

## Security Council

Dear Delegates,

Welcome to the seventeenth annual Dayton Model United Nations Conference (DAYMUNC) and the Security Council (SC). My name James Mosher and I am pleased to serve as your committee director. This is my sixth year of DAYMUNC involvement, having previously served as a delegate, a member of staff, and secretary-general of the 2006 conference. I recently completed two years of U.S. Peace Corps service in Ukraine and am currently pursuing a graduate degree in international comparative politics.

The SC functions as the centerpiece for the United Nations (UN) system of collective security, and it is responsible for confronting threats to international peace and security. The fifteen member council is organized to operate continually thereby addressing international crises as necessary. The Council is obligated to meet no less than twice a month. The President presides over meetings and has the authority to call the Council to convene at any time.

The SC is comprised of 15 members: the United States, the People's Republic of China, the Russian Federation, the Republic of France, the United Kingdom of Great Britain and Northern Ireland and ten non-permanent members elected by the General Assembly to serve two year terms. The non-permanent members are elected through the use of the following model: five members from Africa and Asia, one from Eastern Europe, two from Latin America, and two from Western Europe. Additionally, the Presidency of the SC rotates in one month terms according to the English alphabet.

When a complaint concerning a threat to international peace and security is brought before the Council, solutions are obtainable through these means:

- The Council investigates the dispute or situation and recommends amicable terms for resolution;
- Members are called upon to apply economic sanctions and other measures not involving the use of force to prevent or stop aggression according to Chapter 7, Article 41 of the UN Charter;
- Chapter 7, Article 42 allows the Council to take military action if actions under Article 41 have proven inadequate;
- The Council can establish peace keeping operations to facilitate, maintain, and monitor peace processes;
- When needed, standing and ad hoc committees can be created pursuant to international doctrine and the needs of the Council, examples include the Counter Terrorism Committee and the International Criminal Tribunal for Rwanda.

It is important for delegates to keep in mind both the structure and powers of the SC as they seek to build consensus and draft resolutions. The topics for the 2010 session of the Council are:

1. The Security Situation in Afghanistan and Pakistan
2. Combating Maritime Piracy

This background guide will provide a detailed summary of these topics, but is by no means a comprehensive analysis. Delegates should use it as a basis for further research on each issue.

I look forward to working with you all at the conference. Please do not hesitate to contact me if there are any questions.

Sincerely,

James Mosher, Director, [securitycouncil@daymunc.org](mailto:securitycouncil@daymunc.org)

Chair: Nicole Wise

Rapporteur: Matthew Conaway

## I. The Security Situation in Afghanistan and Pakistan

*“Too often in Afghanistan’s history, the country has been the battlefield of rival Powers. Today, it is an arena where the Afghan people are striving mightily for peace and development, and where the international community is united in its commitment to them. We cannot afford to fail in this endeavor. Failure would be a betrayal of the Afghan people. It would be a betrayal of the progress that has been achieved. And it would betray our stated commitment to uphold the ideals of peace, human rights and development for all.” – Ban Ki Moon, UN Secretary-General<sup>1</sup>*

Few international security issues, at present, command as much attention as the tenuous security situation in Afghanistan and Pakistan. Cautiously optimistic visions of a more peaceful region free from the influence of Islamic extremism and well on its way to more democratic norms, prevalent following the route of the Taliban and al Qaeda in 2001, have been replaced by decidedly less upbeat predictions.<sup>2</sup> Both States are struggling to confront a host of peculiar but closely interrelated challenges that threaten to critically weaken their viability, any opportunity for stability, and general respect for human rights among their respective populations.<sup>3</sup>

These challenges are grave, complex, and numerous. A resurgent Taliban is carrying out coordinated attacks on remote North Atlantic Treaty Organization (NATO) bases in southern Afghanistan while plotting deadly suicide bomb attacks against civilians and aid workers in Pakistan. A deeply flawed Afghan presidential election has cast doubt on the commitment of the government of Afghan President Hamid Karzai to combating corruption, good governance, and democracy. Despite deeply unpopular bombings by the U.S. and anti-terrorism campaigns by the Pakistani military, Islamic extremists run rampant in Pakistan, threatening the State’s internal stability and its fragile relationships with its neighbors. After being nearly eliminated by the Taliban in 2001, Afghan opium production has exploded.

One thing is clear: meeting these challenges will be no easy task. It will require significant cooperation, diplomacy, and sacrifice on the part of the international community.

### **Background**

In analyzing the current security situation, it is most helpful to begin with the 2001 American invasion of Afghanistan in the wake of the September 11, 2001, terrorist attacks in the U.S. The Afghanistan-based Al Qaeda terrorist network and its leader, Osama bin Laden, quickly emerged as the primary suspects responsible for the attacks. As a result, the U.S. demanded the Afghan government, then headed by the Taliban, to immediately and unconditionally surrender Al Qaeda leaders and shut down terrorist training camps.<sup>4</sup> These demands were to be subject to verification by the American government. The Taliban responded by refusing to unconditionally deliver Al Qaeda leaders, citing Pashtun hospitality rules and a lack of evidence implicating bin Laden, and continually avoiding any commitment to meet U.S. demands.

By early October, American and British special forces were providing the Northern Alliance, an anti-Taliban Afghan opposition military-political organization, coordination and air support to carry out attacks against a weakened and diplomatically isolated Taliban.<sup>5</sup> This signaled the beginning of Operation Enduring Freedom (OEF), the U.S.-led military endeavor in Afghanistan. By mid December 2001, the Taliban and Al Qaeda had been driven

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<sup>1</sup> UN Department of Public Information. “Avoid Focus on Past Setbacks in Afghanistan, Seize Opportunities for Progress, Help Afghans Secure New Vision for Future, Says Secretary-General.” (31 March 2009).

<sup>2</sup> United Nations Information Service. “Events in Afghanistan Prompt Optimism, but ‘Steady Determination’ Required to See Task Through, Says Secretary-General to Talks in Germany” (3 December 2002).

<sup>3</sup> Khan, Ismail. “Pakistani Paramilitary Force Tries to Stem Advance of the Taliban.” *New York Times* (26 April 2009). Retrieved from: <http://www.nytimes.com/2009/04/27/world/asia/27pstan.html>.

<sup>4</sup> Burns, John F. and Christopher S. Wren. “Without Evidence, the Taliban Refuses to Turn Over bin Laden.” *New York Times* (21 September 2001). Retrieved from: <http://www.nytimes.com/2001/09/21/international/21CND-PAK.html?scp=25&sq=bush%20taliban%20demands%202001&st=cse>.

<sup>5</sup> GlobalSecurity.org. “Operation Enduring Freedom – Operations.” Retrieved from: <http://www.globalsecurity.org/military/ops/enduring-freedom-ops.htm>.

from all but the inaccessible mountain regions of southern and eastern Afghanistan, along the Pakistani border.<sup>6</sup> OEF was a strictly U.S.-sponsored venture and was never authorized by the SC, although it has been argued the invasion was an act of collective self-defense as protected by the UN Charter.<sup>7</sup>

The UN, which had been forced out of Afghanistan by the Taliban in 1998, resumed operations after agreeing to a plan for the State's reconstruction and development with the Afghan Interim Authority (AIA) in Bonn, Germany—the Bonn Agreement.<sup>8</sup> S/RES/1386 authorized the International Security Assistance Force (ISAF), a NATO-manned military presence initially tasked with providing security in and around Kabul, to protect the interim government.<sup>9</sup> Early in 2002, the Council established the UN Assistance Mission in Afghanistan (UNAMA) to support the Afghan government and people in development, humanitarian assistance, government transparency, and other non-military matters.<sup>10</sup> These two organizations remain the most important UN organizations in Afghanistan.

After swiftly deposing the Taliban and scattering Al Qaeda, U.S. military attention turned toward the invasion and occupation of Iraq. Since 2003, the Taliban and other Islamic extremist groups have staged a remarkable resurgence in Afghanistan and, in the case of Pakistan, may have even increased their influence. This resurgence continues to grow despite an ongoing U.S. military presence, expanded ISAF mandate in Afghanistan, repeated interventions against Islamic militants in Pakistan by the Pakistani military, and millions of dollars of foreign aid marked for reconstruction and development pouring into both States. A new reality has set in: a swift and stunning victory over the Taliban and Al Qaeda in 2001 has been answered with a measured but stunning revival of militant Islamic influence in both Afghanistan and Pakistan. This reality threatens the viability of the Afghan and Pakistani governments, as well as the development and humanitarian assistance efforts carried out by the UN and numerous other aid bodies in the region.

### ***UN Mandate in Afghanistan***

In deciding how the UN should proceed in Afghanistan and Pakistan, it is important the SC keep in mind the current role of the organization and its affiliates in the region. UN responsibilities in Afghanistan fall, most broadly, under the mandate of either UNAMA or ISAF.

#### *United Nations Assistance Mission in Afghanistan (UNAMA)*

UNAMA was established by the SC on March 28, 2002.<sup>11</sup> The organization's primary role is to promote peace and security in Afghanistan by leading international efforts to rebuild infrastructure, peace, and constitutional democracy.<sup>12</sup> The Mission works closely with the Government of Afghanistan to accomplish fulfill this role. Currently, UNAMA activities fall under one of four activity areas: political affairs; relief, recovery, and reconstruction; human rights; and gender issues. Its mandate is reviewed annually.<sup>13</sup> Each March, the SC examines the situation in Afghanistan and defines priorities for the Mission in a resolution.<sup>14</sup> S/RES/1746 charged UNAMA to lead efforts to:

- strengthen cooperation with ISAF,
- provide political outreach through a strengthened and expanded presence throughout the State,
- provide good offices in support of Afghan-led reconciliation programs,
- support efforts to improve governance and the rule of law and to combat corruption,

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<sup>6</sup> Lobjakas, Ahto. "Afghanistan: NATO's Top General Says Taliban Defeated." Radio Free Europe (13 August 2004). Retrieved from: <http://www.rferl.org/content/article/1054307.html>

<sup>7</sup> United Nations Foundation. "Washington Sees no Need For UN Mandate." *U.N. Wire* (24 September 2001). Retrieved from: [http://www.unwire.org/unwire/20010924/18466\\_story.asp](http://www.unwire.org/unwire/20010924/18466_story.asp); Council on Foreign Relations. "Findings Report: Preemption." (15 November 2002). Retrieved from: <http://www.cfr.org/publication.html?id=5472>

<sup>8</sup> *Agreement on Provisional Arrangements in Afghanistan Pending the Re-Establishment of Permanent Government Institutions*. (28 March 2002).

<sup>9</sup> UN Security Council. S/RES/1386 (2001).

<sup>10</sup> UN Security Council. S/RES/1401 (2002).

<sup>11</sup> *Ibid.*

<sup>12</sup> UNAMA. "Mandate." (2009). Retrieved from: <http://unama.unmissions.org/Default.aspx?tabid=1742>.

<sup>13</sup> UNAMA. UNAMA website (2009). Retrieved from: <http://unama.unmissions.org/default.aspx?/>.

<sup>14</sup> *Supra*, note 12.

- play a central coordinating role to facilitate the delivery of humanitarian aid,
- monitor the human rights situation of civilians and coordinate human rights protection,
- support the electoral process through the Independent Election Commission of Afghanistan, and
- support regional cooperation in working for a more stable and prosperous Afghanistan.<sup>15</sup>

The last resolution in this series, S/RES/1868, extended the mandate of the UN presence in Afghanistan to March 23, 2010.<sup>16</sup>

### *International Security Assistance Force*

ISAF is the UN-approved, NATO-commanded international peace keeping force charged with helping the Afghan government to extend its authority and influence across the State while paving the way for reconstruction and effective governance.<sup>17</sup> ISAF is made up of more than 50,000 troops from 42 States, including all NATO members, and is backed by 90,000 Afghan soldiers.<sup>18</sup> It was initially responsible for providing security in the vicinity of Kabul. However, this mandate was expanded to the whole of Afghanistan in stages beginning late 2003, when an official NATO command took control from the rotating command among coalition members that proved cumbersome with time.<sup>19</sup> ISAF officially took responsibility for the entire State in October 2006, when the fourth and final stage of its expansion, to eastern Afghanistan, was completed.<sup>20</sup>

Currently, ISAF is suffering from somewhat of an identity crisis. Violent attacks against ISAF forces are on the rise, and there is a significant disagreement about how the organization should proceed in Afghanistan. Roadside bombs and brazen attacks against isolated NATO positions, especially in the former Taliban-stronghold, majority Pashtun regions of southern Afghanistan, have resulted in 2008 becoming the deadliest year for coalition troops since 2001.<sup>21</sup> Any comprehensive security strategy for the future of Afghanistan must address the current mandate of ISAF and how it will be adapted to confront the realities of the security situation.

### *Current UN Mandate in Pakistan*

The UN mandate in Pakistan, while certainly more limited than in Afghanistan, is also considerable. Nineteen different agencies, funds, and programs “work on agriculture, rural development and poverty reduction, disaster risk management, education, environment, and health and population, while ensuring that gender, civil society, refugees and human rights issues are mainstreamed across all areas.”<sup>22</sup> All of these organizations fall under the UN Resident Coordinator (RC) in Pakistan, which is funded and managed by the UN Development Program. The RC “aims to bring together the different UN agencies to improve the efficiency and effectiveness of operational activities at the country level,” working in close cooperation with the Pakistani government while advocating the interests and mandate of the UN.<sup>23</sup>

While many of the humanitarian and development related activities of the UN in Pakistan are comparable with those in Afghanistan, there is no international military force in Pakistan. Thus, the U.S., UN, and other members of the international community have sought Pakistani military support against Islamic extremists in Pakistan’s mountainous and politically autonomous border regions with Afghanistan to achieve regional peace and security goals. The results under both the government of former Pakistani President Pervez Musharraf and, since August,

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<sup>15</sup> *Ibid.*

<sup>16</sup> UN Security Council. S/RES/1868 (2009).

<sup>17</sup> NATO. “NATO’s Role in Afghanistan.” NATO website (2009). Retrieved from: [http://www.nato.int/cps/en/natolive/topics\\_8189.htm#mandate](http://www.nato.int/cps/en/natolive/topics_8189.htm#mandate)

<sup>18</sup> *Ibid.*

<sup>19</sup> *Ibid.*

<sup>20</sup> *Ibid.*

<sup>21</sup> Associated Foreign Press. “Two ISAF soldiers killed in Afghanistan: NATO.” (5 October, 2009). Retrieved from: [http://www.google.com/hostednews/afp/article/ALeqM5gkZpCoj1Re0J00lh1Srs\\_xa8eKxg](http://www.google.com/hostednews/afp/article/ALeqM5gkZpCoj1Re0J00lh1Srs_xa8eKxg)

<sup>22</sup> “UN Resident Coordinator.” UN Pakistan website (2009). Retrieved from: <http://unportal.un.org.pk/sites/UNPakistan/UNRC/Pages/default.aspx>.

<sup>23</sup> “Resident Coordination System.” UN Pakistan website (2009). Retrieved from: <http://unportal.un.org.pk/sites/UNPakistan/UNRC/Pages/ResidentCoordinationSystem.aspx>

2008, that of President Asif Ali Zardari have been mixed. This is further discussed in the “challenges” section below.

### *Challenges*

Of the numerous obstacles to peace in security in Afghanistan and Pakistan, the three most significant are discussed here. These are Islamic extremism, government corruption and intransparency, and the opium economy. Any plan offered as a way forward in the region will, at a very minimum, need to address each of these issues in a thorough manner.

#### *Islamic Extremism*

Easily the most serious and visible threat to peace and security in Afghanistan and Pakistan is that posed by Islamic militant groups, including the Taliban and Al Qaeda. Utilizing insurgent tactics, local knowledge, and an extreme interpretation of Islam, these groups threaten the viability of the Afghan and Pakistani States and, with them, any hope for stability. Much to the consternation of ISAF, many of these groups, particularly the Taliban, have managed an extraordinary revival. Their influence and effectiveness, measured by their control over rural Afghanistan and tribal Pakistan and the number of coalition soldiers, international workers, and civilians they are able to kill, has risen to a level unthinkable a few years ago.

Fighting the Taliban has proven to be difficult mostly due to its strongholds and multi-faceted support network in Pakistan. The relationship between the Taliban and Pakistan dates back more than a decade. To many Afghan and Pakistani tribes in the mid 1990s, the Taliban provided a welcome alternative to the corrupt and factitious Mujahideen warlords that ruled Afghanistan. This alternative apparently proved agreeable to the influential Pakistani intelligence organ, Inter-Services Intelligence (ISI), as well. ISI provided “military equipment, recruiting assistance, training, and tactical advice” that enabled the Taliban to gain control of large swaths of Afghan territory and eventually Kabul itself.<sup>24</sup> By the late 1990s, the Taliban was viewed as an important ally by many in the Pakistani intelligence community and even among Pakistani political elite.<sup>25</sup> Although some notable Pakistani public figures expressed a desire to end support for the Taliban, the powerful ISI and support for the Taliban among a significant portion of the Pakistani population, mostly in tribal areas, proved resilient.<sup>26</sup> Even General Musharraf, when he became president in a coup d'état in late 1999, reaffirmed Pakistan's role as the Taliban's most important ally.<sup>27</sup>

This close relationship ended in the wake of the September 11, 2001, attacks on the U.S. Musharraf was forced to choose between aligning Pakistan with the Taliban as it sheltered Al Qaeda leaders or an outraged international community demanding justice for the plotters of the September 11<sup>th</sup> attacks. The resulting power struggle between the Pakistani government and the autonomous tribal lands along the Afghan border, especially Waziristan and the Swat Valley, has illustrated the deep divisions present in Pakistani society. The numerous military incursions into militant strongholds and broken peace agreements between militants and the Pakistani government since 2002, under both Musharraf and Zardari, are too numerous to recount. However, it is important to note that they have resulted in the deaths of thousands of Pakistani soldiers and failed to curb the growing influence of Islamic extremists in Pakistan.<sup>28</sup> The situation is worrying to the larger international community. The notion Pakistan's nuclear arsenal falling under the control of Islamic extremists, in particular, is a source of great anxiety.<sup>29</sup>

#### *Government Corruption and Intransparency*

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<sup>24</sup> Frantz, Douglas. “A Nation Challenged: Supplying the Taliban; Pakistan Ended Aid to Taliban Only Hesitantly.” *The New York Times* (8 December 2001). Retrieved from: <http://www.nytimes.com/2001/12/08/world/nation-challenged-supplying-taliban-pakistan-ended-aid-taliban-only-hesitantly.html?pagewanted=1>; Elias, Barbara, ed. “Pakistan: ‘The Taliban's Godfather’?” *National Security Archive Electronic Briefing Book*, No. 227 (14 August 2007). Retrieved from: <http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB227/index.htm>.

<sup>25</sup> *Ibid.*

<sup>26</sup> *Ibid.*

<sup>27</sup> *Ibid.*

<sup>28</sup> Bajoria, Jayshree. “Pakistan's New Generation of Terrorists.” Council on Foreign Relations (26 October 2009). Retrieved from: <http://www.cfr.org/publication/15422/>.

<sup>29</sup> *Ibid.*

Another important prominent challenge to peace and security in the region is corruption and intransparency on the part of the ruling elites. While Pakistan has seen the return of electoral democracy after years of martial law and military rule, the situation in Afghanistan continues to disappoint. The deeply flawed August 20, 2009, presidential election has been widely criticized. A second runoff election is scheduled to take place in early November, but the legitimacy of the ruling government and likely outcome of the election is being called into question. The debacle was a considerable setback for ISAF and its desire for credible ally in their struggle against the Taliban and Al Qaeda.<sup>30</sup> The UN, which has been heavily involved in past Afghan elections, took a less prominent role in the previous first election round, which was widely viewed as a test for Afghanistan's leadership.<sup>31</sup> However backed by the international community, it has applied heavy pressure to Afghanistan's Independent Electoral Commission (IEC) for election changes that will result in less fraud.<sup>32</sup>

### *Opium Economy*

Finally, an explosion of opium cultivation supports a massive international drug trafficking network and promotes intransient corruption in Afghanistan. In fact, this issue has become critical to the future of Afghanistan. One recent UN report stated that "[c]ontrolling drugs in Afghanistan will not solve all of the country's problems, but the country's problems can not be solved without controlling drugs."<sup>33</sup>

A recent survey of opium cultivation in Afghanistan reports a 22 percent reduction from 2008, from 7,700 to 6,900 metric tons.<sup>34</sup> However, these numbers are enormous when compared to the mere 185 metric tons cultivated under the Taliban in 2001.<sup>35</sup> Opium production in Afghanistan has literally gone from being nearly extinguished in 2001 to being used in the overwhelming majority of the world's opiates in 2008. High sale prices are the most common reason for growing opium, even in the face of a government ban on opium cultivation.<sup>36</sup> A strong correlation between lack of security and opium cultivation has also been noted by the UN.<sup>37</sup>

### *Conclusion*

Clearly, Afghanistan and Pakistan face some serious challenges in achieving internal peace and security. It may be convincingly argued that these challenges are insurmountable, as many have, but there are glimmers of hope. Recent bombings against civilians in Pakistan, terrible as they are, appear to be undermining sympathy for Islamic extremism among the wider population. Now more than ever, Pakistan appears to be ready to cooperate with the international community to end the threat of militant Islam inside its borders once and for all. It is true that such opportunities for progress are limited, but when they present themselves, the international community should exploit them as much as possible.

In continuing your research about the security situation in Afghanistan and Pakistan, delegates should pay close attention to new developments. The situation changes literally by the hour. Delegates should also strive to carefully research their State's position on Afghanistan and Pakistan. What are your delegation's goals for the future of Afghanistan and how do you believe they can be best achieved? What is the best way to confront Islamic extremism, corruption, and narcotics in the region? How can the international community work with Pakistan to achieve more lasting results in its struggle against Islamic extremism? These are a sample of the questions that should guide you in your research about this very complex security situation.

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<sup>30</sup> MCT News Service. "UN diplomats press Afghan commission for election changes." *The Baltimore Sun* (25 October 2009). Retrieved from: <http://www.baltimoresun.com/health/sns-200910251824mctnewsservbc-afghan-election-se90.0.2305504.story>.

<sup>31</sup> *Ibid.*

<sup>32</sup> *Supra*, note 30.

<sup>33</sup> UNODC. *Afghanistan Opium Survey 2009: Summary Findings* (September 2009). Retrieved from: [http://www.unodc.org/documents/crop-monitoring/Afghanistan/Afghanistan\\_opium\\_survey\\_2009\\_summary.pdf](http://www.unodc.org/documents/crop-monitoring/Afghanistan/Afghanistan_opium_survey_2009_summary.pdf).

<sup>34</sup> *Ibid.*

<sup>35</sup> *Ibid.*

<sup>36</sup> *Ibid.*

<sup>37</sup> *Ibid.*

## II. Combating Maritime Piracy

Perhaps the most curious threat to international peace and security of 2008-2009 was the sudden reemergence of international maritime piracy, especially in the Gulf of Aden—the high-traffic sea corridor between Somalia and Yemen. While incidents of maritime piracy are an age old threat, they are steadily on the rise after a period of decline.<sup>38</sup> The 306 acts of piracy reported through September 2009, have already surpassed the 293 incidents reported in all of 2008.<sup>39</sup> Somali piracy is key to this explosive growth. Of the 2009 incidents, 147 (48%) took place in the sea lanes off the coast of Somalia. The next highest State was Nigeria, with 20 incidents (6.5%).<sup>40</sup> In addition, 42 of 49 successful hijackings took place near Somalia.<sup>41</sup> Clearly, the international community needs to reexamine its anti-piracy measures, particularly in the Gulf of Aden, if it wants to reduce the problem of maritime piracy in the world.

### *Background*

The objectives and targets of maritime piracy vary, but they usually involve hijacking a vessel and holding its crew and cargo for ransom. In Nigeria, pirates mostly attack oil tankers, while pirates in South East Asia typically target small tankers, tugs, or barges.<sup>42</sup> Off the coast of Somalia, no class of ship is safe. Most of the pirate attacks in the world take place in one of four areas: the Gulf of Aden, near Somalia and the southern entrance to the Red Sea; the Gulf of Guinea, near Nigeria and the Niger River delta; the Malacca Strait between Indonesia and Malaysia; and the Indian subcontinent, particularly between India and Sri Lanka.<sup>43</sup> East Africa represents the fastest growing region for piracy, with attacks up 200 percent in 2008. The global average was 11 percent.<sup>44</sup>

Piracy is primarily motivated by economics and thrives in areas under the political administration of weak or ineffective governments. For example, much of the growth in piracy in Somalia can be traced to the fundamental problem of statelessness and economic decline. No functioning Somali government has existed since 1991.<sup>45</sup> According to experts, the lack of a State to prevent over fishing by foreign trawlers in Somali waters during the 1990s resulted in a significant drop in income for Somali fishermen.<sup>46</sup> This prompted many of them to attack foreign vessels and demand compensation. The success of these early attacks opened the way to increasingly complex hijackings and growing ransoms.<sup>47</sup>

Pirate attacks usually take place with skiffs with powerful outboard motors and manned by pirates wielding small arms.<sup>48</sup> These boats are fast and maneuverable, but can only travel short distances. Somali pirates, taking advantage of the lawless political environment in which they operate, began using captured fishing trawlers to dramatically extend the range of their attacks into deeper waters.<sup>49</sup> This has enabled them to target “richer pickings” in international waters such as oil tankers, cargo ships, and even personal yachts.<sup>50</sup> It is estimated that the time between sighting pirates to being boarded is extremely short, in the area of 15 minutes.<sup>51</sup> This explains why so many ships

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<sup>38</sup> Rankin, Nick. “No vessel is safe from modern pirates.” *BBC News* (11 March 2008). Retrieved from: <http://news.bbc.co.uk/2/hi/business/7280042.stm>

<sup>39</sup> “World pirate attacks surge in 2009 due to Somalia.” *Associated Press* (21 October 2009). Retrieved from: <http://www.google.com/hostednews/ap/article/ALeqM5hvd4QSDb-PaSYhIQlkyM8gcykpLgD9BFC6880>.

<sup>40</sup> *Ibid.*

<sup>41</sup> Hanson, Stephanie, ed. “Combating Maritime Piracy.” Council on Foreign Relations (13 April 2009). Retrieved from: [http://www.cfr.org/publication/18376/combating\\_maritime\\_piracy.html](http://www.cfr.org/publication/18376/combating_maritime_piracy.html).

<sup>42</sup> *Supra*, note 38.

<sup>43</sup> *Supra*, note 41.

<sup>44</sup> *Ibid.*

<sup>45</sup> DeCapua, Joe. “Somali Piracy – Causes and Consequences.” *VOA* (10 April 2009). Retrieved from: <http://www.voanews.com/english/archive/2009-04/2009-04-10-voa36.cfm>.

<sup>46</sup> Stuhldreher, Katie. “To turn the tide on piracy in Somalia, bring justice to its fisheries.” *Christian Science Monitor* (20 November 2008). Retrieved from: <http://www.csmonitor.com/2008/1120/p09s01-coop.html>.

<sup>47</sup> *Ibid.*

<sup>48</sup> Middleton, Roger. “Piracy in Somalia: Threatening global trade, feeding local wars.” Chatham House (October 2008). Retrieved from: [http://www.chathamhouse.org.uk/files/12203\\_1008piracysomalia.pdf](http://www.chathamhouse.org.uk/files/12203_1008piracysomalia.pdf).

<sup>49</sup> *Ibid.*

<sup>50</sup> *Ibid.*

<sup>51</sup> *Ibid.*

are being captured, even during a period of heightened awareness. These hijacked ships are then quickly sailed into Somali waters, where, until recently, international maritime law prevented authorities from entering.<sup>52</sup>

Another economic factor driving the worldwide growth of piracy is the willingness of ship owners to pay increasingly large sums of money for the return of their vessels, cargo, and crews.<sup>53</sup> Somali pirates alone are estimated to have earned US\$20 million in ransoms in 2008, \$3 million of this sum being earned from the ransom one ship alone.<sup>54</sup> Despite the risks, these enormous sums of money provide a powerful economic incentive to an impoverished population that survives on less than two dollars a day.<sup>55</sup> Calculations of the cost of worldwide maritime piracy vary widely with estimates ranging from \$1 to \$16 billion.<sup>56</sup> Fraud, delayed trips, lost cargos, increased insurance costs, and increased military measures all contribute to the ballooning financial impact of international maritime piracy.<sup>57</sup>

### ***International Response***

The response of the international community to the growing threat of maritime piracy has been multi-faceted. The SC has passed no less than four resolutions addressing maritime piracy off the coast of Somalia in 2008: S/RES/1816, S/RES/1838, S/RES/1844, and S/RES/1851.<sup>58</sup> The last of these resolutions, following a request by Somalia's UN-backed Transitional Federal Government for international assistance, allows Member States to pursue and fight pirates in Somali territory for the period of one year. The right to pursue pirates into Somali waters was granted earlier in 2008, in S/RES/1816.<sup>59</sup> This policy represents a dramatic shift from traditional international law, which recognizes the water up to 12 miles from Member States' coasts as sovereign territory.<sup>60</sup> It should be noted that permission currently only permits Member States to pursue and combat pirates on the territory of Somalia and nowhere else.<sup>61</sup>

The main international agreement that addresses maritime piracy is the UN Convention on the Law of the Sea (UNCLOS). UNCLOS defines piracy as:

- (a) any illegal acts of violence or detention, or any act of depredation, committed for private ends by the crew or the passengers of a private ship or a private aircraft, and directed:
  - (i) on the high seas, against another ship or aircraft, or against persons or property on board such ship or aircraft;
  - (ii) against a ship, aircraft, persons or property in a place outside the jurisdiction of any State;
- (b) any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft;
- (c) any act inciting or of intentionally facilitating an act described in sub-paragraph (a) or (b).<sup>62</sup>

Key to enforcement of UNCLOS is the International Maritime Organization (IMO), the UN specialized agency responsible for monitoring international shipping. The IMO has taken a lead role in combating maritime piracy by organizing and distributing Member State data on attacks and making recommendations about how to best combat

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<sup>52</sup> Security Council Department of Public Information. "Security Council Authorizes States to Use Land-Based Operations in Somalia, as Part of Fight against Piracy Off Coast." SC/9541 (2008). Retrieved from: <http://www.un.org/News/Press/docs/2008/sc9541.doc.htm>.

<sup>53</sup> Chalk, Peter. "Maritime Piracy: Reasons, Dangers and Solutions." *RAND Testimony* (4 February 2009). Retrieved from: [http://www.rand.org/pubs/testimonies/2009/RAND\\_CT317.pdf](http://www.rand.org/pubs/testimonies/2009/RAND_CT317.pdf).

<sup>54</sup> *Ibid.*

<sup>55</sup> Central Intelligence Agency. "Somalia." *The World Fact Book* (2009). Retrieved from: <https://www.cia.gov/library/publications/the-world-factbook/geos/so.html>.

<sup>56</sup> *Supra*, note 41.

<sup>57</sup> *Supra*, note 53.

<sup>58</sup> UN Security Council. S/RES/1851 (2008).

<sup>59</sup> *Ibid.*; Security Council. S/RES/1816 (2008).

<sup>60</sup> *United Nations Convention on the Law of the Sea* (1982).

<sup>61</sup> Besheer, Margaret. "UN Security Council Approves Anti-Piracy Measure." *VOA* (16 December 2008). Retrieved from: <http://www.voanews.com/english/archive/2008-12/2008-12-16-voa62.cfm?CFID=310992789&CFTOKEN=66178560&jsessionid=88301edd69f88fa9a30771a2e1838c5f726a>.

<sup>62</sup> *Supra*, note 60.

piracy. These include MSC.1/Circ.1333 and MSC.1/Circ.1334.<sup>63</sup> The organization has also taken a leading role in providing recommendations on maritime rescue coordination in MSC/Circ.1073, ship security alert systems in MSC/Circ.1072, MSC/Circ.1109/Rev.1, and MSC/Circ.1155, and investigation of acts of piracy in resolution A.922(22) and resolution A.923(22).<sup>64</sup>

While the provisions of UNCLOS have been adequate to counter piracy elsewhere in the world, the stateless nature of the issue in the Gulf of Aden has lead many to conclude that the existing international legal framework for combating piracy is inadequate. First, UNCLOS applies only to acts of piracy on the high seas, not in territorial waters such as those of Somalia.<sup>65</sup> Additionally, the multi-state nature of shipping makes it unclear who should prosecute the pirates in such conditions. As one expert has stated: "Consider a typical case: a ship built in Japan, owned by a brass-plate company in Malta, controlled by an Italian, managed by a company in Cyprus, chartered by the French, skippered by a Norwegian, crewed by Indians, registered in Panama, financed by a British bank, carrying a cargo owned by a multinational oil company, is attacked while transiting an international waterway in Indonesian territory and arrested in the Philippines."<sup>66</sup> The general inclination to prosecute pirates in the region they were captured, but for reasons already discussed, this would be impossible in the case of the Gulf of Aden.

Despite these limitations, there is a small naval force operation against pirates in the Gulf of Aden. Combined Task Force 150 (CTF 150) is a small international naval patrol sanctioned by the UN to combat terrorists in the region. Although terrorism remains CTF 150's primary responsibility, it has been asked to help curb the growing problem of Piracy in the Gulf of Aden.<sup>67</sup> However, despite the success of CTF 150 in thwarting and capturing pirates, the number of incidents continues to grow. Clearly the international community is going to have to examine the role of patrols like CTF 150 for any future decisions about combating piracy.

### ***Conclusion***

International maritime piracy is a growing problem, especially off the coast of Eastern Africa. Although this fact is indisputable and the issue has received widespread attention all over the world, the international community has yet to take comprehensive action on the issue. Given the prominent challenges to international peace and security elsewhere in the world, this is not unsurprising. However, unlike an Iranian nuclear warhead, a Taliban-controlled Afghanistan, or a war between North Korea and South Korea, maritime piracy is a threat that actually exists. An existing threat is dramatically affecting trade and security on the high seas, no less. The UN system, and especially the SC, must ask itself if it wants to delay a comprehensive response to the growth of piracy or wait to address the issue until more prominent security situations elsewhere in the world have been resolved.

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<sup>63</sup> International Maritime Organization. "Piracy and robbery against ships." IMO Website (2009). Retrieved from: [http://www.imo.org/home.asp?topic\\_id=1178](http://www.imo.org/home.asp?topic_id=1178)

<sup>64</sup> *Ibid.*

<sup>65</sup> *Supra*, note 41.

<sup>66</sup> Burnett, Mark S. *Dangerous Waters: Modern Piracy and Terror on the High Seas*. Dutton Adult (2002).

<sup>67</sup> *Supra*, note 53.