2 Seafarers continue to pay a heavy price. All efforts should lead to avert endangering their physical, mental and psychological integrity. The International Chamber of Shipping (ICS) compiled good practice guidelines for shipping companies to assist affected seafarers and their families.

4.3 Since the root causes of piracy require a long-term solution ashore, capacity building in Somalia is vital to terminate impunity and restore the rule of law. More commitment is required from EU flag states to ensure better coordination of naval forces and the prosecution of pirates.

4.4 Since piracy resurgence in 2007, what is now required is the political will to place it at the top of the EU political agenda and increase resources for more military aircrafts and vessels. The European External Action Service (EEAS) and the European Commission should collaborate with the European Council to identify the sectors of competence for action in combating piracy and capacity building in Somalia. The World Bank, Interpol and Europol can assist in the fight to chase ransoms.

4.5 EU Member States' anti-piracy legislation needs updating:

- Since piracy has disappeared as a criminal offence in some countries, a clearer legal framework should be created regarding jurisdictions responsible for prosecuting pirates.
- Regarding proposals to outlaw ransoms, such a ban may have unintended effects and endanger lives even further. On balance, the payment of ransoms should be allowed in the EU.

- 
- The employment of duly accredited private armed guards should be allowed in Member States, subject to a strict legal framework which makes the training of guards, inter alia, the responsibility of the Member State of their establishment and sets up the terms of the master's responsibility, particularly in the event of shots being fired.
  - The EU should explore with coastal states of the region the problems created by the transit of ships with armed guards on board.

Brussels, 16 January 2013.

*The President*  
*of the European Economic and Social Committee*  
Staffan NILSSON

---